

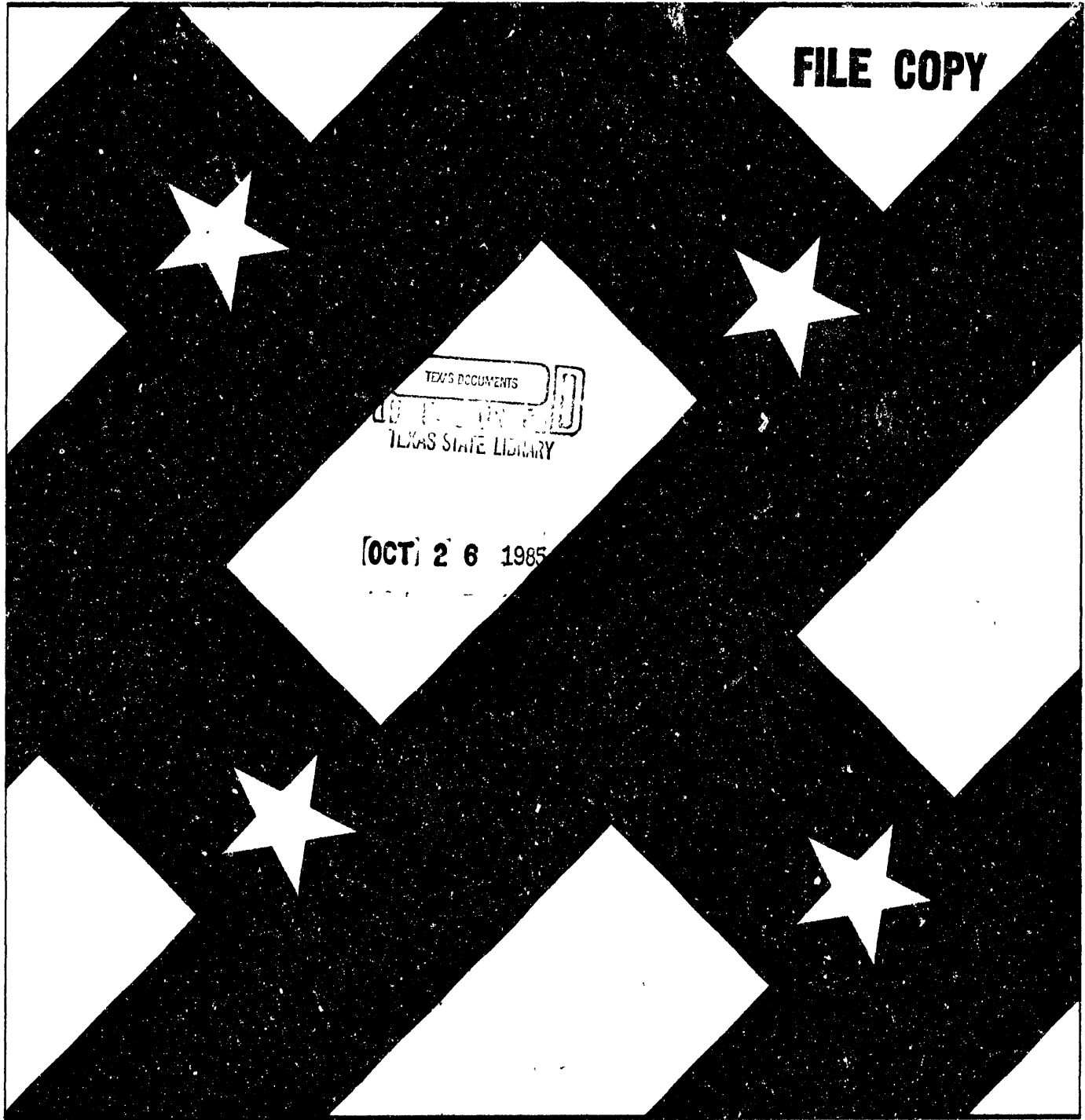
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# Texas Register

Volume 10, Number 80, October 25, 1985

Pages 4149 - 4192



### Highlights

The **Texas Department of Health** adopts an emergency new section concerning massage therapists. Effective date October 21. . . **page 4155**

The **State Board of Insurance** adopts

new emergency sections regarding property and casualty insurance. Effective date - October 17 . . . . . **page 4160**

The **Railroad Commission of Texas** proposes new sections concerning the Gas Utilities Division. Earliest possible date of adoption November 25. . . . . **page 4163**

**Office of  
the Secretary  
of State**

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1985 with the exception of June 25, July 9, August 30, December 3, and December 31, by the Office of the Secretary of State.

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# Emergency

**Rules** An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

**Symbology in amended emergency rules.** New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 141. Massage Therapists

##### ★ 25 TAC §§141.1-141.12

The Texas Department of Health adopts on an emergency basis new §§141.1-141.12, concerning massage therapists. The new sections implement the requirements of House Bill 2012, 69th Legislature, 1985, concerning the regulation of massage therapists and massage establishments. The new sections cover registration requirements, application procedures, renewal procedures, massage therapy schools and educational institutions, registration of persons with criminal backgrounds, complaint procedures, and appeals procedures.

The new sections are adopted on an emergency basis because House Bill 2012, 69th Legislature, 1985, requires the department to establish by rule the fees and related requirements covering the registration of massage therapists and massage establishments, beginning September 1, 1985. Therefore, to implement this statutory requirement as soon as possible after September 1, 1985, the board is adopting these sections on an emergency basis. The sections also are proposed for permanent adoption in this issue of the *Texas Register*.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4512k, §7, which provide the Texas Board of Health with the authority to adopt rules concerning the regulation of massage therapists and massage establishments; Article 6252-13d, §4, which authorizes the board to adopt rules covering the eligibility of persons with criminal backgrounds for certain occupations, professions, and licenses; and Article 6252-13a, §5(d), which authorizes the board to adopt rules on an emergency basis.

**§141.1. Purpose.** The purpose of these rules is to implement the requirements of Texas Civil Statutes, Article 4512k, (House Bill 2012, 69th Legislature, 1985) concerning the registration of massage therapists and massage establishments.

**§141.2. Definitions.** The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Act**—Texas Civil Statutes, Article 4512k, relating to the regulation of massage therapists and massage establishments.

**Advisory council**—The Advisory Council on Massage Therapy.

**Anatomy**—The study of the structure of the human body, including the following areas: bones, joints, and muscles, the skin; blood and blood vessels, cells, tissues and membranes; the heart; the brain, spinal cord, and nerves; the lymphatic system; the digestive system; the respiratory system; the urinary system; the reproductive system; and glands and hormones.

**Apprentice**—A person who is studying under the direct supervision of a massage therapy instructor in the techniques of Swedish massage and/or hydrotherapy.

**Board**—The Texas Board of Health.

**Business practices and professional ethics standards**—The study of standard bookkeeping and accounting practices, office practices, and advertising, and the study of ethical practices established by law, the department, the advisory council, and recognized professional association for massage therapists.

**Department**—The Texas Department of Health.

**Health and hygiene**—The study of recognized methods of sanitation and cleanliness including prophylaxis or disease prevention as applied to massage therapy services; and current knowledge of elements of healthy life styles.

**Hydrotherapy**—The use of generally accepted methods of water by external application for its pressure effect or as a means of applying physical energy to the tissues, which includes the use of ice and steam.

**Massage establishment**—Any place of business in which massage therapy is practiced by a massage therapist.

**Massage therapist**—An individual who practices or administers massage therapy to a patron of either gender for compensation. The term includes a therapeutic massage practitioner, massagist, massage technician, masseur, masseuse, myo-therapist, or any derivation of those titles.

**Massage therapy**—A health care service; the manipulation of soft tissue for therapeutic purposes. The term includes,

but is not limited to, effleurage (stroking), petrissage (kneading), tapotement (percussion), compression, vibration, friction, nerve strokes, and Swedish gymnastics, either by hand or with mechanical or electrical apparatus for the purpose of body massage. Massage therapy may include the use of oil, salt glows, heat lamps, hot and cold packs, tub, shower, or cabinet baths. Equivalent terms for massage therapy are massage, therapeutic massage, massage technology, myotherapy, or any derivation of those terms. As used in the Act, the terms "therapy" and "therapeutic" do not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

**Massage therapy instructor**—An individual who has already acquired the status of massage therapist, who has practiced massage therapy for a minimum of four years, and who is instructing one or more apprentices in massage therapy.

**Official forms**—Forms required and provided by the department for the purpose of complying with the provisions of the Act and these sections.

**Person**—An individual, corporation, association, or other legal entity.

**Physiology**—The study of the normal vital processes of the human body including the processes of cells, tissues, and organs including the contractibility of muscle tissue; coordination through the nervous system; digestion; circulatory reproduction and secretions.

**Recognized massage therapy school (before January 1, 1986)**—A school or educational institution recognized by the department as meeting the curriculum requirements as set out in §141.5(c)(6)(A) of this title (relating to Registration Requirements).

**Recognized massage therapy school (after January 1, 1986)**—A school or educational institution approved by the Texas Education Agency.

**Registration**—The procedure by which the department accepts, processes, and approves applications for registration as a massage therapist, and as a part thereof, includes the furnishing and replacement/duplication of certificates and identification cards.

**State-approved educational institution**—Institution approved by the Texas

Education Agency.

Swedish gymnastics—Joint range of motion, nonspecific stretches, and passive and active exercise, or any combination of these.

Swedish massage therapy techniques—The study of massage techniques, including the use of rubbing, kneading, and stroking the superficial parts of the body and Swedish gymnastics as stated in the Massage Therapy Regulation Act, Texas Civil Statutes, Article 4512k, §1(1).

#### §141.3. The Advisory Council.

(a) Purpose. This section sets forth the general policies and procedures of the council, and duties and responsibilities for the members thereof.

(b) Officers.

(1) Chair. The chair shall preside at all council meetings at which he or she is in attendance.

(2) Vice-chair. The vice-chair shall perform the duties of the chair in case of absence or disability of the chair. In case the office of chair becomes vacant, the vice-chair shall serve until a successor is elected.

(c) Meetings.

(1) The council shall hold at least two meetings during each year ending August 31, at such designated date, place, and time as may be determined by the chair, or the department with the chair's approval.

(2) Special meetings may be called as necessary.

(3) Meetings shall be announced and conducted under the provisions of the Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(4) A quorum of the council necessary to conduct official business is five members. The council may transact official business only when in a legally constituted meeting with a quorum present.

(5) Council action shall require a majority vote of those members present and voting.

(6) The policy of the council is that members will attend regular and committee meetings as scheduled.

(7) The department may report to the Board of Health and the Sunset Advisory Commission the attendance records of members.

(d) Reimbursement for expenses.

(1) A council member is entitled to a per diem payment at the rate set by the legislature for state employees in the latest General Appropriations Act passed by the Texas Legislature.

(2) A council member is entitled to compensation for transportation expenses as provided by the latest General Appropriations Act passed by the Texas Legislature.

(3) Payment to council members of per diem and transportation expenses shall be on official state travel vouchers which have been approved by the department.

(4) Requests for out-of-state travel for council activities must be approved by the deputy commissioner for management

and administration of the department on appropriate forms.

(5) Attendance at conventions, meetings, and seminars must be clearly related to the performance of council duties and show a benefit to the state.

(e) Rules of order. *Roberts Rules of Order Revised* shall be the basis of parliamentary decisions except where otherwise provided by these sections.

(f) Agendas.

(1) The department shall prepare and submit to each member of the council prior to each meeting an agenda which includes items requested by members and/or by the department, items required by law, old business, and other matters of council business which have been approved for discussion by the chair.

(2) The official agenda of a meeting shall be filed with the Texas secretary of state in accordance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(g) Minutes.

(1) Drafts of the minutes of each meeting shall be forwarded to each member of the council for review and comments prior to approval by the council.

(2) After approval by the council, the minutes of any meeting are official only when affixed with the original signature of the chair and the vice-chair.

(3) The official minutes of board meetings shall be kept at the department and shall be available to any person desiring to examine them during regular office hours.

(h) Elections.

(1) At the meeting held following August 31 of each year, the council shall elect by a majority vote of those members present, a chair, and a vice-chair.

(2) A vacancy which occurs in the offices of chair and vice-chair may be filled by a majority vote of those members present and voting at the next meeting.

(i) Committees.

(1) The council, or the chair with the approval of the council, may establish committees deemed necessary to assist the council in carrying out its duties.

(2) The chair may appoint the members of the council to serve on committees and may designate the committee chair.

(3) Committee chairs shall make regular reports to the council in interim written reports and/or at regular meetings, as needed.

(4) Committees shall direct all reports or other materials to the department for distribution.

(5) Committees shall meet when called by the chair of the committee or when so acted by the council.

(j) Roster.

(1) Each year the department, on behalf of the council, shall publish a roster of current state-registered massage therapists.

(2) The roster shall include, but not be limited to, the name and preferred mailing address of current state-registered massage therapists.

(3) A copy of the roster will be available for inspection by state-registered massage therapists and members of the public. Upon receipt of a written request and payment of a fee, the department shall furnish at cost a copy of the roster or portion thereof to any person.

#### §141.4. Fees.

(a) The board has established reasonable and necessary fees to cover registration activities required by the Act and by these sections.

(b) The schedule of fees for registration as a massage therapist is as follows:

(1) application processing fee—\$50;

(2) registration fee—\$60 (prorated at \$5.00 per month);

(3) renewal fee—\$60;

(4) registration certificate replacement fee—\$10;

(5) registration identification card replacement fee—\$10; and

(6) penalty for late renewal—\$30.

#### §141.5. Registration Requirements.

(a) Purpose. The purpose of this section is to set forth the requirements for registration as a state-registered massage therapist.

(b) Grandfather period. A person making application for registration before January 1, 1986, under the grandfather clause of the Act, §15, shall meet the requirements of this subsection if the applicant:

(1) has been engaged in the professional practice of massage therapy as set forth in §141.2 of this title (relating to Definitions) on September 1, 1985; and such practice of massage therapy as set out in §141.2 of this title (relating to Definitions) for not less than a total of two years (two years being defined as not less than a total of 24 months of practice prior to September 1, 1985) The applicant must provide proof of employment in massage therapy professionally practiced with or without compensation for a minimum of 36 hours per month documented by submitting to the department the properly complete official forms and application fee. In addition to an affidavit certifying to the 36 hours per month, the department may require the applicant to submit additional supporting documentation. The department will consider a person who files an application form and fee before January 1, 1986, as meeting the deadline for registration under the grandfather clause as set forth in this section; or

(2) has a bona fide diploma from a school of massage therapy approved at the time the diploma was conferred by the Texas Education Agency or by an American or foreign governmental body authorized by law, statute, or other legally recognized pro-

vision, or by the American Massage Therapy Association or any foreign school of massage therapy recognized by the American Massage Therapy Association as having a curriculum which is equivalent or exceeds the curriculum in association-approved schools (supervised massage therapy experience as an apprentice may be applied to the two-year requirement in this paragraph up to one year); or

(3) is a member in good standing in the American Massage Therapy Association.

(c) General registration requirements beginning January 1, 1986.

(1) The department shall accept as meeting registration requirements studies in massage therapy provided by either:

(A) a massage therapy instructor approved by the Texas Education Agency; or

(B) a massage therapy school recognized by the department and the Texas Education Agency; or

(C) an educational institution approved to provide massage therapy studies by the Texas Education Agency; or

(D) by any combination of instructors or schools as set out in subparagraphs (A)-(C) of this paragraph.

(2) Degrees, certificates, diplomas, and course work received at other institutions, American or foreign, shall be acceptable only if such studies could be counted as transfer credit at schools and institutions as set out in paragraph (1)(B) or (C) of this section, and the curriculum or course of studies meets the criteria set out by the Act and these sections.

(3) The relevance to the registration requirements of massage therapy studies, the titles of which are not self-explanatory, must be substantiated through course descriptions, school catalogs or bulletins, or by other means acceptable to the department.

(4) The department shall accept no course which the applicant's transcript or educational record indicates was not completed with a passing grade or for credit, or for which relevance to the registration requirements has not been satisfactorily demonstrated.

(5) In the event that a deficiency is present in massage therapy studies, the applicant may have up to one year from the date of the department's notice thereof in which to complete additional course work acceptable to the department before the applicant will be required to pay additional application fees and meet the current requirements for registration.

(6) Persons qualifying for registration as a massage therapist must meet at least one of the following conditions:

(A) possess a minimum of a 250 clock-hour supervised course of instruction in massage studies provided by a massage therapy instructor or recognized school. Of these 250 hours, the following subjects, as

further defined in §141.2 of this title (relating to Definitions) must be included in the curriculum for the minimum number of clock hours specified, as follows:

(i) Swedish massage therapy techniques—125 hours;

(ii) human anatomy—50 hours;

(iii) human physiology—25 hours;

(iv) hydrotherapy—25 hours;

(v) business practices and professional ethics—five hours; and

(vi) human health and hygiene—20 hours; or

(B) hold at the time of application to the department a valid license, registration, certificate, or permit as a massage therapist issued by another state or country whose minimum standards/requirements are equivalent to or exceed the registration requirements of the department which are in effect at the time of application (and with whom the department has entered into a reciprocity agreement); or

(C) have engaged in the professional practice of massage therapy as set out in §141.2 of this title (relating to Definitions) for not less than five years in another state or country whose minimum standards/requirements are not equivalent to the registration requirements of the department which are in effect at the time of application. Applicant must provide proof of employment in massage therapy on a prescribed form furnished by the department. Five years shall be defined as not less than a total of 60 months during the 10-year period preceding the date of application.

(d) Exemptions. Apprentices as defined in §141.2 of this title (relating to Definitions) are exempt for a period not to exceed one year.

#### §141.6. Application Procedures.

(a) Purpose. The purpose of this section is to set forth the application procedures for registration as a massage therapist.

(b) General.

(1) Unless otherwise indicated, an applicant must submit to the department all required information and documentation of credentials on official forms.

(2) The department will not consider an application as officially submitted until the applicant submits the application fee payable to the Texas Department of Health. The fee must accompany the application form. See fee schedule in §141.4 of this title (relating to Fees).

(3) The department will send a notice listing the additional materials required to an applicant who has not submitted a complete application. An application not completed within 30 days after the date of the department's notice may be denied.

(c) Required application materials.

(1) Application form. The application form shall contain:

(A) specific information regarding personal data, social security number,

birth month and day, place of employment, other state licenses and certifications held, certain misdemeanor and felony convictions, educational and training background, and work experience;

(B) a statement that the applicant has read the Act and rules adopted by the board and agrees to abide by them;

(C) a statement that if the applicant is or intends to become a massage therapy instructor, he or she:

(i) will comply with the Act and these rules covering massage therapy instructors, including all requirements concerning curriculum and courses of instruction;

(ii) understands that noncompliance with the requirements of the Act and these rules for massage therapy instructors subjects the person to a civil penalty not to exceed \$500 and any other legal remedy provided by law; and

(iii) understands that applicants who have studied under a massage therapy instructor, who is not qualified under this Act, will not meet the requirements for registration;

(D) the applicant's permission to the department to seek any information or references necessary to determine or verify the applicant's qualifications;

(E) a statement that the applicant, if issued a registration certificate and identification card, shall return the registration certificate and identification card to the department upon the revocation or suspension of the registration;

(F) a statement that the applicant understands that application fees submitted in the registration process are nonrefundable;

(G) a statement that the applicant understands that materials submitted in the registration process become the property of the department and are nonreturnable;

(H) a statement that the applicant understands that it is a misdemeanor to falsify any information submitted to the department; and

(I) the applicant's signature which has been dated and notarized.

(2) Employment/practice documentation report form for the grandfather period (expires December 31, 1985). The department-approved employment/practice documentation form for submitting documentation for two or five years prior to September 1, 1985, shall contain:

(A) the name of the applicant;

(B) the name and address of the organization or institution where the experience was gained or practice was performed (a separate form should be used for each one);

(C) the number of hours worked/practiced each month and the inclusive dates of employment/practice;

(D) the type of setting, the clients served and the type of work performed;

(E) the applicant's job title during employment/practice; and

(F) a notarized statement(s) of employment/practice verification signed by an employer or by an officer or manager of the organization(s), agency(ies), institution(s), or two or more clients to document that the appropriate years of experience were gained or practice was performed.

(3) Transcripts and educational records. Persons making application on or after January 1, 1986, who qualify by successful completion of a supervised course of instruction as set forth in §141.5 of this title (relating to Registration Requirements) must submit official transcripts or other official copy of the student's education record satisfactory to the department

(4) Other documents. Vitae, resumes, and other documentation of the applicant's qualifications may be submitted but not substituted for the required documentation

(5) Denied applications.

(A) The department shall deny the application if the person.

(i) does not complete the requirements in §141.5 of this title (relating to the Registration Requirements), if applicable; or

(ii) failed to remit any applicable fees required in §141.4 of this title (relating to Fees); or

(iii) failed or refused to properly complete or submit any application form(s) or endorsements, or has concealed, or deliberately presented false information on the application form, or any other form or document required to verify the applicant's qualifications for registration, or

(iv) been in violation of the Act, or any applicable provision of this title; or

(v) been convicted of crimes or offenses involving prostitution or sexual offenses or been convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a registered massage therapist as set out in §141.10 of this title (relating to Registration of Persons with Criminal Backgrounds)

(B) If after review, the department determines that the application should be denied, the department will send the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The formal hearing shall be conducted according to the formal hearing procedures in §141.12 of this title (relating to Appeals Procedures). Within 10 days after receipt of the written notice, the applicant shall give written notice to the department that the applicant either waives the hearing, or wants the hearing. If the applicant fails to respond within 10 days after receipt of the notice of opportunity, or if the applicant notifies the department that the hearing be waived, the applicant is deemed to have waived the hearing. If the hearing has been waived, the department shall deny the application

(C) An applicant whose application has been denied under subparagraph (A)(i)-(iv) of this paragraph shall be permitted to reapply after a period of not less than one year from the date of the disapproval and shall submit with the reapplication, all applicable fees and forms and proof satisfactory to the board, of compliance with all rules of the board, and the provisions of the Act in effect at the time of reapplication.

(D) An applicant whose application has been denied under subparagraph (A)(v) of this paragraph because of a conviction of a crime is ineligible for registration as a massage therapist for a period of five years.

§141.7. Registration Procedures.

(a) Purpose. The purpose of this section is to set forth the registration procedures of the department

(b) Issuance of registrations.

(1) The department will send each applicant whose application has been approved a registration questionnaire or form to complete and return with the prorated registration fee in the form of a personal check, cashier's check, or money order payable to the Texas Department of Health.

(2) Upon receipt of the registration questionnaire or form and the correct fee, the department shall issue the person a registration certificate and registration identification card containing a registration number.

(3) The department will replace a lost, damaged, or destroyed registration certificate and/or registration identification card upon written request signed by the state-registered massage therapist and payment of a replacement fee payable to the Texas Department of Health. Requests must include a statement detailing the loss or destruction of the original certificate or identification card, or be accompanied by the damaged certificate or card

(c) Registration certificates.

(1) The department shall prepare and provide to each qualified massage therapist a registration certificate and registration identification card which contains the registered person's name, registration number, and date of registration.

(2) Official registration certificates shall have the signatures of the commissioner of health and the council chair

(3) Registration certificates, registration identification cards, and renewal validation cards issued by the department remain the property of the department and must be surrendered to the department or its agent.

(4) The current registration certificate must be displayed in an appropriate and public manner in plain sight in the massage establishment where the state-registered massage therapist practices.

(5) The current registration identification card shall be carried by the state-registered massage therapist in a wallet, purse, or other appropriate manner, while practicing massage therapy.

(6) Neither the state-registered massage therapist nor anyone else shall display a registration certificate or carry a registration identification card which has been photocopied or otherwise reproduced.

(7) Neither the state-registered massage therapist nor anyone else shall make any alteration on a registration certificate or registration identification card.

§141.8. Registration Renewal

(a) Purpose. The purpose of this section is to set forth the rules governing registration renewal.

(b) General.

(1) When issued, a registration is valid until the registered person's next birth month except as provided by subsection (c)(2) of this section.

(2) A registered person must renew the registration annually.

(3) The renewal date of a registration shall be the last day of the registered person's birth month.

(4) Each registered person is responsible for renewing the registration before the expiration date and shall not be excused from paying the late penalty fee. Failure to receive notification from the department prior to the expiration date of the registration will not excuse failure to file for renewal or late renewal.

(5) The department will not renew the registration of the registered person who is in violation of the Act or rules adopted by the board of health at the time of application for renewal.

(c) Staggered renewals. The department shall use a staggered system for registration renewals

(1) Registration fees will be prorated when the registered person's initial renewal date occurs less than 12 months after the original date of registration.

(2) Registrations issued within three months of a registered person's birth month shall be issued for that period of time plus the next full year

(d) Registration renewal.

(1) At least 30 days prior to the expiration date of a person's registration, the department will send notice to the registered person at the address in the department's records of the expiration date of the registration, the amount of the renewal fee due and a renewal form which the registered person must complete and return to the board with the required renewal fee payable to the Texas Department of Health.

(2) The renewal form for all registered persons shall require the provision of the preferred mailing address, primary employment address and telephone number, category of employment, and certain misdemeanor and felony convictions.

(3) A registered person has renewed the registration when the registered person has mailed the renewal form and the required renewal fee to the department prior to the expiration date of the registration. The postmark date shall be considered as the date of mailing.

(4) The department shall issue to a registered person who has met all requirements for renewal a renewal validation card and identification card.

(5) The renewal validation card shall have the signatures of the commissioner of health and the council chair.

(e) Late renewal.

(1) The department, by certified mail, shall inform a person who has not renewed a registration within 30 days following the expiration of the registration of the amount of the fee required for renewal and the date the registration expired.

(2) A person whose registration has expired for not more than 90 days may renew the registration by submitting to the department: the registration renewal form, the required renewal fee, and a penalty fee that is one-half of the renewal fee. Payment shall be in the form of a certified check or money order payable to the Texas Department of Health. The renewal is effective if it is mailed to the department not more than 90 days after the expiration date of registration. The postmark date shall be considered as the date of mailing.

(3) A person whose registration has been expired for more than 90 days may not renew and must submit a new application, pay the appropriate fees, and meet the current requirement for registration (as specified in §141.5 of this title (relating to Registration Requirements)).

#### §141.9. *Massage Therapy Schools and State-Approved Education Institutions.*

(a) Purpose. This section sets forth the guidelines by which a massage therapy and state-approved educational institutions may be recognized under the Act and these rules.

(b) General. For a massage therapy school and state-approved educational institution to be recognized by the department after January 1, 1986, the school or the educational institution have to be approved by the Texas Education Agency.

#### §141.10. *Registration of Persons with Criminal Backgrounds.*

(a) Purpose. This section is designed to establish guidelines and criteria on the eligibility of persons with criminal backgrounds to obtain registration.

(b) Criminal convictions which directly relate to the profession of massage therapy.

(1) The department may suspend or revoke an existing registration or disqualify a person from receiving a registration certificate because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a state-registered massage therapist.

(2) In considering whether a criminal conviction directly relates to the occupation of a state-registered massage therapist, the department shall consider:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for registration as a massage therapist. The following felonies and misdemeanors relate to the registration of a massage therapist because these criminal offenses indicate an inability or a tendency to be unable to perform the duties of a massage therapist:

(i) the misdemeanor of knowingly or intentionally acting or practicing as a registered massage therapist without a registration under the Act, §2;

(ii) the misdemeanor of using the word "massage" on any sign or other form of advertising without being registered under the Act, §5,

(iii) a misdemeanor and/or a felony offense involving moral turpitude;

(iv) a misdemeanor or felony offense under various titles of the Texas Penal Code:

(I) offenses against the person, including but not limited to, offenses involving sexual offenses (Title 5);

(II) offenses against property (Title 7);

(III) offenses against public administration (Title 8);

(IV) offenses against public order and decency, including but not limited to, offenses involving prostitution (Title 9);

(V) offenses against public health, safety, and morals (Title 10); and

(VI) offenses of attempting or conspiring to commit any of the offenses in this subsection (Title 4).

(v) other particular crimes not listed in subparagraph (B)(i)-(iv) of this subparagraph which the department may consider in special cases to promote the intent of the Act and these sections;

(C) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a registered massage therapist. In making this determination, the department will apply the criteria outlined in Texas Civil Statutes, Article 6252-13c, §4(c)(1)-(7), the legal authority for the provisions of this section.

(c) Procedures for revoking, suspending, or denying a registration to persons with criminal backgrounds.

(1) The department will give written notice to the person that the department intends to deny, suspend, or revoke the registration after a hearing in accordance with the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(2) If the department denies, suspends, or revokes a registration under these rules after a hearing, the department will give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, for review of the evidence presented to the board and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable.

#### §141.11. *Complaints Concerning Prohibited Acts.*

(a) Purpose. The purpose of this section is to describe the procedures the department will follow in processing complaints covering prohibited acts.

(b) Complaints.

(1) If the department receives a complaint which alleges a violation of the requirements of the Act or these sections, the department shall send an official complaint form to the complainant for completion and return to the department unless the complainant wants to remain anonymous. The department does not encourage anonymous complaints but will investigate them.

(2) If the department determines that the information submitted to it contains sufficient evidence to investigate the complaint, the department will do so. If the investigator determines that the complaint is valid, the investigator will verbally advise the person of the requirements of the Act and these sections and request that the person stop the prohibited act. The department will supplement the verbal advice with a written notice to the person.

(3) If the person continues the prohibited act after 10 days of being notified by the investigation of the act, the department will request the attorney general of Texas to take appropriate legal action and the department may take any direct administrative action against the person which is authorized under the Act and these sections.

(d) Confidentiality of complaints. The department will keep complainants notified of the current status of complaint investigations and also shall keep confidential information which would identify the complainant.

#### §141.12. *Appeals Procedures.*

(a) Purpose. The purpose of this section is to describe the appeals procedures which are available to any person whose massage therapist registration has been denied, suspended, or revoked by the department.

(b) Hearing procedures. Any time the department intends to deny an application for a registration certificate, or suspend or cancel an existing certificate, the department shall give the person an opportunity for a hearing prior to taking the final action. The hearing shall follow the procedures described in the department's formal hearing procedures in §§1.21-1.32 of

this title (relating to Formal Hearing Procedures).

Issued in Austin, Texas, on October 21, 1985.

TRD-859795

Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Effective date: October 21, 1985

Expiration date: February 18, 1986

For further information, please call  
(512) 458-7531

★ ★ ★



## Chapter 145. Long-Term Care Subchapter P. Medication Aide Training Program and Issuing Permits to Administer Medications

★ 25 TAC §§145.252, 145.257,  
145.258

The Texas Department of Health adopts on an emergency basis amendments to §§145.252, 145.257, and 145.258, concerning personnel who fulfill the requirements for the issuance of a permit, organization of the state-approved training program in medication administration for nonlicensed nursing and direct care personnel training program renewal requirements and prerequisites for nonnursing and direct care personnel. The amendments cover increases in fees for medication aides in the areas of application for permits, examinations, and renewals of permits. The amendments are adopted on an emergency basis because House Bill 1593, §46, 69th Legislature, 1985, authorizes the Texas Board of Health to establish new medication aide permit application, examination, and renewal fees beginning on September 1, 1985. Therefore, for the board to implement the statutory authorization and have appropriate fees in effect as soon as possible after September 1, 1985, the board adopts these sections on an emergency basis.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 4442c, §7B(f), which authorize the board to establish fees and §7, which authorize the board to establish minimum standards to implement the statute.

### §145.252. *Personnel Who Fulfill the Requirements for Issuance of a Permit.*

(a) Personnel who are graduates of accredited Texas schools of nursing, but are not licensed or registered and not holding a permit to practice professional or vocational nursing by their appropriate Texas Board of Nurse Examiners, meet the requirements for issuance of a permit under

this rule to administer medications; provided the date of graduation does not go back beyond January 1 of the year immediately prior to the year that application is made for a medication aide permit.

(1) A notarized application for a medication aide permit under subsection (a) of this section shall be submitted to the Texas Department of Health, Bureau of Licensing and Certification, 1100 West 49th Street, Austin, Texas 78756-3183.

(A) The notarized application shall be accompanied by a nonrefundable \$25 [\$15] combined permit application and examination fee payable to the Texas Department of Health.

(B)-(G) (No change.)

(2) (No change.)

(b) (No change.)

(c) An applicant who has equivalent training and experience but who does not meet the requirements stated in these rules for the issuance of a permit may request an informal conference with the Texas Department of Health to present the applicant's case.

(1)-(3) (No change.)

(4) An applicant approved for medication aide status under subsection (c) of this section shall:

(A)-(B) (No change.)

(C) complete the department's file information form that shall be accompanied by a nonrefundable \$25 [\$15] examination and permit fee, payable to the Texas Department of Health.

(5) (No change.)

(d)-(e) (No change.)

§145.257. *Training Program Renewal Requirements.* Personnel who have been issued a medication aide permit shall maintain current status as a medication aide on a calendar year (January 1-December 31) renewal basis.

(1) A completed renewal permit application shall be mailed to the Texas Department of Health, Bureau of Licensing and Certification, 1100 West 49th Street, Austin, Texas 78756-3183, upon successful completion of the state-approved Continuing Education Training Program.

(A) (No change.)

(B) The completed renewal permit application shall be accompanied by a nonrefundable \$15 [\$5.00] permit fee.

(2)-(3) (No change.)

§145.258. *Prerequisites for Unlicensed Nursing and Direct Care Personnel.* Prior to enrollment in the state-approved Training Program in Medication Administration, all persons:

(1)-(6) (No change.)

(7) must furnish to the Texas Department of Health, Bureau of Licensing and Certification, 1100 West 49th Street, Austin, Texas 78756-3183, a completed general statement enrollment form that certifies that all of the training program pre-

quisites are met prior to the medication aide course training.

(A)-(B) (No change.)

(C) The completed general statement enrollment form shall be accompanied by a nonrefundable \$25 [\$15] combined permit application and examination fee payable to the Texas Department of Health.

Issued in Austin, Texas, on October 21, 1985.

TRD-859801

Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Effective date: October 21, 1985

Expiration date: June 8, 1986

For further information, please call  
(512) 458-7531.

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## TITLE 28. INSURANCE Part I. State Board of Insurance

### Chapter 5. Property and Casualty Insurance Subchapter D. Fire and Allied Lines Insurance

★ 28 TAC §5.3501

The State Board of Insurance adopts on an emergency basis new §5.3501 (Rule 059 05.29.001), requiring nonrate regulated insurers regulated under the Insurance Code, Chapters 17-19, and subject to the Insurance Code, Articles 5.35 and 5.36, to report in accordance with the current Texas property statistical plan for residential and commercial risks. The statistical plan is adopted by reference to be applicable to Chapters 17-19 insurers. The statistical plan specifies detailed information to be maintained by insurers writing property and multiperil insurance business in this state. The information relates, among other matters, to premiums, losses, claims, and exposure. The plan also specifies the time and manner of reporting the information required to be maintained. The insurers specified are not required to use rates promulgated by the State Board of Insurance. Heretofore, these insurers have not been required to maintain and report information to the board in the manner required by this emergency section. A rapidly increasing amount of business has been written by these companies. Because of this, the board has determined that effective rate regulation requires that it must receive from these insurers the information specified in the statistical plan to maintain effective rate regulation for the lines of insurance specified. Rate regulation is an extremely important function of the board. It is now and has been historically of paramount importance to the public in general. Such



regulation ultimately is determinative of the amount the public pays for certain insurance and relates directly to the solvency of certain insurers. For the information to be maintained properly for rate determination in the near future, the section must go into effect at the soonest possible time. The danger to effective rate regulation creates an imminent peril to the public welfare and requires that the rule be adopted on an emergency basis.

This new section is adopted on an emergency basis under the Insurance Code, Articles 1.24, 17.25, §§18, 18.12, and 19.08. Article 1.24 authorizes the board to address inquiries to an insurance company or to any holder of any authorization under the Insurance Code in relation to its business and condition or any matter connected with its transactions which the board deems necessary for the protection of the public good or for a proper discharge of its duties, and requires each addressee to promptly answer such inquiries. Article 17.25, §18, authorizes the board whenever it deems it advisable, to compel written reports from Chapter 17 companies respecting their condition. Article 18.12 authorizes the board to require Lloyds plan insurers to file information with the board. Article 19.08 requires Chapter 19 insurers to furnish certain information and reports to the board.

§5.3501. *Statistical Reporting of Property and Multi-peril Insurance by Insurers Regulated under the Insurance Code, Chapters 17-19.* Insurers regulated under the Insurance Code, and Chapters 17-19, and subject to the Insurance Code, Article 5.35 and 5.36, shall report in accordance with the current Texas property statistical plan for residential and commercial risks. The statistical plan is adopted herein by reference. Copies of the statistical plan may be obtained by contacting the Staff Actuary, Property and Casualty Actuarial Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1998, or by contacting the Texas Insurance Advisory Association, P.O. Box 15, Austin, Texas 78782.

Issued in Austin, Texas, on October 17, 1985

TRD-859720 James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date October 17, 1985  
Expiration date February 14, 1986  
For further information, please call  
(512) 463-6327

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part I. General Land Office Chapter 11. Legal Division Oil and Gas Leases, Mineral Classified Lands

#### ★31 TAC §11.12

The General Land Office adopts on an emergency basis an amendment to §11.12, concerning assignments of oil and gas leases.

The amendment is adopted on an emergency basis to achieve uniformity between the administrative rules and the statutory changes promulgated in Texas Civil Statutes, Chapter 624, §24. These statutory changes were effective September 1, 1985.

The amendment is adopted on an emergency basis under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law

#### §11.12. *Assignments.*

(a) Relinquishment Act leases, [and] oil and gas leases administered by the School Land Board and oil and gas leases issued by Boards for Lease for the Texas Parks and Wildlife Department and the Texas Department of Corrections.

(1) Oil and gas leases may be assigned [A lessee may assign an oil and gas lease] at any time. Assignments of Relinquishment Act leases are subject to the provisions of §11.11 of this title (relating to Leasing of Mineral Classified Lands). All assignments [However, the assignment] must be recorded in each county in which all or part of the lease is located. The [An] original recorded assignment or a certified copy thereof [of each assignment] shall be filed in the General Land Office within 90 days after its [the] execution [of the assignment], along with [accompanied by] the [prescribed] filing fee prescribed by [pursuant to] §1.91 of this title (relating to Fees) [for each lease or file affected].

(2) If an [any such] assignment is not filed within 90 days after its execution, a late filing fee [in an amount equal to double the prescribed filing fee] shall be paid when it [at the time the assignment] is filed [in the General Land Office]. This late fee shall be double the amount of the prescribed filing fee. If an assignment has not been timely filed, the commissioner of the land office, at his discretion, may subject the rights acquired under the [such] lease [shall be subject] to forfeiture [at the discretion of the commissioner of the General Land Office].

(3) For [the] purposes of this section, the last execution date shown on the instrument shall be deemed to be the date

of execution [in the case of multiple execution dates is the last date of execution as shown by the instrument].

(4) (No change.)

[(b)] Oil and gas leases of lands of state departments, boards, and agencies. All rights may be assigned. All assignments must be recorded in the county or counties where the area is located, and the recorded assignment or a certified copy of the same shall be filed in the General Land Office within 100 days from the date of the first acknowledgment accompanied by \$.10 per acre for each acre assigned and the prescribed filing fee; and, if not so filed and payment made, the assignment shall not be effective.]

[(b)](c) Oil and gas leases of lands of Texas A&M University, Texas A&I University, and Texas Tech University. All rights purchased may be assigned. All assignments shall be filed in the General Land Office within 100 days from the date of first acknowledgment, accompanied by \$.10 per acre for each acre assigned and the prescribed filing fee; and if not so filed and payment made, the assignment shall not be effective. Assignments of leases of lands of Texas A&M University may be made only with the consent of lessor. Either the original recorded assignment or a certified copy may be so filed.

[(c)](d) Partial assignments of oil and gas leases.

(1)-(2) (No change.)

Issued in Austin, Texas, on October 16, 1985.

TRD-859696 Garry Mauro  
Commissioner  
General Land Office

Effective date: October 16, 1985  
Expiration date: February 13, 1986  
For further information, please call  
(512) 475-8740

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### Oil and Gas

#### ★31 TAC §11.13

The General Land Office adopts on an emergency basis an amendment to §11.13, concerning releases of oil and gas leases.

The amendment is adopted on an emergency basis to achieve uniformity between the administrative rules and the statutory changes promulgated in Texas Civil Statutes, Chapter 624, §24. These statutory changes were effective September 1, 1985.

The amendment is adopted on an emergency basis under the Natural Resources Code, §31.051, which authorizes the commissioner of the General Land Office to make and enforce rules consistent with the law.

**§11.13. Releases of Oil and Gas Leases.**

(a) Relinquishment Act oil and gas leases, oil and gas leases administered by the School Land Board, and oil and gas leases issued by Boards for Lease for the Texas Parks and Wildlife Department and the Texas Department of Corrections. A lease may be released to the state at any time. The release shall be recorded in each county in which all or part of the lease is located. Within 90 days of its execution, the original or a certified copy of the release shall be filed with the General Land Office along with the filing fee prescribed by §1.91 of this title (relating to Fees). The owner of the lease will then be relieved of any further obligations to the state arising from the lease. The release will not relieve the owner of any obligations or liabilities in existence at the time of its execution. [A certified copy of release shall be filed in the General Land Office accompanied by the statutory filing fee (for each lease or file affected). An original recorded assignment will also be accepted.]

((b) Oil and gas leases of land administered by School Land Board. An owner may relinquish his lease to the state at any time by recording the relinquishment in the county or counties in which the area or part thereof is situated, and within 90 days after the date of its execution, the recorded relinquishment or certified copy of same shall be filed in the land office accompanied by the statutory filing fee (for each lease or file affected), and thereby the owner of such lease shall be relieved of any further obliga-

tions to the state, but such release shall not have the effect to release the owner from any obligations or liabilities theretofore accrued in favor of the state.

[(c) Oil and gas leases of lands of state departments, boards, and agencies. All rights to any whole tract or to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties where the area is located and filing the recorded relinquishment or certified copy of same in the General Land Office accompanied by the statutory filing fee. Such relinquishment shall not have the effect of releasing the lessee from any obligation or liability theretofore accrued in favor of the state.]

[(d) Oil and gas leases of University of Texas lands. All rights to any entire lease and to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated and filed in the land office accompanied by \$1.00 for each area assigned and the statutory filing fee; but such assignment shall not release the owners of any part due obligations theretofore accrued thereon.]

(b)[(e)] Oil and gas leases of lands of Texas A&M University, Texas A&I University, and Texas Tech University. A lease may be released in whole or in part at any time. The release instrument shall be filed in each county in which all or part of the lease is located. The release instrument shall

then be [All rights to any whole tract or to any assigned portion thereof may be relinquished to the state at any time by having an instrument of relinquishment recorded in the county or counties in which the area may be situated, and] filed with the General Land Office along with [chairman of the board accompanied by] \$1.00 for each acre assigned. The owner or the lease will then be relieved of any further obligations to the state arising from the lease. The release will not relieve the owner of any obligations or liabilities in existence at the time of its execution [but such assignment shall not relieve the owner of any part due obligations accrued on the lease].

(c)[(f)] Lease which has expired by its terms. It is not required that a release be filed in the General Land Office. [but] If it is submitted for filing, a copy of a certified copy is acceptable. [it must be a certified copy and] The release shall be accompanied by the statutory filing fee and relinquishment fee, if any.

Issued in Austin, Texas, on October 16, 1985.

TRD-859897

Garry Mauro  
Commissioner  
General Land Office

Effective date: October 16, 1985  
Expiration date: February 13, 1986  
For further information, please call  
(512) 475-8740.

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# Proposed Rules

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. Also, in the case of substantive rules, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

**Symbology in proposed amendments.** New language added to an existing rule is indicated by the use of **bold text**. [Brackets] indicate deletion of existing material within a rule.

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 7. Gas Utilities Division

##### Substantive Rules

#### ★ 16 TAC §7.42

The Railroad Commission of Texas proposes new §7.42, concerning recovery of the Btu measurement adjustment by intrastate pipelines, local distribution companies, and customers. The proposed text originally published in the June 28, 1985, issue of the *Texas Register* (10 TexReg 2105) is withdrawn, and this new proposal replaces it. The commission proposes the new section because all intrastate pipelines and local distribution companies that received Btu adjustment refunds, as authorized in the September 26, 1984, issue of the *Federal Register* (49 FedReg 37735) (hereinafter Order 399), must make subsequent refund to their customers. The proposed new section requires intrastate pipelines and local distribution companies to take the necessary steps to obtain the refunds due pursuant to Order 399. The proposed new section requires intrastate pipelines and local distribution companies to refund all overcharges received resulting from adjustments to the calculation of the energy content of natural gas sold pursuant to the Natural Gas Policy Act of 1978. The section, as amended, allows the companies to select the method of refund, subject to the review of the commission. The new section sets deadlines for refunds to customers and reporting of the refunds to the Gas Utilities Division.

The proposed new section implements portions of the Federal Energy Regulatory Commission Order 399, and the decision of Interstate Natural Gas Association vs. Federal Regulatory Commission, 716 F.2d 1 (D. C. Cir. 1983), *cert. denied*, 104 S. Ct. 1616.

The Gas Utilities Division received written comments from many intrastate pipelines, transmission companies, local distribution companies, and customers on the proposed text published in the June 28, 1985, issue of the *Texas Register*.

Arkansas Louisiana Gas Company, Amoco Gas Company, and Houston Pipe Line Company were opposed to the adoption of any rule requiring refunds applicable to intrastate pipelines and local distribution companies. The following entities filed comments in favor of the thrust of the rule requiring refunds, with modifications: Texas Gas Association, United Texas Transmission Company, Entex, Western Gas Association, Southern Gas Company, Tejas Gas Company, Southwestern Gas Pipeline, Inc., Valero Transmission Company, West Texas Gas, Inc., Westar Transmission Company, Seagull Energy Corporation, Texas Western Municipal Gas Corporation, Southwest Texas Municipal Gas Corporation, Channel Industries Gas, Southern Union Gas Company, Lone Star Gas Company, Rio Grande Valley Gas Company, Stout Consulting Services, Inc., Celanese Chemical Company, Inc., South Texas Electric Cooperative, Inc., and Medina Electric Cooperative, Inc.

The comments proposing modification of the proposed rules fell into three basic categories: method of refunds, interest calculations, and refund reporting. A majority of the comments pointed out that the companies had already instituted refund mechanisms and that the commission should not require one method for refunds. Most refunds have been flowed through the companies' weighted average cost of gas. Several commentators raised the practical problem of locating historical customers that were actually overcharged.

The second category of comments received dealt with the method of calculating interest on the refunds. Many of the comments suggested that the interest not be due unless the refund was held 30 days after the refund was received from the producer. This allows refunds to be made in accordance with a company's billing cycle. Several commentators also suggested that, because some refunds were placed in escrow accounts that are not accumulating interest as calculated in 18 Code of Federal Regulations §154.67(c), the interest requirement should be limited to the interest rate of the respective escrow accounts. Finally, several commentators, who have not made refunds, urged the commission to allow the interest requirement to commence 30 days from the date of the adop-

tion of this section because the companies had not anticipated interest refunds.

The final category of comments related to refund reporting. Local distribution companies uniformly stated that the reporting requirements created a great administrative burden because of the large number of customers served.

The comments against adoption of the new section relied upon the fact that many companies had already established and implemented refund procedures. The commission, however, disagrees that a rule is not necessary, since there are intrastate pipelines and local distribution companies which have not made refunds because no rule requiring refunds had been issued by the commission. Further, it is a goal of this rule to ensure that the refunds reach the ultimate consumer. Therefore, to adequately monitor and enforce this objective, a rule needs to be adopted which can provide guidelines for the intrastate pipelines and local distribution companies in making the Btu refunds.

As a result of these comments received, the commission withdraws its first proposed text on this section and submits this version for public comment.

Katherine Mudge, hearings examiner, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Mudge also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is an anticipated refund of the overcharges by intrastate pipeline and distribution companies. At this point, total estimated refunds are not available. There is an anticipated economic cost to the producers, royalty interest owners, and pipelines who are required to comply with the section as proposed. The anticipated costs cannot be determined at this time.

Comments on the proposal may be submitted to Carlos W. Higgins, Director, Gas Utilities Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7002. Comments

will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 6053, which authorize the Railroad Commission of Texas to prescribe rules for the regulation of natural gas.

**§7.42. Recovery of the Btu Measurement Adjustments by Intrastate Pipelines, Local Distribution Companies, and Customers.**

(a) Purpose. The purpose of this section is to require all intrastate pipelines and local distribution companies that receive Btu adjustment refunds to make subsequent refunds to their customers. The Btu refunds are authorized in 49 FedReg 37735 (September 26, 1984) (hereinafter Order 399), and resulted from adjustments of the calculation of energy content of natural gas sold pursuant to the Natural Gas Policy Act of 1978. All intrastate pipelines and local distribution companies shall pursue all reasonable, prudent, and necessary steps to collect the Btu refunds owed to them as provided for in Order 399. The objective of this section is to ensure that the ultimate consumers receive the refunds due. This section should be construed in such a manner as to comply with the state objective of this section.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Btu—British thermal units.

(2) Btu refunds—Those monies held in escrow accounts or elsewhere and those monies received by an intrastate pipeline or local distribution company which are attributable to refunds and interest accrued thereon due in accordance with the August 9, 1983, Court of Appeals decision in *Interstate Natural Gas Association of America vs. Federal Energy Regulatory Commission*, 716 F.2d 1 (D. C. Cir. 1983), *cert. denied*, 104 S. Ct. 1616 (1984).

(3) Commission—The Railroad Commission of Texas.

(4) Intrastate pipeline and local distribution company—Any person or entity subject to the jurisdiction of the commission, as defined in Texas Civil Statutes, Article 1446e, §§1.03(1) and (3), 2.01, and 2.02.

(c) Recovery of the Btu measurement adjustments.

(1) An intrastate pipeline or local distribution company which receives Btu refunds pursuant to Order 399 shall make refunds to its customers in accordance with the provisions of this section, notwithstanding any pipeline tariff provisions to the contrary.

(2) An intrastate pipeline or local distribution company shall make Btu refunds received in accordance with the following.

(A) All intrastate pipelines and local distribution companies receiving or

making the Btu refunds shall file a refund procedure report which has been or will be implemented to ensure that the Btu refunds are received by its customers. This report shall include the following information:

(i) the methodology and procedure used to implement the Btu refunds to its customers; and

(ii) the date of implementation.

(B) The refund procedure report will be reviewed by the Gas Utilities Division. Within 30 days of the date of filing of the report, the division will either approve the report or inform the company of any necessary modifications.

(C) The method and procedure of refund may be chosen by the company, subject to the approval of the commission, and may include, but not be limited to, lump sum payments, credits, or flow through of the refund in the company's weighted average cost of gas. The procedure of refunds established by the pipeline or local distribution company shall be applied uniformly to all customers.

(D) If a pipeline or local distribution company fails to refund the Btu refunds within 30 days after receipt from a first seller or supplying pipeline, interest shall be computed from the date of receipt of the overcharged amount by the pipeline or local distribution company to the date the amount is disbursed to its customers. If refunds have been held in an escrow account, the interest obligation will be limited to the rate earned while in the escrow account, but will be calculated from the date of receipt. Interest rates for all other refunds shall be computed in accordance with 18 Code of Federal Regulations §154.67(c).

(E) In no event may the pipeline or local distribution company hold the Btu refunds for a period greater than the earlier of 120 days from the date of receipt or 30 days after January 1, 1987.

(d) Refund reporting.

(1) All intrastate pipelines shall file refund reports on the dates listed in paragraph (3) of this subsection with the Gas Utilities Division. These reports shall contain the following information:

(A) identification of first sellers that have made refunds and the amounts received by the pipeline by separately stating the principal and interest received from each first seller;

(B) identification of first sellers that have not made the refunds, and the refund amount that has not been received by the pipeline by separately stating the principal and interest due from each first seller, and the reasons for such nonreceipt of those refunds; and

(C) identification of the refunds made by the pipeline to its customers, including the following information:

(i) the total amount of Btu refunds received;

(ii) the total amount of interest received;

(iii) the date(s) the refund(s) were received by the pipeline;

(iv) the total amount of refunds paid to each customer;

(v) the total amount of interest paid to each of its customers; and

(vi) the date(s) of payment(s).

(2) All local distribution companies shall file refund reports on the dates listed in paragraph (3) of this subsection with the Gas Utilities Division. These reports shall contain the following information:

(A) identification of pipelines or suppliers which have made refunds and the amounts received by the local distribution company by separately stating the principal and interest received;

(B) identification of pipelines and suppliers which have not made the refunds, and the refund amount that has not been received by separately stating the principal and interest due from each pipeline or supplier, and the reasons for such nonreceipt of those refunds; and

(C) identification of the refunds made by the local distribution company, including the following information:

(i) the total amount of Btu refunds received by month;

(ii) the total amount of interest received by month;

(iii) the date(s) the refund(s) were received;

(iv) the total amount of principal and interest refunded by month from the date of implementation;

(v) any amount of refunds that have not been refunded and the reason for withholding the refunds.

(3) The reports shall be filed on or before the following dates:

(A) first report—January 1, 1986;

(B) second report—May 1, 1986;

(C) third report—January 1, 1987; and

(D) fourth report—September 1, 1987.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 14, 1985.

TRD-859762

Walter Earl Lillie  
Special Counsel  
Railroad Commission  
of Texas

Earliest possible date of adoption:  
November 25, 1985  
For further information, please call  
(512) 463-7149.



## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 37. Maternal and Child Health Services Maternal and Infant Health Improvement Program

##### ★ 25 TAC §§37.231-37.243

The Texas Department of Health proposes new §§37.231-37.243, concerning the Maternal and Infant Health Improvement Program. The new sections cover the administration and implementation of the Maternal and Infant Health Improvement (MIHIA) Act.

Stephen Seale, chief accountant III, has determined that for the first five-year period there will be fiscal implications as a result of enforcing or administering the sections. The anticipated effect on state government is an estimated additional cost of \$6.75 million and an estimated increase in revenue of \$6.75 million for the year 1986, and in each of the next four years, there will be an estimated additional cost of \$15.47 million and an estimated increase in revenue of \$15.47 million. The anticipated effect on local government is an additional cost of \$2.25 million in 1986 and an estimated increased revenue of the same amount, and in each of the next four years, the additional cost will be \$5.3 million with an estimated revenue increase of the same amount. There is no anticipated adverse economic effect on small businesses.

Mr. Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is to limit the occurrence of maternal, fetal, and infant deaths, and low birthweight infants due to inadequate health care. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Walter P. Peter, Jr., M.D., Chief, Bureau of Maternal and Child Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700. Comments will be received for 30 days from the date of publication of the proposed sections.

The new sections are proposed under Texas Civil Statutes, Article 4447y, §4 and §5, which provide the Texas Board of Health with the authority to establish and administer a maternal and infant health improvement program.

**§37.231. Purpose.** The Maternal and Infant Health Improvement Act is intended to provide services to eligible low-income women and infants necessary to avert or limit the occurrence of maternal, fetal, and

infant deaths, low birth weight babies, handicapping conditions, unplanned adolescent pregnancies, and births without appropriate intrapartum care.

(1) The sections are designed to encourage the development of innovative prenatal care programs where services do not exist or care is insufficient, and to facilitate consultation and other services for high-risk women and infants. Such programs will be expected to coordinate proposed new services under this program with relevant existing local and regional resources and to provide adequate evaluation data measurements of the program.

(2) Emphasis will be placed on comprehensive services, including the following, to eligible individuals:

(A) routine prenatal care where service is not currently available;

(B) consultation and referral for prenatal care for possible or proven high-risk patients;

(C) intrapartum care appropriate to the needs of the high-risk woman and infant;

(D) ancillary services, such as laboratory services and transportation;

(E) health education and health promotion services;

(F) a special program of pregnancy prevention services for women receiving benefits for two or more pregnancies, including the availability of family planning services;

(G) a special program of preventive health, medical, and facility care and health education services for adolescents concentrating on adolescent pregnancy.

(3) The program is intended to fund a variety of providers, including, but not limited to, private physicians, hospitals, community health clinics, local health departments, or any other qualified providers of such services. Program contractors may offer services either directly or by special arrangement with other providers.

**§37.232. Definitions.** The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise:

**Act**—The Maternal and Infant Health Improvement Act (MIHIA), Texas Civil Statutes, Article 4447y.

**Adolescent**—A person under 18 years of age.

**Ancillary services**—Includes prescription drugs, medical social services, transportation, health promotion services, laboratory services, and other services necessary to obtain appropriate maternal and infant health improvement services.

**Applicant**—A person (agency) applying for a grant or contract with the department to provide maternal and infant health improvement services.

**Board**—Texas Board of Health.

**Commissioner**—The commissioner of health.

**Council of government**—A regional council of local governments formed to deal with problem and planning needs that cross the boundaries of individual local governments or require regional attention.

**Date of service**—The actual date the service was initiated or provided.

**Department**—Texas Department of Health.

**Eligible patient**—A person who meets all program requirements for eligibility.

**Eligibility date**—The effective date of eligibility for the patient to receive program benefits, which is the date the complete application was received by the program.

**Emergency**—The sudden onset of a life threatening situation in which a severe debilitating condition or death would result if immediate medical care were not provided.

**Infant**—An individual less than one year of age.

**Intrapartum care**—Maternal and infant health improvement services and ancillary services appropriate for a woman and fetus or infant during childbirth.

**Other benefit**—A benefit, other than a benefit provided under this Act, to which an individual is entitled for payment of the costs of maternal and infant health improvement services, ancillary services, educational, or transportation services.

**Perinatal care**—Maternal and infant health improvement services and ancillary services that are appropriate for a pregnant woman and the fetus during the period beginning on the 20th complete week of gestation and ending on the infant's 28th completed day of life.

**Person**—An individual, corporation, government, or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

**Prenatal care**—Maternal and infant health improvement services and ancillary services that are appropriate for a pregnant woman and the fetus during the period beginning on the date of conception and ending at the commencement of labor.

**Program**—The Maternal and Infant Health Improvement Program created by the Act and provided through program contractors or the department.

**Program contractor**—A person or agency that, through a contract with the department, delivers maternal and infant health improvement services and ancillary services that are purchased by the department for the purposes of this Act.

**Provider**—Generally includes, but is not limited to, private physicians, registered nurses, hospitals, community health centers, local health departments, and others; some of whom may also be program contractors.

**Region**—Public health region of the Texas Department of Health.

**Request for proposal**—An application and instructions submitted to the de-

partment for a plan and budget to provide comprehensive maternal and infant health improvement services.

**Services—Maternal and infant health improvement services.**

**State—The State of Texas.**

**Statewide Advisory Committee—**

Those persons appointed by the board to serve in an advisory capacity to the program staff.

**Support—**The contribution of money or services necessary for a person's maintenance, including food, clothing, shelter, transportation, and health care.

**§37.233. Program.**

(a) As authorized by the Act, the board, in these sections, has established a maternal and infant health improvement program in the department to deliver comprehensive maternity and infant health services and ancillary services to eligible women and infants.

(b) Based on a statewide determination of the need for services, the department shall develop an integrated framework for the equitable provision of services throughout the state and shall utilize existing public and private health, transportation, and education resources. A network of communications shall be developed between the various health care providers.

(c) According to the department's priorities, as determined by a statewide determination of need, the department may provide, directly or through program contractors, all or any combination of the following services, to eligible patients:

(1) maternal and infant health improvement services, including:

(A) comprehensive prenatal and perinatal care;

(B) obstetrical consultation services;

(C) preventive, health, medical, and facility intrapartum care;

(D) neonatal intensive care;

(E) follow-up services for eligible infants who are considered to be at high-risk of mortality or morbidity or of suffering long-lasting defect or disability;

(F) emergency medical transportation necessary to secure appropriate perinatal care;

(2) ancillary services;

(3) health education and health promotion services, including:

(A) organized continuing education for health care workers emphasizing perinatal education;

(B) public health education to provide information relating to the importance of perinatal care and the availability of resources for care; and

(C) nutrition education;

(4) a special program of family planning services for women who have received benefits for two or more pregnancies, including the availability of family planning services as provided in the medical assistance program administered by the Texas Department of Human Services;

(5) a special program of preventive, health, medical, and facility care and health education services for adolescents concentrating on adolescent pregnancy.

(d) Funds under this Act and these sections shall not be used to replace existing programs, services, or benefits currently funded or reimbursed through other resources, or which are legally required, but are meant to provide an additional scope of services. The applicant shall ensure that, as a condition of the funds awarded in the contract, the level of funds which were available to the applicant for maternal and infant health care on January 1, 1986, or upon receipt of the applicant's first Maternal and Infant Health Improvement Act (MIHIA) contract will not voluntarily be diverted for the purpose of providing services other than maternal and infant health care. Voluntarily diverted means those decisions controlled solely by the contracting agency. This provision does not preclude the replacement of lost federal monies or state grant monies directed to maternal and infant services by MIHIA dollars. Exceptions will be considered upon written request and written response by the department based on the individual merits of the proposal.

(e) Throughout the duration of this program, the department may deliver maternal and infant health improvement services directly to eligible patients to the extent that the department determines that the existing private or public providers or other resources in the service area or contiguous service area are unavailable or unable to provide those services. In making a determination that providers or resources are unavailable or unable to provide services, the department shall:

(1) initially determine the proposed need for services in the service area;

(2) notify existing private and public providers and other resources in the service area or contiguous service area of the department's initial determination of the need for the services and the services the department proposes to deliver directly to eligible individuals;

(3) provide the existing private and public providers and other resources in the service area or contiguous service area 30 days to comment on the department's initial determination of the need for the proposed services and determine the availability of existing private or public providers or other resources in the service area and their ability to satisfy the need for the services;

(4) provide the existing private and public providers and other resources in the service area 30 days to apply and 60 days to secure approval as providers under the program;

(5) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to deliver directly under the Act, to the extent that those services may be delivered by existing private

or public providers or other resources in the service area that meet the board's criteria for approval as providers.

**§37.234. Contracts and Written Agreements.**

(a) In order to conserve funds and effectively administer the program, the department may contract on a request for proposal (RFP) basis for maternal and infant health improvement services and ancillary services.

(b) The department shall publish public notice of the request for proposals in the *Texas Register*, secretary of state's office, at least 30 days prior to the due date given in the application. Local published notices or direct contact by the department with potential contractors shall also be utilized.

(c) Potential applicants who are interested in providing maternal and infant health improvement services may be existing private or public resources that meet criteria in these sections to provide the needed services.

(d) Applicants may obtain an application packet from the department. The department will respond within 10 working days of receiving a request.

(e) All proposed plans must be reviewed by and coordinated with the department's appropriate regional director prior to the submission of the request for proposal to the department.

(f) All RFPs will be reviewed at the appropriate regional department level and at the area councils of government; this review is for comment only and must be completed within 60 days. Concurrent review will be done at the state level by the department.

(g) Based on review criteria in these sections, evaluation by the regional director of public health, and the council of governments, applicants submitting proposals will be selected and approved by the department at the state level to enter into a contract with the department.

(h) A contractor with the department must agree to provide all necessary services either directly or through agreements or subcontracts with other providers.

(i) Criteria for the selection of applicants will be based on the following.

(1) The applicant has attempted to secure providers who have traditionally given charity care to indigent maternity patients and indigent infants.

(2) The applicant must assure the provision of prenatal care to low-risk pregnant women and preventive child health services, including immunizations, according to the standards for maternity and child health care as developed by the department.

(3) The applicant must assure the availability of medical consultation for high-risk obstetrical patients and high-risk infants at the established fees. Reimbursable fee rates shall be contained in the application packet.

(4) The applicant must assure the availability of appropriate hospital facilities for eligible patients at the established fees. Reimbursable fee rates shall be included in the application packet.

(5) The applicant must assure the availability of emergency transportation of eligible high-risk pregnant women and high-risk infants.

(6) The applicant must assure the availability of follow-up services for eligible high-risk infants.

(7) The applicant must designate a medical director who is a physician licensed to practice medicine in Texas and who shall be responsible for the medical aspects of the provider's program.

(8) In addition, the applicant must secure the consultative services of a board-certified obstetrician and a sub-board-certified neonatologist for each county where services are proposed. These specialists shall be available to accept referrals from other physicians providing services for eligible patients.

(A) The obstetric consultant must be certified by the American Board of Obstetrics and Gynecology.

(B) The neonatology consultant must be certified by the American Board of Pediatrics with a sub-board certification in neonatology.

(C) Exceptions will be made by the department in cases of geographic factors and unavailability of professionals shown in subparagraphs (A) and (B) of this paragraph.

(j) In areas where contractors are not available or willing to provide program services, the department may provide program services directly or through approved providers.

(k) The department will continue to provide prenatal care, child health care, and family planning services in existing public health clinics according to the standards developed by the department for maternity, family planning, and child health care.

(l) An applicant will not be denied approval as a provider on the basis that the applicant operates for profit or receives federal funds, if those funds are inadequate to meet the needs of all eligible patients seeking services.

(m) The department may waive the preceding requirements in order to expedite selection of providers on an emergency basis so that maternal and infant health services may be provided to individuals in need. This may be done on the advice of the advisory committee and shall have the approval of the board or commissioner.

#### §37.235. Selection of Providers.

(a) Authorization. Generally, the Act authorizes the board to select providers to participate in the program according to criteria in these sections and any other procedures adopted by the board.

(b) Provider acceptance of sections. All physicians, hospitals, and other pro-

viders must agree to abide by these sections and to accept program fees as payment in full for services delivered to eligible individuals whose annual gross family income is 100% of the federal poverty income guidelines or below.

(c) Routine prenatal care services. Providers such as physicians, registered nurses, and certified nurse midwives may be funded for routine prenatal care services in the designated counties of need.

(d) High-risk patient services. The following groups of providers must be processed through an application process to determine their desire to participate in the program and to determine their qualifications in relation to the criteria in these sections for participation.

(1) Physicians. To be approved for program participation, a physician must submit a completed application form and attach the documents as requested on the form.

(A) Criteria and stipulations include:

(i) a license to practice medicine in Texas;

(ii) board certification in the following specialties of the American Board of Medical Specialties: obstetrics and gynecology, pediatrics or family practice, or be a member of the American Academy of Family Practice;

(iii) board-eligible physicians may be approved for a one-year period pending certification;

(iv) an established practice located within Texas

(B) In exceptional situations, the requirements of subparagraph (A)(ii) and (iv) of this paragraph may be waived by the department.

(C) Physicians who contract with a program contractor for greater than 50% of their time or who are on salary with a program contractor may not be reimbursed by Maternal and Infant Health Improvement Act (MIHIA) funds.

#### (2) Hospitals.

(A) Criteria for hospital approval include the following:

(i) current approval by the Joint Commission on Accreditation of Hospitals and/or licensure by the Texas Department of Health;

(ii) location within Texas;

(iii) program-approved physicians sufficient to meet anticipated program caseload;

(iv) definable obstetrical and newborn units, equipment, and qualified staff necessary to meet the special needs of program-eligible patients, as determined by the department;

(v) a Level III intensive care nursery meeting American Academy of Pediatrics and Texas Department of Health standards for all hospitals providing newborn intensive care services; and

(vi) an agreement to allow on-site visits and both medical and fiscal audit

privileges to the department.

(B) To facilitate the availability of medical treatment in all areas of the state, while retaining the assurance of quality care, approval of some hospitals may be on a conditional basis, with restrictions limiting the hospital to treatment of certain specific conditions. Application materials should be updated at least every two years.

(C) Upon changes in the health delivery system and in consideration of cost-effectiveness and efficiency, the board may adopt additional rules establishing other groups of approved providers and facilities.

(3) Out-of-state physicians and hospitals. All physicians and hospitals utilized by the program shall be located in Texas, except in those situations where it is clearly a hardship or a great risk for patients to be transported to a medical facility in Texas, when an out-of-state facility within 50 miles of the Texas border is closer. Under these circumstances, all other program policies and procedures will apply.

(4) Physician and hospital application for program participation.

(A) Applications may be obtained from the department or program contractor on request. A copy of these sections shall be attached to the application. The completed application will be reviewed by the department for correctness and to verify that all criteria have been met, including required documentation. The department shall notify the physician or hospital of the status of the application within 20 working days of the department's receipt of the application. Approval shall not require action by the board or Statewide Advisory Committee, but shall be based on the department's administrative review.

(B) Any physician or hospital may withdraw from program participation by notifying the department in writing 30 days in advance.

(5) Denial/modification/suspension/termination of provider approval.

(A) The department may deny, modify, suspend, or terminate the approval of providers for due cause. Any provider or facility submitting false or fraudulent claims or failing to provide and maintain quality services or medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions.

(B) A due process hearing is available to any provider for the resolution of conflict between the program and the provider.

(6) Other participating providers. The department and program contractors may use other types of providers that are not required to apply for approval, and may use nonapproved providers for emergency care, or in areas of the state where there are not approved providers available. Like approved providers, nonapproved providers must adhere to these sections and the specified payment procedures to be assured of program payment. Examples of other participating providers are:

- (A) nonapproved physicians used for emergency care;
- (B) pharmacists;
- (C) transportation companies or providers;
- (D) ambulance services; and
- (E) physician consultants to approved physicians.

**§37.236. Eligibility for Routine Prenatal Care Services.**

(a) **Criteria.** A patient shall be eligible for routine prenatal care under this Act, if she is pregnant, is a Texas resident as defined in these sections, has an annual gross family income below 200% of federal poverty income guidelines, and no other public resources are available.

(b) **Co-payment.** Patients whose annual gross family income exceeds 100% of the federal poverty income guidelines may be charged a co-payment on a sliding fee basis in accordance with their income.

**§37.237. Eligibility for High-Risk Patient Services.**

(a) **Criteria.** In order for a patient to be eligible for high-risk maternal and infant health improvement services, the patient has to meet the medical, financial, and related criteria in this section.

(b) **Applications.** Applications are available to anyone seeking assistance from the program. Application forms may be obtained from most local or regional health departments or program providers. The completed application form is reviewed by the program providers or regional health departments as applicable. The application is in two parts: one part provides eligibility information regarding the family's financial circumstances and patient residency; the other part provides medical eligibility information. To be considered by the program, the application must be on department forms.

(c) **Eligibility.** To be eligible for the program, the patient must meet all the following criteria:

- (1) the patient must be pregnant or be the infant offspring of an eligible patient;
- (2) the patient must have a high-risk medical condition that is coverable by the program, or the pregnant patient must be an adolescent (16 years of age or younger) or 40 years of age or older at the time of pregnancy diagnosis;
- (3) the patient must be in financial need as defined by these sections; and
- (4) the patient must be a resident of Texas as defined in these sections.

(d) **Filing of application form.** The patient is considered to have filed an application from the time the department or program contractor has received a complete application. All applications must be kept by the department or program contractor for a period of three years. Applications will be classified as follows.

(1) **Denied.** The application will be denied if eligibility requirements are not met.

(2) **Incomplete.** An application will be considered incomplete if sufficient information is not provided.

(3) **Pending.** The application will remain pending if medical information is not yet available.

(4) **Approved.** The application will be approved if all criteria are met.

(e) **Eligibility requirements.**

(1) **Medical eligibility.**

(A) Any pregnant woman who is 16 years of age or younger or 40 years of age or older or who is suspect of having a high-risk condition coverable by the program and whose financial and residency eligibility has been established is eligible for outpatient consultation services and outpatient specialized diagnostic services by an approved physician. Payment for these services will be according to program fee schedules.

(B) To be medically eligible for continuing services other than those described in subparagraph (A) of this paragraph, the patient must have a condition coverable by the program and have at least one licensed physician certify that the individual meets the health or medical criteria established by these sections; and the physician has reason to expect that the services delivered by the program will prevent or reduce the probability of maternal, fetal, or infant death, and complications of pregnancy, including handicapping conditions found in infants that are associated with complications of pregnancy.

(C) A list of high-risk medical conditions covered by the program shall be included in the request for proposal (RFP) application instructions. Special consideration shall be given to pregnant women and infants with high-risk medical conditions which, when treated, would result in reduced deaths and handicapping conditions.

(D) In order to determine medical eligibility, a physician must provide at least the following:

- (i) applicant's name, I.D. number, and date of birth;
- (ii) diagnosis by International Classification of Diseases, Ninth Edition, Clinical Modification, (ICD-9 Codes) and name(s);
- (iii) services needed;
- (iv) plan of treatment/follow-up care.

(E) Notification of emergency situations must be received within five working days of delivery of emergency care. The program will require the following specific information: the nature of the emergency; diagnosis; services performed; name and address of facility; name and address of physician; name, current address, and date-of-birth of patient/applicant; name, address, and telephone number of parents, if patient/applicant is under 18 years of age. Eligibility must be established before any payment for services can be made; the program must receive a com-

pleted application no later than 30 days after the date of service was initiated. Failure to comply with this 30-day deadline will forfeit the provider's and patient's right to any claim for payment.

(2) **Financial eligibility.**

(A) Financial need is established on the basis of family income.

(B) The family income used to determine eligibility is the gross annual income of those persons who have a legal obligation to provide for the eligible patient. Gross annual income includes earned wages, pensions, or allotments, child support payments, alimony, or any monies received on a regular basis for family support purposes. Verification of income will be required as set out in subparagraph (D) of this paragraph. If the applicant is at least 18 years of age and is determined to be in school, the applicant is considered to be the legal responsibility of the parent, guardian, or conservator; if an applicant is at least 18 years of age, is not in school, and/or has been employed or is living independently, eligibility will be determined by the applicant's individual situation.

(C) Income guidelines are based on percentages of the current federal poverty income guidelines and may be adjusted by the program with the consent of the commissioner to meet budgetary limitations. Coverage is based by program priority on percentages of federal poverty income guidelines. The program will adjust priority levels depending on available funds. Priority levels are as follows:

**Program Priorities Based On Federal Poverty Income Guidelines**

- Priority 1—30% or below
- Priority 2—31% to 40%
- Priority 3—41% to 50%
- Priority 4—51% to 60%
- Priority 5—61% to 70%
- Priority 6—71% to 80%
- Priority 7—81% to 90%
- Priority 8—91% to 100%
- Priority 9—101% to 110%
- Priority 10—111% to 120%
- Priority 11—121% to 130%
- Priority 12—131% to 140%
- Priority 13—141% to 150%

(D) **Verification of income.** All income of the applicant or legally responsible person(s) must be verified by presenting at least one of the following:

- (i) a copy of the most recent paycheck;
- (ii) a copy of the most recent paycheck stub/monthly employee earnings statement;
- (iii) employer's written verification of gross monthly income;
- (iv) pension/allotment award letters;
- (v) Internal Revenue Service Form 1040 and supporting schedules for the most recently completed year. The program may require submission of this item if the items shown in clauses (i)-(iv) of this sub-



paragraph are not available to verify income;

(vi) other documents of proof of income determined valid by the department.

(E) Any other resource available to the eligible patient, or the parent/guardian/conservator if the patient is a minor, must be utilized prior to the use of program funds. This includes benefits from a legal cause of action, settlement, or judgment in behalf of the patient, as well as personal financial resources and third-party insurance. This should not be interpreted as a deterrent to appropriate care of minors.

(F) To be eligible for services under this Act, the patient must not be receiving maternal and infant health benefits reimbursable through health insurance, including Medicaid.

**(3) Residency eligibility.**

(A) **Bona fide resident.** The person must be a bona fide resident of Texas. A bona fide resident means a person who is physically present within the geographic boundaries of the state and who:

(i) has an intent to remain within the state, whether permanently or for an indefinite period;

(ii) actually maintains an abode within the state (i.e., house or apartment, not merely a post office box);

(iii) does not claim residency in any other state or country;

(iv) is under 19 years of age and resides in Texas and his/her parent(s) or managing conservator or the guardian of the child is a bona fide resident;

(v) is a person residing in Texas and his/her legal dependent spouse is a bona fide resident;

(vi) is an adult residing in Texas and his/her legal guardian is a bona fide resident

(B) **Verification of residency.** Verification of Texas residency must be attached to the application and may be in the form of a copy of one of the following: a valid driver's license, voter registration, motor vehicle registration, rent or utility receipts, school records, or other proof of residency as determined valid by the department.

**(f) Determination of eligibility**

(1) **Final determination of eligibility.** The final determination of eligibility is made by the department or program contractor using the information provided in both parts of the application (medical and financial).

(2) **Approval.** The patient's case is considered to be approved for payment when all aspects of eligibility have been met and continues for the perinatal period, and for eligible high-risk infants who are 12 months of age or younger, provided that eligibility criteria are maintained. The department or program contractor will respond within 15 working days after the application and the medical eligibility form have been received. Any questions regard-

ing coverage may be addressed to the department.

(3) **Eligibility date.** At the time eligibility is established, an eligibility date will be determined and recorded. The eligibility date assigned will be the date the properly completed application form, with financial and residency requirements met, was received by the department or program contractor.

(4) **Denial.** The denial of any application to the program will be in writing and will include the reason(s) for such denial. The patient applying for services has the right of administrative review and a due process hearing as set out in §37.242 of this title (relating to Appeals, Confidentiality, Gifts, and Nondiscrimination).

(g) **Maintaining eligibility.** To maintain eligibility for program benefits, the person must:

(1) continue to reside in the state;

(2) be in financial need as defined by these sections and the department;

(3) continue with a high-risk pregnancy or be the infant offspring of such a pregnancy; and

(4) apprise the program within 30 days of changes in permanent home address, insurance coverage, employment, or income.

(h) **Reapplication.** Any patient has the right to reapply for program coverage at any time or when there is change of situation or condition.

(i) **Fees for services.** The department or program contractor may charge fees for services delivered by the department or through the contracting agencies in accordance with Texas Civil Statutes, Article 4414c, and board rules implementing Article 4414c found in §1.91 of this title (relating to Fees for Clinical Health Services).

(1) Patients whose gross annual family income exceeds 100% of the federal poverty income guidelines may be charged a co-payment on a sliding fee basis in accordance with their income.

(2) The department shall publish and distribute the fee schedule to program contractors who may bill patients accordingly.

(3) A fee may not be charged that exceeds the actual cost of the service.

(4) A patient may not be denied service because of inability to pay.

(5) Fees collected by local health departments or by program contractors shall be retained by those departments or contractors and shall be accounted for and expended only for maternal and infant health services.

(j) Nothing in this section shall preclude a system of integrated eligibility with the Department of Human Services.

**§37.238. Services Provided to Patients.**

(a) Generally, the department may provide direct program services or may utilize qualified existing private or public providers. The patient should receive services

as close to the home community as possible except in those situations where program contracts or policies require treatment at specific facilities.

(b) Paragraphs (1)-(9) of this subsection provide a brief description of the services the program shall provide. Services may be limited as to frequency, duration, and cost for budgetary reasons.

(1) **New or additional prenatal care** in counties designated in need of these services. The department shall conduct a statistical needs determination and certain counties shall be designated as priorities for new or expanded prenatal care services.

(2) **Outpatient consultation services** for high-risk maternity patients. These services include prenatal and postpartum visits for specified high-risk medical conditions. Texas Department of Health maternity standards shall be followed.

(3) **Outpatient specialized diagnostic services** for high-risk maternity patients. These services include up to two sonograms per pregnancy, needed amniocentesis, colposcopy for class III or greater pap smears, up to two non-stress tests per pregnancy and circlage for incompetent cervix.

(4) **Stabilization of the high-risk maternity patient.** These services include attending physician and hospital care for up to a total of seven days per pregnancy and a limited duration of domiciliary care when indicated for medical reasons.

(5) **Hospitalization for delivery (intrapartum care)** of the high-risk pregnant women and normal newborn care. Pregnant women who meet financial and residence eligibility, and who have an eligible high-risk medical condition or who are 16 years of age or younger or 40 years of age or older, are eligible for intrapartum (delivery) care in a program approved hospital.

(6) **Inpatient hospitalization for newborns of high-risk maternity patients.** Newborns eligible for inpatient services include only those whose mothers received intrapartum care under the program. Routine newborn services include physician and hospital care for two days (vaginal delivery) or five days (caesarean delivery).

(A) **Inpatient hospitalization for newborn conditions not requiring intensive care.** This service includes inpatient hospitalization for newborns requiring medical care relating to immediate postpartum complications.

(B) **Inpatient hospitalization for newborn conditions requiring intensive care.** This service includes inpatient hospitalization for newborns requiring intensive neonatal care for immediate postpartum complications at a hospital meeting level III standards of the American Academy of Pediatrics and Texas Department of Health.

(7) **Outpatient high-risk infant follow-up consultation visits.** Infants whose mothers received intrapartum care and who meet high-risk medical criteria are eligible

for specialized high-risk infant follow-up services. These services include outpatient visits to a board-certified specialist.

(8) **Transportation.** This service includes the emergency transportation of high-risk maternity patients eligible for program services and/or newborns under 48 hours of age eligible for neonatal intensive care services. Services include emergency transportation by a qualified provider. The program may provide nonemergency transportation for the patient and, if needed, a responsible adult to the nearest medically appropriate facility.

(9) **Special services.** These services include outpatient specialized laboratory tests and medications as funds are available. Medications must be prescribed by an approved physician for treatment of a condition covered by the program. Payment is made only after delivery of the medications. The pharmacist must submit proof of receipt by the patient and a copy of the physician's prescription with the voucher.

**§37.239. Coordination of Benefits and Recovery of Costs.**

(a) An individual is not eligible to receive services delivered under this Act to the extent that the individual or a person with a legal obligation to support the individual is eligible for some other benefit that would pay for all or part of the services, unless those services were denied.

(b) An individual who applies for or receives services delivered under this Act shall inform the program at the time of application or at the time the individual receives services, of any other benefit to which the individual or a person who has a legal obligation to support the individual may be entitled.

(c) An individual or a person who has a legal obligation to support an individual who has received services that are covered by some other benefit shall reimburse the department to the extent of the services provided when the other benefit is received.

(d) The commissioner may waive enforcement as prescribed in these sections in certain individually considered cases in which enforcement of this section will deny services to a class of otherwise eligible individuals because of conflicting federal, state, or local laws or regulations.

(e) The department may recover the cost of services delivered under this Act from a person who does not reimburse the department as required or from any third party who has a legal obligation to pay other benefits and to whom notice of the department's interest has been given. At the request of the commissioner, the attorney general may bring suit in the appropriate court of Travis County on behalf of the department. The court may award attorney fees, court costs, and interest accruing from the date the department is reimbursed in a judgement in favor of the department.

**§37.240. Denial/Modification/Suspension/Termination of Services.**

(a) **Generally.** The department may, for cause, deny, suspend, or terminate services to an eligible patient after written notice to the applicant or recipient and an opportunity for a fair hearing has been given.

(b) **Basis for action.** Any person requesting or receiving benefits from the program may be notified in writing that such benefits may be denied, modified, suspended, or terminated if:

(1) the application information is erroneous or falsified;

(2) the person is no longer a resident of Texas;

(3) the required information is not provided when requested;

(4) obligated reimbursement to the program is not provided. Any person or persons who have a legal obligation to support the patient and have received third party or liability payments must reimburse the department by lump sum payment or, at the department's discretion, in monthly installments;

(5) program funds are reduced or curtailed.

(c) **Inapplicability of Administrative Procedure and Texas Register Act.** The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §§12-20, does not apply to the granting, denial, modification, suspension, or termination of services delivered under this Act. The department shall conduct hearings in accordance with minimum due process requirements.

(d) **Exemption.** The notice and hearing procedures do not apply if the department restricts program services to conform to budgetary limitations that require the board to establish service priorities relating to the types of services provided, geographical areas covered, or classes of individuals eligible.

(e) **Payment of services.** Payment for any service authorized by the program, contractor, or regional office may be made only after the delivery of the service. The family must not be required to make a pre-admission or pre-treatment payment or deposit. Providers must agree to accept established fees and must not bill the patient or family the difference between the usual and customary charge and the program fee if the annual gross family income is 100% of the federal poverty income guidelines or below.

(1) **Maternal and Infant Health Improvement Act (MIHIA) fee schedules.** The department has adopted fee schedules which apply to program services. Fee schedules will be revised as appropriate in relation to available funding. The department may adopt other fee schedules through contract or written agreement for budgetary or administrative reasons. Fee schedules will be provided to all contractors.

(2) **Required documentation.** The department requires documentation of the delivery of goods and services from the pro-

vider. Notification will be given regarding requirements for documentation.

(3) **Claims submission deadline.** Individual providers must submit their service charges within 90 days of the date of the provision of service. Submission of claims after that day may be deemed cause for denial of payment.

(4) **Overpayments.** Overpayments made on behalf of patients to providers must be reimbursed to the department by lump sum payment or, at the department's discretion, out of the current claims due to be paid the provider in behalf of patients. This provision will also apply to any person or persons who have a legal obligation to support the patient and have received third party or liability payments. The opportunity for an administrative hearing is available to providers.

(5) **Payment suspension or cancellation.** The program may suspend or cancel payment for services if false or fraudulent claims are submitted by a provider or supplier. Any provider failing to provide and maintain quality services of medically acceptable standards is subject to review, fraud referral, and/or administrative sanctions. Providers may request a due process hearing from the department.

**§37.241. Development and Improvement of Standards and Services.**

(a) **Advisory committees.**

(1) The Act specifies a nine-member statewide advisory committee that may be appointed by the board. The committee shall advise and recommend to the department with respect to the policies of the program, as follows.

(A) It may suggest alternatives to the ongoing program and its method of administration, including monitoring and evaluation.

(B) It may review and advise upon the method and requirements for obtaining contractor providers, i.e., the request for proposals.

(C) It may adopt sub-committees to review the department's criteria for selection of providers, including consultants, facilities, and emergency transportation systems.

(2) The board may also appoint the Area Council of Governments to advise the department with respect to the local or area-wide impact of the policies of the program.

(b) **Monitoring and evaluation of program.**

(1) Generally, monitoring and evaluation of the program will be done on a regular basis by staff of the Bureau of Maternal and Child Health and regional representatives and the Statewide Advisory Committee. This will be done through on-site program audits and evaluations of providers, and through fiscal and programmatic reports to determine compliance with the Act and these sections.

(2) The department shall conduct analysis of outcome indicators such as en-



trance month into prenatal care, number of prenatal visits, birth weight, neonatal and infant mortality rates in order to determine the impact on health status of this Act.

(c) Reports. The statute governing these sections requires additional financial information beyond that required in the State Uniform Grant and Management Standards. The inclusion of the following rule on reports will serve to meet the required notice in the *Texas Register* for state agencies requiring additional financial information. The department will require reports from program contractors and regional offices that must include:

- (1) the unduplicated number of patients receiving care under this program;
  - (2) the total cost of the program, including a delineation of the total administrative costs of the program and the total cost for cash service authorized under this program;
  - (3) the average cost per recipient of services;
  - (4) the number of recipients of services who received services in each public health region;
  - (5) high-risk maternity and high-risk infant follow-up reporting forms;
  - (6) other information that may be required by the board.
- (d) Cooperation with other agencies. The department will cooperate with public agencies, federal, state, and local, and with private agencies and individuals interested in the welfare of mothers and infants. The program will make every effort to establish cooperative agreements with other state agencies to define the responsibilities of each agency in relation to specific programs to avoid duplication of services.

**§37.242. Appeals, Confidentiality, Gifts, and Nondiscrimination.**

(a) Right of appeal. Any person aggrieved by a program decision to deny, modify, suspend, or terminate benefits or participation rights may appeal the decision in the following manner.

(1) Administrative review.

(A) Within 10 working days after receiving notice of denial, modification, suspension, or termination of benefits, a person aggrieved and wanting an administrative review shall respond to, or question, the program's decision and notify the department by certified mail of his/her request for an administrative review of the program's decision. Additional information bearing on the decision may be submitted at this time. Failure to request an administrative review within the 10-day period is deemed to be a waiver of the administrative review.

(B) Upon receipt of this response, a department administrative review team will affirm or reverse the proposed action, and respond in writing to the person, giving the reason(s) for the decision.

(C) Within 10 days after receiving written notice of the decision of the ad-

ministrative review team, a person aggrieved by the program's administrative review may request a due process hearing from the department in accordance with the provisions of paragraph (2) of this subsection. A request for a hearing shall be sent to the program by certified mail. Failure to request the hearing within the 10-day period is deemed to be a waiver of the due process hearing.

(2) Due process hearing.

(A) The department will set a date and time at the Texas Department of Health central office in Austin, Texas, for the hearing.

(B) The hearing will not be conducted under the contested case provision of the Administrative Procedure and Texas Register Act, but will include the following:

(i) timely written notice to the person aggrieved of the basis for the decision and disclosure of the evidence on which the decision is taken;

(ii) an opportunity for the person aggrieved to appear before an impartial decision maker to relate the basis for the decision;

(iii) an opportunity for the person aggrieved to be represented by counsel or another representative;

(iv) an opportunity for the person aggrieved or representatives to be heard in person, to call witnesses, and to present documentary evidence;

(v) an opportunity for the person aggrieved to cross-examine witnesses; and

(vi) a written decision by the impartial decision maker, setting forth the reasons for the decision and the evidence upon which the decision is based.

(b) Confidentiality of information. All medical records and other information maintained by the department which is confidential by law shall not be disclosed to the public.

(c) Gifts and donations. The department may receive gifts and donations on behalf of the program, which are deposited in the state treasury and reappropriated to the program.

(d) Nondiscrimination statement. The Texas Department of Health operates in compliance with the Civil Rights Act, 1964, Public Law 88-352, and Title VI and 45 Code of Federal Regulations Part 80, so that no person will be excluded from participation in, or otherwise subjected to discrimination on the grounds of race, color, national origin, or handicapping conditions.

**§37.243. Items Adopted by Reference.**

(a) Medical eligibility criteria. The department adopts by reference the medical eligibility criteria mentioned in these sections. A copy may be obtained from the Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours.

(b) Income guidelines. The department adopts by reference the income guidelines set out in these sections. A copy of the guidelines is indexed and filed in the Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and is available for public inspection during regular working hours.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 21, 1985.

TRD-859797

Robert A MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption.

December 14, 1985

For further information, please call  
(512) 458-7236

★ ★ ★

**State Maternal and Infant Health  
Care Program Advisory  
Committee**

**★ 25 TAC §§37.261-37.270**

The Texas Department of Health proposes new §§37.261-37.270, concerning the operational procedures of the State Maternal and Infant Health Care Program Advisory Committee. The new sections cover the authorization and purpose of rules, membership, meetings, quorum, subcommittees, parliamentary procedure, minutes, and public participation.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections

Mr Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the department will have available for advice and assistance an advisory committee on maternal and infant health care. There is no anticipated economic cost to individuals who are required to comply with the proposed sections

Comments on the proposal may be submitted to Walter P. Peter, Jr., M.D., Chief, Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for 30 days after publication of this proposal in the *Texas Register*

The new sections are proposed under Texas Civil Statutes, Article 4447y, §14,

which provide the Texas Board of Health with the authority to establish a maternal and infant health care program advisory committee and to adopt rules covering the committee's operations.

§37.261. *Authorization.* The State Maternal and Infant Health Care Program Advisory Committee is created by the Maternal and Infant Health Improvement Act, Texas Civil Statutes, Article 4447y, §14.

§37.262. *Purpose.* The advisory committee is created for the purpose of advising and assisting the Texas Board of Health and the Texas Department of Health in planning and administering the development of the statewide comprehensive maternity and infant health services program. Committee responsibilities include:

- (1) evaluation of existing services and unmet needs;
- (2) reviewing long-range and short-term plans;
- (3) reviewing and approving program rules;
- (4) reviewing request for proposals; and
- (5) evaluation of ongoing program efforts and data collection.

§37.263. *Membership.* Members are appointed by the Texas Board of Health in accordance with the requirements of the authorizing statute. A record of attendance at each meeting shall be made. If a member misses two consecutive meetings, written notice shall be given to the member. A third consecutive absence from a regular meeting shall be sufficient grounds for membership termination by the Texas Board of Health.

§37.264. *Officers.* The officers of the committee shall consist of a chairperson and a vice-chairperson and shall be selected at the committee's first regular meeting and, thereafter, as terms expire or vacancies are otherwise created. Officers shall serve two-year terms and shall be eligible for re-election for one additional term. The chairperson will be the presiding officer of the committee. The vice-chairperson shall assume the authority and duties of the chairperson in his or her absence.

§37.265. *Meetings.*

(a) Regular meetings. The full committee shall meet at least four times per year, coinciding, when possible, with the meeting dates of the Texas Board of Health. Notice of the time, date, place, and purpose of regular meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(b) Special meetings. Special meetings of the committee shall be held as needed and called by the chairperson. Notice of the time, date, place, and purpose of special meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

§37.266. *Quorum.* A majority of the committee's members constitutes a quorum for the transaction of business at any meeting. A majority is defined as more than one-half of the committee's membership. The committee may act only by majority vote of its members present and voting. Each member shall be entitled to one vote. Proxy votes shall not be allowed.

§37.267. *Subcommittees.* The subcommittees of the committee shall be ad hoc and shall be appointed from the membership by the chairperson with such powers and responsibilities as shall be delegated to them by the chairperson.

§37.268. *Parliamentary Procedure.* Parliamentary procedures for all committee or subcommittee meetings are conducted in accordance with the latest edition of *Roberts Rules of Order*, except that the chairperson may vote on any action as any other member of the committee.

§37.269. *Minutes.* Minutes of all committee meetings will be prepared and transmitted to the membership for their review prior to subsequent meetings.

§37.270. *Public Participation.* All requests from the public to participate in committee meetings shall be submitted to the committee chairperson. The agenda for each committee meeting shall include one or more items providing for public participation. The chairperson may limit, as necessary, the time for each spokesperson appearing before the committee. Written comments are encouraged and may be submitted to the committee for their consideration.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on October 21, 1985

TRD-859796

Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:

December 14, 1985

For further information, please call

(512) 468-7236

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### State Primary Care Program Advisory Committee

★ 25 TAC §§37.281-37.290

The Texas Department of Health proposes new §§37.281-37.290, concerning the operational procedures of the State Primary Care Program Advisory Committee. The new sections cover the authorization and purpose of the rules, membership, meetings, quorum, subcommittees, parliamentary procedure, minutes, and public participation.

Stephen Seale, chief accountant III, has determined that there will be no fiscal implications for state or local government as a result of enforcing or administering the new sections. There will be no adverse economic effect on small businesses.

Mr. Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections as proposed is that there will be a committee to assist and advise the department in implementing the State Primary Care Program. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Walter P. Peter, Jr., M.D., Chief, Bureau of Maternal and Child Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for 30 days after publication of this proposal in the *Texas Register*.

The new sections are proposed under Texas Civil Statutes, Article 4438d, §14, which provide the Texas Board of Health to establish a primary care advisory committee and to adopt rules covering the committee's operation

§37.281. *Authorization.* The State Primary Care Program Advisory Committee is created by the Texas Primary Health Care Services Act, Texas Civil Statutes, Article 4438d, §5 and §14.

§37.282. *Purpose.* The advisory committee is created for the purpose of advising and assisting the Texas Board of Health and the Texas Department of Health in planning and administering the development of a comprehensive system of primary care. Committee responsibilities will include:

- (1) evaluation of existing services and unmet needs in developing primary care networks;
- (2) review of project applications targeted at high need areas that encourage systematic and coordinated health delivery systems;
- (3) review of the primary care plan(s);
- (4) evaluation of ongoing program efforts;
- (5) definition of both short-range and long-range goals and objectives for the Primary Care Program; and
- (6) development of review criteria and standards for the Primary Care Program implementation.

§37.283. *Membership.* Members are appointed by the Texas Board of Health in accordance with the requirements of the authorizing statute. A record of attendance at each meeting shall be made. If a member misses two consecutive meetings, written notice shall be given to the member. A third

consecutive absence from a regular meeting shall be sufficient grounds for membership termination by the Texas Board of Health.

**§37.284. Officers.** The officers of the committee shall consist of a chairperson and a vice-chairperson and shall be selected at the committee's first regular meeting each year by the committee's membership. Officers shall serve one-year terms and shall be eligible for reelection for one additional term. The chairperson will be the presiding officer of the committee. The vice-chairperson shall assume the authority and duties of the chairperson in his or her absence.

**§37.285. Meetings.**

(a) Regular meetings. The full committee shall meet at least four times per year, coinciding, when possible, with the meeting dates of the Texas Board of Health. Notice of the time, date, place, and purpose of regular meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(b) Special meetings. Special meetings of the committee shall be held as needed and called by the chairperson. Notice of the time, date, place, and purpose of special meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

**§37.286. Quorum.** A majority of the committee's members constitutes a quorum for the transaction of business at any meeting. A majority is defined as more than one-half of the committee's membership. The committee may act only by majority vote of its members present and voting. Each member shall be entitled to one vote. Proxy votes shall not be allowed.

**§37.287. Subcommittees.** The subcommittees of the committee shall be ad hoc and shall be appointed from the membership by the chairperson with such powers and responsibilities as shall be delegated to them by the chairperson.

**§37.288 Parliamentary Procedure.** Parliamentary procedures for all committee or subcommittee meetings are conducted in accordance with the latest edition of *Roberts Rules of Order*, except that the chairperson may vote on any action as any other member of the committee.

**§37.289. Minutes.** Minutes of all committee meetings will be prepared and transmitted to the membership for their review prior to subsequent meetings.

**§37.290. Public Participation.** All requests from the public to participate in committee meetings shall be submitted to the committee chairperson. The agenda for each committee meeting shall include one or more items providing for public participation. The chairperson may limit, as necessary, the time for each spokesperson appearing before the committee. Written comments are encouraged and may be submitted to the committee for their

consideration.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 21, 1985

TRD-859800

Robert A MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:

December 7, 1985

For further information, please call  
(512) 458-7700.

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## Chapter 141. Massage Therapists

### ★ 25 TAC §§141.1-141.12

*(Editor's note: The Texas Department of Health proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is published in the Emergency Rules section of this issue.)*

The Texas Department of Health proposes new §§141.1-141.12, concerning massage therapists. The new sections implement the requirements of House Bill 2012, 69th Legislature, 1985, concerning the regulation of massage therapists and massage establishments. The new sections cover registration requirements, application procedures, renewal procedures, massage therapy schools and educational institutions, registration of persons with criminal backgrounds, complaint procedures, and appeals procedures. The sections are also adopted on an emergency basis in this issue of the *Texas Register*

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The anticipated effect on state government is an estimated additional cost of \$69,502 in 1986, \$70,625 in 1987, and \$92,565 each year in 1988-1990. There will be an estimated increase in revenue of \$132,000 in 1986, and \$72,000 each year in 1987-1990. There will be no effect on local government for the first five-year period the sections will be in effect. The cost of compliance with the sections for small businesses will be the fees as set out in the body of the sections.

Mr Seale also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is assurance that persons purporting to offer massage services are trained

and registered massage therapists. The anticipated cost to individuals who are required to comply with the sections as proposed will be the fees as set out in the body of the rules

Comments on the proposal may be submitted to Gerald Guthrie, Director, Hospital and Professional Licensure Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be received for 30 days after the proposed sections are published in the *Texas Register*. In addition, a public hearing will be held in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, at 9 a.m. on Friday, November 22, 1985

The new sections are proposed under Texas Civil Statutes, Article 4512k, §7, which provide the Texas Board of Health with the authority to adopt rules concerning the regulation of massage therapists and massage establishments, which authorizes the board to adopt rules covering the eligibility of persons with criminal backgrounds for certain occupations, professions, and licenses.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 21, 1985.

TRD-859798

Robert A MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:

December 7, 1985

For further information, please call  
(512) 458-7531

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## Chapter 145. Long-Term Care Subchapter P. Medication Aide Training Program and Issuing Permits to Administer Medications

### ★ 25 TAC §§145.252, 145.257, 145.258

*(Editor's note: The Texas Department of Health proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Department of Health proposes amendments to §§145.252, 145.257, and 145.258, concerning personnel who fulfill the requirements for the issuance of a permit, the organization of the state approved training program in medication administration for nonlicensed nursing and direct care personnel, training program renewal requirements, and prerequisites for nonnursing

and direct care personnel. The amendments cover increases in fees for medication aides in the areas of application for permits, examinations, and renewals of permits. These amendments are also adopted on an emergency basis in this issue of the *Texas Register*.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government for the first five-year period the rules will be in effect will be an additional cost of \$47,017 per year in 1986-1990 and an estimated increase in revenue of \$50,000 per year in 1986-1990. There will be no effect on local government for the first five-year period the rules will be in effect. There will be no adverse economic effect on small businesses.

Mr. Seale also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is an increase in the license fees which would allow for a measure of control in the quantity and quality of medication aides receiving permits under the rules. The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$15 per year for those individuals currently holding permits and \$25 for those who are enrolling in the program for the first time.

Comments on the proposal may be submitted to Gerald Guthrie, Director, Hospital and Professional Licensure Division, 1100 West 49th Street, Austin, Texas 78756-3183, (512) 458-7531. Comments will be received for 30 days from the date of publication of the proposed rules.

The amendments are proposed under Texas Civil Statutes, Article 4442c, §7B(f), which authorize the department to adopt rules and fees covering medication aides.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 21, 1985

TRD-859802

Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption  
December 7, 1985

For further information, please call  
(512) 458-7531

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part I. General Land Office

#### Chapter 11. Legal Division

#### Oil and Gas Leases, Mineral Classified Lands

#### ★31 TAC §11.12

*(Editor's note: The General Land Office proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The General Land Office proposes an amendment to §11.12, concerning assignment of oil and gas leases. This section covers assignments of Relinquishment Act leases, leases administered by the School Land Board, leases issued by Boards for Lease for the Texas Parks and Wildlife Department, and the Texas Department of Corrections, and leases of land of Texas A&M University, Texas A&I University, and Texas Tech University. This section also provides procedures for filing such assignments with the General Land Office.

The General Land Office proposes the amendment to achieve uniformity between the administrative rules and the statutory changes promulgated in Texas Civil Statutes, Chapter 624, §24. The agency has simultaneously adopted the amendment on an emergency basis because these statutory changes were effective September 1, 1985.

John Hall, deputy commissioner for energy resources, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Hall also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased governmental efficiency in administering state owned lands and the oil and gas leases thereupon. The amendment to this section will also bring GLO operating procedures into conformity with those used by the oil and gas industry as a whole. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dan Miller, Deputy Commissioner for Legal Services, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Natural Resources Code, §31.051, which provides the commissioner of the General Land Office with the authority to

make and enforce rules consistent with the law.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 16, 1985.

TRD-859698

Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption:

November 25, 1985  
For further information, please call  
(512) 475-6740.

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#### ★31 TAC §11.13

*(Editor's note: The General Land Office proposes for permanent adoption the amendment it adopts on an emergency basis in this issue. The text of the amendment is published in the Emergency Rules section of this issue.)*

The General Land Office (GLO) proposes an amendment to §11.13, concerning releases of oil and gas leases. This section covers releases of Relinquishment Act leases, leases administered by the School Land Board, leases issued by Boards for Lease for the Texas Parks and Wildlife Department, and the Texas Department of Corrections, and oil and gas leases of lands of Texas A&M University, Texas A&I University, and Texas Tech University. This section also provides procedures for filing such assignments with the General Land Office.

The General Land Office proposes the amendment to achieve uniformity between the administrative rules and the statutory changes promulgated in Texas Civil Statutes, Chapter 624, §24. The agency has simultaneously adopted the amendment on an emergency basis because these statutory changes were effective September 1, 1985.

John Hall, deputy commissioner for energy resources, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Hall also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased governmental efficiency in administering state owned lands and the oil and gas leases thereupon. The amendment to this section will also bring GLO operating procedures into conformity with those used by the oil and gas industry as a whole. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dan Miller, Deputy Commissioner for Legal Services, 1700 North Congress Avenue, Austin, Texas 78701

The amendment is proposed under the Natural Resources Code, §31.051, which provides the commissioner of the General Land Office with the authority to make and enforce rules consistent with the law.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on October 16 1985

TRD-859699 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption  
November 25, 1985  
For further information, please call  
(512) 475-6740

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

##### ★34 TAC §3.303

The Comptroller of Public Accounts proposes an amendment to §3.303, concerning transportation and delivery charges as they relate to the limited sales tax. The amendment clarifies the comptroller's position of F.O.B. terms when transportation of taxable items is by the seller's own vehicle, and addresses transportation incident to a taxable service. The current rule is silent on both these points.

Dale Craymer, director of revenue estimating for the comptroller, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. This section is promulgated under the Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Mr. Craymer also has determined that this section will benefit the taxpayers by provision of notice of the comptroller's policy on the taxability of transportation charges connected with taxable services. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Joe Greco, Director, Tax Administration, PO Box 13528, Austin, Texas 78711

The amendment is proposed under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

##### §3.303. *Transportation and Delivery Charges.*

- (a) (No change.)
- (b) Title to taxable items passes:
  - (1) (No change.)
  - (2) if the contract is silent as to the passage of title and delivery is by a common or contract carrier, then title passes in accordance with §2.319 and §2.401(b)(c) of the Texas Business and Commerce Code. If F.O.B. (free on board some location) terms are used, F.O.B. terms will determine transfer of title. If there are no F.O.B. terms, title will pass at the point of physical delivery of the property to the buyer. **F.O.B. terms generally are for establishing liability in case of accident and so are irrelevant when delivery of tangible personal property is by the seller's own vehicle;**
  - (3) (No change.)
  - (c) (No change.)
  - (d) Transportation charges for tangible personal property. The sales tax does not apply to transportation or delivery charges to a customer when:
    - (1) the charges for transportation or delivery are stated separately from the sales price of tangible personal property [the taxable item] sold; and
    - (2) (No change.)
    - (c) Taxable services/transportation. **Sales tax is due on charges for transportation when connected with charges for taxable services. Transportation charges are taxable regardless of whether the transportation occurred before or after the taxable service.**
  - (f)(e) Rentals and leases
    - (1)-(3) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 21, 1985

TRD-859803 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption  
November 25, 1985  
For further information, please call  
(512) 463-4606

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 8. Home Energy Assistance Program

##### Program Requirements

##### ★40 TAC §§8.1, 8.2, 8.4

The Texas Department of Human Services (DHS) proposes amendments to §§8.1, 8.2, and 8.4, concerning time frames for HEAP qualification, HEAP eligibility criteria, and rights and responsibilities of households. The department has administered HEAP since 1981. Home Energy Assistance Program assistance has been available only to recipients of aid to families with dependent children (AFDC), supplemental security income (SSI), and food stamps, or to Veterans Administration (VA) income-tested clients. The DHS is proposing to make HEAP assistance available to all eligible low-income households beginning with the HEAP heating program.

The proposed amendments include time frames for qualifying for HEAP benefits, additional eligibility requirements, and a change in the basis for determining income limits for the program. As stipulated in §8.2, DHS will announce in the *Texas Register* the maximum income limits for the program for state fiscal year 1986.

Clifton Martin, associate commissioner for programs, has determined that there will be no fiscal implications for state or local governments or to small businesses as a result of enforcing or administering the sections.

Mr. Martin also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the sections is the availability of HEAP assistance to more individuals. There is no economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be sent to Cathy Rossberg, Administrator, Policy Development Support Division-614, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, mail code 153-E, within 30 days of publication in this *Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

##### §8.1. *Time Frames for HEAP Qualification [Categorical Designation]*

- (a) To qualify for HEAP heating assistance, the household must apply and be certified **before the December deadline**

[by December 31] for January AFDC, SSI, or food stamp benefits, or request an application from DHS during the designated application period for the HEAP heating program [receive Veterans Administration (VA) benefits under 38 United States Code, §§415, 521, 541, or 542, or under the Veterans and Survivors Improvement Act of 1978, §306].

(b) To qualify for HEAP cooling assistance, the household must apply and be certified before the May deadline [by May 31] for June AFDC, SSI, or food stamp benefits or request an application from DHS during the designated application period for the HEAP cooling program [receive VA benefits under 38 United States Code, §§415, 521, 541, or 542, or under the Veterans and Survivors Improvement Act of 1978, §306].

(c) The DHS announces the dates for the HEAP heating and cooling programs through posters in each office, public service announcements, and newspaper releases.

**§8.2. HEAP Eligibility [Income] Criteria.**

(a) The household's income is its gross income (without any deductions) as determined by the household's AFDC, SSI, or food stamp [or VA] worker. To meet the income requirement for HEAP assistance, a household's income may not exceed 120% of the Department of Health and Human Services' 1985 Poverty Income Guidelines, revised to account for increases in the consumer price index. [75% of the 1981 Bureau of Labor Statistics' family budget at the lower level of living standard as updated annually to reflect the change in the cost of

living measured by the national consumer price index for urban wage earners and clerical workers. For state fiscal year 1985, the maximum income eligibility guidelines are:

Family Size	Income Limit
1	\$ 371
2	608
3	835
4	1,030
5	1,216
6	1,422

(b) (No change.)

(c) The resource limits for HEAP eligibility are:

(1) \$3,000 for a household consisting of two or more persons if at least one person is 60 years old or older; or

(2) \$1,500 for all other households.

(d) The head of the household and the applicant (if different) must provide proof of identity, if requested.

(e) To qualify for HEAP benefits, members of the household must:

(1) be U.S. citizens or aliens lawfully admitted for permanent residence, or otherwise legal and permanent residents of the U.S.; and

(2) reside in Texas.

**§8.4. Rights and Responsibilities of Households.**

(a) Households applying for and receiving HEAP assistance have the following rights and responsibilities.

(1) To complete an application/questionnaire and return it to DHS [DHR] within the time limit specified on the application/questionnaire. The return date may

not be less than 12 days from the date mailed.

(2) To return any money DHS [DHR] determines to be an overpayment. DHS [DHR] must notify the household of its rights to contest the determination.

(3) To provide information necessary to establish eligibility if the household has access to the requested information.

(4) To provide the names of their energy [fuel] suppliers, as appropriate. Failure to comply will result in denial.

(b) AFDC, SSI, and food stamp households that are potentially eligible for HEAP assistance may receive an application automatically from DHS [DHR]. Households that do not receive an application may request one from DHS [the HEAP regional coordinator].

[(c) Households receiving VA benefits must request an application from DHR's HEAP regional coordinator in January (for heating assistance) and June (for cooling assistance).]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on October 17, 1985

TRD-859716

Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
November 25, 1985

For further information, please call  
(512) 450-3786.

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# Withdrawn

**Rules** An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 7. Gas Utilities Division Substantive Rules

##### ★ 16 TAC §7.42

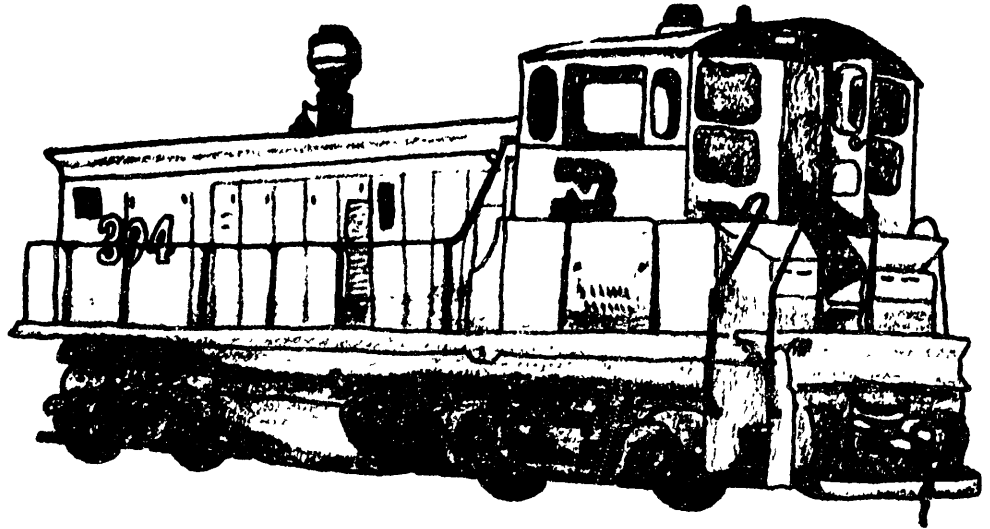
The Railroad Commission of Texas has withdrawn from consideration for permanent adoption proposed new §7.42, concerning substantive rules. The text of the new section as proposed appeared in the June 28, 1985, issue of the *Texas Register* (10 TexReg 2105).

Issued in Austin, Texas, on October 18, 1985.

TRD-859766

Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 18, 1985  
For further information, please call  
(512) 463-7149.



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# Adopted

## Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Texas Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the rule with changes to the proposed text, the proposal will be republished with the changes.

### TITLE 1.

#### ADMINISTRATION

#### Part I. Office of the Governor

#### Chapter 3. Criminal Justice Division

#### Subchapter A. Criminal Justice

The Criminal Justice Division (CJD) of the Office of the Governor adopts amendments to §§3.21, 3.41, 3.42, 3.48-3.51, 3.80, and 3.91, and the repeal of and new §3.43, without changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3501).

The CJD is now reviewing grant applications for federal funds that have become available under the federal Justice Assistance Act of 1984 (JAA). The JAA block grant funds will be administered by the CJD through the Texas Justice Assistance Program. The amendments and new section include special requirements, federal regulations, and documents that are applicable to JAA funds and also clarify references to certain special requirements and administrative procedures for state funded projects that are not applicable to JAA funded programs.

No comments were received regarding adoption of the amendments, repeal, and new section

#### Applicable Statutes, Documents, and Forms

##### ★ 1 TAC §3.21

The amendment is adopted under Texas Civil Statutes, Article 4413(32a), subsection 6(a)(11), which provide the Criminal Justice Division with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985.

TRD-859740

Gilbert J. Pena  
Executive Director  
Criminal Justice  
Division  
Office of the Governor

Effective date: November 8, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-1919.

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#### Eligible Applications and Application Processing

##### ★ 1 TAC §§3.41, 3.42, 3.48-3.51

The amendments are adopted under Texas Civil Statutes, Article 4413(32a), subsection 6(a)(11), which provide the Criminal Justice Division with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985

TRD-859741

Gilbert J. Pena  
Executive Director  
Criminal Justice  
Division  
Office of the Governor

Effective date: November 8, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-1919.

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##### ★ 1 TAC §3.43

The repeal is adopted under Texas Civil Statutes, Article 4413(32a), subsection 6(a)(11), which provide the Criminal Justice Division with the authority to adopt such rules, regulations, and pro-

cedures as may be necessary to carry out the provisions of the Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985.

TRD-859743

Gilbert J. Pena  
Executive Director  
Criminal Justice  
Division  
Office of the Governor

Effective date: November 8, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-1919.

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The new section is adopted under Texas Civil Statutes, Article 4413(32a), subsection 6(a)(11), which provide the Criminal Justice Division with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985.

TRD-859742

Gilbert J. Pena  
Executive Director  
Criminal Justice  
Division  
Office of the Governor

Effective date: November 8, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-1919

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#### Implementation and Operation of Projects

##### ★ 1 TAC §3.80

The amendment is adopted under Texas Civil Statutes, Article 4413(32a), subsection 6(a)(11), which provide the



Criminal Justice Division with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985.

TRD-859745      Gilbert J. Pena  
Executive Director  
Criminal Justice  
Division  
Office of the Governor

Effective date: November 8, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-1919

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### Continuation Funding Policy for Local Projects

#### ★1 TAC §3.91

The amendment is adopted under Texas Civil Statutes, Article 4413(32a), subsection 6(a)(11), which provide the Criminal Justice Division with the authority to adopt such rules, regulations, and procedures as may be necessary to carry out the provisions of the Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985.

TRD-859744      Gilbert J. Pena  
Executive Director  
Criminal Justice  
Division  
Office of the Governor

Effective date: November 8, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-1919

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## TITLE 4. AGRICULTURE

### Part 1. Texas Department of Agriculture

#### Chapter 7. Pesticides

#### ★4 TAC §§7.12, 7.13, 7.15

The Texas Department of Agriculture adopts amendments to §§7.12, 7.13, and 7.15, without changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3487).

These sections are amended to comply with statutory changes made by the 69th Legislature, 1985, and to generate additional general revenues in accordance with the intent of the 69th Legislature, 1985

Section 7.12 is amended to increase the fee charged to administer a pesticide examination to an applicant for a commercial or noncommercial license from \$10 to \$15. Section 7.13 is amended to increase the annual license fee for a commercial applicators license from \$75 to \$100. Section 7.15 is amended to increase the annual license fee for a noncommercial applicators license from \$50 to \$75.

No comments were received regarding adoption of the amendments

The amendments are adopted under the Texas Agriculture Code, §§76.106, 76.108, and 76.109, as amended, which provides the Texas Department of Agriculture with the authority to charge a testing fee of not more than \$15, a commercial applicators license fee of not more than \$150, and a noncommercial applicators license fee of not more than \$100.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985

TRD-859725      Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Effective date: November 7, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-7583

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## Chapter 9. Agricultural and Environmental Sciences Division

### Nursery and Floral Products

#### ★4 TAC §9.5, §9.6

The Texas Department of Agriculture adopts an amendment to §9.6, with changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3487). Section 9.5 is adopted without changes and will not be republished.

The process of staggering the expiration dates of inspection certificates issued by the department for nursery or floral stock is amended in §9.5 to conform to other departmental license processing systems and to utilize existing agency staff better.

Inspection fees for all classes of nursery/floral certificates are increased to comply with statutory changes made by the 69th Legislature, 1985, and to raise the cost of inspection fees to an amount closer to the cost to the state of rendering such services.

Section 9.6(e) is changed to decrease the amount of fee for Class 5 businesses from \$30 to \$15.

Section 9.5 is amended to provide for the staggering of expiration dates of nursery and floral inspection certificates, with certificates expiring 12 months from the date of issue, and thereafter on the anniversary dates.

Section 9.6 is amended to increase the inspection fees for all classes of nursery/floral certificates to amounts within the range of not less than \$15 nor more than \$75, in accordance with the intent of the 69th Legislature, 1985.

Dynese and Steven French, representing The Flower People Company of Austin, and Jimmie A. Carruth, representing Plants, Etc., made the following comments against the rules.

The increase in fees is unreasonable and will put small businesses out of business. If a fee increase is necessary, it should not be more than a \$20 increase or should be based on a graduated scale based on the size of the business. The increase in fees for temporary locations will amount to a prohibitive investment which could result in a discontinuation of business and loss of city and state revenues. Flower (bucket) vendors operate from one central location where records are kept and flowers are prepared and distributed. At this time, only one location is inspected and certified by the department. Bucket vendors should not be required to get additional sales locations certified.

The department disagrees that the fees are unreasonable and will put small businesses out of business. The fees have been raised to comply with a legislative mandate to increase general state revenues and to bring the cost of inspection to an amount closer to the cost of the state to render such services. Increases in fees are based on the size of the business, with a larger fee required for a larger growing area. The department disagrees that only the bucket vendors' central place of business should be inspected and certified. The requirement to inspect and certify each location where nursery or floral products are bought, sold, or offered for sale is a statutory requirement which this department cannot change. While a central outlet is maintained for purpose of record keeping, inventory storage, and receipt and distribution of floral productions, temporary locations are the points at which products are offered for sale. Therefore, under existing statutory provisions, temporary locations must be certified.

The amendments are adopted under the Texas Agriculture Code, §71.056, as amended, which provides the Texas Department of Agriculture with the authority to set by rule and collect inspection fees of not less than \$15, nor more than \$75.

**§9.6. Nursery/Floral Inspection Fees.**

(a) Class 1—\$30. Includes permanently located businesses that do not grow nursery or floral stock, such as garden centers, stores, landscape contractors, floral shops, interior decorators, truckers, etc.

(b) Class 2—\$45. Includes permanently located businesses who sell nursery and floral stock and have a growing area of 10 acres or less.

(c) Class 3—\$60. Includes permanently located businesses who sell nursery and floral stock and have a growing area of 11-20 acres.

(d) Class 4—\$75. Includes permanently located businesses who sell nursery and floral stock and have a growing area of more than 20 acres.

(e) Class 5—\$15. Includes individuals or businesses who sell nursery or floral stock from temporary locations. Temporary locations as referred to in these sections means selling from one location for no more than three consecutive calendar days or for no more than 12 days in a single calendar month. Each location from which such sales are made must have a certificate. Such certificate must be present at each sales outlet, such as plant or flower shows, flea markets, street vendors, etc.

(f) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985

TRD-859726

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department  
of Agriculture

Effective date: November 7, 1985  
Proposal publication date, September 13, 1985  
For further information, please call  
(512) 463-7583.



**Miscellaneous Fees**

**★ 4 TAC §9.18, §9.19**

The Texas Department of Agriculture adopts new §9.19, with changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3488). Section 9.18 is adopted without changes and will not be republished.

The new sections set testing fees consistent with statutory changes made by the 69th Legislature, 1985. Section 9.18 is changed to clarify that the phytosanitation certificate is also required by some foreign countries for agricultural products exported from this state to that foreign country.

The new sections set the fee for testing agricultural products for aflatoxins to an amount within a range of not less than \$20 nor more than \$40, and set a fee of

not less than \$25 for the issuance of a phytosanitation certificate.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Agriculture Code, §12.018, as amended, which provides the Texas Department of Agriculture with the authority to increase the fee for aflatoxin tests to an amount within the range of not less than \$20 nor more than \$40, and to begin charging a fee for the issuance of phytosanitation certificate.

**§9.19 Fee for Phytosanitation Certification Inspection.** The department shall collect an inspection fee of \$25 for the issuance of a phytosanitation certificate required by other states or foreign countries for agricultural products exported from this state.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on October 17, 1985

TRD-859724

Dolores Alvarado Hibbs  
Director of Hearings  
Texas Department of  
Agriculture

Effective date: November 7, 1985  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-7583



**TITLE 16. ECONOMIC  
REGULATION**

**Part 1. Railroad  
Commission of Texas  
Chapter 5. Transportation  
Division**

**Subchapter F. Bills of Lading  
and Waybills**

**★ 16 TAC §5.102**

The Railroad Commission of Texas adopts new §5.102, with changes to the proposed text published in the April 19, 1985, issue of the *Texas Register* (10 TexReg 1254)

This new section enables certain limited common carrier operations ordered by the commission where service is to be provided between all points in the areas authorized to be served by such carriers. The new section defines parcel carriers and establishes documentation requirements applicable to the articles and parcels which such carriers will transport. The format of the section has been restructured to conform with that of existing sections. Language has been added and deleted throughout the text for clarity. The commission added subsection (e)(5) to require that if any carrier fails to

provide the commission's auditing staff with the required records, the commission may direct the carrier to cease serving the involved shipper with the parcel registering system.

The comments submitted in support of the new section can be summarized as follows. The new section is not prohibited by pertinent statutes, it does not create a distinct classification of carrier, but rather implements certain carrier operations required by a separate commission order; the new section serves the public interest which is a public policy objective; and it will have no impact on the commission's ability to carry out its regulatory oversight responsibilities.

The comments submitted in opposition to the new section can be summarized as follows: The new section exceeds the statutory authority of the commission; it establishes a distinct motor carrier classification against public policy or the public interest; and it would interfere with the commission's exercise of its regulatory responsibilities

United Parcel Service, Inc., submitted comments in favor of the new section.

The following organizations submitted comments against the new section. Beaver Express Service, Inc., Bluebonnet Express, Inc., Liberty Tex-Pack Express, Inc.; Mistletoe Tex-Pack Express, Inc., Morgan Express, Inc., Northern Tex-Pack Express, Inc., O & A Tex-Pack Express, Inc.; Southwest Tex-Pack Express, Inc.; Western Tex-Pack, Inc., Trailways, Inc.; Trailways Bus System, Inc., American Bullines, Inc., Trailways Texas, Inc.; Midwest Business, Inc., Trailways Southern Lines, Inc., Continental Panhandle Lines, Inc., Mistletoe Express Service; Common Carrier Motor Freight Association, Inc., Alamo Express, Inc., Basse Truck Lines, Inc., Brown Express, Inc., Big State Freight Lines, Central Freight Lines, Inc., Central Freight Lines, Inc., Curry Motor Freight Lines, Inc.; Dixie Truck Lines, Inc., Farris Truck Lines, Great Western Trucking Co., Inc., Graves Truck Lines, Hensley Freight Lines, Inc., Herder Truck Lines, Inc.; Lange Truck Line, Merchants Fast Motor Lines, Inc., Missouri Pacific Truck Lines, Inc., Mistletoe Express Service, Inc., Pacific Motor Trucking, Ferry Freight Lines, Inc., Ralph Owens Trucking Co., Inc., Red Arrow Freight Lines, Inc., The Santa Fe Trail Transportation Company, South Texas Express, Inc., Southwestern Motor Transport, Inc.; and Purolator Courier Corporation

In response to comments in opposition to the new section, the commission states that following the legal argument advanced that statutory requirements relating to a bill of lading prevent adoption of §5.102 is without merit. A clear reading of the relevant statutes applied to the evidence in support of the new section and operations pursuant thereto pro-

vides no basis for a holding that the commission is without authority to adopt documentation rules for parcel carriers as proposed. Furthermore, this position is consistent with prior action of the commission in its adoption of similar sections to documentation requirements in §§5.96, 5.98, 5.99, and 5.101. The manifest form of documentation prescribed by the commission in §5.99 is similar to that adopted in new §5.102. No comments were made in opposition to the new section by any of the shipping or receiving public or any civic association. No competent evidence at the hearing identifies any potentially adverse impact on the public interest or demonstrates that adoption of the section would be contrary to sound public policy. The data and records necessary for commission audits are required to be produced by the carrier under the new section pursuant to the same terms as under existing sections. There will be no diminution of accountability by the carrier, and commission exercise of its responsibility to supervise carrier service to the public will be maintained under subsection (e). New subsection (e)(5) was added to further enhance the commission's auditing and enforcement functions.

The new section is adopted under Texas Civil Statutes, Article 911b, §4a, which empower and authorize the Railroad Commission of Texas to supervise and regulate the transportation of property for compensation or hire by motor carriers on public highways of the State of Texas and to prescribe all rules and regulations necessary for the governance of such carriers.

**§5.102. Operations as a Parcel Carrier.**

(a) A parcel carrier is defined as a limited common carrier of general commodities providing service between all points in the area authorized to be served with no service being rendered on any individual package, parcel, or article weighing more than 100 pounds.

(b) Each package, parcel, or article shall be considered a separate and distinct shipment.

(c) Parcel carriers governed by the provisions of applicable tariffs prescribed by the Railroad Commission of Texas shall comply with the procedures in subsections (d)-(h) of this section, rather than with §§5.91-5.95, and 5.141 of this title (relating to Bills of Lading to be Issued, Contents of Bills of Lading, Issuance of Waybills, Contents of Waybills, Waybill to Accompany Shipment, and Freight Bills).

(d) Parcel carriers shall ensure that a record of all parcels, packages, or articles which are not enclosed in packages or parcels tendered to the carrier at one time is entered by the shipper on a pickup record form provided by the carrier.

(1) On a separate line on the pickup record, for each parcel, package, or article which is not enclosed in a package or

parcel, the shipper shall record the following:

- (A) the name and address of consignee;
- (B) the destination zone;
- (C) the weight of the package, parcel, or article;
- (D) any declared value;
- (E) any C.O.D. amount; and
- (F) any other accessorial services to be rendered.

(2) Each pickup record shall be prepared in duplicate and shall contain the name and address of the shipper and the date of shipping. When the packages, parcels, or articles are picked up by the carrier, the carrier's driver shall sign the pickup record and the carrier shall retain one copy of the pickup record for billing purposes. The other copy of the pickup record shall be retained by the shipper as a receipt for the items tendered for transportation.

**(e) Parcel registering system.**

(1) A parcel carrier may permit a shipper to use a parcel registering system, or a computer manifest system to identify and record packages, parcels, and articles which are not enclosed in packages or parcels tendered to the carrier for transportation. When such a system is used, in lieu of the information under subsection (d) of this section, the carrier shall require notation on a pickup record form or manifest to be supplied by the carrier, the following information:

- (A) the total number packages, parcels, or articles tendered to the carrier at one time;
- (B) the name and address of the shipper;
- (C) the date of shipping
- (D) the listing of those packages, parcels, or articles which have a declared value or which are being sent C.O.D.; and
- (E) the parcel register readings from which may be determined the total transportation charges for the packages, parcels, or articles covered by the pickup record.

(2) Each pickup record shall be prepared in duplicate. When the packages, parcels, or articles are picked up by the carrier, the carrier's driver shall sign the pickup record and the carrier shall retain one copy of the pickup record shall be retained by the shipper as a receipt for the items tendered for transportation.

(3) In order for a carrier to permit a shipper to use a parcel registering system or a computer manifest system which does not list each package, parcel, or article being tendered, the carrier must enter into an agreement with the shipper requiring the shipper to:

- (A) prepare and retain for the required retention period prescribed by the railroad commission a duplicate invoice or other business record showing the package, parcel, or article weight; the amount of any C.O.D. to be collected and the charges reg-

istered, each separately stated for each package, parcel, or article; the name and address of the consignee; the name of the carrier, and the date on which the item was tendered to the carrier for transportation;

(B) file these duplicate invoices or other business records in such a way that the documents covering all packages, parcels, or articles tendered to a carrier on any particular day may be readily accumulated and the total charges shown may be reconciled against the registered charges for that day; and

(C) make these records available for inspection, upon request by the carrier or by representatives of the Railroad Commission.

(4) It shall be the carrier's obligation to tender these records for designated shippers as specified in §5.71 and §5.72 of this title (relating to Maintenance by Texas Firms and Maintenance of Out-of-State Firms).

(5) Should any carrier fail to provide the commission's auditing staff with the records as set out in subsection (e)(1)-(3) of this section, due to the fault of either the carrier or the shipper, the commission may direct the carrier to cease use of the parcel registering system or a computer manifest system with that particular shipper.

(f) When a shipper delivers packages, parcels, or articles to a carrier at a terminal or facility of the carrier, the carrier shall give the shipper a receipt for all items tendered for transportation containing the information required by subsection (d)(1) of this section.

(g) Each package, parcel, or article tendered for transportation shall contain the shipper number and label showing the address of the shipper and the name and address of the consignee.

(h) There shall also be attached to the package, parcel, or article any additional labels, tags, or stamps covering hazardous material transportation or accessorial services such as C.O.D. amounts to be collected. No additional documentation is required to accompany the item while in transit.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 14, 1985  
 TRD-859763      Buddy Temple  
                                  Chairman  
                                  Mack Wallace  
                                  Commissioner  
                                  Railroad Commission of  
                                  Texas

Effective date: November 8, 1985  
 Proposal publication date: April 19, 1985  
 For further information, please call  
 (512) 483-7149

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## Subchapter G. C.O.D. Shipments

### ★ 16 TAC §5.114

The Railroad Commission of Texas adopts an amendment to §5.114, without changes to the proposed text published in the April 19, 1985, issue of the *Texas Register* (10 TexReg 1255).

This amendment implements certain limited common carrier operations ordered by the commission where service is to be provided between all points in the areas authorized to be served by such carriers. The amendment establishes when a parcel carrier may accept checks in payment of C.O.D. amounts.

The comments submitted in support of the amendment can be summarized as follows: The amendment is not prohibited by pertinent statutes; there is no diminution of protection to the public or reduction in the responsibility of the carrier to the shipper; under the existing §5.114(a), as well as under the amendment, the carrier is not liable if the consignee's check is dishonored, since liability arises only if there is a failure to exercise due care and diligence in securing and forwarding the check to the consignor; the proposed amendment serves the public interest, which is a public policy objective; and it will have no impact on the commission's ability to carry out its regulatory oversight responsibilities.

The comments submitted in opposition to the amendment can be summarized as follows: The amendment diminishes the protection now afforded the shipping public; and the amendment reduces the responsibility required by and liability of the carrier.

United Parcel Service, Inc. submitted comments in favor of the amendment.

The following organizations submitted comments against the amendment: Beaver Express Service, Inc.; Bluebonnet Express, Inc.; Liberty Tex-Pack Express, Inc.; Mistletoe Tex-Pack Express, Inc.; Morgan Express, Inc.; Northern Tex-Pack Express, Inc.; O & A Tex-Pack Express, Inc.; Southwest Tex-Pack Express, Inc.; Western Tex-Pack, Inc.; Trailways, Inc.; Trailways Bus System, Inc.; American Buslines, Inc.; Trailways Texas, Inc.; Midwest Buslines, Inc.; Trailways Southern Lines, Inc.; Continental Panhandle Lines, Inc.; Mistletoe Express Service, Common Carrier Motor Freight Association, Inc.; Alamo Express, Inc.; Basse Truck Lines, Inc.; Brown Express, Inc.; Big State Freight Lines, Central Freight Lines, Inc.; Curry Motor Freight Lines, Inc.; Dixie Truck Lines, Inc.; Farris Truck Lines; Great Western Trucking Co., Inc.; Graves Truck Lines, Hensley Freight Lines, Inc.; Herder Truck Lines, Inc.; Lange Truck Line, Merchants Fast Motor Lines, Inc.; Missouri Pacific Truck Lines, Inc.; Mistletoe Express Service, Inc.; Pacific Motor Trucking; Perry Freight

Lines, Inc.; Ralph Ownes Trucking Co., Inc.; Red Arrow Freight Lines, Inc.; The Santa Fe Trail Transportation Company; South Texas Express, Inc.; Southwestern Motor Transport, Inc.; and Purolator Courier Corporation.

In response to comments in opposition to the amendment, the commission states the following: No comments were made in opposition to the amendment by any of the shipping or receiving public or any civic association. No competent evidence at the hearing identifies any potentially adverse impact on the public interest or establishes that adoption of the amendment would be contrary to sound public policy. Under existing §5.114(b), as well as under the new amendment, the carrier is not liable if the consignee's check is dishonored, liability arises only if there is a failure to exercise due care and diligence in securing and forwarding the check to the consignor. There is no diminution of protection to the public or reduction in the responsibility of the carrier to the shipper under the proposed amendment where the shipper can designate cash only for C.O.D. charges.

This amendment is adopted under Texas Civil Statutes, Article 911b, §4a, which empower and authorize the Railroad Commission of Texas to supervise and regulate the transportation of property for compensation or hire by motor carriers on public highways of the State of Texas and to prescribe all rules and regulations necessary for the governance of such carriers.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 14, 1985

TRD-859764      Buddy Temple,  
Chairman  
Mack Wallace  
Commissioner  
Railroad Commission of  
Texas

Effective date, November 8, 1985  
Proposal publication date April 19, 1985  
For further information, please call  
(512) 463-7149

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## Subchapter H. Tariffs and Schedules

### ★ 16 TAC §5.136

The Railroad Commission of Texas adopts an amendment to §5.136, without changes to the proposed text published in the April 19, 1985, issue of the *Texas Register* (10 TexReg 1255).

This amendment implements certain limited common carrier operations ordered by the commission where service is to be provided between all points in the areas

authorized to be served by such carriers. The amendment establishes when parcel or article weights furnished by the shipper may be used on shipments handled by parcel carriers.

The comments submitted in support of the amendment can be summarized as follows: The amendment is not prohibited by pertinent statutes; the amendment does not place an undue burden on the shipping public; the present §5.136 already sets forth various situations where the carrier uses weights furnished by the shipper; §5.136(a)(5) provides that on shipments handled by a limited common carrier of specified commodities, weights furnished by the shipper up to 99 pounds per shipment may be used, such weights being subject to check by the carrier or representative of the commission, the expeditious transportation of small packages requires that the weighing be done by the shipper in the first instance, subject to later check by the parcel carrier, the proposed amendment serves the public interest; and the amendment will have no impact on the commission's ability to carry out its regulatory oversight responsibilities.

The comments submitted in opposition to the proposed section can be summarized as follows: The proposed section places an undue burden on the shipping public; many small shippers do not have the scales necessary to weigh shipments, and would therefore be denied use of the parcel carrier service.

United Parcel Service, Inc. submitted comments in favor of the amendment. The following organizations submitted comments against the amendment: Trailways, Inc.; Trailways Bus System, Inc.; American Buslines, Inc.; Trailways Texas, Inc.; Midwest Buslines, Inc.; Trailways Southern Lines, Inc.; Continental Panhandle Lines, Inc.; and Mistletoe Express Service.

In response to comment in opposition to the amendment, the commission states the following: No competent evidence presented identifies any potentially adverse impact on the public interest or establishes that adoption of the amendment would be contrary to sound public policy. No comments were made in opposition to the amendment by any of the shipping or receiving public or any civic association. There was no competent evidence that the implementation of this amendment would place an undue burden on the shipping public. Section 5.136(a)(5) already allows limited common carriers to accept shipper designated weights on shipments up to 99 pounds, subject to check by the carrier or representatives of the commission.

The amendment is adopted under Texas Civil Statutes, Article 911b, §4a, which empower and authorize the Railroad Commission of Texas to supervise and regulate the transportation of property for compensation or hire by motor car-

riers on public highways of the State of Texas and to prescribe all rules and regulations necessary for the governance of such carriers.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 14, 1985

TRD-859765      Buddy Temple  
                    Chairman  
                    Mack Wallace  
                    Commissioner  
                    Railroad Commission of  
                    Texas

Effective date November 8, 1985  
Proposal publication date: April 19, 1985  
For further information, please call  
(512) 463-7149

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part I. Texas Parks and Wildlife Department

#### Chapter 53. Finance

The Texas Parks and Wildlife Commission adopts new §5 13, with changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3501) New §53.11 and §53 12 and the repeal of §§53.61-53.63 are adopted without changes and will not be republished

These changes inform the public as to the form, design, and manner of issuance of all stamps sold by the Texas Parks and Wildlife Department. An individual who wishes to purchase a stamp will know the period for which the stamp is valid.

No comments were received regarding adoption of the repeals or new sections.

#### Stamps

##### ★ 31 TAC §§53.11-53.13

The new sections are adopted under the Parks and Wildlife Code, §11.055 (non-game stamp), §43 012 (whitewinged dove stamp), §43 201 (archery stamp), §43.303 (waterfowl stamp), §43.403 (saltwater sportfishing stamp), and §43 503 (freshwater trout stamp), which provides the Texas Parks and Wildlife Commission with the authority to prescribe rules governing the form, design, and manner of issuance of the stamps.

§53.13. *Stamp Manner of Issuance.* The stamp will be issued upon payment of the prescribed fee in a manner determined by the executive director. A stamp is valid only during the fiscal year for which it is issued

without regard to the date on which the stamp is acquired.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on October 14, 1985

TRD-859721      Boyd Johnson  
                    General Counsel  
                    Texas Parks and Wildlife  
                    Department

Effective date November 7, 1985  
Proposal publication date September 13, 1985  
For further information, please call  
(512) 479-4805

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#### State Waterfowl Stamp

##### ★ 31 TAC §§53.61-53.63

The repeal is adopted under the Parks and Wildlife Code, §43 303, which provides the Parks and Wildlife Commission with the authority to prescribe rules governing the form, design, and manner of issuance of the waterfowl stamp

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on October 14, 1985

TRD-859722      Boyd Johnson  
                    General Counsel  
                    Parks and Wildlife  
                    Department

Effective date November 7, 1985  
Proposal publication date September 13, 1985  
For further information, please call  
(512) 479-4805

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter O. State Sales and Use Tax

##### ★ 34 TAC §3.308

The Comptroller of Public Accounts adopts an amendment to §3 308, with changes to the proposed text published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3426).

The amendment is intended to provide guidelines for distinguishing between canned and custom software All ready-to-use (canned) computer software is taxable. All other computer software is not

taxable The amendment gives six indicators that should show when software is canned.

One comment on the amendment was received from the law firm of Bracewell & Patterson, counsel to the Texas Computer Industry Council. They requested that paragraph (1)(C) of subsection (b) be deleted They felt that the language could apply to every computer program and so could be subject to misinterpretation. The comptroller agreed to their request by deleting the paragraph and adding a sentence to subsection (b)(1)(A) for clarification

The amendment is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

§3 308. *Computers--Hardware, Software, Services, and Sales.*

(a) Hardware.

(1)-(3) (No change )

(4) Sales tax is due on charges for labor or services rendered in remodeling, repairing, maintaining, or restoring computer hardware See §3 292 of this title (relating to Repair, Remodeling, Maintenance, and Restoration of Tangible Personal Property)

(5) Installation charges for remote terminals are not taxable if separately stated. Charges for telephone lines are taxable.

(6)-(7) (No change )

(b) Software.

(1) Computer program means a series of instructions which are coded for acceptance or use by a computer system and which are designed to permit the computer system to process data and provide results and information. The series of instructions may be contained in or on magnetic tapes, semiconductor chips, punched cards, printed instructions, or other tangible or electronic media This definition includes computer game cartridges which allow certain games to be played on a television set through interaction with a computer or on home computers Sales tax is due on off-the-shelf, noncustom computer programs. A program will be considered off-the-shelf, noncustom if it meets the following guidelines:

(A) a program where the source code cannot be modified by the seller Modification of the program by inserting file names or formatting data is not changing the source code;

(B) a program that, if lost, misplaced, stolen, or destroyed while in the customer's possession, would be replaced by the vendor at the same charge to the customer as the original;

(C) a program, copies of which are mass-produced by the manufacturer, inventoried by a vendor or otherwise held for repeated sale, license, or lease;

(D) a program which is sold, licensed, or leased by means of a shrink-wrapped, box-top, or tear-open license agreement or bill of sale.

(2) Sales tax is not due on the sale, lease, or license of a computer program which does not meet the guidelines in paragraph (1) of this subsection.

(3)-(4) (No change.)

(5) charges for computer program maintenance are taxable when provided for programs discussed in paragraph (1) of this subsection. Maintenance means providing error correction, improvements, or technical support. Separately stated charges for installing software and for instruction on the software's use will not be taxable.

(c)-(d) (No change.)

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 21, 1985

TRD-859804

Bob Bullock  
Comptroller of Public  
Accounts

Effective date: November 11, 1985

Proposal publication date: September 10, 1985

For further information, please call

(512) 483-4806

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services Chapter 3. Income Assistance Services Subchapter KK. Support Documents

#### ★ 40 TAC §3.3701

The Texas Department of Human Services (DHS) adopts the repeal of existing §3.3701 and new §3.3701, without changes to the proposed text published in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3258)

The DHS is adopting the repeal of existing §3.3701 and new §3.3701 to increase the grants to recipients of aid to families with dependent children (AFDC).

The DHS also adopts with §3 3701 the new AFDC payment standard at 32% of the AFDC budgetary needs standard, based on 1985 prices. The repeal and new sections were adopted on an emergency basis effective September 1, 1985, in the August 27, 1985, issue of the *Texas Register* (10 TexReg 3252)

By adopting the repeal of existing §3 3701 and new §3 3701, the DHS is establishing in its income assistance services chapter new, increased payments to AFDC recipients. These payments, which were last adjusted effective October 1, 1984, more adequately recognize the needs of AFDC recipients.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 16, 1985

TRD-859715

Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: November 7, 1985

Proposal publication date: August 27, 1985

For further information, please call

(512) 450-3766

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The new section is adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 31, which authorizes the department to administer public assistance programs.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on October 17, 1985

TRD-859714

Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: November 7, 1985

Proposal publication date: August 27, 1985

For further information, please call

(512) 450-3766

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#### ★ 40 TAC §3.3702

The Texas Department of Human Services (DHS) adopts an amendment to §3 3702, which adopts by reference the federal regulations that establish the basis of issuance tables for the Food Stamp Program. These regulations, issued by the United States Department of Agriculture (USDA), appear in *Federal Register* Document 85-21339

In the regulations, the United States Department of Agriculture (USDA) requires DHS to adjust the food stamp allotments and implement new standard and excess shelter deductions effective October 1, 1985. The amounts of the allotments and deductions are determined according to the Food Stamp Act of 1977, as amended. The adjustments take into account the cost of living

In §3.3702, DHS adopts the higher allotments and deductions authorized by USDA. This will benefit food stamp recipients by recognizing the higher cost of food since the last adjustment in October 1984.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 33, which authorizes the department to administer public assistance programs. This amendment is adopted under federal requirements effective October 1, 1985.

§3.3702. *Food Stamp Basis of Issuance Tables.* The Texas Department of Human Services adopts by reference the food stamp rules and tables contained in *Federal Register* Document 85-21339, Volume 50, 174, Page 36641, which amends 7 Code of Federal Regulations Part 272 and Part 273

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority

Issued in Austin, Texas, on October 17, 1985

TRD-859713

Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: October 1, 1985

Proposal publication date: N/A

For further information, please call

(512) 450-3766

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# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

## Texas Adult Probation Commission

**Thursday, October 24, 1985, 2 p.m.** The Audit Review Committee of the Texas Adult Probation Commission met in emergency session in Suite 600, Building B, 8100 Cameron Road, Austin. Items on the agenda include fiscal audit reports; final reviews for Dallas County, Denton County, Dickens County, Eastland County, Ellis County, Galveston County, Jefferson County, Johnson County, Mason County, Palo Pinto County, Taylor County, and Wood County; initial reviews for Bell County, Hall County, Nueces County, Orange County, San Patricio County, and Williamson County. The emergency status was necessary because information was not received on time.

**Contact:** Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188.

**Filed:** October 17, 1985, 11:01 a.m.  
TRD-859717

**Friday, October 25, 1985, 9 a.m.** The Texas Adult Probation Commission will meet in Suite 600, Building B, 8100 Cameron Road, Austin. According to the agenda summary, the committee will review minutes; a financial report; a program services report, budget adjustments; CRTC for McLennan County; RC Center for Dallas County, supplemental funding for Hockley County, grant deobligations for Travis County and Uvalde County; waivers; an intensive supervision progress report, new program initiatives; a data services report; statistical reports; a fiscal services report; an audit review report; the executive director's report; standards and victim impact statement; fiscal services fee; distribution of interest; and discuss the date and site of the next meeting.

**Contact:** Virginia Grote, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753, (512) 834-8188

**Filed:** October 17, 1985, 11:01 a.m.  
TRD-859718

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## Texas Board of Architectural Examiners

**Friday, November 1, 1985, 9 a.m.** The Texas Board of Architectural Examiners will meet in Room 243, Tarrant County Convention Center, 1111 Houston Street, Fort Worth. Items on the agenda include approval of minutes; rules and regulations; renewals, board policy statements; examinations; Intern Development Program, reciprocal licensing; alleged violations, and legislation.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363

**Filed:** October 17, 1985, 2:08 p.m.  
TRD-859727

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## Automated Information and Telecommunications Council

**Tuesday, October 22, 1985, 4:30 p.m.** The Board of the Automated Information and Telecommunications Council made an emergency revision to the agenda for a rescheduled meeting held in Suite 210, 510 South Congress, Austin. According to the revised agenda, the board met in executive session to consider personnel matters. The emergency status was necessary because the meeting was changed from 5 p.m. to 4:30 p.m. due to the short time the board members would have together for discussion and/or selection of the executive director.

**Contact:** Charlotte D. Craig, Suite 216, 510 South Congress, Austin, Texas 78704, (512) 463-5530

**Filed:** October 21, 1985, 4:15 p.m.  
TRD-859820

**Tuesday, October 22, 1985, 5 p.m.** The Board of the Automated Information and Telecommunications Council met in emergency session in Suite 210, 510 South Congress, Austin. According to the agenda, the board met in executive session to consider personnel matters. The emergency status was necessary because of the urgency of selecting an executive director

for the agency. The date and time of the meeting was the only time in the near future that all nine board members could be present.

**Contact:** Charlotte D. Craig, Suite 216, 510 South Congress, Austin, Texas 78704, (512) 463-5530.

**Filed:** October 21, 1985, 9:20 a.m.  
TRD-859793

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## Texas School for the Blind

**Friday, October 25, 1985, 9 a.m.** The Local Board of Trustees of the Texas School for the Blind will meet in emergency session at 1100 West 45th Street, Austin. Items on the agenda include approval of minutes, presentation of business requiring local board approval including school policies, consultant contracts, a textbook committee, a Nolan County farming contract, career ladder selection process, appropriation transfers, and charges for meals and lodging, fiscal year 1986, business for informational purposes including board appointments, administrative salaries, and sale of annex; report of special committees; audiences with individuals or committees wishing to make a report or request, report or discussions from board members, and adjournment. The emergency status is necessary because the scheduling of this meeting has been pending waiting on the governor's new appointments. No appointments have been made, but it is now necessary that the board meet without new members.

**Contact:** Nancy Faubion, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631, ext 133

**Filed:** October 21, 1985, 9:18 a.m.  
TRD-859808

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## Texas School for the Deaf

**Friday, October 18, 1985, 3 p.m.** The Governing Board for the Texas School for the Deaf revised the agenda for an emergency meeting held in the boardroom, Admin-



istrative Building, 1102 South Congress Avenue, Austin. Items on the revised agenda summary include approval of minutes of September 28, 1985, meeting; reports and comments from individuals in the audience; business requiring board action including consultant contracts, a policy related to staff development and training, adoption of total communication philosophy and policy, personnel records, transcript of educational attainment, agreement for the use of office space, five-year plan, emoluments for fiscal year 1985-1986, board committee restructuring, 1985-1986 cash budget, transfer of funds, selection of a date for the January board meeting, professional contract, business for information purposes including student enrollment, and the executive director's report; and reports from board members. The emergency status was necessary because the professional contract needed to be approved before the next board meeting

**Contact:** Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78704, (512) 440-5335.

**Filed:** October 17, 1985, 3:22 p.m.  
TRD-859731

**Saturday, October 26, 1985, 12:30 p.m.** The Deaf Advisory Committee for the Texas School for the Deaf will meet in the boardroom, Administrative Building, 1102 South Congress Avenue, Austin. According to the agenda, the committee will discuss background, committee purpose, and function; planning process/time frames and strategies; progress reports and updates, site visit review, site disposition, site acquisition, political climate; and questions and answers

**Contact:** Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78764, (512) 440-5335.

**Filed:** October 18, 1985, 1 p.m.  
TRD-859783

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### Texas Commission on Economy and Efficiency in State Government

**Wednesday, October 30, 1985, 9 a.m.** The Texas Commission on Economy and Efficiency in State Government will meet in the Senate Chamber, State Capitol, Austin. Items on the agenda include organizational matters, budget and personnel matters, and discussion with cooperating state agencies.

**Contact:** Chris Kuykendall, P O Box 12128, Austin, Texas 78711, (512) 475-8454.

**Filed:** October 21, 1985, 9:37 a.m.  
TRD-859806

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### Texas Education Agency

**Monday, November 4, 1985, 10 a.m.** The Long-Range Planning Committee of the State Board of Education of the Texas Education Agency will meet in Room 209, West Tower, AmFac Hotel, Dallas/Fort Worth Airport. According to the agenda, the committee will consider Phase II development of the long-range master plan; revision of accreditation standards; and regional education service center plan.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985

**Filed:** October 21, 1985, 4:21 p.m.  
TRD-859821

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### Texas Employment Commission

**Wednesday, October 23, 1985, 8:30 a.m.** The Texas Employment Commission made an emergency revision to the agenda for a meeting held in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission considered amendments to the Comprehensive Language Services Program. The emergency status was necessary to implement recent legislation and to avoid complicated litigation in federal court.

**Contact:** C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

**Filed:** October 21, 1985, 3:17 p.m.  
TRD-859815

**Tuesday, October 29, 1985, 8:30 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. Items on the agenda include prior meeting notes, internal procedures of commission appeals, consideration and action on liability cases and higher level appeals in unemployment compensation cases on commission Docket 44, and setting the date of the next meeting

**Contact:** Courtenay Browning, TEC Building, Room 608, 15th Street and Congress Avenue, Austin, Texas, (512) 463-2226.

**Filed:** October 21, 1985, 3:18 p.m.  
TRD-859816

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### Good Neighbor Commission

**Friday, October 25, 1985, 10 a.m.** The Good Neighbor Clubs Committee of the Good Neighbor Commission will meet in Room 141-142, University Hall, Laredo State University, Laredo. According to the

agenda, the committee will discuss organization of Good Neighbor Clubs Program.

**Contact:** Lauro Cruz, Sam Houston Building, Room 507, 201 East 14th Street, Austin, Texas 78711, (512) 463-1805.

**Filed:** October 17, 1985, 4:02 p.m.  
TRD-859733

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### Texas Department of Health

**Friday, October 18, 1985.** Committees of the Texas Board of Health of the Texas Department of Health met in emergency session in Room T-407, 1100 West 49th Street, Austin. Times, committees, and agendas follow

**3:30 p.m.** The Hospital Committee discussed approval of hospitals to participate in the Crippled Children's Services Program, and authorization to publish consultant proposal requests in the *Texas Register*. The emergency status was necessary to advise the board on legislative mandates.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** October 17, 1985, 4:13 p.m.  
TRD-859736

**4 p.m.** The Legislative Committee discussed recent legislation and drafting of new legislation. The emergency status was necessary to advise the board on legislative mandates.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** October 17, 1985, 4:14 p.m.  
TRD-859737

**4:30 p.m.** The Nursing Home Committee discussed emergency and proposed rules concerning the registration of massage therapists, including fees, emergency and proposed adoption of medication aide fees; final adoption of rules concerning licensure of licensed aides in speech-language pathology and licensed aides in audiology, concerning Home Health Care Agency fees, Ambulatory Surgical Center licensing fees, abortion facility licensing fees, and birthing center licensing fees. The emergency status was necessary because the committee had to advise the board on legislative mandates.

**Contact:** Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

**Filed:** October 17, 1985, 4:14 p.m.  
TRD-859738

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### Texas Historical Commission

**Monday, October 28, 1985, 9:30 a.m.** The board of the Texas Historical Commission will meet at the Fort Concho National His-



toric Landmark, Commissary Building, 213 East Avenue D, San Angelo. Items on the agenda summary include the chairman's report; Sesquicentennial Committee report; Archeology Committee report; State Historic Preservation Office Committee report; Publications Committee report; Marker Committee report; Field and Museum Services Committee report; and Main Street Committee report.

**Contact:** Curtis Tunnell, 1511 Colorado Street, Austin, Texas 78701, (512) 475-3092.

**Filed:** October 18, 1985, 2:16 p.m.  
TRD-859784

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### University of Houston

**Thursday, October 24, 1985, 2:30 p.m.** The Board of Regents of the University of Houston met in Room 510, Enterprise Bank Building, 4600 Gulf Freeway, Houston. According to the agenda summary, the board discussed and/or approved the report and recommendation of the ad hoc subcommittee and considered various resolutions and the architect contract.

**Contact:** Michael T. Johnson, Suite 500, 4600 Gulf Freeway, Houston, Texas 77023, (713) 749-7545.

**Filed:** October 18, 1985, 9:42 a.m.  
TRD-859748

**Thursday, October 24, 1985, 2:30 p.m.** The Board of Regents of the University of Houston revised the agenda for a meeting held in Room 510, Enterprise Bank Building, 4600 Gulf Freeway, Houston. According to the revised agenda summary, the board discussed and/or approved the report and recommendation of the ad hoc subcommittee, various resolutions, the architect contract and acceptance of settlement agreement regarding and check from the Estate of Carl F. Fink, Jr.

**Contact:** Michael T. Johnson, Suite 500, 4600 Gulf Freeway, Houston, Texas 77023, (713) 749-7545.

**Filed:** October 21, 1985, 11:15 a.m.  
TRD-859809

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### Texas Department of Human Services

**Tuesday, October 29, 1985, 9 a.m.** The Services to Aged and Disabled Advisory Committee of the Texas Department of Human Services will meet in Room 6-W, sixth floor, West Tower, 701 West 51st Street, Austin. Items on the agenda summary include an

associate's report; Personal Care Home Task Force status; review of sunset material; legislative appropriations request; shared attendant demonstration project; Texas Department of Health proposed rules on administrative penalties for nursing homes; adult protective services report; proposed rules concerning immediate termination of purchased services to clients who pose a threat, annual physicians' orders for clients in PHC, DAHS, and residential health care; Board of Nurse Examiners' rules on supervision of unlicensed personnel; utilization control procedures for PHC and DAHS; increase in maximum weekly family care hours; update of meals program standards; rate evaluation for PHC; client services studies in progress; re-evaluation of adult foster care standards; and plans for next meeting.

**Contact:** Mary Ann Harvey, P.O. Box 2960, Austin, Texas 79769, (512) 450-3194.

**Filed:** October 18, 1985, 11:29 a.m.  
TRD-859753

**Thursday, October 31, 1985, 9 a.m.** The Income Assistance Advisory Committee of the Texas Department of Human Services will meet in Room 1-W, first floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee will consider election of officers, selection of terms, and other business; consider federal legislation update; consider status of employment initiatives; and consider information on program initiatives.

**Contact:** Pamela Martin, P.O. Box 2960, Austin, Texas 78769, (512) 450-3399.

**Filed:** October 18, 1985, 11:28 a.m.  
TRD-859754

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### State Board of Insurance

**Tuesday, October 29, 1985, 10 a.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider a motion for rehearing in the appeal of Daryl W. DeVietti from action of the Texas Catastrophe Property Insurance Association (TCPIA); consider a proposal for decision in the appeal of Larry Saye from action of the TCPIA; consider board orders on several different matters as itemized on the complete agenda; consider the fire marshal's report concerning personnel matters; consider the commissioner's report concerning personnel matters; consider pending and contemplated litigation; and discuss life reinsurance agreements.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328

**Filed:** October 21, 1985, 3:50 p.m.  
TRD-859819

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### Texas Advisory Commission on Intergovernmental Relations

**Wednesday, October 30, 1985, 2:30 p.m.** The School Governance Management Study Development Committee of the Texas Advisory Commission on Intergovernmental Relations will meet in the Senate Reception Room, Room 214, State Capitol, Austin. According to the agenda, the committee will meet to discuss a proposal framework.

**Contact:** Jorge Anchondo, Sam Houston Building, Room 407, 201 East 14th Street, Austin, Texas 78701, (512) 463-1812.

**Filed:** October 21, 1985, 4:24 p.m.  
TRD-859825

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### Long-Term Care Coordinating Council for the Elderly

**Thursday, October 31, 1985, 10 a.m.** The Long-Term Care Coordinating Council for the Elderly will meet at City Hall, 201 North Ector Drive, Euless. According to the agenda summary, the council will consider approval of minutes of the July 30, 1985, meeting, hear public comment on long-term care services in Texas; committee report on long-term care coordination and services; improving citizen advocate participation in nursing homes; ombudsman prospective on citizens advocacy participation; committee report on provider partnerships; State Board of Insurance report on the insurance study; Alzheimer's Task Group report; update on the development of area-wide committees; Elder Abuse and Neglect Select Committee; and scheduling of future committee and council meetings.

**Contact:** Ann Ammons, 1949 IH 35 South, Austin, Texas, (512) 444-2727

**Filed:** October 21, 1985, 4:27 p.m.  
TRD-859822

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### Texas National Guard Armory Board

**Wednesday, October 30, 1985, 8 p.m.** the Texas National Guard Armory Board will meet at Wing Headquarters, Hensley Field, Dallas. Items on the agenda summary include administrative matters, fiscal matters, and facility construction, remodeling, and renovation.

**Contact:** Donald J. Keir, P.O. Box 5218, Austin, Texas 78763-5218, (512) 451-6143.

**Filed:** October 21, 1985, 9:17 a.m.  
TRD-859805

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### Board of Nurse Examiners

**Wednesday-Friday, October 30, 31-November 1, 1985, 8 a.m. daily.** The Board of Nurse Examiners will meet at the Marriott Hotel, 6121 IH-35 North at U.S. Highway 290, Austin. Items on the agenda summary include disciplinary cases, consent orders, and other action taken by the hearing officer; a report from the executive secretary regarding proposed rule changes, the adoption of 22 TAC §217.5, and reports from various committees appointed by the board; education information including reports on survey visits, request for extended campus, curriculum changes, faculty petitions, and a request for the establishment of a new program at Midwestern State University in Wichita Falls. A public hearing also has been scheduled for November 1, 1985 at 10 a.m. to receive testimony, consider examination information, consider a report from the steering committee, and to consider miscellaneous reports on various meetings attended.

**Contact:** Margaret Rowland, 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 835-4880

**Filed:** October 18, 1985, 9:19 a.m.  
TRD-859746

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**Wednesday-Friday, October 30-November 1, 1985, 8 a.m. daily.** The Board of Nurse Examiners made an addition to the agenda for a meeting to be held at the Marriott Hotel, 6121 IH 35 North, Austin. The addition concerned the report of the executive secretary concerning the panel of content experts for NCLEX-RN.

**Contact:** Margaret Rowland, 1300 East Anderson Lane, Suite C-225, Austin, Texas 78752, (512) 478-9602

**Filed:** October 21, 1985, 9:43 a.m.  
TRD-859807

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### Board of Pardons and Paroles

**Monday-Friday, October 28-31, and November 1, 1985, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday.** A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

**Contact:** Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713

**Filed:** October 18, 1985, 10:42 a.m.  
TRD-859750

**Tuesday, October 29, 1985, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

**Contact:** Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

**Filed:** October 18, 1985, 10:42 a.m.  
TRD-859751

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### Texas State Board of Pharmacy

**Tuesday, October 29, 1985, 10 a.m.** The Texas State Board of Pharmacy will meet at the Austin South Plaza Hotel, 3401 South IH-35, Austin. According to the agenda, the board will consider approval of July and August board meeting minutes, disciplinary hearing minutes; consideration rules for final adoption (22 TAC §§281.34, 281.48, 283.2, 283.3, 283.12, 283.14, 291.19, 291.72, 291.74, 291.75, 295.5) and proposed amendments (22 TAC §§291.1, 291.2, 291.4-291.7, 283.11), old business to include a report on Strategic Planning Committees, Class D Advisory Committee, and the office lease space process; memo of understanding proposed by the Texas State Board of Medical Examiners; action on board member per diem and travel policy; new business to include board policy on private enterprise companies; and review of director of investigation position description. The board also will meet in executive session to discuss personnel and pending litigation.

**Contact:** Fred S. Brinkley, Jr., Suite 1121, 211 East Seventh Street, Austin, Texas 78701, (512) 478-9827.

**Filed:** October 18, 1985, 4:39 p.m.  
TRD-859789

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### Texas State Board of Physical Therapy Examiners

**Saturday, November 2, 1985, 10 a.m.** The Texas State Board of Physical Therapy Examiners will meet in Suite 260, Building C, 1300 East Anderson Lane, Austin. Items on the agenda include committee reports; proposed rule changes; insurance for liability, requests for clarification of an Act, requests to be excused from scheduled licensing examination, governor's replacement appoint-

ment for Barton; and formal hearing of enforcement.

**Contact:** Lois M. Smith, Suite 260, Building C, 1300 East Anderson Lane, Austin, Texas 78602, (512) 835-1846.

**Filed:** October 18, 1985, 1:59 p.m.  
TRD-859785

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### Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

**Monday, October 28, 1985, 10 a.m.** A prehearing in Dockets 6314, 6492, 6511, and 6541—application of City of La Grange to amend water and sewer certificates in Fayette and Henderson Counties and application of Fayette Water Supply Corporation to amend a water certificate in Fayette County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 18, 1985, 4:39 p.m.  
TRD-859790

**Tuesday, October 29, 1985, 10 a.m.** A prehearing conference in Docket 6534—application of Center Point Water Works for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 18, 1985, 4:38 p.m.  
TRD-859791

**Tuesday, October 29, 1985, 3:30 p.m.** A prehearing conference in Docket 6205—application of Chisholm Trail Water Supply Corporation to amend its certificate of convenience and necessity within Williamson County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 21, 1985, 4:31 p.m.  
TRD-859823

**Wednesday, October 30, 1985, 9 a.m.** Dockets 6338, 6486, 6015, 6212, 6385, 6146, 6240, 2097, 5361, 5930, 6299, 6311, 6312, 6420, 6159, 6417, 5576, 5723, 5846, 5867, 5910, 5950, 5964, 6043, 6194, 6229, 6347, 6393, and 6419. The division also will meet in executive session to consider pending litigation and personnel matters.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 21, 1985, 4:31 p.m.  
TRD-859826

**Tuesday, November 5, 1985, 1:30 p.m.** A rescheduled informal meeting in Dockets 6436 and 6481—application of Snowden Water System to transfer certificate from Berry Water Company and in the matter of §43(h) rate change by Snowden Water System. The meeting originally was scheduled for October 15, 1985, as published at 10 TexReg 3773.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 17, 1985, 2:50 p.m.  
TRD-859728

**Tuesday, December 3, 1985, 10 a.m.** A rescheduled hearing on the merits in Docket 6517—application of Big Bend Telephone Company, Inc., for authority to reduce certain rates and to make other revisions in its tariff. The hearing originally was scheduled for December 9, 1985, as published at 10 TexReg 3982.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 17 1985, 2:50 p.m.  
TRD-859729

**Thursday, December 5, 1985, 10 a.m.** A rescheduled hearing in Docket 6490—application of Waterwook Telephone Company for authority to change rates. The hearing originally was scheduled for December 11, 1985, as published at 10 TexReg 3910.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 21, 1985, 2:58 p.m.  
TRD-859812

**Thursday, December 12, 1985, 9 a.m.** A hearing on the merits in Docket 6510—application of Grayson-Collin Electric Cooperative, Inc for authority to change rates

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 21, 1985, 2:49 p.m.  
TRD-859730

**Monday, May 19, 1986, 10 a.m.** A settlement conference in Docket 6448—application of El Paso Electric Company for approval of standard avoided cost calculation for the purchase of firm energy and capacity from qualifying facilities

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 21, 1985, 2:58 p.m.  
TRD-859813

**Monday, June 2, 1986, 10 a.m.** A hearing on the merits in Docket 6449—application of Lower Colorado River Authority for ap-

proval of standard avoided cost calculations

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 17, 1985, 2 49 p m.  
TRD-859732

**Monday, June 16, 1986, 10 a.m.** A hearing on the merits in Docket 6448—application of El Paso Electric Company for standard avoided cost calculation for the purchase of firm energy and capacity from qualifying facilities.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 21, 1985, 2:58 p.m.  
TRD-859814

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### State Purchasing and General Services Commission

**Monday, October 28, 1985, 10 a.m.** The State Purchasing and General Services Commission will meet in Room 916, LBJ Building, 111 East 17th Street, Austin. Items on the agenda summary include consideration of a proposed amendment to 1 TAC §115.3 and proposed 1 TAC §111.18 and §111 19; consideration of delegation of authority to the executive director; status of sale of Amdahl computer; status of Capitol complex centrex; report on energy efficiency in state office buildings; executive director's report on long-range parking plans; and set date and time for next meeting. The commission also will meet in executive session to consider personnel matters.

**Contact:** John R. Neel, Room 914, LBJ Building, Austin, Texas 78701, (512) 463-3446.

**Filed:** October 18, 1985, 10:43 a.m.  
TRD-859752

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### Railroad Commission of Texas

**Monday, October 21, 1985, 9 a.m.** The Gas Utilities Division of the Railroad Commission of Texas met in emergency session on the 12th floor, 1701 North Congress, Austin. According to the agenda, the commission considered gas utilities Docket 5444—statement of intent filed by Southern Union Gas Company to change residential and commercial rates in the unincorporated areas in the vicinity of Austin, Rollingwood, Sunset Valley, and West Lake Hills. The emergency status was necessary because this item was properly noticed for the conference held on October 14, 1985, was passed

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-7003

**Filed:** October 18, 1985, 11.14 a m.  
TRD-859767

**Monday, October 21, 1985, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas submitted an emergency revised agenda for a meeting held in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission considered Docket 6E-85,136—application of Beren, J and Tate, Larry V. *et al*, to consider adding amendments to the casing leak allowable transfer rule Order 6-56,338, East Texas Field, Rusk County. The emergency status was necessary because this item was properly noticed for the meeting of October 14, 1985, and was passed.

**Contact:** F M Rago, P O. Drawer 12967, Austin, Texas 78711, (512) 463-6719.

**Filed:** October 18, 1985, 11:15 a m  
TRD-859768

**Monday, October 28, 1985, 9 a.m.** The Railroad Commission of Texas will meet in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Roger Dillon, P O Drawer 12967, Austin, Texas 78711, (512) 463-7257

**Filed:** October 18, 1985, 11 18 a m  
TRD-859769

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters

**Contact:** Bob Kmetz, P O Drawer 12967, Austin, Texas 78711, (512) 463-7251

**Filed:** October 18, 1985, 11:15 a m.  
TRD-859770

The Flight Division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149

**Filed:** October 18, 1985, 11 19 a m.  
TRD-859771

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

**Filed:** October 18, 1985, 11:17 a m  
TRD-859772

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

**Filed:** October 18, 1985, 11:19 a.m.  
TRD-859773

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Thomas D Petru, P O Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

**Filed:** October 18, 1985, 11:19 a.m.  
TRD-859774

The Oil and Gas Division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

**Contact:** Timothy A. Poe, P O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

**Filed:** October 18, 1985, 11:16 a.m.  
TRD-859776

Additions to the previous agenda.

Application of All American Pipeline Company for a pipeline permit across various counties in Texas.

**Contact:** Susan Cory, P O Drawer 12967, Austin, Texas 78711, (512) 463-6922

**Filed:** October 18, 1985, 11:16 a.m.  
TRD-859777

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 1(C), 103, 107, and 108.

**Contact:** Margie L. Osborn, P O Drawer 12967, Austin, Texas 78711, (512) 463-6755

**Filed:** October 18, 1985, 11:16 a.m.  
TRD-859775

The Personnel Division director's report on division administration, budget, procedures, and personnel matters

**Contact:** Mark Bogan, P O Drawer 12967, Austin, Texas 78711, (512) 463-6981

**Filed:** October 18, 1985, 11:14 a.m.  
TRD-859778

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Gail Gemberling, P O Drawer 12967, Austin, Texas 78711, (512) 463-6976

**Filed:** October 18, 1985, 11:15 a.m.  
TRD-859779

The Office of Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters

**Contact:** Walter Earl Lile, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

**Filed:** October 18, 1985, 11:18 a.m.  
TRD-859780

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures and personnel matters.

**Contact:** J. Randel (Jerry) Hill, 1701 North Congress, Austin, Texas 78701, (512) 463-7149

**Filed:** October 18, 1985, 11:52 a.m.  
TRD-859781

Various matters falling within the Transportation Division's regulatory jurisdiction

**Contact:** Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

**Filed:** October 18, 1985, 11:18 a.m.  
TRD-859782

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### Texas Sesquicentennial Commission

**Friday, October 18, 1985, 10 a.m.** The Texas Sesquicentennial Commission met in emergency session in the conference room, Texas Commission for the Deaf, 510 South Congress Street, Austin. Items on the agenda include opening of the Dallas Showroom at the World Trade Center on a permanent basis; possibility of opening an Austin showroom; possibility of a vendor show in conjunction with the second annual Leader's Conference, any questions on guidelines, contracts, and policies; buy official strategy; exclusive guidelines, the Corporate/Industrial Program, Retrail Program; Bootleggin; and other business. The emergency status was necessary because of vendors requests for hearing

**Contact:** Patrick Terry, P O Box 1986, Austin, Texas 78767, (512) 475-1986.

**Filed:** October 17, 1985, 5:04 p.m.  
TRD-859739

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### Texas A&M University System

**Tuesday, October 22, 1985, 10 a.m.** The Planning and Building Committee of the Board of Regents of the Texas A&M University System met at 2040 Empire Central, Dallas. According to the agenda, the committee discussed the possibility of financing and constructing air-conditioned boxes at Kyle Field, Texas A&M University

**Contact:** Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603

**Filed:** October 18, 1985, 11:14 a.m.  
TRD-859755

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### Texas State Technical Institute

**Tuesday, October 22, 1985, 2 p.m.** The Executive Committee of the Board of Regents of Texas State Technical Institute (TSTI) met in emergency session in the conference room, TSTI, Waco. According to the agenda, the committee discussed authorization to submit plans for campus housing to the Coordinating Board, Texas College and University System at TSTI-Sweetwater, and authorization to expend funds for construction to Systems Annex Building. The emergency status was necessary because the committee had to meet deadlines for Coordinating Board, Texas College and University System schedule of meetings and to provide facilities urgently needed.

**Contact:** Theodore A. Talbot, TSTI, Waco, Texas 76705, (817) 799-3611.

**Filed:** October 21, 1985, 4:46 p.m.  
TRD-859824

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### University of Texas System

**Thursday, October 24, 1985, 10 a.m.** The Board of Regents for the University of Texas System met in Room E-6.200, Florence Bioinformation Building, The University of Texas Health Science Center, 5323 Harry Hines Boulevard, Dallas. According to the agenda, the board considered any and all actions related to the advance refunding of permanent university fund bonds; the issuance of permanent university fund commercial paper; personnel matters related to special academic appointments; and the acquisition of housing facilities at the University of Texas at Tyler

**Contact:** Arthur H. Dilly, P.O. Box N, U.T. Station, Austin, Texas 78713-7328, (512) 499-4402

**Filed:** October 21, 1985, 9:06 a.m.  
TRD-859792

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### Board of Vocational Nurse Examiners

**Monday-Wednesday, November 18-20, 1985, 8 a.m. daily.** The Board of Vocational Nurse Examiners met in the Mesquite Room, Executel Motor Inn, 925 East Anderson, Austin. Items on the agenda summary include approval of minutes; report of executive director; report of director of education on program matters and the annual program report summary; unfinished business; and administrative hearings.

**Contact:** Joyce A. Hammer, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

Filed: October 22, 1985, 9 19 a.m.  
TRD-859842

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### Texas Water Commission

**Tuesday, October 22, 1985, 10 a.m.** The Texas Water Commission submitted an emergency revised agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the revised agenda, the commission considered the application by Maverick County Water Control and Improvement District 1 for an emergency permit. The applicant was requesting that for a 30-day period it be allowed to divert from the Rio Grande 100 acre-feet of water for municipal and domestic purposes and 150 acre-feet of water for industrial purposes in Maverick and Kinney Counties. The emergency status was necessary because an application to amend its water right is awaiting public hearing, applicant is seeking this emergency permit to meet its municipal, domestic, and industrial customers' needs, and is requesting the commission to consider the application as soon as possible.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** October 21, 1985, 2 21 p.m.  
TRD-859811

**Tuesday, October 29, 1985, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will consider water district bond issues, release from escrow, use of surplus funds, change order, reduction in tax rate, setting hearings on district creations, water quality proposed permits, amendments and renewals, and water use applications.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** October 18, 1985, 11 20 a.m.  
TRD-859761

**Thursday, December 12, 1985, 9 a.m.** The Texas Water Commission rescheduled a meeting to be held in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will conduct a prehearing conference and hearing to consider application by City of Stephenville for authorization to construct and maintain a dam and 99,674 acre-foot capacity reservoir on the Paluxy River, tributary of Brazos River, Brazos River Basin, in Somervell and Hood Counties, Glen Rose. The application includes a request to use the reservoir for recreational purposes, to use 200 acre-feet of water per annum from Paluxy River for construction of the reservoir, and to use 12,954 acre-feet of water per annum for domestic and municipal purposes. The conference originally was scheduled for November 19, 1985.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** October 18, 1985, 11 21 a.m.  
TRD-859760

**Monday, December 16, 1985, 9 a.m.** The Texas Water Commission rescheduled hearings to be held in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The hearings originally were scheduled to be held on November 19, 1985. Agendas follow.

Application 1933C by Sabine River Authority for an amendment to Permit 1742 to increase the impounding capacity of Lake Tawakoni from 926,000 acre-feet to 927,440 acre-feet and to increase from 230,750 acre-feet to 248,470 acre-feet per annum the authorized diversion from said lake for municipal purposes, all being more fully set out in the application.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 18, 1985, 11 23 a.m.  
TRD-859756

Application 4604 by City of Dallas for a permit to divert 14,931 acre-feet of water per annum from Lake Tawakoni, Sabine River Basin, approximately nine miles northeast of Wills Point, Van Zandt County, for a trans-basin diversion to the Trinity River Basin to use for municipal purposes by the City of Dallas and its customers.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** October 18, 1985, 11 21 a.m.  
TRD-859759

Application 4605 by City of Dallas for a permit to divert and use 25,127 acre-feet of water per annum from Lake Fort Reservoir, Sabine River Basin, approximately 5 1 miles west of Quitman, Wood County, for a trans-basin diversion to the Trinity River Basin to use for municipal purposes by the City of Dallas and its customers.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** October 18, 1985, 11 22 a.m.  
TRD-859758

Application 3234B by Sabine River Authority for an amendment to Permit 2948 to increase the authorized appropriation and use from the presently authorized 164,940 acre-feet of water per annum. The increase request is for municipal use, all being more fully set out in the application.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898

**Filed:** October 18, 1985, 11 22 a.m.  
TRD-859757

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### Regional Agencies Meetings Filed October 17

**The Capital Area Rural Transportation System (CARTS),** Board of Directors, met in the emergency session in the conference room, Suite 100, 2520 IH 35 South, Austin, on October 24, 1985, at 9:30 a.m. Information may be obtained from Edna Burroughs, 5021 East First Street, Austin, Texas 78702, (512) 478-RIDE.

**The Central Tax Authority of Taylor County,** Board of Directors, will meet at 340 Hickory Street, on November 6, 1985, at 10 a.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

**The Region V Education Service Center,** Board of Directors, met at 2295 Delaware Street, Beaumont, on October 24, 1985, at 1 15 p.m. Information may be obtained from Fred J. Waddell, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212.

**The Region VI Education Service Center,** Executive Committee, met at 3332 Montgomery Road, Huntsville, on October 22, 1985, at 11 a.m. Information may be obtained from M. W. Schlotter, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161.

**The Golden Crescent Regional Planning Commission,** Board of Directors, will meet in the Americana Room, Interfirst Bank, 1908 North Laurent, Victoria, on October 30, 1985, at 5 p.m. Information may be obtained from Patrick J. Kennedy or Rhonda Stasny, P.O. Box 2029, Victoria, Texas 77902, (512) 578-5187.

**The Hays County Central Appraisal District,** Board of Directors, met on the first floor, Courthouse Annex, San Marcos, on October 23, 1985, at 6 30 p.m. Information may be obtained from Hays County Central Appraisal District, 102 EBI, Courthouse Annex, San Marcos, Texas 78666, (512) 396-4777.

**The Jasper County Appraisal District,** Board of Directors, met in the boardroom, Brookeland School, Loop 149, Brookeland, on October 21, 1985, at 6 30 p.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

**The Lower Colorado River Authority,** Energy Operations Committee met at 3700 Lake Austin Boulevard, on October 23, 1985, at 8 a.m. The following committees met at the same location on the same day at the times indicated:

Audit and Budget Committee—10 a.m.  
Committee on Planning and Public Policy—11 a.m.

Natural Resources Committee—1 p.m.  
Finance and Administration Committee—  
3:30 p.m.

The Board of Directors met at the same location on October 24, 1985, at 9 a.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

TRD-859719

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#### Meetings Filed October 18

**The Austin-Travis County Mental Health and Mental Retardation Center**, Board of Trustees, met in the boardroom, 1430 Collier Street, Austin, on October 24, 1985, at 7 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141

**The Central Plains Mental Health and Mental Retardation Center**, Board of Trustees, met at 2601 Dimmitt Road, Plainview, on October 22, 1985, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 296-2726

**The Dallas Area Rapid Transit, Budget and Finance Committee and Board**, met at 601 Pacific Avenue, Dallas, on October 22, 1985, at 6 p.m. and 6:30 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Gillespie County Appraisal District**, Board of Directors, will meet in the assembly room, City Hall, Fredericksburg, on October 30, 1985, at 9 a.m. Information may be obtained from Gary Neffendorf, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-7655.

**The Liberty County Central Appraisal District**, met at 1820 Sam Houston, Liberty, on October 23, 1985, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 712, Liberty, Texas 77575, (409) 336-6771

**The South Plains Association of Governments**, Board of Directors, met at 3424 Avenue H, Lubbock, on October 21, 1985, at 10 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 2787, Lubbock, Texas 79408, (806) 762-8721.

**The Central Tax Authority of Taylor County**, Board of Directors, will meet at 340 Hickory Street, Abilene, on November 6, 1985, at 10 a.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

TRD-859749

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#### Meetings Filed October 21

**The Central Plains Mental Health and Mental Retardation Center**, Board of Trustees, rescheduled a meeting held at 2601 Dimmitt Road, Plainview, on October 24, 1985, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 296-2726.

**The Coastal Bend Council of Governments**, Executive Board, will meet in the Blue Room, Town Club, 701 North Water, on October 25, 1985, at noon. The Membership Committee will meet at 901 Leopard, Corpus Christi, on the same day at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743.

**The Dallas Area Rapid Transit, Budget and Finance Committee, and Board of Directors**, made an emergency revision to the agenda for a meeting held at 601 Pacific Avenue, Dallas, on October 22, 1985, at 6 p.m. and 6:30 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237

**The Region III Education Service Center**, Board of Directors, will meet at 1905 Leary Lane, Victoria, on October 28, 1985, at 1 p.m. Information may be obtained from Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731

**The Jasper County Appraisal District**, Appraisal Review Board, will meet at the Courthouse Annex, 102 North Austin, Jasper, on November 7, 1985, at 9 a.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544

**The Central Appraisal District of Johnson County**, Board of Directors, met at 109 North Main, Cleburne, on October 23,

1985, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986.

**The Mental Health and Mental Retardation Center of East Texas**, Board of Trustees, met at Wood/Rains Outpatient Clinic, 703 Patton, Mineola, on October 24, 1985, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

**The North Central Texas Council of Governments**, Executive Board, met on the second floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on October 24, 1985, at 12:45 p.m. Information may be obtained from Edwina J. Hicks, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

**The Northeast Texas Municipal Water District**, Board of Directors, will meet at Highway 250 South, Hughes Springs, on October 28, 1985, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Dangerfield, Texas 75638, (214) 639-7538.

**The South Plains Health Provider Organization, Inc.**, Board of Directors, will meet at 2801 West Eighth Street, Plainview, on October 28, 1985, at 8 p.m. Information may be obtained from Jeanette Silvas, 706 Canyon, Plainview, Texas 79072, (806) 293-8561.

TRD-859799

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#### Meetings Filed October 22

**The Gulf Bend Mental Health and Mental Retardation Center**, Board of Trustees, will meet at 1404 Village Drive, Victoria, on October 31, 1985, at noon. Information may be obtained from T. G. Kelliher, Jr., 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

**The Lampasas County Appraisal District**, will meet at 403 East Second Street, on October 29, 1985, at 2 p.m., and on November 1, 1985, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76650, (512) 556-8058

TRD-859841

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# In Addition

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of October 7-11, 1985.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers, and type of application—new source or modification.

Superior Oil Company, Hallettsville; gas sweetening plant; one mile west of 77A, Lavaca County; 9998; new source

Manville Building Materials Corp., Celburne; fiberglass insulation Pot 92; 200 West Industrial Boulevard, Johnson County; 9999; new source

Tenneco Oil Company, Pittsburg; gas well test; Pilgrim Pride #1 well, Camp County; 16723; new source

Owens-Illinois, Inc., Orange, package boiler; Orange County, 16724; new source

F. R. Lewis Construction Company, Livingston; asphalt concrete; Polk County; 9611A; modification

Issued in Austin, Texas, on October 16, 1985

TRD-859787 Paul M. Shinkawa  
Director of Hearings  
Texas Air Control Board

Filed: October 16, 1985  
For further information, please call (512) 451-5711, ext. 354.

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## State Banking Board Cancellation of Hearing

As no opposition has been noted in the application for domicile change for Bank of Austin, Austin (in organization), the hearing previously scheduled for October 24,

1985, has been canceled. The application will be scheduled for action at the next board meeting.

Issued in Austin, Texas, on October 15, 1985.

TRD-859691 William F. Aldridge  
Director of Corporate Activities  
State Banking Board

Filed: October 16, 1985  
For further information, please call (512) 475-4451.

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## Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On October 11, 1985, the banking commissioner received an application to acquire control of the Liberty Bank, Houston, by John R. Gordon and Frances T. Gordon of Houston.

On October 16, 1985, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on October 16, 1985

TRD-859747 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: October 18, 1985  
For further information, please call (512) 475-4451.

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## Office of Consumer Credit Commissioner

### Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 10/28/85-11/03/85	18.00%	18.00%
Monthly Rate—Article 1.04(c) <sup>(1)</sup> 10/01/85-10/31/85	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 10/01/85-12/31/85	18.00%	18.00%
Retail Credit Card Quarterly Rate—Article 1.11 <sup>(3)</sup> 10/01/85-12/31/85	18.00%	N/A
Lender Credit Card Quarterly Rate—Article 15.02(d) <sup>(3)</sup> 10/01/85-12/31/85	14.46%	N/A
Standard Annual Rate—Article 1.04(a)(2) <sup>(2)</sup> 10/01/85-12/31/85	18.00%	18.00%
Retail Credit Card Annual Rate—Article 1.11 <sup>(3)</sup> 10/01/85-12/31/85	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 10/01/85-12/31/85	18.00%	N/A
Judgment Rate—Article 1.05, §2 09/01/85-09/30/85	10.00%	10.00%

- (1) For variable rate commercial transactions only  
(2) Only for open end credit as defined in Texas Civil Statutes, Article 5069-1.01(f)  
(3) Credit for personal, family, or household use  
(4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on October 21, 1985

TRD-859794 Sam Kelley  
Consumer Credit  
Commissioner

Filed, October 21, 1985  
For further information, please call (512) 479-1280.

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## Texas Rehabilitation Commission Consultant Proposal Request

The Texas Rehabilitation Commission under the authority of the Human Resources Code, Texas Civil Statutes, Chapter 111, is requesting proposals for consulting services. This consultant proposal request is being filed pursuant to Texas Civil Statutes, Article 6252-11c. The Texas Rehabilitation Commission invites all interested parties to submit proposals to provide consultant services to this agency.

**Description of Services.** Specific activities to be performed are psychological testing, psychological evaluation, counseling/therapy, psychological consultation, and consultative examinations for the social security program in the following geographic areas.

**Limitations and Contacts by Region.** In Region I of the Texas Rehabilitation Commission, the services will be purchased in the following counties: Andrews, Armstrong, Bailey, Borden, Brewster, Briscoe, Carson, Castro, Cochran, Coke, Collingsworth, Concho, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dickens, Donley, Ector, El Paso, Floyd, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Howard, Hudspeth, Hutchinson, Irion, Jeff Davis, King, Lamb, Lipscomb, Loving, Lubbock, Lynn, Martin, Menard, Midland, Moore, Motley, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Runnels, Schleicher, Sherman, Sterling, Sutton, Swisher, Terrell, Terry, Tom Green, Upton, Ward, Wheeler, Winkler, and Yoakum. Contracts will be for the period of December 1, 1985, through August 31, 1986. Funding will not exceed \$152,000. The contact person for Region I is Mary Valentini, Program Director, #14 Briercroft Office Park, Lubbock, Texas 79412, (806) 762-0375. The contact person for the consultative examinations for the social security program is Mike Bartlett, Director, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8511.

In Region II of the Texas Rehabilitation Commission, the services will be purchased in the following counties: Archer, Baylor, Bosque, Brown, Callahan, Childress, Clay, Coleman, Comanche, Coryell (except Copperas Cove), Cottle, Denton, Eastland, Erath, Falls, Fisher, Foard, Hamilton, Hardeman, Haskell, Hill, Hood, Jack, Johnson, Jones, Kent, Knox, Limestone, McCulloch, McLennan, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, San Saba, Scurry, Shackelford, Somervell, Stephens, Stonewall, Tarrant, Taylor, Throckmorton, Wichita, Willinger, Wise, and Young. Contracts will be for the period December 1, 1985, through August 31, 1986. Funding will not exceed \$242,000. The contact person for Region II is Roger Ward, Program Director, 3005 Alta Mere, Fort Worth, Texas 76116, (817) 731-7343. The contact person for the consultative examinations for the social security program is Mike Bartlett, Director, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8511.

In Region III of the Texas Rehabilitation Commission, the services will be purchased in the following counties: Angelina, Bastrop, Bee, Bell, Blanco, Brazoria, Brazos, Burleson, Burnet, Caldwell, Calhoun, Chambers, Cherokee, Comal, Coryell (including Copperas Cove), Dewitt, Duval, Fayette, Galveston, Goliad, Gonzales, Grimes, Guadalupe, Hardin, Hays, Houston, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Lampasas, Lavaca, Lee, Leon, Liberty, Live Oak, Llano, McMullen, Madison, Matagorda, Milam, Nacogdoches, Newton, Orange, Polk, Refugio, Robertson, Sabine, San Augustine, Shelby, Travis, Trinity, Tyler, Victoria, Walker, Washington, Wharton, and Williamson. Contracts will be for the period December 1, 1985, through August 31, 1986. Funding will not exceed \$123,000. The contact person for Region III is Les Doleshal, Program Director, 2900 South I-35, Suite 205, Austin, Texas 78704, (512) 447-0616. The contact person for the consultative examinations for the social security program is Mike Bartlett, Director, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8511.



In Region IV of the Texas Rehabilitation Commission, the services will be purchased in the following counties: Austin, Colorado, Fort Bend, Harris, Montgomery, San Jacinto, and Waller. Contracts will be for the period December 1, 1985, through August 31, 1986. Funding will not exceed \$626,000. The contact person for Region IV is Jim Muhlhauser, Program Director, 7211 Regency Square Boulevard, Suite 150, Houston, Texas, (713) 977-2613. The contact person for the consultative examinations for the social security program is Mike Bartlett, Director, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8511.

In Region V of the Texas Rehabilitation Commission, the services will be purchased in the following counties: Aransas, Atascosa, Bandera, Bexar, Brooks, Cameron, Dimmit, Edwards, Frio, Gillespie, Hidalgo, Jim Hogg, Kendall, Kenedy, Kerr, Kimble, Kinney, Kieberg, La Salle, Mason, Maverick, Medina, Nueces, Real, San Patricio, Starr, Uvalde, Val Verde, Webb, Willacy, Wilson, Zapata, and Zavala. Contracts will be for the period December 1, 1985, through August 31, 1986. Funding will not exceed \$329,000. The contact person for Region V is Richard Palacios, Program Director, 5805 Callaghan Road, Suite 311, San Antonio, Texas 78228, (512) 680-2091. The contact person for the consultative examinations for the social security program is Mike Bartlett, Director, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8511.

In Region VI of the Texas Rehabilitation Commission, the services will be purchased in the following counties: Anderson, Bowie, Camp, Cass, Collin, Cooke, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Graysen, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Navarro, Panola, Raines, Red River, Rockwell, Rusk, Smith, Titus, Upshur, Van Zandt, and Wood. Contracts will be for the period December 1, 1985, through August 31, 1986. Funding will not exceed \$442,000. The contact person for Region VI is Bertha Hinojosa, Program Director, 13612 Midway Road, Suite 530, Farmers Branch, Texas 75244, (214) 387-8695. The contact person for the consultative examinations for the social security program is Mike Bartlett, Director, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8511.

**Evaluation and Selection.** To evaluate the offers for consultant services, the Texas Rehabilitation Commission will consider demonstrated competence, knowledge, qualifications, reasonableness of the proposed fee, and when other considerations are equal, will give preference to a private consultant whose principal place of business is within the state or who will manage the consulting engagement wholly from one of its offices within the state. The following criteria will also be considered:

- (1) geographic area;
- (2) range of services;
- (3) accessibility of services to clients;
- (4) staff qualifications;
- (5) examples of work, and
- (6) cost.

Final selection will be based on the results of the evaluation by the Texas Rehabilitation Commission of the listed criteria. Selection may be nonexclusive to include more than one service provider being selected for a county, counties, or city. Payments for services will not exceed those published in the maximum affordable payment schedule of the Texas Rehabilitation Commission.

**Intent to Award to Prior Consultant.** The commission

intends to award contracts for consulting services to the consultant that previously performed the service unless a better offer is submitted as determined by the criteria state in evaluation and selection.

**Closing Date for Offers.** The closing date for receipt of offers is November 12, 1985.

**Contact Person.** Further information may be obtained by writing or calling Frank Perdue, Texas Rehabilitation Commission, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8848.

Issued in Austin, Texas, on October 15, 1985

TRD-859692      Vernon H. Newman  
Assistant Commissioner  
Texas Rehabilitation Commission

Filed October 16, 1985  
For further information, please call (512) 445-8126.

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## Southwest Texas State University Consultant Proposal Request

This is a request for proposals to revise a benchbook for Texas justice of the peace, filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Texas Justice Court Training Center at Southwest Texas State University in San Marcos has been providing in-service training for the state's more than 950 justices of the peace since 1973. The program is funded by grants from the Texas Supreme Court. In 1974, the training center published the *Justice Court Deskbook*. This exhaustive benchbook was to be the primary reference manual for both training and daily use in court. The book is 444 pages and is hard bound. The original deskbook contains 3,117 footnotes referencing the legal authorities cited. Pocket supplements were issued in 1975 and 1982. These supplements, although bringing the book up to date, eroded the original concept of a single source reference for these trial judges. Since the last pocket supplement was issued, there have been numerous changes due to statutory law, case law, attorney general's opinions, and administrative law and procedure affecting the deskbook. Attachment A to this request is a copy of the table of contents of the *Justice Court Deskbook*, first edition.

**Description of the Project.** The Texas Justice Court Training Center is seeking a qualified contractor to revise the *Justice Court Deskbook*. The contractor will research the entire existing book, updating both text and citations where necessary. All sample forms contained in the book will be reformatted to one page and updated to conform with current law and procedure. Additionally, topics not previously contained in the first edition will be added to the extent necessary.

**Work Product.** The contractor will be required to:

- (1) validate existing book, including text and footnotes/citations. Update book to include additions and revisions caused by changes in law and procedure in the text and in forms. The index will not be compiled by the contractor;
- (2) produce camera-ready copy of the revised deskbook in a style conforming with the requirements of the advisory committee;
- (3) deliver to the Texas Justice Court Training Center a set of diskettes containing the revised deskbook. Such

diskettes must be compatible with an I B M displaywriter word processor. Close coordination with the training center of the typing of the revised deskbook is required to ensure this compatibility. The contractor will be subject to state and university guidelines as well as guidelines for the revision set by the advisory committee.

**The Proposal.** Prospective contractors for this project will submit a bid proposal outlining their approach to this project. The proposal should contain information on the personnel who will be involved with particular attention paid to any previous involvement with similar work. Additionally, the proposal should address the bidder's timetable for project completion. The price bid for the completion of the contract shall be all inclusive, i.e., contractor travel, salaries, operating expenses, and profit/fee. The bid in no instance may exceed \$75,000. The contractor will be paid one-third of the price upon completion of each of three segments of the project as enumerated and described in the work product section. If the bidder wishes, its own payment schedule will be considered, but in no event will the final payment be made until the project is completed.

**Contact.** Further information may be obtained by calling or writing Scott Smith, Texas Justice Court Training Center, Southwest Texas State University, San Marcos, Texas 78666, (512) 245-2349.

**Procedure for Selection of Contractor.** Proposals will be evaluated and selection will be based upon the applicant's demonstration of technical competence, knowledge of justice court law and procedure, indication of sufficient resources, including personnel, experience and internal coordination, and the cost effectiveness of the work to be performed.

**Proposal Deadline.** The last day on which proposals will be accepted is December 6, 1985.

Issued in San Marcos, Texas, on October 15, 1985

TRD-859734 Harold G. Oldham  
Certifying Official  
Southwest Texas State University

Filed October 17, 1985

For further information, please call (512) 245-2358

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## Texas Tech University Consultant Proposal Request

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, Texas Tech University is requesting proposals for services of a consultant to assist with the post-implementation review of a financial system implementation project. The primary objective of this consulting engagement is to evaluate and make recommendations in regard to:

- (1) operational performance of the new systems' technical and functional components, and the interactions between them; and
- (2) level of requirements satisfied.

**Scope of work.** The proposed study will address the new Texas Tech University and Health Sciences Center Financial Information Systems (TECHFIM) and associated direct interfaces with other systems, which are the responsibility of the vice president for finance and administration. The consultant will assist the university in evaluating and developing recommendations regarding all aspects

of the financial systems development project. Specifically, the consultant will:

- (1) measure and compare the ultimate performance of involved functional departments, before and after system implementation;
- (2) review the environment of the new financial systems, with the supporting policies, office systems and procedures, and the structures of organizational responsibilities within functional areas;
- (3) measure the extent to which recommended system changes and flow charts of redesigned major system cycles have been successfully implemented;
- (4) measure the extent to which identified problems, objectives, and anticipated benefits have been achieved; and
- (5) prepare detailed recommendations for actions to be taken that will maximize benefits of the system implementation project and provide guidance for optimizing future projects.

**Contact.** Individuals or firms interested in submitting the proposals may contact Jay W. Lindsey, Assistant Vice President for Budget and Financial Services, Texas Tech University, P O Box 4489, Lubbock, Texas 79409, (806) 742-2020.

**Submission of Proposal.** A proposal by mail should be addressed to Jerry P. House, Director, Contracting and Risk Management, Texas Tech University, P O. Box 4610, Lubbock, Texas 79409. Hand-delivered proposals will be accepted daily between 8:30 a.m. and 4:30 p.m., except Saturdays, Sundays, and holidays to Jerry P. House, Director, Contracting and Risk Management, Texas Tech University, Drane Hall, Suite 104, Lubbock. One original and six copies of the proposal are required. Due date for proposals is November 19, 1985. Proposals received after that time will not be considered.

**Proposal Requirements.** To be evaluated, the following items of information must be included in a consultant's proposal:

- (1) proposed plan of work for the engagement;
- (2) references from similar consulting engagements;
- (3) names of people to be used in this engagement and a complete resume of each;
- (4) guaranteed completion time quoted in working days/weeks after date of award (six weeks or less highly desirable);
- (5) proposed fee for the engagement, plus an estimate of all additional expenses; and
- (6) detailed timetable of proposed specific responsibilities of university personnel.

**Evaluation Criteria.** Criteria to be used to evaluate proposals will include, but not necessarily be limited to, the following:

- (1) thorough knowledge of the recent two-year financial systems implementation project by Texas Tech University;
- (2) thorough knowledge and experience with higher education and health care financial systems for state-supported institutions in Texas;
- (3) experience in successfully evaluating, designing, developing, and implementing accounting and financial system applications in a similar environment;
- (4) understanding of the specific needs of Texas Tech University and Texas Tech University Health Sciences Center for improved financial systems;
- (5) thorough understanding of internal control techniques and safeguards;
- (6) staff experience as reflected in the resumes of the

- people assigned to the project;  
(7) references from similar consulting engagements;  
(8) quality of proposal's technical approach to accomplish project requirements; and  
(9) reasonableness of proposed cost of services in relation to work described.

**Contract Award Procedures.** Final selection will be made by the vice president for finance and administration based upon evaluations and recommendations provided by a panel of university personnel. The university will award a contract to the firm or organization which is considered to be best able to perform the services requested. Texas Tech University intends to award the contract to Peat, Marwick, Mitchell, and Company, the firm which assisted in the design and implementation of the TECHFIM System, unless a better offer is received. However, the university reserves the right to reject, in total or part, any and/or all proposals received if it is considered to be in the best interest of the university. Issuance of this request in no way constitutes a commitment by the university to award a contract.

Issued in Lubbock, Texas, on October 16, 1985

TRD-859712      Freda Pierce  
                    Liason and Certifying Officer  
                    Texas Tech University

Filed October 17, 1985  
For further information, please call (806) 742-3841

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## Texas State Treasury Department Consultant Proposal Request

This request for consulting services is filed under the provision of Texas Civil Statutes, Article 6252-11c.

The treasury department is requesting proposals for training for treasury staff in unclaimed property laws; training for audit staff in specific audit candidate selection and audit techniques, and assistance with at least 12 actual audits. The consultant is expected to be familiar with unclaimed property laws, especially Senate Bill 906, 69th Legislature, 1985, and audit examination procedures.

Additional information may be obtained from Sarah Marlow, Administrator, Mineral Proceeds Section, Unclaimed Property Division, Texas State Treasury Department, P.O. Box 12608, Austin, Texas 78711.

Proposals are due by 4 p.m. on October 31, 1985. Selection criteria will include experience and qualifications of consultant in conducting similar projects; consultant's reputation with previous customers; timeliness of proposed work; suitability of work plan; and projected cost.

Issued in Austin, Texas, on October 17, 1985

TRD-859735      J. Stephen Ravel  
                    General Counsel  
                    Texas State Treasury Department

Filed: October 17, 1985  
For further information, please call (512) 463-5971.