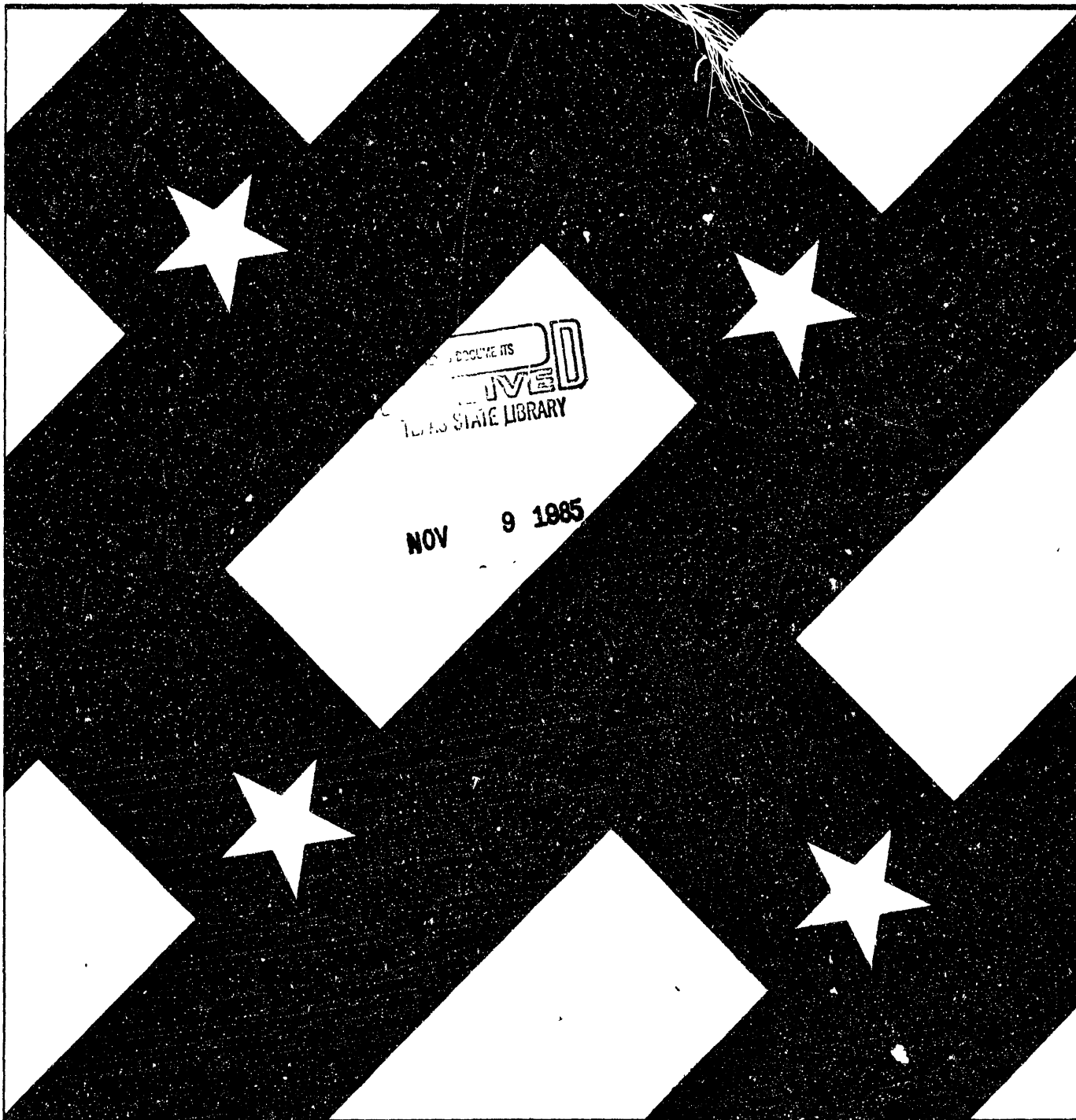


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# Texas Register

Volume 10, Number 82, November 5, 1985

Pages 4249 - 4316



### Highlights

The **Texas Department of Health** adopts an emergency new section concerning procedures on long-term care facilities. Effective date - October 30.....**page 4255**

The **Commission on Fire Protection Personnel Standards and Education** adopts

emergency new sections concerning minimum standards for fire fighter/fire inspector. Effective date - October 25**page 4255**

The **Railroad Commission of Texas** proposes new sections concerning operating certificates. Earliest possible date of adoption - December 6.....**page 4258**

**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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- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- In Addition—miscellaneous information required to be published by statute or provided as a public service

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes monthly, quarterly, and annual indexes to aid in researching material published.

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In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "10 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 10 TexReg 3."

**How To Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code*, rule number, or TRD number.

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**How To Cite:** Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*;

TAC stands for the *Texas Administrative Code*;

27.15 is the section number of the rule (27 indicates that the rule is under Chapter 27 of Title 1; 15 represents the individual rule within the chapter).



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# The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

## Appointments Made October 22

### Sulphur River Basin Authority

To the Board of Directors for terms to expire February 1, 1987:

Bill Jennings  
P.O. Box 1116  
Clarksville, Texas 75426

Richard R. Morrison, Jr.  
849 Webb Street  
Daingerfield, Texas 75638

Mr. Jennings and Mr. Morrison are being appointed pursuant to Senate Bill 5, 69th Legislature, 1985.

To the Board of Directors for terms to expire February 1, 1989:

David Whitney Glass  
3094 Mahaffey  
Paris, Texas 75460

Walter Helm  
P.O. Box 536  
Sulphur Springs, Texas 75482

Mr. Glass and Mr. Helm are being appointed pursuant to Senate Bill 5, 69th Legislature, 1985.

To the Board of Directors for terms to expire February 1, 1991:

Vatra Solomon  
308 East First Street  
Mount Pleasant, Texas 75455

Carroll Wheeler  
41 Desoto Circle  
Texarkana, Texas 75503

Ms. Solomon and Ms. Wheeler are being appointed pursuant to Senate Bill 5, 69th Legislature, 1985.

## Texas Commission on the Arts

For a term to expire August 31, 1991:

Kenneth Q. Carlile  
703 Bergstrom Place  
Marshall, Texas 75670

Mr. Carlile is replacing Walter N. Mathis of San Antonio, whose term expired.

Issued in Austin, Texas, on October 22, 1985.

TRD-859997 Mark White  
Governor of Texas

★ ★ ★

## Appointments Made October 23

### Credit Union Commission

For a term to expire February 15, 1991:

William Henry Inabnett  
1719 Meadowcliff  
Wichita Falls, Texas 76302

Mr. Inabnett is replacing Clarence Thomas Howell of Amarillo, whose term expired.

## Texas Commission on Alcohol and Drug Abuse

For a term to expire June 8, 1989:

Nancy White Perry  
9 San Miguel Square  
Odessa, Texas 79762

Ms. Perry is being appointed pursuant to Senate Bill 601, 69th Legislature, 1985.

Issued in Austin, Texas, on October 23, 1985.

TRD-859997 Mark White  
Governor of Texas

★ ★ ★

## Appointments Made October 24

### Texas Commission for the Deaf

For a term to expire January 31, 1991:

Sidney J. Braquet  
742 East Sixth and One-half  
Houston, Texas 77007

Mr. Braquet is replacing Stanley Eugene Neely of Dallas, whose term expired.

## Joint Task Force on Premium Tax

For terms to continue at the pleasure of this governor:

Max Sherman  
LBJ School of Public Affairs  
University of Texas  
Austin, Texas 78712

Charles W. Barrow  
304 Guittard  
Waco, Texas 76706

William P. Daves, Jr.  
5906 Orchid Lane  
Dallas, Texas 75230

Mr. Sherman, Mr. Barrow, and Mr. Daves are being appointed pursuant to Senate Concurrent Resolution 181, 69th Legislature, 1985.

Issued in Austin, Texas, on October 24, 1985

TRD-859997 Mark White  
Governor of Texas

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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 on 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 145. Long-Term Care Subchapter E. Procedures on Long Term Care Facilities

###### ★25 TAC §145.83, §145.84

The Texas Department of Health adopts on an emergency basis amendments to §145.83 and §145.84, concerning inspections, surveys, and visits to long-term care facilities, and determinations and actions pursuant to inspections, surveys, and visits. The amendments cover procedures for the department to preserve inspection information, arrangement for night inspections, and preparation by the department of summaries of inspections for public review. The amendments also are proposed for permanent adoption in this issue of the *Register*.

The amendments are adopted on an emergency basis because House Bill 2091, Article 4, §2 and §6, 69th Legislature, 1985, requires the department to adopt procedures and rules covering inspections, arrangements for night inspections, and summaries of inspections, beginning on September 1, 1985. Therefore, to comply with the legislative mandate and have these rules in effect as soon as possible after September 1, 1985, the department is adopting these amendments on an emergency basis.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 4442c, §5 and §7, which authorize the department to adopt procedures and rules covering the preservation of inspection information, the summarizing of inspection information for public review, and night inspections; and Texas Civil Statutes, Article 6252-13a, §5(d), which authorize the department to adopt rules on an emergency basis.

§145.83. *Inspections, Surveys, and Visits.*

(a)-(g) (No change.)

(h) The department will conduct at least two unannounced inspections per year of each institution licensed under Texas Civil Statutes, Article 4442c; additional inspections may be made by the department as deemed necessary, and such additional

inspections may be announced or unannounced but must conform to subsection (e) of this section. The 12-month period beginning on October 1 of each year and ending on September 30 of the following year will be considered the annual period during which at least two unannounced inspections will be made of each licensed institution. A sufficient number of additional inspections will be conducted between the hours of 5 p.m.+8 a.m. In randomly selected institutions, a cursory after-hours inspection will be conducted to verify staffing, assurance of emergency egress, patient/resident care, medication security, food service or nourishments, sanitation, and other items as deemed appropriate. To the greatest extent feasible, any disruption of the patients or residents shall be minimal.

(i) (No change.)

(j) House Bill 2091, 69th Legislature, 1985, amending Texas Civil Statutes, Article 4442c, grants department inspection, survey, and investigative personnel access to books, records, and other documents maintained by or on behalf of a facility, and authorizes the department to establish procedures to preserve, during the course of any inspection, survey, or investigation, all relevant evidence of conditions that the department has reason to believe threaten the health and safety of a patient or resident, including taking photographs, and photocopying relevant documents.

(1) Records and documents which may be requested and photocopied or otherwise reproduced are resident medical records, including nursing notes, pharmacy records, medication records, and physician's orders. When the facility is requested to furnish the copies, the facility may charge the department at the rate not to exceed the rate charged by the department for copies. The procedure of copying will be the responsibility of the administrator or his designee. If copying requires the records be removed from the facility, a representative of the facility will be expected to accompany the records and assure their order and preservation. The department will protect the copies for privacy and confidentiality in accordance with recognized standards of medical records practice, applicable state laws, and department policy.

(2) Since the taking of photographs is a sensitive procedure, especially the photographing of individuals, the depart-

ment will adhere to the following procedures.

(A) Photographs, whether of the facility, of conditions of or in the facility, of patients or residents, or of other individuals in the facility, will be taken only for the purpose of preserving evidence of conditions that the department has reason to believe threaten the health and/or safety of a patient or resident.

(B) Before photographing an individual, the leader of the inspection, survey, or investigative team shall attempt to obtain the permission of the individual or the responsible party of a patient/resident. If permission is not obtained, documentation shall be made as to why, and the threat to health and/or safety shall be described. In any case the team leader shall obtain permission of the regional director prior to photographing.

(C) The privacy of the patient or resident will be respected to the greatest extent possible. The identity of that patient or resident in no way will be made public, in accordance with state law. The patient's or resident's right to dignity must be a primary concern.

(D) A log will be kept of each roll, cartridge, or package of film, or of each instant print taken; the log and film or print will be clearly matched in identification, and descriptive information will be prepared as determined necessary by the department.

(E) The log, developed film, and prints will be expeditiously forwarded to the department central office, specifically to the director, Quality Standards Division. The department regional or field office may retain a copy of the log.

(F) The director, Quality Standards Division, will maintain, under lock, the log, developed film, and prints.

(G) The log, film, or prints will be transferred only to authorized personnel as approved or directed by the department's office of general counsel, and records of transfer will be maintained.

(H) As provided in Texas Civil Statutes, Article 4442c, §12, a person or individual violating the act or failing to comply with a rule or regulation authorized by the act determined by the department to threaten the health and safety of a patient or resident, is subject to a civil penalty;



therefore, department staff must exercise care in conforming to these requirements.

**§145.84. Determinations and Actions Pursuant to Inspections, Surveys, and Visits.**

(a) Determining compliance, reporting, and notification of new rules and information.

(1) (No change.)

(2) Violations or deficiencies with respect to applicable laws, standards, or regulations will be listed on forms designed for the purpose of the inspection, survey, or visit, or will be listed in letter, narrative, or other style when the purpose of the visit deems that method more appropriate. At the conclusion of an inspection or survey, the violations or deficiencies will be discussed in an exit conference with the facility's management, that is, with the administrator or manager or with that person's designee. A written list of the violations or deficiencies will be left with the facility at the time of the exit conference; any additional violation or deficiency that may be determined during review of field notes or preparation of the official final list (when the official final list was not issued at the exit conference) will be communicated to the facility within three working days of the exit conference, and the facility will have three working days to communicate a reply before such additional violation or deficiency is added to or made a part of the permanent record. Copies of any narratives or similar papers written to further describe the conditions found will be furnished to the facility. Violations or deficiencies found during complaint investigations will be discussed with the facility management and a plan of correction obtained; the violations or deficiencies will be furnished in writing to the facility as well as any supporting narratives but shall not reveal the source of the complaint. In most cases when a disciplinary action is warranted, it is appropriate for inspection and survey personnel to advise the facility management of the disciplinary action being recommended; if a final action determined by the department is different from the recommended action, the facility management will be so informed. In addition, the Long Term Care Unit Program administrator or his designee will prepare a clear and concise summary in nontechnical language of each licensure inspection, survey, inspection of care, and/or complaint investigation. That summary will be in a form outlining significant deficiencies noted at the time of the visit, but not to include names of patients, staff or any other statement that would identify individual patients or other prohibited information under general rules of public disclosure. The summary will be provided to the facility at the time the report of contact or similar document is provided. Summaries will be posted and available for public review at the facility in accordance with §145.13 of this title (relating to General Requirements), §145.33 of

this title (relating to General Requirements), §145.181 of this title (relating to General), and §145.211 of this title (relating to Introduction). The afore said references pertain to sections in this chapter, relating to minimum standards for nursing homes, custodial care homes, and facilities serving the mentally retarded citizens of Texas. Copies will be made available to the public through the licensing agency's established public disclosure procedures.

(3) (No change.)

(b) (No change.)

Issued in Austin, Texas, on October 29, 1985.

TRD-8510115

Robert A MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Effective date: October 30, 1985  
Expiration date: February 27, 1986  
For further information, please call  
(512) 458-7706.

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**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**  
**Part VIII. Commission on Fire Protection Personnel Standards and Education**  
**Chapter 233. Minimum Standards Manual**  
**Minimum Standards for Fire Fighter/Fire Inspector (Limited)**

**★ 37 TAC §233.33**

The Commission on Fire Protection Personnel Standards and Education adopts on an emergency basis new §233.33, concerning purpose. The section deals with issuance of certificates for fire fighter/ fire inspector.

The emergency adoption is necessary for the state's public welfare to collect fees as mandated by House Bill 1593, 69th Legislature, 1985.

The new section is adopted on an emergency basis under House Bill 1593, 69th Legislature, 1985, which requires the Commission on Fire Protection Personnel Standards and Education to adopt rules for certificate and renewal fees.

**§233.33. Purpose.** The purpose of this section is to set forth the requirements and rules governing the issuance of certificates for fire fighter/fire inspector (limited) to full-time, full-paid fire fighters employed by any government entity in Texas.

(1) The individual applicant must possess at least a basic fire fighter certificate as required by §233.31 of this title (relating

to Certificates) before applying for fire fighter/fire inspector (limited).

(2) The applicant must submit documented proof of completing training requirements for A, B, or C inspector as required by §§233.101-233.111 of this title (relating to Minimum Standards for Fire Prevention Personnel).

(3) One calendar year of experience working in fire prevention and fire inspection is required to qualify for a fire fighter/fire inspector (limited) certificate.

(4) The fire fighter/fire inspector (limited) must work under the direct or indirect supervision of a full-time, full-paid fire inspector for the same employing government entity.

Issued in Austin, Texas, on October 25, 1985.

TRD-8510012

Ray L Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Effective date: October 25, 1985  
Expiration date: February 22, 1986  
For further information, please call  
(512) 474-8066.

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**Minimum Standards for Fire Fighter/Arson Investigator (Limited)**

**★ 37 TAC §233.35**

The Commission on Fire Protection Personnel Standards and Education adopts on an emergency basis new §233.35, concerning purpose. The new section deals with fire fighter/arson investigator limited certificates

The emergency adoption is necessary for the state's public welfare to collect fees as mandated by House Bill 1593, 69th Legislature, 1985.

The new section is adopted on an emergency basis under House Bill 1593, 69th Legislature, 1985, which requires the Commission on Fire Protection Personnel Standards and Education to adopt rules for certificate and renewal fees.

**§233.35. Purpose.** The purpose of this section is to set forth the requirements and rules governing the issuance of certificates for fire fighter/arson investigator (limited) for full-time, full-paid fire fighters employed by any government entity in Texas.

(1) The individual applicant must possess at least a basic fire fighter certificate as required by §233.31 of this title (relating to Certificates) before applying for fire fighter/fire investigator (limited).

(2) The applicant must submit documented proof of completing the training requirements for arson investigator prescribed by §233.61 of this title (relating to Basic Fire and Arson Investigator Certificate).

(3) One calendar year of experience working in arson investigation is required to qualify for a fire fighter/arson investigator (limited) certificate.

(4) The fire fighter/arson investigator (limited) must work under the direct or indirect supervision of a full-time, full-paid fire investigator for the same employing government entity.

Issued in Austin, Texas, on October 25, 1985

TRD-8510013 Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

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For further information, please call  
(512) 474-8066.

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### Fees Charged for Manuals and Certificates

#### ★37 TAC §233.141

*(Editor's note: The text of the following section repealed on an emergency basis will not be published. The section may be examined in the offices of the Commission on Fire Protection Personnel Standards and Education, 510 South Congress, Suite 406, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Commission on Fire Protection Personnel Standards and Education adopts on an emergency basis the repeal of §233.141, concerning fees. The repealed section deals with fees charged for certificates and manuals.

The emergency adoption is necessary for the state's public welfare to collect fees as mandated by House Bill 1593, 69th Legislature, 1985.

The repeal is adopted on an emergency basis under House Bill 1593, 69th Legislature, 1985, which requires the Commission on Fire Protection Personnel Standards and Education to charge a \$20 fee for all certificates issued and renewed and to adopt rules for the collection of those fees.

#### §233.141. Fees.

Issued in Austin, Texas, on October 25, 1985.

TRD-8510014 Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Effective date: October 25, 1985  
Expiration date: February 22, 1986  
For further information, please call  
(512) 474-8066.

### Certification and Renewal Fees

#### ★37 TAC §§233.151-233.156

The Commission on Fire Protection Personnel Standards and Education adopts on an emergency basis new §§233.151-233.156, concerning certification and renewal fees. The emergency adoption is necessary for the state's public welfare to collect fees as mandated by House Bill 1593, 69th Legislature, 1985.

The new sections are adopted on an emergency basis under House Bill 1593, 69th Legislature, 1985, which requires the Commission on Fire Protection Personnel Standards and Education to adopt rules for certificate and renewal fees.

§233.151. *Purpose.* The purpose of these sections is to set forth the requirements, details, and guidelines governing the fees charged for the issuance of certificates to full-time, full-paid fire protection personnel employed by any government entity in Texas and to establish renewal fees and procedures to be followed by the Commission on Fire Protection Personnel Standards and Education in the administration and enforcement of its duties under the fees section of House Bill 1593, 69th Legislature, 1985.

§233.152. *Scope.* These sections shall govern all proceedings before, and dealing with, the Texas Commission on Fire Protection Personnel Standards and Education, concerning renewal fees, certificate fees, fees for manuals, and fees for re-entry to the fire service and for testing procedures. Hearings and appellate proceedings regarding renewal fees, certification, training approval or denial shall be governed by these sections where applicable, and by the rules of practice and procedure of the Texas Commission on Fire Protection Personnel Standards and Education and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6552-13a.

§233.153. *Application of Rules.* All full-time, full-paid fire protection personnel certified by the Commission on Fire Protection Personnel Standards and Education as fire fighters, fire service instructors, aircraft crash and rescue fire fighters, marine fire fighters, fire and arson investigators, fire inspectors, fire fighter/fire inspectors (limited), and fire fighter/arson investigator (limited) are required to renew certification annually. The employing agency is responsible for renewal fees. Nothing in these sections shall prohibit a person from paying the renewal fee for certificates which the employing entity does not require the person to possess as a condition of employment; provided that the department head of employing entity shall certify that such certification is not required as a condition of employment, but that such person is otherwise eligible to hold said certification.

#### §233.154. Fees.

(a) The certification fee must be submitted with the application in the form of a cashier's check, money order, or a check from the employing government entity. Checks and money orders are not refundable.

(b) The following fees are required by House Bill 1593, 69th Legislature, 1985, and must be paid before a certificate is issued or renewed.

(1) Certification Fee	Each Certificate
Fire Fighter	\$20
Aircraft Crash and Rescue	\$20
Marine Fire Fighter	\$20
Fire Service Inspector	\$20
Fire and Arson Inspector	\$20
Fire Inspector	\$20
Fire Fighter Inspector (Ltd)	\$20
Fire Fighter Arson Investigator (Ltd)	\$20
(2) Certification Renewal Fee	Each Certificate
Regular (on time)	\$20
Late 30 days or less	Regular fee, plus late fee of one-half of the regular renewal fee
Late 31 days or more	Regular fee is doubled

#### §233.155. Certification renewal.

(a) A certification renewal notice will be mailed to all fire departments by August 15 in every calendar year.

(b) The certification renewal fees must be returned with the renewal notice to this agency with a cashier's check, money order, or check from the employing government entity.

(c) Renewal fees may be paid upon receipt of renewal notice, through October 31. Renewal fees received by this agency after October 31 are late and a late fee will be charged. A late fee is a regular fee of \$20 plus \$10. Renewal fees received by this agency after November 30 will be charged a late fee of \$20 times two (\$40 total).

(d) The renewal for an unexpired certificate is issued upon receipt of a renewal application form prescribed by the commission and payment of the renewal fee before the expiration date of October 31.

(e) Certification renewal notices will be mailed to all employing government entities at least 60 days prior to the renewal date.

(f) Certification renewal fees must be paid by January 1, 1986, for the first year the renewal fees are in effect and October 31st each year thereafter.

(g) An informal conference may be held to determine if additional action, other than late fees, should be taken on certificates that have expired for more than 31 days.

(h) All certified fire protection personnel who leave active fire service employment will be placed on the commission's inactive status list. No refund will be made for any certification or renewal fee paid prior to placement on the inactive status list.

(1) A person on the inactive status list is not required to pay an annual recertification fee.

(2) If a person on the inactive status list re-enters the fire service, the commission will remove the person from the inactive status list upon payment by the employing government entity of the fee provided in §233.154 of this title (relating to Fees).

**§233.156. Testing for Renewal or Certification Status.**

(a) An individual on an inactive status more than two calendar years must pass a written proficiency test administered by the commission staff at agency headquarters, with a 70% passing grade.

(b) Fire protection personnel that have served one year or more in a full-time, full-paid capacity with a government entity in another state other than Texas, or with any branch of the military, may also take a written proficiency test administered by the commission staff at commission headquarters.

(1) Individuals must make 70% on the test for a passing grade.

(2) Passing the proficiency test only indicates that individuals have satisfied the training requirements for certification in Texas.

(3) Employing government entities must apply for state certification if they

desire to accept the proficiency test in lieu of their own fire department training program.

(4) Successfully passing a commission proficiency test does not prohibit the employing government entity from requiring individuals to enroll in their 334-hour minimum standards training school.

(c) A cost recovery fee will be charged for all proficiency tests administered by commission staff members. The test fee does not replace the certification or renewal fee.

Issued in Austin, Texas, on October 29, 1985.

TRD-8510105

Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Effective date: October 29, 1985  
Expiration date: February 26, 1986  
For further information, please call  
(512) 474-8066.

# 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 5. Transportation Division

##### Subchapter B. Operating Certificates, Permits, and Licenses

###### ★ 16 TAC §5.41

The Railroad Commission of Texas proposes new §5.41, concerning a definition of "timber in its natural state," as such term is used in Texas Civil Statutes, Article 911b, as amended, and in commodity descriptions contained in certificates or permits issued thereunder.

Mark E. Foster, 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.

Mr. Foster 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 the avoidance of conflict or confusion about the term "timber in its natural state." 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 Mike James, Acting Director, Transportation Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 911b, §4(a), which vest the commission with power and authority to prescribe all rules and regulations necessary for the government of motor carriers.

**§5.41. Definition of Timber in its Natural State.** In all certificates or permits as used in Texas Civil Statutes, Article 911b, as amended, the commodity description "timber in its natural state" is defined as all portions of trees, in whatever state, during the harvesting process between the point

of harvesting and the first processing location, including, but not limited to, the following: logs, stumps, limbs, branches, chips, bark, and leaves and/or needles.

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-859965

Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Earliest possible date of adoption:  
December 6, 1985

For further information, please call  
(512) 463-7149

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### TITLE 19. EDUCATION Part I. Coordinating Board, Texas College and University System

#### Chapter 9. Public Junior Colleges

##### Subchapter F. Approval of Partnership Agreements Between Community/Junior Colleges and Upper-Level Universities or Centers

###### ★ 19 TAC §§9.131-9.137

The Coordinating Board, Texas College and University System proposes new §§9.131-9.137, concerning partnership agreements between community/junior colleges and upper-level universities or centers.

The board is adding a Subchapter F to Chapter 9 to comply with the provisions of House Bill 923, 69th Legislature, 1985. The new sections delineate the kinds of partnership agreements that will be made possible, with certain limits, to improve the continuity, quality, and efficiency of educational programs and services between certain community/junior colleges and upper-level universities that share common campuses.

Dr. David Kelly, director of community college affairs, 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.

Dr. Kelly 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 improved effectiveness and efficiency in the administration of community/junior colleges and upper-level universities operating under the partnership agreements. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §§51.661-51.668, which provide the coordinating board with the authority to adopt rules regarding the approval of partnership agreements between community/junior colleges and upper-level universities or centers.

**§9.131. Purpose.** The purpose of this subchapter is to enable public community/junior colleges and upper-level universities or centers which share common campuses to undertake partnerships in order to improve the continuity, quality, and efficiency of educational programs and services.

**§9.132. Advisory Committee.** The governing boards of the institutions who choose to enter partnership agreements shall appoint an advisory committee composed of three members from each board. The committee shall study the needs of the community served by the institutions and shall make recommendations to the respective boards concerning the development of coordinated programs and services to meet those needs. The committee shall give particular attention to the continuity of curricular offerings and to the joint use of faculty and staff, facilities, and library resources.

**§9.133. Approval by Coordinating Board.** The coordinating board shall approve all partnership agreements designed

to coordinate the management and operations of a public community/junior college and an upper-level university or center which share a common campus. Partnership agreements proposed for coordinating board consideration shall be submitted with the endorsement of both participating governing boards to the commissioner of higher education no later than 90 days before the regular quarterly meeting of the board at which consideration is being requested.

**§9.134. Criteria for Approval of Partnership Agreements.** The coordinating board will consider for approval partnership agreements covering the following areas.

(1) Joint use of personnel. By interagency contract the governing boards of the participating institutions may propose to fill by joint appointment any administrative, faculty, or support position necessary for the operation of the institutions. In such cases, salaries and benefits shall be prorated and paid from the funds of the respective institutions according to the share of each employee's responsibility to each institution.

(2) Support services. By interagency contract the governing boards of the participating institutions may propose to assign the management and operation of selected services to one of the institutions in order to achieve cost effectiveness. Such services include, but are not limited to, maintenance of buildings, purchasing, campus security, telecommunications, operation of auxiliary enterprises, operation of a jointly supported library, and operation of a joint computer center.

(3) Facilities. A participating upper-level university or center may propose to lease facilities from the community/junior college for administrative and instructional purposes.

(4) Other. Participating institutions are encouraged to develop partnership agreements for creative new approaches to other aspects of their operations.

**§9.135. Prohibitions.**

(a) No partnership agreement shall be approved which in any way abrogates the powers and duties of the boards with regard to the governance of their respective institutions.

(b) No partnership agreement may provide for the transfer of community/junior college facilities to the university or center.

(c) No partnership agreement may provide for community/junior college facilities to be included in the space inventory of the university or center for formula funding purposes.

**§9.136. State Funding.** The community/junior college shall receive state appropriations on the same formula basis as other community/junior colleges, and the university or center shall receive state appropriations on the same formula basis as other upper-level senior colleges and universities.

**§9.137. Continuing Responsibilities.** A participating community/junior college must continue to provide programs and services enumerated in the Texas Education Code, §130.003(e). The role and scope of the participating university or center continue to be subject to approval by the coordinating board.

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 28, 1985.

TRD-8510092

James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Proposed date of adoption.

January 24, 1986

For further information please call  
(512) 475-2033.



## Chapter 21. Student Services

### Subchapter J. The Physician Student Loan Repayment Program

#### ★ 19 TAC §§21.251-21.263

The Coordinating Board, Texas College and University System proposes new §§21.251-21.263, concerning the Physician Student Loan Repayment Program. Senate Bill 1341 created a new program for repayment of education loans of physicians agreeing to work in certain designated locations in the state: Texas Department of Health; Texas Department of Mental Health and Mental Retardation, Texas Department of Corrections, Texas Youth Commission; or an urban or rural medically underserved district. Physicians who sign commitments to work in one of the designated areas may receive payment of up to \$3,000 per year for up to five years. Payment is to apply against the outstanding principal of educational loans the physician may then owe.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for local government

or small businesses as a result of enforcing or administering the sections. The effect on state government will be an estimated additional cost of \$182,161 in 1986, \$495,431 in 1987, \$243,646 in 1988, \$324,861 in 1989, and \$369,733 in 1990.

Mr. Adams 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 will be the placement of physicians in medically underserved parts of the state. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas.

The new sections are proposed under the Texas Education Code, Chapter 61, Subchapter J, which provides the Coordinating Board with the authority to adopt rules regarding the Physician Student Loan Repayment Program.

**§21.251. Purpose.** The purpose of the Physician Student Loan Repayment Program is to encourage qualified physicians to practice medicine in economically depressed areas, in medically underserved rural areas in Texas, or for the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, Texas Department of Corrections, or Texas Youth Commission.

**§21.252. Administration.** The Coordinating Board, Texas College and University System, or its successor or successors, shall administer the Physician Student Loan Repayment Program.

**§21.253. Delegation of Powers and Duties.** The board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 61, Subchapter J.

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

**Board**—The Coordinating Board, Texas College and University System.

**Commissioner**—The commissioner of higher education, the chief executive officer of the board.

**Economically depressed areas or rural medically underserved areas**—Health manpower shortage areas of primary care in Texas as designated by the Office of Data Analysis and Management in the U.S. Department of Health and Human Services and as provided by the Texas Department of Health.

**Pro rata**—A proportionate basis upon which payment amounts will be scaled, depending upon the share of a full work year for state employees.

**§21.255. Eligible Institution of Medical Education.** An eligible institution of medical education shall be any institution of medical education which:

(1) provides an educational program for which it awards at least a doctor of medicine degree or doctor of osteopathy degree;

(2) is a public or other nonprofit institution;

(3) is accredited or approved by the Liaison Committee on Medical Education, Accreditation Council on Graduate Medical Education, and/or the American Osteopathic Association.

**§21.256. Eligible Lender.** The board shall retain the right of determining eligibility of lenders to which payments may be made. An eligible lender shall, in general, make loans to individuals for purposes of attending eligible institutions of medical education and shall not be any private individual. An eligible lender may be, but is not limited to, a bank, savings and loan association, credit union, institution of higher education, governmental agency, pension fund, private foundation, or insurance company, provided the loan conforms to the definition of an eligible student loan in §21.258 of this title (relating to Eligible Student Loan).

**§21.257 Eligible Physician.** An eligible physician is one who:

(1) has graduated from an eligible institution of medical education;

(2) is licensed to practice medicine in Texas by the Texas State Board of Medical Examiners; and

(3) has satisfactorily completed an approved postgraduate program in an appropriate field of medicine.

**§21.258. Eligible Student Loan** A student loan eligible for repayment is one that:

(1) was obtained through an eligible lender in the State of Texas for educational purposes at an eligible institution of medical education;

(2) was contracted to pay for graduate or professional education;

(3) is not a loan made to oneself from one's own insurance policy or pension plan or from the insurance policy or pension plan of a spouse or other relative;

(4) is not a loan from a program with an existing service obligation.

**§21.259. Qualifications for Student Loan Repayment.** The commissioner may authorize, or cause to be authorized, repayment of student loans made to an eligible physician who shows evidence of a strong service commitment and who:

(1) has submitted the appropriate application to the board;

(2) has completed postgraduate medical education not earlier than June 1984;

(3) has completed at least one year of medical practice:

(A) in private practice in an economically depressed area or rural medically underserved area of the state; or

(B) for one of the following state agencies:

(i) the Texas Department of Health;

(ii) the Texas Department of Mental Health and Mental Retardation;

(iii) the Texas Department of Corrections;

(iv) the Texas Youth Commission.

**§21.260. Priorities of Application Acceptance.** Acceptance of applicants will depend on the availability of funds and will be based on a set of priorities as follow.

(1) Renewal applicants will be given priority treatment over first-time applicants. Renewal payments will not exceed 80% of the available funds, unless there are insufficient first-time applicants to utilize the remaining 20%.

(2) Texas residents will be given priority over nonresidents.

(3) For applicants working in economically depressed areas or rural medically underserved areas, priority will be given to persons trained in psychiatry and the primary care specialties as defined by the board.

**§21.261. Prior Conditional Approval.** Prior conditional approval of applications for repayment of loans may be granted by the board. Such approval may occur no earlier than the beginning of the applicant's final year of postgraduate training or the beginning of the applicant's year of service in an economically depressed area or rural medically underserved area or one of the four state agencies listed in §21.259 (3)(B) of this title (relating to Qualifications for Student Loan Repayment). Disbursement of awards is dependent upon confirmation of completion of graduate or professional education and/or employment in an economically depressed area or rural medically underserved area or one of the four state agencies earlier mentioned. Disbursement of awards is dependent also upon availability of funds. The board may reserve funds for applicants who have received prior conditional approval.

**§21.261. Repayment of Student Loans.** Eligible student loans of qualified physicians shall be repaid under the following conditions.

(1) A total annual payment to one or more eligible lenders shall not exceed the applicant's unpaid principal loan balance from all sources or \$3,000, whichever is less.

(2) Payment shall be made at the end of the first year of eligible service.

(3) Student loan repayment may be renewed annually upon successful completion of the application process, but for no more than a total of five years.

(4) The annual payment shall be made directly to the eligible lender in a lump

sum on behalf of the eligible physician to be applied only to the outstanding principal balance of the loan.

(5) In the case of a practice with one of the four state agencies specified in §21.259(c)(2) of this title (relating to Qualifications for Student Loan Repayment):

(A) an applicant must have practiced medicine on at least a part-time basis and have received a favorable recommendation from the chief executive officer of the state agency; and

(B) the amount of repayment of loans of applicants shall be on a pro rata basis.

**§21.263. Dissemination of Information.** The board shall publish and disseminate information about the Physician Student Loan Repayment Program to health-related institutions of higher education, the appropriate state agencies, and professional associations.

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 28, 1985.

TRD-8510094

James McWhorier  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Proposed date of adoption:

January 24, 1986

For further information, please call

(512) 475-2033

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## Subchapter K. The Good Neighbor Scholarship Program

### ★ 19 TAC §§21.281-21.289

The Coordinating Board, Texas College and University System proposes new §§21.281-21.289, concerning the Good Neighbor Scholarship Program. House Bill 1147 transferred administration of the program from the Texas Education Agency to the coordinating board. Public senior and junior colleges and Texas State Technical Institute may now nominate eligible foreign students for tuition exemptions. Nominations will be processed by the coordinating board and award recipients will be selected based on the distribution of awards required by law and on the the priorities established by the institutions

Mack Adams, assistant commissioner for student services, 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. Adams 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 full utilization of funds for the purposes expressed in the law. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711

The new sections are proposed under the Texas Education Code, §54.207(b) and (d), which provides the coordinating board with the authority to adopt rules regarding the Good Neighbor Scholarship Program.

**§21.281. Purpose.** The purpose of the Good Neighbor Scholarship Program is to encourage academically talented students from the countries of the American hemisphere to pursue higher education in the State of Texas, thus establishing a beneficial link between the State of Texas and the home country of the student.

**§21.282. Administration.** The Coordinating Board, Texas College and University System, or its successor or successors, shall administer the Good Neighbor Scholarship Program.

**§21.283. Authorization.** The board delegates the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 54.207, as amended.

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

**Board**—The Coordinating board, Texas College and University System.

**Commissioner**—The commissioner of higher education, the chief executive officer of the board.

**Eligible country**—A politically independent nation, other than Cuba, located in the Western or American hemisphere.

**Resident of a country**—A person who is a citizen of a country and has that country as his or her place of home residence and who intends to return to that country to live immediately after finishing the educational program for which this scholarship will be used.

**Scholastically qualified**—Meets the basic admissions requirements of the nominating college.

**Statute**—Texas Education Code, Chapter 54.207, as amended.

**§21.285. Eligible Institution of Higher Education.** An eligible institution of higher education shall be any Texas public general academic teaching institution, public junior or community college, public

health science center, or the Texas State Technical Institute.

**§21.286. Designation of Good Neighbor Scholarship Officer.** The commissioner shall designate the principal international student officer at each institution to serve as agent for the board. The good neighbor scholarship officer shall certify all scholarships and activities with respect to the statute and shall be responsible for all records and reports reflecting the transactions with respect to the statute. Certification shall be on such forms as may be prescribed by the commissioner.

**§21.287. Eligible Student Criteria.** To be eligible for a good neighbor scholarship a person must:

- (1) be a bona fide native-born citizen, and resident of an eligible country;
- (2) have resided in the American hemisphere for a period of at least five years;
- (3) demonstrate that he or she is scholastically qualified for admission to the nominating institution;
- (4) not be a member of the Communist Party;
- (5) be recommended for a scholarship by an eligible institution; and
- (6) not be eligible for a waiver of nonresident tuition fees.

**§21.288. Selection Procedures.** Each year eligible institutions may submit scholarship recommendations to the board. Applications for fall-spring awards must be submitted to the board no later than April 15; summer awards, no later than May 1.

(1) **Prioritization.** Participating institutions will assign priority numbers to their applications, so that in the case all applications cannot be honored, the board will know which applicants are given highest priority by the nominating institution. Within the confines of the basic allotment formula, the board will do its best to accommodate institutional priorities.

(2) **Basic allotment.** From the pool of valid applications submitted, the commissioner shall select:

(A) up to 10 students per eligible country; plus

(B) 35 students from a Latin American country designated by the U.S. Department of State.

(3) **Reallocation of unused scholarships.** In the event any nation fails to have 10 students available and qualified for exemption, or if the designated country fails to have 35 students, additional students from the other eligible countries may be exempted, subject to the approval of the board, except that the total of such exemptions shall not exceed 235 in a semester or term.

**§21.289. Affirmation of Receipt of Scholarship.** As soon as possible, but at least within 30 days of the awarding a good neighbor scholarship, the institution will af-

firm the acceptance of the award to the board. Within 30 days of registration, each participating institution will return affirmation form assigned by the students to the board, acknowledging receipt of the scholarship. Scholarships not affirmed by the 30th day after registration will be considered voided by the board and shall be reassigned to other eligible applicants.

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 28, 1985.

TKD-8510093

James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Proposed date of adoption:

January 24, 1986

For further information, please call  
(512) 475-2033

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## TITLE 22. EXAMINING BOARDS

### Part VI. Texas State Board of Registration for Professional Engineers Chapter 131. Practice and Procedure General

#### ★ 22 TAC §131.18

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.18 concerning definitions. The board proposes to amend §131.18 by adding two new definitions and revising one existing definition.

Kenneth J. Bartosh, PE, executive director, 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. Bartosh 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 better clarification of board definitions and assistance in interpreting and enforcing the other board rules. 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 Kenneth J. Bartosh, PE, Executive Director, Texas State Board of

Registration for Professional Engineers, P.O. Drawer 18239, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties

**§131.18. Definitions.** For the purpose of this chapter, and unless otherwise required by the context, the following definitions shall prevail. The singular shall be construed to include the plural and vice versa, and the masculine shall be construed to include the feminine or neuter and vice versa.

**License**—That part of a certificate of registration which allows the holder to actively practice engineering upon the payment of the annual renewal fee. [Includes the whole or part of any agency permit, certificate, approval, registration, or similar form of permission required by law.]

**Licensee**—Any registrant whose license to practice engineering is current and in force and has not been suspended by disciplinary action of the board.

**Registrant**—Any individual holding a certificate of registration issued by the board that has not been revoked or expired for two or more years. Such registrant will be subject to the administrative and disciplinary powers of the board whether or not the license to practice is current.

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 23 1985

TRD 859897 Kenneth J Bartosh PE  
Executive Director  
Texas State Board of  
Registration for  
Professional  
Engineers

Proposed date of adoption  
January 22 1986

For further information please call  
(512) 475-3141

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## Registration

### ★ 22 TAC §131.137

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.137, concerning disciplinary actions. The board proposes to amend §131.37(b) to bring the section into agreement with existing legal precedents concerning licensure and registration

Kenneth J. Bartosh, PE., executive director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implica-

tions for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Bartosh 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 clarification of the board's jurisdiction over its registrants. 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 Kenneth J. Bartosh, PE, Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

The amendment is proposed under Texas Civil Statutes, Article 3271a, §8, which provide the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties

### §131.137. Disciplinary Actions.

(a) (No change)

(b) An individual whose license has expired for nonpayment of renewal fees continues [is not construed] to be a registrant of the board and is subject to all provisions of the Act and board rules governing registrants [the disciplinary actions provided in this section, unless and] until such time as registration is revoked by action of the board or the license is not renewable as set out in the Act, §16(e) [the board at its discretion accepts the fees required to renew his expired license]

(c)-(d) (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 23 1985

TRD-859898 Kenneth J Bartosh PE  
Executive Director  
Texas State Board of  
Registration for  
Professional  
Engineers

Proposed date of adoption.

January 22 1986

For further information, please call  
(512) 475-3141.

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## Part IX. Texas State Board of Medical Examiners Chapter 171. Institutional Permits

### ★ 22 TAC §171.7

The Texas State Board of Medical Examiners proposes new §171.7, concerning a research fellowship permit. The pro-

posed new section sets out the terms for this type of permit, including criteria for location, approval, supervision, duties of the fellow, restrictions, and renewal procedures.

Florence Allen, business manager, and Jean Davis, program administrator, have 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 Davis 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 minimal, as the section as proposed is not expected to directly affect the public. It pertains to individuals appointed as research fellows by Texas medical schools for specific programs. 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 Jean Davis, PO Box 13562, Austin, Texas 78711. A public hearing will be held on the proposed section. Although no definite date has been set, it is expected to occur in early December

The new section is proposed under the Medical Practice Act, Article 4495b, which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

### §171.7. Research Fellowship Permit.

The board may issue a permit to practice medicine to a person appointed as a research fellow by a Texas medical school, in a program approved by the board, under the following terms and conditions.

(1) The research fellowship should be in a medical school or a graduate school affiliated with a medical school

(2) The fellowship and the fellow should be approved by the office of the dean of medicine.

(3) The research fellow should be supervised by a faculty member of the school.

(4) The fellow should be involved in clinical and/or basic science research.

(5) The research fellow should receive a certificate of achievement upon completion of each year of research from the institution.

(6) The research fellow should be recommended by the program director and the dean of the medical school to the Texas State Board of Medical Examiners for renewal of the permit each year.

(7) The research fellow is restricted to the fellowship activities as defined and



approved by the board.

(8) The research fellow must comply with §171.1(1)-(8) of this title (relating to Interns, Residents, or Fellows Permit), §171.2 of this title (relating to Degree Qualifications); and §171.3 of this title (relating to Institutional Permit Renewal).

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 23, 1985

TRD-8510048

G. V. Brindley, Jr  
Executive Director  
Texas State Board of  
Medical Examiners

Earliest possible date of adoption

December 6, 1985

For further information, please call

(512) 452-1078

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 133. Hospital Licensing Standards

##### ★ 25 TAC §133.21

The Texas Department of Health proposes an amendment to §133.21, concerning hospital licensing standards which are adopted by reference. A new Chapter 11 will be added to the standards which establish minimum standards governing the transfer of patients between hospitals, requiring that such transfers be accomplished in a medically appropriate manner from physician to physician, as well as from hospital to hospital. The new Chapter 11 is being published in its entirety in the "In Addition" section of this issue of the *Texas Register*.

Maurice B. Shaw, chief, Bureau of Licensing and Certification, has determined that for the first five-year period the section will be in effect there will be fiscal implications as a result of administering and enforcing the section. The anticipated effect on state government is an estimated \$50,000 in fiscal year 1986 and an estimated \$30,000 per year in fiscal years 1987-1990. The anticipated effect on local government is an estimated additional cost of \$10-100 each year in 1986-1990, to cover the cost of the transfer procedures required of the hospital. There will be no adverse economic effect on small businesses.

Mr. Shaw also has determined that for each year of the first five years the section as proposed is in effect the public benefit anticipated as a result of enforcing the amendment section is a more

equitable transfer of patients from one hospital to another. There is no anticipated increase in cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Maurice B. Shaw, Chief, Bureau of Licensing and Certification, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7538. Comments will be received for 30 days from the date of publication of the proposed amendment. In addition, a public hearing will be held during the comment period at 2:30 p.m. on November 14, 1985, in Room G-209, Texas Department of Health, 1100 West 49th Street, Austin.

The amendment is proposed under Texas Civil Statutes, Article 4437f, §5, as amended by Chapter 597, Acts of the 69th Legislature, 1985 (House Bill 1963), which authorize the Texas Board of Health to adopt rules to implement minimum standards governing the transfer of patients from hospital to hospital

##### §133.21. Adoption by Reference.

(a) The Texas Department of Health adopts by reference the rules contained in the department publication titled "Hospital Licensing Standards," as amended March 1986 [1985]

(b) (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 29, 1985

TRD-8510114

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

Proposed date of adoption

December 7, 1985

For further information, please call

(512) 458-7538.

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## Chapter 145. Long-Term Care Subchapter E. Procedures on Long Term Care Facilities

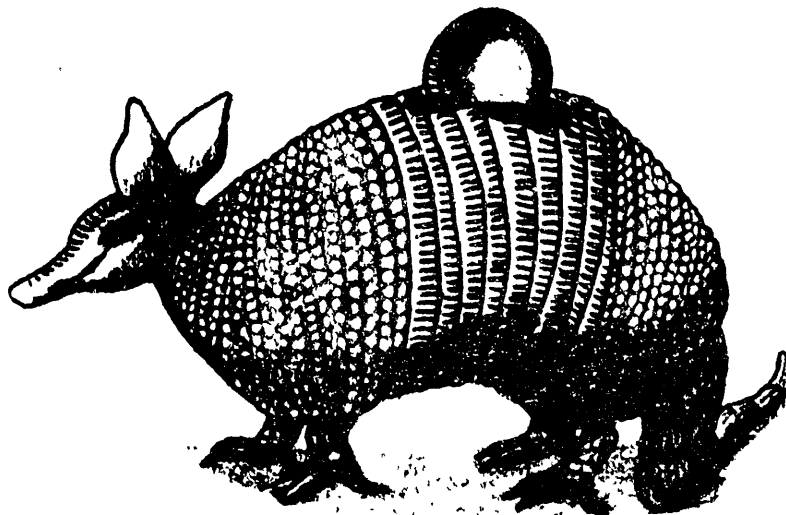
### ★ 25 TAC §145.83, §145.84

(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 §145.83 and §145.84, concerning inspections, surveys, and visits to nursing homes, and determinations and actions pursuant to inspections, surveys, and visits. These amendments are proposed as a result of certain requirements enacted by Senate Bill 2091, 69th Legislature, 1985, which affect the department's regulation of nursing homes and related facilities licensed under Texas Civil Statutes, Article 4442c.

These proposed amendments establish procedures for the Texas Department of Health as the licensing agency to preserve during the course of any inspection, survey, or investigation, all relevant evidence of conditions that the licensing agency has reason to believe threaten the health and safety of a resident or residents. The proposed amendments specify that some inspections be made between the hours of 5 p.m. - 8 a.m. Also the proposed amendments provide for a summary of each inspection report, survey report, inspection of care report, and complaint investigation report to be available to consumers, service recipients, and/or their relatives, and to be in the facility for public view. Affected facilities licensed under Texas Civil Statutes, Article 4442c, are nursing homes, custodial care homes, personal care homes, and facilities caring for mentally retarded persons. These amendments also are adopted on an emergency basis in this issue of the *Texas Register*.

Stephen Seale, chief accountant III, has determined that there will be no fiscal im-



plications 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 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 will be an improvement in the quality of care provided by nursing homes, custodial care homes, personal care homes, and facilities caring for mentally retarded persons through the strengthened role of the Texas Department of Health provided in legislation and these sections. There is no anticipated cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Howard C. Allen, Chief, Bureau of Long Term Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Written comments will be received for 30 days from the date of publication of the proposed sections. There will also be a public hearing at 9:30 a.m. on November 26, 1985, in Room G-209, Texas Department of Health, 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 4442c, §5, which provide the Texas Department of Health with the authority to establish procedures to preserve inspection information and to make summaries of inspections for public review, and §7, which provide the department with the authority to adopt rules concerning night inspections.

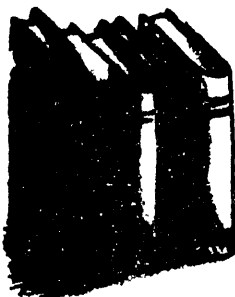
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 29, 1985

TRD-8510116 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption  
January 7, 1986  
For further information, please call  
(512) 458-7706.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

##### ★34 TAC §3.558

The Comptroller of Public Accounts proposes new §3 558, concerning seal required on disposable bingo cards. The section establishes a requirement that every disposable bingo card used in this state must bear an impression of the seal of the State of Texas. The section notifies manufacturers of their responsibilities and provides information concerning the procedure to be used to obtain approval by the comptroller of the manufacturer's cards.

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. Small businesses involved in the manufacture of disposable bingo cards would experience negligible costs in the area of additional printing requirements as a result of enforcing or administering the section.

Mr. Craymer 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 more efficient enforcement of bingo regulations. 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 Ches Stubblefield, Manager, Miscellaneous Services, PO Box 13528, Austin, Texas 78711.

This new section is proposed under Texas Civil Statutes, Article 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

##### §3.558. Seal Required on Disposable Bingo Cards.

(a) For the purposes of this section, a disposable bingo card is a card made of paper or other suitable material which is designed or intended for use at a single bingo occasion.

(b) The face of every disposable bingo card used, sold, or otherwise furnished in this state shall bear an impression of the State of Texas and a star of five points encircled by olive and live oak branches and the words "Office of the Comptroller \*Texas\*," in accordance with detailed specification available on request

from the Miscellaneous Services Section, Tax Administration Division of the comptroller's office.

(c) No disposable bingo card shall be sold or otherwise furnished to any person in this state without an example of such card having the prior written approval of the comptroller.

(d) Manufacturers shall submit an example of all disposable cards to the Miscellaneous Services Section, Tax Administration Division, of the comptroller's office for written approval. Approval extends only to cards manufactured to the same specifications as examples submitted. Any modification of approved disposable bingo cards other than color, series numbers, serial numbers, and/or card numbers shall require submission of an example to the Miscellaneous Services Section, Tax Administration Division of the comptroller's office for approval.

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 23, 1985

TRD-859928 Bob Bullock  
Comptroller of Public  
Accounts

Earliest possible date of adoption:  
December 6, 1985  
For further information, please call  
(512) 463-4906

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part I. Texas Department of Public Safety

#### Chapter 3. Traffic Law Enforcement

#### Accident Investigation

##### ★37 TAC §3.8, §3.9

The Texas Department of Public Safety proposes an amendment to §3.8 and §3.9, concerning accident reporting by involved drivers and by investigating officers. Subsection (b) of each section is amended, which adopts the current accident reports by reference. The department's authority to approve accident report forms is contained in Texas Civil Statutes, Article 6701d, §45(b). Language is added and deleted to clarify where forms are available for public inspection and to provide a method to modify reports as administratively necessary.

Charles W. Iselt, chief of fiscal affairs, 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.

James Templeton, manager of statistical services, 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 clarification of legal authority for approval of Texas motor vehicle traffic accident forms. 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 John C. West, Jr., Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773, (512) 465-2000.

The amendments are proposed under Texas Civil Statutes, Article 6701d, §44 and §45, and Article 6701h, §4, which provide the Texas Department of Public Safety with the authority to require drivers involved in a reportable accident not investigated by a law enforcement officer to submit a written report of such accident to the department within 10 days from date of accident, and to prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident report required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served.

### §3.8. Reporting by Involved Drivers.

(a) (No change.)

(b) The [attached report,] driver's confidential accident report effective January 1986 and as it may hereafter be modified as administratively necessary [as amended in January 1984,] is adopted by reference and lists sufficiently detailed information regarding involvement in a traffic accident. Copies of this form are available for inspection at the headquarters of the Texas Department of Public Safety, 5805 North Lamar, Austin, Texas 78773.

### §3.9. Reporting by Investigating Officers.

(a) (No change.)

(b) The Texas peace officers accident report, effective January 1986 [1985], and the Texas peace officers accident casualty supplement effective January 1986 and as they may hereafter be modified as administratively necessary, [as amended in March 1978,] are adopted by reference and list sufficiently detailed information regarding investigation of a traffic accident. Copies of the reports are available for inspection at the headquarters of [from] the Texas Department of Public Safety, 5805 North Lamar [Boulevard], Austin, Texas 78773.

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 23, 1985

TRD-850909

James B. Adams  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption:

December 6, 1985

For further information, please call  
(512) 465-2000



## Chapter 23. Vehicle Inspection Parameter Vehicle Emission Inspection and Maintenance Program

### ★ 37 TAC §23.91

The Texas Department of Public Safety proposes an amendment to §23.91, concerning vehicle emission inspection. The Texas Air Control Board, by Board Order 85-8, has requested that the Texas Department of Public Safety establish a parameter motor vehicle emission inspection and maintenance program for vehicles registered in Dallas, El Paso, or Tarrant Counties, because such counties do not meet national ambient air quality standards for ozone. The program will be designed to facilitate the compliance of Dallas, El Paso, and Tarrant counties, and the continued compliance of Harris County, with the Federal Clean Air Act. The amendment to §23.91 would continue the existing requirement to inspect thermostatic air intake systems, exhaust gas recirculation systems, positive crankcase ventilation valves, air injection systems, and evaporative emission control systems, beginning with the 1988 model year passenger cars and light-duty trucks. In addition to those inspection items, beginning with the 1980 model year passenger cars and light-duty trucks, the section would require inspection of choke systems, fuel inlet restrictors, catalytic converters, and for the presence of lead in exhaust pipes. For passenger cars and light-duty trucks beginning with the 1984 model year, the section would require, in addition to the previously listed inspection items, inspection for mis-fire, oxygen sensor, and

emission-related recall and maintenance. An additional vehicle inspection fee of \$2.75, which would be retained by the vehicle inspection station, is proposed. Certain new vehicles which are sold in this state and which have not been registered previously would be subject to an initial inspection that expires at the end of two years.

Melvin C. Peoples, chief accountant III, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state and local government and small businesses as a result of enforcing or administering the section. The effect on state government will be an estimated additional cost of \$904,200 in 1986, and \$747,000 in 1987. Costs after 1987 depend upon legislative funding. Significant repair or replacement costs may result to local governments in the affected counties whose vehicles do not meet the requirements of the parameter vehicle emission inspection and maintenance program. The effect on small business will be that a vehicle inspection station, without regard to size, will collect an additional \$2.75 vehicle inspection fee for inspection of a vehicle under this program to recover the additional cost of inspection.

Joe D. White, inspector, 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 the reduction of emissions of hydrocarbons and other pollutants from mobile sources that will result because of the large number of emissions control systems operating properly. An additional public benefit is a reduction in long-term repair costs caused by misfueling. The possible economic cost to individuals who are required to comply with the amendment as proposed will be an additional vehicle inspection fee of \$2.75 per year for each vehicle inspected. Significant repair or replacement costs may result to individuals whose vehicles do not meet the requirements of the Parameter Vehicle Emission Inspection and Maintenance Program.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, PO Box 4087, Austin, Texas 78773, (512) 465-2000.

The amendment is proposed under Texas Civil Statutes, Article 6701d, §141 (c-1) and §142(c)-(h), which provides the Public Safety Commission with the authority to establish a parameter motor vehicle emission inspection and maintenance program for vehicles registered in any county in this state which does not meet national ambient air quality standards and for which the Texas Air Control Board has adopted a resolution requesting the Texas Department of Public Safety to institute such a program. See also Texas attorney general Opinion JM-138, March 16, 1984.

**§23.91. Vehicle Emission Inspection.**

(a) All 1968 and later year model passenger cars and light-duty trucks currently registered and operated in Dallas, El Paso, Harris, or Tarrant County must be inspected, as part of, and at the time of, the required annual vehicle inspection, under the Parameter Vehicle Emission Inspection and Maintenance Program and the rules of the department applicable to the particular year model, provided that a passenger car or light-duty truck that is sold in this state, has not been previously registered in this or another state, and on the date of sale is of the current or the immediately preceding model year is subject to an initial inspection that expires at the end of two years.

(b) Certified inspectors in Dallas, El Paso, Harris and Tarrant Counties [County] must perform the parameter vehicle emission inspection and maintenance inspection on all 1968 and later model year passenger cars and light-duty trucks presented for inspection which are currently registered in Dallas, El Paso, Harris, or Tarrant County.

(c) Certified inspectors in all counties other than Dallas, El Paso, Harris and Tarrant Counties [County] must perform the parameter vehicle emission inspection on all 1968 and later [year] model year passenger cars and light-duty trucks presented for inspection which are currently registered and operated in Dallas, El Paso, Harris, or Tarrant County, provided that the certified inspectors have completed the training for the Parameter Vehicle Emission Inspection and Maintenance Program and hold the department's [a] current inspector's certificate for such training.

(d) In order to determine whether a vehicle is currently registered in Dallas, El Paso, Harris, or Tarrant County, certified inspectors in the [Harris, Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, and Waller] counties named in paragraphs (1)-(4) of this subsection shall read the number code printed on the rear license plate validation sticker of each 1968 or later model year passenger car or light-duty truck presented for inspection. The certified inspector shall compare said validation sticker number to the list of number assigned to the [Harris] county tax collector as required in paragraphs (1)-(4) of this subsection. The Texas Department of Public Safety will provide to each inspection station in the [such] counties named in paragraphs (1)-(4) of this subsection a current list of validation sticker code numbers assigned to the appropriate [Harris] county tax collector, which said list must be displayed in a manner as directed by the department. The procedures in this subsection shall be followed by:

(1) certified inspectors in Dallas, Tarrant, Denton, Collin, Rockwall, Kaufman, and Ellis Counties to determine whether a vehicle is registered in Dallas County;

(2) certified inspectors in El Paso and Hudspeth Counties to determine whether a vehicle is registered in El Paso County;

(3) certified inspectors in Harris, Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, and Waller Counties to determine whether a vehicle is registered in Harris County; and

(4) certified inspectors in Tarrant, Dallas, Ellis, Johnson, Parker, Wise, and Denton Counties to determine whether a vehicle is registered in Tarrant County.

(e) Vehicles having been inspected under the Parameter Vehicle Emission Inspection and Maintenance Program and found to have met the requirements of such program in addition to all other vehicle inspection requirements will be passed by the certified inspector, who will thereafter affix to the windshield an inspection certificate with a red numeral insert designating the month in which the vehicle was inspected. The only valid inspection certificate for vehicles [vehicle models] subject to the [Harris County] Parameter Vehicle Emission Inspection and Maintenance Program shall be an inspection certificate with the appropriate and currently effective red numeral insert.

(f) Provided that a vehicle which is registered in Dallas, El Paso, Harris, or Tarrant County and which is otherwise subject to the Parameter Vehicle Emission Inspection and Maintenance Program need not display an inspection certificate with a red numeral insert if:

(1) the vehicle is both owned and operated by a person (or persons) who does not reside within any of the territorial boundaries of Dallas, El Paso, Harris, or Tarrant County, and

(2) the vehicle is operated within the territorial boundaries of Dallas, El Paso, Harris, and Tarrant Counties [County] on not more than 15 days per calendar year.

(g) If a person claiming to be covered by subsection (f) of this section is prosecuted for operating a vehicle on the highways in Dallas, El Paso, Harris, or Tarrant County without displaying a valid inspection certificate, the defendant must prove by a preponderance of the evidence that the circumstances, as provided in subsection (f)(1) and (2) of this section exist.

(h) All certified inspectors in Dallas, El Paso, Harris, and Tarrant Counties [County] must complete the training for the Parameter Vehicle Emission Inspection and Maintenance Program and receive certification from the Texas Department of Public Safety for such training. Certified inspectors in any other county of the state may receive the training and certification to conduct the parameter vehicle emission inspection and maintenance inspections for vehicles required to be so inspected [registered in Harris County].

(i) Only those certified inspectors

who have completed the training for the Parameter Vehicle Emission Inspection and Maintenance Program and who have received certification for such training may perform the parameter vehicle emission inspection and maintenance inspection.

(j) Certified inspectors in any county in the state who have been certified to perform the parameter vehicle emission inspection and maintenance inspections shall accurately complete forms provided by the department, including a notation of whether or not the inspected vehicle has had the emission inspection performed [is currently registered] in Dallas, El Paso, Harris, or Tarrant County. The form will also contain a space to note whether the inspected vehicle was bearing a previously issued inspection certificate with a colored [red] numeral insert.

(k) For purposes of the Parameter Vehicle Emission Inspection and Maintenance Program, the term "passenger car" shall have the meaning ascribed to it by Texas Civil Statutes, Article 6701(d), §2(j), except that motor vehicles powered by diesel fuel or any fuel other than gasoline or gasohol are not included in the meaning of the term "passenger car" if their design precludes the use of gasoline or gasohol without modification.

(l) For purposes of the Parameter Vehicle Emission Inspection and Maintenance Program, the term "light-duty truck" means a motor vehicle with a gross weight of 8,500 pounds or less, which shall include but not be limited to, pickup trucks, panel delivery trucks, and carry-all trucks, except that motor vehicles powered by diesel fuel or any fuel other than gasoline or gasohol are not included in the meaning of the term "light-duty truck" if their design precludes the use of gasoline or gasohol without modification.

(m) Specific inspection requirements for passenger cars and light-duty trucks in the Parameter Vehicle Emission Inspection and Maintenance Program are as follows.

(1) 1968-1979 year models.

[(A) No additional inspection items.]

(A) Inspection parameters are thermostatic air intake system, exhaust gas recirculation system (EGR valve), PCV valves and hoses, air injection system, and evaporative emission control system (canister).

(B) No inspection fee increase.

(2) 1980-1983 year models.

(A) Inspection parameters, in addition to items in paragraph (1)(A) of this subsection, are [evaporative canister, air injection system,] choke system, heater, and rod [and PCV valves and hoses]. In addition, vehicles originally equipped with a catalytic converter at the time of manufacture shall be inspected by performing the [checked for] lead detection test, by check-

ing for the presence of the catalytic converter, and by checking for the presence and proper size opening of the fuel inlet restrictor.

(B) Vehicles with an altered or removed fuel inlet restrictor or a removed catalytic converter will be allowed, for the initial parameter vehicle emission inspection and maintenance inspection only, a period of time not to exceed one year in which to replace the catalytic converter and the fuel inlet restrictor if altered or removed [non-complying equipment]. A vehicle failing the lead detection test, on its initial parameter vehicle emission inspection and maintenance inspection, will be allowed a period of time not to exceed one year in which to replace the contaminated tailpipe and catalytic converter. Proof of replacement shall be provided by the vehicle owner at the time the vehicle is reinspected and shall be in the form of a dated repair receipt or sales invoice bearing the vehicle owner's name and/or vehicle identification numbers. Unless it is the initial parameter vehicle emission inspection and maintenance inspection, the replacement of the catalytic converter is required if the fuel inlet restrictor has been altered, tampered, or removed.

(C) A vehicle which fails the inspection because of an altered or removed fuel inlet restrictor, a removed catalytic converter, or lead in the tailpipe, but which passes all other inspection requirements, will be issued an inspection certificate with a 1/4-inch round hole punched in the lower-left corner of the inspection certificate. An inspection certificate punched in such manner shall be valid until the expiration date stated thereon or until the next required inspection.

(D) The certified inspector shall mark the back of the inspection certificate which is presently on a vehicle with a large "X," using a laundry marking pen, if a vehicle has failed the inspection because of an altered or removed fuel inlet restrictor, removed catalytic converter, or lead in the tailpipe, and the vehicle also failed any other item of inspection that would cause rejection of the vehicle. When the failed inspection items, other than the fuel inlet restrictor, catalytic converter, and tailpipe have been corrected and the vehicle inspected, a punched inspection certificate will be issued as provided in subparagraph (C) of this paragraph.

(3) 1984 and later year models.

(A) Inspection parameters, in addition to items in paragraphs (1)(A) and (2)(A) of this subsection, are misfire, [evaporative canister, air injection system,] oxygen sensor [and valves], [choke system, PCV valves and hoses,] emission-related recall, and emission-related maintenance. In addition, vehicles originally equipped with a catalytic converter at the time of manufac-

ture shall be inspected by performing the [checked for] lead detection test, by checking for the presence of the catalytic converter, and by checking for the presence and proper size opening of the fuel inlet restrictor.

(B) If a vehicle has an altered or removed fuel inlet restrictor, both the fuel inlet restrictor and catalytic converter must be replaced before an inspection certificate may be issued. A [or a] removed catalytic converter must be replaced before an inspection certificate may be issued. A vehicle failing the lead detection test must have the contaminated tailpipe and catalytic converter replaced before an inspection certificate will be issued. If a vehicle is rejected and is not immediately repaired, a rejection receipt shall be issued which lists items rejected and other required information.

(C) (No change.)

(n) The parameter vehicle emission inspection and maintenance fee is established, for purposes of this section, as \$2.75, which is in addition to the statutory inspection fee. The additional fee shall be charged upon completion of the parameter vehicle emission inspection and maintenance inspection, whether or not the vehicle passed the inspection. For vehicles subject to an initial inspection that expires at the end of two years, as provided in subsection (a) of this section, the parameter vehicle emission inspection and maintenance fee is \$2.75, which is in addition to the statutory inspection fee.

(o) (No change.)

(p) Pursuant to Texas Civil Statutes, Article 6701d, §140(g), any person operating on the highways in Dallas, El Paso, Harris, or Tarrant Counties [County], a passenger car or light duty truck currently registered in any of those counties [that county] and required by this section to be inspected under the Parameter Vehicle Emission Inspection and Maintenance Program, without the valid inspection certificate as described in subsection (e) of this section, may be subject to prosecution and, if convicted, may be punished by a fine in an amount not to exceed that set out in Texas Civil Statutes, Article 6701d, §143.

(q) (No change.)

(r) The Public Safety Commission authorizes the director of the Texas Department of Public Safety to promulgate, publish, and distribute necessary manuals of instruction for the implementation of the Parameter Vehicle Emission Inspection and Maintenance Program in a manner not inconsistent with these rules. Such manuals shall be available for public inspection at reasonable times at offices of the department, as designated by the director, throughout the state.

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 28, 1985.

TRD-8510128

James B. Adams  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption:  
December 6, 1985  
For further information, please call  
(512) 465-2000



Part VIII. Commission on  
Fire Protection Personnel  
Standards and Education  
Chapter 233. Minimum  
Standards Manual  
Minimum Standards for Fire  
Fighter/Fire Inspector (Limited)  
★ 37 TAC §233.33

*(Editor's note: The Commission on Fire Protection Personnel Standards and Education proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the section is published in the Emergency Rules section of this issue.)*

The Commission on Fire Protection Personnel Standards and Education proposes new §233.33, concerning purpose. The proposed section states requirements and eligibility of applicants applying for fire fighter/fire inspector limited certification

Ray L. Goad, executive director, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimated increase in revenue of \$6,000 each year in 1986-1990. The effect on local government will be an estimated additional cost of \$12,000 each year in 1986 and 1987, \$13,000 each year in 1988 and 1989, and \$14,000 in 1990.

Mr. Goad 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 better utilization of manpower by city fire departments to perform additional fire inspection to protect lives and property. 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 Ray L. Goad, Executive Direc-

tor, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

The new section is proposed under Texas Civil Statutes, Article 4413(35), which provide the Commission on Fire Protection Personnel Standards and Education with the authority to promulgate rules and regulations for the administration of this Act, and to certify persons as being qualified, under the provisions of this Act, to be fire protection personnel

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 25, 1985

TRD 8510016      Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Earliest possible date of adoption  
December 8, 1985  
For further information, please call  
(512) 474-8066

★                      ★                      ★

### Minimum Standards for Fire Fighter/Arson Investigator (Limited)

#### ★ 37 TAC §233.35

*(Editor's note: The Commission on Fire Protection Personnel Standards and Education proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Commission on Fire Protection Personnel Standards and Education proposes new §233.35, concerning purpose. The proposed section states requirements and eligibility of applicants applying for fire fighter/arson investigator limited certification.

Ray L. Goad, executive director, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The anticipated effect on state government is an increase in revenue of \$6,000 each year in 1986 and 1987, \$6,500 each year in 1988 and 1989, and \$7,000 for 1990. The anticipated effect on local government is an increase in revenue of \$12,000 each year in 1986 and 1987, \$13,000 each year in 1988 and 1989, and \$14,000 for 1990. There is no anticipated effect on small businesses.

Mr. Goad 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 better utilization of man power by city fire department to detect arson fires and also to reduce the number of arson fires. This will reduce the public's insurance costs. 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 Ray L. Goad, Executive Director, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

The new section is proposed under Texas Civil Statutes, Article 4413(35), which provide the Commission on Fire Protection Personnel Standards and Education with the authority to promulgate rules and regulations for the administration of this Act and to certify persons as being qualified, under the provisions of this Act, to be fire protection personnel.

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 25, 1985

TRD-8510017      Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Earliest possible date of adoption  
December 6, 1985  
For further information, please call  
(512) 474-8066

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### Fees Charged for Manuals and Certificates

#### ★ 37 TAC §233.141

*(Editor's note: The Commission on Fire Protection Personnel Standards and Education proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the section proposed for repeal will not be published. The section may be examined in the offices of the Commission on Fire Protection Personnel Standards and Education, 510 South Congress Avenue, Suite 406, Austin, or in the Texas Register office, Room 503-E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Commission on Fire Protection Personnel Standards and Education proposes the repeal of §233.141, concerning

fees. The section addresses the use of intermediate, advanced, and master certificates issued by the commission to fire fighters. The section also establishes fees for the standards manual.

Ray L. Goad, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of the repeal.

Mr. Goad also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be efficient agency administration because House Bill 1593, 69th Legislature, 1985, overrides the present section. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Ray L. Goad, Executive Director, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

The repeal is proposed under Texas Civil Statutes, Article 4413(35), which provide the Commission on Fire Protection Personnel Standards and Education with the authority to promulgate rules and regulations for the administration of this Act and to certify persons as being qualified, under the provisions of this Act, to be fire protection personnel.

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 25, 1985.

TRD-8510018      Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Earliest possible date of adoption:  
December 6, 1985  
For further information, please call  
(512) 474-8066.

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### Certification and Renewal Fees

#### ★ 37 TAC §§233.151-233.156

*(Editor's note: The Commission on Fire Protection Standards and Education proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the sections is published in the Emergency Rules section of this issue.)*

The Commission on Fire Protection Personnel Standards and Education proposes new §§233.151-233.156, concerning certification and annual recertification fees for all certificates by the commission. The fee information lists renewal

fees procedures, late fees, certificate fees, inactive status for fire protection personnel, responsibility for fees, purpose and scope, and reinstatement procedures.

Ray L. Goad, executive director, 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 effect on state government will be an estimated increase in revenue of \$370,000 in 1986, \$375,000 in 1987, \$382,000 in 1988, \$385,000 in 1989, and \$392,000 in 1990. The effect on local government will be an estimated additional cost of \$370,000 in 1986, \$375,000 in 1987, \$382,000 in 1988, \$385,000 in 1989, and \$392,000 in 1990. There will be no effect on small businesses as a result of enforcing or administering the sections.

Mr. Goad 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 uniformity in fire fighter training and timely reporting of training and an increase in proficiently trained fire fighters in Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed section, since city fire department are responsible for paying certification and recertification fees.

Comments on the proposal may be submitted to Ray L. Goad, Executive Director, 510 South Congress, Suite 406, Austin, Texas, (512) 474-8066.

The new sections are proposed under Texas Civil Statutes, Article 4413(35), House Bill 1593, 69th Legislature, 1985, which provide the Commission on Fire Protection with the authority to develop rules for collecting certificate fees and annual renewal fees for all certificates issued by the Commission on Fire Protection Personnel Standards and Education.

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 29, 1985.

TRD-8510106

Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Earliest possible date of adoption:  
December 8, 1985  
For further information, please call  
(512) 474-8066.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 79. Legal Services

#### Subchapter Q. Contract Appeals

The Texas Department of Human Services proposes the repeal of §79.1608, amendments to §§79.1601, 79.1603-79.1607, and 79.1609-79.1614, and new §79.1608, concerning special requirements for nursing facility contracts, right to appeal, definitions, notice of adverse action, request for appeal, effective dates of contract cancellation, hearing guidelines, withdrawal of hearing request and informal disposition, general requirements for hearings, rules of evidence, deliberation, decisions, contract appeals committee, and administrative law judge. The proposal allows for contractors' appeals to be conducted before an administrative law judge rather than before the current four-member contract appeals committee. Additional discovery processes are also cited. Nursing facilities placed on sanction vendor hold will have a right to a hearing even if the hold is released before the hearing.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the sections are in effect there will be fiscal implications as a result of enforcing or administering the sections as proposed. The cost to state government will be \$42,420 in fiscal year 1986 and \$43,683 each year in fiscal years 1987-1990. There will be no fiscal implications for local government or small businesses.

Mr. Martin has also 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 will be that hearings will be more expeditiously scheduled and completed, the decisions reached will be more uniform, and all parties will more clearly understand their appeal rights and the procedures used to protect those rights. There is no anticipated economic cost to individuals required to comply with the sections as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Department Support Division, 608, Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769 within 30 days of publication in this Register.

★ 40 TAC §§79.1601, 79.1603-79.1607, 79.1609-79.1614

The amendments are proposed under the Human Resources Code, Title 2, Chapters

22 and 32, which authorizes the department to administer public assistance programs.

§79.1601. *Special Requirements for Nursing Facility Contracts.* The following requirements apply to cancellation of nursing facility contracts:

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

(3) If the department imposes a vendor hold according to §27.2505 of this title (relating to Sanction Provisions for Violations of Title XIX Nursing Facility Contractual Agreements) or §16.1510 of this title (relating to Sanction Provisions for Violations of Title XIX Nursing Facility Contractual Agreements), the affected nursing facility is entitled to contest the hold even if it released before the hearing.

§79.1603. *Right to Appeal.* A contractor has the right to appeal any adverse [department] action as defined in §79.1604 of this title (relating to Definitions). [which:

[(1) cancels a contract,

[(2) denies or suspends payments for any claim under a contract,

[(3) requires the repayment or settlement of audit exceptions taken on a contract,

[(4) constitutes nonrenewal of a nursing facility contract, or

[(5) reduces a contractor's block grant funds by 25% or more if the department plans to reallocate the funds to another contractor for similar services in the same geographic area. This applies if the contractor whose funds are reduced alleges that the reduction was accomplished in violation of the department's rules, was discriminatory, or was without reasonable basis in law or fact.] Contractors also have the right to appeal vendor payment holds as stated in §79.1601(3) of this title (relating to Special Requirements for Nursing Facility Contracts).

§79.1604. *Definitions.* The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

**Administrative law judge**—The department employee appointed to preside over the hearing.

**Adverse action**—Any action in which the department:

(A) cancels or suspends a contract between a person and the department [has been cancelled by the department];

(B) denies payment in whole or part for any claim(s) accruing under a contract when the contractor has filed the claim within the time limits allowed by the contractor or by department rules [between a person and the department has been denied or suspended in whole or in part];

(C) suspends payments in whole or in part to a contractor;

(D)[(C)] receives [the department makes] a request for reimbursement

for settlement of audit exceptions (contract violations) accruing under a contract;

(E)(D) the department directs [that] one of its contractors to terminate or suspend a subcontract with payments to any subcontractor or provider of medical services; [or]

(F)(E) the department chooses not to renew a nursing facility contract;

(G) reduces a contractor's block grant funds by 25% or more if the department plans to reallocate the withheld funds to another contractor for similar services in the same geographic area. This applies only if the contractor alleges that the reduction was in violation of department rules, was discriminatory, or was without reasonable basis in law or fact. It does not apply to funding or contracts subject to the department's competitive procurement rules. Block grant funds are those amounts the department reimburses.

[Appellant—any person who has filed a written appeal of adverse action.

[Appellee—The individual who made the initial decision to take the adverse action which is the subject of an appeal.

[Commissioner—The commissioner of the Texas Department of Human Resources.]

Contract—Any written document (or series of documents) which obligates the department to pay money to a person in exchange for goods or services from that person, or which obligates the department to provide goods or services to a person in exchange for money. [Contract does not mean any agreement with an individual provider of social services.]

Contractor—Any person with whom the department has a written contract[, except an individual provider of social services].

Days—Calendar days, unless otherwise specified.

Person—[In this context means] An individual, partnership, corporation, association, governmental subdivision or agency, or a public or private organization of any character.

Petitioner—Any person who has filed a written appeal of adverse action.

Respondent—The individual who made the initial decision to take the adverse action that is the subject of an appeal.

#### §79.1605. Notice of Adverse Action.

(a) (No change.)

(b) The commissioner or designee will send the contractor a letter notifying him [or her] of any adverse action. The letter will be sent by certified mail, return receipt requested. The letter must include the details of the contractor's noncompliance with the provisions of the contract or other basis for the action. If previous efforts to obtain contract compliance have been made, these should be summarized in the letter. The letter must also inform the contractor that he [or she] has the right to appeal the adverse action within 10 days

after the receipt of the notice of the adverse action by sending a written notice to the general [chief] counsel [Legal Division]. Letters notifying contractors of contract cancellations must specify whether the contract will remain in force pending completion of the appeal process, if any appeal is requested.

(c) If the department is unable to state the matters in detail at the time the initial notice of adverse action is served, the initial notice may be limited to a statement of the issues involved. Later, and with a timely application from the petitioner [appellant], a more definite and detailed statement must be furnished by the department's legal representative to the petitioner [appellant] not less than three days before the date set for the hearing.

#### §79.1606. Request for Appeal.

(a) A contractor may appeal [an adverse action] by filing a written request within 10 days after receipt of the official notice of the action from the department. The request for an appeal hearing must be addressed to the general counsel [Legal Division]. The request for the hearing may be in the form of a formal petition or a letter setting forth the reasons why the contractor considers he was not in violation of the contract provisions as alleged by the department.

(b) If the contractor files a written request for a hearing which is postmarked within the 10-day period, the matter will be referred to the administrative law judge [Contract Appeals Committee] for a hearing to be set.

(c) If the appeal is based on reduction of a contractor's block grant funds, the department must hold one session of the hearing in the contractor's locality if requested in writing by a locally elected official or an organization with at least 25 members. The local session is conducted to hear local public comment about the matter. The request for the local session is sent to the General Counsel[, Texas Department of Human Resources,] within 10 days after the contractor requests the appeal. [The contract appeals committee does not attend the local session.]

(d) The administrative law judge [contract appeals committee]:

(1) (No change.)

(2) [designates staff in the region as the chairman of the local session,

(3)] notifies the contractor and the person requesting the local session about the date, time, and place for the session.

(e) The administrative law judge [local chairman] controls the procedure for the local session, including but not limited to setting time limits and the order of the speakers.

(f) The local session will be one day only and the session must be recorded by written transcription or tape. The recording must be sent immediately to the department's Legal Services Division for the con-

tract appeals committee to review when reaching its final decision.]

#### §79.1607. Effective Dates of Contract Cancellation.

(a) If the department proposes to cancel a Title XIX contract with a provider of medical assistance and the contractor has asked for a hearing, the department may not carry out its proposed action before the completion of a hearing. This is true except when federal matching funds for continued contract payments are no longer available or when the contract expires by its own terms. If a nursing facility contract is to be denied, terminated, or not renewed before a requested hearing is completed, a designee of the deputy commissioner for the office of programs [medical specialties] must offer the facility an informal reconsideration of the action before the effective date of the action and attempt to resolve the dispute. Payment may be withheld pending the hearing, but must be reinstated retroactively if the hearing decision is favorable to the contractor. If the hearing results are not favorable to the contractor, the effective date of the termination may be the date specified in the notice of termination.

(b) (No change)

#### §79.1609. Hearing Guidelines.

(a) Preparation for the hearing. The [State] Office of the General Counsel [Legal Division] will designate [a staff attorney or] an attorney [from the region] to represent the department. The designated attorney has authority over the manner and substance of the presentation

(b) Notice of hearing. Within 30 days after the department's receipt of a petitioner's [an appellant's] request for a hearing, the administrative law judge [chairman of the committee] selects a date for a hearing. The petitioner [appellant] must be notified of the hearing date set[,] at least 20 [10] days before the date of the hearing. The administrative law judge may expedite the hearing if any party showing good cause requests it. In this case, all parties must be given at least 10 days notice before the hearing date.

(c) Written notice.

(1) The administrative law judge [chairman] must provide the petitioner [appellant] with a written notice that includes:

(A)[(1)] a statement of the time, place, and nature of the hearing, and

(B)[(2)] a statement of the legal authority and jurisdiction under which the hearing will be held;

(2) At least 10 days before the hearing date, the department's representative must provide the petitioner with a written notice that includes:

(A)[(3)] a reference to the particular sections of the statutes and rules involved;

(B)[(4)] a concise statement of the matters asserted by the department. In expedited hearings, written notices must be



delivered to the petitioner at least three days before the hearing date. After a timely written motion from the department's representative, the administrative law judge may require the petitioner to deliver to the department representative a concise written statement of the issues, statutes, and rules asserted by the petitioner. This must be done at least 10 days before the hearing date or, in expedited cases, three days before the hearing date. (i) and

{(5) the time and place for continuation of the hearing if the hearing is not concluded the day it begins. (If the hearing is not concluded in one day, it should continue on each subsequent workday until concluded.)}

(d) Representation for petitioner [appellant]. Any petitioner [appellant] may appear and be represented by an attorney at law authorized to practice law before the highest court of any state. The petitioner [appellant] may appear on his [or her] own behalf or appearance may be made by a bona fide employee. If the petitioner [appellant] is a corporation or an association, appearance may be made by an officer, board member, or bona fide employee of such petitioner [appellant] upon presentation of written authority.

**§79.1610. Withdrawal of Hearing Request and Informal Disposition.**

(a) At any time prior to the conclusion of the hearing, the petitioner [appellant] may submit written notification to the department of withdrawal of the hearing request.

(b) (No change.)

(c) [Department employees who are not the members of the committee or a designee may confer with any person dissatisfied with a department decision affecting a contract.

(d) On motion of the petitioner [appellant], the department, or on his [or her] own motion, the administrative law judge [chairman], may direct the parties and their attorneys or representatives to appear before him [the chairman] at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

(1)-(5) (No change.)

(d) Any motion relating to a pending proceeding, unless made during a hearing, must specify in writing the desired relief and the specific reasons and basis for this relief. If based upon matters which do not appear of record, it must be supported by an affidavit. Any motion not made during a hearing must be filed with the administrative law judge, who will act upon the motion as soon as possible.

(e) A party filing any protest, reply, answer, motion, or other pleading in any hearing after the hearing has begun must mail or otherwise deliver a copy of it to every other party of record. If any party has appeared in the proceeding by attorney, or other representative authorized to make ap-

pearances, the attorney or other representative must be served. The willful failure of any party to make such service will be sufficient grounds for the administrative law judge to enter an order striking the pleading from the record. A certificate by the party, attorney, or representative who files a pleading, stating that it has been served on the other parties, will be prima facie evidence of service. The following form of certificate will suffice:

I hereby certify that I have this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, served copies of the foregoing pleading upon all other parties to this proceeding, by (here state the manner of service). Signature \_\_\_\_\_

**§79.1611. General Requirements for Hearings.** The administrative law judge [chairman of the committee] is in charge of proceedings. The administrative law judge [chairman] has authority to administer oaths, examine witnesses, and to rule on admissibility of evidence and amendments to pleadings. He or she also may establish reasonable time limits for conducting individual hearings, request additional information, and issue intermediate orders.

(1) Subject to the administrative law judge's rulings and orders, opportunity must be given to all parties to respond to and present evidence and argument on all issues involved.

(2) The petitioner [appellant] and the department will have an opportunity to call any witnesses [or representatives] desired.

(3) If either party [the appellant] does not appear for the hearing, a default decision may be entered.

(4) Postponement or continuance of hearings may be granted by the administrative law judge [chairman] for just cause.

(5) (No change.)

(6) A stenographic record of each hearing must be made. If requested, the proceedings must be transcribed and provided to the administrative law judge [Contract Appeals Committee for use in its decision within two weeks of the close of the hearing]. The petitioner must [appellant shall] be charged for the cost of [responsible for paying for and furnishing] the transcript [to the committee]. The administrative law judge must [chairman of the committee shall designate the court reporter to record the proceedings.

(7) (No change.)

(8) Before or during the hearing, the administrative law judge may call or request any party to call a witness or witnesses the judge believes necessary to make the final decision. He [Unless required for the disposition of ex parte matters authorized by law or as otherwise authorized under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, members or employees of the department assigned to render a decision or make findings of fact and conclusions of

law concerning an adverse action appeal may not communicate, directly or indirectly, in connection with any issue of fact or law with any party or their representative, except on notice and opportunity for all parties to participate. A department member may communicate ex parte with other members of the department, and members or employees of the department assigned to render a decision or to make findings of fact and conclusions of law in a contested case] may communicate [ex parte] with employees of the department who have not participated in the [any] hearing [in the case] for the purpose of utilizing the special skills or knowledge of the agency and its staff in evaluating the evidence. Parties to the hearing will receive written notice that the judge intends to consult with these employees. The day, time, and place of the consultation is included. Parties will have the opportunity to be present during the consultation; they may question the employee(s), as allowed by the judge. The consultation may be recorded for inclusion in the record.

(9) (No change.)

**§79.1612. Rules of Evidence and Procedure.**

(a) [In hearings before the committee,] Irrelevant, immaterial, or unduly repetitious evidence will be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of the state must be followed. When necessary to determine facts not reasonably susceptible of proof under those rules, evidence not admissible under those rules may be admitted. This is true except when precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The rules of privilege recognized by law are in effect. Objections to evidentiary offers may be made and must be noted in the record. Subject to these requirements, any part of the evidence may be received in written form if a hearing will be expedited and the interests of the parties will not be substantially prejudiced.

(b)-(c) (No change.)

(d) On its own motion or on the written request of any party, on a showing of good cause, and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under this section, the department may issue a subpoena addressed to the sheriff or any constable to require the attendance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purposes of the proceedings. Such subpoena must be issued by the commissioner of the Texas Department of Human Services or his designee and the administrative law judge.

(e) On its own motion or on the written request of any party, on a showing of good cause, and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under this section, the department may issue a commission, addressed to the several officers authorized by

statute to take depositions, to require that the deposition of a witness be taken. The commission authorizes the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects as may be necessary and proper for the purposes of the proceeding. The commission must be issued by the commissioner of the Texas Department of Human Services or his designee and the administrative law judge. The deposition of a member of an agency board may not be taken after a date has been set for hearing. The deposition will be taken in accordance with the requirements set out in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(f) (No change.)

(g) [A witness or deponent who is not a party and who is subpoenaed or compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that are necessary for the proceeding is entitled to receive:

(1) reimbursement for travel expenses in amounts generally applicable to state employees for traveling to and from the place of the hearing or the place where the deposition is taken. This is true if the place is more than 25 miles from the person's place of residence;

(2) a fee in an amount equal to the rate of per diem generally applicable to state employees or \$10 a day, whichever is greater, for each day or part of a day the person must be present as a witness or deponent.

(h) If a person fails to comply with a subpoena or commission, the department, acting through the attorney general, or the party requesting the subpoena or commission may bring suit to enforce the subpoena or commission in a district court in Travis County.

(h)(i) Inspection, measurement, or survey.

(1) Upon timely motion of any party showing good cause therefore and upon notice to all other parties, and subject to such limitations of the kind provided in the Texas Rules of Civil Procedure, Rule 186b as the Commissioner his [or] designee, or the administrative law judge may impose, the commissioner, his [or] designee, or the administrative law judge may order any party:

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

(2)-(4) (No change.)

(5) Any time after the department has acknowledged in writing a petitioner's request for a hearing, a party may deliver or have delivered a written request for admission of facts and genuineness of documents. The provisions of the Rules of Civil Procedure, Rule 169, govern, except that filing an enforcement is controlled by the administrative law judge and the time limit to respond is 25 not 30 days.

(6) Any time after the department has acknowledged in writing a petitioner's request for a hearing, any party may serve interrogatories upon any other party. The provisions of the Rules of Civil Procedure Rule 168, govern, except that filing and enforcement is controlled by the administrative law judge and the number of questions is limited to no more than 25 answers.

(7) The prepared testimony of a witness upon direct examination, either in narrative or question-and-answer form, may be incorporated in the record as if read or received as an exhibit after the witness has been sworn and has identified that the prepared testimony is as true and accurate as his oral testimony would be. The witness will be subject to clarifying questions and to cross-examination. The prepared testimony will be subject to a motion to strike either in whole or in part.

(i) In all procedural matters not specifically governed by these sections, the Texas Rules of Civil Procedure will apply unless the administrative law judge determines there is good cause for waiving any or all such rules.

(j) A witness or deponent who is not a party and who is subpoenaed or compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that are necessary for the proceeding is entitled to receive:

(1) reimbursement for travel expenses in an amount generally applicable to state employees for traveling to and from the place of the hearing or the place where the deposition is taken. This is true if the place is more than 25 miles from the person's residence;

(2) a fee in an amount equal to the rate of per diem generally applicable to state employees or \$10 a day, whichever is greater, for each day or part of a day the person must be present as a witness or deponent.

§79.1613. *Deliberation.* After all evidence has been heard, the administrative law judge [committee] adjourns the hearing [to enter a closed session for deliberation]. Within 60 days from the date of adjournment, the administrative law judge makes [committee must make] a final decision upon the appeal.

§79.1614. *Decisions.*

(a)-(d) (No change.)

(e) If the administrative law judge [committee] finds that the adverse action was not justified, he states this and directs

(1) in the case of a contract cancellation, it will recommend to the commissioner that such contract be reinstated or a new contract be entered into; and

(2) in all other cases, it will direct the appropriate department staff to carry out his [its] decision.

(f) If the administrative law judge [committee] finds that the adverse action was justified, he [it] will sustain the action. The administrative law judge [committee] may also make such other recommendations as he [it] considers appropriate.

(g) (No change.)

(h) Either party may file a written motion for rehearing. The written motion for rehearing must be filed within 15 days after the date of rendition of the final decision. This motion must be addressed to the administrative law judge, who [chairman. The committee] will take action to either grant or deny the motion for rehearing within 45 days after the date of rendition of the final decision.

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 23, 1985.

TRD-850892

Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption.  
December 6, 1985  
For further information, please call  
(512) 450-3766.

★ ★ ★



★ 40 TAC §79.1608

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Human Services, 1701 West 51st Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs

§79.1608. *Contract Appeals Committee*

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 23, 1985

TRD-850891

Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption  
December 6, 1985  
For further information, please call  
(512) 450-3766

The new section is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs.

§79.1608. *Administrative Law Judge.* An administrative law judge is an attorney appointed by the general counsel. He hears all appeals, makes appropriate findings of fact and conclusions of law, and makes the final decision in each case. An attorney who has directly or indirectly participated in, or given advice on issues that are the basis for, a particular hearing may not be the administrative law judge in that hearing.

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 23, 1985.

TRD-859893

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption  
December 8, 1985

For further information, please call  
(512) 450-3766



### Part III. Texas Commission on Alcohol and Drug Abuse

#### Chapter 155. Community Services

#### Peer Assistance Program

★ 40 TAC §§155.21-155.27

The Texas Commission on Alcohol and Drug Abuse proposes new §§155.21-155.27, concerning the establishment of minimum criteria for implementation of a peer assistance program in response to the passage of House Bill 900, 69th Legislature, 1985. The proposed minimum criteria will assist eligible professions in establishing peer assistance programs which are designed to identify and assist professional colleagues with job-impairing problems so that they can return to competent practice.

Larry Goodman, Fiscal and Administrative Services Division administrator, 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. Goodman 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 development of comprehensive peer assistance programs designed to identify and assist professional colleagues with job-impairing problems so that they can return to competent practice. The economic cost to individuals who are required to comply with the proposed sections cannot be determined because costs of services vary.

Comments on the proposal may be submitted to Patricia Kubsch, Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 5561c-2, §1.14(11), and Article 5561c-3, §1, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to provide written rules and standards reflecting minimum criteria for the establishment of peer assistance programs.

§155.21. *Authority.* Authority was granted to the Texas Commission on Alcohol and Drug Abuse under Texas Civil Statutes, Article 5561c-2, §1.14(11), and Article 5561c-3, §1, to establish minimum criteria for peer assistance programs.

§155.22. *Objective.* The intent of the commission is to provide written rules and standards reflecting minimum criteria for the establishment of peer assistance programs.

§155.23. *Program Purpose.* Peer assistance programs identify, assist, and monitor professional colleagues with job-impairing mental health, alcohol, or drug problems so that they may return to competent practice. Peer assistance programs offer support and assistance and have a rehabilitative, rather than an adversarial or punitive, emphasis.

§155.24. *Application.* These sections apply to any profession which may incorporate under the Texas Professional Corporation Act, and to other professions under Texas Civil Statutes, Article 5561c-3. These sections do not apply to peer assistance programs established for licensed physicians or pharmacists or for any other profession that is authorized under other law to establish a peer assistance program.

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

Act—Texas Civil Statutes, Article 5561c-2, §1.14(11), and Article 5561c-3.

Approved peer assistance program—A program designed to help an impaired professional which is established by a licensing or disciplinary authority, or which is approved by a licensing or disciplinary authority, and which meets the criteria estab-

lished by the Act and by the Texas Commission on Alcohol and Drug Abuse, and any additional criteria established by the licensing or disciplinary authority.

Commission—The Texas Commission on Alcohol and Drug Abuse.

Impaired professional—An individual whose ability to perform professional services is impaired by chemical dependency on drugs or alcohol or by mental illness.

Licensing/disciplinary authority—A state agency or board that licenses or has disciplinary authority over professionals.

Professional—An individual who may incorporate under the Texas Professional Corporation Act (Texas Civil Statutes, Article 1528e), or who is licensed, registered, certified, or otherwise authorized by the state to practice as a licensed professional.

Professional association—A national or statewide association of professionals or a committee of a professional association and any nonprofit organization controlled by or operated in support of it.

Qualified service organization agreement—A written agreement between the peer assistance program and the licensing or disciplinary authority which meets the requirements of 42 Code of Federal Regulations Part 11, §2.11 (federal confidentiality regulations) where federal assistance is received by the program.

§155.26. *Minimum Criteria.* A peer assistance program established under Texas Civil Statutes, Article 5561c-2, §1.14(11), and Article 5561c-3, §1, must satisfy the following minimum criteria.

(1) Requirement. The program must be administered by a committee of professionals who have no potential for direct financial gain from these activities. Recommendation—committee members should be geographically representative of Texas, and should have as members one or more practitioners who are recovering from alcohol or drug abuse.

(2) Requirement. The program must have written policies and procedures, including a workbook for peer intervenors which state philosophy and methods for program operation. Recommendation—such policies and procedures should include at least the following:

(A) a statement of purpose which includes the recognition of alcohol and drug abuse, mental illness, and other impairments as being treatable;

(B) a charge or statement of responsibility to the profession;

(C) a brief explanation of the rehabilitative nature of this program;

(D) a summary of the licensing or disciplinary body's role in the process;

(E) a complete procedural outline for operating a peer assistance program, which stresses the need for early identification and intervention. Such an outline should also include provisions for follow-up and information on relapse potential;

(F) information about re-entry to the profession and ways in which after-care, if appropriate, will be encouraged;

(G) samples of any forms which will be used as part of the referral process.

(3) Requirement. The program must be strictly confidential within the requirements of the Act. Record keeping should be kept to a minimum and wherever possible, case numbers should be used in place of names. Where applicable, the peer assistance program shall enter into a qualified service organization agreement to protect confidentiality of patient records under federal law.

(4) Requirement. The program must be available seven days a week, 24 hours a day. Recommendation—a telephone hot line with a recording device for after-hour calls should be used.

(5) Requirement. The program must show evidence of a plan to recruit and

train volunteers from among its professionals who will become intervenors with their colleagues. Such intervenors must receive training in intervention skills, chemical dependency, and other job impairing problems. Recommendation—training events should be scheduled at least quarterly during the first eighteen months of the program's existence and at least annually thereafter.

(6) Requirement. The program must have an active plan for ongoing program evaluation and for promotion and publicity to encourage referrals.

(7) Requirement. The program must show evidence of a working arrangement with a network of evaluation and referral specialists throughout Texas.

**§155.27. Other Recommendations.** A plan for seeking additional and on-going funding should be prepared, and the licens-

ing or disciplinary authority should conduct comprehensive discussions with the recognized leadership of its profession as part of the process of planning a peer assistance program.

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 28, 1985

TRD-8510082

Ross Newby  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption.

December 6, 1985

For further information, please call  
(512) 475-2577.

★ ★ ★

# 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 9. LP-Gas Division Subchapter A. General Applicability and Requirements

### ★ 16 TAC §9.2

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed new §9.2, concerning general applicability and requirements. The text of the new section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1959).

Issued in Austin, Texas, on October 25, 1985.

TRD 859966      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25, 1985  
For further information, please call  
(512) 463 7149

★      ★      ★

### ★ 16 TAC §9.14

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.14, concerning general applicability and requirements. The proposed notice of repeal appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1960).

Issued in Austin, Texas, on October 25, 1985

TRD-859967      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25, 1985  
For further information, please call  
(512) 463-7149

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## Subchapter B. Basic Rules

### ★ 16 TAC §9.48

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments

to §9.48 concerning basic rules. The text of the amended section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1961)

Issued in Austin, Texas on October 25, 1985

TRD-859968      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25, 1985  
For further information, please call  
(512) 463 7149

★      ★      ★

### ★ 16 TAC §9.55

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.55, concerning basic rules. The notice of the proposed repeal appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1961)

Issued in Austin, Texas, on October 25, 1985

TRD-859969      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information please call  
(512) 463-7149

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### ★ 16 TAC §9.58

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.58, concerning basic rules. The text of the amended section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1767)

Issued in Austin, Texas, on October 25, 1985

TRD-859970      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25, 1985  
For further information please call  
(512) 463-7149

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### ★ 16 TAC §9.59

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.59, concerning basic rules. The notice of the proposed repeal appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1768)

Issued in Austin, Texas, on October 25, 1985

TRD-859971      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed, October 25, 1985  
For further information please call  
(512) 463-7149

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### ★ 16 TAC §9.64

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed new §9.64, concerning basic rules. The text of the new section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1961)

Issued in Austin, Texas, on October 25, 1985

TRD-859972      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25, 1985  
For further information please call  
(512) 463-7149

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### ★ 16 TAC §§9.65-9.70

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed new §§9.65-9.70, concerning basic rules. The text of

the new sections as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1768).

Issued in Austin Texas on October 25, 1985

TRD-859973 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25 1985  
For further information please call  
(512) 463 7149

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### Subchapter D. Division II

#### ★ 16 TAC §9.100, §9.113

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9 100 and §9 113, concerning Division II. The text of the amended sections as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1772)

Issued in Austin Texas on October 25 1985

TRD-859974 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed. October 25 1985  
For further information please call  
(512) 463 7149

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#### ★ 16 TAC §§9.106, 9.108, 9.111

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9 106, §9 108, and §9.111, concerning Division II. The notice of the proposed repeal appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1773)

Issued in Austin Texas on October 25 1985

TRD 859975 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed October 25 1985  
For further information. please call  
(512) 463-7149

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### Subchapter E. Division III

#### ★ 16 TAC §9.121

The Railroad Commission of Texas has withdrawn from consideration for perma-

nent adoption the proposed amendments to §9.121, concerning Division III. The text of the amended section as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1774).

Issued in Austin, Texas on October 25 1985

TRD-859976 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25 1985  
For further information please call  
(512) 463-7149

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#### ★ 16 TAC §§9.124-9.126, 9.131, 9.134, 9.135

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §§9.124-9.126, 9.131, 9.134, and 9.135, concerning Division III. The notice of the proposed repeal appeared in the June 4, 1985, issue of the *Texas Register* (10 Tex-Reg 1775)

Issued in Austin Texas on October 25 1985

TRD-859977 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed. October 25 1985  
For further information please call  
(512) 463-7149

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### Subchapter F. Division IV

#### ★ 16 TAC §9.147

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.147, concerning Division IV. The text of the amended section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1962)

Issued in Austin Texas on October 25 1985

TRD-859978 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed. October 25, 1985  
For further information please call  
(512) 463-7149

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#### ★ 16 TAC §§9.156, 9.160, 9.167, 9.168

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §§9.156, 9 160, 9 167, and 9 168, concerning Division IV. The notice of the proposed repeal appeared in the June 4, 1985, issue of the *Texas Register* (10 Tex-Reg 1775).

Issued in Austin Texas on October 25, 1985.

TRD-859979 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25 1985  
For further information. please call  
(512) 463-7149.

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#### ★ 16 TAC §9.159, §9.162

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.159 and §9.162, concerning Division IV. The notice of the proposed repeal appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1963)

Issued in Austin, Texas, on October 25, 1985

TRD-859980 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149.

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#### ★ 16 TAC §9.164

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.164, concerning Division IV. The text of the amended section as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1775).

Issued in Austin, Texas, on October 25, 1985

TRD-859981 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149

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**Subchapter G. Division V**

**★ 16 TAC §9.190**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.190, concerning Division V. The text of the amended section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1963)

Issued in Austin, Texas, on October 25, 1985

TRD-859982      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149

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**Subchapter H. Division VI**

**★ 16 TAC §9.203, §9.204**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.203 and §9.204, concerning Division VI. The text of the amended sections as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1776)

Issued in Austin, Texas, on October 25, 1985

TRD 859983      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149

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**Subchapter J. Division VIII**

**★ 16 TAC §9.236**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.236, concerning Division VIII. The notice of the proposed repeal appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1963).

Issued in Austin, Texas, on October 25, 1985

TRD-859984      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149

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**Subchapter K. Division IX**

**★ 16 TAC §§9.264, 9.272-9.274**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §§9.264, and 9.272-9.274, concerning Division IX. The notice of the proposed repeal appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1777)

Issued in Austin, Texas, on October 25, 1985.

TRD-859985      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149

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**★ 16 TAC §9.265**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.265, concerning Division IX. The text of the amended section as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1777)

Issued in Austin, Texas, on October 25, 1985

TRD-859986      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149.

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**★ 16 TAC §9.271, §9.275**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.271, and §9.275, concerning Division IX. The notice of the proposed repeal appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1964).

Issued in Austin, Texas, on October 25, 1985

TRD-859987      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149

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**Subchapter L. Division X**

**★ 16 TAC §9.285**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.285, concerning Division X. The text of the amended section as proposed appeared in the June 14, 1985, issue of the *Texas Register* (10 TexReg 1964).

Issued in Austin, Texas, on October 25, 1985.

TRD-859990      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149.

★      ★      ★

**★ 16 TAC §9.294**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed repeal of §9.294, concerning Division X. The notice of the proposed repeal appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1778).

Issued in Austin, Texas, on October 25, 1985.

TRD-859988      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information, please call  
(512) 463-7149.

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**Subchapter M. Division XI**

**★ 16 TAC §9.301, §9.303**

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendments to §9.301, and §9.303, concerning Division X. The text of the amended sections as proposed appeared in the June 4, 1985, issue of the *Texas Register* (10 TexReg 1778)

Issued in Austin, Texas, on October 25, 1985.

TRD-859989      Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Filed: October 25, 1985  
For further information please call  
(512) 463-7149

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**TITLE 25. HEALTH SERVICES**

**Part I. Texas Department of Health**

**Chapter 115. Home Health Care Agencies**

**Licensing and Regulation**

**★ 25 TAC §115.14**

The Texas Department of Health has withdrawn the emergency adoption of new §115.14, concerning licensing fees for home health care agencies. The text of the new section, originally was published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2503). The emergency section is being replaced by final rules in this issue of the *Register*.

Issued in Austin, Texas, on October 29, 1985

TRD-8510117

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

Filed: October 30, 1985  
For further information, please call  
(512) 458-7236

★ ★ ★

**Chapter 135. Ambulatory Surgical Centers**

**★ 25 TAC §135.1**

The Texas Department of Health has withdrawn the emergency adoption of new §135.1, concerning licensing fees for ambulatory surgical centers. The text of the new section originally was published in the September 6, 1985, issue of the *Texas Register* (10 TexReg 3345). The emergency section is being replaced by final rules in this issue of the *Register*.

Issued in Austin, Texas, on October 29, 1985

TRD-8510119

Robert A. MacLean  
Deputy Commissioner  
Texas Department of Health

Filed: October 30, 1985  
For further information, please call  
(512) 458-7245

★ ★ ★

**Chapter 137. Birthing Centers**

**★ 25 TAC §137.1**

The Texas Department of Health has withdrawn the emergency adoption of new §137.1, concerning licensing fees for birthing centers. The text of the new section originally was published in the September 6, 1985, issue of the *Texas Register* (10 TexReg 3345). The emergency section is being replaced by final rules in this issue of the *Register*.

Issued in Austin, Texas, on October 29, 1985

TRD-8510121

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

Filed: October 30, 1985  
For further information, please call  
(512) 458-7236.

★ ★ ★

**Chapter 139. Abortion**

**★ 25 TAC §139.1**

The Texas Department of Health has withdrawn the emergency adoption of new §139.1, concerning licensing fees for abortion facilities. The text of the new section originally was published in the September 6, 1985, issue of the *Texas Register* (10 TexReg 3345). The emergency section is being replaced by final rules in this issue of the *Register*.

Issued in Austin, Texas, on October 29, 1985

TRD-8510123

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

Filed: October 30, 1985  
For further information, please call  
(512) 458-7236.

★ ★ ★

**Part V. Texas Health Facilities Commission  
Chapter 503. Rule-Making Procedures**

**★ 25 TAC §503.13, §503.15**

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §503.13 and §503.15 submitted by the Texas Health Facilities Commission have been automatically withdrawn, effective October 29, 1985. The amendments as proposed appeared in the April 26, 1985, issue of the *Texas Register* (10 TexReg 1316).

TRD-8510084  
Filed: October 29, 1985

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**TITLE 28. INSURANCE**

**Part I. State Board of Insurance**

**Life, Health, and Accident Insurance**

**Miscellaneous Rules for Group and Individual Accident and Health Insurance**

**★ 059.03.68.001**

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new Rule 059 03 68 001 submitted by the State Board of Insurance has been automatically withdrawn, effective October 24, 1985. The new rule as proposed appeared in the April 23, 1985, issue of the *Texas Register* (10 TexReg 1290).

TRD-8510085  
Filed: October 24, 1985

★ ★ ★



# Adopted

## Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *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 VI. Texas Surplus Property Agency Chapter 143. Plan of Operation

#### ★ 1 TAC §143.1

The Texas Surplus Property Agency adopts an amendment to §143.1, without changes to the proposed text published in the September 10, 1985, issue of the *Texas Register* (10 TexReg 3416).

The amendment changes the wording in the document adopted by reference. Changes are made in paragraph 1, part V, concerning means and methods of financing, and an addition is made to paragraph 1, part V, service charge trust fund

The document adopted by reference serves as a guideline for this agency in the administration of the donation program within the State of Texas. This plan outlines to the administrator of the General Services Administration the methods by which this agency will implement the rules and regulations as set forth in the *G. S. A. Donation Handbook*.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6252-6b, which provide the Texas Surplus Property Agency with the authority to make rules

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 San Antonio, Texas, on October 15, 1985.

TRD-850908

Marvin J. Titzman  
Executive Director  
Texas Surplus Property  
Agency

Effective date: November 15, 1985  
Proposal publication date: September 10, 1985  
For further information, please call  
(512) 681-2381

★ ★ ★

### TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 3. Oil and Gas Division Conservation Rules and Regulations

#### ★ 16 TAC §3.56

The Railroad Commission of Texas adopts the repeal of §3.56, without changes to the proposal published in the May 10, 1985, issue of the *Texas Register* (10 TexReg 1464)

The section is being repealed to allow new §3.56 to be adopted in its place

New §3.56 is more equitable for the oil and gas industry.

No comments were received regarding adoption of the repeal

The repeal is adopted under the Texas Natural Resources Code, §§81.052, 85.042, and 85.059, which provides the Railroad Commission of Texas with the authority to make rules to require accurate recordkeeping and to regulate persons and their operations under the jurisdiction of the commission

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 30, 1985

TRD-8510112

Walter E. Lillie  
Special Counsel  
Railroad Commission of  
Texas

Effective date: November 20, 1985  
Proposal publication date: May 10, 1985  
For further information, please call  
(512) 463-7149

★ ★ ★



The Railroad Commission of Texas adopts new §3.56, with changes to the proposed text published in the May 10, 1985, issue of the *Texas Register* (10 TexReg 1465).

The new section eliminates an inequity between oil and gas operators of their respective allowables, regarding allocation of liquid hydrocarbons recovered by salt-water disposal systems.

Section 3.56 (Statewide Rule 56) requires scrubber oil accumulated in excess of one barrel of scrubber oil per well per month to be allocated to each producing property connected to the plant in the proportion that the volume of casinghead gas received from such producing property bears to the total volume of casinghead gas received by the plant during the reporting period. The section also requires liquid hydrocarbons recovered by the saltwater disposal system operator to be allocated to each producing property in the proportion that the volume of water received by the system during a reporting period. Liquid hydrocarbons recovered by a multiple operator saltwater disposal system are not required to be allocated to the producing property if the volume is less than or equal to the ratio of one barrel of liquid hydrocarbons for each 2,000 barrels of water received into the system during a reporting period

Written comments on the proposed section were received from at least 10 companies and/or individuals. In addition, a public hearing was called and attended by at least 18 individuals, most of whom represented companies listed later in the preamble.

Several companies did not want the scrubber oil allocated to producing properties in the proportion that the volume of casinghead gas received from such producing property bears to the total volume of casinghead gas received by the plant during the reporting period. Other methods were suggested by these companies, including allocating on a Btu basis or pursuant to the gas contract. The Railroad Commission considered these suggestions and determined that the best method of allocating excess

scrubber oil is in applying the casinghead gas proportion.

A few companies requested the commission to delete the scrubber oil provision in its entirety, because they feel that scrubber oil of an appreciable volume does not exist today. However, an analysis of the volumes of the casinghead gas plant establish that scrubber oil does exist and should be allocated to the appropriate producing property.

A few companies agreed with the commission that it is inequitable for only oil properties to be charged for liquid hydrocarbons recovered by saltwater disposal systems.

For adoption of the proposed section are Brinkerhoff Oil Company and Roosth & Genocov Production Company. Those against adoption of proposed section are Texas Mid-Continent Oil & Gas Association, Texas Independent Producers & Royalty Owners Association, Cabot Corporation, Gulf Oil/Chevron U.S.A., Champlin Petroleum Company, El Paso Natural Gas Company, Sun Exploration and Production Company, Mobil Production Texas and New Mexico, ARCO, Phillips Petroleum Company, Texaco, USA, Gas Processors Association, Tenneco Oil Exploration and Production, J. L. Davis, Conoco, and Cities Service Oil and Gas Corporation.

Generally, the opponents to the adoption of the section are opposed to either the allocation of scrubber oil or the method used by the commission to allocate such scrubber oil. The commission believes large enough volumes of scrubber oil exist in Texas that the volumes should be accounted for trace. The commission believes that the method adopted by the commission is the best method to apply because of the diversity which exists in the different Oil and Gas Division districts. For these reasons, the commission is retaining the allocation method it has always used but clarifying that scrubber oil only includes liquid hydrocarbons which are accumulated in lines gathering casinghead gas to a gas processing plant and prior to compressing the gas.

The section is adopted under Texas Natural Resources Code, §§81.052, 85.042, and 85.059, which provides the Railroad Commission with the authority to make rules to require accurate recordkeeping and to regulate persons and their operations under the jurisdiction of the commission.

### §3.56. *Scrubber Oil and Skim Hydrocarbons.*

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

(1) Scrubber oil—Liquid hydrocarbons which are accumulated prior to com-

pression of the gas in lines gathering casinghead gas to a gas processing plant.

(2) Skim hydrocarbons—Oil and condensate accumulations that result from saltwater disposal skimming operations.

(3) Allocation—Charging scrubber oil/skim hydrocarbons recovered by the plant/saltwater disposal system operator back to the producing properties connected to the plant/saltwater disposal system.

(4) Tolerance—The amount of scrubber oil/skim hydrocarbons that may be recovered before the plant/saltwater disposal system operator must allocate to the producing property.

(5) Identifiable slug of liquid hydrocarbons—Volume of liquid hydrocarbons that is received at the disposal facility where the origin of such liquid hydrocarbons can be clearly identified.

(6) Producing property—A producing unit assigned an identifying number by the commission and which is used in reporting production.

(b) Disposition of scrubber oil, skim hydrocarbons, and identifiable liquid hydrocarbon slugs.

(1) Scrubber oil.

(A) The tolerance amount of accumulated scrubber oil shall not exceed one barrel of scrubber oil per well per month. Any scrubber oil accumulated in excess of this tolerance shall be allocated to each oil producing property connected to the plant in the proportion that the volume of casinghead gas received from such producing property bears to the total volume of casinghead gas received by the plant during the reporting period. The plant operator shall have the duty to notify the operators of the allocation. The plant operator shall attach a tabulation to his plant report identifying each property and shall furnish a copy of such tabulation to the operator of each producing property to which scrubber oil is allocated.

(B) The operator of each producing property shall report such excess scrubber oil as production from the producing property and shall identify the disposition of such production as scrubber oil on the appropriate production report form for the reporting period following the reporting period covered by the plant report.

(2) Skim hydrocarbons.

(A) Single operator saltwater disposal system.

(i) All liquid hydrocarbons recovered by a saltwater disposal system receiving water from one operator shall be skimmed each reporting period and reported on the appropriate form for that reporting period. Such liquid hydrocarbons shall be allocated to each producing property in the proportion that the volume of water received from the producing property bears to the total volume of water received by the system during a reporting period. The liquid hydrocarbons recovered may be disposed of

at the point of accumulation, but in such event, the operator of a saltwater disposal system shall file with the commission a report for each reporting period of his operations for each separate system on the appropriate report form in accordance with the instructions on such form, and such report shall be the authority for the movement of the hydrocarbons to beneficial disposition, provided that the disposal system has been operated within the limits of applicable regulation.

(ii) Skim or slug liquid hydrocarbons recovered from single operator systems must be reported on the skim oil/condensate report as production from the property to which it is allocated. The amount allocated shall be the total volume skimmed and shall not be subject to any tolerance provisions. The operator of the producing properties shall report the volume skimmed as production from the producing property and shall identify the disposition of such production as skim oil or skim condensate, as applicable, on the appropriate production report form.

(B) Multiple operator saltwater disposal system.

(i) Liquid hydrocarbons recovered by a saltwater disposal system receiving saltwater from more than one operator, where the origin of the liquid hydrocarbons cannot be determined and allocated to the allowable of an individual producing property, and which are in excess of a ratio of more than one barrel of liquid hydrocarbons for each 2,000 barrels of water received into the system shall be allocated to each producing property in the proportion that the volume of water received from the producing property bears to the total volume received by the system during a reporting period.

(ii) Any liquid hydrocarbons recovered at a saltwater disposal system taking saltwater from more than one operator in excess of one barrel of liquid hydrocarbons for each 2,000 barrels of water received into the system may be disposed of by the disposal system operator, but that volume of excess liquid hydrocarbons shall be allocated to each producing property served by the system in the proportion that the volume of water received from the producing property bears to the total volume received by the system during a reporting period. The saltwater disposal system operator has the duty to notify the operator of each producing property of any allocation by furnishing a copy of the allocations as shown on the report form. The operator of each producing property shall report the total production on the appropriate report form as the sum of the volume allocated and the volume actually produced. The disposition of the allocated volume charged back shall be shown as skim oil or as skim condensate, as applicable, on the appropriate form.

(iii) The operator of a saltwater disposal system serving multiple

operators' properties shall file with the commission a report for each reporting period of his operations for each separate system on the appropriate report form in accordance with the instructions on such form, and such report shall be the authority for the movement of skim hydrocarbons to beneficial disposition, provided that the disposal system has been operated within the limits of applicable regulation.

(3) Identifiable liquid hydrocarbon slugs.

(A) An identifiable slug of liquid hydrocarbons may be accounted for by the plant/saltwater disposal system operator. If the plant/saltwater disposal system operator accounts for the slug, such slug may be disposed of by the plant/saltwater disposal system operator. The total volume of the slug shall be allocated to the producing property and shall be reported on the appropriate production report form as production from such producing property. The disposition of such production shall be shown as either skim oil, skim condensate, or scrubber oil, depending upon which production report form is used.

(B) If the plant/saltwater disposal system operator does not account for an identifiable slug of liquid hydrocarbons, such slug must be returned to the producing property within the reporting period in which the slug is received at the disposal facility. The appropriate commission district office must be notified by the plant/saltwater disposal system operator prior to the return of such slug. The plant/saltwater disposal system operator shall not be required to report the slug volume; such volume shall be reported by the operator as production from the producing property.

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 28, 1985

TRD-8510113

Buddy Temple  
Chairman  
Mack Wallace  
Commissioner  
Railroad Commission of  
Texas

Effective date: November 20, 1985  
Proposal publication date May 10, 1985  
For further information, please call  
(512) 463-7149

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## Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Quality of Service

### ★ 16 TAC §23.68

The Public Utility Commission of Texas adopts new §23.68, with changes to the proposed text published in the August 23, 1985, issue of the *Texas Register* (10 TexReg 3211).

The Federal Communications Commission (FCC) had mandated that state commissions have a rule in place by September 1, 1985, which this commission did by an emergency adoption. The FCC has directed this commission to permanently adopt a rule by October 31, 1985. The federal mandate directs state commissions to address the problems of customer premises equipment by developing procedures to be used.

The new section establishes guidelines for utilities to follow in the detariffing of equipment, the transfer and sale of embedded CPE, sale procedures and valuation, the accounting treatment, warranties, installment purchase, party-line equipment, billing, and specialized equipment.

While there was general agreement with the proposed section, the main problem was that of insufficient accounting procedures as brought out by the Federal Communications Commission, which had mandated the new section. The Office of Public Counsel wished to insert higher than market value or net book plus transaction costs in the valuation. General Telephone Company sought a 30-day warranty period for CPE rather than the 90-day warranty suggested by the staff.

Those making comments in favor of the new section included Southwestern Bell, General Telephone of the Southwest, Lufkin Telephone Exchange, Conroe Telephone Company, Alto Telephone Company, and the FCC. No organization made comments against the new section.

Most of the comments received were resolved by adding additional accounting procedures as specified by the FCC. The Office of Public Counsel's suggestion was not adopted because it was felt that utilities should be able to recoup what they could if no purchase of equipment was forthcoming. The 90-day warranty period was retained since no other utility or staff found it unreasonable.

The new section is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make an enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

### §23.68. *Embedded Customer Premises Equipment.*

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

(1) Customer premises equipment (CPE)—Telephone terminal equipment located at a customer's premises. This does not include overvoltage protection equipment, inside wiring, coin-operated or pay telephones, "company-official" equipment, mobile telephone equipment "911" equipment, equipment necessary for provision of communications for national defense, or multiplexing equipment used to deliver multiple channels to the customer.

(2) Embedded customer premises equipment—All CPE owned by a telecommunications utility, including inventory, which was tariffed or subject to the separations process as of January 1, 1983.

(b) Scope. The provisions of this section apply to the provision, detariffing, transfer, and valuation of embedded CPE of all local exchange carriers which own embedded CPE as of the effective date of this rule.

(c) Detariffing plan. No local exchange carrier shall continue to provide CPE on a tariffed basis after December 31, 1987, except as provided under subsection (k) of this section. Necessary tariff revisions shall be filed by the carrier to accomplish such purpose, pursuant to the Public Utility Regulatory Act and the Public Utility Commission rules governing tariffs.

(d) Transfer or sale of embedded CPE. Each local exchange carrier must implement a plan for the sale of in-place embedded CPE to current customers for a period of no less than 120 days prior to detariffing. The carrier may, no earlier than the detariffing date, transfer or sell the embedded CPE to a nonregulated account subsidiary of the carrier or to a third party. Local exchange carriers which choose not to offer detariffed leasing of embedded CPE shall provide at least 90 days notice in writing to customers before detariffing. The notice shall contain a description of the proposed change, information regarding the disposition of embedded CPE upon detariffing, and a description of the options available to the customer. In any notice requiring the customer to choose between purchase and lease of CPE, the steps necessary to make each choice shall be the same, with the exception that a customer's failure to respond to the question will be treated as a decision to continue leasing. For those local exchange carriers which have initiated in-place sales plans prior to the effective date of this section, a determination of satisfactory compliance shall, upon application of the carrier, be made by the staff.

(e) Sale procedures and valuation. The local exchange carrier shall use the following criteria in determining the sale or

transfer price of embedded CPE covered within this section:

(1) the carrier shall attempt to recover the net book value and sales transaction costs allocated to embedded CPE within each account;

(2) the carrier may establish sale or transfer prices for embedded CPE and associated inventory based on net book value or reasonable market value. The carrier must provide sufficient justification and support for use of market value for sale transfer pricing;

(3) for customers currently leasing multiline and nonstandard CPE, the local exchange carrier shall provide written sale price quotations upon request and guarantee these price quotations for 120 days or until the detariffing date, whichever is shorter;

(4) any differential between the revenue from actual sales or transfer of embedded CPE, and the combination of net book value and transaction costs shall be amortized in accordance with §23.61(i)(3) of this title (relating to Telephone Utilities).

(f) Accounting treatment. The revenues and expenses associated with embedded CPE activity are to be recorded in accordance with the prescribed uniform system of accounts. Specifically the following conditions will be required.

(1) Any sales or transfer of embedded CPE will be accounted for under salvage accounting as required by the applicable uniform system of accounts.

(2) Any transfers of land and buildings used in support of CPE to nonregulated activities will be valued on a basis consistent with that used to value embedded CPE. Any transfers of other CPE supporting assets (i.e., motor vehicles, computers, furniture, fixtures, and machinery and any other assets utilized in the conduct of nonregulated CPE activity) to nonregulated activities will be valued at net book value.

(3) Carriers are required to allocate costs to nonregulated activities on a fully distributed costing basis and shall maintain records detailing costs and usage to support the allocations.

(4) Nonregulated activities must be accounted for in a separate set of books. To provide flexibility, the actual accounting system to be established will be left to the utilities. However, the separate system of accounts must be precise, detailed, and auditable. All carriers will maintain summary accounts consistent with those prescribed in 47 Code of Federal Regulations Part 31 to isolate nonregulated activities on the regulated books.

(5) The deferred tax reserves and unamortized tax credits associated with all embedded CPE must be transferred with the CPE upon deregulation.

(g) Warranties. Embedded CPE sold by the utility must carry no less than a

90-day limited warranty, excluding telephone housings and cords.

(h) Installation purchase. Local exchange carriers may charge interest, subject to applicable laws, in connection with installation purchases of embedded CPE.

(i) Party-line equipment. Local exchange carriers shall offer embedded party-line CPE for sale and shall offer repairs of that equipment at nontariffed rates to ensure that malfunctioning party-line CPE does not impair service to other parties. Complaints regarding the provision of such repair service will be addressed as required by the commission and its staff.

(j) Billing. After deregulation of CPE, the local exchange carrier may bill customers for lease payments, including applicable sales taxes, for equipment owned by the carrier as part of its nonregulated operations or owned by another entity. Bills must clearly distinguish between nonregulated charges for equipment and regulated charges for services.

(k) Specialized equipment. Local exchange carriers may provide, under tariff, specialized CPE needed by persons whose hearing, speech, vision, or mobility is impaired. This equipment shall be furnished in compliance with 47 Code of Federal Regulations Part 68. Complaints regarding the provisions of such equipment will be addressed as required by the commission and its staff.

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 23, 1985

TRD-859936

Rhonda Colbert Ryan  
Secretary of the  
Commission  
Public Utility  
Commission of Texas

Effective date: November 14, 1985  
Proposal publication date: August 23, 1985  
For further information, please call  
(512) 458-0100

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## TITLE 19. EDUCATION

### Part I. Coordinating Board, Texas College and University System

#### Chapter 5. Program Development

#### Subchapter K. Private Degree- Granting Institutions Operating in Texas

★ 19 TAC §§5.211-5.216, 5.220,  
5.222

The Coordinating Board, Texas College  
and University System adopts amend-

ments to §§5.211-5.216, 5.220, and 5.222, without changes to the proposed text published in the August 16, 1985, issue of the *Texas Register* (10 TexReg 3108).

The amendments are necessary to conform the sections to the provisions of House Bill 934 which amended the certification law Texas Education Code, Chapter 61, Subchapter G.

The change modifies the basis for exemption for institutions preparing students for state licensure, clarifies the prohibition that noncollegiate schools use the term "college" or "university", and adds instruction by electronic media to the boards jurisdiction. Editorial changes clarify some of the language in the sections.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Education Code, §61.311, which provides the Coordinating Board with the authority to adopt rules governing the issuance of certificates of authority.

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 28, 1985

TRD-8510101

James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: November 13, 1985  
Proposal publication date: August 16, 1985  
For further information, please call  
(512) 475-2033

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## Chapter 9. Public Junior Colleges

### Subchapter A. Criteria to be Met in the Creation of Public Junior Colleges

★ 19 TAC §§9.1-9.3, 9.4

The Coordinating Board, Texas College and University System adopts amendments to §9.2, with changes to the proposed text published in the *Texas Register* (10 TexReg 3110). Sections 9.1, 9.3, and 9.4 are adopted without changes and will not be republished.

The amendments conform to new criteria established in Senate Bill 675, amending the Texas Education Code, Chapter 61, Subchapters B and C. There was one change made to §9.2. The word "contiguous" was added before the words "in dependent school districts" for clarification.

Criteria for establishing each type of new community college district are increased from \$30 million tax base and 3,000 scholastics to a \$2.5 billion tax base and 15,000 scholastics. The coordinating board is directed to develop and use new criteria for feasibility, state-wide and local need, and the effect of a new district on an existing college when considering a community college election.

The comments received were strongly supportive of the amendments. Those making comments in favor of the amendments included President Dan Angel, Austin Community College; and President William J. Campion, Henderson County Junior College.

The amendments are adopted under the Texas Education Code, §61.061, which provides the coordinating board with the authority to adopt rules regarding the creation of public junior colleges.

**§9.2. Union Junior College District.** A union junior college district (two or more contiguous independent school districts) must have a minimum valuation of \$2.5 billion. At least 15,000 scholastics must reside in the district. A petition for this type of district must be signed by at least 10% of the qualified voters in each of the independent school districts.

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 28, 1985

TRD-8510095 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: November 19, 1985  
Proposal publication date August 16, 1985  
For further information, please call  
(512) 475-2033

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#### ★ 19 TAC §9.4

The Coordinating Board, Texas College and University System adopts the repeal of §9.4, without changes to the proposal published in the August 16, 1985, issue of the *Texas Register* (10 TexReg 3110).

The repeal is adopted to conform to new criteria established in Senate Bill 675, amending the Texas Education Code, Chapter 61, Subchapters B and C.

The criteria for establishing each type of new community college district are increased from \$30 million tax base and 3,000 scholastics to a \$2.5 billion tax base and 15,000 scholastics. The coordinating board is directed to develop and use new criteria for feasibility, state-wide and local need, and the effect of a new

district on an existing college when considering a community college election.

The comments received were strongly supportive of the repeal. Those making comments in favor of the repeal included President Dan Angel, Austin Community College; and President William J. Campion, Henderson County Junior College.

The repeal is adopted under the Texas Education Code, §61.061, which provides the coordinating board with the authority to adopt rules regarding the creation of public junior colleges.

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 28, 1985

TRD-8510098 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: November 19, 1985  
Proposal publication date August 16, 1985  
For further information, please call  
(512) 475-2033

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#### Subchapter B. Procedures To Be Followed In The Creation Of Public Junior Colleges

##### ★ 19 TAC §§9.21-9.24, 9.26, 9.27

The Coordinating Board, Texas College and University System adopts an amendment to §9.26, with changes to the proposed text published in the August 16, 1985 issue of the *Texas Register* (10 TexReg 3111) Sections 9.21-9.24, and 9.27 are adopted without changes and will not be republished.

These amendments are made to conform to new requirements established in Senate Bill 675, amending the Texas Education Code, Chapter 61, Subchapter C. Changes were made to §9.26. The proposed text was revised to allow more time for the board to hold hearings and to assess the degree of approval or opposition and the impact of a new district on existing institutions.

The sections require, rather than permit, that bond and tax propositions be included on the petition and on the ballot to create a new community college and will establish criteria for board use in considering a request to authorize a community college election as specified by law.

The comments received were strongly supportive of the amendments. Those making comments in favor of the amendments included President Dan Angel,

Austin Community College; and President William J. Campion, Henderson County Junior College.

The amendments are adopted under the Texas Education Code, §61.061, which provides the coordinating board with the authority to determine procedures to be followed in the creation of public junior colleges.

#### §9.26. Presentation of Petition to the Coordinating Board.

(a) (No change.)

(b) The validated petition and other documents must be submitted to the commissioner of higher education prior to the date established by the commissioner. A minimum of 90 days must elapse between the date on which the petition and supporting documents are received by the commissioner and the regular meeting of the coordinating board at which the board considers the petition to allow sufficient time for the commissioner to schedule public hearings in the local community and to prepare his recommendation for the coordinating board. The board's committee on community colleges and technical institutes may conduct one or more public hearings in the proposing territory to assess the degree of approval or opposition within the area, and the committee may also conduct one or more public hearings in Austin or near the proposing territory to determine whether programs in the proposed institution would create unnecessary duplication or seriously harm programs in existing community college districts or other institutions in the area, and otherwise determine the potential impact of a new district on existing community colleges or other institutions in the area and on the state of Texas.

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 28, 1985

TRD-8510097 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board  
Texas College and  
University System

Effective date: November 19, 1985  
Proposal publication date August 16, 1985  
For further information, please call  
(512) 475-2033

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#### ★ 19 TAC §§9.29-9.31

The Coordinating Board, Texas College and University System adopts new §§9.29-9.31, without changes to the proposed text published in the August 16, 1985, issue of the *Texas Register* (10 TexReg 3112).

The new sections conform to new requirements established in Senate Bill 675, amending the Texas Education Code, Chapter 61, Subchapter C.

The new sections require, rather than permit, that bond and tax propositions be included on the petition and on the ballot to create a new community college and establish criteria for board use in considering a request to authorize a community college election as specified by law.

The comments received were strongly supportive of the amendments. Those making comments in favor of the amendments included President Dan Angel, Austin Community College; and President William J. Campion, Henderson County Junior College.

The new sections are adopted under the Texas Education Code, §61.061, which provide the coordinating board with the authority to determine procedures to be followed in the creation of public junior colleges.

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 28, 1985.

TRD-8510098 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board  
Texas College and  
University System

Effective date: November 19, 1985  
Proposal publication date: August 16, 1985  
For further information, please call  
(512) 475-2033.

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## Chapter 21. Student Services

### Subchapter C. Hinson-Hazlewood College Student Loan Program For All Loans Made For or After Fall Semester 1971, and Which are Subject to the Provisions of the Guaranteed Student Loan Program and the Health Education Assistance Loan Program

★ 19 TAC §§21.55-21.57, 21.65

The Coordinating Board, Texas College and University System adopts amendments to §§21.55-21.57, and 21.65, without changes to the proposed text published in the August 16, 1985, issue of the *Texas Register* (10 TexReg 3118).

House Bill 1120 extends loan eligibility to certain students in proprietary schools and nonaccredited institutions of higher education. House Bill 1341 removes physicians from the categories of persons

eligible for cancellation of Hinson-Hazlewood loans.

The list of institutions whose students are eligible to receive loans was expanded. Eligibility criteria for students at these schools were laid out and parts of old rules and regulations were deleted.

A question was raised as to whether requiring favorable credit reports for loan applicants from other than eligible institutions was discriminatory.

The credit report requirement appears to be no more stringent than basic loan requirements for persons at eligible institutions.

The amendments are adopted under the Texas Education Code, §52.01 which provides the coordinating board with the authority to adopt rules regarding the Texas Public Educational Grants Program.

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 28, 1985.

TRD-8510100 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: November 19, 1985  
Proposal publication date: August 16, 1985  
For further information, please call  
(512) 475-2033.

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## Subchapter G. Texas Public Educational Grants Program

★ 19 TAC §§21.171, 21.173, 21.174, 21.177

The Coordinating Board, Texas College and University System adopts amendments to §§21.171, 21.173, 21.174, and 21.177, without changes to the proposed text published in the August 16, 1985, issue of the *Texas Register* (10 TexReg 3119).

The amendments are needed because House Bill 1147 changes certain parameters of the Texas Public Educational Grants Program

Resident and nonresident funds will be kept in separate accounts, with set-asides from one group going only to persons from that group and aliens are now eligible for awards. Texas State Technical Institute is eligible to participate in the programs.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Education Code, §56.012, which provides the coordinating board with the

authority to adopt rules regarding the student loan program.

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 28, 1985.

TRD-8510099 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board  
Texas College and  
University System

Effective date: November 19, 1985  
Proposal publication date: August 16, 1985  
For further information, please call  
(512) 475-2033.

★ ★ ★

## Part II. Texas Education Agency

### Chapter 69. Proprietary Schools and Veterans Education

#### Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

★ 19 TAC §§69.125, 69.127, 69.128

The Texas Education Agency adopts amended §69.127 and new §69.128, with changes to the proposed text published in the July 30, 1985, issue of the *Texas Register* (10 TexReg 2466). Amended §69.125 is adopted without changes and will not be republished.

In §69.127(b)(11)(C)(iv) and (b)(11)(D)(ii)(I), the term "minus refunds" was added after the term "gross tuition" for clarification. In the latter subclause, a phrase was also added to clarify that the required list must be an audited list. In §69.127(b)(11)(D)(ii), the first sentence, "however, they need not be audited," was published as "however, they need to be audited." This was a publication error and is now corrected.

In §69.128(b), the words "minus refunds" were added again for clarification.

The 69th Legislature, 1985, passed House Bill 1593, which changed the fee structure of the Texas Proprietary School Act. These amendments implement these changes

The initial certificate fee for a proprietary school is \$1,000. The annual renewal fee is based on the gross amount of annual student tuition and fees, minus refunds, according to the schedule in the Texas Education Code, §32.71. A school may choose to pay the maximum annual renewal fee of \$1,100 instead of reporting the gross amount of annual student tuition and fees. A late renewal fee of \$100

must be paid if the school fails to file a complete application for renewal at least 30 days before the school's certificate expires.

During the public comment period, the Proprietary School Advisory Commission requested clarification concerning whether the term "gross tuition" was defined as including or excluding student refunds. The sections were therefore revised to clarify that the annual renewal fee will be based on gross tuition minus student refunds.

These amendments are adopted under the Texas Education Code, §32.22, which directs the State Board of Education to make rules for the implementation of the Texas Proprietary School Act

**§69.127. Minimum Standards for Operation of Proprietary Schools.**

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards:

(1)-(10) (No change.)

(11) Financial stability.

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

(C) General requirements for annual statements. Each certificated school shall furnish annually two copies of acceptable financial statements in association with an independent public accountant or certified public accountant not later than 120 days from the close of the school's fiscal year. These statements shall be consistent with generally accepted accounting principles and must include the following:

(i)-(iii) (No change.)

(iv) the gross amount minus refunds of annual student tuition and fees for each school unless the school chooses to pay an annual renewal fee of \$1,100.

(D) Specific types of statements required. Certificated schools shall meet the following requirements:

(i) (No change.)

(ii) Such schools must submit annual financial statements as set forth in subparagraph (C)(i)-(iv) of this paragraph; however, they need not be audited or reviewed but must be compiled by a public accountant or certified public accountant and no opinion need be expressed. If a question arises as to the validity of the compiled or reviewed financial statements submitted or to the adequacy of the financial structure, the administrator may require an audit of a school, at the school's expense, certified by a public accountant or certified public accountant. Schools which are subsidiaries of another corporation may submit, in lieu of the statements required in subparagraph (C)(i)-(iv) of this paragraph, the annual audited financial statements of the parent corporation provided that

(1) said statements are accompanied by an audited list of any student tuition refunds payable by the subsidiary school at the close of its fiscal year, and an audited list of the gross amount minus re-

funds of annual student tuition and fees for each school, unless an annual renewal fee of \$1,100 is paid for each school;

(II)-(III) (No change.)

(E)-(H) (No change.)

(12)-(15) (No change.)

**§69.128. Fees.**

(a) In the event of a change in ownership of the school, the new owner must pay a \$1,000 initial fee.

(b) The annual renewal fee for a school is based on the gross amount minus refunds of annual student tuition and fees. This gross amount minus refunds must be included in the annual financial statements required by §69.127(b)(11) of this title (relating to Minimum Standards for Operation of Proprietary Schools) and reflect the amount for each school separately. If the financial statements of the parent corporation are submitted, the gross amount minus refunds may be included as a separate document but must be audited by an independent certified public accountant or public accountant registered with the appropriate state board of accountancy. In the alternative, a school may choose to pay the maximum annual renewal fee of \$1,100 instead of reporting the gross amount of annual student tuition and fees.

(c) A late renewal fee of \$100 must be paid in addition to the annual renewal fee if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval. The requirements for a complete application for renewal are found in §69.125 of this title (relating to Certificates of Approval and Permits for Representatives). The complete renewal application must be postmarked with a date on or before the due date.

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 25, 1985

TRD 8510025

W. N. Kirby  
Commissioner of  
Education

Effective date: November 15, 1985

Proposal publication date: July 30, 1985

For further information, please call  
(512) 463-9882

★ ★ ★

**Chapter 85. Student Services**  
**Subchapter H. Transportation Services**

**Types of Transportation**

**★ 19 TAC §85.184**

The Texas Education Agency adopts the repeal of §85.184, without changes to the proposal published in the July 26, 1985,

issue of the *Texas Register* (10 TexReg 2391).

This section concerned contracted transportation, which is now contained in new sections. To avoid duplication, this existing section has been repealed.

The provisions of the repealed section are now contained in new §85.184 of this title (relating to Contract With Transportation Company or System).

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Education Code, §21.181, which permits school districts to contract for transportation services and directs the State Board of Education to make rules for the administration of this statutory provision.

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 24, 1985

TRD-8510027

W. N. Kirby  
Commissioner of  
Education

Effective date: November 15, 1985

Proposal publication date: July 26, 1985

For further information, please call  
(512) 463-9882.

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The Texas Education Agency adopts new §85.184, with changes to the proposed text published in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2391).

Subsection (b)(1) has been revised, in response to public comment, to provide for consideration of contracts by the State Board of Education more than once a year, but not more than three times a year, and to allow multi-year contracts, not to exceed five years.

In subsection (c), the last sentence of the proposed section has been deleted. This included unnecessary and potentially confusing instructions for determining whether a contract was economically advantageous.

The Texas Education Code, §21.181, permits school districts to contract for transportation services in accordance with rules of the State Board of Education and with approval of the board.

The commissioner of education will establish a schedule for the approval of contracts with public or commercial transportation companies. Contracts may be approved only if the local board of trustees certifies that the contract cost is equal to or less than the total cost to the district for providing the services for which the district intends to contract. During the public comment period, Duram Transportation of Texas, Inc. ex-

pressed concern that the language proposed in subsection (c), concerning the method for determining whether a contract was economically advantageous was confusing and unnecessary, since this requirement was already adequately covered in the section. The company also requested that proposed language requiring annual approval of contracts be changed to allow multi-year contracts. The agency agreed with both comments, and the section has been revised accordingly.

This new section is adopted under the Texas Education Code, §21.181, which permits school districts to contract for transportation services and directs the State Board of Education to make rules for the administration of this statutory provision.

**§85.184. Contract with Transportation Company or System.**

(a) Contract services are those services provided by a public or private transportation company operating under contract with a county or local board of trustees to provide all or any part of its public school transportation services.

(b) A contract application must be filed with the Central Education Agency in accordance with the following requirements of the State Board of Education.

(1) The commissioner of education shall establish a schedule for submission, review, and approval of contract applications which schedule State Board of Education action on contracts not more than three times a year. Contracts shall be approved for a maximum of five years.

(2) All contract applications shall be filed on a form designed and supplied by the agency.

(3) Each contract shall furnish information on previously approved length of each bus route and the estimated number of eligible students to be transported for the next school year.

(4) If a contract is to include provisions for the transportation to and from approved school programs or activities, such provisions must be stated separately and apart from the regular school transportation program.

(c) The State Board of Education shall approve the proposed contract for transportation services only if the contract is economically advantageous. A contract is considered economically advantageous if the board of trustees certifies that the contract cost is equal to or less than the total cost to the district for providing the services for which the district intends to contract.

(d) Contract services shall be subject to examination by the Central Education Agency before a recommendation is made by the commissioner of education.

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 24, 1985

TRD-8510026

W. N. Kirby  
Commissioner of  
Education

Effective date: November 15, 1985

Proposal publication date: July 28, 1985

For further information, please call  
(512) 463-9682.

**TITLE 25. HEALTH SERVICES**  
**Part I. Texas Department of Health**  
**Chapter 115. Home Health Care Agencies**  
**Licensing and Regulation**  
**★25 TAC §115.74**

The Texas Department of Health adopts new §115.14, without changes to the proposed text published in the August 6, 1985, issue of the *Texas Register* (10 Tex-Reg 2503).

The fees help the department to defray the cost of regulating home health care agencies in Texas.

These sections cover the schedule for license fees, submittal of a fee, the form of payment of fees, and nonrefundable fees.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4447u, §8, which authorize the Texas Board of Health to set home health services license fees, and §4, which authorizes the board to adopt rules covering home health care agencies.

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 29, 1985.

TRD 8510118

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

Effective date: November 20, 1985

Proposal publication date: August 6, 1985

For further information, please call  
(512) 458-7245

**Chapter 135. Ambulatory Surgical Centers**

**★25 TAC §135.1**

The Texas Department of Health adopts new §135.1, without changes to the proposed text published in the September 6,

1985, issue of the *Texas Register* (10 Tex-Reg 3350).

The fees help the department to defray the cost of regulating ambulatory surgical centers in Texas.

The new section covers the schedule of fees, the submittal of fees, the form of payment of fees, and nonrefundable fees.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4437f-2, §3 and §5, which provide the Texas Board of Health with the authority to adopt rules concerning ambulatory surgical centers.

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 29, 1985

TRD-8510120

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

Effective date: November 20, 1985

Proposal publication date: September 6, 1985

For further information, please call  
(512) 458-7245

**Chapter 137. Birthing Centers**  
**★25 TAC §137.1**

The Texas Department of Health adopts new §137.1, without changes to the proposed text published in the September 6, 1985, issue of the *Texas Register* (10 Tex-Reg 3351)

The fees will help the department defray the cost of regulating birthing centers in the State of Texas.

The new section covers the schedule of licensing fees, submittal of fees, form of payment of fees, and nonrefundable fees.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4437f-3, §3 and §5, which authorize the Texas Board of Health to adopt rules covering birthing center licensing fees.

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 29, 1985.

TRD-8510122

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

Effective date: November 20, 1985

Proposal publication date: September 6, 1985

For further information, please call  
(512) 458-7245.



## Chapter 139. Abortion Facilities

### ★ 25 TAC §139.1

The Texas Department of Health adopts new §139.1, without changes to the proposed text published in the September 6, 1985, issue of the *Texas Register* (10 TexReg 3351).

The fees help the department defray the cost of regulating abortion facilities in the State of Texas.

The new section covers the schedule of licensing fees, submittal of fees, formal payment of fees, and nonrefundable fees.

Concerning subsection (a), a commenter suggested that the fees were set too high. The agency disagrees, as the fees are considered reasonable and necessary to provide funds to meet its expenses.

The Ladies Surgical Center, San Antonio, was in favor of the new section, but offered a comment as previously mentioned.

The new section is adopted under Texas Civil Statutes, Article 4512.8, §3 and §6, which authorize the Texas Board of Health to adopt rules covering abortion facilities licensing fees.

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 29, 1985

TRD-8510144

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

Effective date: November 20, 1985  
Proposal publication date: September 6, 1985  
For further information, please call  
(512) 458-7245.

## Chapter 337. Water Hygiene Registration of Professional Sanitarians

The Texas Department of Health adopts amendments to §337.181, the repeal of and new §337.182, and new §337.187, without changes to the proposed text published in the July 30, 1985, issue of the *Texas Register* (10 TexReg 2475).

The changes to the sections update and clarify definitions and requirements concerning the Sanitarian Advisory Committee and the department requirements concerning the examination for professional sanitarians.

These new sections cover definitions, advisory committee terms and functions, instruction on registration examinations, and provide for performance analysis for applicants who fail examinations.

No comments were received regarding adoption of the proposals.

### ★ 25 TAC §337.181

The amendment is adopted under Texas Civil Statutes, Article 4477-3, §5, which provide the Texas Board of Health with the authority to adopt rules for the examination and registration of applicants desiring status as professional sanitarians; §8, which provide the board with the authority to establish a Sanitarian Advisory Committee; and Article 4414b, §1.05, which provide the board with the authority to delegate duties to the commissioner of health and to adopt rules concerning its duties relating to professional sanitarians and a Sanitarian Advisory Committee.

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 29, 1985.

TRD-8510143

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

Effective date: November 20, 1985  
Proposal publication date: July 30, 1985  
For further information, please call  
(512) 458-7536.

### ★ 25 TAC §337.182

The repeal is adopted under Texas Civil Statutes, Article 4477-3, §8, which provide the Texas Board of Health with the authority to establish a Sanitarian Advisory Committee and Article 4414b, §1.05, which authorize the board to adopt rules concerning its duties relating to the Sanitarians Advisory Committee.

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 29, 1985.

TRD-8510142

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

Effective date: November 20, 1985  
Proposal publication date: July 30, 1985  
For further information, please call  
(512) 458-7536

### ★ 25 TAC §337.182, §337.187

The new sections are adopted under Texas Civil Statutes, Article 4477-3, §8, which provides the Texas Board of Health with the authority to establish a Sanitarian Advisory Committee; §5, which provides the board with the authority to adopt rules concerning the examination and registra-

tion of professional sanitarians; and Article 4414b, §1.05, which provides the board with the authority to delegate duties to the commissioner and to adopt rules concerning the board's duties as relating to professional sanitarians and a Sanitarian Advisory Committee.

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 29, 1985.

TRD-8510141

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

Effective date: November 20, 1985  
Proposal publication date: July 30, 1985  
For further information, please call  
(512) 458-7536.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department Chapter 57. Fisheries

#### ★ 31 TAC §57.500

The Texas Parks and Wildlife Commission adopts new §57.500, without changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3502).

This section concerns the marking of vehicles, trailers, or semitrailers transporting fish for commercial purposes and is adopted to protect and preserve the fishery of this state and to comply with Senate Bill 980, 69th Legislature, 1985.

By adopting the new section, the availability of high quality fish for public consumption will be maintained and those vehicles, trailers, and semitrailers transporting fish for commercial purposes will be identified.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Parks and Wildlife Code, §66.011, which provides the Texas Parks and Wildlife Commission with the authority to prescribe the identification requirements for vehicles, trailers, or semitrailers transporting fish in this state for commercial purposes.

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 15, 1985.

TRD-859996

Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: November 15, 1985

Proposal publication date: September 13, 1985

For further information, please call

(512) 479-4805 or (800) 792-1112

## TITLE 34. PUBLIC FINANCE

### Part IV. Employees Retirement System of Texas

#### Chapter 71. Creditable Service

##### ★ 34 TAC §71.15

The Employees Retirement System of Texas adopts new §71.15, with changes to the proposed text published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3309).

The new section implements the Texas Education Code, §73.503, concerning the transfer of Employees Retirement System of Texas service credit to the Teacher Retirement System of Texas for certain Texas Research Institute of Mental Sciences employees who become employees of the University of Texas System or any of its components.

The new section specifies to whom it does and does not apply, states the options of persons to whom it does apply, states the responsibility of the Teacher Retirement System of Texas, and highlights the statutory provisions concerning the transfer of Employees Retirement System of Texas service credit of eligible Texas Research Institute of Mental Sciences employees to the Teacher Retirement System.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 110B, §25.102, which provide the Employees Retirement System of Texas with the authority to adopt rules concerning eligibility for membership and the administration of the retirement system.

##### §71.15. Transfer of ERS Service Credit to the TRS for Certain TRIMS Employees.

(a) The purpose of this section is to implement the Texas Education Code, §73.503, concerning transfer of Employees Retirement System (ERS) service credit to the Teacher Retirement System (TRS) for certain Texas Research Institute of Mental Sciences (TRIMS) employees who become employees of the University of Texas System or any of its components.

(b) This section applies to any person who:

(1) was a TRIMS employee during the month of May, June, July, or August 1985; and

(2) was employed by and went to work for the University of Texas System or any of its components during the month of June, July, August, or September 1985.

(c) This section does not apply to a former TRIMS employee who:

(1) was employed in another ERS or TRS covered position at an agency other than TRIMS during the period of time between leaving TRIMS and being employed by the University of Texas System or any of its components;

(2) becomes an employee of the University of Texas System or any of its components after September 30, 1985; or

(3) is determined by TRS to not be eligible for TRS membership.

(d) A person to whom this section applies:

(1) may retire from ERS or apply for a refund from ERS until August 31, 1985, if he or she is otherwise eligible to retire or to request a refund; and

(2) may not retire or apply for a refund from ERS on or after September 1, 1985.

(e) The TRS is responsible for identifying and determining persons who are eligible for transfer of service credit pursuant to the Texas Education Code, §73.503.

(f) The ERS service credit of a person to whom this section applies and who has not retired or requested a refund from ERS shall be transferred to TRS effective as of September 1, 1985, or the actual date of employment by the University of Texas System or any of its components, whichever is later, but, in no event, later than September 30, 1985. Employees Retirement System credit that is transferred shall thereafter be regarded as service that was covered by TRS. The transfer of ERS service credit to TRS shall terminate the person's membership in, and all rights to benefits from, ERS. Member contributions previously withdrawn from ERS may be reinstated in TRS only subject to the laws and rules governing reinstatement of accounts and credit in TRS. Military service credit already established with ERS will be credited by TRS only when the person's service credit, excluding military credit, in TRS consists of at least 10 years. When credit is transferred or as soon thereafter as possible, ERS shall transfer to TRS:

(1) all amounts in the individual member accounts with ERS of persons to whom this section applies and who have not retired or requested a refund from ERS and any member contributions subsequently received for those persons for service before September 1, 1985; and

(2) an amount from the state accumulation determined by the actuary of ERS to be such that the transfer of funds

and service credit by ERS to TRS will neither increase nor diminish the period required to amortize the unfunded liability of ERS.

(g) Any other provision of this section to the contrary notwithstanding, this section also applies to those persons who are certified on or before August 31, 1985, by the commissioner of the Texas Department of Mental Health and Retardation as TRIMS employees who will continue to work at TRIMS after September 1, 1985, for the purpose of concluding and winding up TRIMS operations. If such an employee is employed by the University of Texas System or any of its components within 30 days of the employee's last day of work at TRIMS, but in any event no later than January 31, 1986, without being employed in another ERS or TRS covered position during the interim period, then such employee shall have his or her ERS service credit transferred to TRS if TRS determines that the employee is eligible for TRS membership.

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 24, 1985

TRD-859935

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: November 14, 1985

Proposal publication date: September 3, 1985

For further information, please call

(512) 476 6431, ext. 178

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part VIII. Commission on Fire Protection Personnel Standards and Education

#### Chapter 233. Minimum Standards Manual Minimum Standards for Fire Suppression Personnel

##### ★ 37 TAC §233.31

The Commission on Fire Protection Personnel Standards and Education adopts an amendment to §233.31, without changes to the proposed text published in the May 14, 1985, issue of the *Texas Register* (10 TexReg 1530).

The amendment deletes obsolete language and subjects and adds new language and subjects required for training that must be completed for fire fighter certification.

The amended section provides new training subjects for the fire fighter, to cope

with the constantly changing problems encountered by Texas fire fighters.

No comments were received regarding the adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413(35), §2-(1) and §2-(14), which authorize the Commission on Fire Protection Personnel Standards and Education to promulgate rules and regulations for the administration of this Act and to adopt and amend rules, consistent with state law for internal management and control.

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 28, 1985

TRD-8510059

Ray L. Goad  
Executive Director  
Commission on Fire  
Protection Personnel  
Standards and  
Education

Effective date: November 18, 1985  
Proposal publication date: May 14, 1985  
For further information, please call  
(512) 474-8066

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services Chapter 16. ICF/SNF

The Texas Department of Human Services (DHS) adopts amendments to §16.1503 and §16.3903 and new §16.6118, without changes to the proposed text published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3315).

The amendments and new section ensure that terminally ill Medicaid recipient-patients can exercise their right to have life-sustaining procedures withheld or withdrawn. The 69th Legislature, 1985, enacted House Bill 403, which amends the Texas Natural Death Act, Texas Civil Statutes, Article 4590h. House Bill 403 ensures that mentally competent persons who are terminally ill have the right to make nonwritten decisions about withholding or withdrawing life-sustaining procedures.

The amendments and new section will function by addressing the rights of terminally ill adult recipient-patients in nursing facilities who elect to have life-sustaining procedures withheld or withdrawn.

No comments were received regarding adoption of the amendment and new section.

## Compliance with State and Local Laws

### ★40 TAC §16.1503

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical 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 24, 1985

TRD-859929

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: November 14, 1985  
Proposal publication date: September 3, 1985  
For further information, please call  
(512) 450-3766.

## Medical Records

### ★40 TAC §16.3903

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical 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 24, 1985

TRD-859930

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: November 14, 1985  
Proposal publication date: September 3, 1985  
For further information, please call  
(512) 450-3766.

## Recipient-Patient Rights

### ★40 TAC §16.6118

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical 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 24, 1985

TRD-859931

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: November 14, 1985  
Proposal publication date: September 3, 1985  
For further information, please call  
(512) 450-3766.

## Chapter 35. Pharmacy Services

The Texas Department of Human Services (TDHS) adopts new §35.710 and amendments to §35.601 and §35.704, concerning Texas maximum allowable cost, overcharged prescription claims, and brand-name drugs. The proposals were published in the April 30, 1985, issue of the *Texas Register* (10 TexReg 1350). Section 35.704 is adopted with changes to the proposed text. The section was changed to delete the prior approval requirement for physician override of a brand-name prescription. Sections 35.601 and 35.710 are adopted without changes to the proposed text and will not be republished.

The new section and amendments provide increased efficiency and economy in reimbursing drug product costs, resulting in a cost savings for the department's vendor drug program.

Section 35.710 will function by specifying the maximum reimbursement limits for multisource (generic) drugs which are included in the Vendor Drug Program's formulary, the *Texas Drug Code Index*, and by promoting further use of generic drugs. Amendments to Texas Civil Statutes, Article 4542a-1, enacted by the 67th Legislature, 1981, (House Bill 1628, effective January 1, 1982) changed the Texas Pharmacy Act to allow pharmacists to substitute generic drugs for more expensive brand-name drugs under specified conditions. The DHS has encouraged increased use of generic drugs in the Vendor Drug Program by including more generic drugs in the formulary when these drugs are competitive in price and readily available to Texas pharmacies. Additionally, the DHS has mailed letters to pharmacists, medical practitioners, professional associations, and Medicaid recipients asking for increased voluntary use of generic drugs. These efforts have been partially successful as evidenced by a steady increase in the rate of generic drug claims paid in the last three years.

The amendment to §35.601 will function by clarifying existing policy as it incorporates Texas maximum allowable cost (TMAC) in the definition of drug prices included in the computer drug file.

The amendment to §35.704 will function by specifying the procedures to be used by medical practitioners to override the TMAC and have brand-name products dispensed to their Medicaid patients.

The DHS received both oral and written comments during the 30-day public comment period. The DHS received written comments from two individuals. One favored the proposals and one opposed them. The DHS received oral comments at a public hearing held on May 21, 1985. The following groups/associations expressed opposition to the proposals at the hearing: Texas Pharmaceutical Association; the Capital Area Pharmaceutical Association; the Shamrock Pharmaceu-

tical Association; the Texas Medical Association; the Texas Osteopathic Medical Association; the Texas Federation of Drug Stores; Pfizer, Inc.; Sandoz, Inc.; Smith, Kline, and French; the Upjohn Co.; Merrill Dow; and the Pharmaceutical Manufacturer's Association. Two individuals also testified. The following is a summary of the comments received and the department's responses to each comment. Six associations and two individuals opposed the proposed revision to §35 704, concerning the physician override procedures. They contended that the proposed prior approval system was unworkable. One association pointed out that the prior approval requirement was in excess of the requirements in the state drug substitution law. One association feared physicians would either leave the Medicaid program or routinely request prior approval in all cases.

One individual and one association expressed concern that the system would disrupt the working relationship between the pharmacists and the physicians, and three associations and one individual expressed concern that pharmacists would have to assume the liability for errors or misuse of the system. They questioned how telephone prescriptions would be handled and how the prior approvals would be audited.

In response to the many concerns expressed about the prior approval process, the department changed §35 704 to delete the prior approval requirement. Physician override of the Texas maximum allowable cost limit will be accomplished by the physician writing the words "brand necessary" on the face of the prescription.

Five drug manufacturers and one association expressed concern about the substitution of generics for specific classes of drugs, such as psychotropics. The commenters were concerned about the actual therapeutic equivalence of generic products in specific classes. They contended that there had been insufficient testing to ensure actual equivalence of these products. They suggested that there were particular problems in situations in which a patient was switched from an effective brand-name drug to a generic. One organization also suggested that switching prescriptions to generics would confuse the elderly, because of the different appearance of the generic product. One organization suggested that the state should be responsible for ensuring the bioequivalence of multi source drugs to be subject to the TMAC reimbursement limits.

The department shares the commenters' concern for ensuring bioequivalence of multi-source products which will be subject to the TMAC reimbursement limits. No change in these sections is being made, however, because the department is limiting drugs subject to TMAC reimbursement limitations to those drugs

found by the federal Food and Drug Administration (FDA) to have no known or suspected bioequivalence problems, and those drugs which have had actual or potential bioequivalence problems resolved with adequate in vivo or in vitro evidence supporting bioequivalence. The department does not believe it is appropriate to duplicate the FDA's function in determining bioequivalence of various multi-source products. If a physician is concerned that the use of a particular generic drug may have adverse effects on a patient, or cause sufficient confusion to prevent the effective use of the drug, he may override the TMAC reimbursement limits by specifying, "brand necessary" on the prescription.

Two organizations and one individual expressed concern that the new section and amendments would not actually result in sufficient savings to the department to be worth implementing as a cost-saving measure. They were concerned that the physicians would not accept the system and switch to higher priced drugs which were not covered under the TMAC. They also suggested the prior approval system would cost the state more to administer.

The department estimates savings to the state and federal governments to be at least \$4.4 million in fiscal year 1986 alone. The department believes the simplified physician override provisions should eliminate possible problems of physician usage of more expensive drugs to avoid use of certain generics. It should also eliminate the possible need for additional DHS staff to manage a prior approval system.

Two associations representing pharmacists expressed concern that pharmacists would lose money under the TMAC, they feared that quality generic products which fell within the TMAC reimbursement limits would not always be available to pharmacists. One of these associations commented that they generally opposed all of DHS' recent changes in the Vendor Drug Program rules.

The department continues to try to ensure an opportunity for a 5% profit for pharmacists who operate economically and efficiently. Recent changes in Vendor Drug Program policy, while necessary to ensure that the department continues to operate the program within available funding, have been designed to ensure that providers still have an opportunity to make a 5% profit on Medicaid transactions. The department will make every effort to ensure that multi-source drugs covered by the TMAC reimbursement limits are quality products which are generally available to Texas pharmacists.

Finally, one group representing pharmacists expressed concern over the difficulty in administering the large TMAC formulary which is proposed.

The department will make every effort to share timely information on changes in the TMAC formulary with providers through the updates to the *Texas drug code index*. It is hoped this information will simplify compliance with these rules for participating pharmacists.

## Subchapter G. Pharmacy Claims

### ★ 40 TAC §35.601

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance and medical 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 25, 1985

TRD-859991

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: December 1, 1985  
Proposal publication date: April 30, 1985  
For further information, please call  
(512) 450-3766

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### ★ 40 TAC §35.710

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance and medical 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 25, 1985

TRD-859993

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: December 1, 1985  
Proposal publication date: April 30, 1985  
For further information, please call  
(512) 450-3760

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## Subchapter H. Reimbursement

### ★ 40 TAC §35.704

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance and medical programs.

#### §35.704. *Brand-Name Drugs.*

(a) Physicians desiring the dispensing of a brand name on a prescription for a multi-source drug with a maximum allowable cost are to write, in their own hand, the phrase "brand necessary" on the face of the prescription. This enables payment

for the drug at the more expensive brand name estimated acquisition cost. To indicate this certification (override) on the pharmacy claim form, enter "6" in the block for the "physician override." For telephone orders involving physician overrides, a written prescription must be obtained from the prescribing physician within 30 days from the time the order was called in.

(b) A physician override for a prescription is valid only for the life of the prescription. The life of a prescription is defined as the original dispensing and any authorized refills, not to exceed five refills or a six-month supply. The physician override cannot be forwarded or transferred to

any other prescription for the same drug.

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 25, 1985.

TRD-859992

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: December 1, 1985  
Proposal publication date: April 30, 1985  
For further information, please call  
(512) 450-3766.

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## State Board of Insurance Exempt Filings

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### State Board of Insurance Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.*

The State Board of Insurance considered a filing by Allied Fidelity Insurance Company of a form and rate filing for a guaranteed arrest bond certificate.

For each member of the club to whom a card is issued, a \$200 guaranteed arrest bond will be provided at a rate of \$ .50 per card.

This filing is effective 15 days after it is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on October 29, 1985.

TRD-8510127

James W. Norman  
Chief Clerk  
State Board of  
Insurance

Effective date: November 21, 1985  
For further information, please call  
(512) 463-6327

# 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 Department of Agriculture

The Texas Department of Agriculture will meet at its office on Expressway 83, two blocks west of Morning Side Road, San Juan. Dates, times, and agendas follow.

**Thursday, November 7, 1985, 9:30 a.m.** The department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Jeff Burke, Jr., doing business as Farm Services, Inc.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 28, 1985, 9:30 a.m.  
TRD-8510044

**Thursday, November 7, 1985, 11 a.m.** The department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Ralph Newell, doing business as Farm Aerial Service, Inc., holder of a commercial applicator license.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 28, 1985, 9:30 a.m.  
TRD-8510045

**Friday, November 8, 1985, 9 a.m.** The department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Putz Aero, Inc., and John C. Bannworth.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 28, 1985, 9:30 a.m.  
TRD-8510046

**Friday, November 8, 1985, 10:30 a.m.** The department will conduct an administrative hearing to review the alleged violation of the Texas Agriculture Code, §76.116(a)(2), by John Cannon, doing business as Cannon Ag Aviation, holder of a commercial applicator's license.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 25, 1985, 9:20 a.m.  
TRD-859943

**Friday, November 8, 1985, 11:30 a.m.** The department will conduct an administrative hearing to review the alleged violation of the Texas Agriculture Code, §76.116(a)(1), by David Folger, doing business as Compton Grove Care, holder of commercial applicator's license.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 25, 1985, 9:20 a.m.  
TRD-859942

**Friday, November 8, 1985, 3 p.m.** The department will conduct an administrative hearing to review the alleged violation of 4 TAC §7.16(h), by Bentley Baylor, holder of a commercial applicator license.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 25, 1985, 9:19 a.m.  
TRD-859941

**Tuesday, November 20, 1985, 9 a.m.** The Texas Department of Agriculture will meet at 4502 Englewood Avenue, Lubbock. According to the agenda, the department will conduct an administrative hearing to review the alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Glenn Cardwell doing business as Cardwell Flying Service, holder of commercial applicator license.

**Contact:** Deborah Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:29 a.m.  
TRD-8510131

**Wednesday, November 20, 1985, 10 a.m.** The Texas Department of Agriculture will meet at 4502 Englewood Avenue, Lubbock. According to the agenda, the department will conduct an administrative hearing to review alleged violation of Texas Agriculture Code, §76.116(a)(1), by Elton Thorp, doing business as Thorp Flying Service, holder of commercial applicator's license.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:30 a.m.  
TRD-8510132

**Wednesday, November 20, 1985, 11 a.m.**

The Texas Department of Agriculture will meet at 4502 Englewood Avenue, Lubbock. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Lee Everett, doing business as Newton Aerial Spraying, holder of a commercial applicator license.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:30 a.m.  
TRD-8510133

**Thursday, November 21, 1985, 10 a.m.** The Texas Department of Agriculture will meet in Suite 301, 2800 Northeast Loop 410, San Antonio. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Lynn Stout, doing business as S&S Fertilizer, holder of a commercial applicator license.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:30 a.m.  
TRD-8510134

**Friday, November 22, 1985, 10 a.m.** The Texas Department of Agriculture will meet in Suite 301, Northeast Loop 410, San Antonio. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(1), by Thomas V. Hope, doing business as N-Churs Flying Service, holder of a commercial applicator license.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:30 a.m.  
TRD-8510135

**Monday, November 25, 1985, 10:30 a.m.** The Texas Department of Agriculture will meet in Suite C, 5501 West IH 40, Amarillo. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas

**Agriculture Code, §76.116(a)(4), by Duane McDaniel, doing business as Farwell Spraying Service, Inc., holder of a commercial applicator license.**

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:30 a.m.  
TRD-8510136

**Monday, November 25, 1985, 11:30 a.m.** The Texas Department of Agriculture will meet in Suite C, 5501 West IH 40, Amarillo. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.105, by Ronald Feller, doing business as Three-way Farm Service, holder of a commercial applicator license.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:31 a.m.  
TRD-8510137

**Tuesday, November 26, 1985, 10 a.m.** The Texas Department of Agriculture will meet in Suite C, 5501 West IH 40, Amarillo. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §75.012, by Wade Wilson, doing business as Longhorn Ag, Inc., holder of a commercial applicator license.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:31 a.m.  
TRD-8510038

**Tuesday, December 3, 1985, 2 p.m.** The Texas Department of Agriculture will meet at 2935 Westhollow Drive, Houston. According to the agenda, the department will conduct an administrative hearing to review alleged violation of the Texas Agriculture Code, §76.116(a)(2), by Walter J. Mangum, doing business as Farm and Ranch Aerial Service.

**Contact:** Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** October 30, 1985, 9:30 a.m.  
TRD-8510139

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### Texas Animal Health Commission

**Friday, November 8, 1985, 8:30 a.m.** The Texas Animal Health Commission will meet in the conference room, first floor, 210 Barton Springs Road, Austin. According to the agenda summary, the commission will approve minutes of the previous meeting; approve actions of the executive director; present a 25 year certificate to an employee; consider a five-year progress report on

brucellosis; consider the adoption of proposed amendments to Chapter 35; consider proposing a rule for hearing and appeal procedures in Chapter 32; and consider the post hearing review and final decision of the commission on two administrative hearings. The commission also will meet in executive session.

**Contact:** Jo Anne Conner, 210 Barton Springs Road, Austin, Texas 78704, (512) 475-4111.

**Filed:** October 28, 1985, 4:44 p.m.  
TRD-8510079

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### Texas Antiquities Committee

**Thursday, October 31, 1985, 9:30 a.m.** The Texas Antiquities Committee met in emergency session via conference call in the archeology lab, 103 West 16th Street, Austin. According to the agenda summary, the committee discussed committee procedures for designation of state archeology landmarks. The committee also met in executive session to discuss possible legal litigation. The emergency status was necessary to discuss procedures for designation of state archeological landmarks and to meet in executive session to discuss possible legal litigation.

**Contact:** Robert Mallouf, 105 West 16th Street, Austin, Texas 78701, (512) 475-6328.

**Filed:** October 28, 1985, 3:12 p.m.  
TRD-8510070

**November 8, 1985, 9:30 a.m.** The Texas Antiquities Committee (TAC) will meet in the Sam Houston Building, 201 East 14th Street, Austin. Items on the agenda summary include approval of minutes 84 of the TAC meeting on October 11, 1985, and approval of minutes 85 of the TAC meeting on October 31, 1985; nominations for state archeological landmarks: historic structures in Randall County Courthouse and historic shipwrecks (19); designations of state archeological landmarks: historic structures in Mineral Wells historic schools complex (Fannin School), Palo Pinto County; and staff reports. The committee also will meet in executive session to discuss possible legal litigation and personnel.

**Contact:** Robert Mallouf, 105 West 16th Street, Austin, Texas 78701, (512) 475-6328.

**Filed:** October 28, 1985, 3:12 p.m.  
TRD-8510071

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### State Banking Board

**Friday, November 1, 1985, 9:30 a.m.** The State Banking Board met at 2601 North Lamar Boulevard, Austin. According to the

agenda summary, the board considered approval of previous minutes; an application for charter; a conversion application; the interim charter application; domicile change applications; and reviewed the applications approved, but not yet open. The board also met in executive session to discuss pending litigation.

**Contact:** William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

**Filed:** October 24, 1985, 2:02 p.m.  
TRD-859934

**Friday, November 1, 1985, 9:30 a.m.** The State Banking Board submitted an emergency revised agenda for a meeting held at 2601 North Lamar, Austin. According to the revised agenda, the board considered approval of the domicile change application for the Bank of Austin (in organization), Austin. The emergency status was necessary because applicants must execute a lease immediately with organization and opening of a new bank.

**Contact:** William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

**Filed:** October 28, 1985, 3:36 p.m.  
TRD-8510072

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### State Board of Barber Examiners

**Tuesday, November 5, 1985, 8 a.m.** The State Board of Barber Examiners will meet in Suite C-275, 1300 East Anderson Lane, Austin. Items on the agenda summary include minutes of the previous meeting; the interview of out-of-state applicants; sign teacher and school certificates, amend 22 TAC §51.40 to prohibit other businesses in a barber shop; and letters and reports to the board by the executive director. The board also will meet in executive session.

**Contact:** Jo King McCrorey, 1300 East Anderson Lane, Suite C-275, Austin, Texas 78752, (512) 835-2040.

**Filed:** October 25, 1985, 12:08 p.m.  
TRD-859994

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### Texas Department of Community Affairs

**Wednesday and Thursday, November 20 and 21, 1985, 10 a.m. and 9 a.m. respectively.** The State Review Committee of the Texas Department of Community Affairs

will meet in the conference room, first floor, 8317 Cross Park Drive, Austin. According to the agenda, the committee will consider presentation of minutes; economic development report; recommendations on economic development projects; appeals; Texas Community Development Program/community development update on 1985 selections; planning/capacity building report; and recommendations on planning/capacity building projects.

**Contact:** Kelly Myrick, 8317 Cross Park Drive, Austin, Texas 78753, (512) 834-6070.

**Filed:** October 28, 1985, 3:56 p.m.  
TRD-8510077

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### Texas Cosmetology Commission

**Sunday, November 10, 1985, 1:30 p.m.** The Texas Cosmetology Commission will meet at the Sheraton Hotel, 2105 South 10th Street, McAllen. Items on the agenda include agreed orders; presentations by Vernon Regional College, Conlee College of Cosmetology, Winnie James, on deviation to salon requirements, and Tom & Guy, USA, Inc., with Audie Nall, Gus Ball, Chat Whatley, and Jim Holley; discussions on instructor ratio, continuing education, legislative update, and a review of Notre Dame School; and minutes of prior meetings. The commission also will meet in executive session.

**Contact:** Jo Ann Reeves, 1111 Rio Grande, Austin, Texas 78701, (512) 475-1400.

**Filed:** October 30, 1985, 2:49 p.m.  
TRD-8510164

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### East Texas State University

**Thursday, October 31, 1985.** Committees of the Board of Regents of East Texas State University met at the Master Host Inn, U.S. Highways 67 and 82, Texarkana. Times, committees, and agendas follow.

**1:45 p.m.** The Student and University Advancement Committee considered action on a foundation services contract.

**1:45 p.m.** The Academic Affairs Committee heard reports on ETSU-Commerce faculty workload, ETSU-Commerce undersized classes, curriculum changes for ETSU-Commerce, new degree offering in engineering technology at ETSU-Commerce, ETSU-Texarkana faculty workload, ETSU-Texarkana undersized classes, curriculum changes for ETSU-Texarkana, and the regent's professor policy.

**1:45 p.m.** The Campus Planning and Finance Committee heard reports on adjustments in the ETSU-Commerce fiscal year

1985 operating budget; adjustments in the ETSU-Commerce fiscal year 1986 operating budget; reappropriation of accounts and balances for ETSU-Commerce; campus master plan; adjustments in the ETSU-Texarkana fiscal year 1986 operating budget; reappropriation of accounts and balances for ETSU-Texarkana; ETSU-Texarkana signature authorizations; capital budget; submittal of plans and specifications for renovation of facilities; fees for correspondence and extension courses; and energy efficiency improvement bonds.

**4:15 p.m.** The Executive Committee heard reports on the adoption of board resolutions, Welch Foundation resolution, officers and employees liability insurance, and an amendment to policy regarding voluntary modification of employment. The committee also met in executive session for purposes authorized by law.

**Contact:** Dayton T. Cole, East Texas State University, Commerce, Texas 75428, (214) 886-5539.

**Filed:** October 28, 1985, 1:43 p.m.  
TRD-8510054-8510057

**Friday, November 1, 1985, 9 a.m.** The Board of Regents for East Texas State University met in the administrative offices, East Texas State University, Texarkana. According to the agenda summary, the board heard a report from the president, as well as reports on faculty workload, undersized classes, and liability insurance; considered action on a foundation services contract, curriculum changes, a new degree offering in engineering technology, a regents' professor policy, adjustments in fiscal year 1985 and fiscal year 1986 operating budgets, reappropriation of accounts and balances, the campus master plan, signature authorizations, a capital budget, renovation of facilities, correspondence and extension courses, bonds, resolutions, and retirement policy. The board also met in executive session for purposes authorized by law.

**Contact:** Dayton T. Cole, East Texas State University Commerce, Texas 75428, (214) 886-5539.

**Filed:** October 28, 1985, 1:46 p.m.  
TRD-8510058

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### Texas Education Agency

**Monday, October 28, 1985, 3 p.m.** The Committee for Finance and Programs of the State Board of Education of the Texas Education Agency met in emergency session via telephone conference call originating in Room 2-107C, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee considered a tender offer for Beatrice common stock. The emergency status was necessary

to enable the committee to respond to the tender office within the time required.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 28, 1985, 12:35 p.m.  
TRD-8510049

**Thursday, November 7, 1985, 9 a.m.** The State Board of Education of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the board will conduct public hearings before the State Board of Education on textbooks recommended for adoption under Proclamation 61.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:48 p.m.  
TRD-8510154

**Thursday, November 7, 1986, 10 a.m.** The Advisory Committee on Statewide Standards on Duties of a School Board Member of the Texas Education Agency will meet in Room-6-101, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review the revised statewide standards, discuss comments from the field regarding training requirements, receive recommendations for revision of the rule on training for school board members.

**Contact:** Martha J. Stone, 1701 North Congress, Austin, Texas 78701, (512) 463-9506.

**Filed:** October 30, 1985, 12:49 p.m.  
TRD-8510146

**Thursday, November 7, 1985, 1:30 p.m.** The Committee of the Whole of the State Board of Education of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider textbook rules. The committee also will meet in executive session as authorized by Texas Civil Statutes, Article 6252-17, §2(e), to consider pending litigation.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:49 p.m.  
TRD-8510148

**Friday, November 8, 1986, 8:30 a.m.** The Committee of the Whole of the State Board of Education of the TEA will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider the report of the commissioner of education on alleged irregularities in the textbook adoption process; report of the State Textbook Committee and changes and corrections; large type textbooks for the visually



handicapped; application to establish new textbook depository status.

**Contact:** W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:49 p.m.  
TRD-8510147

**Friday, November 8, 1985, 10:30 a.m.** The Committee for Finance and Programs of the State Board of Education of the TEA will meet in Room 1-110, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider permanent school fund; vocational education; proprietary schools and veterans education; school district annual performance report; mineral leases by school districts; high school program for migrant students; Information Systems Advisory Committee; contract with Texas Health and Human Services Coordinating Council; advisory committee for budgeting, accounting, and auditing; Price Differential Index Advisory Committee; Accountable Costs Advisory Committee; Texas Education Computer Cooperative; Job Training Partnership Act; Vocational Education Technical Committees; and changes in presentation of agenda materials.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:49 p.m.  
TRD-8510149

**Friday, November 8, 1985, 10:30 a.m.** The Committee for Students of the State Board of Education of the TEA will meet in Room 1-109, William B. Travis Building, 1701 North Congress, Austin. According to the agenda summary, the committee will consider special education; occupational education; graduation requirements; driver education; time session for school operation; national assessment of educational progress project; high school summer program for migrant students; report on the family in Texas education; extracurricular activities; exit-level Texas educational assessment of minimum skills test for migrant students; gifted and talented students; credit by examination; advanced placement examinations; Texas educational assessment of minimum skills test items for first grade; and discussion of changes in presentation of agenda materials.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:49 p.m.  
TRD-8510151

**Friday, November 8, 1985, 10:30 a.m.** The Committee for Personnel State Board of Education of the TEA will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider special education personnel; preparation

and planning time; teacher career ladder; in-service training in management skills for district administrators; teachers' professional practices commission rules; Texas examination for current administrators and teachers; standards on the duties of a school board member; advisory committee on paperwork reduction; pilot project for teacher appraisal training; 1984 standards for teacher education; Commission on Standards for the Teaching Profession; alternative teacher certification plan; classes of teaching certificates; examination for certification of educators in Texas; discussion of changes in presentation of agenda materials.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:48 p.m.  
TRD-8510152

**Friday, November 8, 1985, 3:30 p.m.** The Committee for Long-Range Planning of the State Board of Education of the TEA will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider the revision of standards for accreditation; comprehensive state plan for education service centers; Phase II development of the long-range master plan; and a status report on the accreditation of school districts.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:48 p.m.  
TRD-8510153

**Friday, November 8, 1985, 6:30 p.m.** The State Board of Education of the TEA will meet in the Crystal Room, Stephen F. Austin Hotel, 701 Congress Avenue, Austin. According to the agenda, the board will have a dinner meeting to receive reports from the chairmen of the State Board of Education committees: Committee for Finance and Programs, Committee for Students, Committee for Personnel, Committee for Long-Range Planning, and Committee of the Whole, concerning items discussed in the committee meetings on Thursday, November 7, 1985, and on Friday, November 8, 1985.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:49 p.m.  
TRD-8510150

**Saturday, November 9, 1985, 8:30 a.m.** The State Board of Education of the TEA will meet in Room 1-104, William B. Travis Building, 1701 Congress Avenue, Austin. Items on the agenda summary include textbooks; investment of permanent school fund; vocational education; proprietary schools; school district annual performance report; mineral leases; summer program for migrant students; Information Systems Advisory Committee; contract with Texas

Health and Human Services Coordinating Council; advisory committee for budgeting, accounting and auditing; Price Differential Index Advisory Committee; Accountable Costs Advisory Committee; Texas Education Computer Cooperative; special education; occupational education; graduation requirements; driver education; time sessions for school operation; national assessment of education progress project; preparation and planning time; teacher career ladder; in-service training in management skills for district administrators; Teachers' Professional Practices Commission; Texas examination for current administrators and teachers; standards on duties of school board members; and paperwork reduction.

**Contact:** W. N. Kirby, 1701 North Congress, Austin, Texas 78701, (512) 463-8985.

**Filed:** October 30, 1985, 12:48 p.m.  
TRD-8510155

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### Texas Employment Commission

**Tuesday, November 5, 1985, 8:30 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider prior meeting notes; review and act on a staff proposal for agency travel policy; internal procedures of commission appeals; and action on higher level appeals in unemployment compensation cases on commission Docket 45.

**Contact:** Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

**Filed:** October 28, 1985, 1:34 p.m.  
TRD-8510053

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### Office of the Governor

**Friday, November 1, 1985, 9:30 a.m.** The Ad Hoc Committee on Job Training Partnership Act (JTPA) Performance and 6.0% Funds of the State Job Training Coordinating Council of the Office of the Governor, met in the conference room, Commerce National Bank, 435 Soledad Street, San Antonio. According to the agenda, the committee reviewed formulation of recommendations to the council on the allocation of currently available JTPA 6.0% funds, and formulation of recommendations of the council for the program year 1986 performance standards and incentive award systems.

**Contact:** Rik Mackay, 107 West 27th Street, Austin, Texas 78712, (512) 471-6010.

**Filed:** October 24, 1985, 11:08 a.m.  
TRD-859932

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## Texas Department of Health

**Friday, November 1, 1985, 10 a.m.** The State Primary Care Program Advisory Committee of the Texas Department of Health met in Room 560, west tower, 701 West 51st Street, Austin. According to the agenda summary, the committee discussed approval of the minutes; the report of the Needs Assessment and Data Subcommittee; and the report of the Plans Development and Evaluation Subcommittee.

**Contact:** Clift Price, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7321.

**Filed:** October 24, 1985, 4:12 p.m.  
TRD-859939

**Thursday, November 7, 1985, 3 p.m.** The Respiratory Care Practitioners Advisory Board of the Texas Department of Health will meet in Room T-604, 1100 West 49th Street, Austin. According to the agenda summary, the board will review legal counsel's comments and recommendations regarding draft rules; discuss final draft of rules implementing Senate Bill 1007, 69th Legislature, 1985; and set the date of the next meeting.

**Contact:** Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7631.

**Filed:** October 30, 1985, 4:08 p.m.  
TRD-8510169

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## Texas Statewide Health Coordinating Council

**Thursday, November 7, 1985, 8:30 a.m.** The Data Management and Health Information Systems Committee of the Texas Statewide Health Coordinating Council will meet in Room C21, Texas Tech University School of Medicine-Amarillo Branch, 1400 Wallace Boulevard, Amarillo. According to the agenda summary, the committee will discuss approval of minutes; data legislation and Statewide Health Coordinating Council involvement; recommendation for Hospital Data Advisory Committee, Statewide Health Coordinating Council representative; indigent care and hospital discharge data; and a report on the Texas Department of Health-Texas Hospital Association-American Hospital Joint Hospital survey.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** October 29, 1985, 9:30 a.m.  
TRD-8510081

**Thursday, November 7, 1985, 8:30 a.m.** The Health Legislation and Program Funding Review Committee of the Texas Statewide Health Coordinating Council revised the agenda for a meeting to be held in Room 100, Texas Tech University School of

Medicine-Amarillo Branch, 1400 Wallace Boulevard, Amarillo. According to the revised agenda, the committee will consider a status report on the AID's quarantine proposal.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78767, (512) 458-7261.

**Filed:** October 30, 1985, 4:07 p.m.  
TRD-8510168

**Thursday, November 7, 1985, 8:30 a.m.** The Health Cost Containment Committee of the Texas Statewide Health Coordinating Council will meet in Room 100, Texas Tech University School of Medicine-Amarillo Branch, 1400 Wallace Boulevard, Amarillo. According to the agenda summary, the committee will consider approval of minutes; a report on the cost containment activities of health care financing administration; and activities to establish a task force to study Texas health care costs.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** October 29, 1985, 4:23 p.m.  
TRD-8510104

**Thursday, November 7, 1985, 11 a.m.** The State Health Plan Development Committee of the Texas Statewide Health Coordinating Council will meet in Room C-21, Texas Tech University School of Medicine-Amarillo Branch, 1400 Wallace Boulevard, Amarillo. According to the agenda summary, the committee will consider approval of minutes and confirmation of August 22, 1985, meeting actions; the status of Texas Department of Mental Health and Mental Retardation and the impact of Senate Bill 633; a report from the task force on regionalization of specialized medical services; status reports; report of the chair; and selection of the next meeting date.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** October 29, 1985, 4:23 p.m.  
TRD-8510107

**Thursday, November 7, 1985, 8:30 a.m.** The Health Legislation and Program Funding Review Committee of the Texas Statewide Health Coordinating Council will meet in Room 100, Texas Tech University School of Medicine-Amarillo Branch, 1400 Wallace Boulevard, Amarillo. According to the agenda summary, the committee will consider grant applications.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** October 29, 1985, 4:22 p.m.  
TRD-8510108

**Friday, November 8, 1985, 8:30 a.m.** The Texas Statewide Health Coordinating Council will meet in the Pavilion Auditorium, Northwest Texas Hospital, 7201 Evans Street, Amarillo. Items on the agenda summary include the approval of min-

utes of the June 28, 1985, meeting; health care cost containment; a discussion of the National Debate on Health Care Conference; the Texas Department of Health-Texas Hospital Association data corporation; an update on health issues; hospital data and indigent care; the committee reports from State Health Plan Development, Health Cost Containment, Regional Health Planning Coordination, Data Management and Health Information Systems, Health Legislation, and Program Funding Review, special bylaws, and the Nominating Committees' report and election of officers; reconsideration of magnetic resonance imaging guidance; Statewide Health Coordinating Council rule-making authority; and selection of the next meeting date.

**Contact:** Mike Ezzell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

**Filed:** October 29, 1985, 4:22 p.m.  
TRD-8510109

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## Senate Committee on Health and Human Resources

**Tuesday, November 12, 1985, 10 a.m.** The Senate Committee on Health and Human Resources will meet in the Senate Chamber, State Capitol, Austin. According to the agenda, the committee will conduct a public hearing on Alzheimer's disease, including presentations identifying the affected population, the needs, and public and private policy, programs, and resources; and hear public testimony.

**Contact:** Linda Christofilis, Sam Houston Building, Suite 1007, 201 East 14th Street, Austin, Texas 78701, (512) 463-0360.

**Filed:** October 31, 1985, 9:21 a.m.  
TRD-8510173

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## Texas Department of Human Services

**Friday, November 8, 1985, 9:30 a.m.** The Family Violence Advisory Committee of the Texas Department of Human Services will meet at the Dallas Hilton Inn, 5600 North Central Expressway, Dallas. According to the agenda summary, the committee will consider minutes; announcements; old business; reports concerning monthly program status, Texas Council on Family Violence, legislative issues, policy, public education; regional information sharing; new business concerning legislative appropriations request (LAR), and future meeting dates.

**Contact:** James C. Marquart, P.O. Box 2960, Austin, Texas 79769, (512) 450-3365.

**Filed:** October 30, 1985, 3:59 p.m.  
TRD-8510167

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## State Board of Insurance

**Thursday, October 31, 1985, 10 a.m.** The State Board of Insurance met in emergency session in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda, the board considered selection of general counsel, chief hearing officer and deputy commissioner for legal and compliance. The emergency status was necessary because these positions needed to be filled at the earliest possible time.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

**Filed:** October 25, 1985, 9:21 a.m.  
TRD-859946

**Tuesday, November 5, 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 board orders, the fire marshal's report on personnel matters, and the commissioner's report on personnel matters and litigation.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78702-1998, (512) 463-6328.

**Filed:** October 28, 1985, 3:52 p.m.  
TRD-8510076

**Tuesday, November 5, 1985, 10 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 9101-application for extension of time within which to sell real estate by American General Life Insurance Company, Houston.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

**Filed:** October 28, 1985, 1:17 p.m.  
TRD-8510050

**Wednesday, November 6, 1985, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 353, 1110 San Jacinto Street, Austin. According to the agenda, the section will reopen a public hearing in Docket 8074-whether disciplinary action should be taken against Walter J. Porter, Dallas, who holds a Group I local recording agent's license.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6524.

**Filed:** October 28, 1985, 1:17 p.m.  
TRD-8510051

**Thursday, November 7, 1985, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 8028-whether disciplinary action should be taken

against Barbara Elizabeth Fite, McAllen, who holds a Group I legal reserve life insurance agent's license and Group II health and accident insurance agent's license.

**Contact:** Staci Copelin, 1110 San Jacinto Street, Austin, Texas 78786, (512) 463-6498.

**Filed:** October 28, 1985, 1:17 p.m.  
TRD-8510052

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## State Board of Morticians

**Tuesday, November 5, 1985, 8:30 a.m.** The State Board of Morticians will meet at 8100 Cameron Road, Austin. According to the agenda summary, the board will conduct a formal hearing on action of a licensee and establishment; consider applicants for reinstatement and for registering as apprentice; the appearance of a licensee to discuss the proposed rule; the examination grading from September exams. survey by the Conference of Funeral Service Examining Boards, and the time limit to have agency address and telephone number on contracts and the brochure review; comments from licensees on proposed rules; a request from apprentice to secure case reports at the funeral home; reciprocal recommendations to be reviewed; and committee, investigators, and executive secretary reports.

**Contact:** John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

**Filed:** October 25, 1985, 3:16 p.m.  
TRD-8510005

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## Board of Pardons and Paroles

**Monday, November 4, 1985, 9:30 a.m.** The Board of Pardons and Paroles met at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board reviewed minutes; the Montgomery County lawsuit; the Region VII Halfway House request for proposals; the executive director's report; a summons issuance/withdrawal; the quarter house special condition; restitution-prior imposition; a review of policy regarding early mandatory release; an administrative review of cases; a review of parole policies; speaker contract; and personnel matters.

**Contact:** Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas 78711, (512) 459-2704.

**Filed:** October 25, 1985, 4:17 p.m.  
TRD-8510020

**Friday.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoner/inmates and administrative releases subject to the board's jurisdiction and in-

itiate and carry through with appropriate action.

**Contact:** Mike Roach, 8610 Shoal Creek, Austin, Texas 78711, (512) 459-2713.

**Filed:** October 25, 1985, 11:14 a.m.  
TRD-859947

**Tuesday, November 5, 1985, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will consider parole matters requiring full board action, executive clemency recommendations, and related actions, other than out-of-country conditional pardons, including full pardons/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 78711, (512) 459-2704.

**Filed:** October 25, 1985, 11:13 a.m.  
TRD-859948

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## Texas Parks and Wildlife Commission

**Wednesday, November 6, 1985, 7 p.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 6204 Shadow Mountain Cove, Austin. According to the agenda summary, the commission plans to have dinner. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing agenda scheduled for 9 a.m., on November 7, 1985.

**Contact:** Charles E. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

**Filed:** October 29, 1985, 2:23 p.m.  
TRD-8510087

**Thursday, November 7, 1985.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Building B, 4200 Smith School Road, Austin. Agendas follow.

**9 a.m.** The commission will consider approval of October 10, 1985, public hearing court reporter minutes; presentation by representative Ted Roberts concerning Cedar Bayou; guidelines for fish and wildlife values; nongame stamp contract; waterfowl artwork; license fees; park fees; capital improvement project for the Texas State Railroad; bond program; new facilities development funding for Lake Bob

**Sandlin State Recreation Area in Titus County; presentation on the Offshore Artificial Reef Program by representative of the Coastal and Marine Council and the Marine Resources Foundation; land acquisition for San Jacinto Battleground State Historical Park in Harris County; and pending land offers in Kendall and Leon Counties.**

**Contact:** Charles D. Travis, 4200 Smith School Road, Austin, Texas 78644, (512) 479-4802.

**Filed:** October 30, 1985, 2:20 p.m.  
TRD-8510161

**9 a.m.** The commission will consider the Medina River Fish kill; briefing on status of Blue Crab Fishery; and the department's sesquicentennial activities.

**Contact:** Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

**Filed:** October 30, 1985, 2:20 p.m.  
TRD-8510162

**Noon.** The commission will discuss potential acquisitions, settlement of pending litigation matters, and personnel matters.

**Contact:** Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

**Filed:** October 30, 1985, 2:20 p.m.  
TRD-8510163

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### **Texas State Board of Examiners of Psychologists**

**Wednesday-Saturday, November 6-9, 1985, 8 a.m. daily.** The Texas State Board of Examiners of Psychologists will meet in emergency session at the Stauffer Greenway Plaza Hotel, 6 Greenway Plaza East, Houston. According to the agenda, the board will consider three administrative hearings, minutes, supervision guidelines, oral exam report, rules, application files, opinion letters, complaint files, informal hearings, meetings with the Texas Psychological Association concerning board procedures, mock hearing video presentation, and graduate training and supervision. The emergency status is necessary because the board must consider three complaints which require quarterly review.

**Contact:** Patti Bizzell, 1300 East Anderson Lane, Suite C-270, Austin, Texas 78752, (512) 835-2036.

**Filed:** October 30, 1985, 1:59 p.m.  
TRD-8510159

### **Public Utility Commission of Texas**

**Wednesday, November 6, 1985, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will conduct a fourth prehearing conference in Docket 6325—petition of Central Power and Light Company and Houston Lighting and Power Company for declaratory order regarding the South Texas Nuclear Project.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 28, 1985, 2:57 p.m.  
TRD-8510061

**Thursday, November 7, 1985, 2 p.m. and 6:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet at the Beaumont Civic Center, 701 Main Street, Beaumont. According to the agenda, the division will conduct a regional hearing in Dockets 6477 and 6525—inquiry of the commission concerning the fixed fuel factors of Gulf States Utilities Company and application of Gulf States Utilities Company for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 29, 1985, 2:32 p.m.  
TRD-8510088

**Friday, November 8, 1985, 2 and 6 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet in the city council chambers, 505 West Davis, Conroe. According to the agenda, the division will conduct a regional hearing in Dockets 6447 and 6525—inquiry of the commission concerning the fixed fuel factor of Gulf States Utilities Company and application of Gulf States Utilities Company for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 29, 1985, 2:32 p.m.  
TRD-8510089

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.

**Tuesday, November 12, 1985, 10 a.m.** A prehearing conference in Docket 6560—petition for review of certain rate-making actions of the City of Austin.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 30, 1985, 9:28 a.m.  
TRD-8510129

**Friday, November 15, 1985, 10 a.m.** A prehearing conference in Docket 6454—application of City of Pharr for a sewer certificate of convenience and necessity within Hidalgo County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 28, 1985, 2:57 p.m.  
TRD-8510062

**Monday, November 18, 1985, 10 a.m.** A rescheduled hearing on the merits in Docket 6451—inquiry into alleged violation of a protective order issued in Docket 6200. The hearing originally was scheduled for November 12, 1985, as published at 10 Tex-Reg 3773.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 28, 1985, 2:57 p.m.  
TRD-8510063

**Thursday, November 21, 1985, 10 a.m.** A rescheduled hearing on the merits in Docket 6405—application of United Telephone Company of Texas, Inc., for authority to implement private coin telephone service. The hearing originally was scheduled for November 8, 1985.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 30, 1985, 1:52 p.m.  
TRD-8510156

**Tuesday, November 26, 1985, 10 a.m.** A hearing on the merits has been continued in Docket 6475—application of Farmers Electric Cooperative, Inc., for a rate increase.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 24, 1985, 3:10 p.m.  
TRD-859937

**Monday, December 2, 1985, 10 a.m.** A hearing on the merits in Docket 2247—Appeal of Pedernales Electric Cooperative, Inc., from rates set by the City of Marble Falls.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 25, 1985, 3:20 p.m.  
TRD-8510007

**Tuesday, December 10, 1985, 10 a.m.** A hearing on the merits in Docket 6205—application of Chisolm Trail Water Supply Corporation to amend its certificate of con-

venience and necessity within Williamson County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 30, 1985, 1:52 p.m.  
TRD-8510158

**Monday, January 6, 1986, 10 a.m.** A hearing on the merits in Docket 6498—application of Pelican Bay Utility, Inc., for a rate increase.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** October 28, 1985, 2:56 p.m.  
TRD-8510064

**Monday, January 6, 1986, 10 a.m.** A hearing on the merits in Dockets 5475 and 6039—inquiry of the commission into the service rendered by Gateway Water Corporation; appeal of Gateway Water Corporation from the rate-making decision of the City of San Antonio.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 25, 1985, 3:20 p.m.  
TRD-8510008

**Thursday, January 9, 1986, 10 a.m.** A hearing on the merits in Docket 6534—application of Center Point Water Works for a rate increase.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 30, 1985, 1:52 p.m.  
TRD-8510157

**Thursday, January 16, 1986, 9 a.m.** A hearing on the merits in Docket 6390—customer protest in the matter of §43(h) rate increase for Deer Creek Ranch water system in Hays and Travis Counties.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 24, 1985, 3:11 p.m.  
TRD-859938

**Monday, January 20, 1986, 10 a.m.** A hearing on the merits in Docket 6488—petition of Cogen Power, Inc., for determination concerning applicability of certificate of convenience and necessity provisions to certain sales of power by a qualifying facility.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 28, 1985, 2:55 p.m.  
TRD-8510065

**Wednesday, January 22, 1986, 9 a.m.** A hearing on the merits in Docket 6468—application of the City of Kyle to amend its

certificate of convenience and necessity to provide sewer service within Hays County.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 25, 1985, 3:20 p.m.  
TRD-8510009

**Friday, February 21, 1986, 10 a.m.** A final prehearing conference in Docket 6477 and 6525—inquiry of the commission concerning the fixed fuel factor of Gulf States Utilities Company.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 28, 1985, 2:56 p.m.  
TRD-8510066

**Monday, February 24, 1986, 10 a.m.** A hearing on the merits in Docket 6477 and 6525—inquiry of the commission concerning the fixed fuel factor of Gulf States Utilities Company.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** October 28, 1985, 2:56 p.m.  
TRD-8510067

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### Railroad Commission of Texas

**Monday, October 28, 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 revised agenda summary, the division considered oil and gas Dockets 3-85,063, 5-82 383, 8-85,334, and 7C-86,336. The emergency status was necessary because these items were properly noticed for the meeting of October 21, 1985, and were passed.

**Contact:** Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

**Filed:** October 25, 1985, 10:38 a.m.  
TRD-859949

**Monday, November 4, 1985, 9 a.m.** The Railroad Commission of Texas will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Rooms and division agendas follow.

In the first floor, auditorium east, 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) 463-7149.

**Filed:** October 25, 1985, 10:34 a.m.  
TRD-859950

In the first floor auditorium east, 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 25, 1985, 10:35 a.m.  
TRD-859951

In auditorium one east, 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 25, 1985, 10:32 a.m.  
TRD-859952

In the 12th floor conference room, 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 25, 1985, 10:34 a.m.  
TRD-859953

In the first floor auditorium east, the LP-Gas Division director's report on division administration, budget, procedures, and personnel matters, and the request for a public hearing protesting on LP-gas installation of El Campo.

**Contact:** Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

**Filed:** October 25, 1985, 10:31 a.m.  
TRD-859954

In the first floor auditorium east, various matters falling within the Oil and Gas Division's regulatory jurisdiction.

**Contact:** Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

**Filed:** October 25, 1985, 10:33 a.m.  
TRD-859957

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

**Contact:** Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

**Filed:** October 25, 1985, 10:35 a.m.  
TRD-859956

Consideration of all American Pipeline Company's application for permit across various counties in Texas.

**Contact:** Susan Cory, P.O. Box 12967, Austin, Texas 78711, (512) 463-6922.

**Filed:** October 25, 1985, 10:25 a.m.  
TRD-859955

In the first floor auditorium east, the Personnel Division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

**Filed:** October 25, 1985, 10:35 a.m.  
TRD-859958

In auditorium one east, 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 25, 1985, 10:36 a.m.  
TRD-859959

In auditorium one east, the Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

**Contact:** Walter Earl Lillie, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-7149.

**Filed:** October 25, 1985, 10:32 a.m.  
TRD-859960

In the first floor auditorium east, the Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters and approval of the permit application of the Lower Colorado River Authority for its Cummins Creek Mine and protestants' request for oral argument.

**Contact:** J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

**Filed:** October 25, 1985, 10:37 a.m.  
TRD-859961

In the first floor auditorium east, various matters falling within the Transportation Division's regulatory jurisdiction.

**Contact:** Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

**Filed:** October 25, 1985, 10:32 a.m.  
TRD-859962

**Thursday, November 14, 1985, 9 a.m.** The Surface Mining and Reclamation Division of the Railroad Commission of Texas will meet in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda the commission will consider oral arguments in Docket 21—application of the Lower Colorado River Authority for its Cummins Creek Mine.

**Contact:** J. Randel Hill, William B. Travis Building, 1701 North Congress, Austin, Texas 78701, (512) 463-7149.

**Filed:** October 25, 1985, 10:37 a.m.  
TRD-859963

**Monday, November 18, 1985, 1:30 p.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium east, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

**Contact:** Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

**Filed:** October 25, 1985, 10:35 a.m.  
TRD-859964

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### Texas Savings and Loan Department

**Wednesday, November 6, 1985, 2:30 p.m.** The Savings and Loan Section of the Texas Savings and Loan Department will meet in Suite A-1-101, 580 Decker Drive, Irving. Items on the agenda summary include the proposal repeal of Chapter 65 of regulations in regard to loans and investments; the proposal of new Chapter 65 of regulations in regard to loans and investments; the proposal of amendments to Chapter 51 regarding charter applications; the proposal of amendments to Chapter 61 in regard to hearings; the proposal of amendments to Chapter 63 in regard to fees and charges; the proposal of amendments to Chapter 69 in regard to reorganization, merger, and consolidation; the proposal of amendments to Chapter 71 in regard to change of control; the proposal of new Chapter 75 regarding general administration; the proposal of new Chapter 77 regarding terminology; and consideration of the resolution adopting the annual fee to do business under 7 TAC §63.8 and the examination fee rule 7 TAC §63.5. The section also will meet in executive session regarding personnel and supervisory matters.

**Contact:** Russell R. Oliver, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78795, (512) 479-1250.

**Filed:** October 25, 1985, 4:24 p.m.  
TRD-8510022

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### School Land Board

**Tuesday, November 5, 1985, 10 a.m.** The School Land Board met in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will discuss approval of the minutes of the previous board meeting; pooling applications; pooling agreement amendments; good faith claimant application; bids received on marginal 382, Tract 395, Gulf of Mexico by Tenneco Oil Company, at the October 1, 1985, oil, gas, and other minerals lease sale; application to

lease highway of right of way for oil and gas; fee for oil, gas, and other minerals lease sale notice for bids; and coastal public lands-easement applications; and consideration of land trade acquisition. The board also will meet in executive session.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 837, Austin, Texas 78701, (512) 475-0219.

**Filed:** October 28, 1985, 4:27 p.m.  
TRD-8510078

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### Texas Sesquicentennial Commission

**Tuesday, November 5, 1985, 10 a.m.** The Texas Sesquicentennial Commission will meet in the conference room, on the ground floor, 510 South Congress Avenue, Austin. According to the agenda, the commission will consider approval of minutes; applications for sanctioning-communities/counties and associations; private sector applications; promotional and/or commemorative product report; directors report; and other business. The commission also will meet in executive session.

**Contact:** Lynn Nabers, P.O. Box 19, Austin, Texas 78767, (512) 475-1986.

**Filed:** October 25, 1985, 4:24 p.m.  
TRD-8510023

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### Teachers' Professional Practices Commission

The Teachers' Professional Practices Commission of Texas will meet in Room 3-108, William B. Travis Building, 1701 North Congress Avenue, Austin. Dates, times, and agendas follow.

**Thursday, November 7, 1985, 9 a.m.** According to the agenda, the commission will hear a complaint filed by an active certified member of the teaching profession against another active certified member of the teaching profession pursuant to the Texas Education Code, §§13.201-13.218.

**Contact:** James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9332.

**Filed:** October 25, 1985, 4:24 p.m.  
TRD-8510023

**Friday, November 8, 1985, 9 a.m.** According to the agenda, the commission will hear a complaint filed by an active certified member of the teaching profession against another active certified member of the

teaching profession pursuant to Texas Education Code, §§13.201-13.218.

**Contact:** James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9332

**Filed:** October 25, 1985, 4:24 p.m.  
TRD-8510024

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### **Advisory Council for Technical-Vocational Education in Texas**

**Tuesday, November 12, 1985, 10 a.m.** The Advisory Council for Technical-Vocational Education in Texas will meet in the Pioneer Ten Meeting Room, Austin South Plaza Hotel, 3401 IH 35 South. Items on the agenda summary include an update on the State Board of Education action on council positions/proposals concerning the long-range plan for public education, the laboratory/on the job training rule, vocational education committees, adult education; a report from the Evaluation Committee, a report on the master plan for vocational education, consider dates for future council meetings, and an update on the future dialogue.

**Contact:** Val Blaschke, P.O. Box 1886, Austin, Texas 78767, (512) 463-5490.

**Filed:** October 25, 1985, 3:43 p.m.  
TRD-8510010

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### **The Texas A&M University System**

**Thursday, November 7, 1985, 10 a.m.** The Board of Regents of the Texas A&M University System will meet in Suite G, 10900 Richmond, Houston. Items on the agenda include the adoption of a resolution authorizing the issuance, sale, and delivery of the Board of Regents of the Texas A&M University System permanent university fund refunding bonds, Series 1985, and approving the authorizing instruments and procedures relating thereto; and the adoption of a resolution authorizing the execution of an escrow agreement relating to the refunding of the Texas A&M University System permanent university fund bonds.

**Contact:** Vickie E. Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

**Filed:** October 30, 1985, 3:13 p.m.  
TRD-8510165

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### **Texas Southern University**

**Friday, November 1, 1985, 9:30 a.m.** Texas Southern University met in Room 117, Hannah Hall, Texas Southern University, 3100 Cleburne Avenue, Houston. Committees and agendas follow.

The Building and Grounds Committee considered approval of payments for construction contracts; approval/ratification of construction contracts; construction change order; improvements to land; sale of improvements; report on central plant expansion and renovation; progress report on ongoing construction projects; the receiving of bids on construction projects; and the purchase of real estate.

The Development Committee received reports from the administration on university fund raising efforts and received reports on special funds budget.

The Finance Committee considered monthly fiscal reports on university operations, approved short-term University investments, and received and considered bids on contracts involving university sales and services.

The Personnel and Academic Affairs Committee considered the ratification of appointments of instructional personnel for the fall school term; academic personnel changes; enrollment projections and reports; and the report on academic plans and projections.

The Student Affairs Committee considered reports on student admissions, enrollment, and financial aid; and reviewed status reports on international students, tuition installment payment of fees, and residence halls occupancy.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** October 25, 1985, 2:37 p.m.  
TRD-8510000-8510004

**Friday, November 1, 1985, 1:30 p.m.** The Board of Regents of Texas Southern University met in Room 203, Sterling Student Life Center, Texas Southern University, 3100 Cleburne Avenue, Houston. According to the agenda, the board reorganized the board and considered reports from the board's standing committees; received reports from the president; and considered minutes. The board also met in executive session.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** October 25, 1985, 2:37 p.m.  
TRD-8510006

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### **University Interscholastic League**

**Monday, November 4, 1985, 1 p.m.** The State Executive Committee of the University Interscholastic League met in Room 3.102, Thompson Conference Center, 26th Street and Red River, Austin. According to the agenda summary, the committee heard testimony of misconduct towards football officials.

**Contact:** Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

**Filed:** October 29, 1985, 11:06 a.m.  
TRD-8510083

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### **Texas Wheat Producers Board**

**Wednesday, November 20, 1985, 8 a.m.** The Texas Wheat Producers Board of the Texas Department of Agriculture will meet in the Carson Room, Hilton Inn, IH 40, at Lakeside, Amarillo. According to the agenda, the board will consider the financial report; review and revise the budget; review budget and membership of the U.S. Wheat Associates and the National Association of Wheat Growers; request to assist extension service post a leaf rust seminar; and a report from the directors and staff on meetings and travel.

**Contact:** Bil' Nelson, Suite 625, Texas Commerce Bank, Amarillo, Texas 79109, (806) 352-2191.

**Filed:** October 20, 1985, 9:28 a.m.  
TRD-8510130

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### **Texas Water Commission**

**Tuesday, October 29, 1985, 10 a.m.** The Texas Water Commission made an emergency revision to the agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the revised agenda, the commission considered an application by Vidor Independent School District for proposed water quality Permit 13210-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 11,250 gallons per day from the proposed Pine Forest Elementary School Sewage Treatment plant, Orange County, Neches River Basin. The emergency status was necessary because the applicant was paying \$200 per day for trucking the effluent and no request for public hearing had been received. The commission was considering this application as soon as possible.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 28, 1985, 3:41 p.m.  
TRD-8510073

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, and agendas follow.

**Tuesday, November 5, 1985, 10 a.m.** According to the agenda, the commission will consider water district bond issues; release from escrow; use of surplus funds; proposed water quality permits; amendments and renewals; water use applications; and approval of modification of plans.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:28 p.m.  
TRD-8510029

**Tuesday, November 5, 1985, 2 p.m.** Items on the agenda summary include an application by Cameron County Fresh Water Supply District 1 for amendment to the Certificate of Adjudication 23-455 to change the purpose and place of use of water; Application 4570 by Delsanter and Associates, Inc., for a §11.121 permit to authorize the construction, maintenance, and impoundment of water in six reservoirs and dams, Trinity River Basin, Denton County; Application 4571 of Dimension-Unicorn Lake Association; and Application 4572 of Dimension Development Company, Inc., for §11.121 permits for maintaining a dam and reservoir for recreational purposes on Trinity River Basin, Denton County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:30 p.m.  
TRD-8510030

**Thursday, November 7, 1985, 10 a.m.** According to the agenda, the commission will consider the executive director's preliminary report and petition for a Texas Water Commission Order assessing administrative penalties and requiring certain actions by the City of Austin concerning Walnut Creek Wastewater Treatment Plant (WWTP), Permit 10543-11; Horsby Bend WWTP, Permit 10543-04; Williamson Creek WWTP, Permit 10543-10; Onion Creek WWTP, Permit 10543-12; Govalle WWTP, Permit 10543-03; and Bergstrom WWTP, Permit and consideration of a request of the City of Austin for approval to commence construction of additional treatment capacity at the Walnut Creek WWTP and to dispose of an additional quantity of treated effluent by irrigation.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 29, 1985, 2:20 p.m.  
TRD-8510086

**Tuesday, November 12, 1985, 2 p.m.** According to the agenda, the commission will consider Application 4576 of Barrett W. Pierce for a §11.121 permit to authorize the maintenance of an existing 1.25 acre-foot reservoir on or adjacent to Whitefish Creek,

tributary of Salt Fork Red River, Red River, Red River Basin for irrigation purposes near Clarendon.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:31 p.m.  
TRD-8510031

**Tuesday, November 19, 1985, 2 p.m.** According to the agenda, the commission will consider Application 4555 of the Lower Colorado River Authority to construct and maintain six dams and reservoirs in Fayette County; and Application by the Lower Colorado River Authority for proposed water quality Permit 02743 to authorize a discharge of treated domestic wastewater effluent mine water, and surface water runoff at the Fayette Power Plant, Fayette County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:31 p.m.  
TRD-8510032

**Tuesday, December 10, 1985, 2 p.m.** According to the agenda, the commission will hear a petition for the creation of Harris County Municipal Utility District 294, containing 254,576 acres of land.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:29 p.m.  
TRD-8510033

**Thursday, December 17, 1985, 10 a.m.** Items on the agenda include Application 3077A of Central Power and Light Company to amend permit 2803 to allow 44,100 acre-feet of water of perittee's return water to be supplied to the King Ranch, Inc., for industrial (mariculture) purposes including 8,400 acre feet for filing, 4,956 acre-feet consumptive use and 30,744 acre-feet for circulation, in Nueces County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:29 p.m.  
TRD-8510034

**Tuesday, December 17, 1985, 10 a.m.** According to the agenda, the commission will consider Application 5008 of King Ranch, Inc., for a permit to construct an off-channel 4,200 acre-foot capacity reservoir and impound therein not to exceed 44,100 acre-feet of water per annum from Laguna Madre, Nueces-Rio Grande Coastal Basin, for industrial (mariculture) purposes southeast of Corpus Christi, Nueces County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:29 p.m.  
TRD-8510035

**Tuesday, January 7, 1986, 10 a.m.** According to the agenda, the commission will consider Application 5002 by William A. Jef-

fers, Jr., for a permit to directly divert and use 150 acre-feet of water from the San Antonio River, San Antonio River Basin, for the irrigation of 150 acres of land out of 293.62 acres in Karnes County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:30 p.m.  
TRD-8510036

**Tuesday, January 7, 1986, 10 a.m.** Items on the agenda include Application 5001 by the City of Mart for a permit to impound 538 acre-feet of water in an existing 538 acre-foot capacity reservoir (Battle Lake) on Riggs Creek, tributary of Tradinghouse Creek, tributary of Tehuacana Creek, tributary of the Brazos River, Brazos River Basin; to use the water so impounded for recreational purposes; and to divert and use 200 acre-feet of water per annum from the reservoir for the irrigation of 74 acres of land, in McLennan County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:30 p.m.  
TRD-8510037

**Tuesday, January 7, 1986, 10 a.m.** Items on the agenda include Application 5000 by the City of Mart for a permit to impound 1,640 acre-feet of water in an existing 1,640 acre-foot capacity reservoir (New Lake Mart) in McLennan County, on an unnamed tributary of Tradinghouse Creek, tributary of Tehuacana Creek, tributary of the Brazos River, Brazos River Basin, to use the water so impounded for recreation purposes, and to divert and use 500 acre-feet of water per annum for municipal purposes.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:30 p.m.  
TRD-8510038

**Tuesday, January 7, 1986, 10 a.m.** Items on the agenda include Application 5003 by North Texas Municipal Water District for a permit to divert and use 84,000 acre-feet of water per year from Lake Texoma, Red River Basin, and to transfer the water via pipeline to West Prong Sister Grove Creek, Trinity River Basin, in Grayson County. Applicant also requests the right to use the bed and banks of West Prong Sister Grove Creek and Sister Grove Creek to transport the Lake Texoma water downstream to Lake Lavon in Collin County for impoundment and subsequent municipal use.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:29 p.m.  
TRD-8510039

**Tuesday, January 7, 1986, 10 a.m.** Items on the agenda include Application 08-2410A to amend the Certification of Adjudication 08-2410, regarding North Texas



**Municipal Water District to change the purpose of use of 4,000 acre-feet of the 8,000 acre-feet of industrial to municipal use, to change the purpose of use of the 2,900 acre-feet for domestic use to municipal use, to increase the authorized maximum diversion rate, to appropriate an additional 77,300 acre-feet of water per annum, and to reuse for municipal purposes 8986 acre-feet of water per annum.**

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 25, 1985, 4:29 p.m.  
TRD-8510040

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### **Regional Agencies Meetings Filed October 24**

**The Capital Area Planning Council, Regional Health Planning Advisory Committee,** will meet in Suite 100, 2520 IH 35 South, Austin, on November 5, 1985, at 10 a.m. Information may be obtained from Richard Bean, 2520 IH 35 South, Suite 100, Austin, Texas 78704, (512) 443 7653.

**The Leon County Central Appraisal District, Board of Directors,** met at the appraisal district office, Centerville, on October 28, 1985, at 7:30 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2602.

**The Texas Municipal League (Risk and Insurance Management Services), Board of Trustees (Workers' Comp/Joint Self Insurance Funds),** met at the St. Anthony Hotel, 300 East Travis, San Antonio, on October 31, 1985, at 9 a.m. Information may be obtained from William I. Martin, 211 East Seventh Street, Suite 1020, Austin, Texas 78701-3283, (512) 478-6601.

TRD-859933

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### **Meetings Filed October 25**

**The Amarillo Mental Health and Mental Retardation Center, Executive Committee of the Board of Trustees,** met in the boardroom, 1901 Medi-Park, Amarillo, on October 31, 1985, at noon. The Board of Trustees will meet at the same location on the same day at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

**The Deep East Texas Council of Governments, Regional Review Committee,** met at the Holiday Inn, Highway 59 South, Lufkin, on October 31, 1985, at 10 a.m. Information may be obtained from Joan Draper, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.

**The Deep East Texas Private Industry Council, Board of Directors,** met in the Harvest Room, Lufkin Federal Savings & Loan, 211 Sheperd, Lufkin, on October 31, 1985, at 2 p.m. Information may be obtained from Jerry K. Johnson, P.O. Drawer 1918, Nacogdoches, Texas 75963, (409) 564-4624.

**The Denton County Appraisal District, Appraisal Review Board,** met at 3911 Morse, Denton, on November 1, 1985, at 9 a.m. Information may be obtained from Joe D. Rogers, P.O. Box 2816, Denton, Texas 76201, (817) 566-0904.

**The Region XV Education Service Center, Board of Directors,** met at 612 South Irene Street, San Angelo, on October 31, 1985, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571.

**The High Plains Underground Water Conservation District 1, Board of Directors,** met in the conference room, 2930 Avenue Q, Lubbock, on November 4, 1985, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

**The West Central Texas Council of Governments, Private Industry Council,** will meet at the Royal Inn, 5695 South First Street, Abilene, on November 8, 1985, at 11:15 a.m. Information may be obtained from Tom K. Smith, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

TRD-859940

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### **Meetings Filed October 28**

**The Bexar-Medina-Atascosa Counties Water Control Improvement District 1, Board of Directors,** met at the District Office, Highway 81, Natalia, on November 4, 1985, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78509, (512) 663-2132.

**The Brown County Appraisal District, Board of Directors,** met at 403 Fisk Avenue, Brownwood, on November 4, 1985, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

**The Dawson County Appraisal District, Board of Directors,** will meet at 611 North Dallas Avenue, Lamesa, on November 6, 1985, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

**The Garza County Appraisal District, Board of Directors,** will meet at the Courthouse, Post, on November 7, 1985, at 8:30 a.m. Information may be obtained from

Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

**The Gulf Bend Mental Health and Mental Retardation Center, Board of Trustees,** met 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 Houston-Galveston Area Council, Project Review Committee,** will meet in the Conference Room, fourth floor, Suite 500, 3555 Timmons Lane, Houston, on November 5, 1985, at 9:30 a.m. Information may be obtained from Geraldine McCray, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200.

**The Lavaca County Central Appraisal District, Appraisal Review Board,** will meet at 113 North Main, Hallettsville, on November 7, 1985, at 10 a.m. Information may be obtained from J. P. Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The Swisher County Appraisal District, Appraisal Review Board,** will meet at Tule Lake Golf Club, Tulia, on November 5, 1985, at noon. Information may be obtained from Rose Lee Powell, 130 North Armstrong, Tulia, Texas 79088, (806) 995-4118.

**The Tyler County Tax Appraisal District, Board of Directors,** will meet at 105 Pecan, Woodville, on November 5, 1985, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

**The Wheeler County Appraisal District, Board of Directors,** met at the County Courthouse Square, Wheeler, on November 4, 1985, at 2 p.m. Information may be obtained from Marilyn Copeiland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.  
TRD-8510047

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### **Meetings Filed October 29**

**The Fisher County Appraisal District, Board of Directors,** will meet at the Courthouse, Roby, on November 12, 1985, at 7:30 p.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 735-2578.

**The Liberty County Central Appraisal District, Appraisal Review Board,** met in emergency session at 1820 Sam Houston, Liberty, on November 1, 1985, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 712, Liberty, Texas 77575, (409) 336-6771

**The West Central Texas Council of Governments, Big Country Development Corporation and Board of Directors, will meet at Briarstone Manor, 101 Eplen's Court, Abilene, on November 14, 1985, at 5:45 p.m. and 6 p.m. respectively. Information may be obtained from James K. Compton, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.**

TRD-8510080

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#### **Meetings Filed October 30**

**The Coryell County Appraisal District, Board of Directors, will meet at 105 North Seventh Street, Gatesville, on November 6, 1985, at 7 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.**

**The Dallas County Appraisal District, Board of Directors, will meet in the boardroom, 2601 Live Oak Street, Dallas, on November 6, 1985, at 7:30 a.m. The Appraisal**

**Review Board will meet at the same location on November 15, 1985, at 10 a.m. Information may be obtained from Rick L. Kuehler, 2601 Live Oak, Dallas, Texas 75204, (214) 826-0030.**

**The Denton County Appraisal District, Board of Directors, will meet at 3911 Morse, Denton, on November 7, 1985, at 1:30 p.m. Information may be obtained from Joe D. Rogers, P.O. Box 2816, Denton, Texas 76201, (817) 566-0904.**

**The Eastland County Appraisal District, Appraisal Review Board, will meet in the commissioners courtroom, County Courthouse, Eastland, on November 14, 1985, at 9:30 a.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597.**

**The Edwards County Appraisal District, Appraisal Review Board, will meet in the New County Office Building, Rocksprings, on November 14, 1985, at 1 p.m. Information may be obtained from Sondra Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-2337.**

**The Gregg Appraisal District, Board of Review, will meet at 2010 Gilmer Road, Longview, on November 7, 1985, at 1:30 p.m. The Board of Directors will meet at the same location on November 12, 1985, at noon. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.**

**The North Plains Water District, Board of Directors, will meet at 702 East First Street, Dumas, on November 12, 1985, at 10 a.m. Information may be obtained from Ann M. Sims, 702 East First Street, Dumas, Texas 79029, (806) 935-6401.**

TRD-8510140

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#### **Meeting Filed October 31**

**The Scurry County Appraisal District, Board of Directors, will meet at 2612 College Avenue, on November 5, 1985, at 7:30 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.**

TRD-8510172

# 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 Adult Probation Commission Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Adult Probation Commission furnishes this notice of consultant contract award. The request for proposals was published in the October 11, 1985, issue of the *Texas Register* (10 TexReg 3988).

**Description of Services.** The contractor will direct and coordinate the Misdemeanor Probation: Managing the Change Project of the Texas Adult Probation Commission. Project activities will include survey research, writing, delivering technical assistance, and coordinating workshops.

**Name of Contractor and Value of Contract.** The contractor selected was Frances Cox, 7323 Gaines Mill Lane, Austin, Texas 78745. The value of the contract is \$17,550.

**Effective Date of Contract.** The contract begins November 15, 1985, and will run to August 1, 1986.

**Due Date of Reports.** Reports will be provided on an individual basis as needed in accordance with requirements of the contract.

Issued in Austin, Texas, on October 25, 1985.

TRD-8510042 Virginia Grote  
Administrative Secretary  
Texas Adult Probation Commission

Filed: October 28, 1985  
For further information, please call (512) 834-8188

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## Office of the Attorney General Solid Waste Enforcement

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Solid Waste Disposal Act. The following is a summary of the nature of the lawsuit and the proposed agreed final judgment.

**Case Title and Court.** State of Texas, plaintiff vs. The Lubrizol Corporation, defendant; Cause 85-57130. In the District Court of Harris County, 127th Judicial District.

**The Complaint.** The Lubrizol Corporation is in the business of manufacturing lubricant additives at a plant located at Deer Park, Harris County. Lubrizol has maintained surface facilities for the handling and storage of waste.

The state alleges that Lubrizol failed to implement an adequate groundwater monitoring system at its facility.

## The Judgment.

(1) Civil penalty. The proposed agreed final judgment requires the defendant to pay a civil penalty of \$10,000.

(2) Injunctive relief. The proposed judgment also requires the defendant to remove the equalization basin from service, conduct extensive groundwater monitoring, take corrective action if contaminated groundwater is found, and make certain design changes at the facility.

For a complete description of the allegations and proposed settlement, the original petition and proposed agreed final judgment should be consulted.

Comments and requests for copies of these pleadings may be directed to Nancy Olinger, Texas Attorney General's Office, Environmental Protection Division, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-1101.

Issued in Austin, Texas, on October 25, 1985.

TRD-8510060 Lou McCreary  
Assistant Attorney General  
Office of the Attorney General

Filed: October 28, 1985  
For further information, please call (512) 475-0672.

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Notice is given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Solid Waste Disposal Act and the Injection Well Act. The following is a summary of the nature of the lawsuit and the proposed agreed final judgment.

**Case Title and Court.** State of Texas, Plaintiff vs. Gibraltar Chemical Resources, Inc., Defendant; Cause 85-2139, in the District Court of Smith County, Texas, 241st Judicial District.

**The Complaint.** Gibraltar Chemical Resources, Inc., owns and operates a waste disposal well pursuant to Permit WDW-186 at a site approximately 11 miles northeast of Tyler, in Smith County. The well disposes of hazardous and other industrial wastes by underground injection into the woodbine formation. It also maintains surface facilities for the handling and storage of waste prior to injection.

The state alleges that Gibraltar injected waste into the formation at pressures higher than allowed by the permit and injected waste while failing to maintain at least a 100 pounds per square inch differential between the annulus and injection tube. The state also alleges that Gibraltar committed violations of the permit, the statutes,

and the regulations at the surface facility, including unpermitted design changes, failure to maintain required plans and file required reports, failure to maintain and operate certain monitoring equipment, failure to maintain certain equipment in good working order, failure to maintain adequate financial assurance, failure to maintain adequate liability insurance, and other violations.

**The Judgment—Civil Penalty.** The proposed agreed final judgment requires the defendant to pay a civil penalty of \$70,000, plus \$5,000 attorneys' fees and \$5,000 investigative costs.

**Injunctive Relief.** The proposed judgment also requires the defendant to sample the soil and groundwater around the facility for contamination, dispose of the soil properly and clean up the groundwater if contamination is found, and make certain design and operating changes at the surface facility.

For a complete description of the allegations and proposed settlement, the original petition and proposed agreed final judgment should be consulted.

Comments and requests for copies of these pleadings may be directed to Thomas H. Edwards, Texas Attorney General's Office, Environmental Protection Division, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-1101.

Issued in Austin, Texas, on September 9, 1985.

TRD-850915 Lou McCreary  
Assistant Attorney General  
Office of the Attorney General

Filed: October 23, 1985  
For further information, please call (512) 475-0672.

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### Automated Information and Telecommunications Council Executive Director

In the October 22, 1985, board meeting of the Automated Information and Telecommunications Council (AITC), Robert B. Jordan was appointed as executive director of the AITC. Mr. Jordan was formerly deputy commissioner of budget and planning for Gary Mauro, land commissioner. Mr. Jordan will begin his duties as executive director in November, 1985.

Issued in Austin, Texas, on October 26, 1985

TRD-850995 Charlotte D Craig  
Administrative Assistant  
Automated Information and  
Telecommunications Council

Filed: October 26, 1985  
For further information, please call (512) 463-5530.

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### State Banking Board Application for Change of Domicile

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Monday, December 9, 1985, at 2601 North Lamar, Austin, on the change of domicile application for MBank Houston Southwest, Houston,

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on October 28, 1985.

TRD-8510090 William F. Aldridge  
Director of Corporate Activities  
State Banking Board

Filed: October 29, 1985  
For further information, please call (512) 475-4451.

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### Public Hearing

The hearing officer of the State Banking Board will conduct a hearing at 9 a.m. on Tuesday, December 3, 1985, at 2601 North Lamar, Austin, on the charter application for Cypress Creek State Bank, Austin.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on October 25, 1985

TRD-8510075 William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: October 28, 1985  
For further information, please call (512) 475-4451.

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### Texas Department of Community Affairs Contract Awards

The Texas Department of Community Affairs announces that the units of general local government listed have each been selected as contract recipients for community development project funds or area revitalization funds under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article 4413 (201), §4A. Although the proposed amount of funding for each contract is indicated, a contract is not effective until executed by the unit of local government and the executive director of the Texas Department of Community Affairs.

Community Development Project Fund	
List of Cities/Counties	Amount of Funding
Charlotte	\$375,000
Devine	\$171,940
Dilley	\$348,000
Floresville	\$400,000
Natalia	\$400,000
Runge	\$389,395
Bremond	\$124,084
Brenham	\$286,220
Calvert	\$136,000
Navasota	\$231,319
Normangee	\$220,532

Elgin	\$392,000	Del Rio	\$360,040
Kyle	\$300,000	Dimmit County	\$156,000
Lockhart	\$300,000	Eagle Pass	\$279,321
Martindale	\$322,045	Encinal	\$ 94,000
Round Rock	\$199,989	La Salle County	\$144,281
Shulenburg	\$162,180	Maverick County	\$279,321
Buckholts	\$266,000	Real County	\$ 53,320
Milano	\$231,075	Rocksprings	\$ 99,875
Mills County	\$148,000	Uvalde	\$245,376
San Saba	\$400,000	Zavala County	\$173,419
San Saba County	\$134,000	Archer City	\$218,650
Beeville	\$185,600	Holliday	\$100,100
Duval County	\$400,000	Newcastle	\$119,031
Gregory	\$400,000	Paducah	\$171,500
Kleberg County	\$105,000	Petrolia	\$156,145
Nueces County	\$400,000	Quanah	\$170,100
Orange Grove	\$151,972	Commerce	\$500,000
Robstown	\$400,000	Ennis	\$500,000
Junction	\$ 84,700	Erath County	\$228,800
Melvin	\$250,000	Ferris	\$296,020
Sonora	\$149,500	Glen Rose	\$252,000
Sutton County	\$177,200	Kaufman	\$498,725
Hemphill	\$214,250	Kerens	\$284,266
Huntington	\$334,540	Milford	\$137,250
Jasper	\$280,905	Royse City	\$350,981
Kirbyville	\$400,000	Waxahachie	\$231,120
Trinity County	\$169,340	Bowie County	(0)
Tyler County	\$390,000	Lamar County	\$500,000
Camp County	\$228,004	Mount Pleasant	\$199,291
Carthage	\$119,000	Mount Vernon	\$154,254
Easton	\$310,100	Naples	\$132,500
Harrison County	\$156,832	Clarendon	\$155,000
Henderson	\$293,953	Hedley	\$142,564
Jefferson	\$151,000	Lakeview	\$116,590
Malakoff	\$297,500	McLean	\$173,460
Marion County	\$275,993	Memphis	\$ 87,202
Rocky Mound	\$ 82,816	Mobeetie	\$182,400
Trinidad	\$318,181	Oldham County	\$190,125
Edna	\$278,600	Turkey	\$166,380
Goliad	\$249,820	Big Spring	\$300,000
Hallettsville	\$183,900	Fort Stockton	\$375,000
Jackson County	\$157,500	Seagraves	\$200,000
Victoria County	\$163,621	Seminole	\$266,000
Fairfield	\$135,524	Bridge City	\$162,901
Falls County	\$250,000	Hardin County	\$476,400
Kosse	\$ 94,600	Kountze	\$299,820
Limestone County	\$150,000	Silsbee	\$192,647
Marlin	\$394,000	Hale Center	\$393,023
Thornton	\$159,000	O'Donnell	\$201,991
Bay City	\$500,000	Olton	\$269,657
Brookshire	\$500,000	Post	\$246,500
Conroe	\$500,000	Spur	\$131,200
El Campo	\$500,000	Wilson	\$195,948
Fulshear	\$500,000	Jim Hogg County	\$331,432
Hempstead	\$436,757	La Grulla	\$331,433
Huntsville	\$500,000	Roma	\$331,432
Montgomery	\$215,400	Siarr County	\$331,432
Willis	\$317,340	Webb County	\$331,432
Alton	\$400,000	Zapata County	\$331,432
Donna	\$400,000	Bonham	\$167,050
Elsa	\$400,000	Ector	\$ 82,000
Hidalgo County	\$400,000	Gainesville	\$232,084
La Joya	\$400,000	Leonard	\$201,500
La Villa	\$390,000	Windom	\$ 64,500
San Juan	\$400,000	Haskell	\$270,174
Santa Rosa	\$400,000	Munday	\$400,000
Brackettville	\$ 93,490	Roscoe	\$223,500
Camp Wood	\$ 53,321	Santa Anna	\$186,000
Crystal City	\$150,000	Stamford	\$339,000

Alpine	\$282,321
Brewster County	\$282,289
El Paso County	\$400,000
Presidio	\$122,441
Van Horn	\$140,000

**Area Revitalization Fund**

List of Cities/Counties	Amount of Funding
Clarksville	\$466,060
Hidalgo	\$580,700
Hubbard	\$371,900
Hughes Springs	\$379,471
Mercedes	\$600,000
Nacogdoches	\$600,000
Pittsburg	\$600,000
Terrell	\$415,000
Washington County	\$600,000

Issued in Austin, Texas, on October 25, 1985.

TRD-8510011 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: October 25, 1985  
For further information, please call (512) 834-8080.

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**Extension of Deadline**

In the October 11, 1985, issue of the *Texas Register* (10 TexReg 4030), the Texas Department of Community Affairs (TDCA) published a request for applications to operate worker adjustment projects under the Job Training Partnership Act (JTPA). The deadline for submittal of applications for the worker adjustment projects has been extended to 4 p.m. on Thursday, December 5, 1985.

Only the application deadline has been extended; all other requirements remain as described in the request for applications for worker adjustment projects issued on October 11, 1985.

For further information, please contact Enrique Barrera or Arturo Gil at (512) 834-6092 or at Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711-3166.

Issued in Austin, Texas, on October 22, 1985.

TRD-850894 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: October 23, 1985  
For further information, please call (512) 834-6000.

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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) 11/04/85-11/10/85	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 11/01/85-11/30/85	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(3) 10/01/85-12/31/85	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d)(3) 10/01/85-12/31/85	14.46%	N/A
Standard Annual Rate— Article 1.04(a)(2)(2) 10/01/85-12/31/85	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11(3) 10/01/85-12/31/85	18.00%	N/A
Annual Rate Applica- ble 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 11/01/85-11/30/85	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 28, 1985.

TRD-8510041 Sam Kelley  
Consumer Credit  
Commissioner

Filed: October 28, 1985  
For further information, please call (512) 479-1299.

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**Texas Economic Development  
Commission  
Administrative Assistant Proposal  
Request Amendment**

Due to the need for additional research concerning the content of the proposed contracts to be executed pursuant to the request for proposals from individuals qualified to serve as an administrative assistant in the State of Texas office, Mexico City, D.F., which appeared in the July

12, 1985, issue of the *Texas Register* (10 TexReg 2261), the deadline has been extended until November 30, 1985.

Issued in Austin, Texas, on October 25, 1985.

TRD-859944 David V. Brandon  
Executive Director  
Texas Economic Development  
Commission

Filed: October 25, 1985  
For further information, please call (512) 472-5059.

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## Manager Proposal Request Amendment

Due to the need for additional research concerning the content of the proposed contracts to be executed pursuant to the request for proposals from individuals qualified to serve as the manager of the State of Texas office in Mexico City, D.F., which appeared in the July 12, 1985, issue of the *Texas Register* (10 TexReg 2260), the deadline has been extended until November 30, 1985.

Issued in Austin, Texas, on October 25, 1985.

TRD-859945 David V. Brandon  
Executive Director  
Texas Economic Development  
Commission

Filed: October 25, 1985  
For further information, please call (512) 472-5059.

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## Texas Department of Health Intent to Issue Uranium Byproduct Radioactive Material License

The Texas Department of Health proposes to issue a uranium byproduct radioactive material license to Everest Exploration, Inc., (mailing address: Everest Exploration, Inc., P.O. Box 1339, Corpus Christi, Texas 78403) for their Hobson Tex-1 project (acquired from Texaco Inc.) located in Karnes County, 4.5 miles south of Falls City.

The Division of Licensing, Registration, and Standards has determined that the proposed issuance has no significant impact on the human environment; the applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety and the environment; the applicant's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, the environment; the issuance of the license will not be inimical to public health and safety, or have a detrimental impact on the environment; and the applicant satisfies any applicable special requirements in Parts 12, 41, and 43 of the TRCR.

The basis for these conclusions is set out in a document titled *Environmental Assessment and Safety Evaluation Report and Proposed License Conditions Related to the Texaco, Inc.—Sonoco Energy Development Company Hobson Tex-1 Project, Karnes County*, (TBRC EA-13). Copies of this document are available upon written request from the Bureau of Radiation Control, 1100 West 49th Street, Austin, Texas 78756.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11(b), as amended, and as set out in TRCR Part 13.4(a). A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on October 29, 1985.

TRD-8510103 Robert A. MacLean  
Deputy Commissioner  
Texas Department of Health

Filed: October 29, 1985  
For further information, please call (512) 458-7236.

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## Proposed Rules

In this issue of the *Register*, the department is proposing amendments to its hospital licensing standards which are adopted by reference in 25 TAC §133.21. The amendments, which will add a new Chapter 11 to the standards adopted by reference, will establish minimum standards governing the transfer of patients between hospitals. Because of strong public interest in these standards, the proposed new Chapter 11 is being published in its entirety, as follows.

### Chapter 11. Rules Governing Hospital Patient Transfer Policies.

#### 11-1. General Provisions.

11-1.1. Definitions. The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

11-1.1.1. Act—the Texas Hospital Licensing Act, Texas Civil Statutes, Article 4437f.

11-1.1.2. Board—the Texas Board of Health.

11-1.1.3. Commissioner—the commissioner of health.

11-1.1.4. Department—the Texas Department of Health.

11-1.1.5. **Emergency services**—services defined as emergency services in Texas Civil Statutes, Article 4438a.

11-1.1.6. **Hospital**—a hospital licensed by the department under the Texas Hospital Licensing Act, Texas Civil Statutes, Article 4437f.

11-1.1.7. **Hospital administration**—a person who has the authority to represent a hospital and may authorize the transfer from or receipt of patients into the facility.

11-1.1.8. **Patient**—an individual seeking medical treatment who:

11-1.1.8.1. may or may not be under the immediate supervision of a personal attending physician;

11-1.1.8.2. has one or more undiagnosed or diagnosed medical conditions; and

11-1.1.8.3. may require medical care or treatment for one or more of these conditions.

11-1.1.9. **Physician**—an individual licensed by the Texas State Board of Medical Examiners to practice medicine within the State of Texas.

11-1.1.10. **Policy**—includes policies established by the governing body of the hospital to govern patient transfers.

11-1.2. **Transfer Policy Required.**

11-1.2.1. The governing body of each hospital shall adopt a policy relating to patient transfers which is equal to the standards contained in this chapter.

11-1.2.2. The hospital's policy shall assure that:

11-1.2.2.1. a physician on the staff of the hospital employs medically appropriate life support measures which a reasonable and prudent physician exercising ordinary care in the same or similar locality would use to stabilize the patient prior to transfer and to sustain the patient during transfer;

11-1.2.2.2. the physician employs medically appropriate provision of personnel and equipment which a reasonable and prudent physician exercising ordinary care in the same or similar locality would use for the transfer;

11-1.2.2.3. the medical staff reviews appropriate patient records to prevent patient abuse and to assure that the appropriate standard of care has in fact been met; and

11-1.2.2.4. the transfer of patients requiring emergency services may be undertaken for medical reasons only.

11-1.2.3. The policy shall require a written protocol and standing delegation orders to the nursing staff for use when a patient presents or is presented to the hospital.

11-1.2.4. The policy shall assure that prior to each patient transfer, the physician who authorizes the transfer shall personally examine and evaluate the patient to determine the patient's medical needs and to assure that the proper transfer procedures are used.

11-1.2.5. The policy shall contain sanctions which the governing body must enforce against physicians and hospital employees for failure or refusal to comply with the governing body's policy. The policy shall include provisions for sanctions up to and including the termination of hospital medical staff privileges for physicians and the termination of employment for hospital employees who are found by the governing body to have failed or refused to comply with the governing body's policy.

11-1.2.6. The transfer policy shall be adopted by the governing body of the hospital not later than March 1, 1986.

11-1.2.7. If possible, each governing body shall implement its transfer policy by adopting transfer agreements with other hospitals.

11-2 **Minimum Standards for Patient Transfer Policies.**

11-2.1. **Patient Evaluation.** The hospital's policy shall assure that each patient who presents or is presented to either:

11-2.1.1. evaluated by a physician who is present in the hospital at the time the patient presents or is presented; or

11-2.1.2. evaluated by a staff physician on call who:

11-2.1.2.1. is physically able to reach the patient within 15 to 20 minutes after being informed that a patient is present at the hospital who requires immediate medical attention; and

11-2.1.2.2. through direct voice communication can issue medical orders for the patient's care to members of the hospital's nursing staff during the time the physician is traveling to the hospital to personally attend the patient before an attempt is made to transfer the patient.

11-2.2. **Responsibility in Transit.** A hospital shall assure that the hospital to which the patient initially presented or was presented and the staff physician who initially evaluated the patient's condition will remain responsible for the necessary hospital care and medical treatment of the patient until the patient is received and accepted for treatment by the receiving physician and the receiving hospital.

11-2.3. **Prerequisites of Transfer.**

11-2.3.1. If the transferring hospital and physician determine that the patient cannot be admitted for continuing hospital care and medical treatment, the transferring hospital and physician may undertake to transfer the patient to a receiving hospital and physician under the following conditions:

11-2.3.1.1. the hospital and physician shall document and assure that the transfer is not predicated upon arbitrary, capricious, or unreasonable discrimination based upon the race, religion, national origin, age, sex, physical condition or economic status of the patient;

11-2.3.1.2. the transferring physician shall determine and order the procedures which are medically appropriate to stabilize the patient prior to transfer; and

11-2.3.1.3. the transferring physician shall secure a receiving physician and hospital who will accept the responsibility for the patient's treatment.

11-2.4. **Medical Record; Memorandum of Transfer.**

11-2.4.1. The transferring hospital and physician shall assure that a copy of the patient's medical record is transferred to the receiving physician and hospital with the patient to be transferred. The medical record shall contain at a minimum:

11-2.4.1.1. brief description of the patient's medical history and physical examination;

11-2.4.1.2. working diagnosis and recorded observations of physical assessment of the patient's condition at the time of transfer;

11-2.4.1.3. reason for the transfer;

11-2.4.1.4. results of all diagnostic tests, such as laboratory tests;

11-2.4.1.5. x-ray films and results; and

11-2.4.1.6. other related reports.

11-2.4.2. A memorandum of transfer shall be completed for every patient transfer that at a minimum shall contain the following information:

11-2.4.2.1. the patient's full name;

11-2.4.2.2. the patient's address and next of kin, if



known;

11-2.4.2.3. the name and address of both the transferring and receiving physicians;

11-2.4.2.4. the name and address of both the transferring and receiving hospitals;

11-2.4.2.5. the time and date on which the patient first presented or was presented to the transferring physician and transferring hospital;

11-2.4.2.6. the time and date on which the transferring physician secured a receiving physician;

11-2.4.2.7. the time and date on which the actual patient transfer was undertaken;

11-2.4.2.8. the time and date on which the receiving physician assumed responsibility for the patient;

11-2.4.2.9. the time and date on which the patient was admitted to the receiving hospital; and

11-2.4.2.10. a certification by the transferring hospital that the hospital has met its Hill-Burton obligation for uncompensated services or other statutory or regulatory obligation for charity care within the State of Texas.

11-2.4.3. The memorandum of transfer shall be signed by the transferring physician and hospital administration.

11-2.4.4. The receipt of the memorandum of transfer shall be acknowledged in writing by both the receiving hospital administration and physician.

11-2.4.5. The form and content of the memorandum of transfer shall be approved by the director of hospital licensing, Texas Department of Health

11-3. Departmental Review of Hospital Transfer Policy; Approval; Rejection.

11-3.1. Submission. Together with a hospital's application for a license or a license renewal under the Texas Hospital Licensing Law, the governing body of each hospital shall submit a copy of the hospital's current transfer policy, including the hospital's memorandum of transfer form, and affidavits executed by both the chairman and secretary of the governing body attesting to the adoption of the policy, the policy's effective date, and the fact and method of the policy's implementation on the date on which the application for license or application for license renewal was submitted to the department.

11-3.2. Review. Before the hospital's application for license or application for license renewal is considered, the department will review the policy and the memorandum of transfer form to assure that the policy, the memorandum of transfer form, and the method of implementation are compatible with and at least as stringent as the requirements contained in these rules.

11-3.3. Approval. After its review of the policy and the form, if the department determines that both the policy and the form conform to the requirements contained in this chapter, the department will notify the governing body of the hospital and the hospital administration that the policy and the form have been approved.

11-3.4. Rejection. If the department determines that either the policy, the memorandum of transfer form, or the governing body's implementation of the policy fail to conform to the requirements contained in this chapter, the department shall give notice to the governing body of the hospital and to the hospital administration that either the policy, the form, or the method of implementation, or any combination of the three is deficient.

11-3.5. Deficiency Notice. The deficiency notice shall contain the following:

11-3.5.1. a complete statement of the deficiency(ies);

11-3.5.2. recommendations for correction or offer of consultation;

11-3.5.3. a time period not to exceed thirty days, within which the corrections shall be made and the policy, form, or method of implementation resubmitted to the department, unless otherwise provided by the director of hospital licensing.

11-4. Enforcement.

11-4.1. Violations. The governing body violates the Hospital Licensing Act and this chapter if the governing body fails or refuses to:

11-4.1.1. adopt a transfer policy which is equal to the rules in this chapter;

11-4.1.2. adopt a memorandum of transfer form which meets the minimum standards for content contained in this chapter;

11-4.1.3. enforce the transfer policy and the use of the memorandum of transfer; or

11-4.1.4. all of the above.

1-4.2. Notice; Opportunity For Correction; Enforcement Actions.

11-4.2.1. If the department determines that the governing body of a hospital has violated the Act or the rules in this chapter, the department shall provide notice to the governing body of the violation or violations and an opportunity for correction. If the governing body fails or refuses to correct the violation, the department may undertake any or all of the following enforcement actions:

11-4.2.1.1. refuse to issue a license or a renewal license, or suspend, modify, or revoke an existing license;

11-4.2.1.2. seek injunctive relief as provided by the Act;

11-4.2.1.3. seek civil penalties as defined in the Act.

11-4.2.2. The department shall provide the governing body with notice of its intent to seek administrative or judicial relief.

11-4.2.3. Action by the department to refuse to issue or reissue a license, or to suspend or revoke a hospital license shall be preceded by granting the governing body an opportunity for a hearing to contest the proposed action. Notice and hearing will be governed by the board's formal hearing rules and the applicable provisions of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a.)

Issued in Austin, Texas, on October 29, 1985

TRD-8510124      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 30, 1985

For further information, please call (512) 458-7538.

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## Public Hearings

The City of Georgetown has filed Application 466-A with the Texas Department of Health for an amendment of its Permit 466 by adding a transfer station to the city's existing Type I municipal solid waste disposal site. No additional acreage is involved in the application amendment. The transfer station will be located at the city's existing landfill currently located in the far northeast part

of Georgetown, bounded on the north and northwest by the San Gabriel River, bounded on the south and southeast by the MKT Railroad, east of College Street, with the site entrance on College Street, in Williamson County.

The facility is to receive daily approximately 35 tons of solid waste under the regulatory jurisdiction of the Texas Department of Health. A transfer station is a facility that allows the transfer of solid waste from collection vehicles to long haul vehicles in such a manner that blowing debris and vectors are controlled and contaminated liquids are disposed of in the sanitary sewer. The application has been technically reviewed and the final decision will be made by the department pursuant to the provisions of the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, the Texas Department of Health Municipal Solid Waste Management Regulations, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

No public hearing will be held on this application unless a person affected has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, has suffered or will suffer actual injury or economic damage by the granting of the application.

If a hearing is requested by a person affected, notice of such hearing will be provided to the requester and also will be published in a newspaper of general circulation in the area where the site is located at least 30 days prior to the date of such hearing. If no request for a hearing is received within 30 days of the date of publication of the said notice in a newspaper of general circulation, the department will make a decision. If a hearing is requested, it will be conducted, and the final decision will be rendered, in accordance with the applicable rules contained in the department's municipal solid waste management regulations, including all changes in effect as of August 20, 1985.

Requests for a public hearing and/or requests for a copy of the technical summary of the application prepared by the Bureau of Solid Waste Management shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. A copy of the complete application may be reviewed at the Bureau of Solid Waste Management or at the department's public health Region 6 headquarters located at 2408 South 37th Street, Temple, Texas 76501; (817) 778-6744.

Issued in Austin, Texas, on October 29, 1985.

TRD-8510125 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 30, 1985  
For further information, please call (512) 458-7271.

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The department will conduct a public hearing on the following application for a municipal solid waste disposal site. The City of Electra has filed Application 1746 for a permit to operate a proposed Type II municipal solid waste disposal site to be located 1.2 miles southeast of the south city limits of Electra, 2.2 miles southeast of the

intersection of State Highway 25 and State Highway 477, 1.4 miles south of the junction of FM Road 1739 with State Highway 477, and on the east side of a paved road in Wichita County. The public hearing will be held at 9 a.m. on Tuesday, November 19, 1985, in the City Council Chambers, City Hall, 101 North Main, Electra.

Issued in Austin, Texas, on October 29, 1985.

TRD-8510126 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 30, 1985  
For further information, please call (512) 458-7271.

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### Radioactive Material License Amendment

Notice is given by the Texas Department of Health that it has granted an amendment to radioactive material license 11-1654 issued to Gulf Nuclear Incorporated, for its facility located in Webster and Odessa (mailing address: 202 Medical Center Boulevard, Webster, Texas 77598).

The amendment of this license is summarized as follows: Radioactive waste in the licensee's possession cannot exceed TRCR Part 44.5(a) limits for a Class B waste storage and processing facility. Designates separate individuals to perform the functions of radiation safety officer at the Webster and Odessa facilities.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR Part 13.6. A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief,

Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7060.

Issued in Austin, Texas, on October 29, 1985

TRD-8510102 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 29, 1985

For further information, please call (512) 458-7238.

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## State Department of Highways and Public Transportation Public Hearings

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the State Department of Highways and Public Transportation will conduct a public hearing to receive data, comments, views, and/or testimony concerning the repeal of existing 43 TAC §25.91, and §25.92, and the proposed adoption of new 43 TAC §25.91 and §25.92, relating to permits and permit fees for oversize and/or overweight oil well related vehicles and equipment, and in addition, the amendment of 43 TAC §25.95, relating to vehicles transporting liquid fracing products, liquid waste products, and unrefined liquid petroleum products. The emergency sections were published in the August 6, 1985, issue of the *Texas Register* (10 TexReg 2506), with simultaneous proposed action appearing in the same issue (10 TexReg 2533).

The public hearing will be held at 2 p.m. on Friday, November 15, 1985, in the first floor auditorium, Room 101, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin.

Any interested person may appear and offer comments or testimony, either orally or in writing, however, cross-examination of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content.

For further information please contact Milton M. Dietert, chief engineer, safety and maintenance operations, at the previously mentioned address, or by calling (512) 465-6711; or Henry A. Thomason, deputy director, support operations, at the previously mentioned address, or by calling (512) 463-8672.

Issued in Austin, Texas, on October 28, 1985.

TRD-8510068 Diane L. Northam  
Administrative Technician  
State Department of Highways and  
Public Transportation

Filed: October 28, 1985

For further information, please call (512) 475-2141.

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Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, the State Department of Highways and Public Transportation will conduct a public hearing to receive data, comments, views, and/or testimony concerning new sections proposed for permanent adoption: 43 TAC §25.201, relating to permits for unladen lift equipment motor vehicles, and §25.202, relating to fees for unladen lift equipment motor vehicles. The emergency sections were published in the July 26, 1985, issue of the *Texas Register* (10 TexReg 2383), with simultaneous proposed action appearing in the same issue (10 TexReg 2408).

The public hearing will be held on Friday, November 15, 1985, at 9 a.m., at the Dewitt C. Greer State Highway Building, first floor auditorium, Room 101, 11th and Brazos Streets, Austin, Texas 78701.

Any interested person may appear and offer comments or testimony, either orally or in writing, however, cross-examination of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content.

For further information please contact Milton M. Dietert, chief engineer, safety and maintenance operations, at the previously mentioned address, or by calling (512) 465-6711; or Henry A. Thomason, deputy director, support operations, at the previously mentioned address, or by calling (512) 463-8672.

Issued in Austin, Texas, on October 28, 1985.

TRD-8510069 Diane L. Northam  
Administrative Technician  
State Department of Highways and  
Public Transportation

Filed: October 28, 1985

For further information, please call (512) 475-2141.

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## Texas Judicial Council Announcement of Meeting

The Texas Judicial Council will meet at 10 a.m. on Friday, November 8, 1985, at the Texas Law Center, 1414 Colorado, Austin. The agenda includes reports on staff activities, a report on the committee on reappointment of courts of appeals districts, and discussion of laws passed by the 69th Legislature, 1985. For further information contact C. Raymond Justice, Executive Director, Texas Judicial Council, 1414 Colorado, Austin, Texas 78711.

Issued in Austin, Texas, on October 29, 1985.

TRD-8510110 Jim Hutchison  
General Counsel  
Texas Judicial Council

Filed: October 30, 1985

For further information, please call (512) 475-2421.

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## Railroad Commission of Texas

### Public Hearing and Extension of Comment Period

The Railroad Commission of Texas will hold a public hearing to receive comments concerning the proposed amendments to 16 TAC §§3.1, 3.6, 3.16, and 3.41, concerning the organization report to be filed and the filing with and disclosure by the commission of certain electric logs, published in the October 1, 1985, issue of the *Texas Register* (10 TexReg 3792).

The hearing will be held at 9 a.m. on Tuesday, November 26, 1985, in the William B. Travis Building, 1701 North Congress Avenue, Austin. A hearing to receive comments on statewide Rules 6, 16, and 41 was originally scheduled for November 13, 1985. Since statewide Rule 1 has become the subject of a rule-making hearing, both dockets, Dockets 20-85,103, and 20-86,102, have been consolidated.

At the hearing, comments should be presented in narrative and exhibit form. Witnesses may present testimony orally or in writing. There will be no cross-examination of witnesses other than by the examiners for purposes of ensuring a complete record. The commission's rules regarding contested cases will not be applicable.

The comment period for the proposed amendments to 16 TAC §§3.1, 3.6, 3.16, and 3.41 has been extended through November 27, 1985.

Questions regarding the proposed amendments to statewide Rules 1, 6, 16, and 41 should be addressed to Kimberly L. Kiplin, Legal Section, Oil and Gas Division, Railroad Commission of Texas, (512) 463-6921.

Issued in Austin, Texas, on October 29, 1985.

TRD-851011      Walter Earl Little  
Special Counsel  
Railroad Commission of Texas

Filed: October 30, 1985  
For further information, please call (512) 463-7140.

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### Texas Water Commission Applications for Provisionally-Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of October 14-18, 1985.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11.138, and commission rules 31 TAC §§303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made

by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

McCoy Transport Service; stream crossing at U.S. Highway 83, approximately ¼ mile south of Guthrie; South Wichita River, tributary Wichita River, tributary Red River, Red River Basin, nine acre-feet, one-year period; TP-5319; September 26, 1985

Adams Brothers, Inc.; stream crossing near U.S. Highway 287, approximately 18 miles northeast of Fairfield; Trinity River; three acre-feet, one-year period; TP-5328; October 8, 1985

Young Brothers, Inc., Contractors; stream crossing of State Highway 36, approximately 15 miles south of Caldwell; Yegua Creek, tributary Brazos River, Brazos River Basin; 10 acre-feet, one-year period; TP-5327; October 8, 1985

Valero Transmission Company; stream crossing of FM Road 791, approximately 10.8 miles northwest of Karnes City; San Antonio River Basin; 10 acre-feet, one-year period; TP-5326; October 8, 1985

Bay, Inc.; stream crossings of Park Road 22 and 53, approximately 18-26 miles southeast of Corpus Christi; roadway ditches, tributary Gulf of Mexico; 10 acre-feet, one-year period; TP-5325; October 8, 1985

Secure Resources, Inc.; stream crossing of Sandy Lake Road, approximately 16 miles northwest of Dallas; Elm Fork Trinity River, tributary Trinity River, Trinity River Basin; 10 acre-feet, five-month period; TP-5324; October 8, 1985

Adams Brothers, Inc.; reservoir in the vicinity of State Highway 243, approximately 4½ miles southwest of Canton; Camp Branch, tributary Dry Lacy Fork, tributary Lacy Fork, tributary Cedar Creek, tributary Trinity River, Trinity River Basin; three acre-feet, one-year period; TP-5323; October 8, 1985

Robert Lange, Inc., stream crossings of FM Road 3090, approximately six miles southwest of Anderson; Spring Creek, tributary Holland Creek, and Holland Creek, tributary Navasota River, tributary Brazos River; five acre-feet, one-year period; TP-5321; October 8, 1985

F. R. Lewis Construction Co., Inc.; stream crossing of FM Road 1276, approximately 10 miles east of Livingston; Big Sandy Creek, tributary Village Creek, tributary Neches River; three acre-feet, one-year period; TP-5320; October 8, 1985

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

TRD-859896      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: October 23, 1985  
For further information, please call (512) 463-7898.

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Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of September 16-27, 1985.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11.138, and commission rules 31 TAC §§303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Reece Albert, Inc.; from the stream crossing FM Road 2335, approximately 0.112 cubic feet per second (50 gallons per minute) from the stream crossing of FM Road 2335, approximately 18½ miles southwest of San Angelo; Dove Creek, tributary Spring Creek, tributary South Concho River, tributary Concho River, tributary Colorado River; five acre-feet, six-month period; TP-5312; September 23, 1985

Adams Brothers, Inc.; from the stream crossing of State Highway 47, approximately 12 miles west of Canton; Caney Creek, tributary Lacy Fork, tributary Cedar Creek, tributary Trinity River; three acre-feet, one-year period; TP-5311; September 19, 1985

South Texas Construction Company; from the stream crossing of FM Road 99, approximately 18 miles northwest of George West; Atascosa River, tributary Frio River, tributary Nueces River; 10 acre feet, six month period; TP-5310; September 19, 1985

Plano Bridge and Culvert; from the stream crossing of County Road 521, approximately 16 miles northeast of Cleburne; Quil Millers Creek, tributary Village Creek, tributary West Fork Trinity River, tributary of Trinity River; one-acre foot, one-year period; TP-5307; September 17, 1985

Austin Road Company; from the stream crossing at U.S. 79, approximately 15 miles southeast of the stream crossing at U.S. 79, approximately 15 miles southeast of Georgetown; Brushy Creek, tributary San Garbiel River, tributary of Little River, tributary Brazos River; two acre-feet, six-month period; TP-5318; September 24, 1985

Issued in Austin, Texas, on October 22, 1985.

TRD-850895 Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: October 23, 1985

For further information, please call (512) 463-7898.

Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of October 21-25, 1985.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11.138, and commission rules 31 TAC §§303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

F. R. Lewis Construction Company, Inc.; from two stream crossings near FM Road 92, approximately 10.1 miles east of Woodville; Wolf Creek, tributary Neches River, Neches River, Neches River Basin; three acre-feet, one-year period; TP-5329, October 14, 1985

L-W-B Construction Company, Inc.; from the stream crossing of State Highway 146, approximately 31 miles north of Liberty; Menard Creek, tributary Trinity River, Trinity River, Trinity River Basin; one acre-foot, four-month period; TP-5341; October 15, 1985

Conoco, Inc.; from the stream crossing near an unnamed county road, approximately 14 miles east of Tilden; Nueces River; nine acre-feet, six-month period; TP-5330; October 22, 1985

Issued in Austin, Texas, on October 28, 1985

TRD-8510028 Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: October 25, 1985

For further information, please call (512) 463-7898.

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## Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of October 21-25, 1985.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief descrip-

tion of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

#### Period of October 25, 1985

City of Emory, Emory; wastewater treatment plant; on the west side of Willow Springs Road and approximately a half mile south of the intersection of U.S. Highway 69 and State Highway 19 in Rains County; 10082-01; renewal

City of Chillicothe, Chillicothe; wastewater treatment plant; approximately two miles north-northeast of the intersection of FM Roads 91 and 924, approximately 2½ miles north of the intersection of FM Road 91 and U.S. Highway 287 in Hardeman County; 10639-01; renewal

Galveston County Municipal Utility District 12, Hitchcock; wastewater treatment facilities; approximately three miles south and one mile east of the intersection of Interstate Highway 45 and State Highway 6 in Galveston County; 10435-01; renewal

City of Robert Lee, Robert Lee; wastewater treatment plant; on the east bank of the Colorado River approximately 2,500 feet, southwest of the Coke County Courthouse in Coke County; 10603-02; renewal

City of Longview, Longview; water treatment plant; south of FM Road 2206 on the east side of Swinging Bridge Road and 600 feet south of Premier Road in Longview, Gregg County; 02002-01; renewal

M. E. Steubing, Hondo; dairy farm; adjacent to Taylor Lane at a point approximately 0.75 mile southwest of the City of Hondo in Medina County; 02841; new permit

Care Shipping, Inc., Houston; wastewater treatment plant, 16800 Peninsula Boulevard in Harris County; 13203-01; new permit

Texas Industries, Inc., Dallas; on either side of the Brazos River at a site approximately 1.5 miles southwest of the community on Tin Top in Parker County; 02170; amendment

Mark A. McMillan, College Station; swine farrowing operation; one mile east of State Highway 137, at a point approximately 12 miles south of the City of Brownfield, Terry County; 02810; new permit

American Ref-Fuel Company of Texas, Houston; electric power generation plant; at the northwest corner of the intersection of State hwy. 225 and Beltway 8 in Harris County; 02804; new permit

U.S. Department of the Army, Lone Star Army Ammunition Plant, Texarkana; an explosives blending and mixing facility and an ammunition loading, assembling, and packing plant; adjacent to U.S. Highway 82 at a site approximately 12 miles west of the City of Texarkana in Bowie County; 02263; amendment

North Austin Utilities, Inc., Austin; domestic wastewater treatment plant; approximately one mile west-northwest of the intersection of Howard Lane and IH 35, approximately one mile southeast of FM Road 1325 and Howard Lane in Travis County; 13190-01; new permit

A&M University System, Corpus Christi; domestic wastewater treatment plant; on the south side of State Highway 44 approximately one mile west of the intersection of State Highway 44 and FM Road 2292 in Nueces County; 11345-01; renewal

City of Ballinger, Ballinger; wastewater treatment plant; approximately one mile southeast of the intersection of U.S. Hwys. 83 and 67 in the east side of the City of Ballinger, Runnels County; 10325-01; renewal

City of San Antonio, San Antonio; domestic wastewater treatment plant; on Blue Wind Road, approximately 1½ miles south of the intersection of Southton Road and Blue Wing Road in Bexar County; 10137-08; amendment

Estates of Barton Creek Utilities, Inc., Austin; wastewater treatment facilities; approximately 5.5 miles northeast of the intersection of State Highway 71 and FM Road 2244 and 0.5 mile north of Barton Creek in Travis County; 13206-01; new permit.

Monsanto Company, Texas City; waste disposal wells; WDW-91 and WDW-196 are located on a 22.7-acre tract known as the "Terminal Land" within the Sylvester Bown Survey, Abstract-24, Galveston County; WDW-91 and WDW-196; amendment

Issued in Austin, Texas, on October 25, 1985.

TRD-8510074

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: October 28, 1985

For further information, please call (512) 475-4514.

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