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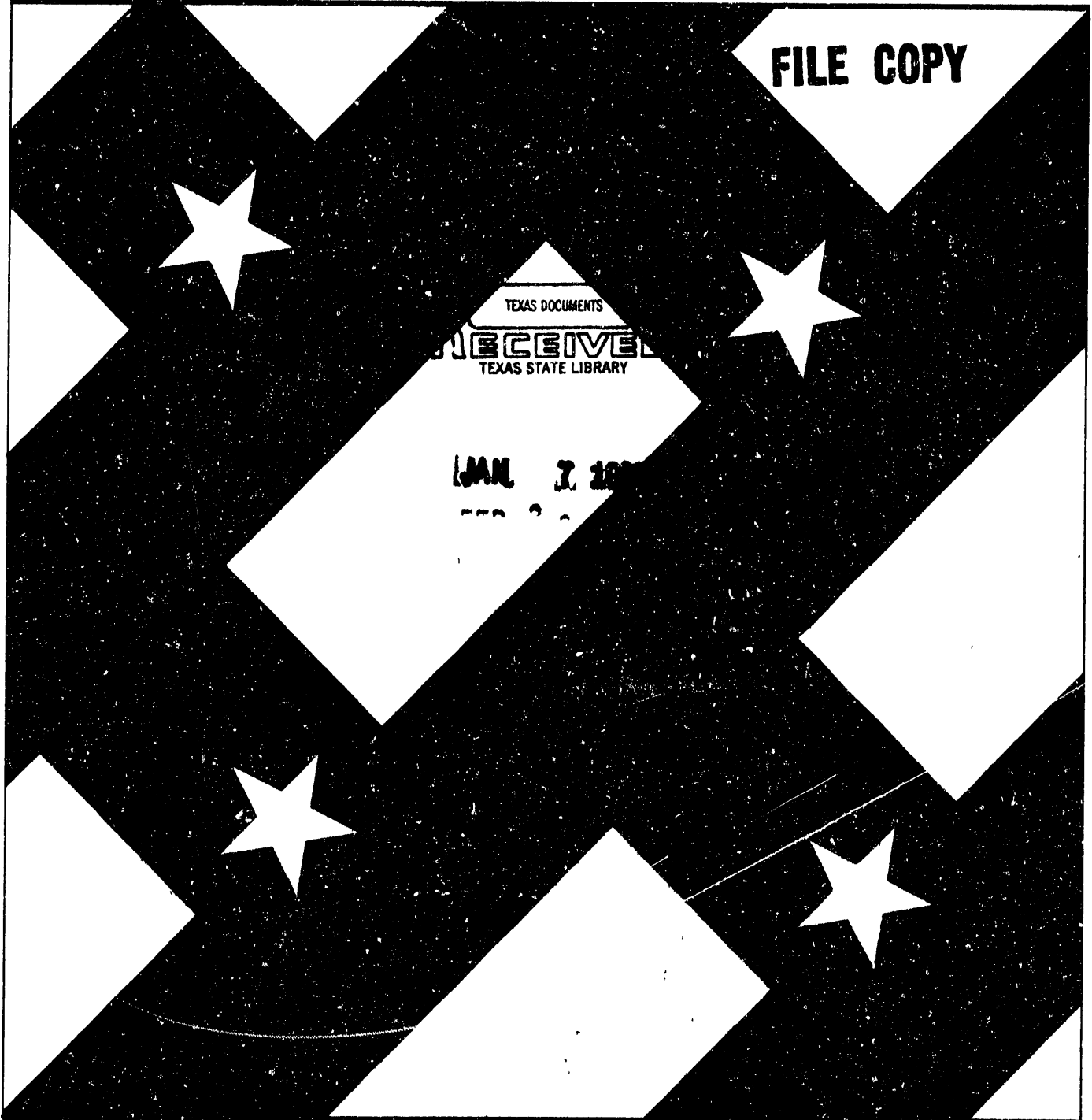
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Texas Register

Volume 10, Number 96, December 27, 1985

Pages 4961-5024



Highlights

The The Texas Water Commission renews an emergency adoption concerning inforcement hearings.
Effective date - January 2.....page 6983

The State Board of Insurance adopts an emergency amendment concerning the filing of

tax returns for insurers.
Effective date - December 19.....page 6970

The State Finance Commission proposes a new section concerning remote banking facilities.
Earliest possible date of adoption - January 27
page 6984

Office of
the Secretary
of State

Texas Register

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Table of Contents

Emergency Rules

- State Board of Insurance
 - 4970—Corporate and Financial
 - 4972—State Fire Marshal
- Texas Water Commission
 - 4983—Enforcement Proceedings Before the Commission
 - 4984—Appropriation of Water
 - 4985—Additional Provisions
 - 4986—Particular Proceedings
 - 4987—Water Districts
 - 4987—Levee Improvement Districts and Approval of Plans for Reclamation Projects
 - 4988—Certification of Competency
 - 4988—Industrial Solid Waste and Municipal Hazardous Waste
 - 4991—Consolidated Permits
 - 4993—Applications Processing
- State Department of Highways and Public Transportation
 - 4993—Right of Way Division
- State Finance Commission
 - 4994—Banking Section
- Banking Department of Texas
 - 4995—Miscellaneous
- Texas Department of Community Affairs
 - 4995—Job Training
- State Board of Veterinary Medical Examiners
 - 4997—Rules of Professional Conduct
- Texas Department of Mental Health and Mental Retardation
 - 4998—System Administration
 - 4998—Other Agencies
- State Board of Insurance
 - 4998—State Fire Marshal
- Texas Parks and Wildlife Department
 - 4999—Fisheries
 - 5000—Wildlife
- Texas Low-Level Radioactive Waste Disposal Authority
 - 5003—General Provisions
- Texas Department of Human Services
 - 5003—Child Protective Services
- Texas Commission on Alcohol and Drug Abuse
 - 5003—Licensure

Withdrawn Rules

- Railroad Commission of Texas
 - 5004—Oil and Gas Division
- Texas Water Development Board

- 5004—Appropriation of Water
- 5004—Operation of the Rio Grande
- 5005—Lower Rio Grande
- 5005—Middle Rio Grande

Adopted Rules

- Banking Department of Texas
 - 5006—Lending Limits
- Texas Department of Community Affairs
 - 5009—Texas Community Development Program
- Railroad Commission of Texas
 - 5009—Oil and Gas Division
- Texas Department of Mental Health and Mental Retardation
 - 5011—Other Agencies and the Public
- State Board of Insurance
 - 5011—Health Maintenance Organizations
- Texas Water Development Board
 - 5012—Introductory Provisions
 - 5013—Water Assistance Fund
- Texas Department of Human Services
 - 5014—Family Self-Supported Services

Open Meetings

- 5015—Texas Department on Aging
- 5015—Texas Board of Architectural Examiners
- 5015—Texas Education Agency
- 5015—Texas State Board of Dental Examiners
- 5015—Texas Department of Human Services
- 5015—State Board of Insurance
- 5016—Board of Pardons and Paroles
- 5016—Public Utility Commission of Texas
- 5017—Board of Vocational Nurse Examiners
- 5017—Texas Water Commission
- 5018—Regional Agencies

In Addition

- Texas Air Control Board
 - 5020—Public Meeting
- Texas Department on Banking
 - 5020—Notice of Application
- Texas Economic Development Board
 - 5021—Consultant Contract Award
- Texas Department of Health
 - 5022—Request for Proposals
- Railroad Commission of Texas
 - 5023—Invitation for Bids
- Texas Savings and Loan Department
 - 5024—Application for Change of Control of an Association
- Texas Water Commission
 - 5024—Enforcement Order

TAC Titles Affected

TAC Titles Affected—December

The following is a list of the administrative rules that have been published this month.

TITLE 1. ADMINISTRATION

Part I. Office of the Governor

1 TAC §3.80	4673
1 TAC §3.501-3.540	4660

Part III. Office of the Attorney General

1 TAC §55.101	4673
---------------	------

Part IV. Secretary of State

1 TAC §81.10	4928
1 TAC §81.163	4769, 4772

Part V. State Purchasing and General Services Commission

1 TAC §113.6	4688
1 TAC §113.10	4688
1 TAC §113.72, §113.73	4689
1 TAC §§121.2-121.6, 121.8, 121.9	4689

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission

7 TAC §3.91	4994
7 TAC §3.93	4994

Part II. Miscellaneous

7 TAC §11.30	4994
7 TAC §11.33	4994
7 TAC §12.1	5006
7 TAC §12.2	5006
7 TAC §12.3	5007
7 TAC §12.4	5008
7 TAC §12.5	5009

Part IV. Texas Savings and Loan Department

7 TAC §§51.1, 51.3, 51.4, 51.9, 51.14	4675
---------------------------------------	------

Part VII. State Securities Board

7 TAC §109.13	4772
7 TAC §111.4	4773
7 TAC §115.2	4773
7 TAC §115.4	4774
7 TAC §123.1	4774
7 TAC §133.10	4775
7 TAC §133.15	4775
7 TAC §133.17	4776
7 TAC §133.19	4776
7 TAC §133.20	4776
7 TAC §133.21	4776
7 TAC §133.24	4777
7 TAC §133.25	4777
7 TAC §133.29	4777

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs

10 TAC §§5.303, 5.305, 5.307, 5.309, 5.311, 5.313, 5.415	4995
10 TAC §9.1	4737
10 TAC §9.1, §9.4	5009

TITLE 13. CULTURAL RESOURCES

Part V. Texas 1986 Sesquicentennial Commission

13 TAC §§51.1-51.19	4737
13 TAC §51.19, §51.20	4725

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

16 TAC §3.1	4928
16 TAC §§3.5, 3.11, 3.13-3.15, 3.26, 3.27, 3.45, 3.55, 3.76	4928
16 TAC §3.8, §3.16, §3.41	4928
16 TAC §3.31	4769, 7004, 7009
16 TAC §§5.616-5.621	4676
16 TAC §5.622	4883

Part II. Public Utility Commission of Texas

16 TAC §23.32	4895
16 TAC §23.61	4896

Part IV. Texas Department of Labor and Standards

16 TAC §§61.1, 61.5, 61.6	4929
16 TAC §69.29, §69.38	4929
16 TAC §§69.123, 69.125, 69.126	4929
16 TAC §§75.1, 75.3-75.5, 75.8, 75.9	4929
16 TAC §§77.1, 77.5, 77.9, 77.13, 77.17, 77.21	4929
16 TAC §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, 79.41	4929

TITLE 19. EDUCATION

Part II. Texas Education Agency

19 TAC §16.2	4883, 4884
19 TAC §61.161	4805
19 TAC §61.271-61.273	4690
19 TAC §65.4	4885
19 TAC §69.126	4805
19 TAC §75.151, §75.152	4850
19 TAC §77.474	4691
19 TAC §89.213, §89.215	4805
19 TAC §89.220	4896
19 TAC §97.1	4778
19 TAC §97.1-97.7	4780
19 TAC §97.21	4779
19 TAC §97.21-97.30	4781
19 TAC §97.61, §97.62	4779
19 TAC §97.71-97.78	4779
19 TAC §97.91-97.101	4779
19 TAC §97.112, 97.114, 97.116, 97.120, 97.121	4779
19 TAC §97.115	4783
19 TAC §97.141	4780
19 TAC §145.44	4691
19 TAC §149.71	4692
19 TAC §157.65	4805

TITLE 22. EXAMINING BOARDS

Part I. Texas Board of Architectural Examiners

22 TAC §1.23, §1.25	4724, 4726
---------------------	------------

Part II. State Board of Barber Examiners

22 TAC §51.95	4839
22 TAC §51.96	4839

Part VII. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

22 TAC §141.14	4840
22 TAC §§141.9, 141.12, 141.19, 141.29, 141.35	4840
22 TAC §145.1	4841

Part IX. State Board of Medical Exams

22 TAC §171.1	4851
---------------	------

22 TAC §171.7	4807
22 TAC §176.1	4892, 4739
22 TAC §175.2	4807
22 TAC §191.4	4851
Part XII. Board of Vocational Nurse Examiners	
22 TAC §§233.52, 233.53, 233.65, 233.68, 233.74	4852
22 TAC §235.17	4852
22 TAC §235.45, §235.46	4852
22 TAC §263.13	4892
Part XIV. Texas Optometry Board	
22 TAC §271.6	4785
22 TAC §273.5	4785
22 TAC §281.34	4692
22 TAC §281.48	4693
22 TAC §283.2, §283.3	4693
22 TAC §283.11	4693
22 TAC §283.12	4693
22 TAC §283.14	4694
22 TAC §291.19	4694
22 TAC §291.31, §291.34	4885
22 TAC §§291.72, 291.74, 291.75	4694
22 TAC §291.75	4694
Part XVI. Texas State Board of Physical Therapy Examiners	
22 TAC §321.1	4931, 4932
22 TAC §323.1, §323.2	4931, 4932
22 TAC §§325.1-325.6	4931, 4932
22 TAC §327.1	4931, 4934
22 TAC §329.1	4932, 4934
22 TAC §331.1	4932, 4934
22 TAC §333.1, §333.2	4932, 4935
22 TAC §§333.1-333.3	4936
22 TAC §335.1	4932, 4936
22 TAC §337.1, §337.2	4932, 4936
Part XXII. Texas State Board of Public Accountancy	
22 TAC §511.21	4769
Part XXIII. Texas Real Estate Commission	
22 TAC §535.202	4807
22 TAC §543.1	4808
22 TAC §543.2	4808
22 TAC §543.3	4808
22 TAC §543.4	4808
22 TAC §543.5	4809
22 TAC §543.6	4809
Part XXIV. State Board of Veterinary Medical Examiners	
22 TAC §573.28	4997
TITLE 25. HEALTH SERVICES	
Part I. Texas Department of Health	
25 TAC §37.90	4886
25 TAC §§37.141-37.152	4679
25 TAC §37.171	4726
25 TAC §§37.177-37.180	4727
25 TAC §539.1-39.22	4937
25 TAC §§61.2-61.4, 61.7, 61.10	4739
25 TAC §97.11	4887
25 TAC §§97.151-97.156	4727
25 TAC §§141.2, 141.4-141.6, 141.9	4893
25 TAC §§141.2, 141.4-141.6, 141.9, 141.13	4878, 4888
25 TAC §§229.91-229.96	4741
25 TAC §§295.1-295.7	4889
25 TAC §§337.32-337.35	4742
25 TAC §337.36, §337.37	4743
25 TAC §§337.51-337.59	4743
25 TAC §337.60	4744
25 TAC §§337.111-337.118	4744

Part VIII. Interagency Council on Early Childhood	
25 TAC §621.32, §621.33	4943

TITLE 28. INSURANCE	
Part I. State Board of Insurance	
28 TAC §1.404	4837
28 TAC §§3.3701-3.3705	4729
28 TAC §7.54	4970
28 TAC §7.64	4970
28 TAC §7.1004	4972
28 TAC §9.1	4944
28 TAC §11.204	4929, 4944
28 TAC §11.301	4930
28 TAC §11.301, §11.302	4955
28 TAC §§11.403, 11.407, 11.408, 11.410, 11.411	5011
28 TAC §11.410, §11.411	5011
28 TAC §11.506	4930, 4956
28 TAC §11.801	4930, 4957
28 TAC §19.101, §19.102, §19.104	4744
28 TAC §21.701, §21.703	4745
28 TAC §§27.401-27.407	4972
28 TAC §§27.401-27.430	4973, 6998
28 TAC §§27.501-27.506	4983

TITLE 31. NATURAL RESOURCES AND CONSERVATION	
Part I. General Land Office	
31 TAC §1.91	4893
31 TAC §13.1	4881
Part II. Parks and Wildlife Department	
31 TAC §57.133	4999
31 TAC §§57.134-57.136	5000
31 TAC §59.2	4853
31 TAC §§65.172-65.176	5000
31 TAC §65.177, §65.178	5002
Part IV. School Land Board	
31 TAC §§153.81-153.66	4957
31 TAC §154.1	4841
31 TAC §154.11, §154.21	4842
31 TAC §§154.1, 154.11, 154.21	4837
Part V. Boards for Lease of State-Owned Lands	
31 TAC §§201.1-201.12	4809
31 TAC §210.1-201.14	4809
31 TAC §203.1, §203.2	4810
Part IX. Texas Water Commission	
31 TAC §289.1	4681
31 TAC §§289.11-289.22	4683
31 TAC §289.31, §289.32	4685
31 TAC §§289.41-289.44	4685
31 TAC §§289.51-289.53	4686
31 TAC §289.61, §289.62	4686
31 TAC §302.1-302.9	4983
31 TAC §303.1-303.8	4984
31 TAC §303.11-303.14	4984
31 TAC §303.21-303.37	4984
31 TAC §303.51-303.53	4984
31 TAC §303.81, §303.82	4984
31 TAC §303.71-303.73	4984
31 TAC §303.81-303.83	4984
31 TAC §303.91-303.93	4984
31 TAC §303.101, §303.102	4984
31 TAC §303.111-303.120	4985
31 TAC §303.121, §303.122	4985
31 TAC §303.131-303.133, 303.135-303.140	4985
31 TAC §303.151-303.155	4985
31 TAC §303.171-303.177	4985
31 TAC §305.1, §305.2	4985
31 TAC §§305.11-305.14	4985

31 TAC §§305.31-305.35	4985	31 TAC §§338.101-338.103	4991
31 TAC §§307.1-307.4	4986	31 TAC §338.10	4991
31 TAC §307.11, §307.12	4986	31 TAC §338.121, §338.122	4991
31 TAC §307.21, §307.22	4986	31 TAC §§338.131-338.140	4991
31 TAC §§307.31-307.33	4986	31 TAC §§338.151-338.154, 338.160, 338.170, 338.180, 338.185, 338.186	4991
31 TAC §307.41, §307.42	4986	31 TAC §§338.191-338.200	4992
31 TAC §§307.61-307.63	4986	31 TAC §§338.221, 338.225, 338.230, 338.235, 338.240, 338.241	4992
31 TAC §307.71	4986	31 TAC §§338.261, 338.262, 338.265-338.271, 338.275, 338.280, 338.281, 338.285-338.287, 338.290	4992
31 TAC §307.81	4986	31 TAC §§338.311-338.317	4992
31 TAC §307.91, §307.92	4986	31 TAC §§338.341-338.346	4992
31 TAC §311.5	4987	31 TAC §§338.361-338.364	4992
31 TAC §311.11, §311.12	4987	31 TAC §§338.371-338.374	4992
31 TAC §311.23	4987	31 TAC §§338.401-338.407	4992
31 TAC §311.43	4987	31 TAC §340.1-340.8	4993
31 TAC §311.51	4987	31 TAC §341.1-341.12	5012
31 TAC §315.1	4987	31 TAC §341.41-341.43	5013
31 TAC §315.11, §315.12	4987	31 TAC §341.51-341.60	5013
31 TAC §§315.21-315.23	4987	31 TAC §341.71, §341.72	5013
31 TAC §§315.31-315.41	4987	31 TAC §345.1, §345.2	5004
31 TAC §§315.51-69	4987	31 TAC §345.11, §345.12	5004
31 TAC §315.71, §315.72	4987	31 TAC §345.11-345.17	5004
31 TAC §§315.81-315.84	4987	31 TAC §345.21, §345.22	5004
Part X. Texas Water Development Board			
31 TAC §303.9	5004	31 TAC §345.21-345.23	5004
31 TAC §303.94	5004	31 TAC §345.31	5004
31 TAC §§321.2, 321.4, 321.13, 321.14, 321.28, 321.29, 321.36, 321.44	4893	31 TAC §§345.31-345.34	5005
31 TAC §§322.1-322.13	4988	31 TAC §345.41-345.44	5005
31 TAC §§335.1-335.16	4988	31 TAC §§345.51-345.55	5005
31 TAC §§335.1, 335.2, 335.6, 335.16-335.24, 335.30	4893	31 TAC §345.61	5005
31 TAC §§335.41-335.48	4988	31 TAC §347.1-347.5	5005
31 TAC §§335.41-335.43, 335.45-335.47	4893	31 TAC §347.11	5005
31 TAC §335.61, §335.69	4893	31 TAC §§347.21-347.27	5005
31 TAC §335.63, 335.65-335.71, 335.73-335.76	4988	31 TAC §349.1-349.4	5005
31 TAC §§335.91-335.91	4988	31 TAC §349.11-349.14	5005
31 TAC §335.91, §335.93	4849	31 TAC §355.1-355.3	5013
31 TAC §§335.111-335.118	4989	31 TAC §355.31, §355.32	5013
31 TAC §335.114	4849	31 TAC §§355.51-355.60	5014
31 TAC §§335.151-335.157	4989	31 TAC §§355.71-355.76	5014
31 TAC §335.157	4849	31 TAC §§355.81-355.86	5014
31 TAC §§335.171, 335.173-335.175, 335.177	4989	31 TAC §355.91	5014
31 TAC §335.173	4849	31 TAC §§355.101-355.110	5014
31 TAC §§335.191-335.195	4989	31 TAC §363.1-363.3	4853
31 TAC §§335.193-335.195	4893	31 TAC §§363.31-363.34	4854
31 TAC §§335.211-335.220	4989	31 TAC §363.52-363.57	4854
31 TAC §§335.231-335.233	4989	31 TAC §363.91, §363.92	4856
31 TAC §§335.241-335.247	4989	31 TAC §363.102-363.107	4856
31 TAC §335.247	4894	31 TAC §363.111, §363.112	4856
31 TAC §§335.261-335.267	4989	31 TAC §363.121-363.128	4856
31 TAC §335.267	4849	31 TAC §363.141	4856
31 TAC §§335.281-335.288	4990	31 TAC §363.161-363.166	4856
31 TAC §§335.301-335.307	4990	31 TAC §§373.1-373.14, 373.16-373.30, 373.32-373.44	4856
31 TAC §§335.321-335.329	4990	31 TAC §363.71, §363.72	4855
31 TAC §335.327	4894	31 TAC §363.81	4855
31 TAC §§335.341-335.349	4990	31 TAC §§363.81-363.84	4855
31 TAC §335.361	4849	Part XV. Texas Low-Level Radioactive Waste Disposal Authority	
31 TAC §§335.361-335.365	4990	31 TAC §449.2	4959
31 TAC §335.381	4849	31 TAC §449.8	5003
31 TAC §§335.381-335.386	4990	TITLE 34. PUBLIC FINANCE	
31 TAC §§335.401-335.407	4990	Part I. Comptroller of Public Accounts	
31 TAC §§335.421-335.428	4990	34 TAC §3.190	4881
31 TAC §§335.451-335.479	4990	34 TAC §3.299	4786
31 TAC §§335.501-335.505	4991	34 TAC §3.303	4895
31 TAC §§335.640-335.643	4894	34 TAC §3.312	4887
31 TAC §§335.650, 335.652-335.656	4894	34 TAC §3.344	4810
31 TAC §335.680	4894	34 TAC §3.372	4811
31 TAC §335.690	4894	34 TAC §3.406	4960
31 TAC §338.1	4991	34 TAC §3.422	4812
31 TAC §§338.91-338.99	4991		

Part III. Teacher Retirement System of Texas		40 TAC §§79.2102, 79.2105-79.1209, 79.2111-79.2114	4790
34 TAC §25.25, §25.28	4981	40 TAC §§79.2102, 79.2105, 79.2111-79.2114	4790
34 TAC §25.151	4981	40 TAC §79.2301, §79.2303	4792
34 TAC §29.9	4982	40 TAC §79.2304	4793
34 TAC §29.32	4982	40 TAC §§85.2006, 85.2008, 85.2011, 85.2012, 85.2014, 85.2016, 85.2017, 85.2026, 85.2032-85.2035	4746
34 TAC §31.4, §31.5	4982	40 TAC §§85.2040-85.2044	4746
TITLE 37. PUBLIC SAFETY AND CORRECTIONS		40 TAC §§85.3044, 85.3047, 85.3049, 85.3050-85.3052	4747
Part I. Texas Department of Public Safety		40 TAC §§85.3074-85.3076	4747
37 TAC §3.8, §3.9	4896	Part III. Texas Commission on Alcohol and Drug Abuse	
37 TAC §23.91	4897	40 TAC §§151.11-151.17, 151.21	4902
Part III. Teacher Retirement System of Texas		40 TAC §§151.31-151.38	4906
34 TAC §40.1, §40.2	4930	40 TAC §§151.41-151.50	4907
Part IX. Texas Commission on Jail Standards		40 TAC §§151.51-151.56	4901
37 TAC §259.212	4695	40 TAC §§151.61-151.69, 151.81-151.86, 151.101, 151.201-151.215	4907
37 TAC §261.201	4695	40 TAC §§151.71-151.76	4901
37 TAC §263.22	4696	40 TAC §§151.81-151.86	4901
37 TAC §263.24	4696	40 TAC §§151.101-151.106	4901
37 TAC §263.53	4696	40 TAC §§151.121-151.126	4902
TITLE 40. SOCIAL SERVICES AND ASSISTANCE		40 TAC §§151.141-151.145	4902
Part I. Texas Department of Human Services		40 TAC §§151.151-151.155	4902
40 TAC §2.1004, §2.1006, §2.1010	4899	40 TAC §§151.161-151.165	4902
40 TAC §3.501	4899	40 TAC §§151.401-151.415	4912
40 TAC §3.2404	4900	40 TAC §151.403, §151.404	5003
40 TAC §3.2603, §3.2604	4900	Part V. Veterans Land Board	
40 TAC §§5.1-5.3	4900	40 TAC §175.21	4838
40 TAC §§5.11-5.24	4900	Part IX. Texas Department on Aging	
40 TAC §5.31	4900	40 TAC §§277.1-277.4	4696
40 TAC §8.1, §8.2, §8.4	4900	40 TAC §§279.1-279.4	4812
40 TAC §15.3112	4786	TITLE 43. TRANSPORTATION	
40 TAC §15.3203	4901	Part I. State Department of Highways and Public Transportation	
40 TAC §15.3226	4890	43 TAC §§17.61-17.64	4733
40 TAC §15.3302	4891	43 TAC §§17.51-17.63	4734
40 TAC §15.3303	4787	43 TAC §§21.401, 21.1411, 21.421, 21.431, 21.441, 21.451, 21.481, 21.471, 21.481, 21.491, 21.501, 21.511, 21.521, 21.531, 21.541, 21.551, 21.561, 21.571, 21.581	4993
40 TAC §15.5104, §15.5105	4787	43 TAC §§21.141, 21.142, 21.144-21.154, 21.156-21.159	4993
40 TAC §16.1503	4881		
40 TAC §16.1503, §16.1511	4787		
40 TAC §16.1511	4770, 4882		
40 TAC §27.9850	4731		
40 TAC §47.2908	4846		
40 TAC §48.2911, §48.2918	4745		
40 TAC §48.3903	4848		
40 TAC §48.9802	4731		
40 TAC §50.1902	4848		
40 TAC §73.4110	4891		
40 TAC §79.1207	4891		
40 TAC §§79.2101, 79.2103, 79.2104, 79.2110, 79.2115-79.2117	4789		

Emergency

Rules

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

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

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial

Subchapter A. Examination and Corporate Custodian and Tax

★28 TAC §7.54

The State Board of Insurance adopts on an emergency basis §7.54, concerning forms and instructions for the preparation and filing of tax returns for insurers and other entities required to file tax returns with the State Board of Insurance for the 1985 calendar year. The annual gross premium tax return is required by statute to be filed either on or before March 1, 1986, or the date the annual statements for the carrier is required to be filed with the State Board of Insurance. Quarterly tax returns are required to be filed four times per year. The forms and instructions include requirements for information respecting gross premium, maintenance and other taxes, and certain incidental fees, and provide a form to be used in reporting and determining the amount owed.

An imminent peril to the public welfare requires that this rule be adopted on an emergency basis because appropriate forms and instructions must be adopted and forwarded to such insurers and other entities in sufficient time for them to file tax returns on or before the statutory due date. The board believes that it should attempt to make it possible for the insurers and other entities it regulates to stay within the law; such insurers and entities should not be in peril of violating the law through inadvertence or unavoidable time constraints if it can be avoided. This is an urgent matter not only for the specific entities regulated by the board, but it is also very important for the regulatory process, and therefore for the welfare of the public in general.

This new section is adopted on an emergency basis under the Insurance Code, Articles 1.04, 1.10, §9, 4.07, 4.10, 4.11, 5.12, 5.24, 5.49, 5.68, 9.46, and 23.08; the Texas Health Maintenance Organization Act, §22 and §33; and Texas Civil Statutes, Articles 6252-13a, §4, and 8306, §28. Article 1.10, §9, requires the board to furnish to

companies required to report to the board statement blanks for the statements required. Article 4.07 specifies the charge for certain fees. The Insurance Code, Articles 4.10 and 4.11; Texas Civil Statutes, Article 8306, §28; and the Texas Health Maintenance Organization Act, §33, require the payment of taxes on gross premiums by entities regulated by the board. The Insurance Code, Articles 5.12, 5.24, 5.49, 5.68, 9.46, and 23.08, required the payment of maintenance taxes by certain entities regulated by the board. The Insurance Code, Articles 4.10 and 4.11, give the board rulemaking authority. The Texas Health Maintenance Organization Act, §22, gives the board rulemaking authority. The Insurance Code, Article 1.04, places original jurisdiction for the adoption of rules in the board. Texas Civil Statutes, Article 6252-13a, §4, requires and authorizes the board to adopt rules of practice setting forth the nature and requirements of all procedures available.

§7.54. Preparation of 1985 Tax Returns. Forms and instructions for the preparation of tax returns and certain fees for insurance companies and other principals for the 1985 calendar year are adopted by reference. These instructions and forms are published by the State Board of Insurance and may be obtained from the Corporate Custodian and Tax Division of the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1998. Each insurer or other entity shall follow such instructions and use and report on such forms as appropriate to its operation. The instructions and forms are more particularly identified as follows:

(1) a form identified as 1985 instructions for preparing Texas annual tax return for domestic, foreign and alien life, health, and accident companies transacting business in Texas;

(2) a form identified as the 1985 Texas annual tax return for domestic, foreign and alien life, health, and accident companies;

(3) a form identified as 1985 special instructions, Texas annual tax return for domestic, foreign and alien companies, lloyds, reciprocals, and miscellaneous organizations transacting the business of fire and casualty insurance in the State of Texas;

(4) a form identified as the 1985 instructions for preparing the Texas annual tax return for domestic, foreign and alien

companies, lloyds, reciprocals, and miscellaneous organizations transacting fire and casualty business in Texas;

(5) a form identified as the 1985 Texas annual tax return for domestic, foreign and alien companies, lloyds, reciprocals, and miscellaneous organizations transacting fire and casualty business in Texas;

(6) a form identified as instructions for preparing the 1985 Texas annual tax return for health maintenance organizations;

(7) a form identified as the 1985 Texas annual tax return for health maintenance organizations;

(8) a form identified as the Texas annual tax return, including instructions for preparing the 1985 tax return for nonprofit prepaid legal services corporation;

(9) a form identified as the 1986 quarterly premium tax return for domestic, foreign and alien life, health, and accident insurance companies;

(10) a form identified as the 1986 quarterly premium tax return for domestic, foreign and alien companies, lloyds, reciprocals, and miscellaneous organizations transacting fire and casualty business in the State of Texas; and

(11) a form identified as the Texas Tax Return for companies paying taxes under provisions of the Insurance Code, Article 3.25, as amended.

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

TRD-8511979 James W. Norman
State Board of
Insurance

Effective date: December 19, 1985
Expiration date: April 18, 1986
For further information, please call
(512) 463-6327.

★ ★ ★

★28 TAC §7.64

The State Board of Insurance adopts on an emergency basis §7.64, concerning annual statement blanks, instructions, and other reporting forms to be used by insurers and certain other entities regulated by the board in reporting their operations in the 1985 calendar year. Detailed information is required by these forms from such insurers and entities to show their activities during 1985. The information required relates to the finan-

cial condition and business operations of such insurers.

An imminent peril to the public welfare requires these forms and instructions to be adopted on an emergency basis because the forms and instructions must be effective immediately so that they may be mailed to insurers to complete and returned to the board prior to the statutory due date. Insurers and other entities reporting their operations to the board begin to compile information to be included in such reports soon after the close of business for 1985. The due date for submission of these annual reports is between March 1 and April 1, 1986, depending on the type of entity reporting. Many entities have difficulty in completing their reports within the time prescribed by statute even with the reports available on January 1. The National Association of Insurance Commissioners (NAIC) specifies the information to be filed. The NAIC has not specified the information required in sufficient time for the forms to be printed and adopted on a regular basis.

This rule is adopted so that such entities may file annual reports by the statutory due date and will promote effective regulation and compliance with law and therefore serve the public welfare.

This new section is adopted on an emergency basis under the Insurance Code, Articles 1.04, 1.10, §9, 1.11, 1.24, 3.07, 6.11, 6.12, 8.07, 8.08, 8.21, 8.24, 9.22, 9.47, 10.30, 11.06, 11.19, 14.15, 14.39, 15.15, 15.16, 16.18, 16.24, 17.22, 17.25, 18.12, 19.08, 20.02, 21.21, 21.43, 22.06, 22.18, 12.01, and 23.26; the Texas Health Maintenance Organization Act, §10 and §22, and Texas Civil Statutes, Article 6252-13a, §4. The Insurance Code, Article 1.10, §9, requires the board to furnish the necessary blank forms for companies to complete necessary statements. The Insurance Code, Article 1.11, authorizes the board to change the forms of annual statements. The Insurance Code, Article 1.24, authorizes the board to address inquiries to insurance companies and requires companies to promptly answer. The Insurance Code, Article 1.04, places original rulemaking jurisdiction in the board. Texas Civil Statutes, Article 6252-13a, §4, authorizes and requires the board to adopt rules of practice setting forth the nature and requirements of available procedures. The Insurance Code, Article 21.21, requires that all statements made by person in the business of insurance be truthful and not misleading. The Insurance Code, Article 21.43, requires foreign insurers to comply with provisions of the Code. The remaining statutes relate to the filing of annual reports and other information by certain specific entities regulated by the board, applying particular statutory law respecting reports to those entities, and specifying particular rulemaking authority relating to those specific entities.

§7.64. Annual Statement Blanks, Instructions, and Other Forms, 1985 Operations. The annual statement blanks, instructions, and other forms for reporting operations of the 1985 calendar year and specified in this rule are adopted by reference. They are published by the State Board of Insurance, and may be obtained from the Corporate Custodian and Tax Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701-1998. The insurer or other entity specified on each form or instruction shall properly report to the State Board of Insurance using such blanks or forms and following such instructions as are appropriate to it. The adopted blanks or forms and instructions are as follows:

(1) a 1985 Texas annual statement blank (Association Edition) to be used by life and accident and health insurance companies (Form 1), including instruction letters (L/FR/NP/85) and (STIPPREM/85);

(2) a book of instructions available through the NAIC entitled "Annual Statement Instructions, Life, Accident, and Health";

(3) a 1985 Texas annual statement blank (Association Edition) for life and accident and health insurance company separate accounts, excluding variable life insurance (Form 1-S);

(4) a 1985 Texas annual statement blank (Association Edition) to be used by fire and casualty companies (Form 2), including instruction letter (F&C/T/L1/R/CM/85);

(5) a book of instructions available through the NAIC entitled "Annual Statement Instructions, Property & Casualty";

(6) a 1985 Texas annual statement blank (Association Edition) to be used by fraternal orders (Form 4);

(7) an instruction letter (L/FR/NP/85) and a form entitled "1985 Instructions to Fraternal Orders for Completing Annual Statement Blanks";

(8) a 1985 Texas annual statement blank (Association Edition) to be used by title insurance companies (Form 9);

(9) an instruction letter (F&C/T/L1/R/CM/85) and a form entitled "1985 Instructions for Completing Title Insurance Annual Statement Blank";

(10) a 1985 annual statement blank (Association Edition) for health maintenance organizations;

(11) an instruction letter (HMO/85) and a form entitled "General Information, Definitions and Instructions for Filing Health Maintenance Organization Financial Report of Affairs and Conditions";

(12) a form identified as supplement pages 19-26 to the annual statement for health maintenance organizations;

(13) a form entitled "Supplement 'A' to Schedule T, Exhibit of Medical Malpractice Premiums Written Allocated by States and Territories," and revised in 1982;

(14) a form entitled "Fraternal Benefit Societies—Supplement to Valuation Report," and revised in 1978;

(15) a form entitled "Products Liability Insurance Supplement 1985";

(16) a form entitled "Schedule SIS, Stockholder Information Supplement," and revised in 1985;

(17) a form entitled "Insurance Expense Exhibit—1985";

(18) an instruction letter (TexSpec 46) and attachment identified as "Supplemental and Balance Sheet Data From 1985 Annual Statement";

(19) a form designated as "Texas Page 14" and further identified as the Standard (NAIC) page 14 of Form 2;

(20) a form designated as "Texas Page 41" and further identified as the Standard (NAIC) page 41 of Form 9;

(21) a form entitled "Medical Malpractice Business in the State of Texas Schedule 'P' For the Year Ended December 31, 1985";

(22) a form identified as the 1985 Texas Annual Statement blank to be used by statewide mutual assessment associations, local mutual aid associations, burial associations and exempt associations;

(23) an instruction letter (MA/85) and a form entitled "Instructions for the 1985 Mutual Assessment Annual Statement";

(24) a 1985 Texas annual statement blank to be used by farm mutual insurance companies;

(25) an instruction letter (FM/85) and a form entitled "Instructions for the 1985 Farm Mutual Annual Statement";

(26) a 1985 annual statement blank to be used by prepaid legal services corporations;

(27) an instruction letter (PPL/85) and a form entitled "Instructions to Prepaid Legal Services Corporations for Completing Annual Statement Blank";

(28) a form identified as "Biographical Affidavit" as authorized in the Insurance Code, Article 1.14, §3, and in board Order 00592, dated October 24, 1957;

(29) forms identified as "Analysis of Surplus" for use as supplement to NAIC Form 1, Form 2, Form 4, and Form 9;

(30) a form entitled "Texas Overhead Assessment Form (For Texas Domestic Companies Only)";

(31) a form entitled "Release of Contributions; to be mailed to certain insurers and other entities; and

(32) a form entitled "Affidavit," being a resident agent's affidavit to be mailed to certain insurers and other entities.

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

TRD-8511977 James W. Norman
State Board of
Insurance

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For further information, please call
(512) 483-6327.

Subchapter J. Examination Expenses and Assessments

★ 28 TAC §7.1004

The State Board of Insurance adopts on an emergency basis new §7.1004, concerning rates of assessment and charges to cover the expenses of examining insurance companies. Rates of assessment are levied against and collected from each domestic insurance company based on admitted assets and gross premium receipts for the 1985 calendar year and from each foreign insurance company examined during the 1986 calendar year, based on a percentage of the gross salary paid to an examiner for each month or part of a month during which the examination is made. The expenses and charges assessed under authority of this section are additional to and not in lieu of any other charge which may be made under law, including the Insurance Code, Article 1.16.

The commissioner of insurance has certified the rates of assessment and charges set out in this section to be just and reasonable. The section must be adopted on an emergency basis to defer the expenses of the examination so that proper examinations of companies may be made, and assessments need to be made early in 1986. Assessments of foreign insurers must be made as each company is examined. The ability to make these assessments is essential to the proper examination of companies. This is a matter of necessity to appropriate and feasible regulation. Such regulation is a matter which is extremely important to the public welfare and its absence creates an imminent peril to the public welfare.

The new section is adopted on an emergency basis under the Insurance Code, Article 1.16, which authorizes and requires the board to make assessments and charges to meet all the expenses and disbursements necessary to comply with the provisions of the laws of Texas relating to the examination of insurance companies and to comply with the provisions of the Insurance Code, Articles 1.16-1.18.

§7.1004. Domestic and Foreign Insurance Company Examination Expenses and Assessments, 1986.

(a) Foreign insurance companies shall pay according to the following rules and rates of assessment for examination expenses as provided in the Insurance Code, Article 1.16.

(1) The actual salaries and expenses of the examiners allocable to such examination shall be paid. The annual salary of each examiner is to be divided by the total number of working days in a year, and the company is to be assessed that part of the annual salary attributable to each working day the examiner is examining the company. The expenses assessed shall be those actually incurred by the examiner to the extent permitted by law.

(2) Each foreign insurance company examined shall pay 36% of the gross salary paid to the examiner for each month or partial month of the examination in order to cover the examiner's longevity pay, state contributions to retirement, and social security matching expenses, and the state paid portion of insurance premiums and vacation and sick leave accrual. The overhead assessment will be levied with each month's billing.

(b) Domestic insurance companies shall pay according to the following rules and rates of assessment for examination expenses as provided in the Insurance Code, Article 1.16.

(1) The actual salaries and expenses of the examiners allocable to such examination shall be paid. The annual salary of each examiner is to be divided by the total number of working days in a year, and the company is to be assessed that part of the annual salary attributable to each working day the examiner is examining the company. The expenses assessed shall be those actually incurred by the examiner to the extent permitted by law.

(2) An overhead charge to cover the cost of administrative departmental expenses attributable to examination of companies, which shall be paid and computed as follows:

(A) 0.00865 of 1.0% of the admitted assets of the company as of December 31, 1985;

(B) 0.02374 of 1.0% of the gross premium receipts of the company for the year 1985;

(3) If the overhead charge, as computed under paragraph (2)(A) and (B) of this subsection, produces an overhead assessment of less than \$10, a minimum overhead assessment of \$10 shall be levied and collected.

(4) The overhead assessments are based on the assets and premium receipts reported in the annual statements, except where there has been an understating of assets and/or premium receipts.

Issued in Austin, Texas, on December 19, 1985.

TRD-8511978 James W. Norman
State Board of Insurance

Effective date: December 18, 1985
Expiration date: April 18, 1986
For further information, please call
(512) 463-6327.



Chapter 27. State Fire Marshal

Subchapter D. Storage and Sale of Fireworks

★ 28 TAC §§27.401-27.407

The State Board of Insurance adopts on an emergency basis the repeal of §§27.501-27.407 (59.41.92.501-507), concerning storage and sale of fireworks, to be effective on January 2, 1986. House Bill 1955, 69th Legislature, 1985, an Act Relating to the Regulation of Certain Fireworks, amends the Insurance Code, Chapter 5, by adding Article 5.43-4, and repeals Texas Civil Statutes, Article 9205. The Act takes effect on January 2, 1986. The existing §§27.401-27.407 are rendered obsolete and without legal basis on January 2, 1986. Emergency repeal action is taken to coincide with the emergency adoption of new §§27.401-27.431, to be effective on January 2, 1986.

An imminent peril to the public safety and welfare requires that these sections be repealed on an emergency basis. The reason for the emergency is to eliminate obsolete rules on January 2, 1986, the date they cease to have legal meaning and basis, thereby avoiding confusion to the public with new §§27.401-27.431, being adopted on an emergency basis the same day.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 6252-13a, §5, and the Insurance Code, Article 1.04, pursuant to which the State Board of Insurance may adopt rules of procedure; and pursuant to the board's authority to repeal any rules it has previously adopted.

§27.401. Storage of Fireworks by Jobbers and Distributors. (Class A and Class B).

§27.402. Storage of Class C Fireworks by Jobbers and Distributors.

§27.403. Storage of Fireworks by Jobbers and Dealers for the Purpose of Transportation

§27.404. Granting of Permits for, and the Presentation of, Public Display of Fireworks.

§27.405. Minimum Requirements for Retail Fireworks Stands.

§27.406. Transportation of Fireworks on Highways.

§27.407. Savings Clause.

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

TRD-8511980 James W. Norman
State Board of Insurance

Effective date: January 2, 1986
Expiration date: May 2, 1986
For further information, please call
(512) 463-6327.



★ 28 TAC §§27.401-27.430

The State Board of Insurance adopts on an emergency basis §§27.401-27.430, concerning fireworks rules. The new sections implement the requirements of House Bill 1955, 69th Legislature, 1985, concerning regulating the sale, distribution, and use of certain fireworks in the interest of preserving lives and property. The new sections cover registration requirements, license and permit application procedures, renewal procedures, manufacture and bulk storage requirements, retail sales, and public safety requirements. The new sections are adopted on an emergency basis because House Bill 1955, 69th Legislature, 1985, requires the State Board of Insurance to establish by rule the fees and related requirements for administration through the state fire marshal beginning January 2, 1986, the effective date of the Act. Therefore, to implement this statutory requirement on and after January 2, 1986, the board adopts the new sections on an emergency basis. The new sections also are proposed for permanent adoption in this issue of the *Texas Register*.

The new sections are adopted on an emergency basis under the Insurance Code, Article 5.43-4, §5, effective January 2, 1986, which authorize the State Board of Insurance to adopt sections concerning the regulation of certain fireworks, and Texas Civil Statutes, Article 6252-13a, which authorize emergency rules.

§27.401. Purpose. The purpose of the rules set forth in these sections is to regulate the sale, distribution, and use of certain fireworks in the interest of protecting and preserving lives and property pursuant to the Insurance Code, Article 5.43-4.

§27.402. Title. The rules set forth in §§27.401-27.430 shall be known and may be cited as the fireworks rules.

§27.403. Applicability of Rules. These sections shall apply to all firms and persons engaged in the business.

§27.404. Exceptions. The exceptions of the Insurance Code, Article 5.43-4, §4, are applicable to these sections.

§27.405. Notices. All notices by the State Fire Marshal required by any statutory provision or of these sections, must be given by personal service or mailed, postage prepaid, to the person's residence or business address as it appears on the records in the office of the State Fire Marshal.

§27.406. Restrictive Use. No license or permit holder is authorized to enforce or attempt to enforce any section of the Insurance Code, Article 5.43-4, or these sections.

§27.407. Administration.

(a) The State Fire Marshal is charged with the duty to administer these sections, the orders of the board and the enforcement of the Insurance Code, Article 5.43-4.

(b) Violations of these sections alone do not subject legally possessed fireworks to seizure or confiscation.

(c) Violation of these sections may be the basis for administrative action against license and permit holders in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

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

Acceptor building—A building which is exposed to embers and debris emitted from a donor building.

Agricultural, industrial, or wildlife control permits—Permits authorizing the holder to use Class B fireworks for specified purposes in these business activities.

Bare wiring—Any electric cable or cord, any part of which has the insulating cover broken or removed, exposing bare wire.

Barricade—A natural or artificial barrier that will effectively screen a magazine, building, railway, or highway from the effects of an explosion in a magazine or building containing explosives. It shall be of such height that a straight line from the top of any side wall of a building or magazine containing explosives to the eave line of any magazine, or building, or to a point 12 feet above the center of a railway or highway, will pass through such natural or artificial barrier.

Barricade, artificial—An artificial mound or revetted wall of earth of a minimum thickness of one foot.

Barricade, natural—Natural features of ground, such as hills, or timber of sufficient density that the surrounding exposures that require protection cannot be seen from the magazine or building containing explosives when the trees are bare of leaves.

Barricade, screen type—Any of several barriers for containing embers and debris from fires and deflagrations in process buildings that could cause fires and explosions in other buildings. Screen type barricades shall be constructed of metal roofing, ¼ inch or ½ inch mesh screen or equivalent material. A screen type barricade extends from the floor level of the donor building to such height that a straight line from the top of any side wall of the donor building to the eave line of the acceptor building will go through the screen at a point not less than five feet from the top of the screen. The top five feet of the screen are inclined at an angle of between 30 and 45 degrees, toward the donor building.

Board—The State Board of Insurance.

Breakaway construction—A general term which applies to the principle of purposely providing a weak wall so that the explosive effects can be directed and minimized. The term "weak wall" as used in

these sections refers to a weak wall and roof, or weak roof. The term "weak wall" is used in a relative sense as compared to the construction of the entire building. The design strength of a weak wall will vary as to the building construction, as well as to the type and quantity of explosive or pyrotechnic materials in the building. The materials used for weak wall construction are usually light gage metal, plywood, hardboard, or equivalent lightweight material, and the material is purposely selected to minimize the danger from flying missiles. Method of attachment of the weak wall shall be such as to aid the relief of blast pressure and fireball.

Bulk storage, Class C fireworks—The storage of 500 or more cases of Class C fireworks.

Business—The manufacturing, importing, distributing, jobbing, retailing of permissible fireworks, acting as a pyrotechnic operator, the conducting of multiple public fireworks displays, using fireworks for agricultural, wildlife, or industrial purposes.

Buyer—Any person or group of persons offering an agreed upon sum of money or other considerations to a sales person for fireworks.

C.F.R.—The Code of Federal Regulations, a codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the federal government. The code is divided into 50 titles. The titles are divided into chapters, which are further subdivided into parts.

Distributor—A person or entity that sells fireworks to jobbers, retailers, or other distributors for resale to others.

Donor building—A process building from which embers and burning debris is emitted during a fire.

D.O.T.—The United States Department of Transportation.

Fireworks—Any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration, or detonation, and that is defined as "special fireworks" by 49 Code of Federal Regulations §173.88(d), (1983), or as "common fireworks" by 49 Code of Federal Regulations §173.100(r), (1983). Exceptions to this definition are found in the Insurance Code, Article 5.43-4, §4.

Fireworks or common fireworks, Class C—A small fireworks device, designed primarily to produce visible and/or audible effects by combustion, that complies with the construction and chemical composition requirements of 16 Code of Federal Regulations Part 1507 (1984), and the labeling requirements of the United States Consumer Product Safety Commission, and that is classified as a Class C explosive by the D.O.T.

Fireworks or special fireworks, Class B—A large fireworks device designed primarily to produce visible or audible effects

by combustion, deflagration, or detonation, and that is classified as a Class B explosive by the D.O.T.

Fireworks plant—All lands, and buildings thereon, used for or in connection with the manufacture or processing of fireworks. It includes storage facilities used in connection with plant operation.

Fire prevention officer—The chief of a fire department, a fire marshal, the county fire marshal, the sheriff, a constable, any other local enforcement officer primarily responsible for fire prevention, or, if there is no local fire authority, the state fire marshal.

Firm—A person, partnership, corporation, or association.

Generator—Any device driven by an engine and powered by gasoline or other fuels to generate electricity for use in a retail fireworks stand.

Highway—Any public street, public alley, or public road.

Illegal fireworks—A fireworks device manufactured, imported, distributed, possessed, transported, offered for sale, or sold in violation of the Insurance Code, Article 5.43-4, or these sections.

Importer—A person who imports fireworks from a foreign country or from another state for sale to distributors or jobbers in this state.

Jobber—A person who purchases fireworks for resale to retailers only.

License—The license issued by the state fire marshal to a person or a fireworks firm authorizing same to engage in the business.

Licensed firm—A person, partnership, corporation, or association holding a current license.

Magazine—Any building or structure, other than a manufacturing building, used for storage of Class B fireworks.

Manufacturer—A person, firm, corporation, or association that engages in the making of fireworks.

Manufacturing—The preparation of fireworks mixes and the charging and construction of all unfinished fireworks, except pyrotechnic display items made on site by qualified personnel for immediate use when such operation is otherwise lawful.

Master electric switch—A manually operated device designed to interrupt the flow of electricity.

Mixing building—Any building used for mixing and blending pyrotechnic composition, excluding wet sparkler mixes.

Nonprocess building—Office buildings, warehouses, and other fireworks plant buildings where no explosive compositions are processed or stored. A finished firework is not considered an explosive composition.

Open flame—Any flame that is exposed to direct contact.

Permissible fireworks—Those Class C fireworks specified in the Insurance Code, Article 5.43-4, §2.

Person—An individual or entity, including an owner, manager, officer, employee, occupant, sole proprietorship, partnership, or corporation.

Process building—Any mixing building or any building in which pyrotechnic or explosive composition is pressed or otherwise prepared for finishing and assembling.

Public display—The igniting of Class B fireworks for public or private amusement.

Public display license—A license issued for the purpose of conducting multiple public displays at a single approved location.

Public display permit—A permit authorizing the holder to conduct a public fireworks display using Class B fireworks, on a single occasion, at a designated location and during a designated time period.

Pyrotechnic operator—An individual who, by experience, training and passing any required examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Class B fireworks.

Retail fireworks site—The location from which Class C fireworks are sold and in which Class C fireworks are held pending retail sale.

Retail stand—A permanent or portable structure utilized exclusively for the sale of fireworks to the general public at a retail fireworks site.

Retailer—A person who purchases fireworks for resale to the general public only.

Safety container—A container especially designed, tested and approved for the storage of flammable liquids.

Sale—The sale or offering for sale of any merchandise, equipment, or service, at wholesale or retail, to the public or to any person, for an agreed sum of money or other considerations.

Selling opening—An open area including the counter, through which fireworks are viewed, and sold at retail.

State fire marshal—The chief law enforcement officer of the state charged with the responsibility of fire prevention.

Storage facility—Any building, structure, or facility in which finished Class C fireworks are stored, but in which no manufacturing is performed.

Supervisor—A person 16 years or older who is responsible for the retail fireworks site during operating hours.

Walk door—An opening through which retail stand attendants can freely move and which can be secured to keep the public from the interior of the stand.

§27.409. General Requirements, Licenses, and Permits.

(a) Each firm or person engaged in the manufacture, transportation, storage, wholesale or retail sales of fireworks, public displays utilizing Class B fireworks, and pyrotechnic operators shall have an applic-

able license or permit issued by the state fire marshal.

(1) Licenses by type:

- (A) distributor;
- (B) importer;
- (C) jobber;
- (D) manufacturer;
- (E) public display; and
- (F) pyrotechnic operator.

(2) Permits by type:

- (A) retailer;
- (B) public display;
- (C) agricultural;
- (D) industrial; and
- (E) wildlife control.

(b) Each license or permit shall indicate the act or acts authorized.

(c) All required licenses and permits shall be made available for inspection at the facility for which it was issued.

(d) License and permit holders shall take every reasonable precaution to protect their license or permit documents from loss, theft, defacement, destruction, or unauthorized duplication or use. Unauthorized use or duplication shall be reported immediately to the state fire marshal.

(e) All holders of licenses or permits who bulk store fireworks shall have storage and other facilities which conform to these sections.

(f) Each licensee or permittee shall notify the state fire marshal of every location where storage or manufacturing facilities are maintained in Texas.

(g) A specific business location shall be maintained by each licensee or permittee which shall be indicated on the license or permit document.

(h) A person engaging in the business using or storing Class B fireworks should obtain a federal license or permit if required by Title XI, Regulation of Explosives of the Crime Control Act, 18 United States Code, Chapter 40.

(i) Licensees and permittees shall have adequate storage facilities which comply with appropriate provisions of §27.422 and §27.423 of this title (relating to Storage of Black Powders and Class B Fireworks at Other Than Display Sites; Bulk Storage of Class C Fireworks).

(j) Licensees and permittees shall comply with the applicable transportation requirements of §27.425 of this title (relating to Distribution and Transportation).

§27.410. Requirements, Licenses.

(a) Licensees shall keep a record of all fireworks sales.

(b) The change of a nonincorporated firm's ownership invalidates the current license. A change of ownership must be reported to the state fire marshal within 14 days of such change.

(c) Any change of corporate officers must be reported in writing to the state fire marshal at the time of license renewal. This change does not require a revised license document.

(d) A duplicate license document must be obtained from the state fire marshal to replace a lost or destroyed document. The licensee must submit written notification of the loss or destruction without delay.

(e) The change of a licensee's name, location, or mailing address requires a revised license document. Documents requiring changes must be surrendered to the state fire marshal within 14 days after the change, with written notification of the necessary change.

§27.411. Requirements, Pyrotechnic Operator License.

(a) Applicants for a pyrotechnic operator license shall take a written examination and obtain at least a passing grade of 70%. Written examinations may be supplemented by practical tests or demonstrations deemed necessary to determine the applicant's knowledge and ability. The content, type, frequency, and location of the examinations shall be set by the state fire marshal.

(b) Applicants who fail may file an application and take a reexamination.

(c) The state fire marshal may waive an examination requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

(d) A pyrotechnic operator whose license has been expired for two years or longer and makes application for a new license must pass another examination.

(e) A pyrotechnic operator license shall not be issued to any person who fails to meet subsection (a) of this section and the following:

(1) assisted in conducting at least three public displays under the direct supervision of a pyrotechnic operator licensed in Texas.

(2) be at least 21 years of age.

(f) The pocket license document issued along with the regular license document is for identification purposes only and must be carried by the licensee when engaged in the business.

§27.412. Expiration, License, and Permit.

(a) A license shall be valid for a period of one year from the date of issuance.

(b) Permits expire depending on permit type.

(1) Retail permits expire on January 31 each year.

(2) Public display permits expire at the conclusion of the single display at the time and on the date stated on the permit.

(3) Agricultural, industrial, and wildlife control permits expire one year from the date of issuance.

§27.413. Applications for Licenses and Permits.

(a) Applications for a license or permit to engage in the business, other than retail permits, shall be on forms provided by the state fire marshal, and shall be accompanied by the appropriate fee and documentation as may be required.

(b) Applications must be signed by the sole proprietor, by each partner of a partnership, or by an officer of a corporation or association. Foreign and out of state corporations shall be accompanied with evidence of its authority to conduct business in this state granted by the Texas Secretary of State, and where applicable, the applicant shall evidence compliance with the Assumed Business or Professional Name Act, Texas Business and Commerce Code Annotated, §36.01.

(c) Applications for a public display license or permit shall include the following information:

(1) the name, address, and telephone number of the person or organization sponsoring the display;

(2) a copy of the site inspection report from the fire prevention officer;

(3) the exact location for the display;

(4) the name and license number of the pyrotechnic operator who is to supervise the display;

(5) the size and number of fireworks to be discharged, the number of set pieces and other items;

(6) the manner and place of storage of such fireworks prior to and during the display;

(7) a diagram of the grounds on which the display is to be held indicating:

(A) point from which fireworks will be discharged;

(B) distance from exposure to discharge point;

(C) distance from spectators to discharge point;

(D) method of spectator restraint;

(8) proof that required public liability insurance or surety bond is in force in compliance with the Insurance Code, Article 5.43-4, §5;

(9) the name and license number of the manufacturer or distributor who is to supply the fireworks; and

(10) applications for a display permit shall include the date, time, and the alternate date and time of the display.

(d) A completed application for a public display license or permit shall be received by the state fire marshal at least 14 days before the display is to be conducted. Such application is deemed to be timely filed when its envelope bears a legible

postmark on or before 14 days prior to the date of the desired display.

(e) All public displays shall be in compliance with requirements of §27.426 of this title (relating to Preparing and Conducting Public Displays).

§27.414. Fees.

(a) Fees required by the Insurance Code, Article 5.43-4, and these sections, shall be paid by cash, money order, or check. Money orders and checks shall be made payable to "The State Board of Insurance."

(b) Fees shall be paid at the office of the State Fire Marshal in Austin, or mailed to an address specified by the State Fire Marshal. Retail permits may also be obtained through participating licensed firms. See §27.415 of this title (relating to Retail Permits).

(c) Fees shall be as follows.

(1) Manufacturer license
(A) Initial fee—\$550
(B) Renewal fee (prior to expiration)—550

(2) Distributor license
(A) Initial fee—850
(B) Renewal fee (prior to expiration)—850

(3) Jobber license
(A) Initial fee—550
(B) Renewal fee (prior to expiration)—550

(4) Importer license
(A) Initial fee—150
(B) Renewal fee (prior to expiration)—150

(5) Pyrotechnic operator license
(A) Initial fee—15
(B) Renewal fee (prior to expiration)—10

(6) Public display license
(A) Initial fee—200
(B) Renewal fee (prior to expiration)—200

(7) Retail permit—15
(8) Public display permit—25
(9) Agricultural, industrial, and wildlife control permits—10

(d) A renewal application for a license deposited with the United States Postal Service is deemed to be timely filed, when its envelope bears a legible postmark on or before the expiration date of the license being renewed. Any renewal application postmarked after the expiration date must be accompanied by the renewal fee and the appropriate late fee.

(e) Holders of licenses which have been expired for less than two years cannot be issued new licenses.

(f) Late fees are as follows:

Expired 1 day to 90 days

	1 Renewal Fee	+	Late Fee (Initial Fee)	=	Total Fee
Manufacturer	\$550.00		\$275.00		\$ 825.00
Distributor	850.00		425.00		1,275.00
Jobber	550.00		275.00		825.00
Importer	150.00		75.00		225.00
Pyrotechnic Operator	15.00		7.50		22.50
Public Display License	200.00		100.00		300.00

Expired 91 days to 2 years

	1 Renewal Fee	+	Late Fee (Initial Fee)	=	Total Fee
Manufacturer	\$550.00		\$550.00		\$1,100.00
Distributor	850.00		850.00		1,700.00
Jobber	550.00		550.00		1,100.00
Importer	150.00		150.00		300.00
Pyrotechnic Operator	10.00		15.00		25.00
Public Display License	200.00		200.00		400.00

§27.415. Retail Permits.

(a) A retail permit shall be required for each retail stand or other retail sales location.

(b) Retail permits may be obtained at any time of the year from any participating manufacturer, distributor, or jobber holding a valid license to do business in Texas or from the state fire marshal, and shall be signed by the applicant prior to said permit becoming effective.

(1) A retail permittee shall purchase Class C fireworks only from a distributor or jobber licensed in this state.

(2) Bulk storage of Class C fireworks by a retail permittee shall be in compliance with §27.423 of this title (relating to Bulk Storage of Class C Fireworks).

(3) Class C fireworks shall be sold to the general public only at legally permitted retail fireworks sites and during the legal selling periods defined in Insurance Code, Article 5.43-4, §8, subsections (1) and (2).

(4) A copy of the Insurance Code, Article 5.43-4, and the fireworks rules shall be provided to the purchaser of a retail permit by the participating licensee at the time the permit is issued. Copies of the Insurance Code, Article 5.43-4, and the fireworks rules shall be made available through the State Fire Marshal's Office.

(c) Any licensee purchasing books of permits for sale to retail operators shall properly account for all permits received.

(1) The licensee who issues retail permits shall return books containing duplicate copies of each issued permit to the State Fire Marshal's Office within a week from the time the last permit in each book has been issued.

(2) The returned copies in each book are considered the official record of retail permits sold.

(3) A licensee may exchange any unissued retail permit which has not been voided or otherwise rendered unusable for a new permit at the end of each year following expiration.

§27.416. Agricultural, Industrial, and Wildlife Control Permits.

(a) Applications shall:

(1) describe the type of fireworks to be used;

(2) indicate the specific purpose for which fireworks are to be used; and

(3) state the exact location where fireworks are to be used.

(b) Duplicate permits shall not be issued.

(c) Permits shall be available for inspection at the firms' business location.

(d) Class B fireworks for agricultural industry and wildlife control shall be purchased only from distributors licensed in this state.

§27.417. Retail Sales General Requirements.

(a) A supervisor, 16 years of age or older, shall be on duty during all phases of operation. It shall be the responsibility of the supervisor to comply with the fireworks rules.

(b) Bulk storage of Class C fireworks by retailer shall comply with §27.423 of this title (relating to Bulk Storage of Class C Fireworks).

(c) Heat-sealing of packages within retail sites is prohibited.

(d) Each retail site determined to have fire danger external of the sales area shall be provided with equipment or facilities that are capable of extinguishing small exterior fires that would threaten the retail stand.

(e) An unobstructed pathway to walk doors shall be maintained within the retail stand during selling operation.

(f) The display, offer for sale or sales of fireworks from tents, air supported structures, and motor vehicles is prohibited.

(g) Smoking shall not be permitted in the fireworks retail stands. The presence of lighted cigars, cigarettes, or pipes within 10 feet of the stand is prohibited. "Fireworks" and "No Smoking" signs in letters not less than four inches high shall be conspicuously posted.

(h) The consumption of alcoholic beverages in retail stands is prohibited.

(i) The display or offer for sale or sales of fireworks within establishments that sell alcoholic beverages for consumption on the premises is prohibited.

(j) A retail permit shall be required for each retail stand offering fireworks for sale during selling season.

(k) The display or offer for sale or sales of fireworks from single or multi-family residential structures is prohibited.

(l) All retail sites must furnish parking off the roadway.

(m) An area of at least 10 feet in width on all sides of a fireworks site shall be kept free of high grass and of trash.

(n) Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks.

§27.418. Fireworks Retail Site Requirements for Design, Construction, and Storage.

(a) Retail stand construction. The fireworks stand in which Class C fireworks are held for retail sale shall be constructed of wood, metal, masonry or concrete, or combinations thereof. Each stand of less than 16 feet in length shall have at least one

walk door, which opens outward. Stands measuring 16 feet or longer must have at least two walk doors, one in each end, which open outward. A minimum of combustible material such as posters, signs, and decorations may be used on interior walls. A minimum distance of six feet shall be maintained from the front of the customer counter to the back side of the stand.

(b) Electrical service, equipment, and devices.

(1) Electrical service to the stand shall be installed at least eight feet above ground or buried underground according to standards acceptable to the authority having jurisdiction.

(2) Each stand utilizing electricity shall have one master electric switch, which interrupts all electric supply to devices and equipment located inside and on the stand. The switch must be located near an exit door.

(3) All electrical wiring, equipment, and devices both inside and outside the stand, shall be UL approved, be securely mounted to the structure and be installed and maintained to prevent electrical hazards. Splices in electrical wiring servicing equipment and devices inside the stand shall be enclosed in junction boxes. Light fixtures and wiring used for illumination inside and outside of the stand shall be installed and maintained to prevent accidental contact by the general public and employees.

(4) The following shall not be used in any manner inside a retail stand:

(A) drop cords with lights;

(B) extension cords; or

(C) bare wiring.

(5) In stands where generator-created power is used, the generator shall be located in an area free from grass, trash, and other flammable materials and at least 10 feet from the stand. Reserve fuel for the generator must be stored in an approved safety container and a portable fire extinguisher rated to at least 6 B.C. shall be provided.

(c) Lighting and heating. Fireworks stands shall not be illuminated or heated by any device which requires open flame or exposed heating elements. Electric heaters shall be equipped with a switching device to stop the flow of current should the heater be tipped over.

(d) Overnight storage. If the fireworks stand is used for the overnight storage of Class C fireworks, it must be equipped with suitable locking devices to prevent unauthorized entry.

(e) Bulk storage. Storage of Class C fireworks by a retailer in excess of 500 cases shall comply with §27.423 of this title (relating to Bulk Storage Class C Fireworks).

(f) Retail sales and storage in other than retail stands.

(1) Retail sale of fireworks from any site which provides general merchandise for sale to the public shall comply with the following.

(A) A separate and distinct area of floor space shall be used for retail sale of fireworks.

(B) This area shall be sufficiently designed so as to prevent customers from handling fireworks.

(C) This area shall be attended at all times of operation and supervised by a person 16 years old, or older, or properly secured to prohibit access by the public.

(D) The current retail sales permit shall be made available for inspection in the sales area.

(E) Fireworks in this area shall be limited to the displayed merchandise.

(2) Smoking shall be prohibited within 10 feet of the area where fireworks are sold or stored. "Fireworks" and "No Smoking" signs with letters not less than four inches in height shall be conspicuously posted.

(3) Fireworks not necessary for immediate sale shall be stored in a separate and distinct area away from general merchandise. Access to the storage area shall be restricted to employees only and "No Smoking" signs shall be posted.

(4) The local fire department or authority having jurisdiction shall be notified in writing as to the business location, placement of fireworks in building or structure, total amount of fireworks being stored, and time period that fireworks will be stored.

(5) Trash, rubbish, and unused boxes shall be removed from the sales and storage areas daily, or as often as necessary to prevent unsafe accumulation.

(6) Fireworks shall not be displayed or stored behind glass through which direct sunlight will shine on the fireworks.

§27.419. Records and Reports.

(a) A licensee shall keep a record of all transactions or operations involving fireworks manufacturing, explosive materials and devices for one year. Such records shall be made available to the authorities having jurisdiction upon request.

(b) Invoices, sales slips, delivery tickets or receipts, bills of lading, or similar papers representing individual transactions will satisfy the recordkeeping requirement provided they include the signature and license number of both the seller and buyer.

(c) The loss, theft, or unlawful removal of black powder and Class B fireworks shall be reported immediately to the state fire marshal.

(d) Licensees and permittees shall report in writing any unauthorized incident of explosion or fire involving fireworks to the state fire marshal within 10 days after the occurrence. Incidents resulting in injury or death shall be reported immediately. Reports shall include:

(1) a brief account of the cause of injury to any person and such person's name and address; and

(2) a brief account of the fire or explosion.

§27.420. *Requirements For Manufacturing, Bulk Storage, and Magazine Facilities.* All manufacturing and bulk storage facilities shall comply with the applicable provisions of the Insurance Code, Article 5.43-4 and these sections.

§27.421. Manufacturing Operations.

(a) Building site security.

(1) All fireworks manufacturing plants shall be completely surrounded by a substantial fence having a minimum height of six feet. All openings in the fence shall be equipped with suitable gates which shall be kept securely locked at all times when not in actual use. The main gate may be left open during the regular hours of operation while in plain view of authorized responsible employees or guards. Conspicuous signs indicating "Warning," "No Smoking," and "No Trespassing" shall be posted.

(2) No person other than authorized employees or representatives of departments of federal, state, or political subdivisions of the state governments having jurisdiction shall be allowed in any fireworks manufacturing plants, except by special permission from the plant office.

(3) All manufacturing process buildings shall be separated from inhabited buildings, public highways, and passenger railways in accordance with Table 1, in §27.424 of this title (relating to Distance Tables).

(4) The distance between process buildings shall be in accordance with provisions of Table 2 in §27.424 of this title (relating to Distance Tables).

(5) Distance between nonprocess buildings, process buildings, and magazines shall be in accordance with Table 2 in §27.424 of this title (relating to Distance Tables).

(6) Separation of magazines storing Class B fireworks, black powder, and salutes shall be separated from inhabited buildings, highways, or other magazines containing black powder or salutes in accordance with Table 3 in §27.424 of this title (relating to Distance Tables).

(7) Permissible bulk storage of Class I flammable liquids (such as gasoline) and flammable compressed gases at fireworks manufacturing and/or storage facilities shall:

(A) be located at least 100 feet from processing, storage buildings, or magazines; or flammable liquid tanks may be located below ground; and

(B) provide that dispensing units and ventilation pipes be located at least 100 feet from processing or storage buildings or magazines.

(b) Building construction.

(1) Process buildings, except buildings in which customers' orders are prepared for shipment, shall embody break-away construction. The exterior of process buildings shall be constructed of materials no more combustible than painted wood.

(2) No building shall have a basement or be more than one story high. Interior surfaces shall be finished to discourage the accumulation of dust.

(3) Mixing and pressing buildings shall have conductive flooring, properly grounded.

(c) Heat, light, electrical equipment.

(1) No stoves, exposed flames, or electrical heaters shall be used in any part of a process or mixing building. Heating shall be by means of steam, indirect hot air, radiation, hot water, or any other means approved by the State Fire Marshal. Unit heaters, located inside buildings, shall be equipped with motors and switches suitable for use in Class II, Division 1 locations found in the National Electric Code, 1984, Article 502.

(2) Where artificial lighting is required in fireworks processing buildings it shall be by electricity. Temporary or loose electrical wiring shall not be used.

(3) All wiring in mixing and pressing buildings shall be in rigid metal conduit or by Type MI cable. The wiring, lighting fixtures, and switches shall comply with the requirements for Class II, Division 1 locations in the National Electrical Code, 1984, Article 502.

(4) Wiring, switches, and fixtures in storage buildings shall comply with the requirements for Class II, Division 2 locations in the National Electrical Code, 1984, Article 502.

(5) All presses and other mechanical devices shall be properly grounded.

(6) A master switch shall be provided at the point where electric current enters the plant, which will, upon being opened, immediately cut off all electric current to the plant, except that to emergency circuits.

(d) Maximum building occupancy and quantities of explosive or pyrotechnic composition.

(1) Occupants in each process building and magazine shall be limited to those conducting the operations.

(2) No more than 500 pounds of pyrotechnic and explosive composition shall be permitted at one time in any mixing building or any building in which pyrotechnic and explosive compositions are pressed or otherwise prepared for finishing and assembling.

(e) Fire, explosion prevention.

(1) All buildings shall be kept clean, orderly, and free from accumulation of dust or rubbish. Powder, or other explosive or pyrotechnic materials, when spilled, shall be immediately cleaned up and removed from the building.

(2) Rags, combustible, pyrotechnic or explosive scrap, and paper shall be kept separate from each other and placed in approved marked containers. All waste and reject hazardous material shall be removed from all buildings daily and removed from

the plant at regular intervals and destroyed in an appropriate manner.

(3) No smoking or carrying of lighted pipes, cigarettes, cigars, matches, lighters, or open flame, is permitted within the plant fence; except that smoking may be permitted in office buildings or buildings used exclusively as lunchrooms or rest rooms and in which the presence of fireworks or any explosive composition is prohibited. Authorized smoking locations shall be established, so marked, and contain suitable receptacles for cigarette and cigar butts and pipe residue. At least one Class A fire extinguisher shall be located in this area. Persons whose clothing is contaminated with explosives, pyrotechnic, or other dangerous materials, shall not be permitted in smoking locations.

(4) Matches, cigarette lighters, or other flame-producing devices shall not be brought into any process building or magazine.

(5) No person shall enter any fireworks plant in possession of liquor or narcotics, or be under the influence of liquor or narcotics, while in a fireworks plant.

(6) Each fireworks plant shall have an employee designated as safety officer. All employees of a fireworks plant, upon commencing employment and at least annually thereafter, shall be given formal instruction by the safety officer, regarding proper methods, procedures, and safety requirements for handling explosives, pyrotechnics and fireworks.

(7) In areas where there is a danger of ignition of materials by sparks, properly maintained and nonferrous safety hand tools shall be used.

(8) In no case shall oxidizers such as nitrates, chlorates, or perchlorates be stored in the same building with combustible powdered materials such as charcoal, gums, metals, sulfur, or antimony sulfide.

(f) Testing. Testing of fireworks and components of fireworks shall be performed in an area set aside for that purpose and located a safe distance from any plant building or other structure.

(g) Fire extinguishers; emergency procedures.

(1) Fire extinguishers shall be provided in all buildings except those in which pyrotechnic mixtures are exposed.

(2) Emergency procedures shall be established for each plant which will include personnel instruction in any emergency that may be anticipated.

(3) Emergency procedures shall include instruction in the use of portable fire extinguishers and instructions on the type of fires on which they may and may not be used.

(A) The employees shall be told that if a fire is involved with or is in danger of spreading to pyrotechnic mixtures, they are to leave the building at once and follow prescribed procedures for alerting other employees.

(B) Extinguishers shall be used on fires involving ordinary combustible materials.

§27.422. *Storage of Black Powder and Class B Fireworks at Other than Display Sites.*

(a) General provisions.

(1) Class B fireworks and black powder shall be stored in magazines unless they are in process of manufacture, being physically handled in the operating process, being packaged, or being transported.

(2) Black powder and Class B fireworks shall be stored in a magazine meeting or exceeding the requirements for a Type 4 magazine.

(3) Magazines containing Class B fireworks or black powder shall be separated from inhabited buildings, other magazines, fireworks manufacturing plant buildings, passenger railways, and public highways in accordance with Table 3 in §27.424 of this title (relating to Distance Tables).

(4) Bulk storage of Class I flammable liquids and flammable compressed gases shall comply with provisions of §27.421(a) (7) of this title (relating to Manufacturing Operations).

(b) Construction of magazines-general.

(1) Magazines shall be constructed in conformity with the provisions of this subsection, or may be of substantially equivalent construction.

(2) The ground around magazines shall be graded for drainage of water.

(3) Magazine heating systems, if installed, shall meet the following requirements.

(A) Radiant heating coils within the building, if used, shall be installed in such a manner that the fireworks containers cannot contact the coils and air is free to circulate between the coils and the fireworks.

(B) Air heating ducts shall be installed in such a manner that the hot air discharge from the duct is not directed against the fireworks or fireworks containers.

(C) The heating device shall have controls that prevent the ambient building temperature from exceeding 130°F.

(D) The electric fan or pump used in the heating system shall be mounted outside and separate from the wall of the magazine and shall be grounded.

(E) The electric fan motor and the controls for an electrical heating device used in heating water or steam shall have overloads and disconnects. All electrical switch gear shall be located a minimum distance of 25 feet from the magazine.

(F) The heating source for a water or steam system, if used, shall be separate from the magazine by a distance of not less than 25 feet when electric and 50 feet from when fuel-fired. The area between the heating unit and the magazine shall be cleared of all combustible materials.

(G) The storage of fireworks and fireworks containers in the magazine shall allow uniform air circulation so temperature uniformity can be maintained throughout the stored materials.

(4) When lights are necessary inside the magazine, electrical safety flashlights or electric safety lanterns should be used. The authority having jurisdiction may authorize interior lighting of special design for magazines provided that adequate safety is maintained.

(5) When ventilation is required in a compartmented magazine, sufficient ventilation shall be provided to protect the stored materials as necessary in each compartment. Stored materials shall be so placed in the magazine as not to interfere with ventilation and shall be stored so as to prevent contact with masonry walls or with any steel or other ferrous metal by means of a non-sparking lattice or equivalent lining.

(c) Construction of magazines. Magazines for storage of Class B fireworks and black powder shall meet or exceed the following specifications for Type 4 magazines.

(1) A Type 4 magazine shall be a permanent, portable, or mobile structure, such as a building igloo, semi-trailer, or other mobile container that is fire-resistant, theft-resistant, and weather-resistant.

(2) A Type 4 magazine shall be constructed of masonry, wood covered with metal, fabricated metal, or a combination of these materials. The door shall be metal or solid wood covered with metal.

(3) Permanent Type 4 magazines shall be constructed in accordance with those provisions for Type 4 magazines relating to foundations, ventilation, locks, hinges, hasps, and locking hardware as required by 27 Code of Federal Regulations, Part 55, November 1, 1984, edition.

(d) Magazine operations.

(1) Storage shall be supervised by a competent person who shall be at least 21 years of age, and who shall be held responsible for the enforcement of all safety precautions.

(2) When containing Class B fireworks or black powder, the magazine shall

be opened and inspected at intervals of not greater than three days to determine whether there has been an unauthorized entry or attempted entry into the magazines; or to determine whether there has been unauthorized material removal from the magazines.

(3) All doors shall be locked, except during hours of operation.

(4) Containers shall be stacked in a stable manner.

(5) Black powder in shipping containers, when stored in magazines with other explosives, shall be segregated. Black powder stored in kegs shall be stored on ends, bungs down, or on side, seams down.

(6) Open black powder containers shall be securely closed before being returned to a magazine. No black powder container without a closed lid may be stored in the magazine.

(7) Tools for opening containers of Class B fireworks or black powder shall be constructed of nonsparking materials, except that metal slitters shall be used for opening fiberboard containers. A wood wedge, a fiber, rubber, or wood mallet shall be used for opening or closing wood containers of explosives.

(8) Magazine floors shall be regularly kept clean, dry, free of grit, paper, empty used packages, and rubbish. Brooms and other cleaning utensils shall not have any spark-producing metal parts. Sweepings from floors of magazines shall be properly disposed.

(9) When magazines need interior repairs, all fireworks and black powder shall be removed and the floors cleaned.

(10) When making exterior magazine repairs, the fireworks and black powder shall be removed from the magazine.

(11) When fireworks and black powder are removed from a magazine under repair they shall be placed in another magazine until repairs have been completed.

(e) Additional safety precautions.

(1) Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by authorized guards) shall not be permitted inside of or within 50 feet of magazines.

(2) The land surrounding magazines shall be kept clear of brush, dried grass, leaves, and similar combustibles for a distance of at least 25 feet.

§27.423. Bulk Storage of Class C Fireworks.

(a) General provisions.

(1) These provisions apply to licensees and retail storage of more than 500 cases of Class C fireworks.

(2) Storage facilities containing Class C fireworks shall be of solid construction using sound engineering principals.

(3) Electrical installation, if used, shall be in compliance with the National Electric Code, 1984.

(4) Storage facilities containing Class C fireworks shall be separated from inhabited buildings, passenger railways, and public highways by a minimum distance of 50 feet or in compliance with Table 1 in §27.424 of this title (relating to Distance Tables). Subsequent construction by adjacent property owners or public authorities shall not subject licensee to a distance regulation violation under this section.

(5) Storage buildings shall have fencing in compliance with §27.421(a)(1) of this title (relating to Manufacturing Operations) or one of the following:

(A) personnel on the premises 24 hours per day and lighted at night; and

(B) security alarm system.

(6) Bulk storage of Class I flammable liquids (such as gasoline) and flammable compressed gases shall comply with provisions of §27.421(a)(7) of this title (relating to Manufacturing Operations).

(b) Operation of storage facilities.

(1) Storage facilities shall be in the charge of a competent person at all times during operating hours who shall be least 18 years of age, who shall be held responsible for the enforcement of all safety precautions.

(2) Doors shall be kept locked, except during hours of operation.

§27.424. Distance Tables. The following distance tables shall be applicable to these sections.

Table 1. Minimum Separation Distances of Class C Fireworks, Processing Buildings and Fireworks Storage Buildings from Inhabited Buildings, Passenger Railways, and Public Highways

NET WEIGHT OF FIREWORKS ¹	DISTANCE FROM PASSENGER RAILWAYS AND PUBLIC HIGHWAYS	DISTANCE FROM INHABITED BUILDINGS
	Feet	Feet
Pounds		
100	50	50
200	50	60
400	50	70

600	50	80
800	50	90
1,000	50	100
2,000	58	115
3,000	62	124
4,000	65	130
5,000	68	135
6,000	70	139
8,000	73	140
10,000	75	150

Note 1: Net weight in Table 1 is the weight of all pyrotechnic and explosive composition and fuse only.

Table 2. Minimum Separation Distances at Fireworks Manufacturing Plants.

NET WEIGHT, FIREWORKS ¹	DISTANCE OF MAGAZINES AND STORAGE BUILDINGS FROM PROCESS BUILDINGS AND NONPROCESS BUILDINGS ²		DISTANCE BETWEEN PROCESS BUILDINGS AND BETWEEN PROCESS AND NONPROCESS BUILDINGS ²	
	Class C Fireworks	Class B Fireworks	Class C Fireworks	Class B Fireworks
	Feet	Feet	Feet	Feet
Pounds				
100	30	30	37	57
200	30	35	37	69
400	30	44	37	85
600	30	51	37	97
800	30	56	37	105
1,000	30	60	37	112
2,000	30	76	37	172
3,000	35	87	48	222
4,000	38	95	60	264
5,000	42	103	67	300
6,000	45	109	72	331
8,000	50	120	78	382
10,000	54	129	82	423

Note 1: Net weight is the weight of all pyrotechnic and explosive compositions and fuse only.

Note 2: For the purposes of applying the separation distances in Table 2 a process building includes a mixing building, any building in which pyrotechnic or explosive compositions are pressed or otherwise prepared for finishing and assembling, and any finishing and assembling building. A nonprocess building means office buildings, warehouses, and other fireworks plant buildings where no fireworks or explosive compositions are processed or stored.

TABLE 3

Table of Distances
for Storage of Low Explosives

Pounds Over	Net Over	From inhabited building distance (feet)	From Public railroad and highways distance feet	From above ground magazine (feet)	
				Unbarricaded	Barricaded
0	1,000	75	75	50	36
1,000	5,000	115	115	75	61
5,000	10,000	150	150	100	78
10,000	20,000	190	215	125	98
20,000	30,000	215	215	145	112
30,000	40,000	235	235	155	124
40,000	50,000	250	250	165	135
50,000	60,000	260	260	175	145
60,000	70,000	270	270	185	155
70,000	80,000	280	280	190	165
80,000	90,000	295	295	195	175
90,000	100,000	300	300	200	185
100,000	200,000	375	375	250	285
200,000	300,000	450	450	300	385

§27.425. Distribution and Transportation.

(a) 49 Code of Federal Regulations, Parts 171, 172, 173, 177, and 178, November 1, 1984, edition, governing the transportation of hazardous materials, are adopted by reference as rules governing the safe distribution and transportation of fireworks as hazardous materials in Texas. These rules are subject to the following explanations and exceptions.

(1) When term "interstate" or "foreign commerce" is used in the federal regulations, it will, for the purpose of such adoption include all modes of transportation in Texas.

(2) When the term "department" is used in the text of the federal regulations as being the Department of Transportation,

it shall for the purpose of such adoption mean the State Board of Insurance.

(3) The reporting of hazardous material incidents as required by federal regulations has not been adopted and, therefore, is not required.

(b) A copy of 49 Code of Federal Regulations shall be kept available for inspection in the Office of the State Fire Marshal.

§27.426. Preparing and Conducting Public Displays.

(a) Storage. Storage of public displays may be stored temporarily for a period not to exceed 30 days prior to display date in a locked area, in regular Class B shipping cartons, not accessible by the gen-

eral public and in a location approved by the local fire prevention officer.

(b) Sobriety. Pyrotechnic operators or assistants shall not be under the influence or consume alcoholic beverages/or controlled substances during the public display.

(c) Display criteria.

(1) The area selected for the discharge of aerial shells shall be located so that the trajectory of the shells will not come within 25 feet of any overhead object.

(2) Mortars shall be separated from spectator viewing and parking areas; from health care, church, asylum, school, and penal facilities; from storage of hazardous materials, and from residential occupancies by the minimum distances specified in the following table:

Mortar Separation Distances

Mortar Sizes	Spectator Viewing Areas	Health Care & Penal Facilities	Clear Landing Area
	Parking Areas 1 & 2-Family Dwellings		
2 in.	100 ft.	600 ft.	600 ft.
3 in.	125 ft.	600 ft.	600 ft.
4 in.	125 ft.	600 ft.	600 ft.
5 in.	150 ft.	600 ft.	600 ft.
6 in. & larger	200 ft.	600 ft.	600 ft.

(3) Fireworks shall not be discharged within 100 feet of any tent or canvas shelter.

(4) The potential landing area shall be a large, clear, open area acceptable to the authority having jurisdiction.

(5) Spectators, vehicles, or any readily combustible materials shall not be located within the potential landing area during the display.

(6) If, at any time, steady winds of 25 mph or other conditions prevail, which in the opinion of either the authority having jurisdiction or the licensed pyrotechnic operator poses a danger, the public display shall be postponed until conditions improve to an acceptable level.

(7) Any fireworks that remain unfired after the display is concluded shall be immediately disposed of or removed in a manner safe for the particular type of fireworks.

(d) Pyrotechnic equipment and installation. Reusable mortars shall be made of steel tubing or equivalent (cast iron and other fragmenting types of metal are prohibited) having a smooth bore and a steel bottom plate equal in thickness, to the tube welded continuously around its perimeter except as follows.

(1) Wooden base plugs in good condition may be substituted for welded steel bottom plate where such plugs have a minimum thickness of 1/2 inch per inch of bore diameter and securely fastened. Wooden base plugs shall be discarded and replaced when split, shrunken, charred to less than minimum required thickness, or otherwise damaged. Screw type caps for plugs are prohibited.

(2) Mortars limited solely for the firing of single break shells and finale batteries may be made of spiral or convolute wound chipboard or kraft paper tubes. Tubes for two inch shells shall have a wall thickness of not less than 1/4 inch. Tubes for three inch shells shall have a wall thickness of not less than 3/8 inch. Tubes for four, five and six inch shells shall have a wall thickness of not less than 1/2 inch. All tubes shall have a base plug in good condition the thickness of which shall be not be less than 1/2 the inside diameter of the tube. The base plug shall be securely fastened to the tube.

(3) For single break shells three inch and four inch mortar tubes may be made of 26 gauge or heavier galvanized iron riveted along their seams, beginning at a

point within one inch of each end and spaced not more than three inches between rivets and having a two inch wooden base plug.

(4) The minimum inside length of reusable mortars shall be not less than five times their inside diameter for mortars up to seven inches inside diameter and not less than four times their inside diameter for mortars having an inside diameter greater than seven inches.

(5) Any damaged mortars (split or bulged tube, base, seam, or with loose rivets, bolts, or wooden base plug) shall not be used for firing.

(6) Not less than 50% of the mortar tube length shall be below the normal surface of the ground. Sand or earth filled bags shall not be required unless the tubes do not conform to construction provisions of this subsection. When required, such bags shall be laid against the firing side of the mortars. The upper surface of the bags shall be level with the mortar tube muzzles. Such bags shall also be placed similarly at both ends of each line of mortars.

(e) Special setting of mortars. On locations where it is impossible to bury mortars in suitable clean earth or where the authority having jurisdiction and the licensed pyrotechnic operator in charge agree that public safety will be increased, mortars may be set for firing in approved sand or dirt filled steel drums or troughs and shall comply with the following.

(1) The depth of the drum or trough shall permit burial in sand of each mortar to within 50% of the length of the mortar.

(2) The containers shall be set and the mortars secured at the angle determined as safe for firing. Batteries may consist of as many approved units as required for the display, but each unit shall be set, braced, and secured, as determined by the wind direction and velocity predicted for the firing time.

(3) Finale batteries shall be set braced and secured as determined by the wind direction and velocity predicted for the firing time.

(f) Ready boxes.

(1) Before any firing begins, the entire complement of shells for any licensed or permitted public display shall be brought to the firing site and stored in ready boxes at a point not less than 25 feet distant upwind (with relations to the firing time) from the nearest mortar. These ready boxes shall

be constructed and may be of wood, rubber, steel, or fiberboard cartons.

(2) A flame retardant tarp or a wood, rubber, or steel cover shall protect all ready boxes from the time they are placed in position until they are emptied, except that the cover may be lifted when shells are taken from or returned to the boxes.

(3) The use of compartmentation, to avoid the mixing of shell sizes, is recommended in large displays. Individual boxes should be used for each different shell size.

(g) Loading mortars.

(1) Mortars shall be cleared of paper or other burning material after being fired, if necessary. No shell hang firing shall be cleared from mortars for at least 30 minutes after being lighted.

(2) Finale batteries shall not be reloaded with finale chains, but may be reloaded with individual shells.

(h) Firing mortars.

(1) All firing shall be done upon order or signal of the licensed pyrotechnic operator directing the public display. No safety cap shall be removed from any shell match until immediately before mortar is fired. Used igniters shall not be discarded in the area between the mortars and the ready boxes.

(2) Electric firing, if utilized, shall comply with the following requirements.

(A) Connecting any electric firing circuit to any power supply, whether battery or other, is prohibited until all special effects fireworks, pyrotechnics, and explosives in the sequence are connected to firing leads and are cleared for actual firing. Circuitry may be tested with a galvanometer equipped with a silver chloride battery.

(B) Power sources for firing fireworks, and pyrotechnics shall be restricted to batteries or individually isolated, ungrounded generators used for firing purposes only. Commercial or house power circuits may be used for this purpose in conjunction with an appropriate transformer.

(C) Short circuiting shunts shall be maintained on all electrically fired pyrotechnic items during preparatory operations, including loading, setting, and adjustment.

(D) Firing boxes shall be designed to prevent firing unless the switch is manually operated.

(E) Each explosive charge set in

or on water, either salt or fresh, shall be fired by an individual two wire circuit.

(i) **Public display safety precautions.**

(1) A display must be conducted in accordance with all local regulations, and conditions prescribed by the fire prevention officer at the time of the site inspection.

(2) During the display, at least one approved Class A type 2½ gallon fire extinguisher, or charged garden hose connected to a water line or equivalent means of fire protection shall be provided.

(3) Fireworks articles or items shall not be permitted to cross over or burst directly above the spectator area during such display and it shall be in full view of the pyrotechnic operator at the time of the burst.

(4) Vehicular traffic control shall be provided in all cases where the authority having jurisdiction determines that there is a potential hazard to motor vehicles and people traveling on public highways or roadways.

§27.427. Qualification For Persons Assisting At Public Displays. Persons assisting at public displays must be:

(1) at least 18 years old; and

(2) under the direct supervision of a licensed pyrotechnic operator.

§27.428. Existing Facilities and Conditions. Facilities and conditions outlined below which do not comply with the Insurance Code, Article 5.43-4 and these sections shall come into compliance within the following time periods after the effective date of these sections:

(1) manufacturing facilities - five years;

(2) bulk storage facilities - one year; and

(3) individuals applying for a pyrotechnic operator license before September 1, 1986, may be issued a license if they otherwise qualify and have passed the required examination, but do not comply with the supervisory requirement of §27.412(e)(1) of this title (relating to Expiration, License, and Permit).

§27.429. Severability. If a provision of these sections or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of these sections which can be given effect without the invalid provisions or application. To this end, all provisions of these sections are declared to be severable.

§27.430. Savings Clause. Each cause of action, pending litigation, matter in process before the State Board of Insurance or the State Fire Marshal, or matter hereafter arising from an event occurring prior to the time these sections become effective shall be determined in accordance with and governed by the provisions of statutes, sections, orders or official interpretations in effect

at the time of the occurrence of the subject event, including but in particular not limited to those matters arising in §§27.401-27.407 of this title (relating to Storage of Fireworks by Jobbers and Distributors (Class A and Class B); Storage of Class C Fireworks by Jobbers and Distributors; Storage of Fireworks by Jobbers and Dealers for the Purpose of Transportation; Granting of Permits for, and the Presentation of, Public Displays of Fireworks; Minimum Requirements for Retail Fireworks Stands; Transportation of Fireworks on Highways; and Savings Clause), and §§27.501-27.506 of this title (relating to Purpose; Definitions; Fireworks Stand Design and Construction; Stand Location; Safety Requirements; and Supervisor Required), and this section operates to save from repeal in that circumstance the application of such law and procedure in respect of any such circumstances from the amendment, change or repeal contemplated by these sections, notwithstanding any provision of these sections to the contrary, if any, or any provision of conflict or ambiguity.

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

TRD-8511982

James W. Norman
State Board of
Insurance

Effective date: January 2, 1986
Expiration date: May 2, 1986
For further information, please call
(512) 463-6327.

★ ★ ★

**Subchapter E. Basic Design,
Construction, and Safety
Features of Retail Fireworks
Stands**

★ 28 TAC §§27.501-27.506

The State Board of Insurance adopts on an emergency basis the repeal of §§27.501-27.506 (59.41.92.590-.592, .595, .597, and .599), concerning basic design, construction, and safety features of retail fireworks stands, to be effective on January 2, 1986. House Bill 1955, 69th Legislature, 1985, an Act Relating to the Regulation of Certain Fireworks, amends the Insurance Code, Chapter 5, by adding Article 5.43 and 5.44, and repeals Texas Civil Statutes, Article 9205. The Act takes effect on January 2, 1986. The existing §§27.501-27.506 are rendered obsolete and without legal basis on January 2, 1986. Emergency repeal action is taken to coincide with the emergency adoption of new §§27.401-27.431, to be effective on January 2, 1986.

An imminent peril to the public safety and welfare requires that these sections be repealed on an emergency basis. The reason for the emergency is to eliminate obsolete rules on January 2, 1986, the date they cease to have legal meaning

and basis, thereby avoiding confusion to the public with new §§27.401-27.431, being adopted on an emergency basis the same day.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 6252-13a, §5, and the Insurance Code, Article 1.04, pursuant to which the State Board of Insurance may adopt rules of procedure; and pursuant to the board's authority to repeal any rules it has previously adopted.

§27.501. *Purpose.*

§27.502. *Definitions.*

§27.503. *Fireworks Stand Design and Construction.*

§27.504. *Stand Location.*

§27.505. *Safety Requirements.*

§27.506. *Supervisor Required.*

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TRD-8511981

James W. Norman
State Board of
Insurance

Effective date: January 2, 1986
Expiration date: May 2, 1986
For further information, please call
(512) 463-6327.

★ ★ ★

**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION
Part IX. Texas Water
Commission**

**Chapter 302. Enforcement
Proceedings Before the
Commission**

Enforcement Hearings

★ 31 TAC §§302.1-302.9

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§302.1-302.9 for a 60-day period effective January 2, 1986. The text of the amended §§302.1-302.9 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3463).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512002

James K. Rourke, Jr.
General Counsel
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Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

★ ★ ★

Chapter 303. Appropriation of Water

Classes of Water Rights Permits

★ 31 TAC §§303.1-303.8

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.1-303.8 for a 60-day period effective January 2, 1986. The text of the amended §§303.1-303.8 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3464).

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TRD-8512001 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875

Types of Water Rights Permits

★ 31 TAC §§303.11-303.14

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.11-303.14 for a 60-day period effective January 2, 1986. The text of the amended §§303.11-303.14 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3464).

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For further information, please call
(512) 463-7875.

General Requirements of Permit Applications

★ 31 TAC §§303.21-303.37

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.21-303.37 for a 60-day period effective January 2, 1986. The text of the amended §§303.21-303.37 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3466).

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For further information, please call
(512) 463-7875

Maps, Plats, and Drawings Accompanying Application for Regular Water Permit

★ 31 TAC §§303.51-303.53

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.51-303.53 for a 60-day period effective January 2, 1986. The text of the amended §§303.51-303.53 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3466).

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For further information, please call
(512) 463-7875

Additional Requirements for Irrigation

★ 31 TAC §§303.61, §303.62

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.61, 303.62 for a 60-day period effective January 2, 1986. The text of the amended §§303.61, 303.62 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3466).

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For further information, please call
(512) 463-7875

Additional Requirements for Dams and Reservoirs

★ 31 TAC §§303.71-303.73

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.71-303.73 for a 60-day period effective January 2, 1986. The text of the amended §§303.71-303.73 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3467).

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For further information, please call
(512) 463-7875.

Diversion from Un-sponsored or Storage Limited Projects

★ 31 TAC §§303.81-303.83

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.81-303.83 for a 60-day period effective January 2, 1986. The text of the amended §§303.81-303.83 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3468).

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For further information, please call
(512) 463-7875

Temporary Water Permits

★ 31 TAC §§303.91-303.93

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.91-303.93 for a 60-day period effective January 2, 1986. The text of the amended §§303.91-303.93 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3468).

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For further information, please call
(512) 463-7875

Application for Water Permit Under the Texas Water Code §11.143

★ 31 TAC §§303.101, §303.102

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.101 and §303.102 for a 60-day period effective January 2, 1986. The text of the amended §§303.101 and §303.102 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3469).

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Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Contractual Amendments and Water Supply Contracts

★ 31 TAC §§303.111-303.120

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.111-303.120 for a 60-day period effective January 2, 1986. The text of the amended §§303.111-303.120 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3471).

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For further information, please call
(512) 463-7875

Emergency Water Permit

★ 31 TAC §§303.121, §303.122

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §303.121 and §303.122 for a 60-day period effective January 2, 1986. The text of the amended §303.121 and §303.122 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3471).

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TRD-8512044 James K. Rourke, Jr.
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Commission

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For further information, please call
(512) 463-7875.

Water Permit Fees

★ 31 TAC §§303.131-303.133, 303.135-303.140

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.131-303.133, 303.135-303.140 for a 60-day period effective January 2, 1986. The text of the amended §§303.131-303.133, 303.135-303.140 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3472).

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Commission

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For further information, please call
(512) 463-7875.

Issuance and Conditions of a Water Permit

★ 31 TAC §§303.151-303.155

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.151-303.155 for a 60-day period effective January 2, 1986. The text of the amended §§303.151-303.155 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3472).

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For further information, please call
(512) 463-7875.

Actions, Notice, and Hearing

★ 31 TAC §§303.171-303.177

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§303.171-303.177 for a 60-day period effective January 2, 1986. The text of the amended §§303.171-303.177 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3473).

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TRD-8512041 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875.

Chapter 305. Additional Provisions

Filing of Instruments

★ 31 TAC §§305.1, §305.2

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §305.1 and §305.2 for a 60-day period effective January 2, 1986. The text of the amended §305.1 and §305.2 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3474).

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For further information, please call
(512) 463-7875.

Reports

★ 31 TAC §§305.11-305.14

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§305.11-305.14 for a 60-day period effective January 2, 1986. The text of the amended §§305.11-305.14 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3474).

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TRD-8512043 James K. Rourke, Jr.
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Commission

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For further information, please call
(512) 463-7875.

Change of Address and Ownership

★ 31 TAC §§305.21-305.23

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§305.21-305.23 for a 60-day period effective January 2, 1986. The text of the amended §§305.21-305.23 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3474).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512038 James K. Rourke, Jr.
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Commission

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Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Conveying Stored Water

★ 31 TAC §§305.31-305.35

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§305.31-305.35 for a 60-day period effective January 2, 1986. The text of the amended §§305.31-305.35 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3475).

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Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Chapter 307. Particular Proceedings

Amending Water Rights on Motion of Executive Director

★31 TAC §§307.1-307.4

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§307.1-307.4 for a 60-day period effective January 2, 1986. The text of the amended §§307.1-307.4 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3476).

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For further information, please call
(512) 463-7875.

Amending Water Rights

★31 TAC §307.11, §307.12

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§307.11-307.12 for a 60-day period effective January 2, 1986. The text of the amended §§307.11-307.12 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3476).

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(512) 463-7875

Amendments to Water Rights Requiring Mailed and Published Notice

★31 TAC §307.21, §307.22

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §307.21 and §307.22 for a 60-day period effective January 2, 1986. The text of the amended §307.21 and §307.22 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3476).

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For further information, please call
(512) 463-7875.

Cancellation of Water Rights

★31 TAC §§307.31-307.33

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§307.31-307.33 for a 60-day period effective January 2, 1986. The text of the amended §§307.31-307.33 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3477).

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For further information, please call
(512) 463-7875.

Dismissal of Claims Filed Under the Texas Water Code, §11.303

★31 TAC §307.41, §307.42

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §307.41 and §307.42 for a 60-day period effective January 2, 1986. The text of the amended §307.41 and §307.42 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3477).

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For further information, please call
(512) 463-7875.

Time Extensions and Commencement or Completion of Construction

★31 TAC §§307.61-307.63

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§307.61-307.63 for a 60-day period effective January 2, 1986. The text of the amended §§307.61-307.63 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3478).

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For further information, please call
(512) 463-7875.

Complaints

★31 TAC §307.71

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §307.71 for a 60-day period effective January 2, 1986. The text of the amended §307.71 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3478).

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For further information, please call
(512) 463-7875.

Condemnation

★31 TAC §307.81

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §307.81 for a 60-day period effective January 2, 1986. The text of the amended §307.81 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3478).

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For further information, please call
(512) 463-7875.

Enforcement Regarding Water Rights

★31 TAC §307.91, §307.92

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §307.91 and §307.92 for a 60-day period effective January 2, 1986. The text of the amended §307.91 and §307.92 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3478).

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For further information, please call
(512) 463-7875.

Chapter 311. Water Districts General Provisions

★31 TAC §311.5

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §311.5 for a 60-day period effective January 2, 1986. The text of the amended §311.5 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3581).

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For further information, please call
(512) 463-7875

Creation of Water Districts

★31 TAC §311.11, §311.12

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §311.11 and §311.12 for a 60-day period effective January 2, 1986. The text of the amended §311.11 and §311.12 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3582).

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For further information, please call
(512) 463-7875

Underground Water Conservation Districts

★31 TAC §311.23

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §311.23 for a 60-day period effective January 2, 1986. The text of the amended §311.23 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3582).

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TRD-8512060 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875.

Issuance of Bonds

★31 TAC §311.43

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §311.43 for a 60-day period effective January 2, 1986. The text of the amended §311.43 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3585).

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For further information, please call
(512) 463-7875.

★31 TAC §311.51

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §311.51 for a 60-day period effective January 2, 1986. The text of the amended §311.51 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3585).

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TRD-8512058 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875.

Chapter 315. Levee Improvement Districts and Approval of Plans for Reclamation Projects

Definitions

★31 TAC §315.1

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §315.1 for a 60-day period effective January 2, 1986. The text of the amended §315.1 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3586).

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TRD-8512057 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875.

Administrative Policy of the Texas Water Commission

★31 TAC §315.11, §315.12

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §315.11 and §315.12 for a 60-day period effective January 2, 1986. The text of the amended §315.11 and §315.12 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3587).

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(512) 463-7875.

General Provisions Relating to All Applications

★31 TAC §§315.21-315.23

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§315.21-315.23 for a 60-day period effective January 2, 1986. The text of the amended §§315.21-315.23 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3587).

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For further information, please call
(512) 463-7875

Provisions Relating to Districts

★31 TAC §§315.31-315.41

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§315.31-315.41 for a 60-day period effective January 2, 1986. The text of the amended §§315.31-315.41 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3588).

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For further information, please call
(512) 463-7875

Applications for Approval of Projects Requiring Commission Approval

★31 TAC §§315.51-315.69

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§315.51-315.69 for a 60-day period effective January 2, 1986. The text of the amended §§315.51-315.69 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3590).

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(512) 463-7875.

Unauthorized Projects and Projects Not Constructed According to Commission Approval

★31 TAC §315.71, §315.72

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §315.71 and §315.72 for a 60-day period effective January 2, 1986. The text of the amended §315.71 and §315.72 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3590).

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TRD-8512052 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875.

Submission of Final Plans

★31 TAC §§315.81-315.84

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§315.81-315.84 for a 60-day period effective January 2, 1986. The text of the amended §§315.81-315.84 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3591).

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TRD-8512051 James K. Rourke, Jr.
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(512) 463-7875.

Chapter 322. Certification of Competency

Certification of Competency

★31 TAC §§322.1-322.13

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§322.1-322.13 for a 60-day period effective January 2, 1986. The text of the amended §§322.1-322.13 was originally published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3594).

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TRD-8512050 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter A. Industrial Solid Waste and Municipal Hazardous Waste Management in General

★31 TAC §§335.1-335.16

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.1-335.16 for a 60-day period effective January 2, 1986. The text of the amended §§335.1-335.16 was originally published in the September 24, 1985, issue of the *Texas Register* (10 TexReg 3663).

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For further information, please call
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Subchapter B. Hazardous Waste Management General Provisions

★31 TAC §§335.41-335.48

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.41-335.48 for a 60-day period effective January 2, 1986. The text of the amended §§335.41-335.48 was originally published in the September 24, 1985, issue of the *Texas Register* (10 TexReg 3668).

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For further information, please call
(512) 463-7875.

Subchapter C. Standards Applicable to Generators of Hazardous Industrial Solid Waste

★31 TAC §§335.63, 335.65-335.71, 335.73-335.76

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.63, 335.65-335.71, 335.73-335.76 for a 60-day period effective January 2, 1986. The text of the amended §§335.63, 335.65-335.71, 335.73-335.76 was originally published in the September 24, 1985, issue of the *Texas Register* (10 TexReg 3671).

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For further information, please call
(512) 463-7875.



Subchapter D. Standards Applicable to Transporters of Hazardous Waste

★31 TAC §§335.91-335.94

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.91-335.94 for a 60-day period effective January 2, 1986. The text of the amended §§335.91-335.94 was originally published in the September 24, 1985, issue of the *Texas Register* (10 TexReg 3671).

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For further information, please call
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Subchapter E. General Facility Standards

★ 31 TAC §§335.111-335.118

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.111-335.118 for a 60-day period effective January 2, 1986. The text of the amended §§335.111-335.118 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3706).

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For further information, please call
(512) 463-7875.

Subchapter F. Preparedness and Prevention

★ 31 TAC §§335.131-335.137

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.131-335.137 for a 60-day period effective January 2, 1986. The text of the amended §§335.131-335.137 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3708).

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For further information, please call
(512) 463-7875.

Subchapter G. Contingency Plan and Emergency Procedures

★ 31 TAC §§335.151-335.157

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.151-335.157 for a 60-day period effective January 2, 1986. The text of the amended §§335.151-335.157 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3708).

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For further information, please call
(512) 463-7875.

Subchapter H. Record-Keeping and Reporting Requirements

★ 31 TAC §§335.171, 335.173-335.175, 335.177

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.171, 335.173-335.175, 335.177 for a 60-day period effective January 2, 1986. The text of the amended §§335.171, 335.173-335.175, 335.177 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3710).

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For further information, please call
(512) 463-7875.

Subchapter I. Groundwater Monitoring

★ 31 TAC §§335.191-335.195

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.191-335.195 for a 60-day period effective January 2, 1986. The text of the amended §§335.191-335.195 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3711).

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(512) 463-7875.

Subchapter J. Closure and Postclosure

★ 31 TAC §§335.211-335.220

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.211-335.220 for a 60-day period effective January 2, 1986. The text of the amended §§335.211-335.220 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3713).

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For further information, please call
(512) 463-7875.

Subchapter K. Financial Requirements

★ 31 TAC §§335.231-335.233

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.231-335.233 for a 60-day period effective January 2, 1986. The text of the amended §§335.231-335.233 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3716).

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(512) 463-7875.

Subchapter L. Use and Management of Containers

★ 31 TAC §§335.241-335.247

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.241-335.247 for a 60-day period effective January 2, 1986. The text of the amended §§335.241-335.247 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3716).

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For further information, please call
(512) 463-7875.

Subchapter M. Tanks

★ 31 TAC §§335.261-335.267

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.261-335.267 for a 60-day period effective January 2, 1986. The text of the amended §§335.261-335.267 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3717).

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For further information, please call
(512) 463-7875.

Subchapter N. Surface Impoundments

★ 31 TAC §§335.281-335.288

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.281-335.288 for a 60-day period effective January 2, 1986. The text of the amended §§335.281-335.288 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3718).

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For further information, please call
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Subchapter O. Waste Piles

★ 31 TAC §§335.301-335.307

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.301-335.307 for a 60-day period effective January 2, 1986. The text of the amended §§335.301-335.307 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3719).

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For further information, please call
(512) 463-7875.

Subchapter P. Land Treatment

★ 31 TAC §§335.321-335.329

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.321-335.329 for a 60-day period effective January 2, 1986. The text of the amended §§335.321-335.329 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3720).

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For further information, please call
(512) 463-7875.

Subchapter Q. Landfills

★ 31 TAC §§335.341-335.349

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.341-335.349 for a 60-day period effective January 2, 1986. The text of the amended §§335.341-335.349 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3722).

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For further information, please call
(512) 463-7875.



Subchapter R. Incinerators

★ 31 TAC §§335.361-335.365

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.361-335.365 for a 60-day period effective January 2, 1986. The text of the amended §§335.361-335.365 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3723).

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For further information, please call
(512) 463-7875.

Subchapter S. Thermal Processing

★ 31 TAC §§335.381-335.386

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.381-335.386 for a 60-day period effective January 2, 1986. The text of the amended §§335.381-335.386 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3724).

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TRD-8512004 James K. Rourke, Jr.
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For further information, please call
(512) 463-7875.

Subchapter T. Chemical, Physical, and Biological Processing

★ 31 TAC §§335.401-335.407

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.401-335.407 for a 60-day period effective January 2, 1986. The text of the amended §§335.401-335.407 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3724).

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TRD-8512003 James K. Rourke, Jr.
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(512) 463-7875.

Subchapter U. Prohibition on Open Dumps

★ 31 TAC §§335.421-335.428

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.421-335.428 for a 60-day period effective January 2, 1986. The text of the amended §§335.421-335.428 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3725).

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For further information, please call
(512) 463-7875.

Subchapter V. Permitting Standards for Owners and Operators of Hazardous Waste Storage, Processing, or Disposal Facilities

★ 31 TAC §§335.451-335.479

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.451-335.479 for a 60-day period effective January 2, 1986. The text of the amended §§335.451-335.479 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3726).

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For further information, please call
(512) 463-7875.

Subchapter W. Location Standards for Hazardous Waste Storage, Processing, or Disposal

★ 31 TAC §§335.501-335.505

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§335.501-335.505 for a 60-day period effective January 2, 1986. The text of the amended §§335.501-335.505 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3739).

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Chapter 338. Consolidated Permits

Corrections of Permits

Corrections of Permits

★ 31 TAC §338.71

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §338.71 for a 60-day period effective January 2, 1986. The text of the amended §338.71 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3642).

Issued in Austin, Texas, on December 19, 1985

TRD-8512020 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Emergency Orders, Temporary Orders, and Executive Director Authorizations

★ 31 TAC §§338.91-338.99

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.91-338.99 for a 60-day period effective January 2, 1986. The text of the amended §§338.91-338.99 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3643).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512019 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Enforcement

★ 31 TAC §§338.101-338.103

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.101-338.103 for a 60-day period effective January 2, 1986. The text of the amended §§338.101-338.103 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3744).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512018 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Groundwater Compliance Plans

★ 31 TAC §338.110

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §338.110 for a 60-day period effective January 2, 1986. The text of the amended §338.110 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3744).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512017 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

General Provisions

★ 31 TAC §§338.121, 338.122

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.121 and §338.122 for a 60-day period effective January 2, 1986. The text of the amended §§338.121 and 338.122 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3745).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512016 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Applications and Review

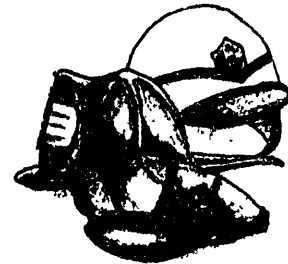
★ 31 TAC §§338.131-338.140

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.131-338.140 for a 60-day period effective January 2, 1986. The text of the amended §§338.131-338.140 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3746).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512014 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.



Application for Permit

★ 31 TAC §§338.151-338.154, 338.160 338.170, 338.180, 338.185, 338.186

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.151-338.154, 338.160, 338.170, 338.180, 338.185, 338.186 for a 60-day period effective January 2, 1986. The text of the amended §§338.151-338.154, 338.160, 338.170, 338.180, 338.185, 338.186 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3747).

Issued in Austin, Texas, on December 19, 1985

TRD-8512015 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Additional Conditions for Injection Well Permits

★31 TAC §§338.191-338.200

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.191-338.200 for a 60-day period effective January 2, 1986. The text of the amended §§338.191-338.200 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3748).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512013 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Amendments, Renewals, Transfers, Revocation, or Suspension

★31 TAC §§338.221, 338.225, 338.230, 338.235, 338.240, 338.241

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.221, 338.225, 338.230, 338.235, 338.240, 338.241 for a 60-day period effective January 2, 1986. The text of the amended §§338.221, 338.225, 338.230, 338.235, 338.240, and 338.241 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3752).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512012 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Actions, Notice, and Hearing

★31 TAC §§338.261, 338.262, 338.265-338.271, 338.275, 338.280, 338.281, 338.285-338.287, 338.290

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.261, 338.262, 338.265-338.271, 338.275, 338.280, 338.281, 338.285-338.287, and 338.290 for a 60-day period effective January 2, 1986. The text of the amended §§338.261, 338.262, 338.265-338.271, 338.275, 338.280, 338.281, 338.285-338.287, and 338.290 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3753).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512011 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Permit Characteristics and Conditions

★31 TAC §§338.311-338.317

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.311-338.317 for a 60-day period effective January 2, 1986. The text of the amended §§338.311-338.317 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3755).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512010 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.



Additional Conditions for Solid Waste Storage, Processing, or Disposal Permits

★31 TAC §§338.341-338.346

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.341-338.346 for a 60-day period effective January 2, 1986. The text of the amended §§338.341-338.346 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3757).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512009 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Hazardous Waste Incinerator Permits

★31 TAC §§338.361-338.364

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.361-338.364 for a 60-day period effective January 2, 1986. The text of the amended §§338.361-338.364 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3758).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512008 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Permits for Land Treatment Demonstrations Using Field Tests or Laboratory Analysis

★31 TAC §§338.371-338.374

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.371-338.374 for a 60-day period effective January 2, 1986. The text of the amended §§338.371-338.374 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3759).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512007 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Waste Treatment Inspection Fee Program

★31 TAC §§338.401-338.407

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§338.401-338.407 for a 60-day period effective January 2, 1986. The text of the amended §§338.401-338.407 was originally published in the September 27, 1985, issue of the *Texas Register* (10 TexReg 3760).

Issued in Austin, Texas, on December 19, 1985.

TRD-8512006 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 2, 1986
Expiration date: March 3, 1986
For further information, please call
(512) 463-7875.

Chapter 340. Applications Processing

Applications Processing

★31 TAC §§340.1-340.8

The Texas Water Commission is renewing the effectiveness of the emergency adoption of amended §§340.1-340.8 for a 60-day period effective January 2, 1986. The text of the amended §§340.1-340.8 was originally published in the November 11, 1985, issue of the *Texas Register* (10 TexReg 3933).

Issued in Austin, Texas, on December 19, 1985.

TRD-8511993 James K. Rourke, Jr.
General Counsel
Texas Water
Commission

Effective date: January 30, 1986
Expiration date: March 31, 1986
For further information, please call
(512) 463-7875.

TITLE 43. TRANSPORTATION Part I. State Department of Highways and Public Transportation Chapter 21. Right of Way Division Control of Signs Along Rural Roads

★43 TAC §§21.401, 21.411, 21.421,
21.431, 21.441, 21.451, 21.461,
21.471, 21.481, 21.491, 21.501,
21.511, 21.521, 21.531, 21.541,
21.551, 21.561, 21.571, 21.581

The State Department of Highways and Public Transportation is renewing the effectiveness of the emergency adoption of amended §§21.401, 21.411, 21.421, 21.431, 21.441, 21.451, 21.461, 21.471, 21.481, 21.491, 21.501, 21.511, 21.521, 21.531, 21.541, 21.551, 21.561, 21.571, 21.581 for a 60-day period effective January 2, 1986. The text of the amended §§21.401, 21.411, 21.421, 21.431, 21.441, 21.451, 21.461, 21.471, 21.481, 21.491, 21.501, 21.511, 21.521, 21.531, 21.541, 21.551, 21.561, 21.571, 21.581 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3482).

Issued in Austin, Texas, on December 20, 1985.

TRD-8512132 James D. Frasier
General Counsel
State Department of
Highways and Public
Transportation

Effective date: January 3, 1986
Expiration date: March 4, 1986
For further information, please call
(512) 475-2141.

Control of Outdoor Advertising Signs

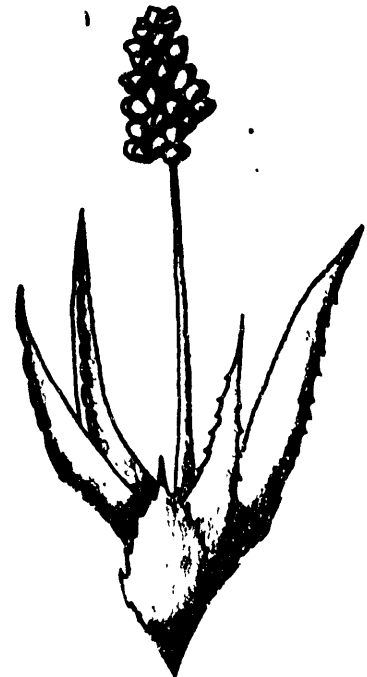
★43 TAC §§21.141, 21.142, 21.144-
21.154, 21.156-21.159

The State Department of Highways and Public Transportation is renewing the effectiveness of the emergency adoption of amended §§21.141, 21.142, 21.144-21.154, 21.156-21.159 for a 60-day period effective January 2, 1986. The text of the amended §§21.141, 21.142, 21.144-21.154, 21.156-21.159 was originally published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3479).

Issued in Austin, Texas, on December 20, 1985.

TRD-8512128 James D. Frasier
General Counsel
State Department of
Highways and Public
Transportation

Effective date: January 3, 1986
Expiration date: March 4, 1986
For further information, please call
(512) 475-2141.



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 7. BANKING AND SECURITIES

Part I. State Finance Commission

Chapter 3. Banking Section Subchapter E. Banking House and Other Facilities

★7 TAC §3.91

The State Finance Commission, Banking Section, proposes new §3.91 concerning the establishment of remote facilities by banks domiciled in Texas. The recent amendment to Texas Civil Statutes, Article 342-903, provides for the establishment of an additional facility to be located within 20,000 feet of the central banking building. This proposed new section encompasses this statutory provision.

Jorge A. Gutierrez, general counsel, 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. Gutierrez 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 a clearer understanding in the banking industry of matters pertaining to the establishment and operations of drive-in/walk-up facilities and secured teller lobbies. 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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provides the Banking Section of the Finance Commission with the authority to promulgate rules which are not inconsistent with the Constitution and statutes of this state.

§3.91. *Drive-in/Walk-Up Facilities.*

(a) Definitions. The following words and terms, when used in this section, shall

have the following meanings, unless the context clearly indicates otherwise.

Facility—A single, continuous parcel of land, owned or leased by the bank, over which the bank has sole and exclusive control.

Secured teller lobby—An area used by the bank to offer banking services in which the teller work area is secure from the public such that there is some physical barrier between the teller and the general public.

Boundary—The outer limit of the facility.

Bank—State, national, or private bank.

(b) Establishment of a drive-in/walk-up facility. A bank may establish drive-in/walk-up facilities pursuant to Texas Civil Statutes, Article 342-903(c) and (d), no more than 10,500 and 20,000 feet (one at each distance is permitted), from its central building. Notice must be given to the banking commissioner of Texas prior to the establishment of a facility. The bank may use more than one building or structure located on each facility if the buildings or structures are incidental to each other in the provision of banking services. It is the department's view, that they must be no more than 500 feet apart at their nearest walls to be considered incidental. Any banking services may be offered at the drive-in/walk-up facility or in a building that has a secured teller lobby. All forms of banking services are not required to be offered at a facility.

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 December 18, 1985.

TRD-8511968

Jorge A. Gutierrez
General Counsel
Texas Department of
Banking

Earliest possible date of adoption:
January 27, 1986
For further information, please call
(512) 475-4451.

★7 TAC §3.93

The State Finance Commission, Banking Section proposes new §3.93, concerning the establishment of loan production offices by Texas banks. The new section provides that a state, national, or private bank may solicit and take loan applications at a location other than their banking house, provided no credit decision is made at that location. The new section also provides for notification to the banking commissioner prior to the establishment of such an office.

Jorge A. Gutierrez, general counsel, 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. Gutierrez 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 guidance to the banking industry regarding the establishment and operations of a loan production office. Additionally, the new section will provide for more complete information as to the location of such offices. 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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 342-113, which provides the Banking Section of the Finance Commission with the authority to promulgate rules which are not inconsistent with the Constitution and statutes of this state.

§3.93. *Loan Production Offices.* A state, national, or private bank may solicit and take loan applications and have promissory notes signed at a place, or places, other than its banking house provided no credit decision is made, no commitment to make a loan is made, and no funding of the loan occurs at the location away from its banking house. Notice must be given to the banking commissioner of Texas prior to the establishment of a loan production office.

★ ★ ★

The decision to make the loan, its funding, and delivery of proceeds must occur at the banking house in order to comply with the constitutional and statutory mandate that a bank must engage in business in only one place, which is defined in Texas Civil Statutes, Article 342-903, as the banking house. No unmanned teller machine shall be designed solely or primarily for disbursement of loan proceeds, in any way, including the establishment of withdrawal limits that are greater for loan customers than for other users of the unmanned teller machine. Nor shall the customer usage of any unmanned teller machine be restricted in any way to performing transactions for customers of loan production offices.

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 December 18, 1985.

TRD-8511969 Jorge A. Gutierrez
 General Counsel
 Texas Department of
 Banking

Earliest possible date of adoption:
 January 27, 1986
 For further information, please call
 (512) 475-4451.

★ ★ ★

Part II. Banking Department of Texas

Chapter 11. Miscellaneous General

★7 TAC §11.30

The Banking Department of Texas proposes the repeal of §11.30, concerning drive-in/walk-up facilities. This section is being amended and codified in §3.91 of the rules and regulations of the Banking Section of the Finance Commission.

Jorge A. Gutierrez, general counsel, 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. Gutierrez 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 an amended version codified in §3.91. 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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The repeal is proposed under Texas Civil Statutes, Article 342-113, which provide

the Banking Section of the Finance Commission with the authority to promulgate rules which are not inconsistent with the constitution and statutes of this 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 December 18, 1985.

TRD-8511963 Jorge A. Gutierrez
 General Counsel
 Texas Department of
 Banking

Earliest possible date of adoption:
 January 8, 1986
 For further information, please call
 (512) 475-4451.

★ ★ ★

★7 TAC §11.33

The Banking Department of Texas proposes the repeal of §11.33, concerning the establishment of loan production offices. This section, contained under the rules of the Department of Banking is being repealed. An amended version is proposed to be codified in §3.93.

Jorge A. Gutierrez, general counsel, 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. Gutierrez 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 an amended version codified in §3.93. 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 Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar, Austin, Texas 78705.

The repeal is proposed under Texas Civil Statutes, Article 342-113, which provide the Banking Section of the Finance Commission with the authority to promulgate rules which are not inconsistent with the constitution and statutes of this 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 December 18, 1985.

TRD-8511961 Jorge A. Gutierrez
 General Counsel
 Texas Department of
 Banking

Earliest possible date of adoption:
 January 8, 1986
 For further information, please call
 (512) 475-4451.

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs Chapter 5. Job Training Subchapter C. Financial Management

★10 TAC §§5.303, 5.305, 5.307, 5.309, 5.311, 5.313, and 5.315

The Texas Department of Community Affairs (TDCA) proposes new §§5.303, 5.305, 5.307, 5.309, 5.311, 5.313, and 5.315, concerning deobligation/reobligation policy for unspent JTPA contract funds under Titles II and III, cost limitations, deobligation of funds under Title IIA, reobligation of funds under Title IIA, deobligation/reobligation of funds under Title IIB, deobligation/reobligation of funds under Title IIA, §124, and deobligation/reobligation of funds under Title III. The department proposes these sections to provide a procedure to maximize the use of available program funds under the JTPA.

Douglas C. Brown, general counsel, 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.

Clyde McQueen, director of the TDCA training and employment development division, 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 compliance with the requirements set forth in the federal Job Training Partnership Act, §164, Public Law 97-300, and with the requirements set forth in §8(c)(10) of the Texas Job Training Partnership Act, Texas Civil Statutes, Article 4413(52). 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 Douglas C. Brown, General Counsel, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711.

The new sections are proposed under Public Law 97-300, §164 and Texas Civil Statutes, Article 4413(52), §8(c)(10), which provide the Texas Department of Community Affairs with the authority to develop and formally issue financial management procedures necessary to assure proper accounting for federal funds paid to the state under Title I and II of the Job Training Partnership Act.

§5.303. *Deobligation/Reobligation Policy for Unspent Job Training Partnership Act Contract Funds Under Titles II and III.*

(a) Purpose. The purpose is to provide Job Training Partnership Act (JTPA)

contractors with Texas Department of Community Affairs policy regarding unspent contract funds subject to deobligation and subsequent reobligation.

(b) **Implementation.** The underexpenditure of contract funds has necessitated the development of a deobligation policy to maximize the use of available program funds. Deobligated funds will be reallocated to contractors meeting expenditure and performance criteria. The policy details the procedures to be followed in identifying funds available for deobligation and the criteria for reobligation of such funds. This policy will be implemented upon the termination of fiscal year 1985 contracts.

§5.305. *Cost Limitations.*

(a) **Administrative and support service expenditure requirements.** The deobligation/reobligation policy promulgated by the Governor will take into account the cost limitations found in the Act and ensure that these limitations are adhered to by the contractor. The cost limitations as stated in the Job Training Partnership Act, §108, are as follows. Seventy percent of the funds available must be spent for training activities. No more than 30% of the funds available may be expended on administration and supportive services combined. No more than 15% of the funds available may be expended on administrative costs.

(b) **Youth expenditure requirement.** The Job Training Partnership Act §203(b)(1), provides that not less than 40% of the funds available for such services must be expended to provide services to eligible youth.

(c) **Waiver.** Contractors may ask for a waiver of the 30% limitation if they meet the requirements of the Job Training Partnership Act, §108(a).

(d) **Department of Labor interpretation.** The Department of Labor (DOL) issued interpretations of these requirements on September 18, 1984, and March 26, 1985. The Department of Labor's position is summarized as follows.

(1) The Department of Labor will accept the states interpretations of §108 for the nine-month transition period provided that these interpretations are consistent with the Job Training Partnership Act.

(2) Compliance with the 70-30-15 requirements will be on the basis of the amount of each year's total allotment to each contractor. The time period to be used in determining compliance with this requirement shall be the two years of the approved local job training plan.

(3) The state is required to make a determination of compliance or noncompliance by each contractor and, where it finds noncompliance, to implement appropriate corrective action.

(4) Funds remain available for expenditure in a third program year and corrective actions may involve expenditures in this third year to meet the 70-30-15 requirement. Contractors are required to track

separately any funds carried over into the third year.

(5) Compliance with the 40% requirement for youth will be based on each year's total allotment to each contractor and will be reviewed for the two years approved local job training plan. The state shall be responsible for determining appropriate actions to be taken if this requirement is not met.

§5.307. *Deobligation of Funds Under Title IIA.*

(a) Based upon the requirements in the Job Training Partnership Act and interpretations provided by the Department of Labor (DOL), the process for determining the amount of funds to be deobligated for each service delivery area (SDA) must begin with a determination of whether a contractor is in compliance or noncompliance.

(b) This review, while based on the two-year plan period (fiscal year 1984-85), must first take into account fiscal year 1983 funds (nine-month transition period), since these funds are not available for expenditure past fiscal year 1985.

(c) The compliance review will be initiated in 1985 and focus on fiscal year 1983-84 expenditures. This review will first look at the fiscal year 1983 70-30-15 requirement and ensure that the expenditure limitations have been met or identify any deficits that have to be addressed. The 70-30-15 requirement will then be applied to fiscal year 1984 funds. This requirement will be based on funds spent through June 30, 1984, and identify the amount of funds by cost category that had to be spent in order to come into line with the 70-30-15 requirement. This will be based on actual expenditures and not allotment. fiscal year 1984 carryover funds will thus fall into two funds:

(1) required carryover to make up deficits in spending; and

(2) excess carryover that could be spent on a 70-30-15 basis. This second amount will be available for voluntary deobligation.

(d) A similar review procedure will be conducted to determine compliance or noncompliance with the 40% youth expenditure requirement.

(e) At the end of fiscal year 1985, the compliance review will examine fiscal year 1984-85 expenditures. The 70-30-15 requirement will first be applied to fiscal year 1984 funds, and then to fiscal year 1985 funds. fiscal year 1984 carryover would again be split into two funds:

(1) required carryover to make up deficits in spending within the 70-30-15 cost categories; and

(2) excess carryover, to be spent on a 70-15-15 basis. This would bring the contractor into line based on actual expenditures through June 30, 1986.

(f) Excess carryover will be subject to deobligation.

(g) A compliance review will also be conducted for the 40% youth expenditure

requirement against fiscal year 1984 and fiscal year 1985 funds. Any deficits identified will be applied against the required carryover amount.

§5.309. *Reobligation of Funds Under Title IIA.*

(a) Excess funds identified for each contractor will revert to a statewide fund for reobligation. In order for a contractor to be eligible for reobligated funds, it would have to have expended 80% of its fiscal year 1985 contract amount and have met the required performance standards (required four plus one other).

(b) Funds will be allocated among eligible contractors on the Title IIA formula basis. A limitation on the maximum amount of reobligated funds that an eligible contractor can receive will be set. This determination cannot be made until the total amount of funds available for reobligation is known.

§5.311. *Deobligation/Reobligation of Funds under Title IIB.*

(a) Title IIB program funds are allocated to contractors on a yearly basis and are contracted from May 1st through May 31st of the following year. Of the funds available for programs, not more than 15% may be used for the cost of administration.

(b) The Department of Labor has not issued an interpretation of the maximum 15% administrative limit for Title IIB programs. Whether this limitation applies to the expenditures or allocations and over what time period it applied has been left for the state to determine.

(c) It is proposed that compliance with the 15% administrative cost limitation be reviewed on a yearly basis and be based on expenditures. Upon the completion of each program year, contractors who have exceeded the 15% limitation will be allowed to carry over unspent nonadministrative funds in the amount needed to bring them into compliance.

(d) Unspent funds not needed to bring a contractor into compliance will be deobligated. These funds will revert to the state for reobligation on the regular IIB formula basis among contractors with expenditure rates of 90% or greater. Any reallocation of unspent funds will be contingent on the availability of such carryover funds from the Department of Labor.

(e) A contractor with insufficient carryover funds to bring them into compliance with the administrative cost limitation would have the administrative portion of the new program year allocation reduced accordingly.

§5.313. *Deobligation/Reobligation of Funds Under Title IIA, §124.* Title IIA, §124, projects are of varying contract periods and may cover more than one program year. Upon termination of a §124 contract, any unspent funds revert to the state. These unspent funds may then be used to

fund new §124 projects recommended for funding or supplement existing projects. Such funds will be contracted in the amounts available within the 70-30-15 cost limitations.

§5.315. Deobligation/Reobligation of Funds Under Title III.

(a) Expenditure limitations. Title III funds are available to the state in the form of formula funds and Secretary of Labor's discretionary funds. Such funds are available during the program year that they were obligated and the two succeeding program years. Expenditures for administration and participant support are limited to 30% of the funds available under Title III, with a maximum of 30% available for administrative costs.

(b) Discretionary funds. Projects funded with discretionary monies must be included as part of a grant application submitted by the state to the Department of Labor. Such projects must meet the Department of Labor's review criteria and are funded within the grant period.

(c) Termination. Upon termination of any Title III discretionary contract, unspent funds remain part of the state grant application. The use of any unspent funds will require a grant modification and be subject to the Department of Labor's approval. Unspent discretionary funds must thus be deobligated/reobligated on a project by project basis within criteria established by the Department of Labor.

(d) Formula funds. Of the Title II funds allocated to the state, 60% are allocated to chronic dislocated worker areas and 40% are available for distribution through a request for application (RFA) process, and for rapid response team activities.

(1) Sixty percent funds are allocated by program year (July 1 through June 30) to chronic dislocated worker areas. New program year allocations will be reduced by the amount of unspent funds carried over from the previous program year. Such funds will be carried over in the amounts available within the 70-30-15 cost limitations. New program year funds not needed due to the availability of carryover funds will revert to the 40% fund.

(2) Funds designated as 40% are available through requests for application and for the rapid response team emergency fund. Unspent funds from contracts awarded on this basis will revert to the state and will again be available for funding. Such funds will be contracted in the amounts available within the 70-30-15 cost limitations.

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 December 18, 1985.

TRD-8511992

Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Earliest possible date of adoption:

January 19, 1986

For further information, please call
(512) 834-6060.

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**TITLE 22. EXAMINING
BOARDS
Part XXIV. State Board of
Veterinary Medical
Examiners
Chapter 573. Rules of
Professional Conduct**

★22 TAC §573.28

The Texas Board of Veterinary Medical Examiners proposes amendments to §573.28, concerning advertising. This rule will reflect changing public policy concerning advertising by the profession.

Roger D. Shipman, executive secretary, 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. Shipman, 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 to reflect changing public policy concerning advertising by the profession. 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 Roger D. Shipman, Executive Secretary, Texas Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756 (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §8(a), which provides the Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§573.28. Advertising. A veterinarian may not engage in advertising that is false, deceptive, or misleading. A false, deceptive, or misleading statement or claim includes, without limitation, a statement or claim which:

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

[(1) Advertising—Newspaper, magazine, and periodical announcements and listings; professional cards; professional announcement cards; office and other signs; letterheads; telephone and other directory listings; and any other form of communication designed to inform the general public about the availability, nature, or prices of products or services or to attract clients.

[(2) Solicitation—Advertising intentionally directed to specific individuals.

(b) Prohibitions. A veterinarian shall not, on behalf of himself, his partner, his associate, or any other veterinarian:

[(1) seek to attract clients as a private practitioner by any form of solicitation through the exertion of undue influence, pressure for an immediate response, intimidation, or overreaching, or if any non-client has given the veterinarian notice that he does not want to receive communications from the veterinarian; or

[(2) use or participate in the use of any form of advertising or solicitation which contains a false, deceptive, or misleading statement or claim.

[(c) Particular acts, statements, or situations constituting "false, deceptive, or misleading claim." A "false, deceptive, or misleading statement or claim" includes without limitation a statement or claim which:]

(1) contains a prediction of future success or guarantees that satisfaction or a cure will result from the performance of professional services;

[(2) contains a testimonial about or endorsement of a veterinarian or a combination of a veterinarian's name or photograph and his identity as a veterinarian as part of a testimonial, endorsement, or sales promotion of a veterinary or nonveterinary product or service, except that this prohibition does not apply to endorsements of valid, nonprofit charitable organizations whose purpose is to promote veterinary medicine and animal health;

[(3) refers to secret methods of treatment or special services which characterize the ways of a charlatan;]

(2) [(4)] concerns illegal transactions;

[(5) is not identified as a paid advertisement or solicitation unless it is apparent from the context that it is a paid advertisement or solicitation;

[(6) contains statistical data or other information based on past performance or case reports;

[(7) contains a statement of opinion as to the quality of professional services or a representation regarding the quality of professional services which is not susceptible of verification to the public;]

(3) contains a statement of opinion of the quality of professional veterinary services or of veterinary facilities which is not subject to verification by the public and would tend to create a false impression of

the qualities of the professional services or facilities;

(4)((8)) states or implies that a veterinarian is a certified or recognized specialist unless he is board certified as recognized by the American Veterinary Medical Association in such specialty;

(5)((9)) intends to create [is intended] or is likely to create an inflated or unjustified expectation;

(6)((10)) contains express or implied [a] material misrepresentation of fact;

(11) omits to state any material fact necessary to make the statement not misleading in light of the circumstances under which it is made;

(12) would result in the violation of any law or regulation or a contractual or other obligation of any person through whom the veterinarian seeks to communicate;

(13) contains a representation or implication that is likely to cause an ordinary prudent layperson to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representative or implication not deceptive; or

(14) relates to professional fees other than:

(A) a statement of the fixed fee charged for a specific professional service, provided that the description of such service would not be misunderstood or be deceptive and that the statement indicates whether additional fees may be incurred for related professional services which may be required in individual cases; or

(B) a statement of the range of fees for specifically described professional services, provided that there is reasonable disclosure of all relevant variables and considerations affecting the fees so that the statement would not be misunderstood or be deceptive, including without limitation of indication whether additional fees may be incurred for related professional services which may be required in individual cases.]

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 December 17, 1985.

TRD-8512124 Roger D. Shipman
Executive Secretary
State Board of
Veterinary Medical
Examiners

Earliest possible date of adoption:

January 28, 1986

For further information, please call
(512) 458-1183.

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TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation

The following proposals submitted by the Texas Department of Mental Health and Mental Retardation will be serialized in the January 3, 1986, issue of the *Texas Register*. The earliest possible date of adoption for the documents is January 27, 1986.

Chapter 401. System Administration
Subchapter C. TDMHMR Rulemaking
§§401.301-401.308
(new)

Chapter 403. Other Agencies and the Public
Subchapter D. Procedures for Adoption of Rules of the Department of Mental Health and Mental Retardation
§§403.101-403.108
(repeal)

TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 27. State Fire Marshal Subchapter D. Fireworks Rules

★ 28 TAC §§27.401-27.430

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

The State Board of Insurance proposes new §§27.401-27.430, concerning fireworks rules. The new sections implement the requirements of House Bill 1955, 69th Legislature, 1985, concerning regulation of the sale, distribution, and use of certain fireworks in the interest of preserving lives and property. The new sections establish fees, registration requirements, license and permit application procedures, renewal procedures, manufacture and bulk storage requirements, retail sales, and public display safety requirements. The new sections are proposed to comply with House Bill 1955, effective January 2, 1986, which requires the State Board of Insurance to set license and permit fees, and adopt necessary rules to be administered through the State Fire Marshal, for the protection, safety, and preservation of life and property, including rules regulating the issuance of licenses and permits to persons engaged in manufacturing, selling, storing, possessing or transporting fireworks in this state; the conduct of public fireworks displays; the safe storage of Class C fireworks and Class B fireworks; and the examination of pyrotechnic operators.

Ernest A. Emerson, state fire marshal, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the sections. The effect on state government will be an estimated increase in revenue of \$30,790.00 in each year for the five year period of 1986-1990. The cost of compliance for small businesses will be the fees as set out in the body of the sections. There will be no effect on local government.

Mr. Emerson 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 assurance that persons distributing, storing, and selling fireworks and conducting public displays will provide these services in a manner which will protect lives and property. The economic costs to those required to comply with the proposed sections will be license and permit fees in an aggregate amount of \$92,000.00 each year in 1988-1990. The amount of cost for each individual will depend on how often a fee is paid and the type of fee paid.

Comments may be submitted to Ernest A. Emerson, State Fire Marshal, 1110 San Jacinto Street, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Article 5.43-4, §5 and §16, which authorize the State Board of Insurance to adopt rules it considers necessary for the administration of the article and for the protection, safety, and preservation of life and property.

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 December 19, 1985.

TRD-8511983 James W. Norman
State Board of
Insurance

Earliest possible date of adoption:

January 27, 1986

For further information, please call
(512) 463-6327.



**TITLE 31. NATURAL
RESOURCES AND
CONSERVATION**
Part II. Texas Parks and
Wildlife Department
Chapter 57. Fisheries
Endangered Species

★ 31 TAC §57.133

The Texas Parks and Wildlife Department proposes an amendment to §57.133, concerning endangered species. The amendment incorporates changes that are necessary to bring the endangered species listing up to date and corresponds with the listing of the U.S. Fish and Wildlife Service. The amendment deletes most marine mammals because their distributions are oceanic, they are not specifically identified as being from Texas under federal regulations, and listing would provide no additional identified benefit to them; deletes species whose numbers

and/or distribution have been found to be greater than when previously listed; add species whose numbers and/or distribution have been found to be experiencing significant reductions as a result of habitat alteration; and partially fulfills the department's responsibility under the Texas Parks and Wildlife Code, Chapter 68, to insure the continued existence of the state's fish and wildlife species.

James E. Dickinson, director of finance, 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. Dickinson 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 to provide a means of insuring the perpetuation of species diversity and maintenance of a major segment of the state's natural resources. There is no anticipated economic cost to indivi-

duals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Bruce C. Thompson, Program Leader, Nongame/Endangered Species, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112, ext. 4979.

The amendment is proposed under the Texas Parks and Wildlife Code, Chapter 43, Subchapter C, and Chapter 68, which provide the Texas Parks and Wildlife Commission with authority to adopt regulations concerning endangered species.

§57.133. *Closed Seasons.* Except as provided by §57.132 of this title (relating to Permits to Take Certain Fish or Wildlife), it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale, or ship any species of fish or wildlife within this state listed as follows; and no person shall possess, transport, export, process, sell, or offer for sale goods made from the fish and wildlife listed as follows not born and raised in captivity:

Mammals

[Blue whale
[Humpback whale
[Right whale
[Sperm whale
Black-footed ferret
Jaguar
Jaguarundi
[Margay
Ocelot
Red wolf
Gray wolf
Black bear
Coati
[Mexican wolf
[West Indian] manatee
[Bighorn sheep

Balaenoptera musculus
Balaenoptera physalus
Eubalaena spp. (all species)
Physeter catodon
Mustela nigripes
Felis [*Panthera*] *onca*
Felis yagouaroundi [*cacomitli*]
Felis wiedii
Felis pardalis
Canis rufus
Canis lupus [*monstrabilis*]
Ursus americanus
Nasua nasua
Canis lupus baileyi
Trichechus manatus
Ovis canadensis

Birds

Brown pelican
Bald eagle
Aplomado falcon
American peregrine falcon
[Arctic peregrine falcon
Attwater's greater prairie-chicken
Whooping crane
Eskimo curlew
Interior least tern
Ivory-billed woodpecker
Red-cockaded woodpecker
[Bachman's warbler

Pelecanus occidentalis
Haliaeetus leucocephalus
Falco femoralis
Falco peregrinus anatum
Falco peregrinus tundrius
Tympanuchus cupido attwateri
Grus americana
Numenius borealis
Sterna Antillarum [*albifrons*] *athalassos*
Campephilus principalis
Picoides [*Dendrocopos*] *borealis*
Vermivora bachmani

Reptiles

Speckled racer
Louisiana pine snake
Concho [Harter's] water snake
Western smooth green snake
Northern cat-eyed snake
Big Bend mud turtle
Atlantic ridley [turtle]
Atlantic Hawksbill [turtle]
[Eastern] [snapping] [tortoise]

Drymobius m. margaritiferus
Pituophis melanoleucus ruthveni
Nerodia [*Natrix*] *harteri paucimaculata*
Ophedrys vernalis blanchardi
Leptodeira s. septentrionalis
Kinosternon hirtipes murrayi
Lepidochelys kempi
Eretmochelys i. imbricata
Dermodochelys coriacea
Caretta caretta

Amphibians

Black-spotted newt

Notophthalmus meridionalis

[Cascade Cavern salamander
 Blanco blind salamander
 Texas blind salamander
 Rio Grande lesser siren
 Houston toad
 White-lipped frog

Eurycea latitans
Typhlomolge robusta
Typhlomolge rathbuni
Siren intermedia Texana
Bufo houstonensis
Leptodactylus fragilis

Fishes

Paddlefish
 Shovelnose sturgeon
 Amistad gambusia
 Blotched gambusia
 San Marcos gambusia
 Big Bend gambusia
 Clear Creek gambusia
 Pecos gambusia
 Comanche Springs pupfish
 Leon Springs pupfish
 Fountain darter
 Bluntnose shiner
 Phantom shiner
 Blackfin goby

Polyodon spathula
Scaphirhynchus platyrhynchus
Gambusia amistadensis
Gambusia senilis
Gambusia georgei
Gambusia gaigei
Gambusia heterochir
Gambusia nobilis
Cyprinodon elegans
Cyprinodon bovinus
Etheostoma fonticola
Notropis simus
Notropis orca
Gobionellus atripinnis

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 December 19, 1985.

TRD-8512094 Boyd M. Johnson
 General Counsel
 Texas Parks and Wildlife

Earliest possible date of adoption:
 January 27, 1986
 For further information, please call
 (512) 479-4772.

★ ★ ★

★ 31 TAC §§57.134-57.136

The Texas Parks and Wildlife Commission proposes the repeal of §§57.134-57.136, concerning endangered species. The repeal eliminates unnecessary text.

Jim Dickinson, director of finance, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr Dickinson 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 enforcing the repeal will be to eliminate text which is unnecessary. There is no anticipated economic cost to individuals who are required to comply with the repeal.

Comments on the proposal may be submitted to Bruce C. Thompson, Program Leader, Nongame/Endangered Species, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112, ext. 4979.

The repeal is proposed under the Texas Parks and Wildlife Code, Chapter 43, Subchapter C, and Chapter 67, which provide the Texas Parks and Wildlife Commission

with authority to adopt regulations concerning threatened species.

§57.134. Penalties.
 §57.135. Amendments.
 §57.136. Effective Date.

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 December 19, 1985.

TRD-8512093 Boyd M. Johnson
 General Counsel
 Texas Parks and
 Wildlife Commission

Earliest possible date of adoption:
 January 27, 1986
 For further information, please call
 (512) 479-4772.

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Chapter 65. Wildlife
Subchapter G. Regulations for
Taking, Possessing, and
Transporting Protected
Nongame Species

★ 31 TAC §§65.172-65.176

The Texas Parks and Wildlife Commission proposes the amendments to §§65.172-65.176, concerning regulations for taking, possessing, and transporting threatened species. The amendments provide change of regulatory terminology from protected nongame under Chapter 67 to threatened, to eliminate confusion in that essentially all indigenous wildlife is considered protected in some way under the Parks and Wildlife Code; deletion of most marine mammals because their distributions are oceanic, they are not specifically identified as being from Texas under federal regulations, and listing would provide no additional identified benefit to them; deletion of species whose num-

bers and/or distribution have been found to be greater than when previously listed; addition of species whose numbers and/or distribution have been found to be experiencing significant reductions as a result of habitat alteration; and partial fulfillment of the department's responsibility under Texas Parks and Wildlife Code, Chapter 67, to insure the continued ability of nongame species of fish and wildlife to perpetuate themselves successfully.

Jim Dickinson, director of finance, 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. Dickinson 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 to provide a means of insuring the perpetuation of species diversity and thus maintenance of a major segment of the state's natural resources. 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 Bruce C. Thompson, Program Leader, Nongame/Endangered Species, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112, ext. 4979

The amendments are proposed under the Texas Parks and Wildlife Code, Chapter 43, Subchapter C and Chapter 67, which provide the Texas Parks and Wildlife Commission with authority to adopt regulations concerning threatened species.

§65.172. Closed Seasons. Except as provided by §65.174 of this title (relating to Permit Required), §65.175 of this title (relating to Permit Exceptions), and §65.176 (relating to Rule Exception), no person may take, possess, transport, export, sell or offer for

sale, or ship any species of fish or wildlife within this state listed as threatened [protected nongame]; or possess, transport, ex-

port, sell, or offer for sale goods made from the fish and wildlife of this state listed as threatened [protected nongame].

§65.173. *Threatened [Protected Nongame] Species.* The following species are hereby designated as threatened [protected nongame] species:

Mammals

Bat, southern [lesser] yellow
Bat, Rafinesque's big-eared
[Bat, southeastern
Bat, spotted
[Dolphin, bridled
[Dolphin, rough-toothed
Dolphin, Atlantic spotted
Mouse, Palo Duro
Rat, coues' rice
Rat, Texas kangaroo
[Whale, dwarf sperm
[Whale, false killer
[Whale, goose-beaked
[Whale, Gulf Stream beaked
[Whale, killer
[Whale, short-finned pilot
[Whale, pygmy killer
[Whale, pygmy sperm
Beard, rose-throated
Egret, reddish
Falcon, Arctic peregrine
[Falcon, aplomado
Hawk, common black
Hawk, gray
Hawk, white-tailed
Hawk, zone-tailed
Ibis, white-faced
Kite, American swallow-tailed
[Osprey
Owl, ferruginous Pygmy
Parula, tropical
Sparrow, bachman's
Sparrow, botteri's
Stork, wood
Tern, sooty
[Tern, least
Tyrannulet, northern beardless
Vireo, black-capped
Warbler, golden-checked

Lasiurus ega [xanthinus]
Plecotus rafinesqui
Myotis austroriparius mumfordi
Euderma maculatum
Stenella frontalis
Steno bredanensis
Stenella plagiodon
Peromyscus comanche
Oryzomys couesi
Dipodomys elator
Kogia simus
Pseudorca crassidens
Ziphius cavirostris
Mesoplodon europaeus
Orcinus orca
Globicephala macrorhyncha
Feresa attenuata
Kogia breviceps
Pachyrhamphus abglatae
Egretta [Dichromanassa r.] rufescens
Falco peregrinus tundrius
Falco femoralis septentrionalis
Buteogallus [a.] anthracinus
Buteo nitidus [maximus]
Buteo albicaudatus [hypospodius]
Buteo albonotatus
Plegadis chihi
Elanoides [f.] forficatus
Pandion haliaetus carolinensis
Glaucidium brasilianum [cactorum]
Parula pitayumi
Aimophila aestivalis
Aimophila botteri
Mycteria americana
Sterna fuscata
Sterna albifrons antillarum
Camptostoma imberbe
Vireo atricapillus
Dendroica chrysoparia

Reptiles

[Loggerhead, Atlantic
Tortoise, Texas
Turtle, alligator snapping
Turtle, Atlantic green
[Turtle, Big Bend mud
Gecko, reticulated [Big Bend]
[Lizard, Big Bend canyon
[Lizard, Presidio canyon
Lizard, reticulate collared
Lizard, Texas horned
Lizard, mountain short-horned
Copperhead, Trans-Pecos
[Kingsnake, gray-banded
[Rattlesnake, rock
Rattlesnake, timber
Snake, black-striped
Snake, Big Bend blackhead
[Snake, northern cat-eyed
Snake, northern scarlet
Snake, Texas indigo
Snake, Texas lyre
Snake, Texas scarlet
[Snake, Big Bend milk
[Snake, central plains milk
[Snake, Louisiana milk
Snake, Mexican milk
[Snake, Louisiana pine
Snake, Baird's rat
[Snake, Trans-Pecos rat
Snake, Brazos water

Caretta c. caretta
Gopherus berlandieri
Macroclmys temminckii
Chelonia m. mydas
Kinosternon hirtipes murrayi
Coleonyx reticulatus
Sceloporus merriami annulatus
Sceloporus merriami longipunctatus
Crotaphytus reticulatus
Phrynosoma cornutum
Phrynosoma douglassii hernandesi
Agkistrodon contortrix pictigaster
Lampropeltis mexicana alterna
Crotalus lepidus
Crotalus horridus
Contophanes i. imperialis
Tantilla rubra
Leptodeira s. septentrionalis
Cemophora coccinea copel
Drymarchon corais erebennus
Trimorphodon biscutatus vilkinsonii
Cemophora coccinea lleri
Lampropeltis triangulum celaenops
Lampropeltis triangulum gentilis
Lampropeltis triangulum amaura
Lampropeltis triangulum annulata
Pituophis melanoleucus ruthveni
Elaphe obsoleta bairdi
Elaphe subocularis
Nerodia H. Harteri

Amphibians

[Frog, Mexican cliff
[Frog, Mexican tree
[Frog, Rio Grande
Frog, sheep
[Frog, white-lipped *leptodactylus labialis*]
[Newt, black-spotted
Salamander, Cascade Caverns
[Salamander, Fern Bank
Salamander, Comal Blind [Honey Creek]
[Salamander, mole
Salamander, San Marcos
[Salamander, Valdina Farms
Siren, Rio Grande
[Toad, giant
Toad, Mexican burrowing
Treefrog, Mexican

Syrrophus guttulatus
Smilisca baudini
Syrrophus cystignathoides camp
Hypopachus variolosus

Notophthalmus m meridionalis
Eurycea latitans
Eurycea neotenes pterophila
Eurycea tridentifera
Ambystoma talpoideum
Eurycea nana
Eurycea troglodytes
Siren intermedia texana
Bufo marinus
Rhinophrynus dorsalis
Smilisca baudinii

Fishes

Blindcat, toothless
Blindcat, widemouth
Chub, Rio Grande
Chubsucker, creek
Darter, blackside
Darter, Rio Grande
[Darter, river
[Darter, western sand
Gambusia, blotched
Minnow, Devils River
Pipefish, Opossum
Pupfish, Conchos
Shiner, Bluehead
Shiner, Chihuahua
[Shiner, Kiamichi
Shiner, proserpine
Stoneroller, Mexican
Sucker, blue

Trogloglanis pattersoni
Satan eurystomus
Gila pandora
Erimyzon oblongus
Percina maculata
Etheostoma grahami
Hadropterus shumardi
Ammocrypta clara
Gambusia senilis
Dionda diaboli
Oostethus brachyurus
Cyprinodon eximius
Notropis hubbsi
Notropis chihuahua
Notropis ortenburgeri
Notropis proserpinus
Campostoma ornatum
Cycleptus elongatus

§65.174. *Permit Required.* No person may take, possess, or transport fish or wildlife from the wild, classified as **threatened** [protected nongame] by §65.173 of this title (relating to **threatened** [Protected Nongame] Species), for scientific or zoological purposes unless a valid scientific or zoological permit has been obtained from the department as required by Texas Parks and Wildlife Code §§43.021-43.030.

§65.175. *Permit Exceptions.*

(a) No permit is required to take or transport any species listed as **threatened** [protected nongame] to the nearest Department of Health or medical facility if the species poses an immediate threat to human safety or welfare.

(b) No permit is required to transport within this state mounted or preserved specimens of **threatened** [protected nongame] species obtained after the effective date of these rules, provided the transfer is without monetary consideration and is between public or private educational or research institutions, nonprofit municipal zoological gardens, or nonprofit foundations or association, and provided the specimens to be transferred were originally obtained under A [the] valid scientific or zoological permit. A copy of the voucher or other instrument evidencing the transfer and indicating the species and numbers of specimens transferred will be forwarded to the department within 20 days following the transfer.

(c) No permit is required to possess and transport live, mounted, or preserved specimens of **threatened** [protected nongame] species legally collected in another state except that the department may require adequate proof of the out-of-state acquisition of the specimens. A copy of a valid out-of-state permit authorizing the collection of the specimens must be carried by the person during transport within this state.

§65.176. *Rule Exception.* These rules do not apply to the possession of live, mounted, or preserved specimens of listed **threatened** [protected nongame] species acquired from the wild in this state prior to the effective date of these rules nor to offspring of those specimens born and raised in captivity. Upon request by the department, adequate proof must be provided to establish the date and circumstances regarding acquisition of any listed species.

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 December 19, 1985.

TRD-8512096

Boyd M. Johnson
General Counsel
Texas Parks and
Wildlife Department

Earliest possible date of adoption:
January 27, 1986
For further information, please call
(512) 479-4772.

★ 31 TAC §65.177, §65.178

The Texas Parks and Wildlife Commission proposes the repeal of §65.177 and §65.178, concerning regulations for taking, possessing, and transporting **threatened** species. The repeal eliminates unnecessary text.

Jim Dickinson, director of finance, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Dickinson 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 enforcing the repeal will be to eliminate text which is unnecessary. There is no anticipated economic cost to individuals who are required to comply with the repeal.

Comments on the proposal may be submitted to Bruce C. Thompson, Program Leader, Nongame/Endangered Species, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112, ext. 4979.

The repeal is proposed under the Texas Parks and Wildlife Code, Chapter 43, Subchapter C, and Chapter 67, which provide the Texas Parks and Wildlife Commission with authority to adopt regulations concerning **threatened** species.

§65.177. *Penalties.*
§67.178. *Effective Date.*

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 December 19, 1985.

TRD-8512095 Boyd M. Johnson
General Counsel
Texas Parks and
Wildlife Commission

Earliest possible date of adoption:
January 27, 1986
For further information, please call
(512) 479-4772.

★ ★ ★

**Part XV. Texas Low-Level
Radioactive Waste
Disposal Authority
Chapter 449. General
Provisions
Subchapter A. Administrative
★31 TAC §449.8**

The Texas Low-Level Radioactive Waste Disposal Authority proposes the repeal of §449.8, concerning inscriptions of the authority placed on agency vehicles. The rule was adopted contingent upon adoption by the Texas Legislature of an amendment to Texas Civil Statutes, Article 6701m-1, which would have exempted authority vehicles from bearing the authority's inscription. The necessary amendment was not adopted by the legislature.

Mike Branum, chief accountant, has determined that for the first five-year period the proposed repeal 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 repeal.

Lee H. Mathews, general counsel, 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 enforcing the repeal will be a more accurate public knowledge of the authority's activities. There is no anticipated economic cost to individuals who are required to comply with the repeal.

Comments on the proposal may be submitted to Lee H. Mathews, General Counsel, Texas Low-Level Radioactive Waste Disposal Authority, 7703 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5295.

The repeal is proposed under Texas Civil Statutes, Article 4590f-1, which provides the Texas Low-Level Radioactive Waste with the authority to adopt and amend rules, standards, and orders necessary to properly carry out the Low-Level Radioactive Waste Disposal Authority to protect

the public health and safety and the environment from activities of the authority.

§449.8. Authority Vehicles.

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 December 19, 1985.

TRD-8512091 Lee H. Mathews
General Counsel
Texas Low-Level
Radioactive Waste
Disposal Authority

Earliest possible date of adoption:
January 27, 1986
For further information, please call
(512) 451-5295.

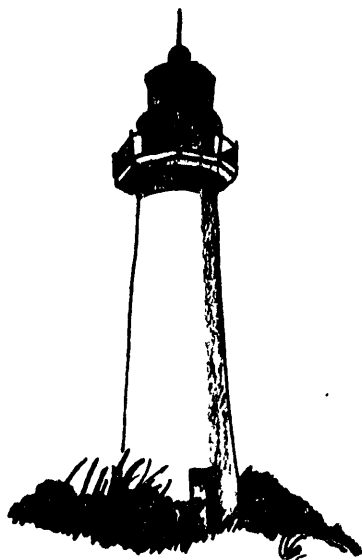
★ ★ ★

**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE**

**Part I. Texas Department
of Human Services
Chapter 49. Child Protective
Services
Subchapter O. Foster and
Adoptive Home Development**

The following proposals submitted by the Texas Department of Human Services will be serialized in the January 3, 1986, issue of the *Texas Register*. The earliest possible date of adoption for the documents is January 27, 1986.

§49.1502
(amendment)



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

**Chapter 151. Licensure
Additional Standards for Year
Two Permit**

★40 TAC §151.403, §151.404

The Texas Commission on Alcohol and Drug Abuse proposes the repeal of §151.403 and §151.404, concerning licensure standards for year two permit. These standards are being repealed because they have already been adopted as requirements for first year licensure permits.

Larry Goodman, director, fiscal services has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Goodman also has determined that for each year of the first five years the repeal is in effect there will be no public benefit anticipated as a result of enforcing the repeal. There is no anticipated economic cost to individuals who are required to comply with the repeal.

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

The repeal is proposed under Texas Civil Statutes, Article 5561c-2, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to license all alcohol treatment programs.

§151.403. *Admission of Clients.*
§151.404. *Client Rights.*

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 December 17, 1985.

TRD-8511973 Ross Newby
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption:
January 27, 1986
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 3. Oil and Gas Division Conservation Rules and Regulations

★ 16 TAC §3.31

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the proposed amendment to §3.31, concerning conservation rules and regulations. The text of the amended section as proposed appeared in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3283).

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

TRD-8511971

Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Filed: December 18, 1985

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

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Chapter 303. Appropriation of Water

Classes of Water Rights Permits

★ 31 TAC §303.9

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new section to §303.9, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new section as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2011).

TRD-8512101

Filed: December 19, 1985

★ ★ ★

Temporary Water Rights

★ 31 TAC §303.94

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §303.94, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new section as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2011).

TRD-8512102

Filed: December 19, 1985

★ ★ ★

Chapter 345. Operation of the Rio Grande

Introductory Provisions

★ 31 TAC §345.1 and §345.2

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §345.1 and §345.2, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The amendments as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2014).

TRD-8512103

Filed: December 19, 1985

★ ★ ★

Watermaster-Regulatory Functions

★ 31 TAC §345.11 and §345.12

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §345.11 and §345.12, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2015).

TRD-8512104

Filed: December 19, 1985

★ ★ ★

★ 31 TAC §§345.11-345.17

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the

proposed new sections to §§345.11-345.17, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new sections as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2015).

TRD-8512105

Filed: December 19, 1985

★ ★ ★

Allocation of Waters

★ 31 TAC §345.21 and §345.22

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §345.21 and §345.22, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2017).

TRD-8512106

Filed: December 19, 1985

★ ★ ★

★ 31 TAC §§345.21-345.23

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §§345.21-345.23, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new sections as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2017).

TRD-8512107

Filed: December 19, 1985

★ ★ ★

Enforcement of Rules

★ 31 TAC §345.31

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §345.31, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2018).

TRD-8512108

Filed: December 19, 1985

**Enforcement Regarding
Wastewater Operations**

★31 TAC §§345.31-345.34

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §§345.31-345.34, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new sections as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2019).

TRD-8512109
Filed: December 19, 1985

★ ★ ★

**Amendments to and Sales of
Water Rights**

★31 TAC §§345.41-345.44

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §§345.41-345.44, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new sections as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2019).

TRD-8512110
Filed: December 19, 1985

★ ★ ★

Contracted Sales

★31 TAC §§345.51-345.55

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §§345.51-345.55, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new sections as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2020).

TRD-8512111
Filed: December 19, 1985

★ ★ ★

Financing Watermaster Operation

★31 TAC §345.61

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §345.61, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The new sections as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2021).

TRD-8512112
Filed: December 19, 1985

★ ★ ★

**Chapter 347. Lower Rio Grande
Introductory Provisions**

★31 TAC §§347.1-347.5

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §§347.1-347.5, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2021).

TRD-8512113
Filed: December 19, 1985

★ ★ ★

Financing Watermaster Operation

★31 TAC §347.11

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §347.11, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2021).

TRD-8512114
Filed: December 19, 1985

★ ★ ★

**Amendments to and Sales of
Water Rights**

★31 TAC §§347.21-347.27

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §§347.21-347.27, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2022).

TRD-8512115
Filed: December 19, 1985

★ ★ ★

**Chapter 349. Middle Rio Grande
Introductory Provisions**

★31 TAC §§349.1-349.4

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §§349.1-349.4, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2021).

TRD-8512116
Filed: December 19, 1985

★ ★ ★

**Amendments to and Sales of
Water Rights**

★31 TAC §§349.11-349.14

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §§349.11-349.14, submitted by the Texas Water Development Board, have been automatically withdrawn, effective December 19, 1985. The repeal as proposed appeared in the June 18, 1985, issue of the *Texas Register* (10 TexReg 2022).

TRD-8512117
Filed: December 19, 1985

★ ★ ★

Adopted Rules

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

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

TITLE 7. BANKING AND SECURITIES

Part II. Banking

Department of Texas

Chapter 12. Lending Limits

★ 7 TAC §12.1

The Banking Department of Texas adopts new §12.1, without changes to the proposed text published in the October 4, 1985, issue of the *Texas Register* (10 TexReg 3839).

This new section informs the banking industry and those who serve said industry of the department's objective in promulgating lending limit regulations and the coverage of those regulations.

The new section sets forth that the intent of the department's lending limit rules is to prevent one individual, or a group, from borrowing an unduly large amount of a state bank's funds. The section applies to all loans and extensions of credit made by a state bank and its operating subsidiaries (loans made by state banks to their own operating subsidiaries are not covered by this section).

One comment was received. Bruce Heitz questioned whether the rule is intended to apply to loans made by a state bank to its operating subsidiary.

The agency determined that based on the limited activities in which a state bank subsidiary may engage in, such an addition to the rule was unnecessary.

The new section is adopted under Texas Civil Statutes, Article 342-507(d), which provides the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

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 December 18, 1985.

TRD-8511967

Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: January 8, 1986

Proposal publication date: October 4, 1985

For further information, please call
(512) 475-4451.

★ 7 TAC §12.2

The Banking Department of Texas adopts new §12.2, with changes to the proposed text published in the October 4, 1985, issue of the *Texas Register* (10 TexReg 3839).

This new section defines those terms that arise most frequently in addressing questions relating to loans and the applicability of lending limitations.

This section establishes specific definitions for terms used and instruments issued or executed by banks in connection with various banking transactions. These definitions are intended to provide guidance as to how those terms or documents relate to or are affected by a bank's lending limit.

Three comments were received by the agency concerning several of the definitions contained within this section. The comments related to the need for additional clarification; decreasing the administrative burden imposed by the certification requirement contained in the definition of "liability of guarantors and accommodation parties"; and the effects of classifying an agreement to purchase collateral as a guarantee. One commenter also questioned the need for including language regarding the intent of a bank to fully fund a commitment that contained in the definition of an "obligation to advance funds."

Bruce A. Heitz and Joan Conway Sprague commented for the new section. Jay T. Goodwin commented against the new section.

In response to the comments received, the agency modified the definitions "liability of guarantors and accommodation parties;" "obligation to advance funds;" and "purchase of third party paper," and added definitions for "commercial letters of credit" and "commercial or business paper." The agency believes that the treatment afforded guarantors in the new sections are sufficient to cover agreements to purchase collateral. Further, the agency believes that the benefit of the required certification will outweigh the administrative burden created thereby.

The new section is adopted under Texas Civil Statutes, Article 342-507(d), which provides the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.2. *Definitions.* Texas Civil Statutes, Article 342-507(a), provide the basic definition of "loans and extensions of credit." The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Commercial or business paper—Negotiable paper given in payment of purchase price of commodities in domestic or export transactions purchased for resale or to be used in connection with the fabrication of a product, or to be used for any other business purpose which may reasonably be expected to provide funds for payment of the paper.

Consumer—For the purposes hereof, consumer includes the user of any products, commodities, goods, or services, whether leased or purchased, and does not include any person who purchases products or commodities for the purpose of resale or for fabrication into goods for sale.

Installment consumer paper—For purposes hereof, installment consumer paper includes paper relating to automobiles, mobile homes, residences, office equipment, household items, tuition fees, insurance premium fees, and similar consumer items. Also included is paper covering the lease (where the bank is not the owner or lessor) or purchase of equipment for use in manufacturing, farming, construction, or excavation.

Interest or discount on loans—The term loan or extension of credit as defined herein does not include that portion of a loan or extension of credit that represents the accrued or discounted interest.

Letters of Credit—Two types of letters of credit will be defined herein: commercial letters of credit and standby letters of credit. Where a bank is the beneficiary of a letter of credit, whether direct or in a stand-by capacity, the issuing bank shall not be considered as a borrower from the beneficiary bank for lending limitation purposes. However, the board of directors of the beneficiary bank must not allow the sum of its total deposits in the issuing bank plus all obligations of the issuing bank to it, to exceed an amount that is considered reasonable based on prudent banking standards.

(A) Commercial letter of credit—

A commercial letter of credit includes any letter of credit, or similar arrangement, however named or described, in which the issuing bank expects the beneficiary to draw upon the issuer, which does not guaranty



payment of a money obligation, and which does not provide for payment in the event of default by the account party.

(B) Standby letter of credit—Any letter of credit, or similar arrangement, however named or described, which represents an obligation to the beneficiary on the part of the issuer:

(i) to repay money borrowed by or advanced to or for the account of the account party; or

(ii) to make payment on account of any indebtedness undertaken by the account party; or

(iii) to make payment on account of any default by the account party in the performance of an obligation.

Liability of guarantors and accommodation parties—Loans and extensions of credit as defined in Texas Civil Statutes, Article 342-507(a)(1), do not include the liability of a drawer, endorser, or guarantor who does not receive any direct benefit from the loan or extension of credit, provided that the bank is relying primarily on the credit worthiness of the primary obligor and none of the tests set forth in §12.4 of this title (relating to Combining Loans to Separate Borrowers and Attributing Loans to Persons other than the Maker) are satisfied. Said reliance shall be evidenced by the certification of an officer of the bank, that that bank is, in fact, relying primarily on the responsibility and financial condition of the primary obligor for payment of the loan or extension of credit and not on the guarantee, or commitment in whatever form, of the guarantor, drawer, or endorser. For the purposes of the sections in this chapter, guarantees are deemed to include agreements to purchase collateral that secures a loan. In the event that the loan or extension of credit to the primary obligor, deemed by the bank to be of sufficient credit quality at its inception, experiences subsequent deterioration to the point where the primary obligor is no longer performing in accordance with the terms of the initial loan agreement, than such occurrence shall not result in any lending limit violation on behalf of the guarantor by virtue of the primary obligor's non-performance. However, the total amount of the deteriorated loans guaranteed by such accommodating person should be combined with any other obligations of such guarantor in determining whether the guarantor may obtain additional loans or extensions of credit from the bank.

Loans charged off in whole or in part—The lending limits apply to all existing loans or extensions of credit to a person by the bank, including loans or extensions of credit that have been charged off on the books of the bank in whole or in part. Loans or extensions of credit that have become unenforceable by reason of discharge in bankruptcy or are no longer legally enforceable by reason of discharge in bankruptcy or are no longer legally enforceable for other reasons are not loans and ex-

tensions of credit within the meaning hereof.

Obligation to advance funds—Under the authority granted to the commissioner in Texas Civil Statutes, Article 342-507 (a)(1), loans and extensions of credit as defined in Texas Civil Statutes, Article 342-507, will be deemed to include an obligation to advance funds. For purposes of the sections in this chapter, an obligation to advance funds shall mean an obligation on the part of the bank to make payments (directly or indirectly) to a designated third party contingent upon a default by the bank's customer and the performance of an obligation under the terms of that customer's contract with the third party or an obligation to guarantee or stand as surety for the benefit of a third party. The term includes, but is not limited to, standby letters of credit (as defined in this section), guarantees, puts, and other similar arrangements. For purposes of the sections in this chapter, undischursed funds and loan commitments not yet drawn upon which are not equivalent to an obligation to advance funds as otherwise defined herein are not obligations to advance funds. Thus, a bank may enter into a binding commitment to advance funds to a borrower at a future date without such binding commitment being treated as an obligation to advance funds hereunder so long as the commitment made to the borrower is not in the nature of a guaranty of performance, surety, or other mechanism to make payments to a designated third party upon the borrower's default. However, if said commitment should result in the bank exceeding its then lending limit, the bank must have in its files written participation agreement(s) to fund any excess over the lending limit. The definition also does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw upon the issuer, which do not guarantee payment of a money obligation, and which do not provide for payment in the event of default by the account party.

Overdrafts—Overdrafts, whether or not prearranged, are considered loans and extensions of credit for purposes hereof. This rule does not apply to intra-day or daylight overdrafts.

Person—For the purposes hereof, the term person as defined in Texas Civil Statutes, Article 342-507(a)(1), shall be deemed to include not-for-profit corporations as well as business corporations.

Purchase of third party paper—When a bank purchases third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a state period after default or the bank otherwise has full recourse against the seller, the seller's obligation is treated as a loan and extension of credit within the meaning of Texas Civil Statutes, Article 342-507(a), and the total of such loan or extension of credit to such seller is measured by the total unpaid balance of the paper

owned by the bank less any applicable dealer reserves. When the seller's obligation to repurchase or other recourse against the seller is limited, the seller's total loans or extensions of credit hereunder are measured by the total amount of paper the seller may ultimately be obligated to repurchase. Where no more than an agreed percentage of the purchase price is retained by the bank and credited to a reserve to be held as a form of collateral security, but the bank has no direct or indirect recourse to the seller, the purchase transaction will not be treated as a loan or extension of credit to the seller for the purposes hereof. In all situations, and regardless of whether recourse exists against the seller, the purchase will also be treated as a loan or extension of credit to the maker of the paper. Additional rules regarding the discount of installment consumer paper may be found in §12.5 of this title (relating to Discount of Consumer Paper).

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 December 18, 1985.

TRD-8511986

Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: January 8, 1986

Proposal publication date: October 4, 1985

For further information, please call
(512) 475-4451.

★ ★ ★

★7 TAC §12.3

The Banking Department of Texas adopts new §12.3, with changes to proposed text published in the October 4, 1985, issue of the *Texas Register* (10 TexReg 3840).

This new section sets forth the standard limitation on the dollar amount of loans that may be outstanding to a person at any one time. Further, the banking industry needs to be aware of how a decline in the bank's capital will affect its outstanding loans or commitments.

This section sets forth the methodology by which a bank's lending limit is to be derived. This section also provides information as to how a bank should continue to administer its outstanding loans or commitments following a decline in its statutory lending limit.

One comment was received regarding this proposed new section. Joan Conway Sprague indicated that the last sentence of subsection (b) did not provide clear guidance as to how the renewal or extension of existing commitments should be handled.

The agency agreed with the commenter and modified subsection (b).

This new section is adopted under Texas Civil Statutes, Article 342-507(d) which provide the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.3. General Limitation.

(a) Law. Texas Civil Statutes, Article 342-507(b), establishes the basic limitations for loans and extensions of credit that may be outstanding to a person at any one time. Such loans and extensions of credit may not exceed 25% of a bank's capital and certified surplus.

(b) Change in lending limit due to a change in the bank's net capital and certified surplus. For the purpose of these sections, net capital and certified surplus used in determining a bank's lending limit, represents the lesser of the actual capital stock and certified surplus or the new balance of all capital accounts not including the reserve for bad debts. In the event that a loan or binding commitment to make a loan is within a bank's lending limit when made, but due to a subsequent decrease in the bank's net capital and certified surplus, for whatever reason, said loan, or advances which are made pursuant to the commitment, then exceeds the bank's new lending limit, such occurrence in itself will not result in the bank being in violation of its legal lending limit; provided that when the loan or commitment was made, the bank had no knowledge of any impending decrease in its net capital or certified surplus. A bank may renew or extend such loan or binding commitment at its existing level only if failure to continue the commitment at its existing level would impair the value of the collateral or the bank's ability to collect loan funds previously advanced to the person(s) involved. The existence of such condition shall be evidenced by documentation contained in the bank's credit files which shall reflect the bank's attempt to arrange a participation of the amount that exceeds the bank's new lending limit and/or efforts toward referring the borrower to another financial institution. Otherwise, any new loan or commitment, including renewals or extensions, shall be based on the bank's lending limit at the time the new loan, renewal, or extension is executed.

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 December 18, 1985.

TRD-8511965

Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: January 8, 1986

Proposal publication date: December 18, 1985

For further information, please call
(512) 475-4451.

★7 TAC §12.4

The Banking Department of Texas adopts new section §12.4, with changes to the proposed text published in the October 4, 1985, issue of the *Texas Register* (10 TexReg 3841).

The new section details those circumstances under which loans to separate borrowers will be combined and when a loan to one person may be attributed to another. Such information will aid bankers in the conduct of their business affairs and efforts to comply with the statutory lending limit.

The new section sets forth a test that will be applied in determining whether a loan to one person may be attributed to another. This new section specifically addresses loans made to corporations, partnerships, joint ventures, associations, and loans made to persons for direct investment in a corporation.

Two comments were received concerning this new section. The commenters were of the opinion that an example of indirect ownership of a subsidiary was needed; and that the section was too broad and would result in the coverage of certain transactions that were not intended.

Bruce A. Heltz commented for the section and Jay T. Goodwin commented against the section.

The agency believes that a detailed description of individual transactions need not be covered in the new section. The new section will not be applied to situations where common sense dictates that loans should not be combined or attributed to other person(s). It is believed that certain proposed transactions should be the subject of agency interpretations.

The new section is adopted under Texas Civil Statutes, Article 342-507(d), which provides the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.4. Combining Loans to Separate Borrowers and Attributing Loans to Persons Other than the Maker.

(a) General Rule. Loans or extensions of credit to one person will be attributed to other persons for purposes of lending limit determinations under Texas Civil Statutes, Article 342-507, when:

(1) the proceeds of the loans or extensions or credit are to be used for the direct benefit of the other person or persons (the term "direct benefit" shall include situations in which the proceeds of a loan or extension of credit to one person are to be loaned or contributed by such person to another person); or

(2) the expected source of repayment for each loan or extension of credit is the same for each person.

(b) Loans for investing in a business enterprise. When separate persons borrow

from a bank for the purpose of acquiring or investing in a business enterprise of which those persons own or will own more than 50% of the voting securities, such loans will be combined and attributed to the business enterprise for lending limitations purposes.

(c) Loans to corporations. Loans to a person and the subsidiaries of such person need not be combined unless one of the tests set forth in subsection (a) of the section is satisfied. The tests set forth in subsection (a) of this section will be deemed to be satisfied when loans to a subsidiary are repayable principally from intercompany loans, dividends, intercompany receivables, or capital contributions received from the related entity. For purposes of this section, a corporation is a subsidiary of any person which owns or beneficially owns more than 50% of the voting stock of the corporation. Such ownership need not be direct.

(d) Loans to partnerships, joint ventures, and associations.

(1) Loans to partnerships, joint ventures, or associations. Loans or extensions of credit to a partnership, joint venture, or association shall, for the purposes of these sections, be considered loans or extensions of credit to each member of such partnership, joint venture, or association, if under applicable law, each member of such partnership, joint venture, or association is liable for repayment of the loan or extension of credit to the entity involved.

(2) Loans to partners or joint ventures. Loans or extensions of credit to members of a partnership, joint venture, or association shall, for purposes of these sections, be attributed to the partnership, joint venture, or association (but not to the other partners or joint venturers) where one or more of the tests set forth in subsection (a) of this section is satisfied.

(3) Loans to limited partnerships. The rule set forth in paragraph (1) of this subsection is not applicable to limited partners in limited partnerships or to members of joint ventures or associations if such partners or members, by the terms of the partnership or membership agreement, are not to be held liable for the debts or actions of the partnership, joint venture, or association. However, the rules set forth in subsection (a) of this section are applicable to such partners or members.

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 December 18, 1985.

TRD-8511964

Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: January 8, 1986

Proposal publication date: October 4, 1985

For further information, please call
(512) 475-4451.

★ ★ ★

★ 7 TAC §12.5

The Banking Department of Texas adopts new §12.5, with changes to the proposed text published in the October 4, 1985, issue of the *Texas Register* (10 TexReg 3841).

Due to the amendment of Texas Civil Statutes, Article 342-507, the agency adopted this new section concerning the discount of negotiable or nonnegotiable installment consumer paper. The new section provides for the exclusion of such paper, under specified conditions, from the guarantor's lending limit.

The new section provides that, in order to comply with the exception, a bank officer must certify in writing that the bank is relying primarily on the responsibility of each maker for payment of the loans or extensions of credit and not on a full partial recourse endorsement or guaranty by the transferor.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 342-507(d) which provide the banking commissioner with the authority to prescribe rules to administer and carry out this Article.

§12.5. *Discount of Consumer Paper.*

(a) Law. The 12th exception to the lending limit statute, Texas Civil Statutes, Article 342-507(b)(12), provides an exception from lending limits for loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guaranty by the person transferring the paper.

(b) General limitation. Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper and which carries a full recourse endorsement or unconditional guaranty by the person transferring the paper will be treated as a loan or extension of credit to the person transferring the paper and will be subject to the general lending limitation of 25% of the bank's capital and certified surplus, unless the provisions of exception 12 are met. In all situations, and regardless of whether recourse exists against the seller, the purchase will also be treated as a loan or extension of credit to each maker of the paper.

(c) Compliance with exception. Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper, which meets the requirements of exception 12 will be considered a loan or extension of credit to the maker of the paper rather than the seller of the paper even though the bank has recourse to the seller. In order to comply with the exception, the bank's files or the knowledge of its officers of the financial condition of each maker of the consumer paper must be reasonably adequate; and, an of-

ficer of the bank, designated for that purpose by the board of directors of the bank, must certify in writing that the bank is relying primarily on the responsibility of each maker for payment of the loans or extensions of credit and not on a full or partial recourse endorsement or guaranty by the transferor. In complying with the requirements of exception 12 in situations in which paper is purchased in substantial quantities, the required information concerning the financial condition of each maker and the certification may be in such form as is appropriate for the class and quantity of paper involved.

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 December 18, 1985.

TRD-8511962 Jorge A. Gutierrez
General Counsel
Banking Department of
Texas

Effective date: January 8, 1986
Proposal publication date: October 4, 1985
For further information, please call
(512) 475-4451.

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TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs
Chapter 9. Texas Community Development Program
Subchapter A. Allocation of Program Funds

★ 10 TAC §9.1, §9.4

The Texas Department of Community Affairs adopts amendments to §9.1 and §9.4, without changes to the proposed text published in the November 19, 1985, issue of the *Texas Register* (10 TexReg 4464).

The amendments concern the allocation of Community Development Block Grant (CDBG) nonentitlement area funds under the Texas Community Development Program (TCDP).

For planning/capacity building applications only, the amendment to §9.1(e) deletes the requirement that an applicant must hold at least one of its public hearings in the proposed project area. A new subsection (m) is added to §9.1 that governs the distribution of unobligated and recaptured funds. The amendment to §9.4 disqualifies a planning/capacity building application if such an application is related to the applicant's current statewide area revitalization fund application or contract.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4413(201), §4A, which provide the Texas Department of Community Affairs with the authority to allocate federal CDBG nonentitlement area funds to eligible units of general local government in Texas in accordance with rules and regulations adopted by the TDCA.

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 December 20, 1985.

TRD-8512118 Douglas C. Brown
General Counsel
Texas Department of
Community Affairs

Effective date: January 10, 1986
Proposal publication date: November 19, 1985
For further information, please call
(512) 834-8060.

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TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad
Commission of Texas
Chapter 3. Oil and Gas
Division
Conservation Rules and Regulations

★ 16 TAC §3.31

The Railroad Commission of Texas adopts an amendment to §3.31, with changes to the proposed text published in the September 3, 1985, issue of the *Texas Register* (10 TexReg 3296).

The amendment includes, on a permanent basis, changes resulting from the passage of legislation and allows operators to utilize the greater flexibility afforded by the statutory changes in satisfying market demand for gas. Changes are made to the wording of the proposed text to adopt suggestions made by comments and to clarify the commission's application of the balancing rules for gas fields.

The amendment allows for carrying forward of underproduction not balanced in a second balancing period, allows for reduced rate production as an alternative to shut-in for overproduced wells, allows for production in excess of twice a well's allowable when producing against accrued underproduction, and allows for the commission to grant an administrative special allowable when a well demonstrates a daily deliverability of 100 Mcf or less.

Several comments were received regarding the provisions allowing carrying forward underproduction, including the following comments. One commentator was concerned about the effect of the provisions on purchasers, while another commentator wanted to delete all requirements of notice to the first purchaser. The Railroad Commission had concluded that the notice to the first purchaser is necessary and will protect the first purchaser if it does not desire an administrative approval of the carrying forward of underproduction. Based on comments received, the rule is amended to require a waiver from the first purchaser before the application can be approved administratively. A further comment suggested more clarifications were needed regarding the certification of a well's capability to produce in §3.31(g)(1)(C) of the proposed rule. The commission has concluded this provision should be left general in language. One commentator suggested that a deliverability test be witnessed by Railroad Commission personnel prior to allowing underproduction to be carried forward. The commission does not think this addition is necessary.

Several comments were received regarding §3.31(i) allowing the assignment of an administrative special allowable for wells demonstrating a daily deliverability of 10 Mcf or less. One commentator wanted the provision to be mandatory as opposed to discretionary. The commission does not believe Texas Natural Resources Code, §86.091, requires this mandatory grant language. Another commentator believed the provision would be addressed by the commission in a possible later revision of the market demand rule. The same commentator recommends that the same notice requirements as provided in §3.31(g)(1)(B) of the proposed rule be included in subsection (i). The commission concludes this is not required under the statute. Another commentator suggested that a provision should be added to give all wells a minimum 100 Mcf allowable. This type of provision would interfere with the operation allocation formulas in prorated fields.

The amendments are adopted under the Texas Natural Resources Code, §§86.041, 86.042, 86.081, and 86.090, which provide the Railroad Commission with the authority to prorate and regulate the production of natural gas to prevent waste and to adjust the correlative rights and opportunities of owners of gas to use or sell their gas.

Texas Mid-Continent Oil and Gas Company commented neither for nor against. Arco Oil & Gas Company, West Central Texas Oil and Gas Association, Champ-llin, and Northern Natural Gas Company commented for the rule. Permian Basin Petroleum Association commented against the rule.

§3.31. Gas Well Allowables.

(a)-(f) No change.

(g) Balancing provisions for overproduction and underproduction of gas for wells completed in prorated gas reservoirs.

(1) Balancing provisions will be applied for wells complete in prorated gas reservoirs. Prorated gas reservoirs are reservoirs or fields in which a field allocation formula is in effect.

(2) For the purpose of computing and balancing overproduction and underproduction in prorated gas reservoirs, the dates 7 a.m., March 1, and 7 a.m., September 1, are to be known as "balancing dates"; and the six-month periods beginning 7 a.m., March 1, and ending 7 a.m., September 1, and beginning 7 a.m., September 1, and ending 7 a.m., March 1, will be considered as separate entities and will be known as "balancing periods".

(3) The balancing provisions may be applied by commission action to reservoirs where the well allowables are determined by §3.49(b) of this title (relating to Gas-Oil Ratio) (Statewide Rule 49(b)).

(4) Underproduction.

(A) If a prorated gas well during the balancing period does not produce as much gas as is allocated to it by the order of the commission, the operator of the well shall be permitted to carry such underproduction forward to the next succeeding balancing period as future allowable credit to be produced during that period.

(B) The amount of underproduction to be carried forward into any new balancing period as allowed production during such new balancing period shall consist of the actual underproduction that accrued in the balancing period immediately preceding such new balancing period; and the accumulative well status, as to underproduction, will be adjusted on each balancing date accordingly. An operator may request that underproduction not balanced during a second balancing period be carried forward to subsequent balancing periods. An operator's request to carry forward underproduction past a second balancing period may be approved if the operator provides written waivers from all other operators in the field and the first purchaser of gas from the subject well. If the operator fails to secure all necessary waivers or if the Commission declines to approve the request, the operator may request a hearing.

(C) If a producing well has been accumulatively underproduced on each of two successive balancing dates, the well shall not be assigned a monthly allowable greater than the highest monthly production from the well during the immediately preceding balancing period; provided, however, the limited allowable assigned to the well may be adjusted to a value not to exceed the allowable applicable to the well under the allocation formula, upon certification to the commission from the operator that such well is capable of producing gas in excess of the limited allowable assigned it.

(5) Overproduction.

(A) Each operator of each gas well, subject to the hereinafter prescribed conditions, may produce the well in excess of the monthly allowable allocated to the well; however, provided that no well shall in any one month produce at a rate in excess of its underproduction plus twice its monthly allowable without obtaining approval from the commission prior to the due date for the production report for the overproduced month. A well which is balanced or overproduced may not in any one month produce an amount in excess of twice its monthly allowable without obtaining approval from the commission prior to the due date for the production report for the overproduced month. A well which is balanced or overproduced will not be granted such authority for more than two months in any six-month balancing period.

(B) Any well overproduced as of a balancing date, which was also overproduced on the balancing date immediately preceding and remained overproduced for the entire period between the two balancing dates, shall be shut-in until the overproduction, existent as of the later of such two balancing dates, is made up. Upon request by an operator, the commission may grant authority to produce such a well at a fractional part of its monthly allowable until its production and allowable are in balance. The director or the director's delegate may determine the permissible rate.

(C) If a protest is received or the commission declines to administratively approve a request, the operator of a well, which under the provisions of subparagraph (B) of this paragraph, is required to be shut-in, may request a hearing before the commission to determine whether shutting-in the well would damage it. Notice of the hearing will be given to all operators in the field and the first purchaser. If, after consideration of the evidence submitted at the hearing, the commission finds that the well would be damaged if shut-in, the commission may allow the overproduction charged against it to be made up at a lesser rate than it would be made up if the well were shut-in. The directors or the director's delegate may determine the permissible rate pending the outcome of the hearing.

(D) Except where a well is shut-in to make up overproduction or is producing at a reduced rate (see Subsection (g)(5)(B) & (C) of this section), overproduction existent as of any balancing date shall be made up at any time during such period; i.e., a specified fractional part of such overproduction need not be made up during each month of such balancing period, so long as all of such overproduction is made up during such balancing period.

(h) No change.

(i) Administrative special allowable. A well which demonstrates a daily deliverability of 100 Mcf or less is eligible to request an administrative special allowable equal to its deliverability.

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 December 16, 1985.

TRD-8511970

Buddy Temple
Chairman
Railroad Commission of
Texas

Effective date: January 8, 1986
Proposal publication date: September 3, 1985
For further information, please call
(512) 463-7149.

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TITLE 25. HEALTH SERVICES

Part II. Texas Department of Mental Health and Mental Retardation Chapter 403. Other Agencies and the Public

The following adoptions submitted by the Texas Department of Mental Health and Mental Retardation will be serialized in the January 3, 1986, issue of the *Texas Register*. The effective date for the documents is January 9, 1986.

Subchapter K. Disclosure of Client-Identifying Information in Records of Clients
§§403.291-403.308
(repeal)

§§403.291-403.295, 403.297-403.303, 403.305-403.308
(new)

Subchapter N. Disclosure of Client-Identifying Information Contained in Records of Mentally Retarded Clients
§§403.371-403.381
(repeal)

Subchapter P. Public Responsibility Committee
§§403.442-403.444, 403.448, 403.453
(amendment)

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 11. Health Maintenance Organizations

Subchapter E. Licensing and Regulation of Health Maintenance Organization Agents

The State Board of Insurance adopts amendments to §§11.403, 11.407, 11.408, 11.410, and 11.411 (Rules 059.51.05.003, .007, .008, .010, and .011). Section 11.410

and §11.411 are adopted with changes to the proposal published in the September 20, 1985, issue of the *Texas Register* (10 TexReg 3599). The other sections are adopted without changes and will not be republished.

These sections address the licensing and regulation of Health Maintenance Organization (HMO) agents.

Section 11.403 is amended to require that Texas issue a nonresident agents license to a nonresident, provided, among other things, that the agent is an HMO agent in his or her state of residence and that HMO agent has no place of business in Texas for transacting business as an HMO agent. A similar requirement with respect to no place of business is deleted in relation to a reciprocal agreement between Texas and other states to waive a requirement for an examination. This change is a clarification and conforms the section to present board practices. Additionally, further clarification is added to paragraph (4).

Section 11.407(1) is amended to provide that an HMO agents license will expire two years after the issue date unless renewal is requested and a fee is paid on or before the expiration date of the license. Presently, the section requires the aforementioned request and payment prior to the expiration date. Section 11.407(2) is amended to provide that all applicable requirements of law must be met for an agent's appointments to be renewed when his or her license is renewed. These amendments conform the section to extant law and board practices.

Section 11.408 is amended by adding paragraphs (1) and (2). Paragraph (1) provides, generally, that no HMO doing business in this state may pay any commission or other valuable consideration to any person for services as an HMO agent, unless the person is licensed and duly appointed by an HMO, and provides that no person shall accept such payment unless licensed; this provision does not apply to renewal or deferred commissions. Paragraph (2) provides, generally, that no HMO agent may pay anything of value, not specified in the contract, to any person for solicitation or negotiation of an HMO contract, other than to an HMO agent.

Section 11.410 is amended to provide that the commissioner must give reasonable notice to an HMO applicant before a license may be suspended or revoked. The present rule simply provides for notice without further specification. Notice of the commissioner's decision is to the licensee's last known address.

Section 11.411(b) is amended to require that a temporary license may be issued to a person only by an HMO holding an active certificate of authority in Texas. This conforms the section to statutory requirements. Section 11.411(e) is amend-

ed to provide that a failure of at least 50% of HMO temporary licensees taking a written examination for a permanent license during a fiscal year to pass the examination is a ground to cancel, suspend, or revoke the HMOs temporary appointment powers.

Charter Med, Inc. made several comments respecting certain provisions in proposed §11.408(1) and (2). Charter Med states first that there appears to be a clear oversight in the Texas Health Maintenance Organization Act and regulations respecting agency agreements and commissions; it endorses the agency's efforts to repair the gap and supports the proposed rules as they apply to marketing. The board agrees with this comment respecting the need for certain regulations, but disagrees with the contention that there is a gap or oversight in the Texas Health Maintenance Organization Act. Section 15(h) of that Act provides that the board may promulgate such reasonable rules and regulations as are necessary to provide for the licensing of HMO agents. Section 22 authorizes the board to promulgate reasonable rules and regulations necessary to carry out the provisions of the Texas Health Maintenance Organization Act. It certainly appears the legislature contemplated that the board would pass rules to round out regulation under the Act.

Charter Med indicates concern with those provisions in paragraphs (1) and (2) which prohibit the payment, directly or indirectly, or acceptance of any commission or other valuable consideration for any reason or purpose for services as an HMO agent in this state unless the person is validly licensed as an agent. It asserts the HMO industry often employs management service agreements which cover nearly all the administrative/management needed to successfully operate an HMO in Texas. The services include general management and, among other things, marketing and member services. It asserts this unique situation was recognized in the original HMO legislation by the inclusion of special language relating to management contracts. It believes that payment of a percentage of premiums is the fairest reimbursement approach. The manager is provided with growth incentives and a fixed margin for administrative cost control. It makes administrative costs predictable and protects the HMO if competitive activity forces premium levels down. Other systems, it believes, provide negative incentives for management or provide a fragile level of predictable cost for the HMO. Fixed cost arrangements disadvantage the HMO in a declining market. Charter Med urges the board to treat HMO management contracts uniquely because of the uniqueness of HMOs. It asserts that contract management differs from commissioned sales and this should be reflected in regulations.

The board believes the rules should be adopted as proposed. It notes the management contracts in question are described as including "marketing" and "member services." Regulation begins with licensing. The requirement for licensure and control of licenses is the method by which a regulatory body must control the entities which engage in the business being regulated. Traditionally, and for good reason, the receipt of a commission based on the sale of a product has been seen by the board as one of the prime indices of engaging in the insurance and related business. The economic incentive to cause sales to occur in a business is inevitable connect with activities which are part of that business. In such case, there is a crucial need for licensure in order for regulation to be feasible and effective.

The other comment was from the staff of the State Board of Insurance. The staff suggested that the notice of denial, suspension, or revocation of a license in §11.410(2)(A) be preceded by a requirement of a reasonable notice in lieu of the notice to the applicant at her or his last known address as proposed. The board agreed and the rule is changed accordingly.

These amendments are adopted under the Texas Health Maintenance Organization Act, §22, pursuant to which the State Board of Insurance may promulgate rules and regulations necessary and proper to carry out the provisions of that Act.

§11.410. Suspension of License. The commissioner may suspend, revoke, or refuse to renew an agent's license for statement or actions which are untrue, unfair, misleading, deceptive, or which encourage misrepresentation. Grounds and procedures for such actions are outlined as follows.

(1) No change.

(2) Before any license is denied, except for failure to pass a required written examination, or is suspended or revoked, or the renewal thereof refused hereunder:

(A) the commissioner will give reasonable notice of his intention to do so, by registered mail, to the applicant for or holder of such license and to the HMO whom he represents or who desires that he be licensed, and set a date not less than 20 days from the date of mailing such notice when the applicant or licensee and a duly authorized representative of the HMO may appear to be heard and produce evidence;

(B) No change.

(C) upon termination of such hearing, findings will be reduced to writing and, upon approval by the commissioner, filed in his office and notice of the findings sent by registered mail to the applicant or licensee at such applicant's or licensee's last known address and to the HMO concerned;

(3) No change.

§11.411. Temporary Licenses.

(a) No change.

(b) A temporary license may be

issued to any person who has been appointed or who is being considered for appointment as an HMO agent by an HMO holding an active certificate of authority in this state upon receipt by the commissioner of an application executed by such person as required by §11.404 of this title (relating to Application for License Prior to Certificate of Authority), together with a certificate signed by an officer or properly authorized representative of such HMO stating:

(1)-(3) No change.

(c)-(d) No change.

(e) The commissioner shall have the authority to cancel, suspend, or revoke the temporary appointment powers of any HMO, if, after notice and hearing, he finds that such HMO has abused such temporary appointment powers. In considering such abuse, the commissioner may consider, but is not limited to, the number of temporary appointments made by an HMO, and the percentage of appointees sitting for the examinations as HMO agents. Each HMO is responsible for requiring at least 70% of such HMO's applicants for temporary licenses during a fiscal year to sit for the examination. At least 50% of those applicants sitting for the examination must pass during such period.

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 December 18, 1985

TRD-8511984

James W. Norman
State Board of
Insurance

Effective date: January 19, 1986

Proposal publication date: September 20, 1985

For further information, please call

(512) 463-6327.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board Chapter 341. Introductory Provisions

General Provisions

★31 TAC §§341.1-341.12

The Texas Water Development Board adopts new §§341.1-341.12, 341.21-341.26, 341.41-341.43, 341.51-341.60, 341.71, and 341.72, without changes to the proposed text published in the October 18, 1985, issue of the *Texas Register* (10 TexReg 4841).

The new sections replace provisions in previous Chapter 301, which were rules

of the Texas Department of Water Resources. The department was abolished September 1, 1985, under Senate Bill 249, 69th Legislature, 1985. Under Senate Bill 249, §10.002, the department's rules will cease being effective upon passage of new rules by the board and Texas Water Commission, which were given the former department's areas of responsibility.

The new sections remain substantially the same as the previous Chapter 301 with the exception of changes necessary to reflect the change from the department to the board as required by Senate Bill 249, with the exception of minor language changes for clarification, and with exception of the following changes.

Section 341.4 describes opportunity and procedure for public participation and testimony at board meetings and hearings. Section 341.13 describes requirements for public notice regarding applications filed with the board. Section 341.71 is eliminated, since definitions are provided in each chapter of the new board rules. A new §341.71 is added, describing the procedures and requirements for local sponsorship hearings and designation.

No comments were received regarding the adoption of these new sections.

These new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 11, 1985

TRD-8512085

Suzanne Schwartz
General Counsel
Texas Water
Development Board

Effective date: January 9, 1986

Proposal publication date: October 18, 1985

For further information, please call

(512) 463-7850.

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Environmental Impacts Statements

★31 TAC §§341.21-341.26

These new sections are adopted under the Texas Water Code, §6.101, which pro-

vides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 4, 1985.

TRD-8512086 Suzanne Schwartz
General Counsel
Texas Water
Development Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850

★ ★ ★

Guidelines on the Preparation of Environmental, Social, and Economic Impact Statements

★31 TAC §§341.41-341.43

These new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 4, 1985.

TRD-8512087 Suzanne Schwartz
General Counsel
Texas Water
Development Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

★ ★ ★

Rulemaking Public Hearings of the Board

★31 TAC §§341.51-341.60

These new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 4, 1985.

TRD-8512088 Suzanne Schwartz
General Counsel
Texas Water
Development Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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Local Sponsorship

★31 TAC §§341.71, §341.72

These new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 4, 1985.

TRD-8512089 Suzanne Schwartz
General Counsel
Texas Water
Development Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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Chapter 355. Water Assistance Fund

Introductory Provisions

★31 TAC §§355.1-355.3

The Texas Water Development Board adopts new §§355.1-355.3, 355.31, 355.32, 355.51-355.60, 355.71-355.76, 355.81-355.86, 355.91, and 355.101-355.110, without changes to the proposed text published in the October 18, 1985, issue of the *Texas Register* (10 TexReg 4045).

These new sections replace previous Chapter 355, which contained rules of the Texas Department of Water Resources. The department was abolished September 1, 1985, under Senate Bill 249, 69th Legislature, 1985. Under Senate Bill 249, §10.002, the department's rules will cease being effective upon passage of new rules by the board and Texas Water Commission, which were given the former department's areas of responsibility.

The new sections remain substantially the same as the previous Chapter 355, with the exceptions of changes necessary to reflect the change from the department to the board as required by Senate Bill 249, and minor language changes for clarification, and with the exception of the following changes. Section 355.86 is added to require approval by the executive administrator of any agreements entered into between a loan recipient and a bonding company upon contractor bankruptcy. Former §355.33, which pro-

hibited applications for refunding for the sole purpose of lowering the interest rate payable to the board, is deleted. Changes to §355.56(e) and §355.74(a)(5) require a loan applicant or recipient who is pledging repayment with contract revenues to file copies of all such contracts with the board. Previously, only those contracts under which 10% of the project's gross revenues would accrue need be filed.

The definitions of §355.2 include the deletion of the definition of state participation as unnecessary and confusing, change the wording of firm annual yield to more accurately reflect the hydrologic analysis as using the historical drought of record, include levees in the definition of permit, and clarify that project includes both water treatment and wastewater treatment facilities.

Changes to §§355.2, 355.31, 355.51, 355.56, 355.57, 355.59, 355.60, 355.71, 355.74-355.76, 355.83, 355.85, and 355.91 reflect the role of the development fund manager in processing applications for board loans, in approval of plans and specifications for projects, in certification that project work is completed, in approval of contracts and closing documents, and in the postconstruction phase. Changes to §355.2, 355.73, 355.74, and 355.83 reflect the Texas Water Commission's role, as delineated in Senate Bill 249, in approving plans and specifications involving wastewater treatment plants.

No comments were received regarding adoption of these new sections.

These new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985.

TRD-8512078 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850

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Policy Declarations

★31 TAC §§355.31, §355.32

The new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985.

TRD-8512079 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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Applications to the Board

★31 TAC §§355.51-355.60

The new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985.

TRD-8512080 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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Closing of Loans

★31 TAC §§355.71-355.76

The new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985.

TRD-8512081 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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Construction Phase

★31 TAC §§355.81-355.86

The new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985

TRD-8512082 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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Post-Construction Responsibilities Compliance Procedures

★31 TAC §355.91

The new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985

TRD-8512083 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850

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Research and Planning Fund

★31 TAC §§355.101-355.110

The new sections are adopted under the Texas Water Code, §6.101, which provides the board with the authority to make rules necessary to carry out its powers and duties.

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 December 5, 1985.

TRD-8512084 Suzanne Schwartz
General Counsel
Texas Water Development
Board

Effective date: January 9, 1986
Proposal publication date: November 18, 1985
For further information, please call
(512) 463-7850.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

The following adoptions submitted by the Texas Department of Human Services will be serialized in the January 3, 1986, issue of the *Texas Register*. The effective date for the documents is January 8, 1986.

Chapter 10. Family Self-Supported Services
§§10.2501-10.2506
(amendments)
§§10.2507-10.2523
(repeal)
§§10.2507-10.2526
(new)

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 on Aging

Thursday, January 16, 1986, 10 a.m. The State Citizens Advisory Council of the Texas Department on Aging will meet in the Conference Room, third floor, Texas Department on Aging, 1949 IH 35 South, Austin. Items on the agenda include approval of minutes of the meetings of November 7-8, 1985; the Silver Haired Legislature Steering Committee Report; the funding status, legislative priorities survey (1988-1989 biennium); program standards panel discussion; housing report; AAA report assignment; and report on the state director's meeting.

Contact: Linda Heath, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: December 20, 1985, 9:17 a.m.
TRD-8512119

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Texas Board of Architectural Examiners

Friday, January 10, 1986, 9 a.m. The Texas Board of Architectural Examiners will meet in Suite 107, 8213 Shoal Creek Boulevard, Austin. Items on the agenda include approval of minutes; revocation hearings; rules and regulations; reinstatements; reciprocal licensing; examinations; legislation; renewals; alleged violations; election of officers; delegation of authority; and future board meetings.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

Filed: December 20, 1985, 10:19 a.m.
TRD-8512131

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Texas Education Agency

Wednesday, January 8, 1986, 9 a.m. The Task Force for the Development of the Long-Range Master Plan for Vocational Education of the Texas Education Agency

will meet in Room 1-100, William B. Travis Building, 1701 North Congress Avenue. According to the agenda, the task force will review the draft of the long-range master plan for vocational education.

Contact: R. D. Bristow, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9705.

Filed: December 19, 1985, 2:08 p.m.
TRD-8512092

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Texas State Board of Dental Examiners

Thursday-Saturday, January 23-25, 1986, 8 a.m. The Texas State Board of Dental Examiners will meet in the Miro Room, Loews Anatole Hotel, 2201 Stemmons Freeway, Dallas. According to the agenda summary, the board will conduct a discussion of Micro Identification discs, "You and the Law," advertising restrictions, investigative procedures, the Texas Dental Association's program for chemically impaired dentists, a motion for reinstatement from Dr. Overton, request from applicant to take dental hygiene examination a fifth time, motions for rehearing, and an appearance by the Texas Dental Hygiene Directors' Association and Dr. Jack J. Blankfield.

Contact: William S. Nail, 411 West 13th Street, Suite 503, Austin, Texas 78701 (512) 475-2443.

Filed: December 23, 1985, 9:42 a.m.
TRD-8512196

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Texas Department of Human Services

Wednesday, January 8, 1986, 9 a.m. The Advisory Committee on Dispensing Fee Methodology of the Texas Department of Human Services will meet in Room 6-W, Sixth Floor, west tower, 701 West 51st Street, Austin. According to the agenda

summary, the committee will consider approval of minutes; the design of a new dispensing fee cost report; and a discussion of interim fee adjustment.

Contact: Robert P. Harriss, P.O. Box 2960, Austin, Texas 78769, (512) 450-3188.

Filed: December 20, 1985, 10:02 a.m.
TRD-8512130

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State Board of Insurance

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Days, times, rooms, and agendas follow.

Monday, December 30, 1985, 9 a.m. In Room 342, the section will consider Docket 9154—proposed plan of merger of Brazos Valley Life Insurance Company, Phoenix, Arizona into Service Life and Casualty Insurance Company, Austin.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: December 19, 1985, 1:47 p.m.
TRD-8512072

Monday, December 30, 1985, 1:30 p.m. In Room 342, the section will consider Docket 9151—application of Peoples Life Insurance Company, Tyler, to acquire control of Life of America Insurance Company, Houston.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: December 19, 1985, 1:47 p.m.
TRD-8512073

Monday, December 30, 1985, 3:30 p.m. In Room 350, the section will consider Docket 9152—application for amendment to Articles of Incorporation of Savers Annuity Insurance Company, Euless.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: December 19, 1985, 1:47 p.m.
TRD-8512074

Tuesday, December 31, 1985, 9 a.m. In Room 342, the section will consider Docket 9153—application of Walter Edward Holland, La Marque, for a Group II, life, health, and accident insurance agent's license.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524

Filed: December 19, 1985, 1:47 p.m.
TRD-8512075

Monday, January 6, 1986, 1:30 p.m. In Room 342, the section will consider Docket 9138—application for amendment to the Charter of Reeder-Davis Insurance Company, Hughes Springs.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: December 19, 1985, 1:47 p.m.
TRD-8512076

Tuesday, January 7, 1986, 9 a.m. In Room 342, the section will consider Docket 9131—whether disciplinary action should be taken against Jerry Eugene Blankenship, Garland, who holds a Group I, legal reserve life insurance agent's license and a Group II, insurance agent's license issued by the state board of insurance.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: December 19, 1985, 1:48 p.m.
TRD-8512077

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Board of Pardons and Paroles

Monday and Tuesday, December 30 and 31, 1985, 1:30 p.m. daily. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: December 20, 1985, 2:25 p.m.
TRD-8512161

Tuesday, December 31, 1985, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full

pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: December 20, 1985, 2:25 p.m.
TRD-8512162

Thursday and Friday, January 2 and 3, 1986, 1:30 p.m. Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2713.

Filed: December 20, 1985, 2:25 p.m.
TRD-8512160

Monday-Friday, January 6-10, 1986, 1:30 daily, and 11 a.m. on Friday. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will receive, review and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek, Austin, Texas 75124, (592) 713-.

Filed: December 23, 1985, 10:39 a.m.
TRD-8512201

Tuesday, January 7, 1986, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Gladys Sommers, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704.

Filed: January 25, 1985, 10:17 a.m.
TRD-8512202

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Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite

450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Thursday, January 9, 1986, 2 p.m. A prehearing conference regarding discovery dispute in Docket 6063—application of Southwestern Public Service Company for approval of standard avoided cost calculation for the purchase of firm energy and capacity from qualified facilities.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 19, 1985, 2:33 p.m.
TRD-8512097

Thursday, January 9, 1986, 10 a.m. A prehearing conference in Docket 5914—application of Travis County Water Control and Improvement District No. 1 for a water certificate of convenience and necessity within Travis County; Docket 6506—application of the Parke Utility Corporation for a water certificate of convenience and necessity within Travis county; Docket 5516—application of Steiner Utility Company for Water and Sewer certificates of convenience and necessity within Travis County; and Docket 6584—application of M.A.B.D. Inc., Charter 755136 for water and sewer certificates of convenience and necessity within Travis County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 20, 1985, 2:09 p.m.
TRD-8512159

Wednesday, January 22, 1986, 10 a.m. A rescheduled hearing on the merits in Docket 6480—application of Ingram Water Supply for authority to change rates. Rescheduled from December 19, 1985.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 19, 1985, 2:34 p.m.
TRD-8512098

Thursday, March 6, 1986, 10 a.m. A hearing on the merits in Docket 6620—application of San Patricio Electric Cooperative, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 19, 1985, 2:34 p.m.
TRD-8512099

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The University of Texas at Austin

Friday, January 17, 1986, 1:30 p.m. The Intercollegiate Athletics Council for Men will meet in Room 240, Bellmont Hall, San Jacinto Street. According to the agenda, the council will consider approval of minutes of December 11, 1985; approve team schedules; approve budgets and budget changes; approve awards and awards policies; concessions; construction; receive ongoing development plans; old business; committee reports, and new business. The council also will meet in executive session to discuss personnel matters and potential litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

Contact: Haila Kauffman, P.O. Box 7399, Austin, Texas 78713, (512) 471-1332.

Filed: December 23, 1985, 10:38 a.m.
TRD-8512200

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Board of Vocational Nurse Examiners

Monday-Wednesday, January 20-22, 1986, 8 a.m. daily. The Board of Vocational Nurse Examiners will meet in the Mesquite Room, Executel Motor Inn, 925 East Anderson Lane, Austin. According to the agenda summary, the board will consider approval of minutes, the report of the executive director; report of the Director of Education including a presentation of the revised minimum standards for approval, program matters, and annual grade reports; unfinished business; and administrative hearings. On January 21, 1986, the board will consider administrative hearings. On January 22, 1986, the board will consider administrative hearings and any additional business. The board also will meet in executive session on call.

Contact: Joyce A. Hammer, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752, (512) 835-2071.

Filed: December 19, 1985, 2:06 p.m.
TRD-8512090

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Texas Water Commission

Tuesday, January 7, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will consider water district bond issues, release from escrow, use of surplus funds, change orders, water quality proposed permits, amendments and renewals, adjudication matters, final decisions on water use applications, and superfund projects.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 20, 1985, 4:05 p.m.
TRD-8512173

Tuesday, January 7, 1986, 9:30 a.m. The Texas Water Well Drillers Board of the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider approval of minutes of November 12, 1985, meeting; certification of applicants for registration; and whether to set the following complaints for formal public hearing before the board or for other appropriate legal action: Larry Bisidas, John Brem, Eddie Lynn Calicutt, Roy Carlisle, Roger D. Carlton, Johnny Folmar, E. R. Lewis, George L. Littrell, George R. Littrell, Kenny Milligan, Rodger North, William E. Page, Bruce Parkhill, Mike Schott, Danny Shirley, Nicky Wayne Siegert, Tommy Wolfenbarger, and James Fleck. The board also will consider proposed rule changes.

Contact: R. Micheal Rogan, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: December 23, 1985, 9:54 a.m.
TRD-8512194

Monday, January 20, 1986, 9 a.m. The Texas Water Commission will meet in the City Council Chambers, City Hall, 360 East Hopkins, San Marcos. According to the agenda summary, the commission will receive evidence from the public on actions the commission should take to protect the Edwards Aquifer from pollution pursuant to §26.046 of the Texas Water Code.

Contact: Paula Hilsenbeck, P.O. Box 13087, Austin, Texas 78711, (512) 463-8092.

Filed: December 20, 1985, 9:27 a.m.
TRD-8512123

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Tuesday, January 21, 1986, 2 p.m. Application by the City of Yantis for renewal of Permit 12187-01, Wood County, Sabine River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 20, 1985, 9:29 a.m.)
TRD-8512121

Wednesday, January 22, 1986, 2 p.m. Application 4547 of Clifford L. Barlow for a §11.121 permit, Van Zandt County, Sabine River Basin; examiner's proposal for decision on a show cause order issued to Douglas Anderson to appear and show cause why two dams on his property in Shackelford County, should not be breached; and application by Tri-Shores Development Company for proposed Permit 13159-01, Calhoun County, Lavaca Bay.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 20, 1985, 9:29 a.m.
TRD-8512122

Wednesday, January 29, 1986, 2 p.m. Application by Texas Wedgewood Corporation for proposed Permit 13168-01, Smith County, Neches River Basin; and application by George G. McKinney, doing business as McKinney and Moore, Inc., for proposed Permit 13137-01, Smith County, Neches River Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: December 20, 1985, 9:30 a.m.
TRD-8512120

Tuesday, February 4, 1986, 9 a.m. The Texas Water Commission will meet in the County Courtroom, first floor, Henderson County Courthouse, Athens. According to the agenda summary, the commission will consider application by Participation Development Corporation, Inc., P.O. Box 2026, Malakoff, Texas 75148, to the Texas Water Commission for renewal Permit 11506-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 100,000 gallons per day from the Arrowhead Sewage Treatment Plant which is located approximately seven miles southwest of the City of Eustace on the north shoreline of Cedar Creek Reservoir, at a point approximately two miles west of FM Road 90 and five miles north of State Highway 31 in Henderson County.

Contact: Carl S. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 20, 1985, 4:06 p.m.
TRD-8512172

Wednesday, February 5, 1986, 9 a.m. The Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by Wood Associates, Inc., 3355 Bee Cave Road, Suite 701, Austin, Texas 78746 to the Texas Water Commission for a Permit 13222-01 to authorize the disposal of treated domestic wastewater effluent by irrigation at a volume not to exceed an average of 475,000 gallons per day. The applicant proposes to service a planned residential subdivision in northern Travis County. The treatment facility will utilize the contract stabilization process followed by clarification and chlorination. The effluent will be disposed of by means of irrigation on 247.5 acres located within the development. Application rates for the irrigated land shall not exceed 2.7 acre-feet/acre/year.

Contact: Kevin McCalla, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 23, 1985, 9:55 a.m.
TRD-8512193

Wednesday, February 5, 1986, 10 a.m. The Texas Water Commission will meet in the Commissioner's Courtroom, Medina County Courthouse, Hondo. According to the agenda summary, the commission will consider application by M. E. Steubing, Route 1, Box 97, Hondo, Texas 78861 to the Texas Water Commission for a Permit 02841 to authorize the disposal of wastewater from the M.E. Steubing Dairy Farm by land irrigation. The dairy is to have a maximum capacity of 300 head. Animal waste, wash-down water, and storm runoff from 6.5 acres is to be routed to a retention pond with an approximate capacity of 4.05 acre-feet. As necessary, the ponded wastewater is to be disposed of by irrigating approximately 25 acres of cropland. Manure generated at the site is to be used as a fertilizer and soil amendment. No discharge of pollutants into the waters of the state is authorized by this permit.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 23, 1985, 9:55 a.m.
TRD-8512192

Thursday, February 6, 1986, 9 a.m. The Texas Water Commission will meet in Room Three, Laredo Civic Center, 2400 San Bernardo, Laredo. According to the agenda summary, the commission will consider an application by Standard Realty Investors, Inc., P.O. Box 6745, Laredo, Texas 78040, to the Texas Water Commission for a Permit 13149-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 200,000 gallons per day from the proposed El Cenizo Subdivision Sewage Treatment Plant which the applicant proposes to construct to serve a partially occupied subdivision which is currently being served by a malfunctioning septic tank system.

Contact: Steve Dickman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 20, 1985, 4:08 p.m.
TRD-8512166

Thursday, February 6, 1986, 9 a.m. The Texas Water Commission will meet in Room B, Weatherford Community Center, 701 Narrow Street, Weatherford. According to the agenda summary, the commission will consider an application by Parker County Texas Utility District, P.O. Drawer R, Aledo, Texas 76008, to the Texas Water Commission for a Permit 10847-02 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 250,000 gallons per day from the proposed Wastewater Treatment Plant No. 2. The applicant proposes to construct a wastewater treatment plant to serve the needs of the City of Willow Park

Contact: Douglas P. Roberts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875

Filed: December 20, 1985, 4:06 p.m.
TRD-8512171

Tuesday, February 11, 1986, 9 a.m. The Texas Water Commission will meet in Room 105, Alford Center, Paris Junior College, 2400 Clarksville Street, Paris. According to the agenda summary, the commission will consider an application by the City of Blossom, P.O. Box 297, Blossom, Texas 75416, to the Texas Water Commission for an amendment to Permit 10715-02 in order to move the plant site and discharge point and to decrease the authorized volume of discharge from 250,000 gallons per day average to 160,000 gallons per day average. The facility which is currently authorized by the existing permit has not yet been constructed. The proposed facility is to replace the facility currently authorized by Permit 10715-01, which is to be abandoned when the new facility is completed.

Contact: Cynthia G. Hayes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 20, 1985, 4:08 p.m.
TRD-8512167

Tuesday, February 11, 1986, 9 a.m. The Texas Water Commission will meet in City Hall, 113 Jefferson, Palmer. According to the agenda summary, the commission will consider an application by the City of Palmer, P.O. Box 325, Palmer, Texas 75152, to the Texas Water Commission for an amendment to Permit 10594-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 71,000 gallons per day to 226,000 gallons per day. The proposed amendment also revises limitations for Biochemical Oxygen Demand from 30 gm/l and total suspended solids from 90 mg/l or 20 mg/l for both parameters upon completion of expansion. The applicant proposes to expand treatment facilities to allow for projected growth and to increase its service area.

Contact: Michael E. Field, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 20, 1985, 4:06 p.m.
TRD-8512170

Tuesday, February 11, 1986, 10 a.m. The Texas Water Commission will meet in the MBank Auditorium, 910 Travis, Houston. According to the agenda summary, the commission will consider an application by the City of Houston, Department of Public Works, P.O. Box 1562, Houston, Texas 77251, to the Texas Water Commission for a Permit 10495-119 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 16,900,000 gallons per day from the proposed Keegans Bayou Sewage Treatment Plant which is to service residential and commercial developments in southwest Houston

Contact: Robert Caine, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875

Filed: December 20, 1985, 4:07 p.m.
TRD-8512169

Tuesday, February 11, 1986, 10 a.m. The Texas Water Commission will meet in the MBank Auditorium, 910 Travis, Houston. According to the agenda summary, the commission will consider Friedswood Development Company, P.O. Box 2567, Houston, Texas 77252-2567, to the Texas Water Commission for a Permit 13211-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 1,600,000 gallons per day, with an interim phase of 800,000 gallons per day, from the proposed Harris County Municipal Utility District 321. The facility is to serve a proposed residential and commercial development.

Contact: Robert Caine, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: December 20, 1985, 4:07 p.m.
TRD-8512168

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Regional Agencies Meetings Filed December 19

The Central Appraisal District of Rockwall, Board of Directors, met in emergency session in the small courtroom, Courthouse, Rockwall, on December 19, 1985, at noon. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

The South Plains Health Provider Organization, Inc., Board of Directors, met in the Administrative Offices, 2801 West Eighth, Plainview, on December 23, 1985, at 8 p.m. Information may be obtained from Sue Terry, 2801 West Eighth, Plainview, Texas.

The West Central Texas Municipal Water District, will meet in Suite 300, 401 Cypress Street, Abilene, on January 9, 1985, at 9 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79601, (915) 673-8254.

TRD-8511985

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Meetings Filed December 20

The Burnet County Appraisal District, will meet at 215 South Pierce Street, Burnet, on January 9, 1985, at 6:30 p.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Lavaca County Central Appraisal District, Board of Directors, will meet at 113 North Main, Hallettsville, on January 13, 1985, at 4 p.m. Information may be obtained from J. P. Davis, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Tarrant Appraisal District, Appraisal Review Board will meet in Suite 505, 1701 River Run, Fort Worth, on January 15, 1985, at 8:30 a.m. Information may be obtained from Linda Danford, 1701 River Run, Suite 300, Fort Worth, Texas 76107, (817) 332-3151.

TRD-8512163

In **Addition**

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Public Meeting

The Texas Air Control Board (TACB) will hold a public meeting in January, 1986, to discuss proposed revisions to the Texas State Implementation Plan (SIP) for carbon monoxide (CO) in El Paso County. The meeting is cosponsored by the TACB, the City of El Paso Metropolitan Planning Organization, and the El Paso City-County Health Unit.

The meeting will be held at the following time and place: January 14, 1986, City of El Paso, City Council Chambers, second floor, 2 Civic Center Plaza, El Paso, at 7 p.m.

The TACB recently responded to new Environmental Protection Agency (EPA) requirements for CO emission reductions in El Paso County by adopting revisions to the SIP. In these revisions, the TACB committed to develop and implement, in cooperation with the Department of Public Safety, an expanded vehicle emissions inspection and maintenance (I/M) program in El Paso County by early 1987. The expanded program is necessary for El Paso to provide emission reductions consistent with estimates of El Paso's contribution to carbon monoxide emissions in the El Paso-Juarez area. It is expected that similar emission reductions in Ciudad Juarez would be necessary for attainment of the carbon monoxide standard to be achieved. Information will be provided regarding the preliminary evaluation of the benefits and impacts of various I/M program options.

The TACB invites comments regarding the design and implementation of a reasonable program to effectively reduce CO emissions from automobiles and light-duty trucks. In addition, comments are invited on the idle I/M program design characteristics which most critically affect the cost effectiveness, fairness, and credibility of the program. These include vehicle model years to be inspected, stringency of the emission standards, level of sophistication in the analyzer capabilities, and nature and amount of repair cost waivers and/or delayed compliance requirements.

Individual motorists in El Paso County may be directly impacted by higher inspection fees and potential repair costs associated with compliance with the expanded vehicle I/M program. Implementation of the program is likely to result in an increase in the annual vehicle inspection fee from \$4.00 to \$5.50, depending on the number of vehicles included in the program. This additional fee would recover the expense of sophisticated exhaust analyzers and operating procedures needed to ensure the effectiveness of the program. In addition, as many as 20% of pre-1981 and 5-10% of 1981 and newer model year vehicles may be expected to fail the new inspection requirements. While the average repair costs for these two groups of vehicles are estimated at approximately \$45 and \$60, respectively, individual repair costs may range from

\$5.00 for an air cleaner replacement, to \$64 for a standard tune-up on an older vehicle, and over \$200 for computer-related diagnosis and repair of a new technology vehicle.

EPA established the national ambient air quality standard for CO to protect public health with a reasonable margin of safety. Exposure to CO levels several times higher than the current standards may be experienced for extended periods without detectable effects on the general population. The current standard is also believed to provide an adequate margin of safety for even the most sensitive individuals.

Comments received at the public meeting will help the TACB staff develop SIP revisions which satisfy EPA requirements, respond to requests from local elected officials and citizen groups, and address local economic conditions in El Paso County. An issues paper has been prepared to present and discuss information pertaining to the procedures, emission reduction benefits, and costs associated with implementation of an additional vehicle emissions control program in El Paso County. Copies of this paper and additional information may be obtained from the TACB regional office, 1200 Golden Key Circle, Suite 369, El Paso, Texas 79925 (915) 591-8128, or from the TACB central office, 6330 Highway 290 East, Austin, Texas 78723 (512) 451-5711.

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

TRD-8511938 Bill Stewart
Executive Director
Texas Air Control Board

Filed: December 18, 1985
For further information, please call (512) 451-5711.

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Texas Department on Banking Notice of Application

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On December 13, 1985, the banking commissioner received an application to acquire control of the Community State Bank of Onalaska, Onalaska, by Charles N. Wells of Livingston.

On December 16, 1985, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

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

TRD-8511937 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: December 18, 1985

For further information, please call (512) 475-4451.

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Texas Economic Development Commission Consultant Contract Award

Description. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. Following publication of the Consultant Proposal Request in the July 12, 1985, issue of the *Texas Register* (10 TexReg 2260), the Texas Economic Development Commission on September 1, 1984, executed a contract with Garciela Letayf, State of Texas Office, Apartado Postal 5-602, 05600 Mexico, D.F., to serve as administrative manager of the State of Texas Office.

Job Description. The individual serving as administrative assistant will be required to advise and assist Texas manufacturers and businessmen in making contacts and appointments with Mexican government officials, United States embassy officials, and Mexican, Central, and South American industry importers who may be interested in products, services, and/or materials offered by Texas businesses, conduct or assist in conducting an on-going public relations program within Mexico, Central, and South America to promote the sale, lease, or rental of products, services, and/or materials offered by Texas businesses.

The administrative assistant will advise and assist or participate in the advising and assistance of Texas businessmen in displaying their products, services, and/or materials at trade fairs, trade shows, or otherwise, to enhance and encourage the rental, lease, or sale thereof to users in Mexico, Central, and South America, and will research and locate, or assist in the research and location of Mexican, Central, and South American suppliers of products, services, and/or materials, on request, for Texas businessmen.

In addition, she will assist Mexican, Central, and South American exporters, manufacturers, and suppliers in making contact with Texas businessmen who inquire about the importation of manufactured products, raw materials, or services or who inquire about joint ventures, licensing agreements, and transfers of technology.

When requested, the individual will advise and assist State of Texas officials in the conduct of their duties in Mexico, Central, and South America, including the making and monitoring of appointments.

Finally, she will supervise and provide all necessary support for Texas state agencies as may be required under existing or future interagency agreements between TEDC and other state agencies.

Costs and Dates. The total amount of the contract is \$22,224. The beginning date of the contract is September 1, 1985, and the ending date is August 31, 1986.

Due Dates of Documents. Ms. Letayf will contribute to the monthly report on the activities of the State of Texas Office.

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

TRD-8511974 David V. Brandon
Executive Director
Texas Economic
Development
Commission

Filed: December 19, 1985

For further information, please call (512) 472-6059.

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Description. This award of consulting services is filed pursuant to Texas Civil Statutes, Article 6252-11c. Following publication of the Consultant Proposal Request in the July 12, 1985, issue of the *Texas Register* (10 TexReg 2260), the Texas Economic Development Commission on September 1, 1985, executed a contract with Luis A. Morales, State of Texas Office, Apartado Postal 5-602, 05600 Mexico D.F. to serve as the director of the State of Texas Office.

Job Description. The individual serving as manager will be required to manage the day-to-day operations of the State of Texas Office, including the supervision of other contract personnel and employees of such office, simple accounting functions, and the translation and composition of correspondence concerning trade and foreign investment in Mexico, Central, and South America.

He will advise and assist Texas manufacturers and businessmen in making contacts and appointments with Mexican government officials, United States embassy officials, and Mexican, Central, and South American industry importers who may be interested in products, services, and/or materials offered by Texas businesses.

The manager will conduct or assist in conducting an on-going public relations program within Mexico, Central, and South America to promote the sale, lease, or rental of products, services, and/or materials offered by Texas businesses; and will advise and assist or participate in the advising and assistance of Texas businessmen in displaying their products, services, and/or materials at trade fairs, trade shows, or otherwise, to enhance and encourage the rental, lease, or sale thereof to users in Mexico, Central, and South America.

The manager will research and locate, or assist in the research and location of Mexican, Central, and South American suppliers of products, services, and/or materials, on request, for Texas businessmen.

He will assist Mexican, Central, and South American exporters, manufacturers, and suppliers in making contact with Texas businessmen who inquire about the importation of manufactured products, raw materials, or services or who inquire about joint ventures, licensing agreements, and transfers of technology.

When requested, the manager will advise and assist State of Texas officials in the conduct of their duties in Mexico, Central, and South America, including the making and monitoring of appointments.

Finally, he will supervise and provide all necessary support for Texas state agencies as may be required under existing or future interagency agreements between TEDC and other state agencies.

Cost and Dates. The total amount of the contract is \$33,996. The beginning date of the contract is September 1, 1985, and the ending date is August 31, 1986.

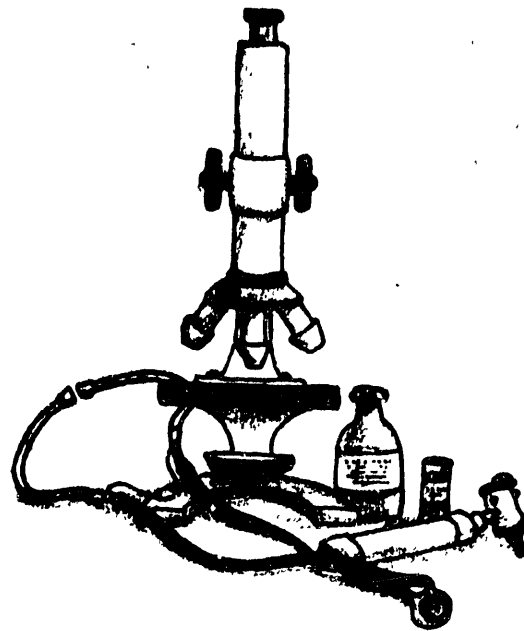
Due Dates of Documents. Mr. Morales shall prepare a monthly report on the activities of the State of Texas Office.

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

TRD-8511975 David V. Brandon
Executive Director
Texas Economic
Development
Commission

Filed: December 19, 1985
For further information, please call (512) 472-6069.

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Texas Department of Health Request For Proposals

Health care persons/agencies who wish to apply for funds to serve as contractors for the Maternal and Infant Health Improvements Program may obtain information and application materials (request for proposals) from the offices of the council of governments or from any regional office of the Texas Department of Health.

The locations of the 24 Council of Government offices are as follows:

Gary Pitner, Executive Director
Panhandle Regional Planning Commission
P.O. Box 9257
Amarillo, Texas 79105

Jerry Casstevens, Executive Director
South Plains Association of Governments
P.O. Box 2787
Lubbock, Texas 79408

Edwin B. Daniel, Executive Director
Nortex Regional Planning Commission
P.O. Box 5144
Wichita Falls, Texas 76307

William Pitstick, Executive Director
North Central Texas Council of Governments
P.O. Drawer COG
Arlington, Texas 76005-5888

James Goerke, Executive Director
Ark-Tex Council of Governments
P.O. Box 5037
Texarkana, Texas 75505

Ernie Crawford, Executive Director
Permian Basin Regional Planning Commission
P.O. Box 6391 ATS
Midland, Texas 79711

Robert R. Weaver, Executive Director
Concho Valley Council of Governments
P.O. Box 60050
San Angelo, Texas 76906

H. W. Davis, Executive Director
Heart of Texas Council of Governments
320 Franklin Avenue
Waco, Texas 76701-2297

Richard Bean, Executive Director
Capital Area Planning Council
2520 IH-35 S., Suite 100
Austin, Texas 78704-5798

Justin Ornsby, Executive Director
West Texas Council of Governments
Two Civic Center Plaza
Fifth Floor
El Paso, Texas 79999

Patrick Kennedy, Executive Director
Golden Crescent Regional Planning Commission
P.O. Box 2028
Victoria, Texas 77902

Amando Garza, Jr., Executive Director
South Texas Development Council
P.O. Box 2187
Laredo, Texas 78044-2187

Robert Chandler, Executive Director
Lower Rio Grande Valley Development Council
Texas Commerce Bank Building
Suite 207
McAllen, Texas 78501

Walton B. Reedy, Executive Director
Central Texas Council of Governments
P.O. Box 729
Belton, Texas 76513-0729

E. Ray Hill, Executive Director
Deep East Texas Council of Governments
P.O. Drawer 1170
Jasper, Texas 75951

Don Kelly, Executive Director
Southeast Texas Regional Planning Commission
P.O. Drawer 1387
Nederland, Texas 77627

Jack Steele, Executive Director
Houston-Galveston Area Council
P.O. Box 22777
Houston, Texas 77227

Al Notzon, III., Executive Director
Alamo Area Council of Governments

Glenn J. Cook, Executive Director
Brazos Valley Development Center
P.O. Drawer 4128
Bryan, Texas 77805-4128

Glynn J. Knight, Executive Director
East Texas Council of Governments
3800 Stone Road
Kilgore, Texas 75662

Brad Helbert, Executive Director
West Central Texas Council of Governments
P.O. Box 3195
Abilene, Texas 79604

118 Broadway, Suite 400
San Antonio, Texas 78205

John Buckner, Executive Director
Coastal Bend Council of Governments
P.O. Box 9909
Corpus Christi, Texas 78469

Larry Cruise, Executive Director
Texoma Regional Planning Commission
10000 Grayson Drive
Denison, Texas 75020

Mike Patterson, Executive Director
Middle Rio Grande Development Council
P.O. Box 702
Carrizo Springs, Texas 78834

Locations of the regional offices of the Texas Department of Health are as follows:

Public Health Region 1
Henry C. Moritz, M.D., M.P.H.
P.O. Box 968 WTSU Station
Canyon, Texas 79016

Public Health Region 3
Al Randall, M.D., Regional Director
P.O. Box 10736
El Paso, Texas 79997

Public Health Region 5
C. R. Allen, Jr., M.D., M.P.H.
2561 Matlock Road
Arlington, Texas 76015

Public Health Region 7/10
Marietta Crowder, M.D.
P.O. Box 2501
Tyler, Texas 75710

Public Health Region 9
Jorge Flores, M.D.
P.O. Drawer 630
Uvalde, Texas 78801

Public Health Region 2/12
Al Randall, M.D., Regional Director
4709 66th Street
Lubbock, Texas 79414

Public Health Region 4
Myron J. Woltjen, M.D., M.P.H.
P.O. Box 2648
Abilene, Texas 79604

Public Health Region 6
Charles R. Webb, Jr., M.D.
P.O. Box 190
Temple, Texas 76503

Public Health Region 8
Charles B. Marshall, Jr., M.D., M.P.H.
1401 South Rangerville Road
Harlingen, Texas 78550

Public Health Region 11
Nina M. Sisley, M.D., M.P.H.
1110 Avenue G
Rosenberg, Texas 77471

Issued in Austin, Texas, on December 19, 1985.

TRD-8512129 Robert A. MacLean, M.D.
Deputy Commissioner
Texas Department of Health

Filed: December 20, 1985
For further information, please call (512) 458-7238.

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Railroad Commission of Texas Invitation for Bids

The Railroad Commission of Texas, Division of Surface Mining and Reclamation (SMRD), is soliciting bids for the fabrication and installation of concrete slab and steel grating closures for 12 abandoned mine shafts and the backfilling of two such shafts at the Terlingua abandoned mine land site. The site is located in the vicinity of Terlingua, Brewster County. Sealed bids will be received until 1 p.m. on January 22, 1986. Any bids received after the deadline will be returned unopened.

Construction of the 12 shaft closures shall include fabrication of precast slabs and structural steel grates. The contractor will then perform on-site preparation and placement of these slabs or grates on the shaft closures along with the backfilling of two additional shafts. Copies of the specifications, drawings, and other contract documents are on file at the SMRD Field Office, 1419 Third Street, Floresville, Texas 78114, and at the County Clerk's Of-

fice, Brewster County Courthouse, 201 West Avenue E, Alpine, Texas 79831. The complete bid package may be obtained for the cost of reproduction by contacting the commission.

Bidders will be required to provide bid security, performance bonds, and payment bonds. Also, 10% of the contract price will be retained for six months from the date the work is completed to assure correction of defective work discovered during such time. Bidders shall be required to submit bidder's qualification forms concurrent with or prior to the opening of bids.

The commission reserves the right to reject any or all bids, to waive formalities, and in case of ambiguity or lack of clarity in stating proposal prices, to adopt such interpretation as may be most advantageous to the commission. No bid may be withdrawn until expiration of 60 days from the date bids are opened.

Anyone interested in submitting a bid is required to attend the prebid conference to be held at the site, beginn-

ing at 10 a.m. on Wednesday, January 8, 1986. For further information, write to: J. Randel (Jerry) Hill, Director, Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress, Austin, Texas 78701, Attn: Terlingua AML Project.

Issued in Austin, Texas, on December 20, 1985.

TRD-8512134 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Filed: December 20, 1985
For further information, please call (512) 463-7149.

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Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On December 9, 1985, the savings and loan commissioner received an application for approval of the acquisition of control of Savings and Loan Association, Port Lavaca, by Manual J. Nechos, Houston; Doris Fondren Belton, Houston; Donald L. Bonham, Houston; Robert Edwin Allday, Houston; Judith Scott Johnson, Austin; Walter Fondren Allday, Houston; Robert E. Johnson, Jr., Austin; Mary Doris Allday, Houston; James C. Niver, Houston; Jeanette Ann Allday, Houston; Robert Edwin Allday, Houston; Ellanor Catherine Allday, Houston; Joseph Scott Allday, Houston; James W. Hargrove, Houston.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca Street, Austin, Texas 78701, (512) 475-7991.

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

TRD-8512071 Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Filed: December 19, 1985
For further information, please call (512) 475-7991.

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Texas Water Commission Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Rockwool Industries, Inc. on December 18, 1985, assessing \$5,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting J. D. Head, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on December 19, 1985

TRD-8512127 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: December 20, 1985
For further information, please call (512) 463-7898.

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