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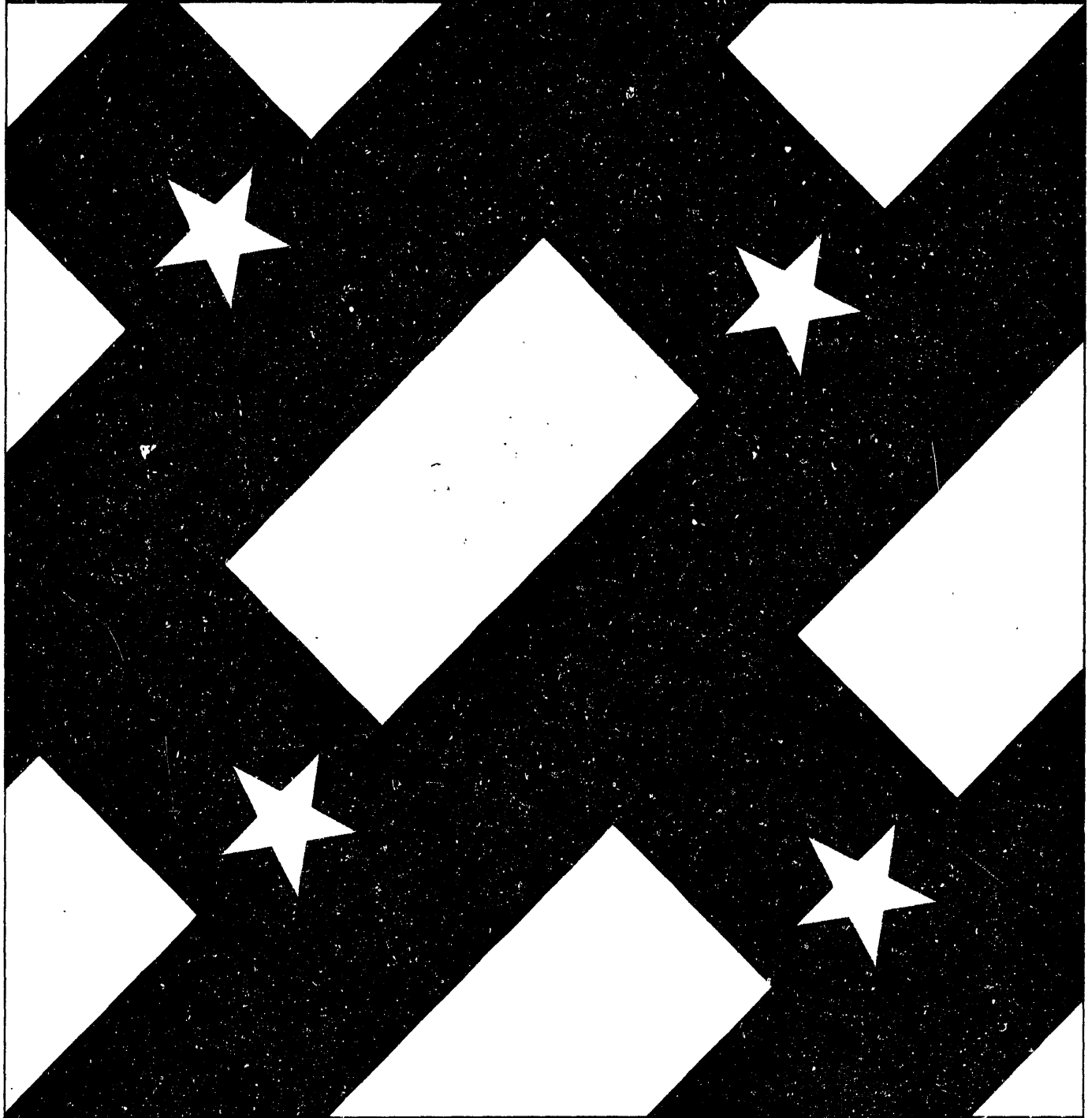
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# Texas Register

Volume 11, Number 13, February 18, 1986

Pages 879-924



### Highlights

The **Texas State Board of Pharmacy** proposes a section clarifying regulations concerning pharmacy license qualifications. Earliest possible effective date - March 21... **page 888**

The **Texas Water Commission** proposes sections concerning levee improvements, district plans,

and other improvements. Earliest possible effective date - March 21..... **page 891**

The **State Soil and Water Conservation Board** proposes new sections concerning agricultural water conservation. Earliest possible date of adoption - March 21..... **page 897**

**Office of  
the Secretary  
of State**

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1986 with the exception of June 24, September 2, December 2, and December 30 by the Office of the Secretary of State.

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**Information Available:** The 11 sections of the *Register* represent various facets of state government. Documents contained within them include:

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

**How To Cite:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "11 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 11 TexReg 3."

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

## Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

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

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

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

a division of the  
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# The Governor

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

## Appointments Made February 5

### Texas School for the Blind

For a term to expire January 31 1991:

Don Welch  
1222 Commerce, #911  
Dallas, Texas 75202

Mr. Welch is replacing Thomas Baird of Temple, whose term expired.

### Texas Health and Human Services

For a term to continue at the pleasure of this governor:

Deann Friedholm  
1512 Hardouin Avenue  
Austin, Texas 78703

Ms. Friedholm is replacing Lynn Hollingsworth Levery of Austin, who resigned.

### Teachers Retirement System

For a term to expire August 31, 1991:

Edward H. Wicker  
P.O. Box 880  
Beeville, Texas 78102

Mr. Wicker is being reappointed.

Issued in Austin, Texas, on February 5, 1986.

TRD-8601392      Mark White  
Governor of Texas

## Appointments Made February 6

### Brazos Santiago Pass, Bar, and Tributaries

For a term to expire November 30, 1989:

Newton R. Prohaska  
27 Alberta Drive  
Brownsville, Texas 78521

Captain Prohaska is being reappointed.

### Advisory Board of Athletic Trainers

For a term to expire January 31, 1989:

Cynthia Louise Raines  
6306 Normandy  
El Paso, Texas 79925

Ms. Raines is replacing Louis Grevelle of Lubbock, whose term expired.

### Texas Board of Land Surveying

For a term to expire February 10, 1987:

C. B. Thomson  
301 West Redbud  
Junction, Texas 76849

Mr. Thomson is replacing W. T. Satterwhite of Dallas, who resigned.

## Texas State Library and Archives Commission

For a term to expire September 28, 1991:

Price Daniel, Sr.  
P.O. Box 789  
Liberty, Texas 77575

Governor Daniel is being reappointed.

## Pan American University

For terms to expire August 31, 1991:

Haracio L. Barrera  
855 East Harrison  
Brownsville, Texas 78520

Mr. Barrera is replacing Rodolfo E. Margo of Weslaco, whose term expired.

Homer H. Scott  
P.O. Box 444  
Mission, Texas 78582

Mr. Scott is replacing Robert Shepard of Harlingen, whose term expired.

Issued in Austin, Texas, on February 6, 1986.

TRD-8601392      Mark White  
Governor of Texas



# 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.

### State Board of Insurance Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.)*

*The board's action on an emergency matter may be effective for 120 days and is renewable one time for a period not exceeding 60 days immediately following the 120-day period.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance considered a filing by the Surety Association of

America, or rates and bond form for public displays of fireworks.

House Bill 1955, 69th Legislature, 1985, provides for the licensing and bonding of persons putting on public displays of fireworks.

The law, §15, provides that an applicant for public display license or permit must submit to the state fire marshal:

(1) proof of policy of public liability insurance in an amount of not less than \$300,000; or

(2) a surety bond in an amount of not less than \$100,000 executed by a surety company authorized to do business in the state, conditioned on the payment of all sums that the license or permittee becomes legally obligated to pay as a result of injury caused by the public fireworks display.

A rate of \$10 per M per Annum on the penalty of the bond and \$5.00 per M on the bond penalty for bonds in force less than one-half year is filed.

The filed rates are neither excessive, inadequate, nor unfairly discriminatory.

It is the board's opinion and the board finds this filing should be approved as an emergency filing under the Insurance Code, Article 5.97, §(j), as there is a clear and compelling necessity that immediate action be taken to permit issuance of these bonds in compliance with §15 of the Fireworks Rules and the Insurance Code, Article 5.43-4. That provision and article requires the applicant obtain a license or permit from the state fire marshal. This form and rates will permit the applicant to comply with statutory law.

This filing is effective 120 days from and after the date of its filing for publication in the Office of the Secretary of State.

Issued in Austin, Texas, on February 12, 1986.

TRD-8601478

Nicholas Murphy  
State Board of  
Insurance

Effective date: February 12, 1986  
Expiration date: June 13, 1986  
For further information, please call  
(512) 463-6327.

★ ★ ★



# 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 22. EXAMINING BOARDS Part XV. Texas State Board of Pharmacy Chapter 291. Pharmacies All Classes of Pharmacy ★ 22 TAC §291.1

The Texas State Board of Pharmacy proposes the repeal of §291.1, concerning all classes of pharmacy. The section addressing the requirements to obtain a pharmacy license application is proposed for repeal, and a new section addressing these requirements is simultaneously proposed for permanent adoption.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, 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. Brinkley 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 further ensure the safety, health, and welfare of the public by specifying the procedures to be followed for the registration and licensing of pharmacies. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4542a-1, §§29-32, which provide the Texas State Board of Pharmacy with the authority to specify the procedure to be followed for the proper registration of pharmacies, renewal of pharmacy licenses, and notification of changes.

### §291.1. *Application Form.*

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 February 7, 1986.

TRD-8901466

Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Earliest possible date of adoption:  
March 21, 1986  
For further information, please call  
(512) 478-9827.

★ ★ ★

### ★ 22 TAC §291.1, §291.2

The Texas State Board of Pharmacy proposes new §291.1 and §291.2, concerning all classes of pharmacy. These proposed sections clarify regulations concerning the qualifications for obtaining a pharmacy license and outline procedures if a pharmacy closes.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, 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. Brinkley 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 further ensure the safety, health, and welfare of the public by specifying the procedures to be followed for the registration and licensing of pharmacies. The anticipated economic cost to individuals who are required to comply with the proposed sections will be a fee of \$100 each year in 1986-1990.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 4542a-1, §§29-32, which provide the Texas State Board of Pharmacy with the authority to specify the procedure to be followed for the proper registration of pharmacies, renewal of pharmacy licenses, and notification of changes.

### §291.1. *Pharmacy License Application.*

(a) To qualify for a pharmacy license, the applicant must submit an application including the following information:

- (1) name and address of pharmacy;
- (2) type of ownership;
- (3) names and addresses of all owners; if a partnership or corporation, the name, title, and address of managing officers;

(4) name and license number of the pharmacist-in-charge and of other pharmacists employed by the pharmacy;

- (5) anticipated date of opening;
- (6) copy of lease agreement or alternatively, a notarized statement signed by the lessee and lessor certifying the existence of a lease agreement, or if the location of the pharmacy is owned by the applicant, a notarized statement certifying such location ownership;

(7) the signature of the pharmacist-in-charge;

(8) the notarized signature of the owner, or if the pharmacy is owned by a partnership or corporation, the notarized signature of an executive officer; and

(9) any other information requested on the application.

(b) A fee of \$100 will be charged for the issuance of a pharmacy license.

§291.2. *Closed Pharmacies.* The pharmacist-in-charge of a pharmacy that ceases to operate as a pharmacy, shall within 10 days of the cessation of operation, forward to the board a written notice of the closing which includes the following information:

- (1) the date of closing;
- (2) the license issued to the pharmacy;

(3) a statement attesting that an inventory of all controlled substances on hand has been conducted; and

(4) a statement attesting to the manner by which the dangerous drugs and controlled substances possessed by the pharmacy were transferred or disposed.

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 February 7, 1986.

TRD-8601465 Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Earliest possible date of adoption:  
March 21, 1986  
For further information, please call  
(512) 478-9827.

★ ★ ★

★ 22 TAC §291.4

The Texas State Board of Pharmacy proposes the repeal of §291.4, concerning requirements for a change of location of a pharmacy. The repeal is proposed simultaneously with new §291.4, which covers the same substantive area.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, 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. Brinkley 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 ensure the safety, health, and welfare of the public by specifying the procedures to be followed for the registration and licensing of pharmacies. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4542a-1, §§29-32, which provide the Texas State Board of Pharmacy with the authority to specify the procedure to be followed for the proper registration of pharmacies, renewal of pharmacy licenses, and notification of changes.

§291.4. *Change of Location.*

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 February 7, 1986.

TRD-8601464 Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
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For further information, please call  
(512) 478-9827.

★ ★ ★

★ 22 TAC §291.4

The Texas State Board of Pharmacy proposes new §291.4, concerning the change of location of a pharmacy. This new section specifies requirements for an amended pharmacy license when a pharmacy changes its location. The proposal also specifies a fee of \$20 for the issuance of the amended license.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government as a result of enforcing or administering the section. There will be an estimated increase in revenue of \$2,440 each year in 1986-1990. There will be no fiscal implications for local government or small businesses as a result of enforcing or administering the section.

Mr. Brinkley 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 ensure the safety, health, and welfare of the public by specifying the procedures to be followed for the registration and licensing of pharmacies. The anticipated economic cost to individuals who are required to comply with the proposed section will be a \$20 fee each year from 1986-1990 to amend the license for a change of location of a pharmacy.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 4542a-1, §§29-32, which provide the Texas State Board of Pharmacy with the authority to specify the procedure to be followed for the proper registration of pharmacies, renewal of pharmacy licenses, and notification of changes.

§291.4. *Change of Location.* When a pharmacy changes location, the following is applicable.

(1) A new completed pharmacy application containing the information outlined in §291.1 of this title (relating to Pharmacy License Application), must be filed with the board within 10 days of the change of location of the pharmacy.

(2) The previously issued license must be returned to the board office.

(3) An amended license reflecting the new location of the pharmacy will be issued by the board.

(4) A fee of \$20 will be charged for issuance of the amended license.

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 February 7, 1986.

TRD-8601463 Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

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March 21, 1986  
For further information, please call  
(512) 478-9827.

★ ★ ★

★ 22 TAC §§291.5-291.7, 291.17

The Texas State Board of Pharmacy proposes amendments to §§291.5-291.7 and 291.17, concerning all classes of pharmacy. These proposed amendments outline procedures if a pharmacy changes ownership, name, or pharmacist employment, and lower the fee for a change of name from \$100 to \$20. The amendment to §291.17 also outlines procedures to follow when a pharmacy closes.

Fred S. Brinkley, Jr., R.Ph., executive director/secretary, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government as a result of enforcing or administering the section. Based on approximately 41 pharmacy name changes per year, the effect on state government will be an estimated loss in revenue of \$3,280 each year in 1986-1990. There will be no fiscal implications for local government or small businesses as a result of enforcing or administering the section.

Mr. Brinkley 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 ensure the safety, health, and welfare of the public by specifying the procedures to be followed for the registration and licensing of pharmacies. The anticipated economic cost to individuals who are required to comply with the proposed section will be a \$20 fee each year from 1986-1990 for the change of name of pharmacy.

Comments on the proposal may be submitted to Fred S. Brinkley, Jr., R.Ph., Executive Director/Secretary, 211 East Seventh Street, Suite 1121, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4542a-1, §§29-32, which provide the Texas State Board of Pharmacy with the authority to specify the procedures to be followed for the proper registration of pharmacies, renewal of pharmacy licenses, and notification of changes.

§291.5. *Change of Ownership [Owner-Closed Pharmacies].*

(a) When a pharmacy changes ownership, a new/completed pharmacy application must be filed with the board and the [old]

license issued to the previous owner shall be returned to the board [board's office].

(b) The new application shall include the following information:

(1) the name and address of pharmacy;

(2) the type of ownership;

(3) the names and addresses of all owners; if a partnership or corporation, the name, title, and address of managing officers;

(4) the name and license number of the pharmacist-in-charge and of other pharmacists employed by the pharmacy;

(5) a copy of lease agreement or alternatively, a notarized statement signed by the lessee and lessor certifying the existence of a lease agreement, or if the location of the pharmacy is owned by the applicant, a notarized statement certifying such location ownership;

(6) a copy of the purchase contract or mutual agreement between the buyer and seller, or a notarized statement of intent to convey ownership signed by both the buyer and seller, stating the proposed date of ownership change;

(7) the signature of the pharmacist-in-charge;

(8) the notarized signature of the owner, or if the pharmacy is owned by a partnership or corporation, the notarized signature of an executive officer; and

(9) any other information requested on the application.

(c) A fee of [not to exceed] \$100 will be charged for issuance of a new license [effective for the 1983-1984 renewal cycle. Closed pharmacies must remit their pharmacy license to the board's office within 10 days].

**§291.6. Change of Name.** When a pharmacy changes name, the following is applicable.

(1) A new completed application containing the information outlined in §291.1 of this title (relating to Pharmacy License Application), must be filed with the board within 10 days of the change of name of the pharmacy [and the old license returned to the board's office].

(2) The previously issued license must be returned to the board's office.

(3) An amended license reflecting the new name of the pharmacy will be issued by the board.

(4) A fee of \$20 [not to exceed \$100] will be charged for issuance of the amended [a new] license [effective for the 1983-1984 renewal cycle].

**§291.7. Change of Pharmacist Employment [or Pharmacists].**

(a) When a change in pharmacist employment [or pharmacists] occurs, the pharmacist shall report such change in writing to the board within 10 days. The pharmacist-in-charge shall delete or enter the [new pharmacist's or pharmacists'] name of the pharmacist changing employment [will be entered] on the license of such pharmacy [per-

mit. This change or changes must be sent to the board's office. No fee will be charged].

(b) If the change of employment is the pharmacist-in-charge of a Class A or C pharmacy, the following is applicable.

(1) On the date of the change of employment of the pharmacist-in-charge, an inventory of the following controlled substances shall be taken:

(A) all Schedule II controlled substances;

(B) all dosage forms containing pentazocine (Talwin);

(C) all dosage forms containing phentermine (Ionamin, Fastin, Adipex-P, etc.);

(D) all dosage forms containing diazepam (Valium);

(E) all dosage forms containing phendimetrazine (Bontril, Plegine, Prelu-2, etc.); and

(F) all oral liquid dosage forms containing codeine.

(2) Such inventory shall constitute for the purpose of this section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge.

(3) A statement attesting that such inventory has been conducted, bearing the date of the inventory and the signature of the departing and incoming pharmacists-in-charge, shall be submitted to the board within 10 days from the date of the change of pharmacist-in-charge.

**§291.17. Controlled Substances Inventory Requirements.**

(a)-(c) (No change.)

(d) Closed pharmacies. The pharmacist-in-charge of a Class A or C pharmacy that ceases to operate as a pharmacy, shall forward to the board within 10 days of the cessation of operation, a statement attesting that an inventory of the controlled substances on hand has been conducted, the date of closing, and a statement attesting the manner by which the [copy of the records used to legally transfer or otherwise dispose of] controlled substances possessed by such pharmacy were transferred or disposed.

(e)-(f) (No change.)

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

Issued in Austin, Texas, on February 7, 1986.

TRD-8601462

Fred S. Brinkley, Jr.  
Executive Director/  
Secretary  
Texas State Board of  
Pharmacy

Earliest possible date of adoption:

March 21, 1986

For further information, please call  
(512) 478-9827.

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IX. Texas Water Commission

#### Chapter 301. Levee

##### Improvement Districts, District Plans of

##### Reclamation, and Levees and Other Improvements

#### Subchapter A. General Provisions

##### ★31 TAC §§301.1-301.7

The Texas Water Commission proposes new §§301.1-301.7, 301.20-301.23, 301.31-301.45, 301.51-301.56, 301.61-306.63, 301.71-301.74, and 301.81, concerning levee improvement districts, district plans of reclamation, and levees and other improvements. This chapter is made up of general provisions relating to interpretation of legislative authority, definitions, approvals required, provisions relating to levee improvement districts, approval of district plans of reclamation, approval of preliminary and final plans for levees and other improvements, notice and hearing, unauthorized levees and other improvements, and provisions concerning fees, most of which are derived from Chapter 315 of the former rules of the Texas Department of Water Resources. The new sections make significant changes in the former rules in the following regards: fees are addressed, compaction effort and optimum moisture content requirements on final plans submitted to the executive director are specified, submittal of final plans and submittal of proof of ownership or right to construct prior to commencement of construction are required, monthly construction progress reports and as-built plans are required, and a maintenance agreement/program with budget is required.

Subchapter A concerns interpretation of legislative authority, definitions, authority to go on land, commission approvals required, and injunction against violations or threatened violations.

Subchapter B contains procedures concerning formation of a levee improvement district, the filing of a report with the county commissioner's court by a representative of the executive director, procedures subsequent to formation of a district, including the application of the proposed district plan of reclamation with the Texas Water Commission, and the commission decision, appeal procedure, and data required to be submitted with the application.

Subchapter C concerns application for approval of preliminary engineering plans for levees and other improvements by levee improvement districts and other persons, purpose of preliminary plans, general data to be submitted, flood data required, illus-

tration of pertinent features required, criteria for approval, additional information which may be required by the executive director, requirement that plans bear the seal of a registered engineer, referral of application to commission, and procedures subsequent to approval of preliminary plans, including final approval by the executive director of final engineering plans and criteria for approval of final plans. The subchapter also includes provisions concerning time during which construction must begin, construction progress reports, maintenance of records, inspection and report, plan and specification changes and amendments, non-compliance with approved plans and specifications, and as-built plans.

Subchapter D addresses contents of notice of application and commission approval, procedures for notice of application by mail and by publication, action on the application without public hearing, request for public hearing, procedures for publication of notice of public hearing, and notice of remanded hearing.

Subchapter E concerns construction of levees and other improvements without authorization, removal of levees and other improvements, and emergency action.

Subchapter F addresses fees required and payable to the executive director and examples of applications subject to fees.

Subchapter G addresses filing requirements prior to approval of bonds.

Ms. Bobbie J. Barker, chief fiscal officer, 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.

Ms. Barker 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 a clearer understanding or, and effective enforcement of the policy of the commission regarding drainage and reclamation activities, the collection of fees in amounts determined by the legislature to represent reasonable and necessary charges, and efficient and expeditious processing of applications for approval of plans and reports. 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 Wade Russell, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

These new sections are proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

**§301.1. Interpretation of Legislative Authority.** The legislature of the State of Texas has manifested an intention to protect the public interest by establishing a centralized and coordinated method for planning and review of drainage and reclamation activity. The legislature has demonstrated such an intent by causing levees or other improvements and levee improvement district plans of reclamation and associated projects to be subject always to the supervision of a central statewide authority. It is the purpose of the Texas Water Commission pursuant to the Texas Water Code, Chapters 5, 16, and 57, to implement this policy by the promulgation of these sections.

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

**As-built plans**—The engineering plans and specifications for levees or other improvements which reflect the structures as actually built, for which preliminary plans and final plans were approved, and which are submitted to the executive director of the Texas Water Commission for his issuance of notice of final approval.

**Final plans**—The final engineering plans and specifications for levees or other improvements submitted to the executive director of the Texas Water Commission for his approval subsequent to commission approval of preliminary plans.

**Levee improvement district or district**—Any levee improvement district organized under the provisions of The Texas Water Code, Chapter 57.

**Levee(s) or other improvement(s)**—Any levee or other improvement, including channel improvements, drainage works, or other projects on, along, or near any stream in this state that is subject to floods, freshets, or overflows and is constructed to control, regulate, or otherwise change the floodwater of the stream. However, the term does not include:

(A) levees or other improvements for which approval by the Texas Water Commission is not required pursuant to the Texas Water Code, §16.236;

(B) bridges, culverts, and roads that are not designed or constructed with the primary purpose to and that do not significantly control, regulate, or otherwise change the floodwaters of a stream;

(C) drainage works which do not directly connect to a stream;

(D) projects which, when completed, will receive runoff from an area of less than five square miles measured to the lowest point of construction;

(E) fences;

(F) cutting, clearing, or removing vegetation; and

(G) levees and landfills located within the 100-year flood-fringe area, as defined in clauses (i)-(iv) of this subparagraph, as determined by a registered profes-

sional engineer using the United States Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the executive director of the Texas Water Commission.

(i) 100-year flood—the peak flood discharge of a stream, based upon statistical data, which would have a 1.0% chance of occurring in any given year.

(ii) 100-year flood fringe—that area of the 100-year floodplain outside the 100-year floodway.

(iii) 100-year floodplain—that area along a stream during the time the stream is subject to the statistical 100-year flood, as determined by a registered professional engineer using the United States Army Corps of Engineers Hydrologic Engineering Center I and II procedures or other standard procedure acceptable to the executive director of the Texas Water Commission.

(iv) 100-year floodway—the channel of a stream and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot.

**Plan of reclamation**—The proposed plan of reclamation after approval by the Texas Water Commission.

**Preliminary plans**—The preliminary engineering plans and specifications for levees or other improvements submitted for approval by the Texas Water Commission pursuant to Texas Water Code, Chapter 16.

**Proposed plan of reclamation**—The application filed by a levee improvement district for approval by the Texas Water Commission, which is composed of the district engineer's reclamation report (termed "engineer's report" in the Texas Water Code, §57.154) which shall include conceptual and economic data, maps, and profiles of results of land surveys, and which may include preliminary plans and specifications for levees or other improvements.

**§301.3. Authority To Go On Land.** Representatives of the executive director of the Texas Water Commission may enter any land or go on any water with appropriate equipment for the purpose of surveillance and inspection with reference to the proposed location of levees or other improvements.

**§301.4. Approvals Required.** In accordance with the Texas Water Code, Chapters 16 and 57, the approvals set forth in paragraph (1) and (2) of this section required:

(1) the approval of the Texas Water Commission for the following:

(A) levee improvement district proposed plans of reclamation. The procedure for submission and approval of district proposed plans of reclamation is set forth in §301.5 of this title (relating to Proposed Plan of Reclamation) and §301.6 of this title (relating to Preliminary Plans Not in Proposed Plan of Reclamation) and in §§301.21-301.23 of this title (relating to Levee Im-

provement Districts and Approval of District Plans of Reclamation);

(B) preliminary plans for construction of levees or other improvements. The procedure for submission and approval of preliminary plans is set forth in §301.6 of this title (relating to Preliminary Plans Not in Proposed Plan of Reclamation) and in §§301.31-301.46 of this title (relating to Approval of Levees and Other Improvements);

(2) the approval of the executive director for final plans for levees and other improvements. The procedure for submission and approval is set forth in §301.38 of this title (relating to Procedures Subsequent to Approval of Preliminary Plans).

**§301.5. Proposed Plan of Reclamation.** A levee improvement district's proposed plan of reclamation should include preliminary plans for levees or other improvements. The commission may consider approval of a proposed plan of reclamation and related preliminary plans for levees and other improvements in one proceeding. Preliminary plans so included must comply with §§301.31-301.46 of this title (relating to Approval of Levees and Other Improvements). If so submitted and approved by the Texas Water Commission as the district's plan of reclamation, the district may proceed to submission of final plans to the executive director pursuant to §301.38 of this title (relating to Procedures Subsequent to Approval of Preliminary Plans).

**§301.6. Preliminary Plans Not in Proposed Plan of Reclamation.** If preliminary plans for levees or other improvements were not included in the approved plan of reclamation, prior to commencement of construction of any such works, the district must comply with §§301.31-301.46 of this title (relating to Approval of Levees and Other Improvements) and §§301.51-301.56 of this title (relating to Notice and Hearing). The district may omit preliminary plans for particular structures from the proposed plan of reclamation if, in the opinion of the executive director of the Texas Water Commission, omission of the preliminary plans from the proposed plan of reclamation, due to size of the district or otherwise, would result in more efficient handling of the application.

**§301.7. Injunction and Monetary Penalties.** Pursuant to the Texas Water Code, §16.236(b) and (c), the executive director of the Texas Water Commission may request the attorney general to file suit in a district court of Travis County to enjoin any such violation or threatened violation of the Texas Water Code, §16.236, to seek monetary penalties, or both.

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 February 11, 1986.

TRD-8601483

James K. Rourke, Jr.  
General Counsel  
Texas Water Commission

Earliest possible date of adoption:

March 21, 1986

For further information, please call  
(512) 463-8069.

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## Subchapter B. Levee Improvement Districts and Approval of District Plans of Reclamation

### ★31 TAC §§301.21-301.23

These new sections are proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

#### **§301.21. Procedures Concerning Formation of District.**

(a) Levee improvement districts to which this subchapter applies are formed in accordance with the procedures set forth in the Texas Water Code, Chapter 57.

(b) Upon petitioning the county commissioner's court for the creation of the district pursuant to the Texas Water Code, Chapter 57, and giving the notice required by the Texas Water Code, §57.015, the person or persons petitioning the county commissioner's court shall file with the executive director of the Texas Water Commission notice of the hearing before the county commissioner's court on the creation of the district. The notice shall state that the petition has been filed with the appropriate county commissioner's court and shall include a statement of the petition's general purpose and the time and place of the hearing.

(c) In accordance with the Texas Water Code, §57.016, a representative of the executive director of the Texas Water Commission shall attend the hearing before the county commissioner's court on the petition to create the district and shall file a written report with the county commissioner's court concerning the necessity, feasibility, probable costs of reclaiming the land of the district from overflow and of draining it properly, and costs of organizing the district and maintaining it for two years. The executive director shall furnish the county commissioner's court with any additional information that is required.

#### **§301.22. Procedures Subsequent to Formation of District; Applications for Approval of District Plans of Reclamation.**

(a) The proposed plan of reclamation of a levee improvement district, which must be approved by the Texas Water Commission, is considered an application for which fees are payable pursuant to §§301.71-301.74 of this title (relating to Fees). The district

shall file the application for approval with the executive director. The proposed plan of reclamation shall contain a report prepared by the district's engineer, which shall include maps and profiles of results of a survey of the land inside the boundaries of the district and land surrounding the district, conceptual and economic data, and the engineer's recommendations of levees or other improvements to reclaim the land.

(b) The procedures set forth in §301.37 (a) of this title (relating to Referral of Application to Commission) shall apply to proposed plans of reclamation.

(c) Mail notice of application, publication of notice of application, publication of notice of hearing, and notice of remanded hearing for proposed plans of reclamation shall be made in accordance with the procedures set forth in §§301.51-301.56 of this title (relating to Notice and Hearing).

(d) The executive director of the Texas Water Commission shall examine the proposed plan of reclamation and shall recommend approval, disapproval, or modification to the commission. The commission shall consider the executive director's recommendation at a commission meeting and shall issue an order approving, approving with modifications, or disapproving the proposed plan of reclamation. If approved, the plan shall then be termed "the plan of reclamation."

(e) The appeal procedure on the commission decision to approve or disapprove the proposed plan of reclamation set forth in the Texas Water Code, §57.094, shall be followed with regard to the appeal of a decision by the Texas Water Commission approving or disapproving a proposed plan of reclamation.

**§301.23. Data Required for Applications for Proposed Plans of Reclamation and Criteria Applicable to Proposed Plans of Reclamation.** The data set forth in §301.33(a) and (b)(1) of this title (relating to Data To Be Submitted), §301.34(a)(1)-(5) of this title (relating to Criteria For Approval of Preliminary Plans), and §301.35 of this title (relating to Additional Information) must be submitted with applications for approval of proposed plans of reclamation. To the extent applicable pursuant to §301.5 and §301.6 of this title (relating to Proposed Plan of Reclamation), and §301.6 of this title (relating to Preliminary Plans Not in Proposed Plan of Reclamation), the criteria set forth in §301.33(b)(2) and (c) of this title (relating to Data To Be Submitted), §301.34(6) of this title (relating to Criteria For Approval of Preliminary Plans), and §301.36 of this title (relating to Plans To Bear Seal of Engineer), shall apply to proposed plans of reclamation.

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

Earliest possible date of adoption:

March 21, 1986

For further information, please call  
(512) 463-8069.



## Subchapter C. Approval of Levees and Other Improvements

### ★ 31 TAC §§301.31-301.46

These new sections are proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

**§301.31. Application for Approval of Preliminary Plans For Levees and Other Improvements.** Any person who seeks approval of the Texas Water Commission required by the Texas Water Code, §16.236, for construction of any levee or other improvement shall file an application with the executive director of the commission, together with a set of preliminary plans for the levee or other improvement, in duplicate. The preliminary data so submitted must be in sufficient detail to permit the executive director to evaluate the project. Ordinarily, existing maps and information are adequate for the development of acceptable preliminary plans without the necessity of extensive site clearing or detailed surveys. The application and preliminary plans must comply with §301.51-301.56 of this title (relating to Notice and Hearing). When a levee improvement district has submitted preliminary plans as a part of the district's proposed plan of reclamation, and such plans and the proposed plan of reclamation have been approved by the commission in one step as provided in §301.5 of this title (relating to Proposed Plan of Reclamation), the district shall proceed to the steps set forth in §301.38 of this title (relating to Procedures Subsequent to Approval of Preliminary Plans).

**§301.32. Purpose of Preliminary Plans.** The purpose of the preliminary plans is primarily to allow the executive director to determine whether the project appears safe and is compatible with existing hydraulic conditions in the area. Preliminary plans should clearly reflect the design concept and indicate how the design was developed. Details of project construction are not required to be shown in the preliminary plans. It is the policy of the commission to evaluate the project from preliminary plans in order that the applicant may determine whether the project concept is to be approved prior to the incurring of large expenditures for a complete development of the final plans and specifications.

### **§301.33. Data To Be Submitted.**

(a) The applicant shall submit maps, plats, drawings, computations, and narratives together with the preliminary plans which shall illustrate and describe the following:

(1) the location and extent of the proposed works, including the county or counties affected by the project. When possible, the applicant should satisfy this requirement by submitting a detailed map which can be superimposed by the executive director upon a United States geological survey 7½ minute quadrangle map, or if such is unavailable, on a suitable contour map;

(2) the name and course of the river, stream, or other watercourse, with the direction of flow indicated;

(3) the location and ownership of all existing levees, channels, canals, reservoirs, dams, or other works of similar character indicated by appropriate symbol to differentiate such works from the proposed works;

(4) the location and ownership, including current mailing address of owners, and location, shown by map, of all properties:

(A) lying within any proposed protected area; or

(B) adjacent to the proposed works or which may be affected by the project's alteration of the flood flows of the stream. The purpose of this second requirement is so that all interested property owners may be notified of the application. The applicant, the executive director, and the commission shall liberally construe what areas are potentially affected by the proposed project to ensure that all landowners within the vicinity whose land could be potentially impacted by the proposed project receive notice. Failure of the applicant to adequately provide the information will delay the processing of the application. The executive director may submit an application to the commission for summary dismissal if the applicant refuses to supply this information.

(b) The following flood data is required.

(1) The project design shall be based on a statistical 100-year flood as a minimum where substantial property loss and/or risk of life may be possible. The executive director will review the plans in accordance with the degree of hazard inherent in the proposed project and he may recommend that the project design be based on other than the 100-year flood should only agricultural land (no structures) be involved and no interests other than those of the applicant be affected by the project. Flood level data available from state or federal agencies or other sources supportive of the project design on a statistical basis shall be provided by the applicant to substantiate the selection of design flood frequency and elevation.

(2) The preliminary plans shall demonstrate the effects the proposed project will impose on existing flood conditions. This shall be clearly illustrated by providing sep-

arate design floodwater surface-elevation profiles and design-flood delineations of the floodplain with and without the project in place.

(3) Additional flood water surface-elevation profiles and design-flood delineations of the floodplain should be provided for levee or landfill projects with the project in place and with a comparable levee or landfill on the opposite site of the watercourse.

(c) Preliminary plans of the proposed works must adequately illustrate pertinent features of the project such as planned elevations, profiles, dimensional typical cross-sections, and other features such as outlet works, drains, overflow relief structures, landfills, and roads so that an understandable project concept can be discerned.

**§301.34. Criteria For Approval of Preliminary Plans.** The commission shall use the following criteria and those listed in §301.33 (b) of this title (relating to Data To Be Submitted) in the review and consideration of applications for approval of plans for levees and other improvements.

(1) Structural integrity. Construction must be based upon sound engineering principles. Structural integrity must withstand any waters which the levee or other improvement is intended to restrain or carry, considering all topographic features, including existing levees.

(2) Compatibility with existing hydraulic conditions. Plans must be compatible with the existing hydraulic conditions. Consideration must be given to any possible deleterious effects, such as overtopping or undermining, on any existing system of levees, channel improvements, landfills, structures, or similar improvements, or on adjacent properties. With regard to applications for approval of levees or landfills, plans will be evaluated with a consideration of comparable levee or landfill development on the opposite side of a stream if such do not exist but are plausible.

(3) Safety. Any proposed levee or other improvement must be designed so that it will not increase flooding or divert waters in such a way that any person's life or property will be endangered or subjected to significantly increased flooding. The commission shall not approve plans for levees or other improvements which will significantly increase flood rises on any person's land without that person's consent or which will endanger life or property or create a public hazard.

(4) Rights of third parties to be protected. The rights of third parties affected by a proposed levee or other improvement must be considered. Before approval, the commission shall accordingly give full consideration to the rights of all such parties not otherwise considered under paragraphs (1)-(3) of this subsection.

(5) The commission and the executive director shall assure that, as far as possi-

ble, levees or other improvements shall be designed with primary consideration to the topographic and hydrographic conditions, and in such a manner that each division of a project shall be a complete, united project forming a coordinate part of an ultimately finished series of projects, so constituted that the successful operation of each united project shall coordinate with the successful operation of other projects within the same hydraulic influence.

(6) In addition, a minimum freeboard of three feet above the 100-year design flood hydraulic gradient should be provided where levees furnish protection for urbanized or developing areas. A minimum freeboard of two feet above the 100-year design flood hydraulic gradient, or more frequent flood as may be determined under §301.33 of this title (relating to Data To Be Submitted), should be provided where levees furnish protection for agricultural areas. Reaches of the levee which may be affected by wave buildup from structural features of the project shall require supplemental study to determine if greater freeboard should be provided.

**§301.35. Additional Information.** The executive director may request any additional pertinent information from the applicant which he deems necessary to evaluate the effects of a proposed project before submitting the application to the commission for setting of a hearing.

**§301.36. Plans to Bear Seal of Engineer.** All preliminary plans and other plans which are submitted with an application for approval of a levee or other improvement shall be prepared and signed by a registered professional engineer whose seal shall appear upon or be affixed thereto.

**§301.37. Referral of Application to Commission.**

(a) The processing of the application shall be in accordance with Chapter 281 of this title (relating to Applications Processing). When the executive director has determined that the application is administratively complete under Chapter 281 of this title (relating to Applications Processing) and that the applicant has paid the required fees, he shall refer the application to the chief clerk of the commission for issuance of mail notice of application and commission action in accordance with §301.52 of this title (relating to Notice of the Application By Mail). For the sole purpose of issuing adequate notice, the executive director will include a recommendation to the commission of the area wherein the proposed project(s) which comprise the application would have potential impact based upon the information provided by the applicant, pursuant to §301.33 of this title (relating to Data To Be Submitted), and the executive director's review of that information. The executive director shall also notify the applicant that he has determined that the project is within the commission's jurisdiction.

(b) If the executive director determines that the project is not one which is within the jurisdiction of the commission pursuant to the Texas Water Code, §16.236, he shall so notify the applicant, who shall withdraw the application. If the application is not withdrawn by the applicant within 90 days of the date of mailing of notification of nonjurisdiction, the executive director may forward the application to the commission and recommend that the commission enter an order dismissing the application. The chief clerk shall notify the applicant of the date set for consideration of the recommendation for dismissal.

**§301.38. Procedures Subsequent to Approval of Preliminary Plans.**

(a) Final approval of engineering plans and specifications.

(1) Following approval by the commission of a proposed levee or other improvement pursuant to these sections, the applicant shall submit final engineering plans and specifications to the executive director for his approval prior to beginning construction.

(2) In addition to the submission of final plans, the applicant shall also provide the executive director with proof of ownership or right to construct on the project site prior to beginning construction. Upon his review and approval of the final plans of the applicant, the executive director shall notify the applicant in writing that construction may proceed.

(b) Criteria for approval of final plans. The requirements listed here are to be considered guidelines and may be varied according to the requirements of any particular project at the discretion of the executive director. Final plans for such features as excavated channels or constructed embankments will be reviewed as to their structural integrity in accordance with the degree of hazard inherent with the project.

(1) Normal requirements for final channel excavation plans are as follows.

(A) Information is to be provided to indicate the type and/or classification of the soil to be excavated in the channel according to the unified soil classification system. Depth of exploratory borings shall be to at least five feet below planned channel bottom grade.

(B) Plans shall provide elevations and dimensions for the channel and all structures and appurtenances integral to the project such as protective linings, wingwalls, outlet works, drop inlets, aprons, and riprap.

(C) Unlined channels must be constructed to a non-erosive grade. All channels should be accessible for maintenance or repair.

(D) All concrete placement shall be reviewed for intended use.

(E) Use or disposal of excavated material shall be clearly shown on final plans.

(F) All specifications to be followed by the contractor shall be included with plans submitted.

(G) The applicant must have an acceptable operation and maintenance program and budget.

(2) Normal requirements for final levee or dike construction plans are as follows.

(A) For purposes of review, final plans of dikes and levees will be classified into one or a combination of the following:

(i) the dike that holds back water at all times:

(I) with landfill;

(II) without landfill:

(-a-) high risk protection (dwelling or high value land);

(-b-) low risk protection (agricultural);

(ii) the levee that holds back water only during floods:

(I) with landfill;

(II) without landfill:

(-a-) high risk protection (dwelling or high value land);

(-b-) low risk protection (agricultural).

(B) Normal requirements are to be as follows.

(i) Foundation and borrow source information obtained from exploration will indicate the type and/or classification of the soil according to the unified soil classification system. The borings should be at least to a depth equal to the height of the embankment. In some cases, additional depth of borings may be required. The natural groundwater table elevation shall be given if water is encountered in the borings. The soils to be used shall be relatively impervious and consist of clay and clayey material. At least 15% of the material must pass the #200 sieve and the plasticity index of the material must be above 15. Fill material shall have no stones over six inches in diameter and no organic material (roots, etc.).

(ii) Elevations and dimensions of all proposed structures (levees, dikes, conduits, etc.) including those to be used for drainage shall be noted.

(iii) Lengths and distances between the various components of the system, i.e., lengths of conduits and pipes; distances between dike or levee and natural stream, and borrow area or ditches, shall be noted.

(iv) Compactive effort proposed to be used in project specifications shall be noted. The compactive effort required may vary with the type of dike or levee. The compaction of the material may be obtained by any means that is suitable. The soil shall be compacted to a minimum density of 95% using the standard proctor compaction test at approximately  $\pm 3\%$  optimum moisture content. Fill shall be placed in lifts of not more than 12 inches thick and properly processed, if needed, prior to compaction. Methods to be employed to obtain compaction shall be contained in specifications for the project.

(v) Sides of levees that are to remain exposed shall be adequately protected. Plans shall provide for establishing a protective grass cover or for an alternate

treatment where climate will not support a vegetative cover.

(vi) All pipes and conduits passing through the dike shall have anti-seep collars to increase the percolation path by a minimum of 15%. The immediate area below drainage outfalls shall be protected by riprap or concrete.

(vii) All concrete placements shall be reviewed for intended use.

(viii) The foundation area shall be stripped. Stripping shall include removal of all grass, trees, and surface root systems for the full width of the levee.

(ix) Provision shall be made for an embankment key. Methods employed to control subsurface seepage shall be reviewed in accordance with soil conditions present and with the degree of hazard inherent in the project.

(x) Materials removed by stripping or from the key way shall be used only on the dry side of the finished levee.

(xi) All specifications to be followed by the contractor shall be included with plans submitted.

(xii) The applicant shall formulate and carry out an acceptable operation and maintenance program and budget.

#### **§301.39. Time Limits for Construction.**

(a) The time during which construction must begin and must be completed. The applicant must commence and complete construction of the project approved by the commission within a reasonable time which shall be established by the commission as a condition stated in the commission's approval order. The commission will evaluate the scope of the project in determining the commencement and completion requirements.

(b) Failure to begin or to complete construction. Failure to begin construction or to complete construction within the period specified in the approval order shall be considered violations of the order and shall be grounds for withdrawal of approval.

(c) Resubmission of plans. If construction is not begun within the period specified in the approval order or is not completed within the period specified in the order, the applicant must resubmit his plans to the executive director for review and consideration whether the lapse of time has resulted in changed circumstances which require significant additional requirements or modifications to the order, giving due consideration to the rights of third parties. Such a resubmission is considered an application for extension of time for which fees are payable pursuant to §§301.71-301.74 of this title (relating to Fees). Specifically, the executive director shall consider whether physical changes have occurred or are imminent or planned in the area of potential impact which may have an adverse effect on landowners which is different from that present in the initial approval process and/or which may require significant alterations of the approved plans or significant additional requirements or modifications to the order.

(d) Referral when changed circumstances exist. If the executive director determines that such changed circumstances exist, he shall refer the application to the commission for action in accordance with §301.37 of this title (relating to Referral of Application to Commission).

(e) Recommendation for extension of time. If the executive director determines that such changed circumstances do not exist, he may recommend to the commission an extension of time to begin or to complete construction. Notice shall not again be required in this case. The commission may, for good cause, extend the period to commence or to complete construction.

**§301.40. Notification of Date Work Began; Monthly Reports.** Within 10 days after beginning actual construction of a project, the executive director shall be notified in writing of the date work began. Thereafter, monthly reports of progress shall be forwarded to the executive director by the 10th day of each month during construction. The report shall show the work accomplished during the month, the percentage of time used, and the percentage of completion of the project as of the close-out date of the report. In addition, the report shall show the inclusive dates of the reporting period.

**§301.41. Maintenance of Records.** The owner shall continuously maintain records to ensure compliance with the approved plans and specifications during construction. Copies of these records shall be furnished to the executive director at monthly intervals during the construction period, and must include, but not necessarily be limited to, such items as soil moisture-density test results, and concrete trial batch designs test and compression test results.

**§301.42. Inspection.** Inspection of construction work shall be conducted by a registered professional engineer experienced in the construction of levees and channel modifications and responsible directly to the owner. Continuous daily inspections shall be made and may be delegated to a qualified technician (inspector) provided he or she is under the supervision of the owner's engineer. The executive director may make periodic inspections for the purpose of ascertaining compliance with approved plans and specifications. Such inspections shall be at the expense of the commission. The executive director shall require the owner, at his or her expense, to perform necessary work or tests and to disclose information sufficient to enable the executive director to determine that conformity with approved plans and specifications is accomplished.

**§301.43. Certification by Executive Director.** After approval for the construction of a project has been obtained by the district from the commission, the executive director shall inspect the construction of the project at least once every 60 days after the construction work has commenced, and if he finds

that the work has been done in compliance with the construction contract, he shall certify this fact. The certificate shall give a full description of the work done up to the date of inspection. If the executive director finds that the work has not been done in compliance with the construction contract, he shall officially certify this fact to the district and to the commission. The certificate shall specify how the contractor has failed to comply with the approved plan of reclamation.

**§301.44. Alterations of Final Plans and Specifications.** If after inspection, investigation, or examination, or at any time as the work progresses, the executive director finds that changes or amendments are necessary to ensure safety, he may request the owner to revise his or her plans and/or specifications. Alterations of the plans and specifications must be approved by the executive director before work commences under the changes, except in emergencies requiring immediate action, in which instance the executive director shall be immediately notified. If the proposed alterations would result in deviation from the approved plans, amendment of the approved plans must be obtained from the commission. An application must be submitted for approval of the amendment. If, in the opinion of the executive director, the amendment would have a potential adverse affect on property owners' rights which is materially different from that in the initial approval process, he shall inform the applicant, and notice must again issue in compliance with §§301.51-301.56 of this title (relating to Notice and Hearing).

**§301.45. Failure to Comply With Approved Plans and Specifications.** If at any time during construction, enlargement, repair, or alteration of any levee or channel modification, the executive director finds that the work is not being done in accordance with approved plans and specifications or in accordance with the approved plan of reclamation, he shall give written notice thereof and direct compliance by certified mail to the owner. If the owner fails to comply with the directive, the executive director may take appropriate action to assure compliance. Failure to comply with approved plans and specifications is ground for revocation of the order approving the plan and/or civil penalty as provided by law. The commission may order the structure removed to eliminate any safety hazard to life and property.

**§301.46. As-Built Plans.** Upon submission of as-built construction plans, the applicant shall be provided a notice of final approval in writing if, in the executive director's opinion no significant variance from the approved plans occurs during the course of construction. Thereafter, any enlargement or other modification of the project, including any subsequent rehabilitation or reconstruction of the project in a manner differing in any way from the approved project plans must be submitted to the commission



for approval as a new levee or other improvement pursuant to this chapter.

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

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James K. Rourke, Jr.  
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For further information, please call  
(512) 463-8069.

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## Subchapter D. Notice and Hearing

### ★ 31 TAC §§301.51-301.56

These new sections are proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

**§301.51. Contents of Notice of Application and Commission Action.** The notice of application shall fairly set forth the substance of the application and proposed action. The notice shall include the following:

(1) the exact location of the proposed project under the district's proposed plan of reclamation and/or levees and other improvements as nearly as the same can be described;

(2) the date on which the application was filed with the executive director;

(3) a statement that the executive director has determined that the application is administratively complete;

(4) the applicant's anticipated construction and completion schedule;

(5) the applicant's name and mailing address;

(6) a description of the project which reasonably describes the specific nature and scope of the project, including type of approval applicant is seeking from the commission;

(7) an explanation of the method for submitting a response to the application and/or a written request for a public hearing; and

(8) any additional information the commission deems necessary.

### **§301.52. Notice of the Application By Mail.**

(a) The chief clerk of the commission shall send notice by first class mail to persons listed in subsection (b) of this section and to persons who in the judgment of the commission may be affected. The chief clerk shall mail required notice not less than 30 days before the date set for commission consideration of the application.

(b) The notice shall be mailed to the following:

(1) current landowners named in the application and/or map which accompanies the application as described in §301.33 of this title (relating to Data To Be Submitted);

(2) the county judge(s) and health authorities of the county or counties affected;

(3) the following entities:

(A) the Texas Department of Health;

(B) the Texas Parks and Wildlife Department;

(C) the Texas Railroad Commission;

(D) the Texas State Soil and Water Conservation Board;

(E) the Texas General Land Office;

(F) the Texas Historical Commission;

(G) local river authorities;

(H) the Federal Emergency Management Agency; and

(I) the U.S. Corps of Engineers;

(4) the applicant;

(5) persons who request to be put on the mailing list and participants in past commission proceedings for the district and/or levee(s) or other improvements; and

(6) any other person the commission may include, or the executive director may identify after review of the data submitted as required by §301.33 of this title (relating to Data To Be Submitted).

(c) Failure to mail notice to the entities listed in subsection (b)(3) of this section shall not render notice invalid pursuant to this section invalid.

### **§301.53. Notice of the Application by Publication.**

(a) Upon being notified by the chief clerk of the commission to publish a notice of application and commission action, the applicant shall cause the notice to be published in a newspaper of general circulation in each county wherein the project would have potential impact as set forth in §301.33 of this title (relating to Data To Be Submitted) and §301.52 of this title (relating to Notice of the Application By Mail). Publication in one newspaper is sufficient if the newspaper is of general circulation in each county or counties throughout the area of potential impact.

(b) The date of publication of notice of the application and commission action shall be on or before the date of publication directed by the chief clerk of the commission. In any event, the date of publication shall be not less than 30 days before the date set for commission consideration of the application. The applicant shall pay the costs of publication.

### **§301.54. Action On the Application.**

(a) Action without public hearing. The commission may take action on an application at a regular meeting without holding a public hearing provided:

(1) at least 30 days prior to the regular meeting at which action is taken, notice

of the application and commission action has been given by mail and by publication; and

(2) within the 30-day period after the publication of the notice, no request for a public hearing has been submitted by a commissioner, the executive director, or an affected person who objects to the application.

(b) Request for public hearing.

(1) A request for public hearing under this chapter made by an affected person who objects to the application must be in writing and must be submitted to the commission within 30 days after the publication of the notice of application. The commission may extend the time allowed for submitting a request for public hearing.

(2) The written request shall contain the following information:

(A) the name, mailing address, and phone number of the person making the request;

(B) the application number or other recognizable reference to the application;

(C) a brief description of the interest of the requester, or of persons represented by the requester; and

(D) a brief description of how the application, if granted, would adversely affect such interest.

(3) If the commission determines that the request for public hearing is in substantial compliance with this section, or that a public hearing would serve the public interest, the commission shall conduct a public hearing.

### **§301.55. Publication of Notice of Public Hearing.**

(a) If a public hearing shall be held pursuant to §301.54 of this title (relating to Action On the Application), the applicant shall cause the notice to be published in a newspaper of general circulation in each county wherein the project would have potential impact. Publication in one newspaper is sufficient if the newspaper is of general circulation in each county or counties throughout the area of potential impact.

(b) A notice of hearing shall identify the application, the date, time, place, and nature of the hearing, the legal authority and jurisdiction under which the hearing is to be held, the proposed action, the requirements for submitting written protests, the method for obtaining additional information, and such other information the commission deems necessary.

(c) The date of publication of notice of public hearing shall be on or before the date of publication directed by the commission. In any event, the date of publication of notice of public hearing shall be not less than 30 days before the date set for the public hearing. The applicant shall pay the costs of publication.

**§301.56. Notice of Remanded Hearing.** A hearing on an application which has been remanded by the commission to the office of hearings examiners may be held without the necessity of issuing further notice other

than advising the applicant, executive director, public interest advocate, other parties, and all persons who have in writing notified the commission of their interest in the application of the time and place where the hearing is to convene. The chief clerk of the commission shall mail such notice to these persons not less than 10 days before the date of the hearing.

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

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(512) 463-8069.



### Subchapter E. Unauthorized Levees and Other Improvements

#### ★31 TAC §§301.61-301.63

These new sections are proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

**§301.61. Construction Without Authorization.** If any person, corporation, political subdivision, or other entity has constructed or begun work upon a levee or other improvement for which commission approval is required by the Texas Water Code and this chapter, and if commission approval has not been obtained for such project, the executive director shall immediately notify the person, corporation, political subdivision, or other entity that it is in violation of the Texas Water Code and this chapter, and that unless the project is brought into compliance with the criteria and requirements of the Texas Water Code and this chapter within a period of time determined appropriate by the executive director and stated in such notice, the executive director may request the attorney general or the appropriate court for appropriate remedies under the Texas Water Code. At the expiration of the time period stated in such notice, the executive director may request its legal representative to institute such action in the courts.

**§301.62 Removal or Modification of Levees and Other Improvements.** Removal or modification of a levee and/or other improvement shall be done at the owner's expense, and except for emergency action required to protect lives and property, only after executive director approval. The executive director may require the owner to provide plans and specifications. The executive director

may seek an order from the commission or an injunction through the attorney general and the courts requiring the removal or modification of levees or other improvements which are not authorized by law or which have been determined to pose an unacceptable hazard to lives or property.

**§301.63. Emergency Action.** Emergency orders may be issued, without notice to the owner, directing the owner of a levee or other improvement to take immediate and appropriate action to remedy situations posing serious threat to human life, health, and/or 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.

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(512) 463-8069.



### Subchapter F. Fees

#### ★31 TAC §§301.71-301.74

These new sections are proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

**§301.71. Executive Director to Charge and Collect Fees.** In accordance with the Texas Water Code, §5.235, the executive director shall charge and collect for the benefit of the state the fees hereinafter provided.

**§301.72. Fees Required.** Statutory fees must accompany an application in order for it to be considered. Employees of the commission are expressly prohibited from processing any application unless the proper fees are tendered

**§301.73. Fees To Be Paid.** The following fees shall be submitted with any application required to be filed under this chapter:

- (1) filing fee—\$100;
- (2) recording fee—\$1.25 per page;
- (3) fees for mail notice—the cost of mailing notice of the application to persons in the affected or protected area shall be paid by the applicant. The executive director shall advise the applicant of the number of persons and the mailing cost;

(4) fees for publication of notice of application—the cost of publication of the notice of application in a newspaper of paid circulation, with which the applicant shall arrange publication, which is regularly published and generally circulated in the county or

counties within the proposed affected or protected area, shall be paid by the applicant;

(5) fees for publication of notice of hearing—fees for publication of notice of hearing in a newspaper, with which the applicant shall arrange publication, which is regularly published and generally circulated in the county or counties within the affected or protected area, shall be paid by the applicant.

**§301.74. Examples of Applications Subject to Filing, Recording, and Notice Fees.** The following are examples of applications subject to filing, recording, and notice fees:

(1) application for approval of district plans of reclamation;

(2) application for approval of engineering plans and specifications (preliminary and final plans);

(3) application to amend a plan approval order;

(4) application to alter, enlarge, extend or otherwise change any levee or other improvement;

(5) application for extension of time.

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

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(512) 463-8069.



### Subchapter G. Districts to File Information with Executive Director

#### ★31 TAC §301.81

The new section is proposed under the Texas Water Code, §5.103, which provides the Texas Water Commission with the authority to adopt rules necessary to carry out its powers and duties under the Texas Water Code and the laws of the state.

**§301.81. Districts to File Information With Executive Director.** Immediately before having bonds approved by the attorney general, each drainage district and levee improvement district shall file with the executive director a complete record showing each step in the organization of the district, the amount of bonds to be issued, and a description of the area and boundaries of the district, accompanied by plans, maps, profiles of improvements and the estimates and reports relating thereto prepared by the district's engineer.

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

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## Part XVII. State Soil and Water Conservation Board Chapter 521. Agricultural Water Conservation Board Subchapter A. Technical Assistance Program for Soil and Water Conservation Land Improvement Measures

### ★31 TAC §§521.1-521.11

The Texas State Soil and Water Conservation Board proposes new §§521.1-521.11 concerning agricultural water conservation. The sections implement the Agriculture Code of Texas, Subchapter H, §§201.201-201.204, which creates a program to provide technical assistance to landowners and operators for soil and water conservation land improvement measures and soil and water conservation plans.

James Moore, engineer, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering the sections. The effect on local government will be an estimated additional cost of \$25,000 in 1986, \$30,000 in 1987, and \$50,000 each year in 1988-1990.

Mr. Moore 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 conservation of the state's soil and water 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 Harry Davis, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503.

The new sections are proposed under the Agriculture Code of Texas, Chapter 201.020, which provides the State Soil and Water Conservation Board with the authority to adopt rules as necessary for the performance of its functions under the Agriculture Code of Texas.

**§521.1. Policy Statement.** It is the policy of the State Soil and Water Conservation Board to implement the intent of the 69th Legislature, 1985, and House Bill 2, by developing a program for agricultural soil and water conservation to conserve the state's soil and water resources and provide resulting benefits to all of the state's citizens. In accordance with this purpose, §§521.1-521.11 of this title (relating to Technical Assistance Program for Soil and Water Conservation Land Improvement Measures) are adopted to implement the Agriculture Code of Texas, Subchapter H, §§201.201-201.204.

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

**District**—A soil and water conservation district created under the Agriculture Code of Texas, Chapter 201.

**Executive director**—The executive director of the Texas State and Water Conservation Board.

**State board**—The Texas State Soil and Water Conservation Board created under the Agriculture Code of Texas, Chapter 201.

**Technical assistance**—Technical and professional services and activities deemed necessary by the state board for the development and implementation of soil and water conservation plans and soil and water conservation land improvement measures.

**§521.3. Guidelines.** In accordance with the Texas Water Code §15.435, and the Agriculture Code of Texas, §201.202(b), the state board will give priority in expenditure of funds to those areas of the state, which in the opinion of the board, have the most critical water conservation needs as brought to the attention of the state board, and to the activities, which in the opinion of the state board, will be most likely to produce substantial agricultural soil and water conservation.

**§521.4. Purpose.** In accordance with the Agriculture Code of Texas, §201.202, the state board may provide for technical assistance to landowners and operators for soil and water conservation land improvement measures and soil and water conservation plans developed jointly by landowners and operators and local soil and water conservation districts and endorsed and approved by the state board.

**§521.5. Priorities.** The state board may approve areas within the state where critical soil and water conservation needs are known to the state board to exist and activities that will be most likely in the opinion of the state board to produce substantial soil and water conservation.

**§521.6. Eligible Districts.** In accordance with the Agriculture Code of Texas, §201.203, a district, all or part of which is located within an area approved in accordance with §521.5 of this title (relating to Priorities) may

be considered eligible to administer technical assistance programs under these sections upon presentation of evidence satisfactory to the state board that such district is able to provide and supervise technical assistance to landowners and operators within its jurisdiction subject to availability of funds, and upon justification of the need for funds based upon current fund balances of the district.

**§521.7. Eligible Expenditures.**

(a) Eligible districts, upon approval by the state board, may receive reimbursement for salaries or wages paid to district personnel for performing or being trained to perform technical assistance duties in relation to priorities established under §521.5 of this title (relating to Priorities). Such reimbursements will be limited to the allocations set by the state board. Employment related expenses other than salaries or wages shall be borne by the district.

(b) Other activities approved by the state board under these sections may be eligible for funding.

**§521.8. Applications. Eligible districts may apply for allocations of technical assistance funds under these sections in the manner prescribed by the state board, and shall include such information as required by the state board.**

**§521.9. Approval of Expenditures.** The state board may consider and approve or reject district applications, program expenditures, and fund allocations, giving consideration to the guidelines under §521.3 of this title (relating to Guidelines) and priorities under §521.5 of this title (relating to Priorities), as well as other information deemed necessary by the state board. The state board may adjust eligible expenditures and allocations throughout the year in order to achieve the most efficient use of state funds.

**§521.10. Claims for Reimbursement.** Districts approved by the state board to receive funding under this program shall submit claims for reimbursement in the manner prescribed by the state board.

**§521.11. Priority in Expenditure of Funds.** When requests for funding exceed available funds, the state board will prioritize requests in accordance with the guidelines in §521.3 of this title (Relating to Guidelines).

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 Temple, Texas, on January 16, 1986.

TRD-8601482

Harvey Davis  
Executive Director  
Texas State Soil and  
Water Conservation  
Board

Earliest possible date of adoption:  
March 21, 1986  
For further information, please call  
(817) 773-2250.

**TITLE 40. SOCIAL  
SERVICES AND  
ASSISTANCE**

**Part I. Texas Department of  
Human Services**

**Chapter 47. Primary Home  
Care**

**Claims Payment**

**★40 TAC §47.3905**

The Department of Human Services proposes new §47.3905, concerning vendor holds on payments to providers in its Primary Home Care (PHC) rule chapter. Section 47.3905 notifies PHC providers of the reasons vendor payments can be placed on hold and the conditions for releasing the vendor hold.

The proposed section allows the department to place a vendor hold on payments to a PHC provider when he fails to comply with the terms of his contract, or when he or the department terminates the contract. The vendor hold is released after resolving a close-out audit and other outstanding audit exceptions and/or after completely resolving any contract compliance issues.

Clifton Martin, associate commissioner for programs, has determined that for the first five-year period the section will be in

effect there will be fiscal implications as a result of enforcing or administering the section. The estimated savings to state government will be \$16,719 in fiscal year 1986; \$16,719 in fiscal year 1987; \$16,719 in fiscal year 1988; \$16,719 in fiscal year 1989; and \$16,719 in 1990. There are no fiscal implications for units of local government or small businesses.

Mr. Martin 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 savings in state funds because this rule facilitates collection of outstanding audit recoupments from providers whose contracts have been terminated. 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 Cathy Rossberg, Administrator, Policy Development Support Division-584, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

**§47.3905. Vendor Hold.**

(a) The department may withhold a provider's vendor payments for reasons including but not limited to:

(1) failure to comply with terms of the contract; and

(2) contract termination (voluntary or involuntary).

(b) When a contract is terminated, the department places a vendor hold on one or more of the provider's contracts with the department. The department may accept an irrevocable letter of credit in a format approved by the department to allow the release of all or a portion of vendor payments on hold.

(c) Vendor holds are released after resolving all requested and outstanding audits and/or after completely resolving any contract compliance issues.

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 February 12, 1986.

TRD-8601491

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:

March 21, 1986

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

★ ★ ★

# 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 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 5. Quarantines

##### ★4 TAC §5.304

The Texas Department of Agriculture has withdrawn from consideration for permanent adoption the proposed amendments to §5.304, concerning quarantines. The text of the amended section as proposed appeared in the September 10, 1986, issue of the *Texas Register* (10 TexReg 3417).

Issued in Austin, Texas, on February 12, 1986.

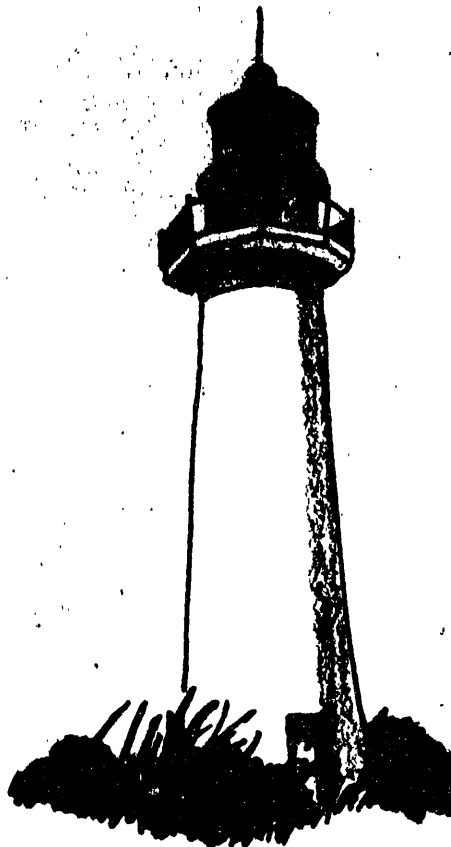
TRD-8801490

Dolores Alvarado Hibbe  
Director of Hearings  
Texas Department of  
Agriculture

Filed: February 12, 1986

For further information, please call  
(512) 463-7583.

★ ★ ★



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part V. Veterans Land Board

#### Chapter 175. General Rules of the Veterans Land Board

##### Waivers

##### ★40 TAC §175.21

The Veterans Land Board has withdrawn from consideration for permanent adoption the proposed amendments to §175.21, concerning general rules of the veterans land board. The text of the amended section as proposed appeared in the December 17, 1985, issue of the *Texas Register* (10 TexReg 3848).

Issued in Austin, Texas, on February 11, 1986.

TRD-8801456

Dan Miller  
Deputy Commissioner  
Veterans Land Board

Filed: February 11, 1986

For further information, please call  
(512) 463-5009.

★ ★ ★

# 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 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

##### Conservation Rules and Regulations

★ 16 TAC §§3.5, 3.11, 3.13-3.15, 3.26, 3.27, 3.45, 3.55, 3.78

The Railroad Commission of Texas adopts amendments to §§3.5, 3.11, 3.15, 3.26, 3.27, and 3.55, with changes to the proposed text published in the October 22, 1985, issue of the *Texas Register* (10 TexReg 4113). Sections 3.13, 3.14, 3.45, and 3.78, are adopted without changes and will not be republished.

The amendments implement recent legislation which requires fees to be filed with the commission for certain applications and exceptions to commission statewide rules. The amendments make clear which sections contain true exceptions for which a fee is required to be filed with the commission. The new §3.78 locates in one section the manner in which the applicant is to pay the fee and upon which applications a fee is required. Sections 3.5, 3.26, and 3.27 contain exceptions to the provisions of the particular section and require a fee for such exception. Sections 3.11, 3.13-3.15, 3.45, and 3.55 do not contain exceptions to the provision of the particular section and thus, will not require a fee to be filed.

Written comments on the proposed amendments were received from at least five companies and/or individuals. In addition, a public hearing was called and attended by at least six individuals, most of whom represented companies listed below.

One commenter suggested that the commission repeal §3.78 requiring a \$50 fee to be filed with NGPA applications. This is a statutory requirement enacted pursuant to House Bill 1593 and not something the commission can repeal or adopt.

Several commenters suggested that the commission clarify in §3.5 that only those cathodic protection wells which penetrate

the case of the fresh water strata should be required to be permitted by the commission. The language in §3.5 was revised to reflect this suggestion.

One association suggested that §3.15 reflect that alternative methods of protecting fresh water be provided for in §3.13. This suggestion was included in §3.15.

One association commented that the exception in §3.27 to allow off lease metering would not include metering gas separately. Since the commission does grant exceptions of this nature, the language in §3.27 was revised to reflect that exceptions may be granted by the commission to allow separate metering.

Comments were received relating to the deletion in §3.55 of the exception which allows alternate testing periods. The comments suggested that eliminating this provision would affect operators who may currently use alternate testing periods. The language in §3.55 was revised to reflect this suggestion.

Inland Ocean, Inc., was against adoption of the proposed amendments. Mitchell Energy Corporation, was for the adoption of the proposed amendments. Texas Mid-Continent Oil and Gas Association; Texas Independent Producers and Royalty Owners Association; Exxon; Conoco; Sun Exploration and Production Company; Cities Service Oil and Gas Corporation; Texaco, Incorporated; Panhandle Eastern; and Amoco Production Company were in favor of adopting the proposed amendments.

The amendments and new section are adopted pursuant to House Bill 1593 which provides the Railroad Commission of Texas with the authority to require certain applications to be accompanied by a fee.

#### §3.5. Rule 5—Application to Drill, Deepen, Plug Back, or Reenter.

(a) An application for a permit to drill, deepen, plug back, or reenter any oil well, gas well, or geothermal resource well, shall be made under the provisions of §3.37 of this title (relating to Statewide Spacing Rule); §3.38 of this title (relating to Well Densities); Rule 37, and/or §3.39 of this title (relating to Conservation Rules and Regulations) or as an exception thereto, or under special rules governing any particular oil,

gas, or geothermal resource field, or as an exception thereto and filed with the commission on a form approved by the commission. Operations of drilling, deepening, plugging back, or reentering shall not be commenced until the permit granted by the commission has been received and the waiting period has terminated.

(b) An application for a permit to drill, deepen, plug back, or reenter any exploratory well, cathodic protection well that penetrates the base of the fresh water strata, fluid injection well, injection water source well, disposal well, brine solution mining well, or underground hydrocarbon storage well shall be made and filed with the commission on a form approved by the commission. Operations for drilling, deepening, plugging back, or reentering shall not be commenced until the permit granted by the commission has been received. For an exploratory well, an exception to filing such form prior to commencing operations may be obtained if an application for a core hole test is filed with the commission.

(c) (No change.)

(d) Plugging bond (Rescinded by Order 20-54,299, dated January 12, 1966. Adopted in Order 20-54,027, effective August 1, 1964, but suspended indefinitely.)

#### §3.11. Rule 11—Inclination and Directional Surveys Required.

(a)-(b) (No change.)

(c) Directional surveys.

(1) when required.

(A) When the maximum displacement indicated by an inclination survey is greater than either the actual distance from the surface location to the nearest lease line, or pooled unit boundary or the normal prescribed spacing distance for a well from a lease line, it will be considered to be a violating well subject to plugging and to penalty action. However, an operator may submit a directional survey run, at his own expense, by a commission approved surveying company to show the true bottom hole location of the well to be within the prescribed limits. When such directional survey shows the well to be bottomed within the confines of the lease, but nearer to a well or lease line or pooled unit boundary than allowed by applicable rules, or by the permit for the well if the well has been granted an exception to §3.37 of this title (relating to Statewide Spac-

ing Rule), a new permit will be required for such bottom hole location if it is established that the bottom hole location is not a reasonable location.

(B) Directional surveys shall be required on each well drilled under the directional deviation provisions of this section.

(C) No oil, gas, or geothermal resource shall be assigned any well on which a directional survey is required under any provision of this section until a directional survey has been filed with and accepted by the commission.

(2) (No change.)

(d)-(f) (No change.)

**§3.15. Rule 15—Surface Casing to be Left in Place.** Unless alternative methods are approved pursuant to §3.13 of this title (relating to Casing, Cementing, Drilling, and Completion of Requirements), fresh water sands are to be protected with surface casing which has been cemented, and such casing shall not be removed from the well at abandonment. This applies to wells drilled by cable tool and rotary rigs alike.

**§3.26. Rules 26—Separating Devices and Tanks.**

(a) (No change.)

(b) If two or more tracts of land (regardless of whether or not the tracts are covered by the same original lease) have their working interests owned by the same parties, have their royalty interests owned by the same parties, and are located in such proximity to each other as to permit under practical operating conditions the running of the oil from all of said tracts into common tankage, the production from said leases may be run into a common tank battery or batteries provided that a permit granted pursuant to an exception allowing the use of common tank battery or batteries shall have first been obtained from the commission. Likewise, where two or more leases have been unitized by an agreement among the owners of the working interests therein and the owners of the royalty interests therein, a permit granted pursuant to an exception for the running of the production of these leases into common tankage may be secured where said leases are located in such proximity to each other as to permit, under practical operating conditions, the running of the oil from all said leases into common tankage, after the commission has been furnished a copy of such unitization agreement. The oil produced from the tracts described in this subsection shall be produced in a manner set out in subsection (a) of this section, but said measurements shall be taken in the aforementioned common tank battery or batteries, in which event the operator shall be required to mark such common battery or batteries so as to show the particular tracts from which oil is being run therein.

(c)-(d) (No change.)

**§3.27. Rule 27—Gas to Be Measured.**

(a) All natural gas produced from wells completed in gas reservoirs shall be accounted for by measurement before the same leaves the lease, each completion to be metered separately, and the producer shall report the volume produced from each completion to the commission. Exceptions to this provision may be granted by the commission upon receipt of written application.

(b) (No change.)

(c) All casinghead gas produced from oil wells and sold, processed for its gasoline content, used in a field other than that in which it is produced, or used in cycling or repressuring operations, shall be accounted for by measurement before the same leaves the lease, and the producer shall report the volume produced to the commission. Exceptions to this provision may be granted by the commission upon receipt of written application.

(d) All casinghead gas produced from oil wells in this state which is not covered by the provisions of subsection (c) of this section, shall be accounted for by measurement or by an accurate estimate before the same leaves the lease, based on its use or on its periodic test, and reported to the commission by the producer. The volume of gas produced by wells exempt from gas/oil ratio surveys must be estimated, based on general knowledge of the characteristics of the wells without the use of periodic test data. It is further provided that it shall not be necessary for a producer to report any casinghead gas produced from a marginal well that is exempt from gas/oil ratio survey, if such gas is not sold or utilized off the lease. Exceptions to this provision may be granted by the commission upon receipt of written application.

(e)-(m) (No change.)

**§3.55. Rule 55—Reports on Gas Wells Commingling Liquid Hydrocarbons before Metering.**

(a)-(c) (No change.)

(d) This section does not purport to alter any procedure for periodic tests of gas wells that has previously been approved by the commission. If test periods agreed upon by the interested parties have not been approved by the commission, and if the periods agreed upon differ from the test periods provided for in this section, alternative testing periods may be approved by the commission upon application.

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 February 10, 1986.

TRD-8601480

Buddy Temple  
Chairman  
Jim Nugent and  
Mack Wallace  
Commissioners

Effective date: March 10, 1986  
Proposal publication date: October 22, 1985  
For further information, please call  
(512) 463-7149.

## Part IV. Texas Department of Labor and Standards Chapter 61. Labor/Licensing and Enforcement Division Subchapter A. Boxing Professional Boxing Rules

★ 16 TAC §§61.1, 61.5, and 61.6

The Texas Department of Labor and Standards adopts §§61.1, 61.5, and 61.6, without changes to the proposed text published in the August 9, 1985, issue of the *Texas Register* (10 TexReg 2985).

The amendments provide a safer environment for a participant in a boxing contest in Texas.

Pursuant to the amendments being adopted, the department will not license a licensed Texas boxing promoter as a manager of a boxer because of an inherent conflict of interest; nor may a licensed boxing promoter be licensed as a second or boxer. Furthermore, if a boxing manager desires to be a boxing promoter in Texas, then the manager must tender his boxing manager's license to the department for cancellation. Also, a matchmaker of boxing contest may not act or be licensed as a boxer's manager.

Weight-in physical examinations prior to a boxing contest usually involve a hectic and active period. To assure that only physically able contestants are being allowed and licensed to box in Texas, a boxing passport which contains the boxer's fight history will become mandatory. Furthermore, an attempt is being made through the issuance of a passport for boxers to establish the integrity of a boxer's contest history.

Avitene and thrombin are being added to the items that may be maintained in a corner during the boxing contest. Boxers participating in boxing exhibitions must also observe the safety provisions of the rules.

Only temporary licenses are to be issued to boxers who do not reside or domicile in Texas. Medical suspensions are to be observed by all boxers, regardless of where their last boxing contest occurred, if the boxer comes into Texas to box.

No comments were received regarding the adoption of the amendments.

The amendments are adopted under the Texas Civil Statutes, Article 8501-1, which provide the commissioner of the Texas Department of Labor and Standards with the authority to promulgate any and all reasonable rules and regulations which may be necessary for the purpose of enforcing the provisions of this Act.

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

Issued in Austin, Texas, on February 10, 1986.

TRD-8801422

Allen Parker, Sr.  
Commissioner  
Texas Department of  
Labor and Standards

Effective date: March 3, 1986

Proposal publication date: August 9, 1985

For further information, please call  
(512) 483-3127.



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 73. Civil Rights Subchapter PP. Hearing Procedure

##### ★40 TAC §73.4110

The Texas Department of Human Services (DHS) adopts an amendment to §73.4110 regarding the effect of an administrative determination of intentional program violation. The amendment is adopted without changes to the proposed text published in the December 20, 1985, issue of the *Texas Register* (10 TexReg 4891).

The justification for the adoption is to clarify that if one hearing is held for several offenses, DHS may impose only one disqualification period.

The section functions as DHS' rule governing determinations of intentional program violation. As amended, the section specifies the number of disqualification periods.

No comments were received concerning the proposed amendment.

The section is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on February 12, 1986.

TRD-8801492

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: March 5, 1986

Proposal publication date: December 20, 1985

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



## Chapter 79. Legal Services Subchapter M. Appeals Process

### ★40 TAC §79.1207

The Texas Department of Human Services (DHS) adopts an amendment to §79.1207, without changes to the proposed text published in the December 20, 1985, issue of the *Texas Register* (10 TexReg 4891).

The justification for adopting the amendment is to clarify the situations in which DHS may withhold assistance or services without giving clients advance notice.

The section will function as DHS' rule governing notice requirements for proposed termination or reduction of assistance. As amended, the section will enable DHS to conclude certain case actions more quickly.

No comments were received concerning the proposed amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on February 12, 1986.

TRD-8801493

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: March 5, 1986

Proposal publication date: December 20, 1985

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



## Chapter 85. General Licensing Procedures

### Subchapter III. Social Work Certification

#### ★40 TAC §§85.6001, 85.6003, 85.6004, 85.6007-85.6011, 85.6013, 85.6015, 85.6018-85.6022, 85.6024- 85.6026

The Texas Department of Human Services adopts amendments to §§85.6001, 85.6003, 85.6004, 85.6007-85.6011, 85.6013, 85.6015, 85.6018-85.6022, 85.6024-85.6026, and new §§85.6027 and 85.6028. Section 85.6026 is adopted with changes to the proposed text published in the October 8, 1985, issue of the *Texas Register* (10 TexReg 3887). The other sections are adopted without changes and will not be republished. The department has added subsection (b) to §85.6026 to clarify the terms of revoking and suspending a certificate. The addition was made in response to public comments.

The adoption is justified to comply with changes in the certification law, Human

Resources Code, Chapter 50. Under the law, new applicants for certification as certified social workers or social workers must have a master's or bachelor's degree, respectively, in social work and must take and pass a written examination.

The sections will function to enhance the quality of social work services because of higher educational qualifications.

Five comments were received regarding the adoption of the sections. One representative for the National Association of Social Workers commented in favor of the sections, but requested that public notice of revocations be required. The department agreed and has consequently added a subsection to §85.6026.

Another person also requested public notice and asked that negative actions by other organizations be considered a complaint. The department intends to act upon this comment by proposing a new section in the future.

Another person requested that sexual orientation be added to the prohibitions against discrimination. The department did not do this because there is no legal mandate for including sexual orientation in the language prohibiting discrimination. The current language provides for protection against discrimination.

Two persons opposed the sections, contending that the requirements for certification were too limited. The requirements, however, are in compliance with the law and cannot be changed.

The department adopts the amendments under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

#### §85.6026. Revocation and Suspension.

(a) A certificate holder is entitled to be notified by certified mail of the department's decision to suspend or revoke his certification. The certificate holder is entitled to be:

(1)-(4) (No change.)  
(5) provided a copy of the rules and the appeal procedures.

(b) If no appeal is requested, the certificate must be returned to the department. The department will give public notice of all revocations.

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 February 12, 1986.

TRD-8801494

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: April 1, 1986

Proposal publication date: October 8, 1985

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



★40 TAC §§5.6027, §5.6028

The new sections are adopted under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

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 February 12, 1986.

TRD-8601495

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: April 1, 1986

Proposal publication date: October 8, 1985

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



Part V. Veterans Land Board

Chapter 175. General Rules of the Veterans Land Board

★40 TAC §§175.2-175.20

The Veterans Land Board adopts the repeal of §§175.2-175.20, without changes to the proposed text published in the November 22, 1985, issue of the *Texas Register* (10 TexReg 4508).

By repealing the existing sections, the Veterans Land Board will be able to enact simpler, more concise sections, which address developments that have occurred since the initial adoption of these sections.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Natural Resources Code, §161.061 and §161.063, which authorizes the board to adopt rules that it considers necessary or advisable to ensure the proper administration of the Veterans Land Program.

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

Issued in Austin, Texas, on February 10, 1986.

TRD-8601454

Garry Mauro  
Chairman  
Veterans Land Board

Effective date: March 4, 1986

Proposal publication date: November 22, 1985

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



TITLE 43.

TRANSPORTATION  
Part I. State Department of Highways and Public Transportation

Chapter 21. Right of Way Division

Control of Outdoor Advertising Signs

★43 TAC §§21.141, 21.142, 21.144-21.145, 21.156-21.159

The State Department of Highways and Public Transportation adopts amendments to §§21.142, 21.145, 21.150, 21.152, 21.153, and proposed §21.157 with changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3604). Sections 21.141, 21.144, 21.146-21.149, 21.151, 21.154, 21.156, 21.158, and 21.159 are adopted without changes and will not be republished.

The amendments are necessary to effectively control erection and maintenance of outdoor advertising signs.

Sections are clarified and expanded to limit the proliferation of signs and thereby improve the appearance of the roadside along interstate and federal-aid primary highways in Texas.

On August 29, 1985, the State Highway and Public Transportation Commission adopted emergency amendments and proposed permanent amendments to the sections regarding erection and maintenance of outdoor advertising signs under the provisions of the Texas Civil Statutes. The amendments, filed with the Secretary of State, were effective on September 5, 1985. Comments were received from a number of persons and a request for a public hearing was filed by Billboards Limited!.

A public hearing was held on November 18, 1985, commencing at 9 a.m. Eighteen persons made presentations and numerous comments were received.

Representation for the adoption of the proposed amendments included Billboards Limited!; Houston Chamber of Commerce; Glen J. Westrom & Associates; Afton Development Company; North San Antonio Chamber of Commerce Sign Ordinance Task Force; Houston City Council; San Antonio Conservation Society; San Antonio Chapter of the American Institute of Architects; Sierra Club of Houston; Woods of Shavano Homeowners Association; Castle Hills Forest Homeowners Association; Shavano Park; Park Forest Neighborhood Association; Oak Meadows' Homeowners Association; San Antonio Section of the American Planning Association; Contemporary Constructors, Inc.; Texas Municipal League; Steinmetz & Associates, Inc.; West Houston Association; Texas Association of Counties;

Woodlands Corporation; state representatives; City of San Antonio and the San Antonio Coalition of Neighborhoods; City of Houston; City of Lubbock; and Citizen's Environmental Coalition Educational Fund, Inc.

Representation against the adoption of the proposed permanent amendments included: Outdoor Advertising Association of Texas; Middleton Outdoor Advertising; Best Outdoor, Inc.; National Advertising Company; Victoria Bankshares, Inc.; Carlisle Outdoor, Inc.; Impact Outdoor Advertising; Edgar Outdoor; DMAR; M&M Outdoor; Aalzo Advertising Company; and M&W Outdoor; Godwin Income Tax & Bookkeeping Service; Pine Cove Conferences; Texas Sign Manufacturers Association; Texas Blueberry Growers; Outdoor Advertising Association of America; Reynolds Outdoor Inc.; Rollins Outdoor Advertising; TV Farms News Network; Because He Lives Evangelistic Association Inc.; National Advertising Company; Standard Outdoor Advertising Company; Texoma Advertising Company, Inc.; Johnson Outdoor Advertising, Inc.; Carlisle Outdoor, Inc.; Albert-Hopkins Sign Company.

Representation for the adoption of some proposed permanent amendments and against others included: state representatives; state senators; United Methodist Church of Lubbock; Foster and Kleiser; Bowlin's Incorporated; Lubbock Poster Company; Duplex Advertising Company; Jules Lauve, Jr., Inc.; Texas Farm Bureau; Texas Baptist Christian Life Commission; Outdoor Advertising Association of Texas; Holland Advertising Company; MKT Railroad; Texas Catholic Conference; Gannett Outdoor; and Texas Railroad Association.

Thirty-four commenters wanted strict sign regulation, especially in rural areas. Eleven commenters opposed emergency amendments and proposed permanent amendments. Six persons expressed concern that the proposed permanent amendments were too stringent and would cause a loss of jobs; but one person stated that orderly control of signs would create more jobs than eliminate as Texas would have a more attractive environment for businesses to move into. The Commission finds that general support for the amendments was evident, indicating the proposed permanent amendments should be adopted except as otherwise provided.

Dick Ingram, representing the Outdoor Advertising Association of Texas, suggested that §21.142(h) of the nonqualifying commercial or industrial activities be revised to substitute "30 hours per week or at least five days per week" for "40 hours per week." The proposed substitute language appears to adequately protect the citizens of this state, and, therefore, §21.142(h) is revised.

Brenda Loudermilk, representing the City of Houston, stated that §21.142(k) of the

nonqualifying commercial or industrial activities should be adoted. Mr. Ingram said it was not appropriate; the commission had gone beyond customary usage. It is noted that to constitute a commercial or industrial area under these sections, the area could not be predominantly residential. Accordingly, this section is revised.

Mr. Ingram also suggested that §21.142(l), which is reidentified as §21.142(k), be revised to substitute 90 days for 120 days. Such proposed revised restriction gives due regard to the safety and welfare of the public and should be adopted.

Ms. Loudermilk, also suggested that the definition of normal maintenance be retained. Another person suggested that the definition was incomplete. The commission finds such definition to be incomplete and §21.142 is revised.

Representative Paul Colbert; Valinda Hathcox, representing the Texas Association of Counties; Catherine H. Powell, representing the City of San Antonio and the San Antonio Coalition of Neighborhoods; Carroll Shaddock, representing Billboards Limited; and Robert Randolph specifically urged the retention of the requirement of at least two adjacent recognized commercial or industrial activities as provided in the definition of an unzoned commercial or industrial area in §21.142. Mr. Ingram, George McIntuff, representing the Outdoor Advertising Association of America; Jim Turner, representing National Advertising Company; and Wes Gilbreath spoke in opposition to such requirement. Mr. McIntuff stated he knew of no state requiring more than one such activity. The agreements between the United States and three states show that three or more commercial or industrial activities are required. Two such agreements show that two or more such activities are required. Mr. Shaddock stated that one business does not necessarily constitute a business area and allowing one small business to justify four signs does not preserve scenic beauty. He added that two commercial or industrial activities are not enough, but requiring two is better than requiring only one.

Mr. Ingram and Ms. Loudermilk, opposed adoption of the emergency amendment to §21.145. Mr. Ingram requested the rule remain with the five year clause and Ms. Loudermilk remarked on the possible penalty from the federal government. James B. Harris, representing Edgar Outdoor, DMAR, M&M Outdoor, Aalzo Advertising and M&W Outdoor, stated that the removal of a nonconforming sign should not stop the landowner from erecting another sign. To avoid conflict with federal requirements, the proposed amendment is not adopted and the section is revised.

Robert B. Lee, representing Holland Advertising Company, urged that the law be followed; Mr. Lee and Mr. Shaddock ad-

vocated reasonable and orderly regulation. One person suggested that no outdoor advertising license should be held by an entity other than a natural person unless such entity had duly qualified to operate in this state. Such has been a requirement of the commission and should be included in these sections.

Archie Johnson and Mike Coppinger, representing the Texas Sign Manufacturers Association, expressed opposition to the \$200 permit fee as provided in §21.150(a). Mr. Randolph stated that the commission was obliged to charge reasonable fees. If the fee remains at \$200, persons erecting small signs will pay much more per square foot than they would to erect a large sign. The cost of inspecting the site is about as much for a small sign as for a large sign. Building permit fees charged by most cities are based upon the size of the structure, with certain minimum charges built into the fee schedule. Some grammatical changes to better clarify the meaning of this section are necessary. Accordingly, §21.150(a) is revised.

To be consistent with the revised fee schedule, the permit renewal fee also needs revision. Mr. Johnson stated that \$100 was too high for small signs. Mr. Ingram, and Terry B. Kafka suggested an annual license fee of \$200. The annual license fee would have the greatest impact on small businesses and would not be equitable. To be reasonable and equitable, §21.150(b) is revised.

Mr. Lee and Ed Keeling, representing the Outdoor Advertising Association of Texas suggested that there be a maximum transfer fee. After consideration, the transfer fee should not exceed \$2,500 per transfer application and §21.150(d) is amended accordingly.

To eliminate any question as to the dates involved, §21.150(e) is revised.

Mr. Turner suggested revision of §21.152(a) to allow cutouts in addition to the 672 square feet of sign area. Mr. Shaddock, stated that 672 square feet was large enough and the original section allowing 1,200 square feet in area was not reasonable. As 672 square feet is a substantial reduction from the original section allowing 1,200 square feet, and as some clarification in language is desirable, §21.152(a) is revised.

Mr. Ingram suggested that §21.152(e) be revised to read "Signs which exceed 336 square feet in area may not be stacked or placed side-by-side." It is noted that the agreement with the federal government limits such signs to 350 square feet. Accordingly, §21.152(e) is revised.

Mr. Harris, stated that §21.153(a) was too vague. To improve the language, §21.153(a) is revised.

Nick England, Mr. Harris, and Mr. Ingram, objected to the requirement in §21.153(b)

that no signs be located within 1,500 feet of parks, playgrounds, and scenic areas. The public safety, especially children in areas near parks and playgrounds, and the preservation of scenic beauty, dictates that this restriction be retained. Accordingly, §21.153(b) is adopted as a permanent section.

Mr. England, Mr. Harris, Mr. Ingram, and Mr. McInturff objected to the requirement of 1,500 foot spacing from interchanges and ramps outside cities. Mr. Harris said that 1,500 foot spacing was appropriate spacing in rural areas. Based upon the evidence presented, §21.153(c) is revised.

Mr. England, Mr. Harris, Mr. Ingram, Mr. McInturff, Mr. Turner, and Mr. Gilbreath suggested that 1,500 foot spacing between signs along interstate and freeway federal-aid primary highways was too far. Mr. Harris said there had been no change in customary use. Mr. Turner and Mr. Gilbreath supported 750 foot spacing. Mr. Ingram advocated 1,000 foot spacing. Mr. Shaddock supported 1,500 foot spacing, pointing out that 500 foot spacing was not consistent with beautification. After considering the evidence and reasoning, §21.153(d) is revised.

Mr. England, Mr. Harris, Mr. Ingram, and Mr. McInturff objected to requiring 1,500 foot spacing along nonfreeway federal-aid primary highways outside cities. Mr. Harris said there had been no change in customary use. Mr. McInturff said 1,500 foot spacing went far beyond the agreement with the federal government. Mr. Ingram supported 500 foot spacing. After considering all of the evidence, §21.153(e) is revised.

Mr. England, Mr. Harris, Mr. Ingram, and Mr. McInturff also objected to the requirement of 1,500 foot spacing along nonfreeway federal-aid primary highways inside cities. Mr. Harris stated that customary use had not changed. Mr. McInturff stated that such requirement went far beyond the agreement with the federal government. Mr. Ingram suggested 150 foot spacing. After considering the evidence, §21.153(f) is revised.

Mr. Lee, noted the omission from the emergency rules of section III.E.7. of the agreement with the federal government and suggested that it be included in these sections. Such provision is added as §21.153(g).

Mr. England, Mr. Ingram, Mr. McInturff, Mr. Turner, Mr. Kafka, and Bill Burton, representing the Texas Railroad Association, objected to the 50 foot setback requirement of §21.153(g). Mr. McInturff suggested no setback requirement. Mr. Ingram opposed any setback from the highway right of way. Mr. Kafka said the setback requirement would result in larger signs. Ms. Loudermilk favored the 50 foot setback requirement, stating that neighbors were entitled to consideration and to be kept free of the dangers of a sign fail-

ing on them. After considering the evidence, §21.153(g) is revised and reidentified.

Mr. Keeling, and Mr. Coppinger, objected to the wind load pressure requirements of §21.157, especially the requirement of a certificate from an engineer or architect. Mr. Keeling recommended that each sign be erected in accordance with the "Engineering Design Manual for Outdoor Advertising Structures", published in 1955 by the Outdoor Advertising Association of America. Mr. Coppinger commented that it was difficult to get such a certificate without delaying construction and the cost of the certificate would be prohibitive for small signs. After considering all factors presented, the first paragraph of §21.157 is revised.

Mr. Ingram, Mr. Turner, Mr. Gilbreath, and Mr. Kafka objected to the height limitation of 42½ feet. Mr. Ingram and Mr. Gilbreath suggested a limit of 42½ feet or 25 feet above any obstruction, whichever is higher. Mr. Turner suggested 55 feet, pointing out that Louisiana has a limit of 60 feet. Mr. Kafka said a 50 foot limit would save trees. Mr. Shaddock and Ms. Loudermilk supported the 42½ foot height limitation as not being too stringent. Noting the provisions of House Bill 1330, §21.158 is adopted as proposed.

Mr. Ingram, stated that §21.159 was legislating and should be deleted. Mr. Randolph stated the rule should be retained because you interfere with other people's property rights when you put up a sign next to other people. Catherine H. Powell, representing the City of San Antonio and the San Antonio Coalition of Neighborhoods, stated that a permit does not create a property right or any compensable right and the section lets the public know that. Accordingly, §21.159 is adopted as a permanent section.

The amendments and new sections are adopted under the Texas Civil Statutes, Article 4477-9a, §4.03(d), which authorize the State Highway and Public Transportation Commission to adopt rules to regulate the orderly and effective display of outdoor advertising.

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

**Act**—The highway beautification provisions of the Texas Litter Abatement Act codified as Texas Civil Statutes, Article 4477-9a.

**Commercial or industrial activities**—Those activities customarily permitted only in zoned commercial or industrial areas, except that none of the following shall be considered commercial or industrial activities:

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

(C) activities not housed in a permanent building or structure having func-

tioning water and sewage connections and functioning electrical connections;

(D)-(F) (No change.)

(G) activities no part of which are within 200 feet from the edge of the right of way;

(H) activities conducted only seasonally or which are not conducted an average of at least 30 hours per week or at least five days per week;

(I) activities conducted in a building having less than 300 square feet of floor space devoted to such activities;

(J) activities not conducted by human beings;

(K) activities which have not existed at least 90 days.

**Commission**—The State Highway and Public Transportation Commission.

**Department**—The State Department of Highways and Public Transportation.

**Federal-aid primary highway system**—That portion of connected main highways located within the State of Texas which now or hereafter may be so designated officially by the State Highway and Public Transportation Commission and approved pursuant to 23 United States Code §103(B).

**Interstate highway system**—That portion of the national system of interstate and defense highways located within the State of Texas which now hereafter may be so designated officially by the State Highway and Public Transportation Commission and approved pursuant to 23 United States Code §103(D).

**License**—An outdoor advertising license issued by the department pursuant to the provisions of the Act, §4.04.

**Nonconforming sign**—A sign which was lawfully erected, but which does not comply with the provisions of a law passed at a later date or which later fails to comply with a law due to changed conditions.

**Normal maintenance**—The process of keeping a sign in good repair. When a sign is being converted from a multiple pole structure to a monopole structure or is being repaired at a cost in excess of 50% of the cost of erecting a new sign of the same type at the same location, each such action constitutes replacement rather than normal maintenance and a sign permit will be required if the structure is an off-premise sign. No sign may be enlarged more than 10% of the size shown on the permit without first obtaining a permit authorizing such enlargement, but no enlarged sign may have an area greater than 672 square feet. Lighting may not be added to any sign nor may more intense lighting be added to any sign without first obtaining a permit authorizing such addition. No person shall erect, repair, or maintain a sign while such person or the equipment being used is on any highway right of way.

**Outdoor advertising or sign**—An outdoor sign, display, light, device, figure, painting, drawing, message, plaque, placard, poster, billboard, or other thing which is

designed, intended, or used to advertise or inform, if any part of the advertising or information contents is visible from any place on the main traveled way of the interstate or federal-aid primary highway systems.

**Permit**—The authorization granted for either the erection or maintenance or both, of an outdoor advertising sign as provided in the Act, §4.05.

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

**Unzoned commercial or industrial area**—

(A) An area along the highway right of way which has not been zoned under authority of law, which is not predominantly used for residential purposes, and which is within 800 feet, measured along the edge of the highway right of way, of, and on the same side of the highway as, the principal part of at least two adjacent recognized commercial or industrial activities within 200 feet of the highway right of way.

(B) Such an area is more specifically identified as follows.

(i) The area to be considered, based upon the qualifying activities, is one, the dimensions of which are a total of 1,600 feet (800 feet on each side) plus the actual or projected frontage of the commercial or industrial activities, measured along the highway right of way by a depth of 660 feet.

(ii) The area shall be located on the same side of the highway as the principal part of the qualifying activities.

(iii) The area must be considered as a whole prior to the application of the test for predominantly residential.

(iv) An area shall be considered to be predominantly residential if more than 50% of the area is being used for residential purposes. Roads and streets with residential property on both sides shall be considered as being used for residential purposes. Other roads and streets will be considered nonresidential.

**§21.145. Cessation of Activities.** When a commercial or industrial activity ceases and a sign other than an exempt sign is no longer located within 800 feet of at least two adjacent recognized commercial or industrial activities located on the same side of the highway, any signs which were conforming only because of such two adjacent activities shall become nonconforming and shall be removed not later than five years following the cessation of the operation of such commercial or industrial activity.

**§21.150. Permits.**

(a) Before a sign other than an exempt sign may be erected or maintained, the owner thereof shall obtain a permit therefor from either the department or from a certified controlling city or town, if the proposed location is within such city or town. In order to obtain such permit from the department, the sign owner shall complete, under oath, in duplicate, the department's permit application form, supplying thereon

the information indicated, including the name and address of the applicant, proposed location of the sign, description of the sign, name and address of the site owner and indication of whether the site owner has consented to the erection of such proposed sign. The application shall be accompanied by a nonrefundable fee which may be paid by a check, cashier's check, or money order from the owner of the sign and holder of an outdoor advertising license. The amount of the fee shall be based upon the size of the proposed sign face and shall be as follows: for signs not larger than 100 square feet, the fee shall be \$100, for signs having an area larger than 100 square feet, but no larger than 300 square feet, the fee shall be \$175, for signs having an area larger than 300 square feet, the fee shall be \$250. The permit application and nonrefundable fee shall be filed with the department's district engineer serving the county in which the sign is to be located. Except for signs in place prior to the time the sign location along a highway first became subject to control under the highway beautification laws, the application will be approved only if the sign is to be erected in accordance with all of the requirements set forth in these sections. When approved, both copies will be endorsed by the appropriate district engineer, and one copy will be returned to the applicant along with a Texas sign permit plate. Within 30 days after erection of the sign, the sign owner shall cause the permit plate to be securely attached to that portion of the sign structure nearest the highway and visible from the main traveled way. In the event the permit plate becomes illegible or becomes detached from the sign structure, another shall be obtained and be so affixed by the sign owner. A nonrefundable fee of \$25 shall be paid to the department for each replacement permit plate.

(b) A permit shall be valid for the location indicated and as described on the original permit application for one year so long as the sign is duly erected and legally maintained, provided that if the state acquires the sign for which the permit was issued or if the sign is removed for any reason, the permit thereupon terminates. However, a sign permit may be renewed before the existing permit terminates by the permit holder filing with the district engineer of the department district office serving the county where the sign exists or is to be located a written request to renew the permit along with a nonrefundable renewal fee amounting to one-half the amount of the then current sign permit fee for the size of the sign the permit for which is being renewed and such amount shall be payable for each year the permit is to be renewed. Such renewal, when approved by the district engineer, shall be for a single period of no more than five years. A nonrefundable like fee shall be collected for subsequent renewal periods.

(c) Other than an exempt sign, a sign without a permit shall be removed at the

owner's expense.

(d) A permit may not be assigned or transferred without approval by the district engineer of the district office serving the county where the sign exists or is to be located and then only upon payment of a nonrefundable transfer fee of \$25 for each sign permit to be transferred, but not to exceed a fee of \$2,500 per transfer application. In order to make such a transfer, the prescribed application form shall be completed in triplicate and all three copies shall be filed with the district office serving the counties where the signs exist or are to be located. One copy of each approved permit transfer shall be sent to the transferor, one copy shall be sent to the transferee, and one copy shall be retained by the district engineer. No permit shall be transferred unless both the transferor and the transferee hold a valid outdoor advertising license at the time of such transfer and at the time of approval thereof by the district engineer.

(e) Permits issued by the department prior to September 6, 1985, shall be renewed no later than September 5, 1990, and the renewal permit will be for a period of time as provided in subsection (b) of this section.

(f) Other than an exempt sign, any sign erected without a permit therefor or for which the permit is not kept renewed shall be removed by the owner thereof at the owner's expense upon written notification by a district engineer of the department.

#### *§21.152. Size of Outdoor Advertising Signs.*

(a) The maximum area for any one sign shall be 672 square feet, however, the vertical and horizontal dimensions thereof shall not exceed 25 feet and 60 feet, respectively, inclusive of the border and trim and excluding the base or apron, supports, and other structural members. Cutouts not exceeding 20% of the permitted sign surface copy area of a sign face may be added thereto, but no sign to which a cutout has been added may have an area greater than 672 square feet.

(b) The maximum size limitations shall apply to each side of a sign structure or structures visible to approaching traffic.

(c) The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the entire sign.

(d) Signs may be placed back-to-back, side-by-side, stacked, or in "V" type construction with not more than two displays to each facing and such sign structure or structures shall be considered one sign.

(e) Signs which exceed 36 square feet in area, including cutouts, may not be stacked or placed side by side.

#### *§21.153. Spacing of Signs.*

(a) Signs may not be located in such a manner as to create a safety hazard. They shall not be so located as to be likely to cause a driver to be unduly distracted in any way or so as to obstruct or otherwise interfere with the effectiveness of an official traffic

sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic, whether the intersection be of two or more highways or the intersection of a highway with a railroad.

(b) Signs may not be located within 1,500 feet of any public park, public forest, public playground, or scenic area designated as such by the department or other governmental agency having and exercising such authority, which is adjacent to the highway.

(c) Signs may not be located adjacent to or within 1,000 feet of interchanges, intersections at grade and rest areas along interstate and freeway federal-aid primary highways outside incorporated municipalities or which will tend to obscure or otherwise interfere with the driver's view of approaching, merging, or intersecting traffic. Where there are ramps between the main traveled way of interstate and freeway federal-aid primary highways and adjacent frontage roads, no new signs may be erected outside incorporated municipalities in areas adjacent to said ramps, their acceleration and deceleration lanes and within 1,000 feet thereof. Such distances shall be measured along the highway from the nearest point of beginning or ending of pavement widening at the exit from, or entrance to, the main traveled way.

(d) Signs may not be erected along the interstate and freeway federal-aid primary highway systems closer than 1,500 feet apart on the same side of the highway.

(e) Signs may not be erected along the nonfreeway federal-aid primary highway system located outside of incorporated cities, towns, or villages closer than 750 feet apart on the same side of the highway.

(f) Signs may not be erected along the nonfreeway federal-aid primary highway system in incorporated cities, towns, and villages closer than 300 feet apart on the same side of the highway.

(g) The spacing between signs shall not apply to signs separated by buildings, natural surroundings or other obstructions which cause only one sign located within the specified spacing to be visible at any one time.

(h) No sign, other than an exempt sign, may be erected within five feet of any highway right of way line.

(i) The spacing rules in this section do not apply to on-premise or directional or other official signs, as defined in the Act, §4.03(b)(1), nor shall measurements be made from such signs.

*§21.157. Wind Load Pressure.* No sign, other than an exempt sign, shall be erected that does not meet the wind load pressure requirements as set out in the table which follows this paragraph. Permit applications for new signs and permit renewals as required by §21.150(e) of this title (relating to Permits) for signs which will have or have a height, in feet above ground, as measured above the average level of the ground adjacent to the proposed structure, of six feet, or more, must be accom-

panied by a certificate signed by the owner of the sign to the effect that the proposed or existing sign will withstand wind load pressures in pounds per square foot as set out in the following table.

**Wind Load Pressure in Pounds  
Per Square Foot**

Height, in feet above ground, as measured above the average level of the ground adjacent to the structure	Pressure, pounds per square foot
0- 5	0
6- 30	20
31- 50	25
51- 99	35
100-199	45
200-299	50
300-399	55
400-500	60
501-800	70
over 800	77

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 February 10, 1986.

TRD-8601390 Diane L. Northam  
Administrative  
Technician  
State Department of  
Highways and Public  
Transportation

Effective date: March 3, 1986  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-6630.

★ ★ ★

**Control of Signs Along Rural  
Roads**

★ 43 TAC §§21.404, 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, and 21.581

The State Department of Highways and Public Transportation adopts new §§21.404, 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, and 21.581. Sections 21.411, 21.421, 21.431, 21.441, 21.451, 21.461, 21.471, 21.481, 21.511, 21.541, 21.551, and 21.561 with changes to the proposed text published in the September 13, 1985, issue of the *Texas Register* (10 TexReg 3504). The other sections are adopted without changes and will not be republished.

The new sections are needed to establish a fair and impartial means of controlling the reasonable, orderly, and effective display of outdoor advertising along rural roads.

The new sections establish various criteria for the erection and maintenance of signs along rural roads and provide for

certain penalties for violations of such rules.

On August 29, 1985, the State Highway and Public Transportation Commission adopted on an emergency basis and proposed rules for the regulation of signs along rural roads in Texas pursuant to House Bill 1330 enacted, 69th Legislature, 1985, codified as Texas Civil Statutes, Article 6675v-3. Those rules were published in the *Texas Register* on September 13, 1985. Comments thereon were received from a number of persons and a request for a public hearing was filed by Billboards Limited!, an organization with more than 25 members.

A public hearing was held on November 18, 1985, at 2 p.m. Twenty-nine persons made presentations at such hearing and numerous comments were received after such hearing.

The following groups indicated they were for the adoption of the proposed permanent rules: Billboards Limited!; Houston Chamber of Commerce; Glen J. Westrom & Associates; Afton Development Company; North San Antonio Chamber of Commerce Sign Ordinance Task Force; Houston City Council; San Antonio Conservation Society; San Antonio Chapter of the American Institute of Architects; Sierra Club of Houston; Woods of Shavano Homeowners Association; Castle Hills Forest Homeowners Association; Shavano Park; Park Forest Neighborhood Association; Oak Meadows' Homeowners Association; San Antonio Section of the American Planning Association; Contemporary Constructors, Inc.; Steinmetz & Associates, Inc.; West Houston Association; Texas Association of Counties; Woodlands Corporation; City of San Antonio; Anne Cooper, state representative; Terral R. Smith, state representative; Paul Colbert, state representative; San Antonio Coalition of Neighborhoods; Sierra Club; City of Houston; City of Lubbock; and Citizen's Environmental Coalition Educational Fund, Inc.

The following groups indicated they were against the adoption of the proposed permanent rules: Outdoor Advertising Association of Texas; Middleton Outdoor Advertising; Best Outdoor, Inc.; National Advertising Company; Victoria Bankshares, Inc.; Carlisle Outdoor, Inc; Impact Outdoor Advertising; Edgar Outdoor; DMAR; M&M Outdoor; Aalzo Advertising Company; and M&W Outdoor; Godwin Income Tax & Bookkeeping Service; Pine Cove Conferences; Texas Sign Manufacturers Association; Texas Blueberry Growers; Outdoor Advertising Association of America; Reynolds Outdoor Inc.; Rollins Outdoor Advertising; TV Farms News Network; Because He Lives Evangelistic Association Inc.; National Advertising Company; Standard Outdoor Advertising Company; Texoma Advertising Company, Inc.; Johnson Outdoor Advertising, Inc.; Carlisle Outdoor, Inc.; and Albert-Hopkins Sign Company.

The following persons indicated they were both for and against the adoption of the proposed permanent rules: Bill G. Carter, state representative; William Hall, Jr., state representative; Bob Melton, state representative; Chet Brooks, state senator; Gibson D. Lewis, speaker, House of Representatives; Kae T. Patrick, state representative; Cliff Johnson, state representative; H. Tati Santlestaban, state senator; Alex H. Short, Jr., state representative; Roy Blake, state senator; Ed Howard, state senator; Richard F. Williamson, state representative; Richard A. Smith, state representative; Gerald Geistweidt, state representative; Ron Lewis, state representative; Chip Staniswalis, state representative; Ted B. Lyon, state senator; Dudley Harrison, state representative; United Methodist Church of Lubbock; Arves E. Jones, Sr., state representative; Foster and Kleiser; Bowlin's Incorporated; Lubbock Poster Company; Duplex Advertising Company; Jules Lauve, Jr., Inc.; Bill Heiser, state representative; Foster Whaley, state representative; Ray Farabee, state senator; Billy Clemons, state representative; Tom Waldrop, state representative; Gerold Yost, state representative; Edmund Kuempel, state representative; Texas Farm Bureau; Texas Baptist Christian Life Commission; Outdoor Advertising Association of Texas; Holland Advertising Company; MKT Railroad; Texas Catholic Conference; Senator Ted B. Lyon; Gannett Outdoor; and Texas Railroad Association.

Thirty-six commenters wanted strict sign regulation, especially in rural areas. Six commenters spoke generally in opposition to strict controls. Seven persons expressed support for regulating signs along rural areas as written. One person expressed concern about having any more regulations pertaining to the way of life Texans lead and one expressed concern that the regulations as proposed went too far and amounted to legislation. Four persons expressed concern that stringent rules would cause a loss of jobs, but one person stated that orderly control of signs would create more jobs than it will take away as Texas would have a more attractive environment for businesses to move into. The commission finds that general support for most of the rules was evident, indicating that the emergency rules are reasonable and should be adopted as the permanent rules except as hereinafter otherwise provided.

There was no objection to the definition of "normal maintenance" in §21.411, but one person felt that it was incomplete. The commission agrees and has revised it.

A commenter stated that the definition of an on-premise sign should specifically exclude a wall sign. As the definition of on-premise sign states that the sign is free-standing and as a wall sign is not free-standing, the commission makes no change.

A commenter suggested that §21.411 (G) be revised to substitute "30 hours per

week or at least five days per week" for "40 hours per week" and that change is made.

A commenter stated that §21.411(J) should be adopted. Another commenter said it was not appropriate, but was legislating. From the evidence presented, it is found that such proposed restriction disqualifying activities within 200 feet of two or more residential structures is not necessary for the safety and welfare of the people of Texas and is deleted.

A commenter suggested that §21.411(K) be revised to read "activities which have not existed at least 90 days." Such revised restriction gives due regard to the safety and welfare of the people of Texas and it is adopted in lieu of the proposed provision as a restriction on activities qualifying as recognized commercial or industrial activities as set forth in §21.411, but such subparagraph needs to be reidentified as §21.411(J).

Valinda Hathcox, representing the Texas Association of Counties, suggested that the definition of "sign" be modified to exclude a structure bearing a seasonal or temporary message. The definition of "sign" as set forth in the emergency rules gives due regard to the safety and welfare of the people of Texas and this change was not made.

It was noted that the exemption for certain directional and other official signs as provided in the Act, Article 2, §12(a)(4), was omitted §21.421 of these sections. As such exemption is statutory, it is included as §21.421(a)(4), and paragraph (4) is renumbered (5), and the two succeeding paragraphs are renumbered (6) and (7), respectively.

Several commenters objected to requiring permits and fees from farmers, ranchers, churches, and small businesses. The Act provides an exemption for certain directional signs and makes provision for variances. Numerous legislators have stated that such signs were intended to be exempt from permitting and fee requirements. It is evident that the legislature in its grant of rule-making authority intended that the commission have some discretion about the applicability of the law. From the overwhelming weight of the evidence presented, it is found that two additional classes of signs should be exempt from regulation hereunder, namely, both on-premise and off-premise signs which are no larger than eight square feet and off-premise signs which are no larger than 32 square feet and which show only the name of a place or activity and directions to same. Accordingly, new paragraphs (8) and (9) are added to §21.421(a).

At the suggestion of Lyon Reid, Warren Petroleum Company, in keeping with the exemption allowed in the Act, Article 2, §12(a)(5), and in order to be consistent with the rules under the Texas Litter Abatement Act, an exemption for signs required

by the Texas Railroad Commission is allowed. Accordingly, a new paragraph (10) is added to §21.421(a).

Representative Foster Whaley suggested that an exemption for Chamber of Commerce signs be allowed. As such signs have a limited exemption under the Highway Beautification rules, it is reasonable to allow such an exemption under these rules. Accordingly, paragraph (11) is added to §21.421(a).

In order to clarify the language set forth in §21.421(d), such subsection is revised.

Several commenters opposed the sign registration requirements of §21.431. They especially suggested that farmers, ranchers, and churches be exempt. The commission finds that the law requires the registration of off-premise signs, notes that additional exemptions are being allowed under the revised §21.421 and that constitutional considerations must be taken into account and, therefore, does not make any exception to the requirements of §21.431 except that the first two lines of subsection (a) are revised.

Several commenters opposed the requirement that permits be required in order to erect on-premise signs as provided in §21.441 and objected to the fees as provided in §21.441. Representative Paul Colvert pointed out that the commission has discretion to either require permits for on-premise signs or not require them. Considering that on-premise signs are exempt from control under the Texas Litter Abatement Act and the evident intention of the legislature that the commission exercise discretion, particularly when the Act did not require permits for on-premise signs, no permit or fee shall be required in order to erect an on-premise sign. The caption and first line of §21.441 of the proposed permanent rules are deleted and new language is substituted. However, in order that the department will know what sort of sign is being erected, §21.591 is added requiring a notice of intention to erect an on-premise sign, including a certificate from the sign owner that the proposed sign will comply with the wind load requirements of the Act, Article 2, §7(a). The commission finds that much of the opposition to the fees would be resolved by the exemption of on-premise signs from the permit requirement and by the exemptions for signs not larger than eight square feet and directional signs no larger than 32 square feet. Persons who erect small signs are charged more per square foot of sign than persons who erect large signs, with the result that the operator who erects only small signs may have to cease operations. The cost of inspecting the site is almost the same for a small sign as for a large sign. Building permit fees charged by most cities are based upon the size of the structure, with certain minimum charges built into the fee schedule. The commission finds that it would be more equitable to charge a graded permit fee

based upon size. Accordingly, the last two lines of §21.441(b) are deleted and are replaced.

Several commenters urged the retention of the requirement of at least two adjacent recognized commercial or industrial activities as being necessary to establish a commercial or industrial area and they insisted that two such activities should be required as a minimum. A review of the agreement between the state and the federal government shows that in three agreements three or more commercial or industrial activities are required and in two more agreements two or more such activities are required. Accordingly, §21.441(c)(1) is adopted as proposed and requires at least two adjacent commercial or industrial activities.

Section 21.441(c)(5) is repetitious, and is deleted. Paragraphs (6) and (7) are renumbered as (5) and (8).

Several commenters objected to the requirement of a certificate from a registered professional engineer or licensed architect regarding the wind load requirements of §21.441(c)(8) (now §21.441(c)(5)). The delay and cost were mentioned, especially the cost when a sign is only six feet high. Realizing that signs are required by the Act to meet the wind load requirements, but that the Act does not require such a certificate, the commission finds that it is reasonable to require such a certificate for a sign which is six feet tall or taller, but to accept the owner's certificate that the sign meets those requirements. Therefore, the first paragraph of §21.441(c)(8) is revised.

As on-premise signs are being deleted from the permit requirements of §21.441, subsection (c)(8), limiting the number of on-premise signs to be permitted, is deleted.

In order to be consistent regarding the appropriate renewal fee after revising the fee schedule, §21.441(e) is revised to provide for an annual renewal fee of one-half the amount of the then current sign permit fee for the size of the sign involved.

Commenters suggested that the spacing requirements of §21.451(a)-(e) should be adopted as provided in the proposed permanent rules. It was suggested that the requirements follow the precise wording of the Act. Representative Paul Colvert stated that if the Act were followed literally that the order in which signs are erected would determine how many could be erected. If large signs were erected first, then medium and then small signs, there could be a sign every 150 feet, but the legislature provided 1,500 foot spacing for large signs, 500 foot spacing for medium size signs and 150 foot spacing for small signs. Representative Colvert recommended adoption of the rule as written as being the only interpretation which makes sense. The commission adopts the spacing requirements in the precise wording of the

Act in lieu of the wording of §21.451(a)-(c) and adopts §21.451(d) and (e) as proposed.

Several commenters advocated adoption of §21.451(f) or a variation thereof requiring a setback. They pointed out the hazards to persons on adjacent property if a sign fell down or blew down and interference from the lighting and interference with view. It was suggested that no permit be issued until a public hearing had been held and adjoining property owners afforded an opportunity to object.

Several commenters opposed a 50 foot setback for off-premise signs, but Dick Ingram state he favored the requirement that a sign be merely five feet from the right of way line and he stated that at one state of considering House Bill 1330 a 25 foot setback was eliminated by the legislature. Representative Billy Clemons stated that a 50 foot setback would require cutting timber. James R. Hall said a 50 foot setback was not needed for safety along a rural road and Judi L. Walker said such a requirement would put signs in the middle of the main line or railroads. Representative Paul Colbert suggested that the setback be based upon the height of the sign—the height of the sign plus five feet—because if the sign falls down it will at least reach as far as it is tall. The Commission revises the rule to provide merely that no off-premise sign be erected within five feet of any rural road right of way line.

A commenter suggested that no setback be required for on-premise signs, and §21.451(g) requiring such setback is deleted.

A commenter stated that the commission was legislating in §21.451(h) in prohibiting an off-premise sign within 500 feet of a residence, and the commission deleted subsection (h).

The comments regarding §21.441(c)(1) also apply to §21.451(l). Accordingly, §21.451(l) is adopted as proposed by the commission except that it is now §21.451(g).

Several commenters objected to the language in §21.451(j) as being too vague. Accordingly, such subsection is revised and renumbered as subsection (h).

A commenter objected to the 42½ foot height limitation and suggested that signs be allowed up to 55 feet. As the Act limits the height to 42½ feet, the rule cannot be changed.

A commenter suggested that §21.471(c) be clarified to allow each sign face to have a cutout added based upon the size of the particular face. As that appears to be reasonable, subsection (c) is revised.

It was pointed out that §21.481(b) could be considered to be in conflict with §21.471 (e). Therefore, §21.481(b) is deleted.

A commenter suggested that a directional wall sign not be counted as an on-premise sign in determining the maximum number of on-premise signs allowed under §21.501.

If it is a directional sign erected off the premises where the business is conducted, it will not be counted as an on-premise sign. The definition of an on-premise sign refers only to a freestanding sign and would not include a wall sign. Accordingly, no change is made in this section.

A commenter suggested that §21.531(c) be revised to omit the word "minor" both times it appears. As it appears to be in the best interest of the public that only minor exceptions be granted, the proposed permanent rule is adopted without any omission. A commenter also protested that the \$1,000 fee provided for in §21.531(d) is too high. Noting that the cost is only about \$800 higher than the usual fee and that the cost of convening a Board of Variance will be high, such fee will remain at \$1,000.

The language of §21.541(a) was found to be inappropriate when referring to actual permits. The first part of the subsection is revised.

A commenter suggested that §21.561 be revised to act only after the condition has existed six months and then give the owner six months before removal is required. It was also suggested that such rule be applicable only to off-premise signs. As both suggestions appear to be reasonable, such §21.561 is revised.

Several commenters urged the adoption of §21.581 as a permanent rules. One commenter opposed the rule, stating that it constituted legislation. A commenter stated that if the rule were withdrawn now, a court might interpret such withdrawal as a determination that a permit is a property right, that it is zoning which creates a property right—not the permit, and that a building permit does not create a property right. In order to avoid the possibility of having to compensate the holder of a permit or a landowner upon termination of the permit, this section is adopted.

The new sections are adopted under Texas Civil Statutes, Article 6674(v)-(3), which provide that the State and Highway and Public Transportation Commission shall administer and enforce such law and shall adopt rules to regulate the erection and maintenance of signs along rural roads.

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

**Act**—Texas Civil Statutes, Article 6674v-3.

**Commission**—The State Highway and Public Transportation Commission.

**Department**—The State Department of Highways and Public Transportation.

**Erect**—To construct, build, raise, assemble, place, affix, attach, embed, create, paint, draw, or in any way bring into being or establish, except when performed incidental to the change of an advertising message or to normal maintenance or repair of an existing sign.

**Main-traveled way**—The through traffic lanes, exclusive of frontage roads, auxiliary lanes, and ramps.

**Normal maintenance**—The process of keeping a sign in good repair. When the sign is being converted from a multiple pole structure to a monopole structure or is being repaired at a cost in excess of 50% of the cost of erecting a new sign of the same type at the same location, each such action constitutes a replacement rather than normal maintenance and a sign permit will be required. No sign required to be registered or permitted may be enlarged more than 10% of the size shown on the permit or registration without first obtaining a permit authorizing such enlargement. Lighting may not be added to any sign nor may more intense lighting be added to any sign without first obtaining a permit authorizing such addition. No person shall erect, repair, or maintain a sign while such person or the equipment being used is on any road right of way.

**Off-premise sign**—A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

**On-premise sign**—A freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

**Permit**—The authorization granted pursuant to action by the State Highway and Public Transportation Commission for the erection of a sign, subject to these sections and the Act.

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

**Portable sign**—A sign designed to be mounted on a trailer, bench, wheeled carrier, or other nonmotorized mobile structure or on skids or legs.

**Recognized commercial or industrial activities**—Those activities customarily permitted only in zoned commercial or industrial areas except that none of the following shall be considered recognized commercial or industrial activities:

(A) outdoor advertising structures;

(B) agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, temporary wayside fresh produce stands;

(C) activities not housed in a permanent building or structure having functioning water and sewage connections and functioning electrical connections;

(D) activities conducted in a building primarily used as a residence;

(E) railroad right of way;

(F) activities more than 200 feet from the edge of the right of way of a rural road;

(G) activities conducted only seasonally or which are not conducted an

average of at least 30 hours per week or at least five days per week;

(H) activities conducted in a building having less than 300 square feet of floor space devoted to such activities;

(I) activities not conducted by human beings;

(J) activities conducted within 200 feet of two or more structures in which one or more human beings reside or which are designed for human habitation;

(K) activities which have not existed at least 90 days.

**Rural road**—A road, street, way, highway, thoroughfare, or bridge that is located in an unincorporated area and is not privately owned or controlled, any part of which is open to the public for vehicular traffic, and over which the state or any of its political subdivisions have jurisdiction.

**Sign**—An outdoor structure, sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform and that is visible from the main-traveled way of a rural road.

#### §21.421 Exemptions.

(a) The following are exempt from these sections:

(1) a sign the erection and maintenance of which is allowed under the Highway Beautification provisions of the Texas Litter Abatement Act, Article IV, Texas Civil Statutes, Article 4477-9a;

(2) a sign in existence before September 1, 1985, except that such sign shall be registered as provided in §21.431 of this title (relating to Registration of Existing Off-Premise Signs) under the Act;

(3) a sign that has as its purpose the protection of life and property;

(4) a directional or other official sign authorized by law, including a sign pertaining to natural wonders or scenic or historic attractions;

(5) a sign or marker giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers, or waterlines;

(6) a sign erected by an agency of the state or a political subdivision of the state;

(7) a sign erected solely for and relating to a public election, but only if:

(A) the sign is on private property;

(B) the sign is created no sooner than the 60th day before the election and is removed no later than the 10th day after the election;

(C) the sign is constructed of lightweight material;

(D) the surface area of the sign is not larger than 50 square feet; and

(E) the sign is not visible from the main-traveled way of an interstate or federal-aid primary highway;

(8) on-premise and off-premise signs which are no larger than eight square feet;

(9) off-premise signs which are no larger than 32 square feet and which show only the name of a place or activity and directions to same;

(10) signs required by the Texas Railroad Commission at the principal entrance to or on each oil or gas producing property, well, tank, or measuring facility to identify or to locate such property; such signs shall be no larger in size than is necessary to comply with the Texas Railroad Commission regulations and will have no advertising message other than the name or logo of the company and the necessary directions.

(11) signs owned by a chamber of commerce organization, if the message is limited to public service information, does not mention any specific person, service or product, and if the sign is located with the city or town support by such organization.

(b) The following are exempt from the requirements of §21.471 of this title (relating to Face Restrictions):

(1) signs advertising the sale or lease of property on which they are located; and

(2) on-premise wall signs.

(c) These sections do not apply to off-premise portable signs in the unincorporated area of a county with a population of 1.7 million or more, according to the most recent federal census, provided such county is either prohibiting such signs or is regulating the location, height, size, anchoring, or use of such portable signs.

(d) These sections do not apply to the extraterritorial jurisdiction of a municipality which has extended its outdoor sign ordinance within its area of extraterritorial jurisdiction.

#### §21.431. Registration of Existing Off-Premise Signs.

(a) Not later than December 30, 1985, each owner of an off-premise sign, other than an exempt sign, erected before September 1, 1985, that is visible from the main-traveled way of a rural road shall either remove the sign or register the sign with the commission. The owner must pay a nonrefundable fee of \$25 for each sign that is registered. Such registration is valid for one year. The registration may be renewed upon payment of a nonrefundable renewal fee of \$10 per sign per year renewed, but may not be renewed for a sign renewal period in excess of five years at any one time.

(b) In order to register a sign, the owner shall first provide the district engineer of the department district office serving the county in which the sign is located with sufficient information in duplicate and in writing or pictorially, such as a photograph or sketch, to positively identify the sign and its location, including the name or number of the road along which it is located, how to locate the road and the sign location, the direction the sign can be found from the road,

the overall height and length of the sign, a description of the material of which it is constructed, the number of supporting poles, whether it is illuminated or not, the current message on display, the name and mailing address of the sign owner and the name and mailing address of the site owner. Such registration shall include a statement under oath that each sign being registered was erected prior to September 1, 1985. No particular form shall be necessary, but a form prescribed by the department may be used. The nonrefundable fee of \$25 per sign must be submitted with the registration request. The fee may be paid by the registrant's check or by cashier's check or money order supplied by the registrant in an amount sufficient to cover all signs sought to be registered in that submission.

(c) Upon completion of the registration, a copy of the registration paper used will be sent to the sign owner along with a registration number which shall be displayed on the sign structure, within 30 days after receipt thereof, in a form and manner prescribed by the department. Such registration shall be valid for one year from the date of registration.

(d) The registration of an off-premise sign in existence before September 1, 1985, may be renewed for an additional period of up to five years upon written request to the district engineer of the department district office serving the county in which the sign is located provided identification of the sign and the required nonrefundable fee of \$10 per sign for each year the renewal is requested are submitted with such request and provided that such request may not be for a single renewal period in excess of five years and that such request and the required fee shall be received by such district engineer before the existing registration expires.

(e) Other than an exempt sign, any off-premise sign which was in existence before September 1, 1985, and not duly registered or for which the registration is not kept renewed as provided in these sections shall be removed by the owner thereof at the owner's expense upon written notification by a district engineer of the department district office serving the county in which the sign is located.

(f) The registration of a sign may be transferred upon filing with the district engineer of the department district office serving the county where the sign is located three duly executed copies of the form prescribed by the department and upon payment of a nonrefundable transfer fee of \$25 for each sign registration being transferred. One copy of each approved transfer shall be sent to the transferor, one copy shall be sent to the transferee and one copy shall be retained by the district engineer.

#### §21.441. Permit for Erection of Off-Premise Sign.

(a) A person shall not erect or cause to be erected an off-premise sign, other than



an exempt sign, that is visible from the main-traveled way of a rural road without first having obtained a permit to do so from the commission acting by and through the district engineer of the department district office serving the county in which the proposed sign is to be located.

(b) Before erecting a sign, the person who proposes to own the sign shall complete under oath an application for a permit, in duplicate, using a form prescribed by the department. The application shall show the facts necessary to identify the sign, the owner of the sign, the location where it is to be erected, how to find the road along which it is to be located, the name and address of the owner of the proposed sign site, whether consent of such site owner to the erection of the proposed sign has been obtained and any other information pertinent to such application. Such application shall be submitted to the district engineer as provided previously. The permit application shall be accompanied by a nonrefundable fee which may be paid by a check, cashier's check, or money order from the person who is to own the proposed sign. The amount of the fee to be paid shall be based upon the size of the proposed sign and shall be as follows: for signs no larger than 100 square feet, the fee shall be \$100; for signs having an area larger than 100 square feet but not larger than 300 square feet, the fee shall be \$175; for signs having an area larger than 300 square feet, the fee shall be \$250.

(c) Before approving a permit application, the district engineer shall determine that:

(1) such sign will be located within 800 feet of at least two adjacent recognized commercial or industrial activities located on the same side of the roadway;

(2) such sign will be located along a roadway subject to control under these sections;

(3) such sign will be in compliance with these sections and the Act;

(4) such sign will not be subject to control under the Texas Litter Abatement Act;

(5) if the proposed sign will have a height, in feet above ground, as measured above the average level of the ground adjacent to the proposed structure, of six feet, or more, such permit application is accompanied by a certificate signed by the sign owner to the effect that the proposed sign will withstand wind load pressures in pounds per square foot as set out in the following table:

Wind Load Pressures in  
Pounds per Square Foot

Height, in feet above ground, as measured above the average level of the ground adjacent to the structure	Pressure, pounds per square foot
0-5	0
6-30	20
31-50	25

51-99	35
100-199	45
200-299	50
300-399	55
400-500	60
501-800	70
Over 800	77

(6) Such sign may be illuminated subject to the restrictions set forth in §21.551 (b) and (c) of this title (relating to Prohibited Signs).

(d) Upon determining that the requirements referred to previously will be met, the district engineer shall approve the permit for which application was made and shall endorse both copies of the application to show such approval and shall return one copy thereof to the applicant along with a permit number which shall be displayed on the sign structure, within 30 days after receipt thereof, in a form and manner prescribed by the department. The permit may show one or more of the restrictions provided in these sections and shall provide that the permit expires one year after it is approved.

(e) A sign permit may be renewed before the existing permit terminates by the permit holder filing with the district engineer of the department district office serving the county where the sign exists or is to be located a written request to renew the permit along with a nonrefundable renewal fee amounting to one-half the amount of the then current sign permit fee for the size of the sign the permit for which is being renewed, and such amount shall be payable for each year the permit is to be renewed. Such renewal, when approved by the district engineer, shall be for a single period of no more than five years. A like fee shall be collected for subsequent renewal periods.

(f) Other than an exempt sign, any sign erected on or after September 1, 1985, without a permit therefor or for which the permit is not kept renewed shall be removed by the owner thereof at the owner's expense upon written notification by a district engineer of the department.

(g) A permit may not be assigned or transferred without approval by the district engineer of the department district office serving the county where the sign exists or is to be located and then only upon payment of a nonrefundable transfer fee of \$25 for each sign permit to be transferred. In order to make such a transfer, a form to be prescribed by the department shall be completed in triplicate. One copy of each approved permit transfer shall be sent to the transferor, one copy shall be sent to the transferee and one copy shall be retained by the district engineer.

§21.451. Spacing Requirements.

(a) An off-premise sign having a face area of 301 square feet or more may not be erected within 1,500 feet of another off-premise sign on the same side of the roadway.

(b) An off-premise sign having a face area of at least 100 but less than 301 square

feet may not be erected within 300 feet of another off-premise sign on the same side of the roadway.

(c) An off-premise sign having a face area of less than 100 square feet may not be erected within 150 feet of another off-premise sign on the same side of the roadway.

(d) Signs located at the same intersection are not in violation of these spacing rules because of their nearness to one another if they are located so that their messages are directed toward traffic flowing in different directions and if they are not visible from the main-traveled way of an interstate or federal-aid primary highway.

(e) For spacing purposes, all measurements shall be made along the nearest edge of the highway right of way and shall be made from the midpoint of the sign structure nearest such right of way.

(f) No off-premise sign may be erected within five feet of any rural road right of way line.

(g) An off-premise sign may be erected only within 800 feet of at least two adjacent recognized commercial or industrial activities, as herein defined, which are on the same side of the rural road as the sign.

(h) Signs may not be located in such a manner as to create a safety hazard. They shall not be so located as to be likely to cause a driver to be unduly distracted in any way or so as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic whether the intersection be of two or more roads or the intersection of a road with a railroad.

§21.461. Height Restrictions. An on-premise or off-premise sign that exceeds an overall height of 42½ feet, excluding cutouts extending above the rectangular border, measured from the highest point of the sign to the grade level of the roadway from which the sign is to be viewed, may not be erected. A roof sign having a tight or solid surface may not at any point exceed 24 feet above the roof level. Open roof signs in which the uniform open area is not less than 40% of total gross area may be erected to a height of 40 feet above the roof level. The lowest point of a projecting sign must be at least 14 feet above grade.

§21.471. Face Restrictions.

(a) An on-premise sign, other than an on-premise wall sign, may not be erected that has a face area exceeding 400 square feet, including cutouts but excluding uprights, trim, and apron.

(b) An off-premise sign may not be erected that has a face area exceeding 672 square feet, excluding cutouts, uprights, trim, and apron; however, such vertical and horizontal dimensions shall not exceed 25 feet and 60 feet respectively.

(c) Neither an on-premise sign nor an off-premise sign face may have a cutout with

an area larger than 20% of the surface copy area of such sign face.

(d) No sign may be erected which has more than two faces facing a particular direction of travel on the main-traveled way.

(e) If a sign is erected in a back-to-back or V-type configuration, it cannot be double-faced, but will be limited to only one face facing a particular direction of travel.

**§21.481. Multiple Faced Signs.** For spacing purposes, multiple faced off premise signs under common ownership, whether double-faced, back-to-back, or of V-type construction, shall be considered to be one sign provided they are either:

- (1) physically contiguous;
- (2) connected by the same structure or by cross-bracing; or
- (3) located in close proximity to each other, but in no event more than 15 feet apart at their nearest point.

**§21.511. Replacement or Repair of Sign.**

(a) When any sign, or a substantial part of it, is blown down or otherwise destroyed or taken down or removed for any purposes other than maintenance operations

or for changing the letters, symbols, or other matter on a sign, it may not be reerected, reconstructed, or rebuilt except in full conformance with the provisions and requirements of this title and the Act.

(b) For purposes of subsection (a) of this section, a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 50% of the cost of erecting a new sign of the same type at the same location.

**§21.541. Revocation of Permits.**

(a) The commission, acting by and through the state right of way engineer, may suspend and revoke a permit which was issued under these sections if the permittee:

- (1) violates any provisions or requirements of the Act;
- (2) violates a rule adopted by the commission under such statute.

(b) A person whose permit is revoked may appeal the revocation to a district court in Travis County. The appeal must be taken not later than the 15th day after the date of such revocation.

**§21.561. Removal of Sign.** When a commercial or industrial activity ceases and an off-premise sign, other than an exempt sign, is no longer located within 800 feet of at least two adjacent recognized commercial or industrial activities located on the same side of the roadway and such condition has existed for at least six months, such sign shall be removed by the owner thereof at the owner's expense within six months.

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 February 10, 1986.

TRD-8601391

Diane L. Northam  
Administrative  
Technician  
State Department of  
Highways and Public  
Transportation

Effective date: March 3, 1986  
Proposal publication date: September 13, 1985  
For further information, please call  
(512) 463-8630.



## State Board of Insurance Exempt Filings

### State Board of Insurance Notifications Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is*

*not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance considered a filing by PMI Mortgage Insurance Company, of Texas Classification Grid and Related Rules.

Senate Bill 502 requires the approval of a uniform classification grid and related rules for Mortgage Guaranty Insurance. The grid includes loan-to-value ratios, type and amount percent of coverage, plan type, and rules.

The classification grid consists of the following rate pages:

Occupancy	Coverage	Mortgage Instrument
Owner	Standard	Fixed Payment Mortgages
Owner	Standard	Normal Amortization
Owner	Standard	Potential Negative Amortization
Owner	Standard	Scheduled Negative Amortization
Owner	Down-to-75%	Normal Amortization
Owner	Down-to-75%	Potential Negative Amortization
Owner	Down-to-75%	Scheduled Negative Amortization
Owner	Down-to-65%	Potential Negative Amortization
Owner	Down-to-65%	Scheduled Negative Amortization
Non-Owner	Standard	Fixed Payment Mortgages
Non-Owner	Standard	Normal Amortization
Non-Owner	Standard	Potential Negative Amortization
Non-Owner	Standard	Scheduled Negative Amortization
Non-Owner	Down-to-75%	Fixed Payment Mortgages
Non-Owner	Down-to-75%	Normal Amortization
Non-Owner	Down-to-75%	Potential Negative Amortization
Non-Owner	Down-to-75%	Scheduled Negative Amortization
Non-Owner	Down-to-65%	Fixed Payment Mortgage
Non-Owner	Down-to-65%	Normal Amortization
Non-Owner	Down-to-65%	Potential Negative Amortization
Non-Owner	Down-to-65%	Scheduled Negative Amortization
Both	100%	Fixed Payment Mortgages
Both	100%	Normal Amortization
Mortgage Pools		

This filing is effective 15 days after it is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on February 3, 1986.

TRD-8901447      Nicholas Murphy  
State Board of  
Insurance

Effective date: March 6, 1986  
For further information, please call  
(512) 463-6327.

★      ★      ★

The State Board of Insurance considered a filing by Municipal Issuers Service Corporation, of an endorsement form #NY 18e.

Endorsement #NY 18e stipulates the termination date of the Municipal Bond Insurance Policy.

This filing is effective 15 days after it is published in the *Texas Register*.

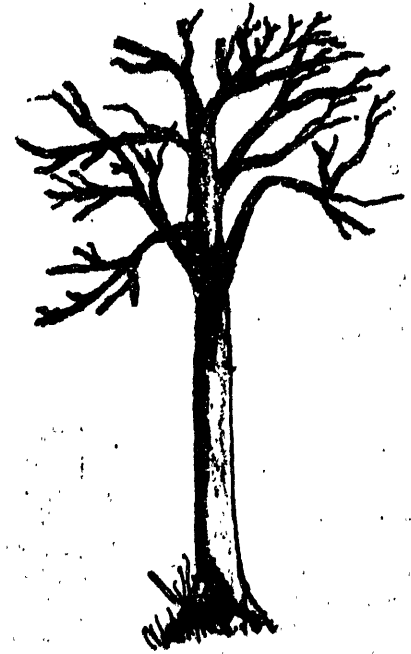
This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on February 3, 1986.

TRD-8901448      Nicholas Murphy  
State Board of  
Insurance

Effective date: March 6, 1986  
For further information, please call  
(512) 463-6327.

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# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

**Posting of open meeting notices.** All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agendas than what is published in the *Register*.

## Texas Department of Agriculture

**Thursday, February 20, 1986, 10 a.m.** The Texas Department of Agriculture will meet in the County Commissioner's Courtroom, Motley County Courthouse, Matador. According to the agenda, the department will hold a public hearing to receive public comment regarding proposed special exemptions of the Texas Herbicide Law for Motley County. Rescheduled from February 10, 1986 (11 TexReg 727).

**Contact:** Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** February 12, 1986, 9:20 a.m.  
TRD-8601479

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## Texas Alcoholic Beverage Commission

**Monday, February 24, 1986, 1:30 p.m.** The Texas Alcoholic Beverage Commission will meet in the third floor Hearing Room, 1600 West 38th Street, Austin. According to the agenda, the commission will approve minutes of the January, 1986 meeting; consider the administrator's and staffs' report of agency activity; and approve affidavits of destruction of tested alcoholic beverages.

**Contact:** W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 11, 1986, 10:16 a.m.  
TRD-8601449

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## Texas Animal Health Commission

**Friday, February 21, 1986, 9 a.m.** The Texas Animal Health Commission will meet in the first floor conference room, 210 Barton Springs Road, Austin. According to the agenda summary, the commission will approve the minutes of the previous meeting; approve actions of the executive director;

consider approving an amendment to Chapter 35, Texas Bovine Brucellosis Regulation concerning transfer of Dimmit County; consider the adoption of Chapter 32, hearing and appeal procedure; the research report; investigation into the status of Babesias in South Texas; the survival of cattle fever ticks on South Texas range land; the report on Cameron County fever tick outbreak; and review and approve a training policy for employee participation in a college degree program. The commission also will meet in executive session.

**Contact:** Jo Anne Conner, 1020 Sam Houston Building, Austin, Texas 78701, (512) 475-4111.

**Filed:** February 12, 1986, 3:49 p.m.  
TRD-8601513

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## State Bar of Texas

**Thursday, February 20, 1986, 9 a.m.** The Executive Committee of the State Bar of Texas will meet in Rooms 101 and 102, State Bar of Texas, 1414 Colorado Street, Austin. According to the agenda summary, the committee will consider the reports of the president and president-elect; consider budgetary matters; reports of the executive director, the supreme court liaison, chairman of the board, the general counsel; and the 1986 convention.

**Contact:** Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1401.

**Filed:** February 12, 1986, 3:47 p.m.  
TRD-8601511

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## Texas Economic Development Commission

**Thursday, February 20, 1986, 7:45 a.m.** The Rural Loan Committee of the Texas Economic Development Commission will meet in Conference Room A, Fort Brown Hotel,

1900 East Elizabeth Street, Brownsville. According to the agenda, the committee will approve the minutes for October 22, 1985, meeting; consider and make recommendations for an interest rate cap on all rural loans; and consider and take action on a rural loan request by the Greenville Industrial Development Fund, Inc.

**Contact:** John H. Kirkley, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

**Filed:** February 12, 1986, 3:51 p.m.  
TRD-8601515

**Thursday, February 20, 1986, 8:15 a.m.** The Texas Small Business Industrial Development Corporation (TSBIDC) of the Texas Economic Development Commission will meet in Conference Room A, Fort Brown Hotel, 1900 East Elizabeth Street, Brownsville. According to the agenda, the corporation will consider and take action on the election of officers; approve the agenda; the minutes from the December 11, 1985, meeting; the TSBIDC cash balance; the summary of 1985 closings; consider and take action on projects requesting inducement resolutions of Burly Fence and Hardware, Inc., Burleson, requesting \$750,000, Billy J. Horn, Eules, requesting \$670,000; and consider and take action on modifications to the Capital program guidelines.

**Contact:** John H. Kirkley, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

**Filed:** February 12, 1986, 3:50 p.m.  
TRD-8601514

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## Texas State Board of Dental Examiners

**Thursday-Saturday, March 13-15, 8 a.m. daily.** The Texas State Board of Dental Examiners will meet in the Castillian ABC Meeting Room, Shamrock Hilton Hotel, 6900 South Main, Houston. Items on the agenda include the disciplinary hearings; the subcommittee report on dental hygienists

working in nursing homes; approval of anesthesia applications; discussion of 1986 exams; approval of honorary retired dentists and hygienists; the dental laboratory registration for Ray Hernandez; the appointments to the Dental Hygiene Advisory Committee; the appointments to the Anesthesia Committee; review of the application from Fr. J. Martin Gelb; a discussion of dental hygiene exam forms; cancellations of licenses for failure to register; a report on legal counsel; a discussion of the proposed amendment to advertising rule 109.204; the TDA program for chemically impaired dentists; the board committees; the request of Dr. Rafael Flores to take board exam; motion for reinstatement from Dr. Harry Roland; and TDA resolutions; request of Dr. Denise Tu for shortening of her term of probation. The board also will meet in executive session to discuss pending litigation.

**Contact:** William S. Nail, Suite 503, 411 West 13th Street, Austin, Texas 78701, (512) 463-5536.

**Filed:** February 13, 1986, 9:06 a.m.  
TRD-8601526

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### Texas Education Agency

**Thursday, February 20, 1986, 9:00 a.m.** The Accountable Costs Advisory Committee of the Texas Education Agency will meet in room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss feedback from the State Board of Education concerning accountable costs studies; and review contracts.

**Contact:** Tom Krueck, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9709.

**Filed:** February 11, 1986, 2:21 p.m.  
TRD-8601460

**Friday, February 21, 1986, 10:30 a.m.** The Paperwork Reduction Advisory Committee of the Texas Education Agency will meet in room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss lesson plans; documentation on mastery of the essential elements; the appraisal system/career ladder; annual performance reports; report cards and progress reports; discipline management plans; communications with parents; special programs; attendance accounting; grade accounting; tutorials; class scheduling; and textbooks.

**Contact:** Terri Anderson, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9000.

**Filed:** February 11, 1986, 2:21 p.m.  
TRD-8601459

**Friday, February 21, 1986, 11:00 a.m.** The Price Differential Index Advisory Commit-

tee of the Texas Education Agency will meet in room 6-101, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will discuss results of using updated information in the current econometric model; further explanation of the model; research design for State Board of Education charges and availability of data; and schedule next meeting.

**Contact:** Maureen Moore Scheevel, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

**Filed:** February 11, 1986, 2:21 p.m.  
TRD-8601461

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### State Advisory Commission on State Emergency Communications

**Wednesday, February 19, 1986, 9:30 a.m.** The Technology Committee of the State Advisory Commission on State Emergency Communications will meet in Conference Room B, Department of Public Safety Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the committee will consider cost estimates and technical issues regarding potential statewide 9-1-1 emergency telephone service.

**Contact:** Jay Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 463-1812.

**Filed:** February 12, 1986, 3:02 p.m.  
TRD-8601506

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### Governor's Commission on Physical Fitness

**Friday, February 21, 1986, 10 a.m.** The Board of Directors of the Governor's Commission on Physical Fitness will meet in the Activity Center Boardroom, Aerobic Center, Dallas. According to the agenda summary, the board will approve board minutes; consider interim Executive Committee action; the Youth Fitness Task Force status report; discuss commission co-sponsorship of Texas state; and discuss classification of the commission board. At 1:00 p.m., the board will discuss the Employee Fitness Task Force status; the Senior Citizen's Fitness Task Force status report; preparation for the legislative review of the commission programs and budget requests; the Executive Director report; and report of the Nominating Committee.

**Contact:** Donald F. Haydon, Suite 508, 7703 North Lamar Boulevard, Austin, Texas 78756, (512) 467-7141.

**Filed:** February 11, 1986, 1:48 p.m.  
TRD-8601458

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### Texas Department of Health

**Wednesday, February 19, 1986, 1:30 p.m.** The Advisory Board of Athletic Trainers of the Texas Department of Health will meet in room T-604, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve minutes; brief new board members; consider the apprenticeship completed without prior board approval of Cheryl Jobe; discuss continuing education requirements; rules concerning apprenticeship requirements; amendments to rules relating to examinations and late renewals; elect officers; appoint committees; and discuss other matters requiring no board action.

**Contact:** Maurice B. Shaw, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7538.

**Filed:** February 11, 1986, 4:23 p.m.  
TRD-8601476

**Saturday, February 22, 1986, 9:30 a.m.** The Respiratory Care Practitioners Advisory Board of the Texas Department of Health will meet in classroom A, Service Building, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve minutes from the meeting on November 8, 1985; review administrator's and chairperson's report; review and consider comments regarding proposed 25 TAC §§123.1-123.14; adoption of 25 TAC §§123.1-123.14; discuss other matters relating to the regulation of respiratory care practitioners (not requiring advisory board action); and set the next meeting date.

**Contact:** Donna Hardin, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7631.

**Filed:** February 11, 1986, 1:49 p.m.  
TRD-8601457

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### State Department of Highways and Public Transportation

**Thursday, February 13, 1986, 10 a.m.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation met in emergency session in the International Room, sixth floor, Dallas City Hall Building, 1500 Marilla Street, Dallas. According to the agenda, the commission considered conditions for further development of the North Central Expressway (U.S. Highway 75) and established the respective responsibilities of and coordination with local entities. The emergency status was necessary for timely development of this project.

**Contact:** Lois Jean Turner, Room 203, Dewitt C. Greer State Building, 11th and Brazos Streets, Austin, Texas 78711, (512) 463-8616.

**Filed:** February 12, 1986, 2:51 p.m.  
TRD-8601505

## State Board of Insurance

**Wednesday, February 19, 1986, 10 a.m.** The State Board of Insurance will meet in room 414, State Insurance Building, 1110 San Jacinto, Austin. According to the agenda summary, the board will discuss the proposed amendment of 28 TAC §5.3003 and §5.3004 relating to rate circumvention by regulated companies; the emergency amendment to Amusement Ride Rules concerning reports of injury required by the Texas Insurance Code, Article 21.60; and board orders on several different matters as itemized on the complete agenda. The Fire Marshal will discuss personnel matters; appointment of members to the Fire Protection Advisory Council; appointment of members to the Fire Extinguisher Advisory Council; and proposed amendments to sprinkler rules, 28 TAC §§27.306, 27.311, 27.313, 27.316, 27.318. The commissioner will discuss personnel; and pending and contemplated litigation.

**Contact:** Pat Wagner, 1110 San Jacinto, Austin, Texas 78701, (512) 463-6328.

**Filed:** February 11, 1986, 10:17 a.m.  
TRD-8601450

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## Texas Department of Labor and Standards

**Wednesday, February 19, 1986, 9 a.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in an emergency session in Room 105, 920 Colorado Street, E.O. Thompson Building, Austin. According to the agenda, the division will discuss license and registration; and suspensions and alleged violation of various rules and regulations of the department. The emergency status was necessary in order to consider the possible violation of Texas Civil Statutes, Article 5221F which jeopardize safety and the public welfare.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3127.

**Filed:** February 12, 1986, 11:34 a.m.  
TRD-8601498

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**Monday, February 24, 1986, 1 p.m.** The Vehicle Storage Facility Advisory Board of the Texas Department of Labor and Standards will meet in Room 6E, City Council Chamber, Dallas City Hall, 1500 Marilla Street, Dallas. Items on the agenda include the report of the meeting with the Department of Public Safety; the licensing activities; a legal update; rule changes; public comments; and the selection of the location of the next meeting.

**Contact:** Monica G. Simien, E.O. Thompson Building, Austin, Texas 78701, (512) 475-6560.

**Filed:** February 12, 1986, 3:09 p.m.  
TRD-8601504

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## Board of Law Examiners

**Sunday-Tuesday, February 23-25, 1986, 1 p.m., 8:15 a.m., 8:15 a.m. respectively.** The Board of Examiners will meet at the Habitat Inn, 500 Highland Mall Boulevard, Austin, on Sunday, and at the Texas Law Center, 1414 Colorado Boulevard, Austin, on Monday and Tuesday. According to the agenda, the board will review minutes of the January 1986 meeting; the current status of the budget of fiscal year 1986; discuss the February 1986 bar examination; questions of eligibility and special requests; and conduct hearings on moral character and fitness.

**Contact:** Wayne E. Denton, Suite 505, Texas Law Center, 1414 Colorado, Austin, Texas 78701, (512) 463-1621.

**Filed:** February 12, 1986, 12:50 p.m.  
TRD-8601500

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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.

**Wednesday, February 19, 1986, 9:00 a.m.** An open meeting at which the Commissioners will consider Dockets 6456, 6457, 6460, 6517, 6603, 6095, 6465, 6529, 6642, 6558, 6653, 6122, 6475, 6519, 6451, 5129, 5758, 5992, 6242, 6595, 6268, 6539, 6639, 6646, 6607, 6617, 6638, 6641, 5094, 5313, 5401, 5434, 5721, 5745, 5915, 5950, 6276, 6315, 6445, 6581, and 6585. The division also will meet in executive session to consider pending litigation and personnel matters.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 11, 1986, 2:46 p.m.  
TRD-8601472

**Wednesday, February 26, 1986, 10 a.m.** A prehearing conference in Docket 6615—application of Lower Colorado River Authority to increase rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 12, 1986, 3:58 p.m.  
TRD-8601512

**Tuesday, March 4, 1986, 9 a.m.** A hearing on the merits in Docket 6384—complaint of

Mrs. R. L. Nix against Texas-New Mexico Power Company.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 12, 1986, 3:57 p.m.  
TRD-8601518

**Monday, March 10, 1986, 10 a.m.** A prehearing conference in Dockets 5914, 6506, 6584, 6596, and 6687—application of Travis County Water Control District 17 for a water certificate of convenience and necessity within Travis County; application of the Parke Utility Corporation for a water certificate of convenience and necessity within Travis County; application of Steiner Utility Company for water and sewer certificates of convenience and necessity within Travis County; application of M.A.B.D.D., Inc., Charter 755136, for water and sewer certificates of convenience and necessity within Travis County; application of Parke Water Supply Corporation for a sewer certificate of convenience and necessity within Travis County; and application of CI Utility Corporation, Inc., 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:** February 12, 1986, 3:57 p.m.  
TRD-8601517

**Friday, April 18, 1986, 10 a.m.** A hearing on the merits in Docket 6685—application of Wharton County Electric Cooperative, Inc., for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 11, 1986, 2:47 p.m.  
TRD-8601474

**Monday, April 28, 1986, 10 a.m.** A hearing on the merits in Docket 6680—application of Victoria County Electric Cooperative, Inc., for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 13, 1986, 9:05 a.m.  
TRD-8601524

**Monday, April 28, 1986, 10 a.m.** A rescheduled hearing on the merits in Docket 6611—petition of Southwestern Electric Power Company for recovery of unrecovered fuel expense with interest thereon and the setting of revised fuel factors. Rescheduled from March 10, 1986, 10 a.m.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 11, 1986, 2:47 p.m.  
TRD-8601473

**Tuesday, May 20, 1986, 1:30 p.m.** A prehearing conference in Docket 5954—inquiry of the Public Utility Commission of Texas into offering extended area service in the City of Rockwall.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 12, 1986, 3:56 p.m.  
TRD-8601520

**Monday, June 2, 9:30 a.m.** A hearing on the merits in Docket 5954—inquiry of the Public Utility Commission of Texas into offering extended area service in the City of Rockwall.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 12, 1986, 3:56 p.m.  
TRD-8601519

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### State Purchasing and General Services Commission

**Wednesday, February 19, 1986, 10 a.m.** The State Purchasing and General Services Commission will meet in room 916, L.B.J. State Office Building, 111 East 17th Street, Austin. According to the agenda summary, the commission will discuss results of 1985 year appropriations—funds returned to General Revenue Fund; the status of Texas Department of Correction work; State Telecommunications Systems (STS) Network system changes to provide more cost effective data transmission; installation of VAX 8600 computer; projects authorized by the Texas Public Building Authority; publication in the Texas Register of proposed amendments to commission §113.14; invoicing and payment; final adoption of proposed amendments to commission §§113.1 and 113.9; appeal of Sky Dive San Marcos, Inc. to the proposed award of Surplus Property Sale DPS-9142-L to A.C. Aubin; information on Health Department and EPA on hazardous material rules affecting the commission; and set time and date for the next meeting. The commission will also meet in executive session to consider the status of real property and personnel matters.

**Contact:** John R. Neel, 111 East 17th Street, L.B.J. State Office Building, Austin, Texas 77811, (512) 463-3446.

**Filed:** February 11, 1986, 10:02 a.m.  
TRD-8601445

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### Employees Retirement System of Texas

**Tuesday, February 25, 1986, 9 a.m.** The Board of Trustees of the Employees Retirement System (ERS) of Texas will meet in the ERS Building, 18th and Brazos Streets, Austin. According to the agenda summary, the board will approve board minutes; review the report of retirement/death benefits; payments to survivors of law enforcement officers, firemen, etc.; consider and act on rates, coverages, and administration of Uniform Group Insurance Program for fiscal year 1986-1987; consider and act on application of health maintenance organization for fiscal year 1986-1987; adoption of amendment to board §81.5(d); adoption of repeals and addition of new section to chapter 67 of board rules; consider appeals of contested cases; status report on the state auditor's management letter; the executive director's report; and confirm date of the next trustee meeting. The board will also meet in an executive session.

**Contact:** Clayton T. Garrison, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431.

**Filed:** February 12, 1986, 10:26 a.m.  
TRD-8601497

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**Tuesday, February 25, 1986, 9 a.m.** The Board of Trustees of the Employment Retirement System of Texas made an addition to the agenda for a meeting to be held in the Employees Retirement System Building, 18th and Brazos Streets, Austin. The addition concerns consideration of and action on adjustment to the 1986 operating budget to establish an HMO section within the Group Insurance Division.

**Contact:** Clayton T. Garrison, 18th and Brazos Streets, Austin, Texas 78701, (512) 476-6431.

**Filed:** February 12, 1986, 2:42 p.m.  
TRD-8601503

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### School Land Board

**Tuesday, February 18, 1986, 10 a.m.** The School Land Board will meet in an emergency session in room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will discuss mineral and/or royalty reservation on vacancy applications. The emergency status was necessary because of the need for a timely decision on vacancy applications.

**Contact:** Linda K. Fisher, room 836, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

**Filed:** February 11, 1986, 10:59 a.m.  
TRD-8601452

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### Texas State Technical Institute

**Monday, February 17, 1986, 11 a.m.** The Executive Committee of the Board of Regents of the Texas State Technical Institute (TSTI) met in an emergency session via conference call in the conference room, TSTI-System Building, Waco. According to the agenda, the committee discussed the leasing of Building 11-01 at TSTI-Waco campus. The emergency status was necessary because the premises needs to be occupied immediately.

**Contact:** Theodore A. Talbot, Texas State Technical Institute Campus Services, Waco, Texas 76705, (817) 799-4432.

**Filed:** February 12, 1986, 2:04 p.m.  
TRD-8601501

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### Board of Veterinary Medical Examiners

**Sunday and Monday, February 16 and 17, 1986, 9:30 a.m. daily.** The Board of Veterinary Medical Examiners made an emergency addition to the agenda for a meeting held in the Hilton Palacio Del Rio, Market and Alamo Streets, San Antonio. The emergency addition was the adoption of proposed sections. The emergency revised agenda was necessary because the adoption of sections was included in the agenda and was erroneously listed under "general board business".

**Contact:** Judy Smith, Suite 119, 3810 Medical Parkway, Austin, Texas 78756, (512) 458-1183.

**Filed:** February 11, 1986, 4:02 p.m.  
TRD-8601475

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### Texas Water Commission

**Friday, April 4, 1986, 10 a.m.** The Office of Hearings Examiners of the Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office will consider the cancellation of Permit 2822 of Playa Del Rio, Inc.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** February 12, 1986, 3:52 p.m.  
TRD-8601516

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## Texas Water Development Board

**Thursday, February 20, 1986, 1:30 p.m.** The Texas Development Board will meet in the San Luis Hotel, Galveston. According to the agenda summary, the board will consider the minutes of the November 21, 1985, December 19, 1985, and January 30, 1986 meetings; the development fund manager's report; the extensions of loan commitments of Cities of Italy, Blossom (Red River Authority) and Savoy; the approval of budget of San Jacinto River Authority; the fund project not included in the original application by San Patricio MWD; the repeal of Texas Water Development Board rules, Chapter 363 and sections; new Chapter 363 rules; the construction grant increase for City of Quitman; funding research project for City of Abilene; the funding application by UT-Austin, College of Engineering; enter into agreements with Bureau of Economic Geology, UT-Austin and U.S. Geological survey on Edwards Aquifer near Georgetown; publish in *Texas Register* proposals to evaluate costs of water supply; publish in *Texas Register* request to conduct studies to estimate impacts of commercial fishing and recreation; allocating \$2,000,000 from the Water Assistance Fund to the Research and Planning Fund; the establishment of the Technical Advisory Committee.

**Contact:** Charles E. Nimir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

**Filed:** February 12, 1986, 2:02 p.m.  
TRD-8601502

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## Regional Agencies

### Meetings Filed February 10

**The Border Area Nutrition Council, Board of Directors,** met in emergency session at San Juana Plaza, Rio Grande, on February 12, 1986, at 11 a.m. Information may be obtained from Noemi Suarez, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

**The South Texas Development Council, STED Corporation Board of Trustees, and Board of Directors,** met in emergency session at San Juan Plaza, Rio Grande, on February 12, 1986, at 11:30 a.m. and 2 p.m. respectively. Information may be obtained from Robert Mediola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.  
TRD-8601393

### Meeting Filed February 11

**The Lampasas County Appraisal District,** met in emergency session at 403 East Second Street, Lampasas, on February 12, 1986, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550.

TRD-8601434

### Meetings Filed February 13

**The Bexar Appraisal District, Board of Directors,** met at 535 South Main, San Antonio, on February 17, 1986, at 5 p.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Education Service Center Region X, Board of Directors,** will meet in the Boardroom, 400 East Spring Valley, Richardson, on February 19, 1986, at 12:30 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas, (214) 231-6301.

TRD-8601527

### Meetings Filed February 12

**The Ark-Tex Council of Governments, Regional Alcohol/Drug Authority,** will meet in room SUB 101, Northeast Texas Community College, FM Road 1735, Chapel Hill, on February 20, 1986, at 10 a.m. Information may be obtained from Janell Browning, P.O. Box 5307, Texarkana, Texas 75501, (214) 832-8636.

**The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, Personnel Committee,** will meet in the boardroom, 1430 Collier Street, Austin, on February 19, 1986, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 240.

**The Bosque County Appraisal District, Board of Directors,** will meet at the Courthouse, Meridian, on February 20, 1986, at 7 p.m. Information may be obtained from David G. Cooper, P.O. Box 393, Meridian, Texas 76665.

**The Comal Appraisal District, Board of Directors,** met at 541 Highway 46 South, New Braunfels, on February 17, 1986, at noon and 7:30. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130.

**The Coryell County Appraisal District, Board of Directors,** will meet at 105 North Seventh Street, Gatesville, on February 19, 1986, at 6 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

**The Dewitt County Appraisal District, Board of Directors,** will meet at 103 Bailey Street, Cuero, on February 18, 1986, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

**The Education Service Center Region VIII, Board of Directors,** will meet at the ESC, 100 North Riddle Street, Mount Pleasant, on February 27, 1986, at 7 p.m. Information may be obtained from Scott Ferguson, 100 North Riddle Street, Mount Pleasant, Texas 75455.

**The Houston-Galveston Area Council, Project Review Committee, and the Board of Directors,** will meet on the fourth floor conference room, 3555 Timmons Lane, Houston, on February 18, 1986, at 8:30 a.m. and 9:30 a.m. respectively. Information may be obtained from Aquina Janice, 3555 Timmons Lane, Houston, Texas 77027, (713) 627-3200.

**The Limestone County Appraisal District, Board of Directors,** will meet at the Courthouse, Groesbeck, on February 19, 1986, at 5 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009.

**The Nolan County Central Appraisal District, Board of Directors,** will meet at the Holiday Inn Restaurant, Sweetwater, on February 18, 1986, at 7 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

**The North Texas Municipal Water District, Board of Directors,** will meet at 505 East Brown Street, Wylie, on February 27, 1986, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas, (214) 442-5405.

**The Tyler County Tax Appraisal District, Board of Review,** will meet at 103 Pecan, Woodville, on February 21, 1986, at 3 p.m. Information may be obtained from Mary E. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.  
TRD-8601496



# 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.

## Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On January 13, 1986, the banking commissioner received an application to acquire control of Island State Bank, Port Aransas, by Cecil A. Childers, Harlan R. Heitkamp, James M. May, and James C. Walker all of Corpus Christi.

On February 10, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 10, 1986.

TRD-8601469 William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: February 11, 1985  
For further information, please call (512) 475-4451.

Texas Civil Statutes, Article 342-401a, require 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 January 13, 1986, the banking commissioner received an application to acquire control of The International Bank of Corpus Christi, Corpus Christi, by Cecil A. Childers, Harlan R. Heitkamp, James M. May, and James C. Walker all of Corpus Christi.

On February 10, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 10, 1986.

TRD-8601470 William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: February 11, 1985  
For further information, please call (512) 475-4451.

Texas Civil Statutes, Article 342-401a, require 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 January 13, 1986, the banking commissioner received an application to acquire control of Farmers State Bank, Orange Grove, by Cecil A. Childers, Harlan R. Heitkamp, James M. May, and James C. Walker all of Corpus Christi.

On February 10, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 10, 1986.

TRD-8601471 William F. Aldridge  
Director of Corporate  
Activities  
Banking Department of  
Texas

Filed: February 11, 1985  
For further information, please call (512) 475-4451.

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## Office of Consumer Credit Commissioner Notice of Rate Bracket Adjustment

Pursuant to the provisions of House Bill 1228, 67th Legislature, 1981, the consumer credit commissioner of Texas has ascertained the following dollar amounts of the brackets and ceilings in Texas Civil Statutes, Article 5069, by use of the formula and method described in Texas Civil Statutes, Article 2.08, Title 79, as amended (Texas Civil Statutes, Article 5069-2.08).

The ceiling amount in Article 3.01(1) is changed to \$7,750.

The amounts of the brackets in Article 3.15(1) are changed to \$930 and \$7,750, respectively.

The ceiling amount in Article 3.16(6) is changed to \$310.

The amounts of the brackets in Article 6.02(9)(a) are changed to \$1,550 and \$3,100, respectively.

The amount of the bracket in Article 6.03(3) is changed to \$1,550.

The ceiling amount in Article 51.12 is changed to \$7,750.

The amounts of the brackets in Article 51.12 are changed to \$93, \$310 and \$930, respectively.

The previously mentioned dollar amounts of the brackets and ceilings shall govern all applicable credit transactions and loans made on or after July 1, 1986, and extending through June 30, 1987.

(1) Computation method: The Reference Base Index (the Index for December, 1967 = 101.6. The December, 1985 Index = 323.4. The percentage of change is 318%. This equates to an increase of 310% after disregarding the percentage of change in excess of multiples of 10 percent.)

Issued in Austin, Texas, on February 7, 1986.

TRD-8601481 Al Endsley  
Consumer Credit  
Commissioner

Filed: February 12, 1986  
For further information, please call (512) 479-1280.



### Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 02/17/86-02/23/86	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 02/01/86-02/28/86	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 01/01/86-03/31/86	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 <sup>(3)</sup> 01/01/86-03/31/86	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) <sup>(3)</sup> 01/01/86-03/31/86	14.58%	N/A
Standard Annual Rate— Article 1.04(a)(2) <sup>(2)</sup> 01/01/86-03/31/86	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 <sup>(3)</sup> 01/01/86-03/31/86	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 01/01/86-03/31/86	18.00%	N/A
Judgment Rate— Article 1.05, §2 03/01/86-03/31/86	10.00%	10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
- (3) Credit for personal, family, or household use.
- (4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on February 10, 1986.

TRD-8601417 Al Endsley  
Consumer Credit  
Commissioner

Filed: February 10, 1986  
For further information, please call (512) 479-1280.



### Court Reporters Certification Board Certification of Court Reporters

Following examination of applicants on January 17, 1986, the Court Reporters Certification Board has certified to the Supreme Court that the following persons are qualified in the method indicated to practice reporting pursuant to Texas Civil Statutes, §52.024(a), Subchapter C, of the Government Code: for oral stenography: Michael J. Darley - Missouri City; Loretta Jo Evans - Austin; Mary Frances Lopez - Duncanville; for machine shorthand: Annette L. Bean - Port Arthur; Myra Broussard - Sulphur, Louisiana; Lisa Tara Burditt - Corpus Christit; Pamela Crenshaw - Bedford; Marvin D. Cutright - Pittsburgh, Pennsylvania; Michelle Ann Dominick - Hurst; Martha D. Dust - Plan; Susan C. Everett - Kemah; Veraneas W. Faggett - Dallas; Timothy E. Fails - Abilene; Monica Fischer - Pearland; Tralisa K. Hallmark - Humble; Tamara Lyn Hamman - Sugar Land; Tamara A. Hardy - Milwaukee, Wisconsin; Carrie Hargis - Sugar Land; Kimberly Kolpack - Little Rock, Arkansas; Wendy L. Leonard - Grand Prairie; Diane Margaret Lozano - El Paso; Mary Jo Miller - Kingman, Arizona; Ginger Raylene Pitzer - Fort Worth; Diana Ramos - Ingleside; Angela M. Rainsey - Dallas; Karen L. Rist - Plano; Joyce Barker Robinson - Seagoville; Marylou G. Taylor - Austin; Lisa G. Theobold - Fort Worth; Gail Paula Trent - Midland; Mylinda Tubbs - Austin; Steven Jack Turner - Abilene; Gina M. Verdin - Robstown; Tamara Elaine Vinson - Houston; Lisa Ann Wake - Houston; Christina M. Wallace - Austin; Leslye Rene' White - Manvel; Cynthia Cook Williams - Dallas.

Issued in Austin, Texas, on February 10, 1986.

TRD-8601448 Jim Hutcheson  
General Counsel  
Office of Court Administration

Filed: February 11, 1986  
For further information, please call (512) 463-1630.



### Department of Health Extension of Public Comment Period

The Texas Department of Health has extended the public comment period on proposed sections, concerning fees for municipal solid waste management facility permitting activities.

The amendments to §§325.55, 325.56, 325.59, 325.61, and new §§325.63, 325.603, and 325.613, were published in the January 10, 1986, issue of the *Texas Register* (11 TexReg 119).

The comment period has been extended to February 25, 1986. Comments may be submitted to L. D. Thurman, Acting Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7271.

Issued in Austin, Texas, on February 12, 1986.

TRD-8601477 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Filed: February 12, 1986  
For further information, please call (512) 458-7271.

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## Texas Department of Health Radioactive Material License Amendment

The Texas Department of Health has granted an amendment to the following radioactive material license: Radioactive Material License 6-1825, issued to the Texas Nuclear Corporation, for their facility located in Austin, Travis County, Texas, (mailing address: Texas Nuclear Corporation, Ramsey Engineering Company, P.O. Box 9267, Austin, Texas 78766-9990).

The amendment of this license is summarized as follows.

The license allows the licensee to receive Class A waste from other persons, store outdoors, and transfer the waste to licensed radioactive waste disposal sites.

Group I—10 mCi, Group II—100 mCi, Group III—1 Ci, Group IV—10 Ci; special nuclear material—limits as specified in Texas Regulations in the Control of Radiation, Part 11.2 (as); sealed sources—500 Ci total.

The Division of Licensing, Registration, and Standards, has determined that the amendment has no significant impact on the human environment; the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; the issuance of the license amendment will not be inimical to public health and safety, of have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in Parts 41 and 44 of the Texas Regulations for the Control of Radiation.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended and as set out in the Texas Regulations for the Control of Radiation, Part 13.6. A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street,

Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on February 4, 1986.

TRD-8601468 Robert A. MacLean, M.D.  
Deputy Commissioner for Professional  
Services  
Texas Department of Health

Filed: February 11, 1986  
For further information, please call (512) 458-7238.

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## Texas Parks and Wildlife Department Consultant Contract Award

This consultant service selection report is filed in accordance with the provisions of the Texas Civil Statutes, Article 6252-11c. The consultant proposal request appeared in the December 24, 1985, issue of the *Texas Register* (10 TexReg 4958).

The service to be performed will be the supplying of the postproduction services for the completion of the motion picture *Independence*. The contractor will provide sound sweetening services, musical soundtrack development, graphics development, and laboratory services. These services will be considered complete upon delivery of all work materials and one 35mm release print and two 16mm release prints.

The name and address of the consultant selected is Texas Pacific Film Video, Inc., 501 North IH-35, Austin, Texas 78702. The total value of the award is \$45,000, to be paid in one lump sum. The contract is dated February 3, 1986. The consulting service is to be provided through February 27, 1986.

Issued in Austin, Texas, on February 11, 1986.

TRD-8601453 Charles D. Travis  
Executive Director  
Texas Parks and Wildlife Department

Filed: February 11, 1986  
For further information, please call (512) 479-4805.

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## Texas State Board of Pharmacy Election of Officers

The Texas State Board of Pharmacy wishes to announce the election of officers for the remainder of fiscal year 1986 to read as follows: Virginia Bauman, South Padre Island, president; Renee G. Solis, R.Ph., El Paso, vice-president; H. Craig Darby, R.Ph., Burleson, treasurer.

Issued in Austin, Texas, on February 7, 1986.

TRD-8601487 Fred S. Brinkley, Jr.  
Executive Director/Secretary  
Texas State Board of Pharmacy

Filed: February 11, 1986  
For further information, please call (512) 478-9827.



## Texas Savings and Loan Department Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Savings and Loan Department furnishes this notice of consultant contract award. The request for proposal was published in the December 6, 1985, issue of the *Texas Register* (10 TexReg 4713).

**Description of Services.** The consultant will supervise two savings and loan associations and monitor compliance with supervisory agreements entered into previously by the Texas savings and loan commissioner and the savings and loan association in question, and carry out any other duties assigned by the commissioner in regard to regulatory supervision of the two associations.

**Name of Contractor and Value of Contract.** The contractor selected was H. William Strickland, Jr., P.O. Box 25327, Houston, Texas 77265. The value of the contract, on an annualized basis is \$101,350.

**Effective Date of Contract.** The contract is effective as of January 1, 1986, and is to terminate at the discretion of the commissioner.

**Due Date of Reports.** Reports will be provided on an individual basis as needed in accordance with the supervisory directors of the commissioner.

Issued in Austin, Texas, on February 11, 1986.

TRD-8601451 Russell R. Oliver  
General Counsel  
Texas Savings and Loan Department

Filed: February 11, 1986  
For further information, please call (512) 479-1250.

## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 3-7, 1986.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-267E.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of February 3-7, 1986.

The City of McKinney; wastewater facility; approximately .6 mile southeast of the intersection of FM Road 546 and State Highways 121 and 5 in Collin County; 10432-01; renewal

The City of Seagoville; wastewater treatment facilities; northeast of Seagoville, approximately ¾ mile east of the intersection of Malloy Road and U.S. Highway 175 in Dallas County; 10370-001; renewal

The City of Stamford; surface water treatment plant; between Winborne and Bunkley Streets and between Hobart and Orient Streets in Stamford in Jones County; 10472-01; renewal

Tom Martin and David Sheffield; Porter; sewage treatment plant; approximately seven miles northwest of the City of Porter, on Copeland Ditch, approximately 1,500 feet northeast of FM Road 1314 and 2,400 feet south of Old Houston Road, (a county road) in Montgomery County; 13223-01; new permit

El Paso Products Company, Violet; chemical plant; between Violet Road and McKensie Road north of Highway 44 near the Village of Violet on the plant site of Corpus Christi Petrochemical Company in Nueces County; renewal

The City of Sonora; wastewater treatment facilities; south of Sonora and south of Dry Devils River, approximately 6,000 feet south and 2,000 feet west of the intersection of U.S. Highways and 290 in Sutton County; 10545-01; renewal

Vidor Municipal Utility District, Vidor; wastewater treatment facility; south of IH 10 at the east end of Timberlane Street in Vidor, Orange County; 12166-02; renewal

The City of Rosenberg; wastewater treatment facility; immediately northwest of the intersection of Avenue B and Fifth Street in Rosenbert, Fort Bend County; 10607-01; renewal

The City of Hillsboro; wastewater treatment facilities; approximately 700 feet southwest of the intersection of Parham Street and George Street and adjacent to George Street in Hill County; 10630-01; renewal

The City of Newcastle; surface water treatment plant; approximately 1½ miles southwest of Newcastle in Young County; 10647-03; renewal

The City of Edna; wastewater treatment facilities; approximately one mile southeast of the intersection of U.S. Highway 59 and State Highway 111, adjacent to the south bank of Dry Creek, southeast of the City of Edna in Jackson County; 10164-01; renewal

Issued in Austin, Texas, on February 7, 1986.

TRD-8801415

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: February 10, 1986

For further information, please call (512) 463-7898.

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