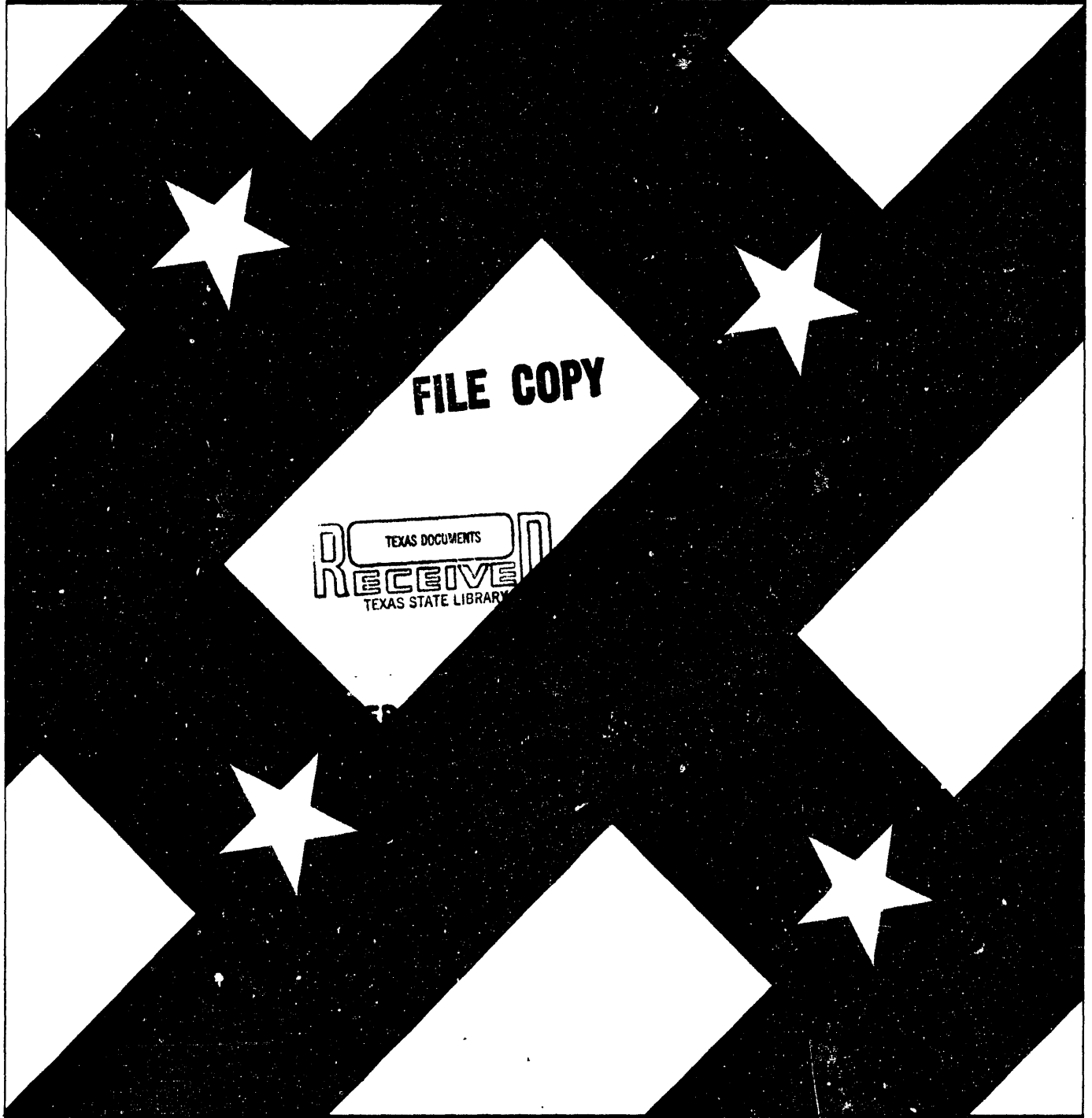


3500.6
1263
11:15

Texas Register

Volume 11, Number 15, February 25, 1986

Pages 969-1019



Highlights

The Coordinating Board, Texas College and University System adopts an emergency section concerning appropriations to community and junior colleges and TSTI Effective date - April 25.....page 977

The Texas Department of Agriculture proposes an

amendment concerning the cost of gum seed labels. Earliest possible effective date - March 28.....page 978

The Texas Education Agency proposes a section concerning training for local school board members. Earliest possible date of adoption - April 12.....page 986

**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.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas, and additional entry offices.

POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5561

Myra A. McDaniel
Secretary of State

Director
Dan Procter

Documents Section Coordinator
Cynthia Cooke

Document Editors
Molly Gardner
Sabra Noyes
Jane Orcutt

Document Filing
Lainie Crease
Denise Roberts

Production Editors
Jody Allen
Lisa Bauer

Typographers
Dawn VanCleave
Glynn Fluitt
Hollis Glaser

Circulation Section Coordinator
Dee Wright

Circulation Assistant
Kristine Hopkins Mohajer

TAC Editor
W. Craig Howell

Subscriptions—one year (96 regular issues and four index issues), \$80; six months (48 regular issues and two index issues), \$60. Single copies of most issues of the *Texas Register* are available at \$3.00 per copy.

Table of Contents

Emergency Rules

- Coordinating Board, Texas College and University System
 - 976 — Public Junior Colleges
- Texas Board of Pardons and Paroles
 - 977 — Parole

Proposed Rules

- Texas Department of Agriculture
 - 978 — Seed Certification Standards
- Railroad Commission of Texas
 - 979 — Oil and Gas Division
- Coordinating Board, Texas College and University System
 - 983 — Agency Administration
 - 983 — Program Development
 - 984 — Public Junior Colleges
- Texas Education Agency
 - 985 — School Districts
 - 986 — Curriculum
 - 986 — Instructional Resources
 - 987 — Adaptations for Special Populations
 - 988 — Teacher Certification
- Texas Water Commission
 - 989 — Industrial Solid Waste and Municipal Hazardous Waste
- Comptroller of Public Accounts
 - 992 — Tax Administration

Adopted Rules

- Coordinating Board, Texas College and University System
 - 994 — Public Junior Colleges
 - 994 — Student Services
 - 995 — Nonpublic Elementary and Secondary Schools
- Texas Department of Health
 - 996 — Primary Health
 - 1003 — Long-Term Care
- Comptroller of Public Accounts
 - 1003 — Tax Administration
- Texas Department of Human Services
 - 1003 — Medicaid Eligibility
 - 1004 — General Licensing Procedures
- Veterans Land Board
 - 1004 — General Rules

Open Meetings

- 1006 — Texas Department on Aging
- 1006 — State Banking Board

- 1006 — Texas Department of Community Affairs
- 1006 — Texas State Board of Examiners of Professional Counselors
- 1006 — Texas School for the Deaf
- 1007 — Texas Economic Development Commission
- 1007 — Texas Education Agency
- 1008 — State Department of Highways and Public Transportation
- 1008 — Texas Department of Mental Health and Mental Retardation
- 1009 — Board of Nurse Examiners
- 1009 — Board of Pardons and Paroles
- 1009 — Texas Parks and Wildlife Department
- 1009 — Texas State Board of Public Accountancy
- 1009 — Public Utility Commission of Texas
- 1010 — Texas Rehabilitation Commission
- 1010 — School Land Board
- 1010 — The Texas A&M University System
- 1010 — Texas Woman's University
- 1010 — Texas Water Commission
- 1011 — Regional Agencies

In Addition

- Texas Water Commission
 - 1012 — Correction of Error
- State Banking Board
 - 1012 — Notice of Hearing
- Texas Department of Community Affairs
 - 1012 — Announcement of Contract Awards
- Lower Colorado River Authority
 - 1013 — Amendments to Highland Lakes Marina Ordinance
- Texas Advisory Board of Occupational Therapy
 - 1014 — Notice of Contested Case of Hearing
- Texas Department of Public Safety
 - 1015 — Consultant Proposal Request
- Railroad Commission of Texas
 - 1016 — LP-Gas Advisory Committee Meeting
 - 1016 — Notice of Filing Requirements for Btu Refund Procedure Reports
- Veterans Land Board
 - 1017 — Consultant Contract Award
- Texas Water Commission
 - 1017 — Application for Provisionally-Issued Temporary Permits
 - 1017 — Applications for Waste Disposal Permits
 - 1018 — Enforcement Orders
 - 1018 — Request for Proposals

eeo
887

TAC Titles Affected

TAC Titles Affected—February

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

TITLE 1. ADMINISTRATION

Part I. Office of the Governor	
1 TAC §3.80	948

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture	
4 TAC §§5.301-5.303	843
4 TAC §5.304	899
4 TAC §21.11	978
4 TAC §21.51	978

TITLE 7. BANKING AND SECURITIES

Part I. State Finance Commission	
7 TAC §3.21	699
Part II. Banking Department of Texas	
7 TAC §25.3	942
7 TAC §25.4	942
7 TAC §25.13	943
Part VI. Credit Union Department	
7 TAC §91.211	699
7 TAC §91.506	685
7 TAC §91.802	699
7 TAC §95.4, §995.5	685
7 TAC §§95.101-95.103	686
7 TAC §§95.201, 95.201, 95.205, 93.208	784
7 TAC §95.202	784
7 TAC §95.204	785
7 TAC §95.206	785
7 TAC §95.207	785
7 TAC §96.301-95.306, 95.308-95.312, 95.314	785
7 TAC §95.313	789
7 TAC §97.112	687
Part VII. State Securities Board	
7 TAC §139.12	842

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Community Affairs	
10 TAC §13.40	688

TITLE 13. CULTURAL RESOURCES

Part II. Texas Historical Commission	
13 TAC §19.2, §19.3	801
13 TAC §19.3, §19.5	801
13 TAC §19.6, §19.7	801
Part V. Texas Sesquicentennial Commission	
13 TAC §51.19, §51.20	802

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas	
16 TAC §3.1	700
16 TAC §§3.5, 3.11, 3.13-3.15, 3.25, 3.27, 3.45, 3.55, 3.78	900
16 TAC §3.8	948
16 TAC §3.28	979
16 TAC §§3.28, 3.30, 3.31	979
16 TAC §3.34	943
16 TAC §3.75	701
16 TAC §3.91	944
Part II. Public Utility Commission	
16 TAC §23.50	945
16 TAC §23.82	946

Part IV. Department of Labor and Standards	
16 TAC §§61.1, 61.5, and 61.6	901
16 TAC §61.6	932
16 TAC §§79.1, 79.5, 79.9, 79.13, 79.17, 79.21, 79.25, 79.29, 79.33, 79.37, 79.41	802
Part V. Texas Amusement Machine Commission	
16 TAC §83.1	829
16 TAC §85.2	829

TITLE 19. EDUCATION

Part I. Coordinating Board, Texas College and University System	
19 TAC §1.4, §1.5	983
19 TAC §5.173	983
19 TAC §5.175	984
19 TAC §§9.131-9.137	994
19 TAC §§9.151-9.155	976, 984
19 TAC §§21.251-21.263	994
19 TAC §§21.281-21.289	994
19 TAC §61.174	985
19 TAC §65.4	995
19 TAC §75.172	986
19 TAC §81.63	986
19 TAC §89.229	995
19 TAC §89.117, §89.118	987
19 TAC §141.421	988
19 TAC §141.451	988

TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners	
22 TAC §51.95	846
22 TAC §51.96	846
Part IV. Texas Cosmetology Commission	
22 TAC §§81.1, 83.9, 83.13, 83.15	
22 TAC §§89.10, 89.34, 89.53	950
22 TAC §89.39	716
22 TAC §§89.39, 89.70, 89.71	716
Part V. State Board of Dental Examiners	
22 TAC §109.204	830
Part VI. Texas State Board of Registration for Professional Engineers	
22 TAC §131.18	716
22 TAC §131.137	717
Part XI. Board of Nurse Examiners	
22 TAC §213.7	789
22 TAC §213.13	789
22 TAC §§215.1-215.22	717
22 TAC §§215.1-215.20	717
22 TAC §217.6	790
22 TAC §§218.1-218.10	790
Part XV. Texas State Board of Pharmacy	
22 TAC §291.1	887
22 TAC §291.1, §291.2	887
22 TAC §291.4	888
22 TAC §§291.5-291.7, 291.17	888
Part XVI. Texas State Board of Physical Therapy Examiners	
22 TAC §321.1	718
22 TAC §321.1	719
22 TAC §223.1	720
22 TAC §323.1, §323.2	720
22 TAC §§325.1-325.6	721

22 TAC §§327.1	721
22 TAC §329.1	722
22 TAC §331.1	723
22 TAC §331.1, §331.2	723
22 TAC §335.1	724
22 TAC §337.1, §337.2	724
Part XVIII. Texas State Board of Podiatry	
Examiners	
22 TAC §373.2, §373.3	842
22 TAC §§373.2, 373.3, 373.6	830
22 TAC §§373.2-373.4, 373.6-373.8	842
Part XIX. Polygraph Examiners Board	
22 TAC §391.9	792
22 TAC §401.1	792
TITLE 25. HEALTH SERVICES	
Part I. Texas Department of Health	
25 TAC §§37.22-37.24, 37.26, 37.29, 37.31, 37.32, 37.38, 37.39	846
25 TAC §§37.82-37.86, 38.93, 37.97	688
25 TAC §37.90	725
25 TAC §37.171	847
25 TAC §§37.177-37.180	848
25 TAC §§39.1-39.22	996
25 TAC §97.11	698
25 TAC §97.136	783, 793
25 TAC §133.21	690
25 TAC §§141.1-141.13	804
25 TAC §§141.2, 141.4-141.6, 141.9, 141.13	800
25 TAC §145.83, §145.84	848
25 TAC §§145.252, 145.257, 145.258	1003
25 TAC §217.64	932, 947
25 TAC §§217.65-217.76	947
25 TAC §229.203	831
25 TAC §§295.1-295.7	850
25 TAC §325.448	794, 800
TITLE 28. INSURANCE	
Part I. State Board of Insurance	
28 TAC §7.504	690
28 TAC §9.1	852
TITLE 31. NATURAL RESOURCES	
Part I. General Land Office	
31 TAC §1.91	828, 831
Part II. Texas Parks and Wildlife Department	
31 TAC §§65.400-65.406	832
31 TAC §§65.601-65.614	833
Part IX. Texas Water Commission	
31 TAC §287.1, §287.2	809
31 TAC §287.31, §287.32	810
31 TAC §§287.41-287.50	810
31 TAC §§287.71-287.74	811
31 TAC §§287.91-287.99	811
31 TAC §289.1	812
31 TAC §§289.11-289.22	813
31 TAC §289.31, §289.32	813
31 TAC §§289.41-289.44	813
31 TAC §§289.51-289.53	813
31 TAC §§289.61-289.62	813
31 TAC §§301.1-301.7	889
31 TAC §§301.21-301.23	891
31 TAC §§301.31-301.46	892
31 TAC §§301.51-301.56	895
31 TAC §§301.61-301.63	896
31 TAC §§301.71-301.74	896
31 TAC §§301.81	896
31 TAC §§335.341-335.346	989
Part X. Texas Water Development Board	
31 TAC §§355.101-355.110	835
31 TAC §§367.21-367.30	838
31 TAC §§367.41-367.50	840

Part XV. Texas Low-Level Radioactive Waste Disposal Authority	
31 TAC §449.2	951
Part XVII. State Soil and Water Conservation Board	
31 TAC §§521.1-521.11	897
TITLE 34. PUBLIC FINANCE	
Part I. Comptroller of Public Accounts	
34 TAC §3.58	683
34 TAC §3.59	683
34 TAC §3.102	691
34 TAC §3.104	692
34 TAC §3.105	692
34 TAC §3.122	692
34 TAC §3.124	693
34 TAC §3.125	693
34 TAC §3.298	992
34 TAC §3.558	1003
34 TAC §3.559	992
34 TAC §3.393	951
34 TAC §5.22	726
34 TAC §5.53	726
Part III. Teacher Retirement System of Texas	
34 TAC §29.26	795
TITLE 37. PUBLIC SAFETY AND CORRECTIONS	
Part I. Texas Department of Public Safety	
37 TAC §23.91	683, 694
Part V. Texas Board of Pardons and Paroles	
37 TAC §145.62	977
Part IX. Texas Commission on Jail Standards	
37 TAC §271.2	795
Part X. Texas Adult Probation Commission	
37 TAC §321.8	694
37 TAC §323.2	695
TITLE 40. SOCIAL SERVICES AND ASSISTANCE	
Part I. Department of Human Services	
40 TAC §15.3226	1003
40 TAC §16.1503, §16.1511	853
40 TAC §27.9850	855
40 TAC §37.1001, §37.1002	683
40 TAC §39.1001, 39.1002	695
40 TAC §47.2908	855
40 TAC §47.3901	795
40 TAC §47.3905	898
40 TAC §48.3903	855
40 TAC §48.5909	796
40 TAC §48.9802	855
40 TAC §49.1502	857
40 TAC §50.1902	857
40 TAC §50.2903	796
40 TAC §73.4110	902
40 TAC §79.1207	902
40 TAC §§85.6001, 85.6003, 85.6004, 85.6007-85.6011, 85.6013, 85.6015, 85.6018-85.6022, 85.6024-86.6026	902
40 TAC §85.6027, 85.6028	903
Part V. Veterans Land Board	
40 TAC §§175.2-175.20	903
40 TAC §175.21	899
Part XII. Texas Advisory Board of Occupational Therapy	
40 TAC §361.2	796
40 TAC §363.1	797
40 TAC §367.1	797
40 TAC §374.1	798
40 TAC §379.1	798
Part IX. Texas Department on Aging	
40 TAC §§281.1-281.15	696

TITLE 43. TRANSPORTATION

**Part I. State Department of Highways and Public
Transportation**

43 TAC §9.6858
43 TAC §§21.141, 21.142, 21.144-21.145,
21.156-21.159903

43 TAC §21.143.....954
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, 21.581907

Emergency

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

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

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

Chapter 9. Public Junior Colleges

Subchapter G. Approval of Postsecondary Technical and Vocational Programs for State Appropriations to Community and Junior Colleges and Texas State Technical Institute

★ 19 TAC §§9.151-9.155

The Coordinating Board adopts on an emergency basis new §§9.151-9.155, concerning approval of postsecondary technical and vocational programs for state appropriations to community and junior colleges and Texas State Technical Institutes. Senate Bill 911 transferred powers and duties with regard to postsecondary technical and vocational education from the Texas Education Agency to the coordinating board.

This legislation specifically amended the Texas Education Code, §135.04, to read as follows: "Educational programs wholly or partially financed from state funds are subject to the prior approval or disapproval and continuing review of the Coordinating Board, Texas College and University System."

These emergency sections are necessary to allow the coordinating board and staff to act upon program requests immediately so that institutional programs are not delayed.

The sections are proposed under the Texas Education Code, §135.04, which provides the Coordinating Board, Texas College and University System with the authority to approve postsecondary technical vocational programs.

§9.151. Purpose.

(a) This subchapter provides rules and procedures for the review, approval, or disapproval of postsecondary to community and junior colleges and Texas State Technical Institute.

(b) Postsecondary technical and vocational education in Texas is designed to provide individuals the opportunity to make informed occupational choices, to develop employability traits, and to acquire or refine marketable skills. It is further designed to meet the employment needs of the state for a skilled work force. The programs are designed to meet a broad spectrum of student interest, abilities, and needs, while directly fulfilling the short- and long-range employment demands of the private and public sectors.

§9.152. *Authority.* Texas Education Code, §§31.40, 61.051(e), and 135.04, provides the authority for the approval of postsecondary technical and vocational programs for state appropriations.

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

Institution—Public community and junior colleges and Texas State Technical Institute campuses requesting approval of technical and vocational education programs for state funding.

Postsecondary technical and vocational education—Any organized educational program or course beyond high school level which is directly related to the acquisition or refinement of career occupational skills, and which requires other than a baccalaureate or advanced degree.

Program—Organized units of postsecondary technical and vocational instruction and training for which credit is given toward a certificate or an associate degree.

§9.154. *Procedures.* In accordance with a format established by the coordinating board staff, each institution wishing to offer a new certificate or applied associate degree program must have completed the following procedures.

(1) Completion of application for approval of technical vocational program. Application forms and format requesting coordinating board approval will be provided by the coordinating board staff. Application forms will be completed by the institution, approved by the president or chief school administrator, and forwarded to the coordinating board, Community Colleges and Tech-

nical Institutes Division, and will include the following minimum information:

- (A) program title;
- (B) type of credential offered;
- (C) length of programs in weeks and semesters;
- (D) total contact hours of program;
- (E) total credit hours of program as appropriate;
- (F) planned startup date of program;
- (G) estimated student enrollment;
- (H) detailed program objective(s) and training outcomes;
- (I) affiliated agency agreements and certification or licensing agencies, as appropriate;
- (J) needs assessment indicating manpower demands and job opportunities with summary;
- (K) evidence of coordination with other manpower training sources (including articulation with high schools, Job Training Partnership Act, etc.);
- (L) facilities and equipment needed and available;
- (M) proposed curriculum with courses (number and title), total number of lecture hours, laboratory hours, contact hours, and credit hours for core technical, related, and general education courses;
- (N) complete course descriptions for all courses in the program; and
- (O) listing of advisory committee members and minutes of advisory committee meetings involved in planning the program.

(2) Completion of staff review process. The staff of the Community Colleges and Technical Institutes Division of the coordinating board will review each of the above items for satisfactory fulfillment of the criteria. The staff will confer with the institution when additional information or clarification is needed.

(3) Completion of formal program review.

(A) Once the criteria have been met, the staff will recommend a program for formal program review. This review process will include representatives from the institution, the coordinating board staff, and other appropriate agencies.

(B) The assistant commissioner for Community Colleges and Technical In-

stitutes will recommend programs to the commissioner for approval or disapproval.

(4) Approval.

(A) The board delegates to the commissioner final approval authority for all programs of less than an associate degree at the public community and junior colleges and Texas State Technical Institute campuses.

(B) Associate degree programs will be approved by the board or if such a program has been approved by the commissioner under §9.155 of this title (relating to Provisions for Emergency Approval and Ratification), the board may ratify or reject such approval as provided in that section.

§9.155. Provisions for Emergency Approval and Ratification. Due to unique needs by the institutions that may arise between board meetings, the following provisions are made for emergency approval and ratification.

(1) The board delegates to the commissioner the authority to act on technical and vocational program approval between scheduled meetings of the board in cases where delay would seriously impair the ability of an institution to offer a program for which there is an immediate need.

(2) Programs approved by the commissioner under this emergency provision will be ratified by the board at the next regularly scheduled board meeting.

(3) The board retains the authority to reject approval of a program that has been approved under these emergency provisions. If the board rejects a program, the institution will have one year to phase out of the program or to make necessary revisions acceptable to the board.

Issued in Austin, Texas, on February 17, 1986.

TRD-8601694

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

Effective date: April 25, 1986
Expiration date: June 19, 1986
For further information, please call
(512) 462-6420.



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

**Part V. Texas Board of Pardons and Paroles
Chapter 145. Parole
Reparole After Revocation**

★37 TAC §145.62

The Texas Board of Pardons and Paroles is renewing the effectiveness of the emergency adoption of amended §145.62 for a 60-day period effective March 5, 1986. The text of the amended §145.62 was originally published in the November 12, 1985, issue of the *Texas Register* (10 Tex-Reg 4346).

Issued in Austin, Texas, on February 18, 1986.

TRD-8601677

Harry C. Green
General Counsel
Texas Board of Pardons
and Paroles

Effective date: March 5, 1986
Expiration date: May 4, 1986
For further information, please call
(512) 459-2739.



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 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 21. Seed Certification Standards

★ 4 TAC §21.11

The Texas Department of Agriculture proposes an amendment to §21.11, concerning costs of gum seed certification labels.

The proposed amendment to §21.11 corrects an error in the cost of gummed certification labels, changing the cost from \$.03 to \$.06 per label, in accordance with the intent of changes made by the 69th Legislature, 1985.

Kenneth Boatwright, director, seed program, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. There is an estimated increase in revenue of \$900 for each year in 1986-1990 for state government. There will be an additional \$.03 per gummed label purchased for small businesses and the same for large businesses. There will be no fiscal implications for local government as a result of enforcing or administering the section.

Mr. Boatwright 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 the additional revenue generated in accordance with the intent of the 69th Legislature, 1985. The anticipated economic cost to individuals who are required to comply with the proposed section will be dependent on number of labels purchased at the cost of \$.03 each.

Comments on the proposal may be submitted to Dolores Alvarado Hibbs, Director of Hearings, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under Texas Agriculture Code, §61.008, which provides the Texas Department of Agriculture with the authority to fix and collect a fee for the issuance of certification labels provided for in the Texas Agriculture Code, Chapter 62.

§21.11. Labels.

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

(h) The cost of certification labels shall be:

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

(4) gum labels, **\$.06** [.03] each.

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 14, 1986.

TRD-8601603

Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption:

March 28, 1986

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

★ ★ ★

Genetic Seed Chart

★ 4 TAC §21.51

The Texas Department of Agriculture proposes an amendment to §21.51, concerning genetic seed certification standards.

The proposed amendment changes the language of footnote 8 of the Genetic Seed Certification—Isolation Distances chart in accordance with language adopted at the last meeting of the Texas State Seed and Plant Board. The purpose of this change is to work towards the elimination of red rice as a genetic contaminant and as a noxious weed in Texas.

Kenneth Boatwright, director, seed program, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Boatwright 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 the elimination of red rice as a genetic contaminant and noxious weed in Texas. This will serve to improve the quality of rice produced and sold to the general public. 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 Dolores Alvarado Hibbs, Director of Hearings, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under Texas Agriculture Code, §62.004, which provides the State Seed and Plant Board with the authority to establish, not inconsistent with federal law, standards for certification of seed; and Texas Agriculture Code, §12.001, which provides the Texas Department of Agriculture with the authority to adopt rules to enforce the Texas Agriculture Code.

§21.51. *Genetic Seed Certification Standards.* The Seed Certification—Isolation Distances chart and footnotes, as amended **February 1986**, [April, 1984] that delineate isolation distances are adopted by reference for the purpose of seed certification by genetic identity only. Copies may be obtained from the Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 463-7614 [475-2038].

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 14, 1986.

TRD-8601604

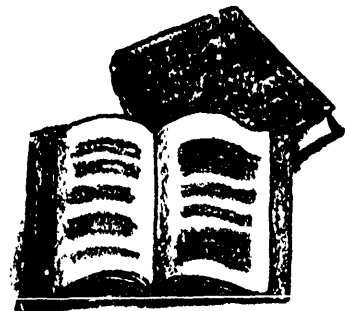
Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Earliest possible date of adoption:

March 28, 1986

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

★ ★ ★



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

★ 16 TAC §§3.28-3.31

The Railroad Commission of Texas proposes the repeal of §§3.28-3.31, concerning gas well potentials, gas nominations, and gas well allowables. These sections will be repealed only if proposed new §§3.28, 3.30, and 3.31, are adopted.

Rita E. Percival, systems analyst for the Oil and Gas Division, 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. There will be an estimated savings of \$1.56 million to industry with the repeal of §3.28 and its replacement with the proposed new §3.28, which will be divided proportionally between small and large businesses.

Elizabeth Wilson Davis, legal examiner for the Oil and Gas Division, has also 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 accommodate the adoption of new sections. The merits of those new sections are discussed in a separate proposal. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposed repeal may be submitted to Elizabeth Wilson Davis, Legal Section, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

The repeal is proposed under the Texas National Resources Code, §§86.041, 86.042, and 86.081, which provides the Railroad Commission of Texas with the authority to prorate and regulate the production of natural gas to prevent waste and adjust the correlative rights and opportunities of owners of gas to use or sell their gas.

§3.28. *Potential of Gas Wells to be Ascertained and Reported.*

§3.29. *Nonassociated Gas Well Allowable.*

§3.30. *Gas Nominations Required.*

§3.31. *Gas Well Allowables.*

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

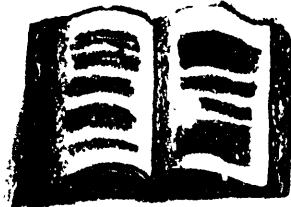
Issued in Austin, Texas, on February 10, 1986.

TRD-8601626

Walter E. Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:
April 22, 1986

For further information, please call
(512) 483-7149.



★ 16 TAC §§3.28, 3.30, 3.31

The Railroad Commission of Texas proposed §§3.28, 3.30, and 3.31, concerning gas well potentials and deliverabilities, gas nominations, and gas well allowables. If these proposed sections are adopted, existing §§3.28-3.31 will be repealed.

Rita E. Percival, systems analyst for the Oil and Gas Division, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The estimated cost to state government for administration of these proposed sections will be approximately \$3,300 each year in 1986-1991. There will be no fiscal implications on local government and small businesses. In fact there will be an estimated \$1.56 million overall savings, due to the revision of §3.28, which will be divided proportionally between small and large business.

Elizabeth Wilson Davis, legal examiner for Oil and Gas Division, 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 increased understanding of the sections; more fair and accurate gas proration through more accurate and reliable potential and deliverability tests and more fair and accurate nominations; and better understanding of assignment and adjustment of allowables. 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 Elizabeth Wilson Davis, Legal Section, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

A public hearing on these sections has been scheduled for 9 a.m., Tuesday, March

25, 1986, in Room 1-111 of the William B. Travis Building at 1701 North Congress, Austin. Written comments will be received through April 10, 1986.

These new sections are proposed under the Texas Natural Resources Code, §§86.041, 86.042, and 86.081, which provides the Railroad Commission of Texas with the authority to prorate and regulate the production of natural gas to prevent waste and adjust the correlative rights and opportunities of owners of gas to use or sell their gas.

§3.28. *Potential and Deliverability of Gas Wells to be Ascertained and Reported.*

(a) The absolute daily open flow potential of each producing associated or non-associated gas well shall be ascertained, and a report shall be filed in duplicate in the appropriate district office within 30 days of completion of the well. The test shall be performed in accordance with the commission's publication, "Back Pressure Test for Natural Gas Wells, State of Texas," and shall be reported on the commission's prescribed form. An operator, at his option, may determine absolute open flow potential from a stabilized one-point test. For a one-point test, the well shall be flowed on a single choke setting until a stabilized flow is achieved, but not less than 72 hours. The shut-in and flowing bottom hole pressures shall be calculated in the prescribed manner for a four-point test. A back pressure curve to determine a calculated absolute open flow shall be drawn at an angle of 45° through the point representing this rate of flow when plotted in the manner specified for a four-point test. The commission may authorize a one-point test of shorter duration for a well which is not connected to a sales line, but a test which is in compliance with this section must be conducted and reported after the well is connected before an allowable will be assigned to the well. Back-dating of allowables will be performed in accordance with §3.31 of this title (relating to Gas Well Allowables).

(b) After conducting the test required by subsection (a) of this section, each operator of a gas well shall conduct an initial deliverability test not later than 10 days after the start of production for one or more legal purposes and shall report such initial deliverability on the prescribed form. If a 72-hour one-point back pressure test is conducted as provided in subsection (a) of this section, the same test may be used to determine initial deliverability, provided the test is conducted in accordance with subsection (c) of this section. After the original deliverability test has been conducted, each operator of a gas well shall conduct a deliverability test semiannually, unless otherwise provided by the applicable field rules. All deliverability tests shall be conducted in accordance with subsection (c) of this section and the instructions printed on the Form G-10. The results of each test shall be attested to by the operator or his appointed

agent. The designated representative of the purchaser shall have the right to witness such tests. Gas meter charts, printouts, or other documents showing the actual measurement of the gas produced during any deliverability test conducted under this subsection shall be preserved by the maker for a period of no less than two years after the performance of the test and shall be furnished to the Railroad Commission of Texas upon request. In the event that the purchaser and the operator cannot agree upon the validity of the test results, then either party may request a retest of the well. The purchaser shall have the right to witness the retest. If either party requests a representative from the commission to witness a retest of the well, the results of a commission-witnessed test shall be conclusive for the purposes of this section until the next regularly scheduled test of the well. In the event a retest is performed by the commission, the retest shall be signed by the representative of the commission. In the event that downhole remedial work or other substantial production enhancement work is performed, or if a pumping unit, compressor, or other equipment is installed to increase deliverability of a well subject to the testing procedure described in this subsection, a new test may be requested and shall be performed according to the procedure outlined in this subsection.

(c) Unless the director of the oil and gas division or the director's delegate grants an exception due to limited production capacity, all deliverability tests shall be performed by producing the subject well at stabilized rates for a minimum time period of 72 hours. A deliverability test shall be conducted under normal and usual operating conditions, using the normal and usual operating equipment in place on the well being tested, and the well shall be produced against the normal and usual line pressure prevailing in the line into which the well produces. The average daily producing rate for each 24-hour period, the wellhead pressure before the commencement of the 72-hour test, and the flowing wellhead pressure at the beginning of each 24-hour period shall be recorded and reported as required on the Form G-10. In addition, a 24-hour shut-in wellhead pressure shall be determined either before or after the flow test and recorded on the Form G-10. The flow rate during each day of the first 48 hours of the test must be as close as possible to the flow rate during the final 24 hours of the test, but must equal at least 75% of such flow rate. The deliverability of the well during the last 24 hours of the flow test shall be used for allowable and allocation purposes. Deliverability tests shall be scheduled by the producer within the testing period designated by the Railroad Commission of Texas. If pipeline conditions exist such that a producer believes a representative deliverability test cannot be performed, the producer with pipeline concurrence may request in writing

that the commission use either of the following as a representative deliverability:

(1) the deliverability test performed during the previous testing period; or

(2) the maximum daily production from any of the six months prior to due date of the test as determined by dividing the highest monthly production by the number of days in that month.

(d) If the deliverability of a well changes after a test is reported to the Commission, the deliverability of record for a well will be decreased upon receipt of a written request to reduce the deliverability to a specified amount. If the deliverability of a well increases, a retest must be conducted in the manner specified in this section and must be reported on Form G-10 before the deliverability of record will be increased.

(e) First purchasers with packages of gas dedicated entirely to a downstream purchaser shall coordinate testing with and provide test results to that downstream purchaser if requested by the downstream purchaser. In these cases, the downstream purchaser shall have the right to witness all deliverability tests and retests.

(f) The appropriate district office shall be notified at least 24 hours prior to any back pressure, production, or shut-in test. Tests of wells connected to a pipeline shall be made in a manner that no gas is flared, vented, or otherwise wastefully used.

§3.30. Gas Nominations Required. Rule 30.

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

(1) Initial or first purchaser—One purchasing natural gas from an operator.

(2) Downstream purchaser—One purchasing natural gas for resale from other than an operator.

(b) First purchasers of gas produced from wells shall file by the ninth day of each month nominations of requirements for gas to be purchased and/or used by them from each reservoir during the following month. Purchasers who purchase gas from various gas fields and reservoirs; or who purchase gas at the wellhead of the wells; or who purchase gas at a common purchase point must determine if they are the initial purchaser. If they are the initial purchaser, they shall file gas nominations. An operator using 100% of the gas from a gas well for his own operations, either on leases or in a fuel system, shall file gas nominations. An operator using a portion of the gas produced from a well must notify the nominator in writing of the volume or percentage of total volume required, including lease separation extraction or percentage loss. The initial nominator must include that amount in its nominations. After initial notification, the operator need only inform the nominator of changes in the volume or percentage of total volume required. Operators of processing plants who operate field gathering systems

and who are the purchasers of gas at the wellhead shall file gas nominations.

(c) The first purchaser shall act as initial nominator. By the fourth day of each month, an initial nominator shall inform its producers of the amount it intends to nominate from each producer. An initial nominator shall nominate for a total quantity of gas equal to the sum of:

(1) the quantity for which the operator and/or the initial purchaser are the ultimate consumers. This amount will include lease shrinkage, line loss, plant fuel, compressor fuel, and the gas which the initial purchaser may consume prior to the point of final delivery;

(2) the total quantity of gas nominated by its downstream purchasers in accordance with the following provisions:

(A) All downstream purchasers who take more than 10 MMcf per day shall submit monthly to their initial or first nominators of gas a downstream purchaser's nomination based on a firm forecast of that purchaser's actual demand;

(B) If a downstream purchaser takes gas from more than one source of supply, that downstream purchaser's nomination shall show expected demand from each source;

(C) Written monthly nominations from downstream purchasers shall be kept on file by the initial nominator for a period of no less than two years for commission inspection and shall be filed with the commission on its request; and

(3) The remaining quantity of gas which the initial nominator expects to take for direct sale to end-users and any other volumes for which no nomination has been made under paragraphs (1) or (2) of this subsection.

(d) Nominations by a purchaser for a field shall not exceed the deliverability to that nominator from that field. The initial nominator of gas shall ratably apportion its nominations among the various fields on a system from which it purchases gas without unjust or unreasonable discrimination. The nomination for each field shall be a consistent percentage of the total deliverability available to the nominator from each field. The nominator shall include the following on the nomination form:

(1) the nomination as a volume of gas in Mcf, including separate listings of gas purchases and gas consumed by the producer (lease shrinkage, line loss, plant fuel, compressor fuel, and the gas which the initial purchaser may consume prior to the point of final delivery);

(2) the nomination as a percentage of the total deliverability of wells connected to the nominator's system in each field;

(3) the nomination which the nominator filed for that field for the second preceeding month (including revisions which were properly filed); and

(4) the volume of gas in Mcf actually taken by the nominator from that field

during the second preceding month.

(e) Nominations for gas by pipeline system shall be made according to the following priorities, in order.

(1) First priority in the nominations for the purchase of gas shall be given to casinghead gas produced from certified tertiary recovery projects approved by the commission; and secondary recovery projects involving water injection, gas injection, or pressure maintenance approved by the commission to prevent waste.

(2) Second priority shall be given to gas from special allowable wells, as defined in §3.31(f)(2)(B) of this title (relating to Gas Well Allowables) (Statewide Rule 31), granted special allowable status after the effective date of this section. Wells classified as special allowable wells prior to the effective date shall be given fifth priority until a new determination is made after notice and hearing that the special allowable status is necessary to prevent physical waste.

(3) Third priority shall be given to the remainder of casinghead gas so that gas produced in association with oil production shall not be wastefully vented and oil production shall not be unnecessarily curtailed. Garbage gas, which is methane recovered from a landfill or sewage process, shall also be given third priority.

(4) Fourth priority shall be given to gas from wells classified under §3.49(b) of this title (relating to Gas-Oil Ratio) (Statewide Rule 49(b)), but only to the extent of one full allowable for multiple 49(b) wells.

(5) Fifth priority shall be given to gas from administrative special allowable wells as defined in §3.31(f)(2)(C) of this title (relating to Gas Well Allowables), to gas from special allowable wells (see §3.31 (f)(2)(B) of this title (relating to Gas Well Allowables)) granted that status prior to the effective date of this section (see paragraph (2) of this subsection), and to gas from special allowable wells granted that status subsequent to the effective date of this section after notice and hearing by the commission to prevent economic waste.

(6) Sixth priority shall be given to the remainder of gas well gas.

(f) Curtailments of production and acceptance of deliveries of gas shall be performed in accordance with the provisions of §3.34 of this title (relating to Gas to be Produced and Purchased Ratably) (Statewide Rule 34).

§3.31. Gas Well Allowables. Rule 31.

(a) General.

(1) Allowables of gas wells not currently assigned an allowable will not be made effective:

(A) prior to the well's completion or reclassification date; or

(B) more than 15 days prior to the date all reports or information necessary to the assignment of an allowable are received in the proper commission office.

(2) If a report or item of information necessary to the assignment of an allowable is not filed on time, there shall be a one-day allowable reduction for each day the report or information is late.

(b) Changes in gas well allowables.

(1) Changes in allowables of gas wells currently assigned an allowable will be effective on the date of the test or date of the change affecting the well's allowable (when the operator submits special tests or information), provided this is not more than 15 days prior to the date the special test or information is received in the appropriate district office.

(2) With respect to a multicompleted well, the allowable of the second and succeeding zones will be made effective as of the date the multicompletion is approved by the commission or as of the date the last report or item necessary to the assignment of an allowable is received in the commission's office, whichever is the later of the two dates.

(3) When a well is recompleted as a gas well in a different reservoir, any overproduction that has occurred in the old reservoir must be made up before an allowable is assigned in the new reservoir.

(c) Requirements for gas wells in a field for which an allocation formula has been adopted. In addition to the requirements set out in subsections (a) and (b) of this section, the following requirements must be met when an allocation formula is applicable before an allowable is assigned.

(1) If acreage is a factor in the allocation formula, a certified plat showing the acreage assigned to the well for proration purposes shall be submitted. The plat must be accompanied by a statement that all of the acreage claimed can reasonably be considered productive of gas in that reservoir, and that the distance limitations of the field rules have not been exceeded. If all of the acreage claimed is not contained in a single lease, a certificate of pooling authority must be submitted stating that the acreage has been pooled. If the distance limitations of the field rules are shown to have been exceeded, the plat must show the number of acres within and beyond the distance limitations. An operator may request an exception to the distance limitations. If all of the acreage cannot be considered productive, the plat must also show the productive limit of the acreage. If a plat shows acreage in the proration unit in excess of the maximum number of acres permitted by the field rules, it will not be accepted.

(2) If bottom-hole or reservoir pressure is a factor in the allocation formula, it shall be submitted on the appropriate form, and shall be measured at, or corrected to, the proper datum plane.

(d) Ascertaining allowables by adjustment of gas nominations.

(1) The allocation of allowables to all wells in prorated gas reservoirs will be determined from the nominations submitted,

and after consideration at the statewide market demand hearing. However, in order to ascertain the reasonable market demand for the gas, nominations for gas shall be adjusted by comparing the latest reported production from the field to the nominations filed for that period by purchasers from the field.

(2) The total nominations for gas from prorated wells for a month shall be determined by subtracting the total allowable assigned to nonprorated wells during the month from the total nominations for gas from all wells in the reservoir for that month.

(3) Nothing in this subsection shall be interpreted as binding to prevent the commission from making adjustments to nominations when necessary in order to bring allowables for gas to an amount equal to market demand as required by statute.

(e) Statewide exempt fields. No field shall be prorated if each well in the field has a daily deliverability of 200 Mcf or less. Wells in such fields shall be assigned allowables equal to their capacity to produce.

(f) Allowables for prorated and nonprorated wells.

(1) A prorated well is a well for which an allowable is determined by the field allocation formula.

(2) A nonprorated well is a well for which an allowable is not determined by the field allocation formula and includes, but is not limited to, the following types of wells.

(A) A limited well is a well incapable of producing the allowable it would receive under the allocation formula. A limited well shall be assigned an allowable at the rate that the well is capable of producing.

(B) A special allowable well is a well granted a fixed allowable by the commission after notice and hearing to prevent physical or economic waste.

(C) An administrative special allowable well is a well that has been granted a fixed allowable pursuant to subsection (j) of this section.

(D) "0*" allowable wells are wells with an allowable assigned on a field-wide basis, excluding special allowable wells, that aids in balancing production in that field. The "0*" allowable provides for all production in the month that the allowable is assigned to be considered overproduction.

(E) Exempt allowable (X) wells are wells assigned an allowable on a field-wide basis that allows wells to produce at capacity.

(g) Allowable adjustments and balancing provisions for limited wells.

(1) A limited well shall not be allowed to accumulate underproduction.

(2) If the most recent production figures reported to the commission show a limited well to be overproduced, the allowable will be revised to cover overproduction up to the maximum allowable which the well can be assigned under the field allocation formula. If the indicated capability of a well to produce, plus its latest recorded over-

production, is less than its formula allowable, sufficient allowable will be assigned to balance the allowable with production.

(3) If a limited well is assigned an allowable that results in its removal from the nonprorated classification, the underage status of the well shall be reinstated in the amount discontinued at the time the well was placed in the nonprorated category. However, credit will not be given for underproduction attributable to those months when the well was in a nonprorated category, nor will credit be given for underproduction that accumulated prior to the immediately preceding balancing period.

(h) Balancing provisions for overproduction and underproduction of gas for wells completed in prorated gas reservoirs.

(1) Balancing provisions for prorated reservoirs. Balancing provisions will be applied for wells completed in prorated gas reservoirs. Prorated gas reservoirs are reservoirs or fields in which a field allocation formula is in effect.

(2) Balancing periods. For the purpose of computing and balancing overproduction and underproduction in prorated gas reservoirs, the dates 7 a.m., March 1, and 7 a.m., September 1, are to be known as balancing dates; and the six-month periods beginning 7 a.m., March 1, and ending 7 a.m., September 1, and beginning 7 a.m., September 1, and ending 7 a.m., March 1, will be considered as separate entities and will be known as balancing periods.

(3) Balancing provisions for 49(b) fields. The balancing provisions may be applied by commission action to reservoirs where the well allowables are determined by §3.49(b) of this title (relating to Gas-Oil Ratio) (Statewide Rule 49(b)).

(4) Underproduction.

(A) If a prorated gas well during the balancing period does not produce as much gas as is allocated to it by the order of the commission, the operator of the well shall be permitted to carry such underproduction forward to the next succeeding balancing period as future allowable credit to be produced during that period.

(B) The amount of underproduction to be carried forward into any new balancing period as allowed production during such new balancing period shall consist of the actual underproduction that accrued in the balancing period immediately preceding such new balancing period; and the accumulative well status, as to underproduction, will be adjusted on each balancing date accordingly. An operator may request that neither underproduction nor balanced during a second balancing period be carried forward to subsequent balancing periods. An operator's request to carry forward underproduction past a second balancing period may be approved if the operator provides written waivers of objection from all other operators in the field and first purchaser of gas from the subject well. If the operator fails to secure all necessary waivers or if the

commission declines to approve the request, the operator may request a hearing.

(C) If a producing well has been accumulatively underproduced on each of two successive balancing dates, the well shall not be assigned a monthly allowable greater than the highest monthly production from the well during the immediately preceding balancing period; provided, however, the limited allowable assigned to the well may be adjusted to a value not to exceed the allowable applicable to the well under the allocation formula upon certification to the commission from the operator that such well is capable of producing gas in excess of the limited allowable assigned it.

(5) Overproduction.

(A) The operator of a gas well, subject to the following prescribed conditions, may produce the well in excess of the monthly allowable allocated to the well; however, provided that no well shall in any one month produce at a rate in excess of its underproduction plus twice its monthly allowable without obtaining approval from the commission prior to the due date for the production report for the overproduced month. A well which is balanced or overproduced may not in any one month produce an amount in excess of twice its monthly allowable without obtaining approval from the commission prior to the due date for the production report for the overproduced month. A well which is balanced or overproduced will not be granted such authority for more than two months in any six month balancing period.

(B) A well overproduced as of a balancing date, which was also overproduced on the balancing date immediately preceding and remained overproduced for the entire period between the two balancing dates, shall be shut-in until the overproduction, existent as of the later of such two balancing dates, is made up. Upon request by an operator, the commission may grant authority to produce such a well at a fractional part of its monthly allowable until its production and allowable are in balance. The director of oil and gas (director) or the director's delegate may determine the permissible rate.

(C) If a protest is received or the commission declines to approve a request, the operator of a well, which under the provisions subparagraph (B) of this paragraph, is required to be shut-in, may request a hearing before the commission to determine whether shutting-in the well would damage it. Notice of the hearing will be given to all operators in the field and the first purchaser. If, after consideration of the evidence submitted at the hearing, the commission finds that the well would be damaged if shut-in, the commission may allow the overproduction charged against it to be made up at a lesser rate than it would be made up if the well were shut-in. The director or the director's delegate may determine the permissible rate pending the result of the hearing.

(D) Except where a well is shut-in to make up overproduction or is produc-

ing at a reduced rate (see subparagraphs (P' and (C) of this paragraph), overproduction existent as of any balancing date shall be made up at any time during that period; i.e., a specified fractional part of the overproduction need not be made up during each month of that balancing period, so long as all of such overproduction is made up during that balancing period.

(i) Suspension of allocation formula.

(1) The director of oil and gas (director) or the director's delegate may administratively suspend the allocation formula for a particular gas field if:

(A) all the purchasers from that field have a market for one hundred percent of the deliverability from the field;

(B) none of the operators or purchasers from the field object to suspension of the formula; and

(C) suspension will not cause a pipeline limitation for any field.

(2) Suspension of the allocation formula may be initiated by the director, by the director's delegate, by one of the operators in the field, or by one of the purchasers in the field.

(A) The director or the director's delegate will determine which fields are appropriate for suspension utilizing the criteria of paragraph (1) of this subsection. Notice of intent to suspend the allocation formula for a particular field will be sent to each of the operators and purchasers for the field. If the commission receives no protest to suspension within 21 days of the mailing date of the notice, the director or the director's delegate may suspend the allocation formula for the field administratively.

(B) If it is anticipated that suspension of the allocation formula will cause a pipeline limitation in a field, purchasers in the field where the allocation formula will be suspended shall notify the director within 21 days of mailing date of the notice of intent to suspend the allocation formula.

(C) An operator or purchaser may request that the allocation formula for a field be suspended administratively. The request may be approved administratively if the applicant provides to the commission written waivers of objection from all operators and purchasers for a field. If the applicant fails to secure all necessary waivers or if the commission declines to approve the request, the operator may request a hearing as provided for in paragraph (4) of this subsection.

(3) Reinstatement of the allocation formula may be initiated by the director, by the director's delegate, by one of the operators in the field, or by one of the purchasers in the field.

(A) If the market demand for gas from a field with suspended allocation drops below 100% of deliverability at any time, the operators and/or purchasers for the field shall immediately notify the director and give an explanation of the reduction in demand. The director or director's delegate will then

make a determination of whether the allocation formula should be reinstated and may reinstate the allocation formula immediately.

(B) If a pipeline limitation occurs after suspension of the allocation formula, purchasers in the field shall immediately notify the director. The director or the director's delegate will then make a determination of whether the allocation formula should be reinstated and may reinstate the allocation formula immediately.

(C) An operator or purchaser may request that the allocation formula for a field be reinstated administratively. The request may be approved administratively if the applicant provides to the commission written waivers of objection from all operators and purchasers for a field. If the applicant fails to secure all necessary waivers or if the commission declines to approve the request, the operator may request a hearing as provided for in paragraph (4) of this subsection. If the matter is set for hearing, the allocation formula may be administratively reinstated pending the result of the hearing. The notice of request for reinstatement shall specify the date on which allocation again becomes effective.

(4) If the director or the director's delegate denies a request to suspend or reinstate allocation formula in a particular field, the applicant may request a hearing, after which the examiner will make a recommendation to the commission for final action. In addition to the criteria set forth in paragraph (1) of this subsection, the commission will consider whether suspension or reinstatement is necessary to prevent waste or protect correlative rights.

(5) Suspension of the allocation formula will balance the field's production status at zero, and provide for a 100% capacity allowable.

(j) Administrative special allowable. A well which demonstrates a daily deliverability of 100 Mcf or less is eligible for an administrative special allowable equal to its deliverability.

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 10, 1986.

TRD-8601627

Walter E. Lille
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:

April 22, 1986

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

★ ★ ★



TITLE 19. EDUCATION

Part I. Coordinating Board, Texas College and University System

Chapter 1. Agency Administration

Subchapter A. General Provisions

★ 19 TAC §1.4, §1.5

The Coordinating Board, Texas College and University System proposes new §1.4 and §1.5, concerning general provisions. The proposed sections establish formal rules of order for the conduct of coordinating board business and to set forth the procedures for selecting committee members and conducting committee meetings. The rules of parliamentary law as set forth in "Robert's Rules of Order" will govern formal board procedures, and the current committee procedures will be formalized by section.

James McWhorter, assistant commissioner for Administration, 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. McWhorter 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 consistency in board procedures. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, 61.026 and 61.027, which provides the coordinating board with the authority to adopt rules regarding the board procedures.

§1.4. Rules of Order. When formal procedures are required in a coordinating board meeting, the meeting shall be conducted under the rules of parliamentary law as set forth in the current edition of "Robert's Rules of Order."

§1.5. Coordinating Board Committees.

(a) The chairman of the board shall appoint committees from the board's membership as he deems appropriate to conduct the business of the coordinating board and shall designate the chairman and vice chairman of each committee.

(b) Committee meetings shall be held on the day before each coordinating board meeting to consider such agenda items as may be designated by the chairman of the board and the commissioner, but special meetings

of a committee may be called by its chairman. Each committee meeting shall be conducted by the designated committee chairman, but each member of the board may participate in all committee meetings and may vote on any committee actions.

(c) Committees will adopt recommendations on the agenda items for consideration by the coordinating board the following day. In the event a decision cannot be reached by a committee on any agenda item, the coordinating board will consider that agenda item without a recommendation from the committee.

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

Issued in Austin, Texas, on February 17, 1986.

TRD-8601698

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

Earliest possible date of adoption:

April 25, 1986

For further information, please call
(512) 462-6420.

★ ★ ★

Chapter 5. Program Development

Subchapter I. Approval of Academic Courses for State Appropriations to Public Community Colleges

★ 19 TAC §5.173

The Coordinating Board, Texas College and University System, proposes an amendment to §5.173, concerning compensatory (including developmental and remedial) education courses. The amendment clarifies that compensatory includes both developmental and remedial education courses.

Nellie Thorogood, assistant commissioner for Community Colleges and Technical Institutes, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Thorogood 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 the avoidance of confusion concerning the term compensatory education courses. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, 61.051, which provides the Coordinating Board with the authority to adopt rules regarding compensatory (including developmental and remedial) education courses.

§5.173. *Compensatory (Including Developmental and Remedial) Education Courses.* State funding should be provided for compensatory (including developmental and remedial) education courses designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students.

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 17, 1986.

TRD-8601689 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Earliest possible date of adoption:
April 25, 1986
For further information, please call
(512) 462-6420.

★ ★ ★

★ 19 TAC §5.175

The Coordinating Board, Texas College and University System, proposes new §5.175, concerning the utilization of compensatory (including developmental and remedial) education courses to satisfy degree requirements. The proposed new section identifies the criteria for awarding credit for compensatory courses in public community colleges, but stipulates that such credit may not be used to satisfy degree requirements. The section reaffirms the board's commitment to support the statutory mandate for community colleges to provide compensatory courses for educationally disadvantaged students.

Nellie Thorogood, assistant commissioner for Community Colleges and Technical Institutes, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Thorogood 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 that compensatory courses of high quality and standards will continue

to be funded in order to provide access to higher education for the educationally disadvantaged. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Education Code, §61.051, which provides the Coordinating Board with the authority to adopt rules regarding compensatory courses.

§5.175. *Utilization of Compensatory (Including Developmental and Remedial) Education Courses to Satisfy Degree Requirements.*

(a) Courses designated as compensatory in the Coordinating Board's "Course Guide Manual" may not be used to satisfy degree requirements. Such courses may be used as corequisites or prerequisites for degree courses as determined by local institutions.

(b) Credits for compensatory courses may be recognized on student transcripts, provided that they do not count toward satisfying degree requirements.

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 17, 1986.

TRD-8601690 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Earliest possible date of adoption:
April 25, 1986
For further information, please call
(512) 462-6420.

★ ★ ★

Chapter 9. Public Junior Colleges

Subchapter G. Approval of Postsecondary Technical and Vocational Programs for State Appropriations to Community and Junior Colleges and Texas State Technical Institute

★ 19 TAC §§9.151-9.155

(Editor's note: The Coordinating Board, Texas College and University System proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections are published in the Emergency Rules section of this issue.)

The Coordinating Board, Texas College and University System proposes new §§9.151-9.155, concerning approval of postsecondary technical and vocational programs for state appropriations to community and junior colleges and Texas State Technical Institutes. Senate Bill 911 transferred powers and duties with regard to postsecondary technical and vocational education from the Texas Education Agency to the coordinating board. These sections establish policies and procedures for the review and evaluation of postsecondary technical and vocational programs.

Nellie Thorogood, assistant commissioner for Community Colleges and Technical Institutes, 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. Thorogood also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide continuity in providing technical vocational educational programs. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §135.04, which provides the Coordinating Board, Texas College and University System with the authority to approve postsecondary technical vocational programs.

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 17, 1986.

TRD-8601693 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Earliest possible date of adoption:
April 25, 1986
For further information, please call
(512) 462-6420.

★ ★ ★



Part II. Texas Education Agency
Chapter 61. School Districts
Subchapter F. Responsibilities and Powers for Operation
★ 19 TAC §61.174

The Texas Education Agency proposes new §61.174, concerning training for local school board members. The new section covers two levels of training for school board members, annual assessment of the training needs of school board members, and the annual recording in the board minutes of the completion of training by board members. The new section ensures compliance with the Texas Education Code, §23.33, which requires local school board members to participate in training consistent with the statewide standards on the duties of a school board member, approved by the State Board of Education in December.

Lynn M. Moak, deputy commissioner, Research and Information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for small businesses as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect will be an estimated additional cost of \$17,125 in 1986, and \$5,900 each year in 1987-1990. The effect on local government will be an estimated additional cost of \$1.5 million in 1986, and \$300,000 each year in 1987-1990. The 1986 estimate for local government reflects the fact that all the approximately 7,500 school board members in Texas will have to complete a training program. In each subsequent year, only the estimated 1,500 new board members will have to complete a training program. These estimates also assume that the school districts, and not the board members themselves, will pay the fees for training programs, and are computed using an expected maximum fee of \$200 per person. The expected maximum cost per school district is estimated to be approximately \$1,400 for 1986 and approximately \$300 for each subsequent year.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the section will in effect the public benefit anticipated as a result of enforcing the section will be the strengthening of the ability of local school board members to direct the educational process and the familiarization of school board members with the statewide standards on the duties of a school board member. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This new section is proposed under the Texas Education Code, §23.33, which authorizes the State Board of Education to make rules concerning the training of local school board members.

§61.174. *Training for School Board Members.*

(a) In accordance with the Texas Education Code, §23.33 (a), an advisory committee shall develop statewide standards on the duties of a school board member for review and adoption by the State Board of Education. Copies of the standards on the duties of a school board member shall be sent annually to the president of each local board to be distributed to all current board members, prospective board members and the superintendent.

(b) Annually, the State Board of Education or its designee may establish a list of priority topics related to the statewide standards on the duties of a school board member required in subsection (a) of this section. Copies of the priority topics will be sent to the president of each local board and the superintendent.

(c) The training required in accordance with the Texas Education Code, §23.33, applies to each member of local school boards of trustees.

(1) All school board members elected prior to January 1, 1987, shall complete a minimum of 20 hours of training from approved sponsors to gain a working knowledge of all the statewide standards on duties of a school board member prior to the board meeting at which the 1988 call for election of school board members is normally scheduled.

(2) All board members elected after January 1, 1987, shall participate in a local district orientation session within 60 days of their election; and shall complete a minimum of 20 hours of training from approved sponsors to gain a working knowledge of all the statewide standards on duties of a school board member prior to the end of their first year of service.

(3) Board members, upon completion of the initial training required in paragraphs (1) and (2) of this subsection, shall annually participate in an assessment of their training needs. The assessment should consider the statewide standards on duties of a school board member, the State Board of Education's designated priority topics, local student achievement information, compliance/accreditation reports, and

local district issues as affected by the statewide standards. The results of this assessment will be used to establish a training plan to address the needs of individual school board members, as well as the local board as a whole. The training plan will identify the approved training activities each board member will complete during the year. At a minimum, local board members shall participate in six hours of training activities annually.

(d) Each regional education service center shall provide programs to support the training required in subsection (c) of this section. Such program shall be submitted to the State Board of Education or its designee for approval. Registration for the regional education service center training programs will be open to all interested persons, including current and prospective board members.

(e) A registration fee will be determined annually by the commissioner of education for regional education service centers to use to cover the costs of providing training programs.

(f) Private and professional organizations, school districts, and colleges/universities may submit training programs to support the training required in subsection (c) of this section to the State Board of Education or its designee for approval.

(g) Approval of training programs will be based on quality, the comprehensiveness of the program elements, and their compliance with the State Board of Education approved statewide standards on duties of a school board member. Sponsors are encouraged to consider a variety of delivery systems for their training programs in order to meet the varying needs of school board members.

(h) Program trainers must have documented training and/or experience in the subject areas in which they are delivering instruction

(i) Approved training programs will be reviewed by the State Board of Education on its designee at least every three years with audits scheduled at any time. All programs will maintain approved status for three years unless notified by the agency.

(j) At least 50% of the required training in subsection (c) of this section should be designed and delivered by persons not employed or affiliated with the board member's local district.

(k) Annually, at the meeting at which the call for election of board members is normally scheduled, the current president of each local board of trustees shall cause the minutes of the local board to reflect the board members who have and have not completed the required training and shall make this information available to the local media.

(l) Upon written request, the commissioner of education, in cases of extenuating circumstances, may grant an extension of time within which a local board member may complete the training requirement.

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 14, 1986.

TRD-8601612

W. N. Kirby
Commissioner of
Education

Earliest possible date of adoption:

April 12, 1986

For further information, please call

(512) 463-9212.

★ ★ ★

Chapter 75. Curriculum Subchapter G. Other Provisions

★19 TAC §75.172

The Texas Education Agency proposes an amendment to §75.172, concerning the application of advanced placement examinations in May 1986. In cases where no state-approved advanced placement examination exists, districts must administer a state-approved achievement test or an appropriate part of such test. The commissioner of education will publish a list of achievement tests specifying which levels and parts are applicable to the various grades and subjects. Districts must also administer a locally-approved assessment of mastery of the applicable essential elements. The amendment also specifies the scores students must achieve to be advanced or to receive credit.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state government or small businesses as a result of enforcing or administering the section. The fiscal implications for local government are indeterminate, and will depend on standardized testing and assessment practices a school district already has in place.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have 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 provision of an alternative for implementation of statutory advanced placement requirements in light of the absence of sufficient state-approved advanced placement examinations. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Proced-

ure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.724, which authorizes the State Board of Education to make rules concerning the administration of advanced placement examinations by school districts.

§75.172. *Advanced Placement Examinations.*

(a) General provisions.

(1) School districts shall administer advanced placement examinations for grades one to five and for academic subjects in grades six and above, in accordance with the Texas Education Code, §21.724. The advanced placement examinations shall be administered to students qualified to take them no later than May 1986 and each year thereafter. Advanced placement examinations may be given at other reasonable times. [Districts unable to comply with this requirement may receive a hardship waiver from the commissioner of education which will be good for one year. This waiver may be given only for specific subject areas or grades.]

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

(b)-(f) (No change.)

(g) **Substitute procedure for grades pre-kindergarten through six. A student in grades pre-kindergarten through six shall be given credit for a grade level and advanced one grade level on the basis of local procedures currently in place.**

(h) **Substitute procedure for grades 7-12. For the 1985-1986 school year in those courses or subjects where there is no state board of education approved advanced placement examination, districts must administer a state board of education approved achievement test or an appropriate part of such test. The commissioner of education will publish a list of achievement tests specifying which levels and parts are applicable to the various grades and subjects. Districts must also administer a locally approved assessment of mastery of the applicable essential elements. The student must score at the 90th percentile on the achievement test or parts thereof and must demonstrate at least 70% mastery on the locally approved assessment to be advanced or to receive credit. Other provisions of subsections (a)-(f) of this section are not affected by use of this substitution.**

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 18, 1986.

TRD-8601673

W. N. Kirby
Commissioner of
Education

Earliest possible date of adoption:

April 12, 1986

For further information, please call

(512) 463-9212.

★ ★ ★

Chapter 81. Instructional Resources Subchapter D. State Textbook Program General Provisions

★19 TAC §81.63

The Texas Education Agency proposes an amendment to §81.63, concerning the sale of supplementary instructional materials for use with adopted textbooks. The amendment covers the publication of official lists of supplementary instructional materials available for sale to Texas school districts, requirements that a publisher of such materials must satisfy to have materials included on the lists, including the name and unit cost of each item and an affidavit that cost is the lowest available cost, less discounts, available for that school year to any purchaser, a schedule for the annual preparation and distribution of the lists, and provisions for the removal from the list of any publisher found to be selling materials at a price above the guaranteed price.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state and local government and small businesses as a result of enforcing or administering the section. The effect on state government will be an estimated additional cost of \$17,000 in 1986, \$6,800 in 1987, \$6,900 in 1988, \$7,000 in 1989, and \$7,100 in 1990. These estimates include the expected cost of compiling, duplicating, and mailing two lists per year. The fiscal implications for local government are indeterminate, but the amendment is designed to result in a reduction in costs for local government beginning in the second year it is in effect. The fiscal implications for small businesses are indeterminate because the state is unaware of the size of publishing companies that provide supplementary materials. Currently, these companies deal directly with school districts. It should be noted that if a product is not on the list, a school district is not prevented from purchasing that product.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have 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 assurance that supplementary instructional materials are available to Texas school districts at the lowest price offered in any state for that year. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Reglster Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Reglster*.

The amendment is proposed under the Texas Education Code, §12.16(b), which authorizes the State Board of Education to make rules concerning the selection of textbooks.

§81.63. *Materials Available for Use with Textbooks.*

(a) Materials available for sale.

(1) Materials in any medium which a publisher intends to make available for sale to schools, whether or not designed for use with an adopted textbook, are not considered to be part of the textbook and need not be [submitted or] adopted by the State Board of Education in accordance with rules in this subchapter. Such materials shall not contain any textual material or other subject matter previously deleted, rejected, or disapproved by the State Textbook Committee or the State Board of Education. The [These] materials, other than those described in paragraph (2) of this subsection, shall [should] be made available to local districts at a price that is consistent with nationally established prices.

(2) Workbooks and other printed supplementary instructional materials designed for use with adopted textbooks (herein referred to as supplementary instructional materials) that are consumed in the teaching/learning process, that are not designed for reuse by students, and that are available for sale shall be subject to the requirements in this subsection.

(A) Notice.

(i) At least 60 days prior to February 1, the chairman of the State Board of Education shall give public notice of the forthcoming publication of an official list of supplementary instructional materials available for sale to school districts in the State of Texas.

(ii) Notice shall be given by having notices printed in the public press, by sending written notices to all persons, firms, or corporations in whose behalf the notices have been requested, and by sending written notices to all school districts.

(iii) Notice required in this subsection shall contain:

(I) the schedule for preparation and distribution of the official and supplementary list of supplementary instructional materials available for sale; and

(II) the requirements that a publisher of supplementary instructional ma-

terials must satisfy to have materials included on the list.

(B) Requirements. To be included on the official list of supplementary instructional materials available for sale, publishing shall submit to the commissioner of education by February 1 of each year:

(i) name of each item of supplementary instructional materials to be available for sale;

(ii) unit cost of each item, as well as discount, if any, for volume sales;

(iii) affidavit that cost is the lowest available cost, less discounts, available for that school year to any purchaser;

(iv) guarantee that cost shall be in effect for the remainder of the period of adoption of the textbook with which the materials are designed for use; and

(v) guarantee that if item, including revisions and subsequent editions, is made available at a lower price during the period of adoption, the item shall be made available to Texas school districts at the lower price.

(b) Publication of list.

(i) Prior to March 1 of each year, the commissioner of education shall publish a list with unit prices of supplementary instructional materials meeting requirements of this section.

(ii) The commissioner of education shall distribute the official list to all school districts by March 1 of each year for use in purchasing supplementary instructional materials for the school year beginning in September.

(D) Supplementary list.

(i) A supplementary list shall be published and distributed to school districts by September 1 of each year.

(ii) The supplementary list shall contain materials meeting all requirements specified in this section, but not included on the official list published by March 1 of that year.

(iii) For inclusion of the September 1 list, publishers shall submit required information to the commissioner of education by August 1.

(E) School district purchases. School districts are encouraged to purchase only supplementary instructional materials on the official or supplementary list of supplementary instructional materials published for that school year.

(F) Penalties.

(i) The commissioner of education may strike from the list the materials of any publisher found to be selling materials at a price above the guaranteed price or above the price at which the materials are available to any other purchaser.

(ii) Materials may be removed from the list for a period of one to three years.

(iii) Prior to such action, publishers shall have an opportunity for a hearing before the commissioner of education.

(iv) The commissioner of education shall report findings of any irregularities

under this subparagraph to the State Board of Education.

(3)[(2)] Samples of [supplementary] materials in any medium may be provided only to local textbook committees for evaluation purposes to enable the committees to evaluate the total program.

(b)-(c) (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 14, 1986.

TRD-8601672

W. N. Kirby
Commissioner
of Education

Earliest possible date of adoption:

April 12, 1986

For further information, please call
(512) 463-9212.

★ ★ ★

Chapter 89. Adaptations for
Special Populations
Subchapter E. General
Educational Development

★ 19 TAC §89.117, §89.118

The Texas Education Agency proposes amendments to §89.117 and §89.118, concerning the general educational development testing program. These amendments cover the indication on the high school equivalency certificate of which version of the general educational development test the bearer has passed, i.e., English, Spanish, French, audiotape, braille, or large print.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for local government or small businesses as a result of enforcing or administering the sections. There will be a small but indeterminate programming cost for state government for the first years the section as proposed is in effect.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have 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 that the certificate of high school equivalency will more accurately reflect the bearer's specific language proficiency. 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 Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in ac-

cordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the Texas Education Code, §11.35, which authorizes the State Board of Education to make rules concerning the administration of high school equivalency examinations and issuing of high school equivalency certificates.

§89.117 *Reporting Test Scores.*

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

(d) **Test reports shall indicate the version administered: audiotape, large print, braille, English, French, or Spanish.**

§89.118. *Issuance of the Certificate.*

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

(c) **The certificate of high school equivalency shall indicate the version of the test taken by the applicant: audiotape, large print, braille, English, French, or Spanish.**

(d)[(c)] **The state administrator of general educational development [(GED)] may disapprove issuance of a certificate or may cancel a certificate under the following conditions:**

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

(e)[(d)] **In the case of non-issuance or cancellation of certificates, the applicant shall be notified in writing by the administrator of general educational development [GED] that the certificate will not be issued or may be canceled.**

(f)[(e)] **An applicant who has been notified that his or her certificate will not be issued or may be canceled may appeal to the state administrator for general educational development [GED] within 30 days of receipt of written notification.**

(g)[(f)] **If, after further review, the state administrator for general educational development [GED] does not approve issuance of the certificate or cancels a certificate, this decision may be appealed to the commissioner of education in accordance with Chapter 157 of this title (relating to Hearings and Appeals).**

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 14, 1986.

TRD-8601614

W. N. Kirby
Commissioner of
Education
Texas Education Agency

Earliest possible date of adoption:

April 12, 1986

For further information, please call
(512) 463-9212.

★ ★ ★

Chapter 141. Teacher Certification

Subchapter S. Testing Program General Provisions

★19 TAC §141.421

The Texas Education Agency proposes amendments to §141.421 and §141.451, concerning reading and writing tests for persons seeking the provisional vocational teaching certificate based on experience and skill. The amendments require persons seeking a provisional vocational certificate based on experience and preparation in skill areas to achieve a satisfactory level of performance on a test of reading and writing skills prescribed by the State Board of Education in order to be approved for a teachers' certificate.

Lynn M. Moak, deputy commissioner for research and information, 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. The effect on state government will be an estimated additional cost of \$31,500 in 1986, and none in 1987-1990, since the approximately 1,000 non-degree teachers currently employed in Texas will be tested at state expense. Non-degree teachers who are hired in subsequent years will pay their own fees for testing. There will be no fiscal implications for local government or small businesses as a result of enforcing or administering the section.

Mr. Moak 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 insurance that persons who are seeking the provisional vocational certificate based on experience and skill can satisfy minimum requirements in reading and writing. The anticipated economic cost to individuals who are required to comply with the proposed section will be approximately \$30 each for the 250 to 300 persons who will be tested each year after fiscal year 1986.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.032, which authorizes the State Board of Education to make rules concerning the issuing of teaching certificates.

§141.421. *Testing Requirements.*

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

(e) **Persons seeking a provisional vocational certificate based on experience and preparation in skill areas as required under §141.451 of this title (relating to General Provisions) shall be required to achieve a satisfactory level of performance on a test of reading and writing skills prescribed by the State Board of Education in order to be approved for a teacher's certificate.**

(f) **A person seeking a provisional vocational certificate based on experience and preparation in skill areas who has completed all requirements for certification under §141.451 of this title (relating to General Provisions) and who are not subject to the testing requirements of subsections (b)-(d) of this section, must perform successfully on the test prescribed by the State Board of Education under the provisions of subsection (e) of this section no later than June 30, 1987, to be eligible for continued certification.**

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 18, 1986.

TRD-8601689

W. N. Kirby
Commissioner
Texas Education Agency

Earliest possible date of adoption:

April 12, 1986

For further information, please call
(512) 463-9212.

★ ★ ★

Subchapter T. 1984 Requirements for Provisional Certificates and Specialized Assignments or Programs

★19 TAC §141.451

The amendment is proposed under the Texas Education Code, §13.032, which authorizes the State Board of Education to make rules concerning the issuing of teaching certificates.

§141.451. *General Provisions.*

(a) (No change.)

(b) **Provisional vocational certificates based on experience and preparation in a skill area shall require:**

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

(3) **satisfactory performance on the test prescribed by the State Board of Education under §141.421(e) of this title (relating to Testing Requirements).** [for each certificate requiring completion of an approved teacher education program, submission of a satisfactory passing score on a comprehensive examination prescribed by the State Board of Education under the provisions of §141.421 of this chapter (relating to Testing Requirements).]

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 18, 1986.

TRD-8601671

W. N. Kirby
Commissioner
Texas Education Agency

Earliest possible date of adoption:

April 12, 1986

For further information, please call
(512) 463-9212.

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

Subchapter K. State Superfund Program

★ 31 TAC §§335.341-335.346

The Texas Water Commission proposes new §§335.341-335.346, concerning the state superfund program for identification and assessment of hazardous waste facilities or areas.

The Texas Water Commission is required under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13, as amended by House Bill 2358, 69th Legislature, 1985, to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment. The facilities or areas so identified are to be listed in a draft survey and a state superfund registry developed by the Texas Water Commission. Owners, operators, or other named responsible parties are to be notified by the commission and given the opportunity to participate in a voluntary cleanup.

Should responsible parties not be forthcoming or federal funds not be available, state funds may be used for cleanup. In addition, should the executive director determine that a situation exists at a facility or area listed on the registry which warrants an immediate removal action, state funds may be made available for that purpose under the terms of the Texas Solid Waste Disposal Act, §13(g)(3). Funding for state cleanup will be available from the hazardous waste disposal fee fund as established by the Texas Solid Waste Disposal Act, §11, as amended by the 69th Legislature, 1985, in House Bill 2359, and implemented by 31 TAC §§335.751-335.762. The state may bring suit for recovery of

cleanup costs against any responsible party as set forth in the Texas Solid Waste Disposal Act, §11, as amended by the 69th Legislature, 1985, in House Bill 2358.

The new sections are in response to the statutory provision in the Texas Solid Waste Disposal Act, §13(e)(5), which directs the Texas Water Commission to propose sections establishing procedures, including public hearings, for review of delisting requests submitted pursuant to the Texas Solid Waste Disposal Act, §13(e)(4). The relevant sections of the statute are very detailed and explicit in many areas of this new state superfund program, and therefore the repetition of those provisions in proposed rules is not deemed necessary at this time.

The term hazardous waste as used in these sections is defined in the Texas Solid Waste Disposal Act, and refers to those solid wastes identified or listed as hazardous by the regional administrator of the U. S. Environmental Protection Agency in the Resource Conservation and Recovery Act regulations set forth in 40 Code of Federal Regulations Part 261. The commission believes that waste which either exhibits any of the characteristics of a hazardous waste as identified in 40 Code of Federal Regulations Part 261, Subpart C, or can be considered to be within the scope of any of the listings under 40 Code of Federal Regulations Part 261, Subpart D, will be subject to the requirements of this program, regardless of whether the waste was generated before November 19, 1980, the effective date of requirements relating to hazardous waste under the Resource Conservation and Recovery Act.

New §335.341 concerns the purpose and scope of these sections, which is to provide for and outline a program to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment. Guidelines for cleanup funding are outlined. It is not the intent of this program to address hazardous waste storage, processing, or disposal facilities requiring a hazardous waste Part B permit application unless it is determined that an imminent and substantial endangerment exists at such facilities. It is also not the intent of these sections to restrict in any way actions as authorized by the Texas Water Code, Chapter 26, Subchapter G.

New §335.342 lists the definitions for terms used in these sections. Definitions set forth in the Solid Waste Disposal Act that are not specifically included in these sections shall also apply.

New §335.343 provides for the creation of a preliminary list of hazardous waste facilities or areas that may pose imminent and substantial endangerment to the public health and safety or the environment.

New §335.344 provides for the creation of the state superfund registry listing those hazardous waste facilities or areas that may pose an imminent and substantial endangerment to the public health and safety or the environment. Each facility or area is to receive a ranking score to be used to prioritize the need for action.

New §335.345 establishes restrictions on changes at a facility or area listed in the draft survey or registry without executive director approval and addresses the responsibility of persons to notify the executive director of such proposed changes.

New §335.346 provides for the deletion of the facility or area from, or modification of the facility's or area's priority within, the draft survey or registry if specific criteria have been met.

Bobbie Barker, chief of fiscal services, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for local government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect will be an estimated additional cost of \$1 million in 1986, and \$5 million each year in 1987-1990. The cost of compliance for small businesses cannot be ascertained at this time since the facilities, areas, and responsible parties that will be impacted by this program have not yet been identified. The costs for the entities involved will vary according to the actions required at each site.

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 the establishment of an additional mechanism for addressing hazardous waste facilities or areas that present an imminent and substantial endangerment to public health and safety or the environment due to actual or threatened releases of hazardous waste. Cleanup at facilities or areas listed on a state registry of such sites shall be achieved first by private party funding, second with the aid of federal funds, and third, if necessary, with state funds from the hazardous waste disposal fee that was created by the 69th Legislature, 1985 (House Bill 2359, amending the Texas Solid Waste Disposal Act). The economic costs to individuals cannot be ascertained at this time.

Comments on the proposal may be submitted to Christy Smith, State Superfund Unit Head, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7792.

The new sections are proposed under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, as amended by the 69th Legislature, House Bill 2358, §13, which establishes mechanisms for addressing actual or threatened releases from hazardous waste facilities or

areas that present an imminent and substantial endangerment to public health and safety or the environment; the Texas Solid Waste Disposal Act, also amended during the 69th Legislature by Senate Bill 249, which abolished the Texas Department of Water Resources and gave the Texas Water Commission jurisdiction over industrial solid waste and municipal hazardous waste; the Texas Water Code, §§5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Water Code and other laws of the state and to establish and approve all general policies of the commission; the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate sections consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of the solid waste over which the commission has jurisdiction under the Act. The commission is designated the state agency with authority over management of all industrial solid waste and municipal hazardous waste under the Texas Solid Waste Disposal Act, §3(b). The Act requires the commission to seek accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste management and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties given it under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities.

§335.341. Purpose and Scope.

(a) The purpose of this subchapter is to establish and outline a state superfund program to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment, including procedures for review of delisting requests.

(b) Cleanup at facilities or areas so identified shall proceed pursuant to the following guidelines.

(1) Wherever possible, owners, operators, or other named responsible parties will be notified by the executive director of an opportunity to participate in voluntary cleanup of the facility or area.

(2) If all owners, operators, or other named responsible parties do not volunteer to develop and implement a remedial action program for the facility or area, then private parties who are willing to participate in cleanup activities voluntarily should be allowed to do so and they may seek cost recovery from those responsible parties not participating in the voluntary cleanup.

(3) If no responsible parties volunteer to develop and implement a remedial action program for the facility or area, then independent third parties who are willing to participate voluntarily in the cleanup at the facility or area should be permitted to contract with the Texas Water Commission to do so and they may seek cost recovery from those responsible parties not participating in the voluntary cleanup.

(4) Where voluntary assistance from the private sector is not forthcoming, federal funds will be used for cleanup if such funds are timely available.

(5) State funds will be used only when a responsible party, independent third party, or federal funds are not available or as state funds may be necessary to execute matching fund requirements for federally funded cleanup or where immediate removal action as described under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13(g)(3), is warranted.

(c) For the purposes of the state superfund program, facilities or areas subject to permitting standards for hazardous waste storage, processing, or disposal will not be identified, unless the executive director confirms that the facility owner, operator or other responsible party has failed to exercise substantial and good faith efforts to comply with applicable solid waste regulations or has failed to demonstrate financial capability to perform cleanup actions as may be required to comply with applicable solid waste regulations.

(d) Should the executive director determine that a situation described in the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13(g)(3), exists at a facility or area identified in the registry, the executive director may undertake immediate removal action as appropriate without regard to the procedures set forth in these sections.

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

Candidate sites—Hazardous waste facilities or areas investigated for inclusion in the federal national priorities list which may become listed in the draft survey or registry.

Commission—The Texas Water Commission.

Delisting—The deletion of a facility or area listed or proposed to be listed in the registry.

Draft survey—A preliminary list of hazardous waste facilities or areas in the State of Texas compiled by the commission which may constitute an imminent and substantial endangerment to public health and safety or the environment, and which shall form the basis for the registry.

Hazard ranking system—The scoring system developed by the U.S. Environmental Protection Agency as set out in 40 Code

of Federal Regulations Part 300, Appendix A.

Hazardous waste—Any solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency pursuant to the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code §6901, *et seq.*, as amended.

Imminent and substantial endangerment—A danger is imminent if, given the entire circumstances surrounding each case, exposure of persons or the environment to hazardous waste is more likely than not to occur in the absence of preventive action. A danger is substantial if, given the current state of scientific knowledge, the harm to public health and safety or the environment which would result from exposure could cause adverse environmental or health effects.

National priorities list—A list of actual or threatened releases in the United States developed and maintained by the U.S. Environmental Protection Agency which are eligible for remedial action or removal with federal funds.

Registry—A list compiled and maintained by the commission of hazardous waste facilities or areas in the State of Texas which constitute an imminent and substantial endangerment to public health and safety or the environment.

Release—Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, or disposing into the environment, but excludes:

(A) a release that results in exposure to persons solely within a workplace, with respect to a claim which those persons may assert against the employer of those persons;

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(C) release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, as amended (42 United States Code §2011 *et seq.*) if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under that Act, §170, or, for the purposes of the Environmental Response Law, §104, or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978, §102(a)(1) or §302(a), (42 United States Code §7912 and §7942); and

(D) the normal application of fertilizer.

Remedial action—Those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous waste into the environment

to prevent or minimize the release of hazardous wastes so that they do not migrate to cause an imminent and substantial danger to present or future public health and safety or the environment. The term includes such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released hazardous wastes or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that those actions protect the public health and safety of the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the administrator of the U.S. Environmental Protection Agency or the executive director determines that, alone or in combination with other measures, this relocation is more cost effective than, and environmentally preferable to, the transportation, storage, treatment, destruction, or secure disposition off-site of hazardous wastes or may otherwise be necessary to protect the public health or safety. The term does not include off-site transport of hazardous wastes or the storage, treatment, destruction, or secure disposition off-site of the hazardous wastes or contaminated materials unless the administrator of the U.S. Environmental Protection Agency or the executive director determines those actions:

(A) are more cost effective than other remedial actions;

(B) will create new capacity to manage, in compliance with the federal Solid Waste Disposal Act (42 United States Code §6921 *et seq.*), Subtitle C, hazardous wastes in addition to those located at the affected facility; or

(C) are necessary to protect public health and safety or the environment from a present or potential risk that may be created by further exposure to the continued presence of those wastes or materials.

Removal—The cleanup or removal of released hazardous wastes from the environment; the actions necessary to be taken in the event of the threat of release of hazardous wastes into the environment; the actions necessary to monitor, assess, and evaluate the release or threat of release of hazardous wastes; the disposal of removed material; or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health and welfare or the environment that may otherwise result from a release or threat of release. The term also includes security fencing or other measures to limit access, provision of alternate water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under the Environmental Response Law,

§104(b), and any emergency assistance that may be provided under the federal Disaster Relief Act of 1974 (42 United States Code §5121 *et seq.*).

Substantial change in use—Any physical or functional alterations of a hazardous waste facility or area which may create an increased threat of harm to public health and safety or the environment, including, but not limited to, the erection of a building or other structure at such facility or area, the use of such facility or area for agricultural production, the paving of such facility or area for use as a roadway or parking lot, and the creation of a park or other public or private recreational facility on such facility or area; transfer of ownership of the property; and any unforeseen physical alteration of the real property by an act of God, an act of war, or natural disaster.

§33.343. Draft Survey.

(a) The executive director shall develop and publish a draft survey listing hazardous waste facilities or areas in the State of Texas that may pose an imminent and substantial endangerment to the public health and safety or the environment. The bases for the draft survey shall be review of commission files, work completed to identify candidate sites for inclusion in the federal national priorities list, and investigations conducted pursuant to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §7.

(b) The executive director shall notify any identified owner, operator, or other named responsible party, where such identification is available, by certified mail, return receipt requested, of the inclusion of the facility or area on the draft survey no later than 30 days after completion of the draft survey.

(c) The executive director shall hold a public hearing following completion of the draft survey to solicit comments on the survey and collect information on additional candidate sites. At least 30 days prior to public hearing, the executive director will provide public notice of the hearing by publication of notice in the *Texas Register*, in a newspaper of general circulation in the county or counties where a facility or area proposed to be included in the registry is located, and in major newspapers throughout the state.

§335.344. Registry.

(a) The executive director will publish a registry of hazardous waste facilities or areas in the State of Texas that may pose an imminent and substantial endangerment to the public health and safety or the environment. The registry shall include the relative priority of the need for action and recommendations for action at each facility or area.

(b) The relative priority of the need for action at each facility or area shall be based on the hazard ranking system score as set forth in 40 Code of Federal Regulations

Part 300, Appendix A. Facilities or areas with hazard ranking system scores which qualify for the national priorities list pursuant to the U.S. Environmental Protection Agency minimum score or other national priorities list qualifying considerations shall be included in the registry as well as facilities or areas not qualifying for the national priorities list. Facilities or areas with the highest score which do not qualify for the national priorities list shall receive the highest priority for state supervised or funded cleanup, unless a situation described in the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13(g)(3), warrants more immediate action.

(c) The executive director will update the registry at least annually to include new information or changes to existing information and to delete facilities or areas that have been cleaned up or delisted. The executive director shall notify any identified owners, operators, or other named responsible parties, where such identification is available, by certified mail, return receipt requested, at least two months prior to addition of a newly included facility or area to the registry.

(d) For each facility or area listed in the registry, the executive director will cause to be filed a notice or affidavit in the real property records of the county in which the facility or area is located.

§335.345. Substantial Change in Use.

(a) Subsequent to the listing of a facility or area on the draft survey or registry, no person may take any action to substantially change the manner in which the facility or area is used without notifying the executive director and receiving written approval of the executive director for such proposed change. Such notice shall be in writing, addressed to the executive director, shall include a brief description of the proposed change of use, and shall be submitted at least 60 days before any proposed change of use.

(b) The executive director shall not approve such change of use if such new use will interfere significantly with a proposed, ongoing, or completed hazardous waste facility or area remedial action program at such facility or area or expose the environment or public health to a significantly increased threat of harm.

§335.346. Delisting and Modifications.

(a) Any owner, operator, or other named responsible party of a facility or area listed in the registry or draft survey may request the executive director to delete such facility or area from the draft survey or registry, modify the facility's or area's priority within the registry, or modify any information regarding such facilities or areas by submitting a written statement setting forth the grounds of the request. The owner, operator, or named responsible party shall submit to the executive director any information as may be reasonably required to enable the executive director to further evaluate a facility or area, including, but not limited to,

information on all factors used to develop a score in accordance with the hazard ranking system.

(b) In making a determination under subsection (a) of this section, the executive director will consider whether any of the following criteria have been met:

(1) that the owner, operator, or other named responsible parties has completed all appropriate action required;

(2) that no further action by the owner, operator, or other named responsible parties is appropriate; or

(3) based on a remedial investigation, that the release poses no significant threat to public health and safety or the environment and, therefore, taking action is not appropriate.

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 14, 1986.

TRD-8601637

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

Earliest possible date of adoption:

March 28, 1986

For further information, please call
(512) 463-8070.

★ ★ ★

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

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

★34 TAC §3.298

The Comptroller of Public Accounts proposes an amendment to §3.298, concerning amusement services. The amendment is to subsection (g), relating to exemptions. As the section is currently written, the provider of an amusement service cannot be positive before the event occurs whether the event qualifies for an exemption. The amendment allows a specific way to determine whether an event qualifies for a sales tax exemption before the event occurs.

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

Mr. Craymer also has determined that 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 the providing of clear guidelines to decide whether or not an amusement event would qualify for an exemption. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

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

§3.298. Amusement Services.

(a)-(f) (No change.)

(g) Exemptions.

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

(3) Sales tax is not due on the sales of admissions to an amusement service when:

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

(C) the exempt provider establishes that it has a substantial financial investment in the event. An exempt provider may establish its financial involvement by showing either of the following: [stands a risk of substantial loss.]

(i) [A substantial risk of loss means] that the expenses incurred by the exempt provider [must] equal or exceed 10% of the gross receipts of the event. These expenses must be direct out-of-pocket cost in providing the event. Such items as depreciation or loss of profit cannot be considered, and loss cannot be covered either directly or indirectly by the profit-making organization; or

(ii) By written contract signed prior to the date of the event, the co-providers agree that the nonprofit organization will receive at least 20% of the net profit, if any, and will pay at least 20% of all losses, if any, incurred in producing the amusement event. Net profit means gross receipts less direct out-of-pocket cost.

(4)-(8) (No change.)

(h)-(j) (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 19, 1986.

TRD-8601686

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:

March 28, 1986

For further information, please call
(512) 463-4606.

★ ★ ★

Subchapter V. Bingo Regulation and Tax

★34 TAC §3.559

The Comptroller of Public Accounts proposes new §3.559, concerning the books and records of commercial lessors licensed to conduct bingo. The new section prescribes the accounting treatment for rental payments received by affected parties. The new section provides an audit trail for the comptroller with respect to this type of income, while at the same time simplifying bookkeeping procedures for affected parties.

Dale Craymer, director of revenue estimating for the comptroller, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Craymer also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient administration and enforcement of bingo regulations. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Bill Clemmer, Manager, Miscellaneous Services, P.O. Box 13528, Austin, Texas 78711.

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

§3.559. Books and Records—Commercial Lessors Licensed to Conduct Bingo.

(a) This section applies to authorized charitable organizations which are licensed to conduct bingo and are also licensed to lease their premises to other organizations conducting bingo.

(b) An organization to which this section applies shall deposit in its bingo checking account all rental payments from authorized organizations conducting bingo at the location of the lessor under a temporary license, an annual license, or a temporary authorization to conduct bingo. A rental payment must be deposited in the bingo checking account not later than the end of the next business day after it is received.

(c) Rental payments required by this section to be deposited in the bingo bank account are not part of gross receipts for purposes of the bingo gross receipts tax. Such rental payments are not considered in computing adjusted gross receipts under §3.556 (a) of this title (relating to Minimum Charitable Distribution). Distributions for charitable purposes of such funds from the bingo checking account will be considered as part

of the disbursements toward meeting that Minimum Charitable Distribution requirement under §3.556(b) of this title (relating to minimum charitable distribution).

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 19, 1986.

TRD-8601685

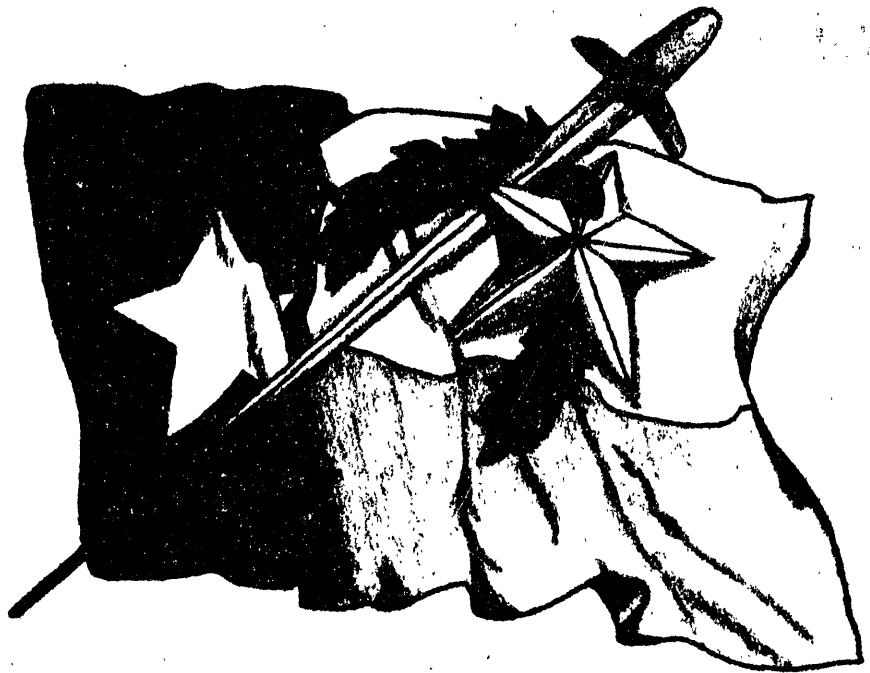
Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:

March 28, 1986

For further information, please call
(512) 463-4606.

★ ★ ★



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

Chapter 9. Public Junior Colleges

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

★ 19 TAC §§9.131-9.137

The Coordinating Board, Texas College and University System adopts new §§9.131-9.137, without changes to the proposed text published in the November 5, 1985, issue of the *Texas Register* (10 TexReg 4258).

The new sections are adopted to comply with the provisions of House Bill 923, 69th Legislature, 1985, by adding a Subchapter F to Chapter 9 of the coordinating board's sections.

The sections will delineate the kinds of partnership agreements that will be made possible, with certain limits, to improve the continuity, quality, and efficiency of educational programs and services between certain community/junior colleges and upper-level universities that share common campuses.

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

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 17, 1986.

TRD-8801688 James McWhorter
Assistant Commissioner
for Administration

Effective date: March 12, 1986
Proposal publication date: November 5, 1985
For further information, please call
(512) 462-6420.

Chapter 21. Student Services Subchapter J. The Physician Student Loan Repayment Program

★ 19 TAC §§21.251-21.263

The Coordinating Board, Texas College and University System, adopts new §§21.251-21.263, without changes to the proposed text published in the November 5, 1985, issue of the *Texas Register* (10 TexReg 4259).

Senate Bill 1341 created a new program for repayment of education loans of physicians agreeing to work in certain designated locations in the state: Texas Department of Health; Department of Health and Mental Retardation; Texas Department of Corrections; Texas Youth Council; or an urban or rural medically underserved district.

Physicians who sign commitments to work in one of the designated areas may receive payment of up to \$3,000 per year for up to five years. Payment is to apply against the outstanding principal of educational loans the physician may then owe.

No comments were received regarding adoption of the new sections.

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

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 17, 1986.

TRD-8801695 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Effective date: March 12, 1986
Proposal publication date: November 5, 1985
For further information, please call
(512) 462-6420.

★ ★ ★

Subchapter K. The Good Neighbor Scholarship Program

★ 19 TAC §§21.281-21.289

The Coordinating Board, Texas College and University System, adopts new §§21.284, 21.286, and 21.288, with changes to the proposed text published in the November 5, 1985, issue of the *Texas Register* (10 TexReg 4260). Sections 21.281-21.283, 21.285, 21.287, and 21.289 are adopted without changes and will not be republished.

House Bill 1147 transferred administration of the Good Neighbor Scholarship program from Texas Education Agency to the coordinating board. To administer the program, the coordinating board adopts sections with changes to the following: §21.284—Definitions, the term "scholastically qualified"; §21.286—Designation of a Good Neighbor Scholarship officer; and §21.288—Selection Procedures (3). These changes were made for further clarification.

Public senior and junior colleges and Texas State Technical Institute may now nominate eligible foreign students for tuition exemptions. Nominations will be processed by the coordinating board and award recipients will be selected based on the distribution of awards required by law and on the priorities established by the institutions.

A suggestion was made that rather than specify the International Student Officer as the campus representative of the program, the president of each school should simply appoint the appropriate member of the staff.

Dr. Robert H. Detrick, director, Scholarship Office, NTSU, commented against the new sections.

The new sections are adopted under the Texas Education Code, §54.207 (b) and (d), which provides the coordinating board with the authority to adopt rules regarding The Good Neighbor Scholarship program. §21.284. *Definitions.* The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Board—the Coordinating Board, Texas College and University System.

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

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

Native-born citizen of an eligible country—A person who is a citizen of an eligible country and who was born in that country.

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

Scholastically qualified—meets the basic admissions requirements of the nominating institution and maintains satisfactory progress toward a degree.

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

§21.286. Designation of a good neighbor scholarship officer. The principal international student advisory or another appropriate person, to be named by the chief executive officer, at each institution, shall be designated to serve as agent for the board and shall be titled the Good Neighbor Scholarship Program Officer. The good neighbor scholarship program officer shall certify all scholarships and activities with respect to the statute and shall be responsible for all records and reports reflecting the transactions with respect to the statute. Certification shall be on such forms as may be prescribed by the commissioner.

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

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

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

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

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

(3) **Reallocation of unused scholarships.** In the event any nation fails to have 10 students available and qualified for exemption, or if the designated country fails to have 35 such students, the commissioner may allocate such unused exemptions as he determines to be appropriate, with priority being given to students from Mexico, except that the total of such exemptions shall not exceed 235 in a semester or term.

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 17, 1986.

TRD-8601696

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

Effective date: March 12, 1986
Proposal publication date: November 5, 1985
For further information, please call
(512) 462-6420.

★ ★ ★



Chapter 65. Nonpublic Elementary and Secondary Schools

Subchapter A. General Operations

★ 19 TAC §65.4

The Texas Education Agency adopts the repeal of §65.4, without changes to the proposed text published in the December 20, 1985, issue of the *Texas Register* (10 TexReg 4885).

Sections recently adopted by the Texas Education Agency stipulate that the agency will no longer accredit nonpublic schools. Instead, the commissioner of education will review the standards of other accrediting bodies which accredit nonpublic schools, and recognize those bodies when he finds their standards are comparable to state standards.

The repealed §65.4 is superceded by new §97.7.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Texas Education Code, §11.26(c)(5), which authorizes the State Board of Education to make rules for the accreditation of school districts.

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

Issued in Austin, Texas, on February 14, 1986.

TRD-8601613

W. N. Kirby
Commissioner of
Education

Effective date: March 7, 1986
Proposal publication date: December 20, 1985
For further information, please call
(512) 463-9212.

★ ★ ★

Chapter 89. Adaptations for Special Populations

Subchapter G. Special Education Clarification of Provisions in Federal Regulations and State Law

★ 19 TAC §89.229

The Texas Education Agency adopts an amendment to §89.229, with changes to the proposed text published in the November 26, 1985, issue of the *Texas Register* (10 TexReg 4571).

The amendment deletes obsolete references to §89.235(g), concerning the discipline of handicapped students. Provisions for the discipline of handicapped students are now included in Chapter 133. The amendment also clarifies the definition of reasonable notice to parents of meetings concerning their children. The amendment broadens the definition of activities for which reasonable notice must be given under §89.229(b)(2).

The amendment specifies that whenever specific written notice to parents within a reasonable time is required under federal regulations, "reasonable time" shall be defined as at least five school days. Parents may, however, agree to waive the five school day notice period to which they are entitled.

Reed Martin, staff attorney, Advocacy, Incorporated, requested that the section be changed to include the content of notice and that notice be specified as written notice. He also suggested that the language of the rule should cover all aspects of providing a free appropriate education, rather than just the changing of educational placement, as in the proposed rule.

The agency did not accept the request that the section be changed to include content of notice or that notice be specified as written notice, because this information is already contained in federal regulations. Districts must comply with federal as well as state regulations, and the *Texas Register* has a policy against the repetition of statutory language in rules. The agency rewrote the proposed section to answer Mr. Martin's other concern.

The amendment is adopted under the Texas Education Code, §21.501, which authorizes the State Board of Education to make rules for the administration and funding of special education programs.

§89.229. Notice Requirements and Complaint Procedures.

(a) (No change.)

(b) Specific notice.

(1) (No change.)

(2) Whenever, under federal rules, specific written notice to parents within a reasonable time is required, "reasonable time" is defined as at least five school days. Parents may agree to waive the five school day notice period to which they are entitled.

(c) (No change.)

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

Issued in Austin, Texas, on February 14, 1986.

TRD-8601870

W. N. Kirby
Commissioner of
Education

Effective date: March 11, 1986

Proposal publication date: November 26, 1985

For further information, please call
(512) 463-9212.

★ ★ ★

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 39. Primary Health Care Services Program

★25 TAC §§39.1-39.22

The Texas Department of Health adopts §§39.1-39.18, 39.20, and 39.21 with changes, and §39.19 and §39.22 without changes, to the proposed text published in the December 24, 1985, issue of the *Texas Register* (10 TexReg 4937).

House Bill 1844, 69th Legislature, 1985, requires the department to adopt these sections for the purpose of reducing morbidity and mortality by improving access and availability of primary health care services.

Sections 39.1-39.22 cover the criteria and procedures by which the department will provide for the delivery of primary health care services to eligible individuals. Specifically, the major areas covered are definitions, program requirements, program providers, eligibility requirements, services provided, payment procedures, funding, program review and evaluation, and appeals.

A large number of comments have been received by the department on §§39.1-39.22. In responding to these comments, the department has made a number of format and editorial changes and has rearranged various provisions throughout the sections; however, the section numbers remain as proposed and none of the content changes are of a substantive nature.

Concerning §39.2, a commentator recommended that the term "emergency services" be defined. The department disagrees. Emergency services are not defined because an emergency situation will depend on the condition of the individual recipient. Each provider must make a determination in these particular

situations as to what constitutes an emergency service. Inpatient services are not excluded.

A commentator recommended that the definition of "eligibility date" be redefined. The department agrees and has revised the definition for clarity and to remain within the intent of the law.

A commentator recommended that a definition of "service areas" be added. The department disagrees because the reference to service area in the new sections is sufficiently clear.

A commentator recommended that the definition of "household" be replaced by the more appropriate definition of "family" and that the definition be clarified further. The department agrees and has made an appropriate change.

A commentator recommended that the definition of "program contractor" be deleted because the law uses the term "provider" and not "program contractor". The department agrees and has made an appropriate change.

Concerning §39.3, a commentator recommended that a phrase in subsection (c), be changed by replacing the word "and" with "and/or". The department disagrees because the proposed language more accurately expresses the intent of the law. Therefore, this subsection will remain as written.

A commentator stated that subsection (d)(2) does not entirely track the law as written; public and private providers should be given a reasonable opportunity to respond to the initial determination of the need for the proposed services and the availability and ability of existing private and public providers or other resources in the service area to satisfy the need for the services. The department feels that the subsection covers the intent of the law but has expanded subsections (d)(3) and (d)(4) for clarity.

Concerning §39.4, a commentator recommended this section title, and the title of §39.5, be changed. The department disagrees and feels the section titles are appropriate as written.

Several commentators recommended that §39.4(b) be amended to require the department to utilize local published notices to potential contractors or to have direct contact with them. The department agrees and has modified the subsection accordingly. A commentator also recommended a 60- or 90-day application period for providers as opposed to a 30-day application period. The department disagrees because it believes that the 30-day period is sufficient.

Concerning §39.4 (c), a commentator recommended that all requests for application packets, and not just those packets requested of the department, be forwarded within 10 days. The department believes that it is essentially the responsibility of

the department to ensure that all packets are distributed within 10 days by the Public Health Regions and all Councils of Governments. The department is ultimately responsible for the guarantee of this provision.

The commentator recommended that time limits be designated for the review process in §39.4 (d)-(f). The department disagrees because the approval and/or disapproval process may require the department to coordinate with federal, state, and local agencies before a contract is negotiated. The provider may need additional time to sub-contract for some of the services before contracts are finalized.

A commentator recommended that §39.4 (g) be moved and placed in §39.5. The department disagrees and feels that subsection (g) is in the appropriate section.

A commentator recommended that §39.4 (f) contains provisions concerning the denial of an application. The department agrees and has clarified §39.4 (f) accordingly.

A commentator recommended that §39.4 (h) be changed. The department agrees with the commentator's recommendation; however, this subsection has been deleted in its entirety because it is a restatement of the law.

A commentator recommended that §39.4 (j) be reworded to allow the department to waive the requirements of subsection (d) and (e) of the section on an emergency basis, if necessary, to expedite the selection of providers to provide primary health care services to individuals in immediate need. The department agrees and has revised subsection (j) accordingly.

A commentator recommended that a subsection be added to §39.4 requiring that all contracts and agreements which the department executes be subject to the Uniform Grant and Contract Management Standards adopted by the governor's office. The department agrees and has added an appropriate subsection.

A commentator said that §39.5 (b) as written implies a contradiction with the co-payment provisions in §39.10. The department disagrees and feels the subsection reads appropriately. Also, §39.10(c), which refers to co-payment, has been expanded for clarity.

A commentator said that §39.5(c) duplicates other provisions in the sections and should be deleted. The department agrees and has deleted the subsection.

A commentator recommended that §39.5 (d) be deleted because the provisions will be more appropriately addressed in the contract. The department agrees and has deleted the subsection.

A commentator requested that the administrative review and due process procedures in §39.5 (e) and (f) be clarified. The

department agrees and has clarified the procedures.

A commentor recommended that a provision be added to the section emphasizing the statutory requirement that the department may withhold payments during the pendency of a hearing, but shall resume payments if the final determination is in favor of the provider. The department agrees, but has added the provision to §39.15 because this is the appropriate section for the provision.

Concerning §39.6, a commentor recommended that this section be revised as to information regarding Matching Share. This information should be in the request for proposal (RFP). The department agrees and has revised the section accordingly. In addition, a commentor recommended that the section adopt the RFP by reference. The department agrees and has done so.

Concerning §39.7, a commentor recommended that the Eligibility Determination Handbook referenced under subsection (a) needs to be clarified and amplified. The department agrees and will repropose the handbook in a future rule.

Concerning §39.8, a commentor recommended that subsection (a) require that the initial determination of eligibility is made by the program contractor. The department agrees; however, since the department doesn't make the initial determination, it is not necessary to modify the section at this point. In addition, the department has deleted §39.9(n) since the provider will be making the final determination of eligibility and not the department.

Concerning §39.8 and §39.9, a number of commentors recommended that these two sections, since they are so closely related, should either be combined or reformatted for clarity. The department agrees that the two sections should be modified to require clearer coordination among the provisions of the two sections and has done so; however, the department believes that there should still be two separate sections.

Concerning §39.9, a commentor recommended that the definition of "Texas resident" would be more appropriate in §39.2. The department agrees and has made the change.

Concerning §39.10, a commentor recommended that the wording, be added to subsection (a)(2) for clarification. The department agrees and has added the language.

Concerning §39.11, a commentor recommended that the section title be changed. The department agrees and has made the change.

A commentor recommended that the criteria and procedures covering services on a one-time-basis in §39.11(c) be

clarified. The department agrees and has clarified the subsection. Another commentor asked whether emergency and immediate care should be defined in the subsection. The department's response is to modify the subsection by leaving the flexibility of determining emergency and immediate care to the individual provider rather than defining both terms.

A commentor stated that it is unnecessary to list the services provided in §39.11(b) because the list is already described in the definition of "primary health care services" in §39.2. The department agrees and has deleted the list of services.

A commentor questioned the need for §39.12 (a) because it duplicates other sections. The department agrees that the language does reiterate to an extent provisions in other sections, but that language will be retained because it expresses the basic concept in the rules concerning the receipt and expenditure of funds under the program.

A commentor said that §39.12(b) duplicates earlier sections and subsection (f). The department has deleted subsection (b).

A commentor asked if the provisions of §39.12 (c) referred to the provisions in §39.11(c) and if emergency care means immediate care. The department's response is affirmative and has combined the two subsections together in §39.11(c).

A commentor questioned whether §39.12 (d) covers one-time-basis cases. The department's response is that subsection (d) does pertain to one-time-basis cases and has moved this provision to §39.11(c).

A commentor recommended that §39.12 (e) be moved to §39.15. The department agrees but that the appropriate subsection is §39.11 (c).

A commentor recommended that §39.12 (f) be under §39.10. The department agrees and has moved the provision.

Concerning §39.13, a commentor recommended that minor changes be made to assure consistent terminology. The department agrees and has made appropriate minor terminology changes.

A commentor recommended that §39.14 (a) be modified to include a notification to the recipient's provider at the same time that notice is given to the recipient. The department agrees that notification to the recipient's provider should be given; however, the department disagrees that said notice should be given to the provider at the time the written notice is given to the recipient. The department has added a subsection (h) to §39.18 covering the approval procedure to require written notice to the provider once a final determination has been made.

A commentor recommended that additional wording be added to this §39.15 (j)

for clarification of the intent of the law. The department agrees and has made the necessary revisions.

A commentor said that §39.15 (i) and (j) are duplicative of earlier sections. The department agrees and has revised (j). The provisions of proposed subsection (i) remains unchanged.

A commentor, in reference to §§39.4, 39.5, and 39.15, requested that the department require an acknowledgement from all its contract providers. The acknowledgement should say that physicians must remain totally free to exercise their independent medical judgement concerning which services are to be provided to eligible persons (within reasonable fiscal restraints) and their awareness of the prohibition of the corporate practice of medicine as provided under the Medical Practice Act, Texas Civil Statutes, Article 4495b. The department's response is that it is unnecessary to address the requirements and prohibitions contained in the Medical Practice Act in these rules; these items could be addressed in the contract.

Concerning §39.16, a commentor recommended that subsection (b) be revised to correspond with §37.282. The department agrees and has made the appropriate revision.

Concerning §39.17, a commentor recommended that a new paragraph (g)(8) be added. The department agrees and has added the paragraph.

A commentor recommended that the reporting requirements be clarified and amplified in §39.17 (g). The department agrees and has added paragraphs (6) and (7), and a new subsection (h).

Concerning §39.18, a commentor recommended that the title of the section be abbreviated, because the other subjects mentioned in the proposed title are already addressed in sections §§39.19-39.22. The department agrees and has made the change.

A commentor recommended that a subsection (h) be added to §39.18 requiring the department to notify the applicant of the department's decision in an appeal. The department agrees and has added an appropriate provision.

A commentor recommended that the provision in subsection (b) requiring notification by certified mail is unreasonable. The department agrees and has replaced the word, "certified mail" with the words "regular mail" concerning administrative reviews and appeals.

Senator Chet Brooks, the Texas Hospital Association and Texas Medical Association, the Texas Association of Community Health Centers; and the Advisory Committee and department staff, commented on the rules. All of the commentors were for the rules but expressed concerns, raised questions, and offered suggestions

and comments as outlined in the summary of comments.

The new sections are adopted under Texas Civil Statutes, Article 4438d, which provide the Texas Board of Health with the authority to adopt rules to establish and administer a primary health care services program.

§39.1. Introduction.

(a) The purpose of these sections is to establish a system of primary health care services for eligible individuals as prescribed by House Bill 1844, 69th Legislature, 1985, and the findings of the Indigent Health Care (I.H.C.) Task Force appointed by the Governor, lieutenant governor, and Speaker of the House of Representatives. The Legislative and I.H.C. Task Force directions include specifications for:

(1) a system of priorities relating to the type of individuals eligible for services;

(2) provision of primary health care services by existing providers;

(3) evaluation and planning based on careful monitoring of service delivery, costs, patient needs, and diagnoses; and

(4) coordination of primary health care services with other Indigent Health Care Legislation programs.

(b) The Primary Health Care Service Program seeks to fund local projects that utilize early prevention and early intervention of health problems. This program will utilize and integrate a plurality of existing primary health care services and providers into a structured service delivery system. Access to appropriate levels of health care can reduce health expenditures, mortality, morbidity, and improve individual productivity, health status, and economic growth.

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

Act—The Texas Primary Health Care Services Act, Texas Civil Statutes, Article 4438d (House Bill 1844, 69th Legislature, 1985).

Applicant—An individual applying to receive primary health care services. In determining financial need of the applicant, the income of the applicant's family will be taken into consideration.

Board—The Texas Board of Health.

Commissioner—The commissioner of health.

Council of governments—Regional councils which are voluntary associations of local governments formed under the Regional Planning Act of 1965, Texas Civil Statutes, Article 1011M, §3(a).

Department—The Texas Department of Health.

Eligible individual—An eligible recipient of primary health care services under this Act.

Eligibility date—The actual date the individual submits a completed application

to the provider. The eligibility ending date will be 12 months from the beginning date unless individuals are granted eligibility for a shorter duration due to special circumstances.

Facility—Includes hospitals, ambulatory surgical centers, public health clinics, birthing centers, outpatient clinics, and community health centers.

Family—A group of two or more persons related by birth, marriage, or adoption who reside together. All such related persons are considered as members of one family.

Legally responsible person—A parent or another person who is legally responsible for one's own self or a minor. (Note: step-parents, grandparents, adult siblings, or aunts and uncles are not legally responsible for minor relatives, unless so designated by a court.)

Medical transportation—Transportation services that are required to obtain appropriate and timely primary health care services for eligible individuals.

Minor—A person who has not reached his/her 18th birthday and who has not had the disabilities of minority removed in court or who is not or never has been married or recognized as an adult by the State of Texas.

Other benefit—A benefit, other than a benefit provided under this Act, to which an individual is entitled for payment of the costs of primary health care services, including:

(A) benefits available under: an insurance policy, group health plan, or prepaid medical care plan; Title XVIII or Title XIX of the Social Security Act; the Veterans Administration; the Civilian Health and Medical Program of the Uniformed Services; and workers compensation or any other compulsory employer's insurance program;

(B) a public program created by federal or state law, or by an ordinance or rule of a municipality or political subdivision of the state, except those benefits created by the establishment of a city or county hospital, a joint city-county hospital, a county hospital authority, a hospital district, or by the facilities of a publicly supported medical school; or

(C) benefits resulting from a cause of action for medical, facility, or medical transportation expenses, or a settlement or judgement based on the cause of action, if the expenses are related to the need for services provided by this Act.

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

Primary Health Care Advisory Committee—An advisory committee appointed by the Board of Health for the purpose of planning and reviewing the development of a comprehensive system of primary health care.

Primary Health Care Services—Referred to as services, includes:

(A) diagnosis and treatment;

(B) emergency services;

(C) family planning services;

(D) preventive health services, including immunizations;

(E) health education;

(F) laboratory, x-ray, nuclear medicine, or other appropriate diagnostic services;

(G) nutrition services;

(H) health screening;

(I) home health care;

(J) dental care;

(K) transportation;

(L) prescription drugs and devices and durable supplies;

(M) environmental health services;

(N) podiatry services; and

(O) social services.

Program—The primary health care services program created by this Act.

Provider—A person that, through a grant or a contract with the department, delivers primary health care services that are purchased by the department for the purposes of this Act.

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

Request for proposal (RFP)—A solicitation providing guidance and instructions issued by the department to potential providers interested in submitting an application to provide primary health care services through this Act.

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

Texas resident—An individual who is physically present within the geographic boundaries of the state, and who:

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

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

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

(D) is under 18 years of age and his/her parent(s), managing conservator, or guardian is a bona fide resident of Texas;

(E) is a person residing in Texas and his/her legally dependent spouse is a bona fide resident of Texas; or

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

§39.3. General Program Requirements.

(a) As authorized by the Act, the board, in these sections, has established a Primary Health Care Services Program in the department to provide for the delivery of primary health care services to eligible individuals.

(b) Because budgetary limitations exist, initial service priorities shall focus on the funding of, provision of, and access to the six priority primary health care services listed in paragraphs (1)-(6) of this subsection:

- (1) diagnosis and treatment;
- (2) emergency services;
- (3) family planning services;
- (4) preventive health services, including immunizations;
- (5) health education; and
- (6) laboratory, x-ray, nuclear medicine, or other appropriate diagnostic services.

(c) The department, through an approved provider, shall provide for the delivery of primary health care services to those populations which demonstrate unmet needs due to the inaccessibility and unavailability of primary health care services. Unmet needs may be determined by, but are not limited to, the following criteria:

- (1) geographic area;
- (2) demography;
- (3) socio-economic conditions;
- (4) cultural factors affecting the health status;
- (5) health problems;
- (6) health resources available in community.

(d) The department may deliver services directly to eligible individuals if it is determined that existing private or public providers or other resources in the service area are unavailable or unable to provide those services. In making a determination that providers or resources are unavailable or unable to provide services, the department shall:

- (1) initially determine the proposed need for services in the service area;
- (2) notify existing private and public providers and other resources in the service area of the department's initial determination of the need for the services and the services the department proposes to deliver directly to eligible individuals;
- (3) provide the existing private and public providers and other resources in the service area 30 days to comment on the department's initial determination. After the 30-day comment period, the department will provide the existing private and public providers and other resources in the service area 30 days to make application as a provider;
- (4) approve or disapprove providers after the 30-day application period and within 60 days of a review and comment period;
- (5) eliminate, reduce, or otherwise modify the proposed scope or type of services the department proposes to deliver directly under this Act to the extent that those services may be delivered by existing private or public providers or other resources in the service area that meet the criteria for approval.

§39.4. *Contracts and Written Agreements.*

- (a) In order to conserve funds and ef-

fectively administer the program, the department shall contract on a request for proposal basis for primary health care services.

(b) The department shall publish public notice of the request for proposal in the *Texas Register* at least 30 days prior to the date the application is due. Local published notices or direct contact by the department with potential providers will be utilized.

(c) The department will forward the application packet within 10 working days of receiving a request.

(d) Public health regional staff and Councils of Government will review and comment on proposals.

(e) The Primary Health Care Advisory Committee and designated central office staff of the department will review and recommend proposals for funding.

(f) Potential providers submitting proposals will be selected and approved by the department to enter into contracts with the department. Providers that are not selected will receive written notification to that effect from the department within 30 days.

(g) A provider with the department must agree to provide at least the six priority primary health care services, either directly or through agreements or subcontracts with other providers. (See the list described in §39.3(b) of this title (relating to General Program Requirements)).

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

(i) The department may expedite the selection of providers so that primary health care services may be provided to individuals in need on the advice of the Primary Health Care Advisory Committee and the approval of the board or commissioner.

(j) All contracts and written agreements which the department executes are subject to and governed by the requirements in the Uniform Grant and Contract Management Standards adopted by the governor's office in 1 TAC §§5.141-5.167 (relating to Uniform Grant and Contract Management Standards).

§39.5. *Selection of Providers.*

(a) The department will make the final selection of providers in the program.

(b) All providers must agree to abide by these sections and to accept program fees as payment for services rendered to eligible individuals.

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

(d) An administrative review and a due process hearing are available to any provider for the resolution of conflicts between the department and the provider in accordance with §39.18 of this title (relating to Appeals).

§39.6 *Matching Share.* Information regarding matching share, if any, may be found in the request for proposal, which the department has prepared and adopts by reference. Copies are indexed and filed in the Office of the Association of Community and Rural Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

§39.7. *Eligibility.*

(a) Individuals covered under the Act are those who are not eligible for other benefits.

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

(c) In order for an individual to be eligible for primary health care services, the individual must:

- (1) be in financial need as defined by these sections; and
- (2) be a Texas resident.

(d) Applications are available to anyone seeking assistance from the program. Application forms may be obtained from providers. The completed application form is reviewed by the providers. To be considered, the application must be on forms furnished by the department.

(1) Any documentation requested on the application must be attached to the form or it will be returned as incomplete.

(2) Information required on the application includes, but is not limited to:

(A) the individual's name; present address; date of birth; place of birth; social security number, if applicable; and whether the individual is currently eligible for Medicaid or other similar benefits;

(B) the name(s) of individual's dependent(s); present address(es); age(s); whether resident(s) of the state; and social security number(s), if applicable;

(C) health insurance policies providing coverage for the individual; person(s) who is (are) legally responsible for the support of the individual, and individual's dependent(s);

(D) income of individual submitting application and spouse's income; and

(E) other benefits available to the family or individual.

(e) In order to conform to federal and state laws, a minor seeking treatment for communicable diseases or seeking family

planning services will be deemed by the department to be emancipated for the purposes of the Act and only the financial resources of the minor will be considered in determining eligibility.

§39.8. Determination of Eligibility.

(a) The final determination of eligibility is made by the provider using the information provided in the application. The provider may request verification from any source to establish eligibility. The provider, at a minimum, will require that documentation of income, residency, and dependency be submitted.

(b) The individual's case is considered to be active when all criteria for eligibility have been established. Coverage continues for 12 months, as long as the eligibility criteria continue to be met.

(c) Eligibility coverage may be provided for a period less than 12 months in the following circumstances:

(1) an application is pending with another agency for similar benefits and applicant is in need of services; or

(2) applicant has indicated eligibility status may change within 12 months, which may render applicant ineligible.

(d) The provider will respond to the individual in writing within 10 working days after an application is received in completed form. Eligibility status may be determined on the day the completed application is submitted and reviewed, and documentation has been verified.

(e) At the time eligibility is determined and the eligibility beginning date is established and recorded, the expiration date for eligibility will be determined and recorded in the individual's record. An individual will need to be recertified if he/she wants to remain in the program after the eligibility expiration date.

(f) Any questions regarding coverage may be addressed to the provider.

(g) The individual is considered to have filed an application from the time the provider has received a completed application form. Applications will be classified as follows:

(1) denied, if all eligibility requirements are not met;

(2) incomplete, if sufficient information is not provided;

(3) denied, if fraudulent information has been provided; or

(4) approved, if all criteria are met.

(h) Financial need is established on the basis of family income, as follows.

(1) The family income used to determine eligibility is the gross annual income of the applicant and his/her spouse, if applicable.

(2) Gross annual income includes earned wages, pensions or retirement benefits, child support payments received, alimony, unemployment compensation, workers compensation, income from rental

properties, or any monies received on a regular basis for family support purposes.

(i) Income guidelines are based on percentages of the current Federal Poverty Income Guidelines and may be adjusted by the department with the consent of the commissioner to meet budgetary limitations. For purposes of determining eligibility for the program, 150% or below of the Federal Poverty Income Guidelines will be followed.

(j) All income of the individual and his/her spouse must be verified in at least one of the following ways:

(1) copy of the most recent paycheck;

(2) copy of the most recent paycheck stub/monthly employee earnings statement;

(3) employer's written verification of gross monthly income;

(4) pension/allotment award letters;

(5) court of domestic relations documentation pertaining to child support;

(6) letter of financial support from person providing support;

(7) unemployment benefits statement or letter from Texas Employment Commission; or

(8) other documents or proof of income determined valid by the provider.

(k) Any other resource available to the eligible individual, or the person who is legally responsible for the support of the individual, must be utilized prior to the use of program funds. This includes benefits from a legal cause of action, settlement, or judgment on behalf of the eligible individual, as well as individual financial resources and third party insurance.

(l) Individuals who are eligible for a portion of benefits from other third party sources may be eligible for supplemental benefits through the Primary Health Care Services Program. Such supplemental benefits are extended only as a source of payment of last resort, when benefits from other sources have been exhausted, or are inadequate to fully cover the costs of medically necessary services.

(m) To be eligible for services under the Act, an individual must not be receiving primary health care benefits which are reimbursable through health insurance, including Medicaid.

(n) An individual must be a bona fide Texas resident.

(o) Verification of Texas residency must be included with the application and may be in the form of a copy of any one of the following:

(1) valid driver's license;

(2) current voter registration;

(3) motor vehicle registration;

(4) rent or utility receipts for one month prior to the month of application;

(5) school records;

(6) Medicaid cards or other similar benefit cards;

(7) property tax receipts; or

(8) other documents or proof of residency if considered valid by the provider.

(p) Verification of an individual's identity shall be in the form of a copy of any one of the following:

(1) valid driver's license;

(2) current voter registration;

(3) current utility bill with name and address noted;

(4) school records;

(5) Medicaid or other similar benefit cards; or

(6) other documents or proof of birth if considered valid by the provider.

(q) Verification of dependency shall be in the form of a copy of one of the following:

(1) birth certificate;

(2) baptismal certificate;

(3) school records; or

(4) other documents or proof of dependency determined valid by the provider.

(r) Supplemental information may be required to establish eligibility if there is incomplete, inadequate, or conflicting information provided by the individual.

(s) The denial of any application to the program will be in writing and will include the reason(s) for such denial. The individual applying for services has the right to an administrative review and a due process hearing as set out in §39.18 of this title (relating to Appeals).

(t) An individual has the right to reapply for program coverage at any time when there is a change of situation or condition.

§39.9. *Maintaining Eligibility.* To maintain eligibility for program benefits, the individual must continue to reside in the state, be in financial need as defined by these sections and inform the provider in writing or by telephone within 30 days of changes in the following:

(1) permanent home address;

(2) health insurance coverage;

(3) employment;

(4) other income; or

(5) change in family composition.

§39.10. *Co-Payment for Primary Health Care Services.*

(a) It is the intent of this program that all eligible individuals receiving services shall participate in the payment for primary health care services as rendered and according to the following income guidelines.

(1) Eligible individuals whose annual gross family income is below 100% of the Federal Poverty Income Guidelines may be charged a nominal fee for services rendered in accordance with their income and approved by the department in the contracting process.

(2) Eligible individuals whose annual gross family income is between 100% and 150% of the Federal Poverty Income Guidelines will be charged a co-payment on

a sliding fee basis as determined by the provider and in accordance with the contract provisions.

(b) Notwithstanding the provisions of subsection (a)(1) and (2) of this section, an eligible individual may not be denied services because of inability to pay.

(c) Fees collected by the provider shall be retained by the provider and shall be accounted for and expended only for primary health care services in accordance with the Uniform Grant and Contract Management Standards adopted by the Governor's office in 1 TAC §§5.141-5.167 (relating to Uniform Grant and Contract Management Standards).

(d) Individuals whose family incomes exceed 150% of the Federal Poverty Income Guidelines will not be eligible for the primary health care services provided by this program.

§39.11. Primary Health Care Services Provided.

(a) Primary health care services will be delivered through a single provider, a network of providers, directly by the department, or by a combination of the department and providers. Eligible individuals should receive services as close to their home as possible, except in those situations where providers or policies require treatment at specific facilities.

(b) Services may be limited as to frequency, duration, and cost for budgetary and administrative reasons.

(c) Potentially eligible individuals who require health services may receive them on a one-time-basis and the following criteria will be followed.

(1) Within 30 days following the delivery of services, the recipient must submit a completed application to the provider and eligibility determination shall be established.

(2) Should the individual(s) be determined to be ineligible for participation in the program, referrals will be made for the delivery of other appropriate health services.

(d) Providers will be reimbursed for services delivered on a one-time-basis. The department will require the following specific information prior to reimbursement for services provided on a one-time-basis:

- (1) diagnosis;
- (2) services performed;
- (3) name and address of provider; and
- (4) name, current address, and date of birth of recipient.

§39.12. Funds. The board may seek, receive, and expend any funds received through an appropriation, grant, donation, or reimbursement from any public or private source to administer the Act, except as provided by other law.

§39.13. Coordination of Benefits and Recovery of Costs.

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

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

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

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

(e) The department may recover the cost of services delivered under this Act from an individual who does not reimburse the department as required or from any third party who has a legal obligation to pay other benefits and to whom notice of the department's interest has been given.

(f) At the request of the commissioner, the attorney general may bring suit in the appropriate court of Travis County on behalf of the department. The court may award attorney's fees, court costs, and interest accruing from the date on which the department delivered the service to the date the department is reimbursed in a judgement in favor of the department.

§39.14. Denial/Modification/Suspension/Termination of Services.

(a) The department may, for cause, deny, modify, suspend, or terminate services to an applicant or recipient after written notice, an opportunity for an administrative review, and an opportunity for a due process hearing have been given to the applicant or recipient.

(b) Any individual requesting or receiving program benefits must be notified in writing that such benefits will be denied, modified, suspended, or terminated if:

- (1) the application information is erroneous or falsified;
- (2) the individual is no longer eligible;
- (3) obligated reimbursement to the program is not provided;
- (4) program funds are reduced or curtailed.

(c) The department shall conduct administrative reviews and due process hear-

ings in accordance with §39.18 of this title (relating to Appeals).

(d) The notice and hearing procedures contained in §39.18 of this title (relating to Appeals) do not apply if the department restricts program services to conform to budgetary limitations that require the board to establish service priorities relating to the types of services provided.

§39.15. Payment for Services.

(a) Reimbursement for services delivered through the Primary Health Care Services Program will be contingent upon a valid signed contract between the provider and the department.

(b) An eligible individual or person legally responsible for the eligible individual will not be required to make a pre-treatment payment or deposit.

(c) The department will reimburse the provider for services rendered in accordance with the written agreement which exists between the provider and the department. The department will only be obligated to pay those funds as specified in the written agreement.

(d) All payments made on behalf of an individual will be for claims received within 90 days from the date services were delivered.

(e) Requests for payment will either be paid or denied within 60 days of receipt by the department.

(f) The department will require documentation of the delivery of services by the provider, as follows.

(1) Requests for payment will be denied if they are incomplete, submitted on an improper form, contain inaccurate information, or are not submitted within 90 days from the date services were delivered.

(2) Requests for payment which have been denied must be resubmitted in correct form within 30 days from the notice of denial or within the initial 90-day filing deadline, whichever is later.

(3) Corrections must be made on the original request for payment form if at all possible, and a copy of the denial notice must accompany the resubmitted request for payment.

(4) If a new request is submitted, the original request must accompany the new request for payment form.

(5) Additional services will not be considered for payment on a resubmitted request for payment form.

(g) Overpayments made on behalf of eligible individuals to providers must be reimbursed to the department by lump sum payment or, at the department's discretion, deducted from current claims due to be paid to the provider. The opportunity for an administrative review and a due process hearing are available for the resolution of conflicts between the department and a provider in accordance with §39.18 of this title (relating to Appeals).

(h) The department may suspend or cancel payment for services provided if false or fraudulent requests for payments are submitted by a provider.

(i) A contract may not be terminated during the pendency of a due process hearing. Payments due to be paid to providers may be withheld during the pendency of a hearing, and payments shall resume if the final determination is in favor of the provider.

(j) Any provider failing to provide services according to medically acceptable standards is subject to review, fraud referral to the appropriate authority, and/or administrative sanctions.

§39.16. *Development and Evaluation of Program.*

(a) The Board shall appoint a 12-member statewide advisory committee.

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

(1) evaluating existing services and unmet needs in developing primary health care networks;

(2) reviewing project applications targeted at high need areas that encourage systematic and coordinated health delivery systems;

(3) reviewing the primary care plan(s);

(4) evaluating ongoing program efforts;

(5) defining both short-range and long-range goals and objectives for the Primary Care Program; and

(6) developing review criteria and standards for Primary Care Program implementation.

(c) The board may appoint any necessary areawide advisory committees to advise the department in planning and conducting the program.

§39.17. *Program Review.*

(a) Program review activities will be accomplished through monitoring systems developed to ensure the delivery of appropriate services.

(b) For economies of scale, and with the consent of the commissioner, the program may contract for concurrent or retrospective program reviews.

(c) The department will establish a program review system to evaluate the delivery of primary health care services. The program review system will allow for technical assistance to the providers.

(d) The department shall maintain a continuing review of the services it provides directly to the individuals who participate in the program.

(e) At least annually, the department shall review and determine the continued need for the services it provides directly in

accordance with the methods and procedures used to make the initial determination prescribed by the Act and these sections.

(f) If, after a review, the board determines that a private or public provider or other resource that meets the criteria for approval as a provider is available to provide services, has applied for approval as a provider, and has been approved as a provider, the department shall, immediately after approving the provider, eliminate, reduce, or modify the scope and type of services the department delivers directly to the extent the private or public provider or other resource is available and able to provide the service.

(g) The department will require providers to report to the department the following:

(1) demographic information on eligible individuals;

(2) the number of eligible individuals receiving services and costs per recipient of service;

(3) referral patterns, i.e., number of eligible individuals referred for hospital care;

(4) fiscal and financial management reports of expenditures;

(5) program accomplishments;

(6) an annual report on applicants ineligible for services; and

(7) a report on the networking and coordination of services with other providers.

(h) Other health related data may be required by the department; however, the provider will be given 60 days advance notice prior to the end of the funding cycle.

(i) The department shall annually prepare a report for submission to the governor and the legislature relating to the status of the program. The report shall be available to the general public and must include:

(1) the unduplicated number of patients receiving care under the program;

(2) the total cost of the program, including a delineation of the total administrative cost of the program and the total cost for each service authorized under the program;

(3) the average cost per recipient of services;

(4) the number of recipients of services who received services in each public health region; and

(5) any other information that may be required by the board.

(j) The department will cooperate with federal, state, and local public agencies, and with private agencies and individuals interested in health care of indigents. The department will make every effort to establish cooperative agreements with other state agencies to define respective responsibilities so as to avoid duplication of services.

§39.18. *Appeals.*

(a) Any person aggrieved by a program decision to deny, modify, suspend, or terminate benefits or participation rights may

appeal the decision as prescribed in this section.

(b) Within 10 working days after receiving notice of denial, modification, suspension, or termination of benefits or participation rights, an aggrieved person desiring an administrative review shall notify the department by regular mail of his/her request for such review. Additional information bearing on the decision may be submitted at this time. Failure to request an administrative review within the 10-day period is deemed to be a waiver of such review.

(c) Upon receipt of the request, a department administrative review team will affirm or reverse the decision and notify the aggrieved person in writing, giving the reason(s) for their determination.

(d) Within 10 days after receiving written notice of the administrative review team's determination, the aggrieved person may request a due process hearing from the department. A request for a hearing shall be sent to the department by regular mail. Failure to request a hearing within the 10-day period is deemed to be a waiver of the due process hearing and the proposed action shall be taken.

(e) In the event that an aggrieved person does not request an administrative review, the aggrieved person may request a due process hearing from the department within 10 working days after receiving notice of denial, modification, suspension, or termination of benefits or participation rights. A request for a hearing shall be sent to the department by regular mail. Failure to request a hearing within the 10-day period is deemed to be a waiver of the hearing and the proposed action shall be taken.

(f) The date, time, and place of each due process hearing will be determined by the department.

(g) The hearing will not be conducted under the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §§12-20, but will include the following:

(1) timely written notice to the aggrieved person of the matters asserted;

(2) an opportunity for the aggrieved person to appear before a hearing examiner to relate his/her position;

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

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

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

(6) a written recommendation by the hearing examiner to the commissioner setting forth the reasons for the recommendation and the evidence upon which the decision is based; and

(7) a final written decision to be made by the commissioner.

(h) Upon a final determination that program benefits will be denied, modified, suspended, or terminated, the aggrieved person's provider will be notified in writing by the department.

§39.20. *Gifts.* The department may receive gifts and donations on behalf of the program, which will be deposited in the State Treasury and reappropriated to the program.

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

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 14, 1986.

TRD-8601611

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

Effective date: *
Proposal publication date: December 24, 1985
For further information, please call
(512) 458-7770.

★ ★ ★



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

★25 TAC §§145.252, 145.257,
145.258

The Texas Department of Health adopts amendments to §§145.252, 145.257, and 145.258, without changes to the proposed text published in the October 25, 1985, issue of the *Texas Register* (10 TexReg 4173).

House Bill 1593, §46, 69th Legislature, 1985, authorized the Board of Health to establish new medication aide permit application, examination and renewal fees. This increase in fees will allow for a measure of control in the quantity and quality of medication aides receiving permits.

The sections increase the fees for permit applications, examinations, issuance of permits, and permit renewals.

No comments were received regarding adoption of the sections.

The amendments are adopted under Texas Civil Statutes, Article 4442a, §7B(f), which authorize the Texas Board of Health to adopt rules and establish fees covering medication aides.

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 18, 1986.

TRD-8601643

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

Effective date: March 11, 1986
Proposal publication date: October 25, 1985
For further information, please call
(512) 458-7531.

★ ★ ★

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts Chapter 3. Tax Administration Subchapter V. Bingo Regulations and Tax

★34 TAC §3.558

The Comptroller of Public Accounts adopts new §3.558, without changes to the proposed text published in the November 29, 1985, issue of the *Texas Register* (10 TexReg 4624). The section establishes a requirement that every disposable bingo card used in this state must bear an impression of the seal of the State of Texas, and provides a timetable for implementation of this requirement by the various parties affected. The section also notifies manufacturers of their responsibilities and provides information concerning the procedure to be used to obtain approval by the comptroller of the manufacturer's cards.

Several comments were received in response to informal circulation of a preliminary draft of the section before it was filed. These comments focused on the expense and hardship which would have been caused by a February effective date. Most persons commented that existing stocks of cards without the seal could not be used up before that deadline. In recognition of this problem, the section reflects adjustment to the implementation schedule. Comments on this point were received from: Horace Grubbs, Grubbs Enterprise, Wholesale Distributors, San Antonio; Irene Chreene, Land Manor, Beaumont; Louis Cerrin, St. Joseph's Church, Port Aransas; Ben Torres, San

Martin Mutualistas, Kingsville; Neil Humphrey, HQ Supply Company, Vidor; Joan H. Hall, Bingo Dillo, San Antonio; Ann Harper, VFW Post 7208, Auxillary, Midland.

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

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 19, 1986.

TRD-8601684

Bob Bullock
Comptroller of Public
Accounts

Effective date: March 12, 1986
Proposal publication date: November 29, 1985
For further information, please call
(512) 463-4803.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services Chapter 15. Medicaid Eligibility Subchapter GG. Resources for Individuals Related to the SSI Program

★40 TAC §15.3226

The Texas Department of Human Services adopts new §15.3226 and an amendment to §15.3302, without changes to the proposed text published in the December 20, 1985, issue of the *Texas Register* (10 TexReg 4890). The new section and amendment comply with the Deficit Reduction Act of 1984.

The Deficit Reduction Act of 1984 provided for the exclusion of Supplemental Security Income (SSI) and Retirement, Survivors, and Disability Insurance (RSDI) retroactive lump sum payments from countable resources for six months after the month received. New §15.3226 describes this exclusion. The amendment to §15.3302 deletes the requirement of considering a lump sum payment as a resource beginning with the month after the month of receipt.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on February 18, 1986.

TRD-8601641 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: March 14, 1986
Proposal publication date: December 20, 1985
For further information, please call
(512) 450-3766.

★ ★ ★

Subchapter HH. Income for Individuals Related to the SSI Program

★40 TAC §15.3302

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

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

Issued in Austin, Texas, on February 18, 1986.

TRD-8601642 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: March 14, 1986
Proposal publication date: December 20, 1985
For further information, please call
(512) 450-3766.

★ ★ ★

Chapter 85. General Licensing Procedures

Subchapter S. Administrative Procedures

★40 TAC §85.1802, §85.1803

The Texas Department of Human Services adopts new §85.1802 and §85.1803, without changes to the proposed text published in the January 10, 1986, issue of the *Texas Register* (11 TexReg 124).

The new sections implement legislation passed by the 69th Legislature, 1985. House Bill 231 requires that if revoking or suspending a facility's license or registration, the department must publish a notice of this action in a newspaper that circulates in the county where the facility is located. The bill furthermore requires a facility that has its license revoked or suspended to inform the children's parents or guardians by certified mail within

five days of the effective date of the revocation or suspension. The bill also requires a licensee whose license or registration has been revoked or suspended to be charged an application fee that includes the cost of publishing the notice if the licensee later applies for a new license to operate the same facility.

The new sections increase public awareness of necessary revocations or suspensions because a facility has failed to comply with standards or laws regulating child care facilities. In addition, parents whose children are in care will be immediately informed about the status of the facility's license following adverse action.

No comments were received regarding the adoption of the sections.

The new sections are adopted under the Title 2, Human Resources Code, 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 19, 1986.

TRD-8601683 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: *
Proposal publication date: January 10, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

Part V. Veterans Land Board

Chapter 175. General Rules

★40 TAC §§175.2-§175.21

Veterans Land Board adopts new §§175.2-175.21 with changes to the proposed text published in the November 22, 1985, issue of the *Texas Register* (10 TexReg 4508). Sections 175.3 175.20 are adopted without changes and will not be republished.

The new sections simplify and more precisely explain the handling of Veterans Land Board land program applications and loan account procedures. The new sections cover application procedures, eligibility, loan commitments, severances, forfeitures, prizes, and other aspects of the administration and operation of the Veterans Land Program.

Comments were received from Cecilie Russell who objected to §175.21, Prizes and Inducements. To respond to the comment, yet preserve the intent of the board, the language of the section is changed. In addition, language is added to §175.2

so as to advise eligible veterans and sellers that they may seek a waiver of any requirement of these sections which is not otherwise required by the constitution or statutes of this state.

§175.2. Application/Eligibility.

(a) Applications material to participate in the Veterans Land Program must be made on forms furnished by the board. These forms and other materials may be obtained from the Veterans Land Board, Stephen F. Austin Building, 1700 North Congress, Austin, Texas 78701.

(b) To participate in the program the veteran must meet the following eligibility requirements:

- (1) be at least 18 years of age;
- (2) be a citizen of the United States;
- (3) have served at least 90 consecutive days in the army, navy, air force, coast guard, or marine corps, unless discharged earlier because of a service-connected disability. This service must have been after September 16, 1940;
- (4) must not have been dishonorably discharged;
- (5) must not have previously participated in the land or housing program as a veteran;
- (6) have been a bona fide resident of the State of Texas at the time of his or her enlistment, induction, commissioning, or drafting, or have been a legal resident of Texas at least five years immediately prior to the date of filing his or her application; and
- (7) be a bona fide resident of Texas at the time the application is filed.

(A) For purposes of this chapter, bona fide resident means a person actually living in the State of Texas, with the intention to remain.

(B) Legal resident, as used in this chapter, means someone who actually resides within the State of Texas, or who has only been absent from the state due to military service or for some other involuntary reason, yet who has maintained his or her residence in the state. Texas residency may be documented by submitting one or more of the following:

- (i) Texas driver's licenses or identification cards issued by the Texas Department of Public Safety;
- (ii) Texas voter registration cards;
- (iii) Texas motor vehicle registrations;
- (iv) receipts for the payment of mortgage, rent, or utilities, showing the veteran's name and address;
- (v) Texas property tax receipts;
- (vi) payroll checks, employment records, or retirement checks containing the veteran's name and address; or
- (vii) any other documentation that the board deems appropriate.

(C) The board may require the applicant to execute an affidavit of Texas

residency on a form prescribed by the board. This affidavit shall be necessary if:

(i) there is a question about a veteran's bona fide residence at the time of entry into military service; or

(ii) there is a question about a veteran's bona fide residence at the time he seeks to participate in the program; or

(iii) the applicant was not a bona fide resident of Texas at the time of entry into the service, but has been a legal resident of the state at least five years immediately prior to making application.

(c) Active duty military personnel who otherwise meet the requirements listed in this section are eligible even though stationed out of state at the time of application.

(d) A person may participate in the program as a veteran one time only. Such participation may be by way of an original contract, taking an assignment of contract, or by successfully bidding in a forfeited land sale. Any person, including a veteran who has already participated in the program, may take an assignment of a contract as a non-veteran, in which case a higher interest rate shall be charged.

(e) If an eligible Texas veteran dies after he has filed an application and contract of sale with the board, but before the purchase has been completed, the surviving spouse may complete the transaction. In addition, the unmarried surviving spouse of a veteran who died in the line of duty shall be eligible to participate in the program if the following requirements are satisfied:

(1) the surviving spouse has not remarried and is a bona fide resident of Texas at the time of filing the application with the board;

(2) at the time of enlistment, induction, commissioning, or drafting, the deceased veteran was a bona fide resident of Texas (the five-years residence alternative is not available);

(3) the deceased veteran was a citizen of the United States at time of death;

(4) the deceased veteran had served on active duty in the army, navy, air force, coast guard, or marine corps after September 16, 1940. The deceased veteran need not have served at least 90 continuous days of active duty;

(5) neither the deceased veteran nor the unmarried surviving spouse previously participated in the Veterans Housing Assistance Program or the Veterans Land Program; and

(6) the board must be furnished certification from the United States Veterans Administration that the unmarried surviving spouse is currently entitled to benefits as the spouse of a veteran who died in the line of duty. The board may also determine that the line of duty requirement is satisfied upon presentation of other evidence.

(f) Applications and contracts must be signed by the veteran. An attorney in fact may not sign these documents for the veteran.

(g) No application shall be approved to purchase land under the program:

(1) which provides for or recognizes a second or subordinate lien as a part of the original purchase price for any tract; or

(2) where there is evidence that the benefits derived from the use of the land will not pass to the veteran purchaser.

(h) An application may also be rejected, and the contract declared breached by the chairman of the board, at his or her option, if:

(1) the veteran purchaser or seller fail to perform their contractual obligations within a reasonable length of time;

(2) there is a failure to convey marketable title; or

(3) there exists any other good and sufficient reason, as determined by the chairman of the board.

(i) If for any reason a veteran's application is not processed to completion, the down payment will be refunded to the veteran, together with the unused portion of any fees that have been deposited with the board.

(j) Each application will be considered as a wholly separate transaction, independent of any other agreement, transaction, or contingency. The board will not consider an application which contains a provision making it contingent upon the success or completion of another agreement or transaction.

(k) Any requirement of this section, or of any section within this chapter, which is not otherwise required by the constitution

or statutes of this state, may be waived on a case by case basis by the Veterans Land Board. Any waiver request must be in writing and must describe the circumstances surrounding the request, including the reason(s) why the waiver is necessary.

§175.3. Land Selection.

§175.21. Prizes and Inducements.

(a) Natural Resources Code, §161.222(a) and §161.333(a) requires veterans to make an initial payment in an amount set by the board's rules. In order to carry out the intent of this requirement that veterans have equity in any tract purchased through the program, it is the policy of the Veterans Land Board to approve no transaction, the net effect of which involves the seller, realtor, or any party to the transaction other than the veteran directly or indirectly paying the down payment. This includes inducements such as zero coupon bonds, savings bonds, etc.

(b) Subsection (a) of this section shall not be construed to prevent a veteran from contracting with the seller or any other party to a transaction for the payment of program fees and other expenses associated with closing the transaction, including but not limited to survey costs, title examination, attorney's fees, and appraisal.

(c) Subsection (a) of this section shall not be construed to prohibit privileges incidental to the ownership of land and available to all purchaser in the same subdivision such as participation in a property owners association and/or joint ownership of recreational areas such as parks, lakes, etc.

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 18, 1986.

TRD-8601866

Garry Mauro
Chairman
Veterans Land Board

Effective date: March 11, 1986
Proposal publication date: November 22, 1985
For further information, please call
(512) 463-5009.

★ ★ ★

Open Meetings

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

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

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

Texas Department on Aging

Thursday, February 20, 1986, 10 a.m. The Texas Board on Aging of the Texas Department on Aging made an emergency revision to the agenda for the meeting held in the third floor conference room, 1949 IH 35 South, Austin. According to the agenda, the board approved minutes to the meeting of September 19, 1985; reviewed the fiscal report; the confirmation of appointments to the Citizens Advisory Council; program standards; approval of area plans; the report on the Texas Silver Haired Legislature; priorities for the 70th Legislature; the executive director's report; and the executive order-budget reduction. The emergency status was necessary because of promulgation of the governor's executive order of February 18, 1985.

Contact: Daniel N. Stewart, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: February 19, 1986, 10:48 a.m.
TRD-8601700

★ ★ ★

State Banking Board

Tuesday, February 25, 1986, 10:00 a.m. The State Banking Board will make an emergency addition to the agenda of the meeting to be held at 2601 North Lamar Boulevard, Austin. The addition concerns approval of the interim charter application for Interim Bank of the West, Austin. The emergency status is necessary in order that the affected application be most efficiently and economically implemented.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: February 18, 1986, 2:35 p.m.
TRD-8601652



Texas Department of Community Affairs

Thursday, March 6, 1986, 9 a.m. The Older Worker Task Force of the Texas Department of Community Affairs will meet at 8317 Cross Park Drive, Austin. According to the agenda summary, the task force will consider the program progress report; an update of demonstration project activities; a discussion of the continuing role of the task force; a briefing by evaluation consultants; and a discussion of plans for statewide older worker employment conference.

Contact: Clyde McQueene, P.O. Box 13166, Austin, Texas 78711, (512) 834-6090.

Filed: February 20, 1986, 9:46 a.m.
TRD-8601729

★ ★ ★

Texas State Board of Examiners of Professional Counselors

Saturday, March 1, 1986, 10 a.m. The Texas State Board of Examiners of Professional Counselors will meet in Service Building Room A, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve the minutes; discuss licensure applications and procedures including reviews of disapproved files; a request for a rehearing for Ceila Koehn; budget recommendations to the Texas Department of Health; committee reports; the cancellation of licenses due to nonrenewal; February 22, 1986 examination results; an update on continuing education renewal process; the attorney general's and comptroller's decisions on travel regulations; other matters relating to the licensure and regulation of professional counselors (not involving board action); and set the next meeting date.

Contact: Daniel L. Boone, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7511.

Filed: February 19, 1986, 4:07 p.m.
TRD-8601716

★ ★ ★

Texas School for the Deaf

Friday, February 28, 1986, 7 p.m. The Student Life Subcommittee of the Texas School for the Deaf will meet at Building 505, Teen Center, 1102 South Congress Avenue, Austin. According to the agenda, the subcommittee will update members on Student Life activities; discuss Student Life salaries; follow up on territoriality; and consider comments by the members.

Contact: Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78704, (512) 440-5335.

Filed: February 19, 1986, 10:53 a.m.
TRD-8601702

Friday, February 28, 1986, 7 p.m. The Student Life Subcommittee of the Texas School for the Deaf made a revised agenda for the meeting to be held at Building 505 Teen Center, 1102 South Congress Avenue, Austin. According to the agenda, the subcommittee will update members on activities; tour the south campus; and consider comments by members.

Contact: Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78704, (512) 440-5335.

Filed: February 19, 1986, 3:46 p.m.
TRD-8601709

Saturday, March 1, 1986, 10 a.m. The Governing Board of the Texas School for the Deaf will meet in the Administration Board Room, 1102 South Congress Avenue, Austin. According to the agenda summary, the board will reconvene and review minutes from the meeting of January 18, 1986; consider public reports or comments; business requiring board action; business for information purposes; and reports from board members.

Contact: Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78704, (512) 440-5335.

Filed: February 19, 1986, 10:53 a.m.
TRD-8601701

★ ★ ★

Texas Economic Development Commission

Wednesday, February 19, 1986, 10:30 a.m. The Personnel Committee of the Texas Economic Development Commission met in emergency session at the Fort Brown Motor Hotel, 1900 East Elizabeth, Brownsville. According to the agenda, the committee considered opening remarks; the adoption of the Statement of Purpose, Objectives and Strategies of the committee; the executive director's report; action on staff reorganization and personnel administration; and general agency personnel policies. The committee also met in executive session to discuss personnel and pending litigation matters under Texas Civil Statutes, Article 6252-17, §2(e) and (g). No formal business discussions were planned. The emergency status was necessary in order to discuss agency personnel policies prior to the Long-Range Planning Workshop and Commission meeting on February 20 and 21, 1986.

Contact: Alexa Richter, 410 East Fifth Street, Austin, Texas 78711, (512) 472-5059.

Filed: February 18, 1986, 2:07 p.m.
TRD-8601650

Thursday, February 20, 1986, 7:45 a.m. The Rural Loan Committee of the Texas Economic Development Commission made an emergency addition to the agenda of the meeting held in Conference Room A, Fort Brown Hotel, 1900 East Elizabeth Street, Brownsville. The addition concerns the substitution of a letter of credit in lieu of a performance bond for the MAC Steel Project. The emergency status was necessary in order to insure compliance with state statutes.

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

Filed: February 19, 1986, 4:16 p.m.
TRD-8601713

Thursday, February 20, 1986, 8:15 a.m. The Texas Small Business Industrial Development Corporation of the Texas Economic Development Commission made an emergency addition to the agenda for the meeting held in Conference Room A, Fort Brown Hotel, 1900 East Elizabeth Street, Brownsville. The addition concerns a resolution requesting a special allocation. The emergency status was necessary because of a new proposed federal law governing allocations.

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

Filed: February 19, 1986, 4:16 p.m.
TRD-8601714

Thursday, February 20, 1986, 9 a.m. The Board of Commissioners of the Texas Economic Development Commission made an emergency addition to the agenda for the meeting held in the Calvary Room, Fort Brown Motor Hotel, 1900 East Elizabeth Street, Brownsville. The addition concerns the board meeting in executive session. The

emergency status was necessary in order to add the executive session to the agenda.

Contact: David Brandon, P.O. Box 12728, Austin, Texas 78711, (512) 472-5059.

Filed: February 19, 1986, 4:14 p.m.
TRD-8601712

Thursday, February 20, 1986, 9 a.m. The Board of Commissioners of the Texas Economic Development Commission met in emergency session at the Fort Brown Motor Hotel, 1900 East Elizabeth, Brownsville. According to the agenda, the board discussed agency long-range planning and formulation of recommendation for the budget and reorganization to be presented for action at the quarterly board meeting on Friday, February 21, 1986. The emergency status was necessary in order to formulate long-range planning recommendations for presentation at the quarterly board meeting on Friday, February 21, 1986.

Contact: Alexa Richter, 410 East Fifth Street, Austin, Texas 78711, (512) 472-5059.

Filed: February 18, 1986, 2:07 p.m.
TRD-8601649

Friday, February 21, 1986, 7:30 a.m. and 9:30 a.m. The Board of Commissioners of the Texas Economic Development Commission made an emergency revision to the agenda for the meeting held at the Fort Brown Motor Hotel, 1900 East Elizabeth, Brownsville. The board met for the commissioner's breakfast at 7:30 a.m. At 9:00 a.m., according to the agenda summary, the board considered briefing on Brownsville area, the Long-Term Credit Bank report, the Texas Industrial Development Council, the Border Economic Development Task Force, and Valley Interfaith; the Executive Director's report; discussed long-range planning workshop and action on budget and reorganization; rural loan fund interest report and request by Greenville Industrial Development Fund for \$300,000 from the rural loan fund for the purchase of equipment and construction of the new facility for Pine Mountain Corporation; acted on final adoption of rules for the Industrial Revenue Bond program and for allocation of private activity bonds; temporary waivers of the commission's rules for industrial revenue bond projects; approval of agreement with the Texas Municipal League and the TIDC regarding TEXCEL cosponsorship; prior minutes; final statements; discussed quarterly department reports; and international business developments and personnel committee reports. The emergency status was necessary because the agenda was revised.

Contact: Alexa Richter, 410 East Fifth Street, Austin, Texas 78711, (513) 472-5059.

Filed: February 18, 1986, 2:06 p.m.
TRD-8601651

★ ★ ★

Texas Education Agency

Monday and Tuesday, February 24, and 25, 1986, 8:30 a.m. daily. The Texas Education Agency will meet in emergency session in the Texas Ballroom, Hyatt-Regency Hotel, 208 Barton Springs Road, Austin. According to the agenda, the agency will hold its Content Validity/Minimum Cut-Score Conference to review the test items for the examination for certification of educators in Texas. That portion of the meeting at which actual test items will be reviewed will be closed in accordance with Texas Attorney General Opinions H-484 (1974) and H-780 (1976). The emergency status is necessary because the tests must be validated by other educators prior to administration in May.

Contact: Pamela Tackett, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9525.

Filed: February 20, 1986, 8:26 a.m.
TRD-8601726

Committees of the Texas Education Agency of the State Board of Education will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. Days, times, and agendas follow.

Friday, February 28, 1986, 2 p.m. The Committee for Personnel will consider the appraisal of certified personnel; inservice education; advanced academic training; a discussion of state activities to aid districts in locating qualified teachers and administrators for school year 1986-1987; a discussion of a process to declare an emergency need for districts requesting permission to employ in 1986-1987 individuals who perform unsuccessfully on the Texas examination of current administrators and teachers; and a progress report on the examination for the certification of educators in Texas.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 20, 1986, 8:25 a.m.
TRD-8601724

Saturday, March 1, 1986, 10 a.m. The Committee for Long-Range Planning will discuss the long-range plans to implement the State Board of Education's mission, goals, and objectives for public education in Texas in accordance with the provisions of the Texas Education Code, §11.26(b).

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

Filed: February 20, 1986, 8:24 a.m.
TRD-8601723

Wednesday, March 5, 1986, 10 a.m. The Accountable Costs Advisory Committee will consider feedback from the State Board of Education concerning accountable costs studies and review of projects. The meeting

is rescheduled from Thursday, February 20, 1986, 9 a.m.

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

Filed: February 20, 1986, 8:26 a.m.
TRD-8601725

★ ★ ★

State Department of Highways and Public Transportation

Wednesday-Thursday, February 26-27, 1986, 10:00 a.m. daily. The State Highways and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Room 101-A, first floor, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will execute contract awards and routine minute orders; consider presentations from the previous public hearing dockets as necessary; and review staff reports relative to planning and construction programs and projects.

Contact: Lois Jean Turner, Room 203, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin, Texas 78701, (512) 463-8616.

Filed: February 18, 1986, 2:05 p.m.
TRD-8601661

Wednesday and Thursday, February 26, and 27, 1986, 10 a.m. daily. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation made an emergency revision to the agenda for a meeting to be held in Room 101-A, first floor, Dewitt C. Greer Building, 11th and Brazos Streets. The revision concerns the approval of minutes of January 30-31 and February 13, 1986, meetings of the State Highway and Public Transportation Commission. The emergency status is necessary because commission action is necessary this month.

Contact: Lois Jean Turner, Room 203, Dewitt C. Greer Building, 11th and Brazos Streets, Austin, Texas 78701, (512) 463-8616.

Filed: February 20, 1986, 9:03 a.m.
TRD-8601728

★ ★ ★

Texas Department of Human Services

Wednesday, February 26, 1986, 9 a.m. The Services to Aged and Disabled Advisory Committee of the Texas Department of Human Services will meet in Room 1-W, first floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee will discuss ICF-11 Waiver extension; potential for passage and

contingency plans; the potential impact of the Gramm-Rudman legislation; legislative appropriations request (LAR)/legislative proposals; the report from personal care homes task force; the associate's report; revision of nursing home rules related to social services; ICF-MR release policy and procedures; the timing of increases in MAO limit; reporting TPR as a condition of eligibility; and the ADAC objective setting.

Contact: Mary Ann Harvey, P.O. Box 28960, Austin, Texas 78769, (512) 450-3194.

Filed: February 18, 1986, 12:05 p.m.
TRD-8601645

Wednesday, February 26, 1986, 9 a.m. The Advisory Committee on Dispensing Fee Methodology of the Texas Department of Human Services will meet in Room 5-W, fifth floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee will approve minutes; discuss proposal for cost study: allowable/unallowable costs; and the date for the next meeting.

Contact: Bob Harriss, P.O. Box 2960, Austin, Texas 78769, (512) 450-3188.

Filed: February 18, 1986, 12:05 p.m.
TRD-8601644

★ ★ ★

Texas Industrial Accident Board

Monday, February 24, 1986, 9:30 a.m. The Texas Industrial Accident Board met in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed the board review of the operating budget; the board review of special formal hearing requests; and the review of board files. This portion of the meeting was closed pursuant to workers' compensation statute.

Contact: William Treacy, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: February 19, 1986, 3:28 p.m.
TRD-8601707

★ ★ ★

Texas Board of Irrigators

Wednesday, February 26, 1986, 9:30 a.m. The Texas Board of Irrigators will meet in Room 513-F, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider approval of minutes; the certification of Licensed Irrigators/Installers; dates for next examinations; the referral of complaints against Curtis R. Pittman to the Texas Water Commission for revocation of certificates of registration; discuss the expiration of Rock L. Hamilton's license for non-payment of renewal fee; the status and disposition of the complaint against Michael

Alley; consider the request of the Texas Water Commission to dismiss action against Bradley Taylor and Gregory Taloy; the legal counsel's report on the status of Amarillo Lawn Sprinkler Company concerning the design and installation of the system at Borger Greenhouses and Nursery; agency fees; the revised present exam; the publication of complaints in T.T.I.A. newsletter; and the chairman will discuss matter of interest to the board.

Contact: Joyce Watson, Room 647, Stephen F. Austin Building, Austin, Texas 78701, (512) 463-7992.

Filed: February 18, 1986, 3:25 p.m.
TRD-8601662

★ ★ ★

Texas Department of Mental Health and Mental Retardation

The committees of the Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation (MHMR) will meet in the auditorium, 909 West 45th Street, Austin. Days, times, committees, and agendas follow.

Thursday, February 27, 1986, 10 a.m. According to the agenda, the Texas Board of MHMR will consider the governor's executive order update; and the work session on a long-range strategic plan.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: February 18, 1986, 2:50 p.m.
TRD-8601655

Thursday, February 27, 1986, 2 p.m. The Executive Committee will consider proposed construction of a greenhouse on the campus of El Paso State Center; the board policy on internal audit reports; and the appointment recommendation from the Medical Advisory Committee to the board.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: February 18, 1986, 2:51 p.m.
TRD-8601657

Thursday, February 27, 1986, 2:30 p.m. The Business Committee will consider the approval of construction projects and adjustments of construction budgets; the status of fiscal year 1986 operating budget; and adjustments to fiscal year 1986 operating budget.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: February 18, 1986, 2:51 p.m.
TRD-8601656

Thursday, February 27, 1986, 2:15 p.m. The Rule Review Committee will discuss the physician and dentist salary augmentation rule.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: February 18, 1986, 2:49 p.m.
TRD-8601654

Friday, February 28, 1986, 9 a.m. The Texas Board of MHMR, according to the agenda summary, will consider approval of minutes of January 31, 1986 meeting; citizen's comments; the commissioner's calendar; recommendations for board consideration including the executive committee, rule review committee and business committee; and the status of pending or contemplated litigation.

Contact: Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: February 18, 1986, 2:48 p.m.
TRD-8601653

★ ★ ★

Board of Nurse Examiners

Wednesday-Friday, March 5-7, 1986, 8 a.m. daily. The Board of Nurse Examiners will meet in the Travis meeting room, Embassy Suites, 5901 IH 35 North, Austin. According to the agenda summary, the board will consider disciplinary cases; consent order; other action taken by the hearing officer; a report from the executive secretary regarding various workshops and meetings; educational information regarding professional schools of nursing such as annual reports, survey visits, faculty petitions, and curriculum change requests; a report of the February examination; and miscellaneous information.

Contact: Margaret Rowland, Room C-225, 1300 East Anderson Lane, Austin, Texas 78752, (512) 835-4880.

Filed: February 19, 1986, 4:08 p.m.
TRD-8601715

★ ★ ★

Board of Pardons and Paroles

Thursday, February 20, 1986, 9 a.m. The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board considered the appointment of a new parole commissioner. The emergency status was necessary because of the resignation creating a vacancy in this position. The board finds an urgent public necessity for filling this position as soon as possible.

Contact: Juanita Llamas, P.O. Box 13401, Austin, Texas 78711, (512) 459-2704.

Filed: February 18, 1986, 4:28 p.m.
TRD-8601679

Wednesday-Thursday, February 26-27, 1986, 9:30 a.m. daily. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will meet in a workshop session to discuss matters relating to recommendations of

the Sunset Advisory Commission, revisions in CCP, Article 42.18, and related procedural matters.

Contact: Juanita Llamas, P.O. Box 13401, Austin, Texas 78711, (512) 459-2704.

Filed: February 18, 1986, 4:29 p.m.
TRD-8601678

★ ★ ★

Texas Parks and Wildlife Department

Thursday, February 20, 1986, 9:30 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department met in emergency session in Complex Building B, 4200 Smith School Road, Austin. According to the agenda, the commission considered an emergency amendment to the 1985-1986 statewide hunting and fishing proclamation; and proposed emergency changes in the management of Choke Canyon Reservoir and adjacent state lands. The emergency status was necessary because it is a matter of urgent public necessity to consider an emergency amendment to the statewide hunting and fishing proclamation in order to properly manage the fishery resources of the Guadalupe River; and it is a matter of urgent public necessity to consider the operation of the Choke Canyon South Shore Unit in order to properly manage the recreational resources of the department.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: February 19, 1986, 4:52 p.m.
TRD-8601721

★ ★ ★

Texas State Board of Public Accountancy

Thursday-Friday, February 20-21, 1986, 9 a.m. The Texas State Board of Public Accountancy made an emergency revision to the agenda for the meeting held in Suite 340, 1033 La Posada, Austin. The addition to the agenda concerns a discussion regarding §14 registration. The revised agenda also concerns the following schedule amendments: Enforcement Committee-February 20, 9 a.m.; Examination Committee-February 20, 1:30 p.m.; Informal Conference-February 20, 1:30 p.m.; Executive Committee-February 21, 8 a.m.; and the Full Board Meeting-February 21, 9 a.m. The emergency status was necessary because the board does not meet again until April, and questions requiring board attention have arisen regarding §14 registrations; committee time changes are being made to conduct board business in a minimum of time.

Contact: Bob E. Bradley, Suite 340, 1033 La Posada, Austin, Texas 78735, (512) 451-0241.

Filed: February 19, 1986, 1:03 p.m.
TRD-8601704

★ ★ ★

Public Utility Commission of Texas

Wednesday, February 19, 1986, 11:30 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition to the agenda of the meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the addition concerns the emergency adoption of substantive §23.21 (Cost of Service). The emergency status was necessary in order to establish immediate guidelines to declare nuclear power plants commercial.

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

Filed: February 19, 1986, 9:22 a.m.
TRD-8601681

Thursday, February 20, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas met in emergency session in suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission considered evidence on allegations of possible ex parte communications in Docket 6200. The emergency status was necessary because of the pending rate case with statutory deadlines.

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

Filed: February 18, 1986, 2:52 p.m.

Thursday, February 27, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will consider the following Dockets—6498, 6675, 6476, 6672, 5361, 6030, 6210, 6237, 6332, 4821, 5156, 5631, 6381, 6428, 6523, 6538, 6025, 6165, 6407, 6316, 6324, 6336, 6489, and 4581. The division will also 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 19, 1986, 3:22 p.m.
TRD-8601711

Thursday, February 27, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an addition to the agenda for a meeting to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerns Docket 5313-application of China Spring Water Supply Corporation for a certificate of convenience and necessity within McLennan County; Docket 5434-application of Potosi Water Supply Corporation to amend its certificate of convenience and necessity within Taylor Coun-

ty; and Docket 5745-application of S&D Water Company for a certificate of convenience and necessity within Guadalupe County.

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

Filed: February 19, 1986, 4:38 p.m.
TRD-8601717

Thursday, February 27, 1986, 10 a.m. The Administrative Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will discuss reports; the fiscal year 1986 budget; contracts; billing errors; FCC rules, House Rule 3687 and House Rule 3800; comments requested by Congresswoman Claudine Schneider; amortization of reserve deficiencies; proposal to discontinue telephone rate filing package and the proposed rule determining fossil plant in-service standards; rule changes in §23.23 and §23.46; and the time and place for next meeting. The division will also meet in executive session to consider personnel and litigation matters.

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

Filed: February 19, 1986, 3:25 p.m.
TRD-8601710

★ ★ ★

Texas Rehabilitation Commission

Thursday-Friday, February 27-28, 1986, 8:30 a.m. and 9:30 a.m., respectively. The Board of the Texas Rehabilitation Commission will meet at the Austin South Plaza Hotel, 3401 IH-35 South, Austin on February 27, and in the boardroom, 118 East Riverside Drive, Austin on February 28. According to the agenda summary, the board will approve the minutes of the December 13, 1985 meeting; consider the commissioner's budget overview report; and the board working session to develop fiscal policy direction for fiscal year 1988-1989. On February 28, the board will continue the board working session; consider the fiscal year 1986 budget update; and the commissioner's summary and recommendation to the board of fiscal policy direction for fiscal year 1988-1989. The board will also meet in executive session.

Contact: Vernon H. Newman, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8126.

Filed: February 18, 1986, 1:42 p.m.
TRD-8601648



School Land Board

Wednesday, February 26, 1986, 9:30 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the minutes of the previous board meeting; review pooling applications; pooling agreement amendments; the suspension report; offset well agreements; applications to lease highway rights-of-way for oil and gas; excess acreage applications; good faith claimant applications; land trades; coastal public lands easement applications; commercial lease applications; the lease and option agreement applications; dredging fees for coast easements; consider approval of exchange of Navigation District Lands, Aransas County, Navigation District and Jackson Seafood Company, Texas Water Code, Texas Civil Statutes, §61.117; additional nominations, terms, conditions and procedures for the April 1, 1986 lease sale; the final adoption of sale and trade rules; final adoption of highway leasing rules; and the royalty and/or mineral reservations for the sale of vacancies.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: February 18, 1986, 3:44 p.m.
TRD-8601667

★ ★ ★

The Texas A&M University System

Monday, March 10, 1986, 9 a.m. The Committee for Service Units, Board of Regents of the Texas A&M University System will meet in the conference room, Texas Agricultural Research and Extension Center, San Angelo. According to the agenda, the board will inspect the Texas Agricultural Research and Extension Center at San Angelo. The board will reconvene at 1:30 p.m. the same day to inspect the Texas A&M University Agricultural Research and Extension Center at Lubbock.

Contact: Vickie Burt, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: February 19, 1986, 1:51 p.m.
TRD-8601705

★ ★ ★

Texas Woman's University

Tuesday, February 25, 1986, 1:30 p.m. The Board of Regents of Texas Woman's University will meet on the 16th floor, Administration and Conference Tower, Denton. According to the agenda summary, the board will consider minutes of November 21, 1985 and December 5, 1985 meetings; election of officers; report from the task force for enhancement of institutional ethnicity; report from the presidential search commit-

tee; personnel additions and changes; gifts and grants; agreements and contracts; federal funds; sale of surplus property; insurance coverage; change order; certificate of substantial completion; authorizations relating to fiscal matters; the feasibility study relating to a cogeneration power plant; report regarding remodeling buildings and an entry road to the campus; residence hall room rates; food service contract meal plans; laboratory fees; student services fee; role and scope statement; proposal for a science and mathematics center for women; plan for televised instruction; the policy regarding courses in a condensed time pattern; mid-decade review of the academic plan for the eighties; and the report from the president. The board will also meet in executive session.

Contact: Dr. Mary Evelyn Blagg Huey, Texas Woman's University, Denton, Texas 76204, (817) 383-1466.

Filed: February 19, 1986, 10:52 a.m.
TRD-8601703

★ ★ ★

Texas Water Commission

Thursday, February 27, 1986, 10 a.m. The Water District and River Authority Study Committee of the Texas Water Commission will meet in Euless City Hall, 201 North Ector, Euless. According to the agenda, the committee will hear testimony from area districts and authorities.

Contact: Kate Wilkins, P.O. Box 13087, Austin, Texas 78711, (512) 463-7863.

Filed: February 18, 1986, 3:49 p.m.
TRD-8601706

Tuesday, March 4, 1986, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider cancellation of certain certificates of adjudication of the Lower Rio Grande Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 18, 1986, 3:47 p.m.
TRD-8601676

Tuesday, March 18, 1986, 2 p.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will discuss the notice of hearing on petition for the creation of Fort Bend County Municipal Utility District 50, containing 550.1028 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: February 18, 1986, 3:48 p.m.
TRD-8601674

Wednesday, March 19, 1986, 9 a.m. The Office of Hearings Examiners of the Texas

Water Commission will meet in Room 512, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will review the application of Capitol View Joint Venture, 8100 Balcones Drive, Suite 253, Austin, Texas 78759 for an amendment to Permit 12972-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 250,000 gallons per day to an average flow of 1,250,000 gallons per day. The applicant proposes to construct a wastewater treatment facility in phases to provide service for approximately 401 acres of residential and mixed land use. The proposed permit would also revise limitations for nitrogen levels from 3mg/l to 2mg/l.

Contact: Martin Wilson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: February 18, 1986, 3:48 p.m.
TRD-8601675

★ ★ ★

Texas Youth Commission

Thursday, February 20, 1986, 10 a.m. The Board of the Texas Youth Commission met in emergency session via telephone conference call, Executive Director's Office, 8900 Shoal Creek Boulevard, Austin. According to the agenda, the board discussed the staff evaluation of the Sunset Commission. The emergency status was necessary in order for the board to review and respond to the Sunset staff evaluation report as requested by the Sunset Commission. The board did not meet prior to the date the Sunset Commission requested board response.

Contact: Ron Jackson, P.O. Box 9999, Austin, Texas 73766.

Filed: February 20, 1986, 7:55 a.m.
TRD-8601722

★ ★ ★

Regional Agencies

Meetings Filed February 18

The Comal Appraisal District, Board of Directors, met at 644 North Loop 337, New Braunfels, on February 21, 1986, at noon. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78131.

The Deep East Texas Regional Mental Health and Mental Retardation Services, Board of Trustees, will meet in the Ward R. Burke Community Room, Administrative Facility, 4101 South Medford Drive, Lufkin, on February 25, 1986, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901.

The Golden Crescent Regional Planning Commission, Board of Directors, will meet in the Sam Houston Room, Victoria Bank & Trust, 120 Main Place, Victoria, on February 26, 1986, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Parmer County Appraisal District, Board of Directors, will meet at 305 Third Street, Bovina, on March 3, 1986, at 7:30 p.m. Information may be obtained from Ron Procter, P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

The Texas Political Subdivisions Workers Compensation Joint Insurance Fund, Board of Trustees, met at 1301 Young Street, Dallas, on February 24, 1986, at 10 a.m. Information may be obtained from Thomas P. Vick, P.O. Box 2759, Dallas, Texas 75221, (214) 760-6183.

The Upper Leon River Municipal Water District, Board of Directors, will meet at the General Office at the Filter Plant, Proctor Lake, Comanche County, on February 27, 1986, at 6:30 p.m. Information may be obtained from Zollie D. Skaggs, P.O. Box 67, Comanche, Texas, (817) 879-2258.
TRD-8601636

Meetings Filed February 20

The Austin-Travis County Mental Health and Mental Retardation Center, Finance and Control Committee, will meet at 1430 Collier, Austin, on February 26, 1986, at noon. Information may be obtained from Sharon Taylor, 1430 Collier, Austin, Texas 78704, (512) 447-4141.

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on February 28, 1986, at 9 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Colorado River Municipal Water District, Board of Directors, will meet at 400 East 24th Street, Big Spring, on February 27, 1986, at 10 a.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79720, (915) 267-6347.
TRD-8601727

Meetings Filed February 19

The Ark-Tex Council of Governments, Executive Committee, will meet in the City Council Chambers, City Hall, 120 West Third Street, Mt. Pleasant, on February 27, 1986, at 7 p.m. Information may be obtained from Genevieve Burtchell, (214) 832-8636.

The Central Texas Mental Health and Mental Retardation Center, Board of Trustees, met at 408 Mulberry Drive, Brownwood, on February 24, 1986, at 4:30 p.m. Infor-

mation may be obtained from Randy K. Harkey, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, ext. 102.

The Education Service Center Region V, Board of Directors, will meet in the boardroom, 2295 Delaware Street, Beaumont, on February 27, 1986, at 1:15 p.m. Information may be obtained from Fred J. Waddell, (409) 835-5212.

The Education Service Center Region XIV, Board of Directors, will meet at 1850 State Highway 351, Abilene, on February 27, 1986, at 5:30 p.m. Information may be obtained from Taressa Huey, P.O. Box 70A, Route 1, Abilene, Texas 79601.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the boardroom, 4815-B King Street, Greenville, on February 27, 1986, at 7 p.m. Information may be obtained from Terry G. Bryan, 4815-B King Street, Greenville, Texas 75401.

The Lampasas County Appraisal District, will meet at 403 East Second Street, Lampasas, on February 25, 1986, at 2 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550.

The Lower Rio Grande Valley Development Council, Annual Membership and Board of Directors, will meet in the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on February 27, 1986, at 1:30 p.m. Information may be obtained from Robert A. Chandler, 1701 West Highway 83, Suite 707, McAllen, Texas 78501, (512) 682-3481.

The Lubbock Regional Mental Health and Mental Retardation Center, Board of Trustees, met at 3800 Avenue H, Lubbock, on February 24, 1986, at noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

The Northeast Texas Municipal Water District, Board of Directors, met at Highway 250 South, Hughes Springs, on February 24, 1986, at 2 p.m. Information may be obtained from Homer Tanner, P.O. Box 955, Hughes Springs, Texas 75656, (214) 639-7538.

The Panhandle Regional Planning Commission, Regional Health Planning Advisory Committee, met in the Conference Room, first floor, Southwest Savings Building, Eighth and Jackson Streets, Amarillo, on February 24, 1986, at 7 p.m. The Board of Directors will meet at the same location, on February 27, 1986, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.
TRD-8601682

★ ★ ★

In Addition

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Water Commission Correction of Error

Adopted rules submitted by the Texas Water Commission contained an error in the chapter titles as published in the February 11, 1986, issue of the *Texas Register*.

The rules on pages 809-811 should be under Chapter 287, Water Well Drillers. The rules on pages 812 and 813 should be under Chapter 289, Weather Modification.



State Banking Board Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on Tuesday, April 1, 1986, at 9 a.m., at 2601 North Lamar, Austin, Texas, on the change of domicile application for First Bank of Terrell, (In Organization), Terrell, Texas.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 14, 1986.

TRD-8601646 William F. Aldridge
Director of Corporate
Activities
Banking Department of
Texas

Filed: February 18, 1986
For further information, please call (512) 475-4451.



Community Development Project Fund

List of Cities/Counties	Amount of Funding
Seadrift	\$151,150
Dallam County	\$170,275
Odem	\$176,393
Jourdanton	\$ 60,378
Somerville	\$ 64,142
Melissa	\$ 81,166
Lorenzo	\$193,630
Culberson County	\$ 80,062
Franklin County	\$ 76,572
Edcouch	\$362,785
Greenville	\$ 81,166
Higgins	\$ 77,476
Corrigan	\$265,641

Area Revitalization Fund

List of Cities/Counties	Amount of Funding
Cuney	\$186,869

Issued in Austin, Texas, on February 18, 1986.

TRD-8601668 Douglas C. Brown,
General Counsel
Texas Department of Community Affairs

Filed: February 18, 1986
For further information, please call (512) 834-8030.



Notice of Extension of Deadline Consultant Proposal

In the February 11, 1986, issue of the *Texas Register* (11 TexReg 818), the Texas Department of Community Affairs (TDCA) published a request for consultant proposals to evaluate Communities-in-School Programs under the Job Training Partnership Act (JTPA). The deadline for submittal of proposals for the Communities-in-Schools program evaluation has been extended to 4 p.m., Friday, March 21, 1986.

Only the proposal deadline has been extended. All other requirements remain as described in the Request for Proposals.

For further information, please contact Cynthia Mugerauer at (512) 834-6092 or at the Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, P.O. Box 13166, Austin, Texas 78711.

Issued in Austin, Texas, on February 18, 1986.

TRD-8801663

Douglas C. Brown
General Counsel
Texas Department of Community
Affairs

Filed: February 18, 1986

For further information, please call (512) 834-8000.

★ ★ ★

Lower Colorado River Authority Amendments to Highland Lakes Marina Ordinance

Section 3.01. Definitions. "Uniform Building Code" (UBC): The 1982 edition, including "Appendix" and the 1984 "Accumulative Supplement" to the UBC to the extent adopted in this ordinance.

Amended as follows: "Uniform Building Code" (UBC): The 1985 edition, including "Appendix" and the subsequent "Accumulative Supplement" to the UBC, to the extent adopted in this ordinance.

New editions of the "Uniform Building Code" are published every three years, but amendments are processed annually. Supplements are issued twice between editions, with all amendments compiled the third year into a new edition of the code. Therefore, this change will keep the ordinance current with the referenced code.

Section 3.01. Definitions. "Uniform Fire Code" (UFC): The 1982 edition, including the 1984 "Accumulative Supplement" to the UFC, to the extent adopted in this ordinance.

Amended as follows: "Uniform Fire Code" (UFC): The 1985 edition, including the subsequent "Accumulative Supplement" to the UFC, to the extent adopted in this ordinance.

New editions and amendments to the "Uniform Fire Code" are processed in the same manner as those to the "Uniform Building Code". Therefore, this change will keep the ordinance current with the referenced code.

Section 4.01. Location and Configuration. (C). No marina facility shall be nearer than 20 feet to any property line of the lot or parcel of land over which the facility is located.

Amended as follows: (C). No marina facility shall be nearer than 20 feet to any property line of the lot or parcel of land over which the facility is located, except for those facilities in place as of the 1st day of August 1984, which are so affixed to realty as to make it impracticable to relocate without rebuilding the facility.

On Lake LBJ, 70% of the existing facilities were built nearer than 20 feet to their side property lines. This change will enable those facilities to remain in business without rebuilding or reducing the size of their facilities.

Section 4.02. Lighting. (F). The wiring method shall be one or more of the following: (1) rigid conduit; (2) seal tight flexible conduit with appropriate fittings and boxes; and/or (3) in protected areas, direct burial UF cable.

Amended as follows: (F). The wiring method shall be one or more of the following: (1) metallic or plastic (PVC schedule 40 or equivalent) conduit; (2) seal tight flexible conduit with appropriate fittings and boxes; and/or (3) in protected areas, direct burial UF cable.

This amendment more specifically defines the conduit which is accepted for use as a wiring method.

Section 4.06. Electrical Requirements. (B). Marina facilities shall conform to all requirements of Section 555 of the NEC; however, no open wire service shall be permitted.

Amended as follows: (B). Marina facilities shall conform to all requirements of Article 555 of the NEC; however, no open wire service shall be permitted.

The word "Section" was inadvertently used in place of "Article" in this subsection.

Section 4.06. Electrical Requirements. (F). The secondary service cable shall meet the provisions of NEC Article 555-6 and shall have at least two full rated grounding conductors, one of which shall be a noncurrent carrying grounding conductor to be wired into a ground fault current detector.

Amended as follows: Delete subsection (F) and relabel the following two subsections.

This subsection requires all electrical components over the water to be wired into a ground fault current detector. We have been unable to locate lighting fixtures which are manufactured to be wired to ground fault detectors. In addition, we have been unable to locate a ground fault detector (interrupter) for receptacles of 40 amps or greater. This change will allow the use of readily available materials and make the ordinance consistent with the "National Electric Code."

Section 5.04. Construction Permits. (A). A construction permit shall be required prior to construction of new marinas or expansion or modifications of existing marinas on the water surface of the Highland Lakes.

Amended as follows: (A). A construction permit shall be required prior to construction of new marinas or expansion or modification of existing marinas on the water surface of the Highland Lakes. In the case of extreme hardship (such as substantial damage to a facility due to fire, wind, or flood), a marina owner/operator shall give written notice to LCRA of any reconstruction of damaged facilities provided that within 30 days after commencement of said reconstruction the marina owner/operator shall submit an application for a construction permit. Written notice of reconstruction of damaged facilities shall be submitted to LCRA within 72 hours after commencement of said reconstruction.

This will allow the marina owner/operator to begin immediate reconstruction of damaged facilities to prevent further safety hazards and property damage.

Section 6.02. Applications. (A.7). Certification letters from (a) registered professional engineer(s) stating that the marina facility is/will be in compliance with the codes referenced in Article 4 of these regulations as well as other applicable codes and regulations. Certification letters from (a) licensed master electrician(s) stating that the design and installation of the electrical portion of the marina facility is/will be in compliance with the NEC, NESC and sections 4.02 and 4.06 of these regulations, may be submitted in lieu of such from (an) engineer(s) for those specific codes and sections only.

Amended as follows: (A.7). Certification letters from (a) registered professional engineer(s) stating that the marina facility is/will be in compliance with the codes referenced in Article 4 of these regulations as well as other applicable codes and regulations. Certification letters from (a) licensed

master electrician(s) stating that the electrical portion of the marina facility is/will be in compliance with the NEC, NESC and Sections 4.02 and 4.06 of these regulations, may be submitted in lieu of such from (an) engineer(s) for those specific codes and sections only.

This change will eliminate any conflict between the ordinance and the Texas Engineering Practice Act.

Section 11.03. Amendments. (C). Any amendment to this ordinance shall be published in the *Texas Register*. All license holders will be notified by mail. Notification will be conclusively presumed to have been received by the license holder upon proof that a letter with the proper amount of postage, addressed to the license holder at the address shown on the license, has been duly deposited in the United States mail.

Amended as follows: (C). Any amendment to this ordinance shall be published in the *Texas Register*. All license holders will be notified by mail. Notification will be conclusively presumed to have been received by the license holder upon proof that a letter with the proper amount of postage, addressed to the license holder at the address shown on the license application, has been duly deposited in the United States mail.

The marina owner's/operator's address is on the license application form rather than the license.

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

TRD-8601640 Elof H. Soderberg
General Manager
Lower Colorado River Authority

Filed: February 18, 1986
For further information, please call (512, 473-3238).

★ ★ ★

Texas Advisory Board of Occupational Therapy

Notice of Contested Case of Hearing

In the matter of Contested Case No. 86-1, pursuant to the authority provided in the Occupational Therapy Title Act, Texas Civil Statutes, Article 8851, §30 and §31, as amended; the rules of the Texas Advisory Board of Occupational Therapy (TABOT), and the Administrative Procedure and Texas Register Act, as amended (Texas Civil Statutes, Article 6252-13a), a hearing examiner for the TABOT will conduct a contested case hearing to consider whether or not disciplinary action should be taken against Respondent (herein only identified as Respondent at Respondent's request) concerning allegations that Respondent has:

- (1) been grossly negligent in the practice of occupational therapy (Texas Civil Statutes, Article 8851, §30(b)(4)); or
- (2) practiced occupational therapy in a manner detrimental to the public health and welfare. (Texas Civil Statutes, Article 8851, §30(b)(6)).

It is alleged by Ms. Diane Norman and by others on the staff of, and by, the Depelchin Children's Center/Cullen Bayou Place, Houston, (hereinafter referred to as the Center), that Respondent, during the period of June 21, 1984, to September 15, 1984, while working under a consultant contract with the Center, failed to deliver to the Center evaluations, for which she billed at the rate of \$110 each, and for which she was paid in the sum of \$1,210. It is further alleged that Respondent failed to keep copies of the evaluations which constitutes an omission below the

minimum standards of the profession; that Respondent failed to write a discharge summary; that Respondent falsified dates in her progress notes; that some patients lost financially as a result of Respondent's conduct; that some patients had to have their evaluations done a second time at a second charge to the Center; that some patients had their treatment delayed; that Respondent billed for services allegedly performed on September 16, 17, 20, 21, and 24, 1984, when Respondent was not present at the Center and performed no services for the Center on those dates; that Respondent either failed or refused to communicate with the staff of the Center after she left work there under her consulting Agreement; and that Respondent failed or refused to communicate with the staff of TABOT after January 26, 1985, until about January 20, 1986, all resulting in Respondent either having:

- (1) been grossly negligent in the practice of occupational therapy, or
- (2) practiced occupational therapy in a manner detrimental to the public health and welfare.

The said Respondent is directed to appear at the time and place shown below. The burden of proof by a preponderance of the evidence shall be on the staff of TABOT. The record of the hearing will be used by the TABOT to take appropriate action.

Information regarding this hearing and copies of the TABOT's rules are available at the agency located at 118 East Riverside Drive, Suite 243, Austin, Texas 78704.

The hearing examiner has set the hearing to begin at 10 a.m. on March 27, 1986, at the Houston Regional Office, Texas Rehabilitation Commission, 7211 Regency Square Boulevard, Houston, Texas 77036. Prospective parties to the hearing will be the TABOT staff and Respondent. Any other persons or entities desiring to be made a party must specifically apply in writing for party status to the hearing examiner, Edward W. Austin, Texas Rehabilitation Commission (TRC), Legal Services Division, 118 East Riverside Drive, Austin, Texas 78704. No persons or entities will be admitted as parties unless the written request is actually received at the above address by 5 p.m., on February 27, 1986. Previous correspondence with either TRC or TABOT is not effective for this purpose. A final determination regarding party status will be made at a prehearing conference on the date set out below. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing, but who does not desire to be a party, may call the Legal Services Division of TABOT at (512) 445-8124 to determine the names and addresses of all admitted parties. Those parties may then be contacted about the possibility of presenting testimony.

Pursuant to §387.1(h) TABOT, the hearing examiner has scheduled a prehearing conference on February 28, 1986, at 10 a.m. at the Houston Regional Office, Texas Rehabilitation Commission, 7211 Regency Square Boulevard, Houston, Texas, 77036. All persons wishing to be admitted as parties must attend this conference. Proposed written disputed issues for consideration at the hearing on the merits and written requests for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference, a specific date prior to the hearing on the merits will be established for the exchange of witness lists, short summaries of their prospective testimony, and copies of written and documentary evidence pursuant to §387.1(h)(1)(F). Prehearing orders may also be issued following this prehearing conference.

Issued in Austin, Texas, on February 14, 1986.

TRD-0001639

Vernon H. Newman
Assistant Commissioner
Texas Advisory Board of Occupational
Therapy

Filed: February 18, 1986

For further information, please call (512) 445-8988.



Texas Department of Public Safety Consultant Proposal Request

The Texas Department of Public Safety, in accordance with the provisions of Texas Civil Statutes, Article 6252-11c, solicits to contract with a private consultant to produce and duplicate in Spanish an existing Texas Department of Public Safety restraint slide/tape media program to be used by Safety Education Service personnel at citizens' group presentations. This program will be utilized statewide to educate the public and gain voluntary compliance with safety practices and motor vehicle laws.

Objectives. In accordance with the goal and commitments of the Texas Department of Public Safety, these safety restraint media programs will serve to promote safe driving behavior by providing accurate, informative, and persuasive material to the general public regarding the benefits of properly using safety belts and child safety seats with supplemental traffic safety information.

Primary objectives will be to obtain public support for safety belts and child restraint usage and laws; reach key segments of driving public to increase awareness of the risks of not using safety restraints and the benefits of using child safety restraints; and increase awareness of the hazards of not using safety restraints by the general driving public.

Background. Texas ranks number one in the nation in child mortality caused by traffic crashes. In response to this program, the Texas legislature mandated the use of child safety seats for children up to the age of four, with optional safety belt use between the ages of two and four. This requirement went into effect October 31, 1984, with penalties imposed January 1, 1985. In order to provide support to enforcement and voluntary compliance of the law, the Texas Department of Public Safety believes that increasing public awareness and education regarding the benefits of child safety seats are essential.

General Project Approach. The contractor selected shall furnish all necessary qualified and creative personnel, facilities, materials, supplies, equipment, and services to perform the proposed statement of work. The contractor shall develop a project plan and set objectives to determine the progress of that plan. In conjunction with the Texas Department of Public Safety, the contractor will translate an existing audio tape into Spanish, in accordance with the Statement of Work.

Statement of Work. The contractor shall duplicate in Spanish fourteen copies of an existing sound/slide synchronized format cassette tape that is used in conjunction with a visual slide program by Texas Department of Public Safety, Safety Education Troopers. This audio reproduction shall be duplicated on standard cassette play tapes, of a sound/slide synchronized format, maximum of 12 and not less than 11 minutes in duration. The Texas Department of Public Safety will furnish the master slides/tape and script program to the contractor for translation. The contractor will be allowed to subcontract services of ar-

tists, writers, designers, film producers, photographers, etc., for the specific purpose of supporting this project. The Texas Department of Public Safety shall reserve the right to approve all subcontractors in advance of subcontracts. The contractor shall furnish to the Texas Department of Public Safety the proposed media program revisions within 45 days after the start of the contract period. The project will be completed and all program materials delivered to the Texas Department of Public Safety within 90 days after the Texas Department of Public Safety has approved the revisions. The Texas Department of Public Safety has final approval authority of any scripts, slides, and tapes.

General Requirements. The following conditions are applicable in responding to this proposal.

(a) **Date due.** Proposals are due at the address given below by 5 p.m. March 31, 1986. It is the responsibility of the proposed contractor to have proposals in the Texas Department of Public Safety office at that time. Proposals received late for any reasons will not be considered.

(b) **Proposal address.** Questions about the solicitation and proposals in response to it should be submitted to Tonna Polk, Safety Seat Coordinator, Traffic Law Enforcement Division, Texas Department of Public Safety, 5805 North Lamar Boulevard, Austin, Texas, P.O. Box 4067 Austin, Texas 78773. The existing media program may be reviewed by proposed bidders at that location.

(c) **Type of contract.** A fixed price contract will be awarded to the successful contractor.

(d) **Contract period.** The contract period will be from April 4, 1986 through September 30, 1986. It is anticipated the research and development will commence immediately upon awarding of the contract and all tasks must be completed by September 30, 1986.

(e) **Number of copies.** The proposed contractor must furnish a minimum of four copies of the proposal.

(f) **Personnel and staffing.** The proposal shall include names, resumes, and headquarters of key personnel who will be assigned to this contract. Company qualifications and prior experience with closely related projects should be included but limited to a maximum of six pages.

(g) **Cost information.** Shall be submitted in a detailed budget breakdown by the cost categories specifically identified in the Statement of Work. All bids in excess of \$3,500 will be rejected.

Preliminary Audit. If the proposal selected is from a company that has not previously been used as a contractor by the Texas Department of Public Safety, a preliminary audit may be performed.

Evaluation Criteria. In addition to cost benefits, proposals will be evaluated by the Texas Department of Public Safety and selection will be based principally on the following criteria.

(a) **Proposer's demonstration of technical competence:** comprehension of the nature of the problem and recognition of critical issues involved; soundness of methodologies proposed to carry out the proposed tasks of the Statement of Work; if the work plan identifies potential problems and how they will be addressed; demonstrated ability to work effectively with public safety agencies, private sector organizations, industry, and or business; realistic work plan capable of being accomplished in a quality manner; adequacy of management plan for the project.

(b) **Proposer's indication of sufficient resources:** experience and background of principal representative and other professionals proposed for accomplishment of the work; provision within proposer's organization for internal coordination and quality control of the project; availability of resources, personnel, and talent.

(c) Proposer's responsiveness to contract requirements: demonstrated familiarity with similar types of work previously accomplished—for whom, with what results; adequacy of study design concept to produce desired quality of results; effectiveness of proposed method of coordinating the work and communicating the progress, problems, and needs to the Department of Public Safety program manager.

Agency Contract and Program Manager. Additional information may be obtained from the Safety Seat Coordinator, Tonna Polk, Traffic Law Enforcement Division, (512) 465-2178, or Captain Frankie L. Waller, Traffic Law Enforcement Division, (512) 465-2115.

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

TRD-8601847 James B. Adams
Director
Texas Department of Public Safety

Filed: February 18, 1986
For further information, please call (512) 465-2000.

★ ★ ★

Railroad Commission of Texas LP-Gas Advisory Committee Meeting

The LP-Gas Division of the Railroad Commission of Texas announces a meeting of the LP-Gas Advisory Committee to be held on Tuesday, March 4, 1986, at 8:30 a.m. in Room 7-143 at 1701 North Congress, Seventh Floor, William B. Travis Building, Austin, Texas.

Issued in Austin, Texas, on February 14, 1986.

TRD-8601822 Walter Earl Lille
Special Counsel
Railroad Commission of Texas

Filed: February 14, 1986
For further information, please call (512) 463-7149.

★ ★ ★

Notice of Filing Requirements for Btu Refund Procedure Reports

The Railroad Commission of Texas adopted §7.42 of the Special Rules of Practice and Procedure of the Gas Utilities Division on December 16, 1985. The section requires all intrastate pipelines and local distribution companies to implement procedures to refund any monies received as a result of Btu adjustments, as ordered by the Federal Energy Regulatory Commission in Order 399 (September 26, 1984). The section also requires formal approval by the commission of the refund methodology and procedures. All gas utilities subject to the commission's jurisdiction must file a refund procedure report, as specified in §7.42 (c)(2)(A).

The refund procedure reports requirement will be staggered over a four month period. Approximately 85 utilities will be required to file the reports per month. A notice such as this will appear once a month to list the utilities who must file refund procedure reports. Individual letters will be sent to each utility.

The following gas utilities must file the refund procedure report on or before March 9, 1986. Adobe Gas Co.; Alliance Gas Corp.; American Pipeline Co.; Andrews Gas

Company, Inc.; ARKLA, Inc.; Balcones Pipeline Co.; Baluco Transportation System; Bateman Gas Plant Venture; Bay Pipeline, Inc.; Bengal Gas Transmission Co.; Brazos River Gas Co.; Breckenridge Gasoline Co.; Britton & Son, Inc.; C.B. Gas Gathering Co.; C.S.Y. & B. Pipeline Co.; Caprock Pipeline Co.; Citizens Gas Cooperative; Clajon Gas Co.; Colorado Interstate Gas Co.; Consolidated Utilities, Inc.; Coronado Transmission Co.; COWS—ONE, Inc.; Cross Plains Gas Co., Inc.; Dal-Mar Energy, Inc.; Doucette Gas Association; The Dow Pipeline Co.; Eagle Pass Natural Gas Corp.; Empire Pipeline Corp.; Energas Co.; Energy Pipeline Corp.; Exxon Gas System, Inc.; Florida Gas Transmission Co.; Frontier Natural Gas Corp.; Grey Forest Utilities; HGI Corp.; Horizon Natural Gas Corp.; HPI Transmission, Inc.; HT Gathering Co.; Humble Gas Transmission Co.; Industrial Gas Transmission Co.; J-W Gathering Co.; Labrador Energy, Inc.; Lavaca Pipe Line Co.; Link Systems, Inc.; Libra Energies, Inc.; Longhorn Gathering Co.; Longhorn Pipeline Co.; Madleon Transmission Co., Inc.; Mar/Con Energy, Inc.; MidVen Pipeline Co.; Mid-Tex Transmission Co., Inc.; Mobil Vanderbilt-Beaumont P/L Co.; National Gas Gathering Co.; Neches Pipeline System; NIGP Pipeline Co.; Peak Pipeline Corp.; Pecos Pipeline and Producing Co.; Pelican Reserve Pipeline Co.; Pipeline Systems, Inc.; Primex Corp.; Producers Utilities Corp.; Rael Gas Co.; Reynolds Pipeline Co.; Rusk County Gas Gathering Systems; Sabine Gas Transmission Co.; Shalako Gathering System, Inc.; Shoreline Gas Transmission Co.; Sino, Inc.; South Bend Gas Supply, Inc.; South Cen-Tex Gas Co.; Southfork Energy Corp.; South Texas Gathering Co.; Southwestern Gas Pipeline, Inc.; Southwester-Pecos Pipeline Co.; Spindletop Gas Distribution System; Sun Gas Transmission Co., Inc.; Teco Pipeline Co.; Tejas Gas Corp.; Tejas-Southwestern Pipeline Co.; Tejas-SW Two; Texana Pipeline Co.; Texas Gulf South Pipeline Co.; Texas Industrial Energy Co.; Texas Sea Rim Pipeline Inc.; Texas Utilities Fuel Co.; Texcol Gas Services, Inc.; T-Gas Pipeline Co.; Throckmorton Gas Systems; TransAmerican Gas Trans. Corp.; TransAmerican Pipeline Corp.; United Texas Transmission Co.; Vanguard-Brazos Co. P/L-Joint Venture; Vanguard Pipeline Corp.; Ventura Pipeline Corp.; Wellhead Ventrues Corp.; Westar Transmission Co.; West Texas Gathering Co.; Wilson, W. Corp.; and Winnie Pipeline Co..

The division will review the procedures within 30 days from the date of receipt of the report. Any complaint or inquiry concerning the reports filed by these gas utilities must be filed on or before April 8, 1986.

Any questions regarding the review of the Btu refund procedure reports may be directed to Katherine K. Mudge, Hearings Examiner, Gas Utilities Division, P.O. Box 12967, Capitol Station, Austin, Texas 78711-2967, (512) 463-7013.

Issued in Austin, Texas, on February 13, 1986.

TRD-8601822 Walter E. Lille
Special Counsel
Railroad Commission of Texas

Filed: February 14, 1986
For further information, please call (512) 463-7149.

★ ★ ★



Veterans Land Board Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, and the rules of the Comptroller of Public Accounts, the Veterans Land Board has amended the consultant contract of the Lomas and Nettleton Company, 2001 Bryan Tower, Dallas, Texas 75262, which it originally entered into January 29, 1985.

Under the terms of the contract the consultant agreed to serve as administrator of the Veterans Housing Assistance Program, insofar as it involved the initial \$500 million in authorized bonds.

By a notice published in the December 10, 1985, issue of the *Texas Register* (10 TexReg 4758), interested companies and individuals were notified of the Veterans Land Board's intent to amend its contract with the Lomas and Nettleton Company, unless a better proposal was received. No proposals were received.

The contract was therefore amended on January 29, 1986, so as to expand the duties and responsibilities of the Administrator to include the additional \$250 million in bonds authorized by constitutional amendment on November 5, 1985.

The total value of this contract will be increased by \$8,054,626.35.

Issued in Austin, Texas, on February 18, 1986.

TRD-8601684 Garry Mauro
 Chairman
 Veterans Land Board

Filed: February 18, 1986
For further information, please call (512) 463-6008.

★ ★ ★ Texas Water Commission Application for Provisionally- Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of February 10-14, 1985.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11.138, and commission rules 31 TAC §303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Nixon Drilling Company, Inc.; from the stream crossing near an unnamed county road approximately 17 miles south of Hallettsville, Lavaca County; Lavaca River; one acre-foot, three-month period; TP5374; February 6, 1986

Hays County Precinct Number 4; from the stream crossings of various county roads all within seven mile radius of Dripping Springs, approximately 32 miles north of San Marcos, Hays County; Barton Creek, South Onion Creek, tributary Onion Creek and Onion Creek tributaries of Colorado River; five acre-feet, one-year period; TP-5380; February 6, 1986

F. R. Lewis Construction Company, Inc.; from three stream crossings of State Highway 87 and a county road, approximately 23, 14, and 14½ miles north of Newton, Newton County; Mill Creek, tributary Sabine River, and Bear Ranch, tributary Little Cow Creek, tributary Sabine, and an unnamed creek, tributary Bear Branch; two acre-feet, one-year period; TP-5385; February 6, 1986

Dahlstrom Corporation; from the stream crossing of FM Road 3078/481, approximately 21 miles northeast of Eagle Pass, Maverick County; Salado Creek, tributary Elm Creek, tributary Chacon Creek tributary Comanche Creek, tributary Nueces River; five acre-feet, one-year period; TP-5386; February 7, 1985

Young Brothers, Inc.; from the stream crossing near State Highway 6, approximately 10 miles south of Bryan, Brazos County; Lick Creek, tributary Navasota River, tributary Brazos River; two acre-feet, six-month period; TP-5387; February 7, 1986

Transcontinental Gas Pipe Line Corporation; from the stream crossing of a pipeline near FM Road 1822, approximately three miles southwest of Edna, Jackson County; Lavaca River; two acre-feet, one-year period; TP-5388; February 7, 1986

Transcontinental Gas Pipe Line Corporation; from the stream crossing of FM 141, approximately three miles northwest of Kingsville, Kleberg County; Santa Gertrudis Creek, tributary Cayo Del Grullo, tributary Raffin Bay, tributary Laguna Madre; one acre-foot, one-year period; TP-5389; February 7, 1986

Issued in Austin, Texas, on February 14, 1986.

TRD-8601680 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed: February 18, 1986
For further information, please call (512) 463-7898.

★ ★ ★ 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 10-14, 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 per-

mit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of February 10-14, 1986

Bratton Lane 60 Partnership, A Texas Joint Venture, Austin; wastewater treatment plant; approximately 1.25 miles northeast of the intersection of Bratton Lane and FM Road 1325 (Burnet Road) in Travis County; 13234-01; new permit

City of Dodd City, Dodd City; wastewater treatment facilities; approximately 1,000 feet southeast of the intersection of Shady Grove and FM Road 2077 (First Street) in Dodd City in Fannin County; 10538-01; renewal

The City of Alto, Alto; wastewater treatment facility; east of Alto near Alto Branch, approximately .2 miles south of State Highway 21 in Cherokee County; 10546-01; renewal

Cle-Tex Materials, Inc., Cleveland; sand and gravel mining site; approximately two miles west of the City of Cleveland and approximately one mile south of FM Road 1725 in Liberty County; 00966; renewal

Canyon Ridge Investment Company, Amarillo; wastewater treatment plant; approximately 4,000 feet east of Interstate Highway 27 and approximately 1,000 feet north of McCormick Road in Randall County; 11198-01; amendment

The City of Kyle, Kyle; wastewater treatment plant; approximately ¼ mile southeast of the intersection of Interstate Highway 35 and FM Road 150, just south of FM Road 150 in Hays County; 11041-01; amendment

Issued in Austin, Texas, on February 14, 1986.

TRD-8601859 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: February 18, 1985

For further information, please call (512) 463-7898.

★ ★ ★

Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, "the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted," the following information is submitted.

An enforcement order was issued to Phoenix Frozen Foods, Inc. on February 12, 1986, assessing \$5,777 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jim Haley, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 13, 1986.

TRD-8601598 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: February 14, 1986

For further information, please call (512) 463-7898.

★ ★ ★

Request for Proposals

The Texas Water Commission (TWC) announces that it wishes to retain the services of a consultant to perform Remedial Investigation/Feasibility Studies (RI/FS), for the Crystal City Airport Superfund site. Contingent upon approval by the TWC, the consultant's services may be extended to include follow-on architectural/engineering activities at the Crystal City Airport if and when funds become available. This project will be conducted by the TWC through Cooperative Agreement V-006461 with the Environmental Protection Agency (EPA) and pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), referred to as "Superfund", and, the Texas Water Code, Chapter 26, Subchapter H.

EPA may negotiate with Potentially Responsible Parties (PRP) to execute activities in this solicitation in lieu of the TWC. Accordingly, all future TWC activities are subject to the outcome of EPA negotiations with the PRP. No legal liability on the part of TWC or the State of Texas for payment of any money shall arise unless and until funds are made available through the Federal Superfund program.

Objectives. The objectives of the investigation and feasibility studies are to characterize the site in terms of wastes present; lateral and vertical extent of contamination in surface waters, ground waters, sediments, and soils; rate and direction of waste migration; target receptors (population at risk, threatened resources, sensitive ecosystems); site geology and hydrology; and develop and evaluate alternative remedial measures considering economic feasibility, technological feasibility, environmental impacts, and timeliness of completion and offer recommendations regarding the most feasible remedial alternatives.

Budget and Schedule. The maximum budget allowable will be consistent with the specific scope of work and the cooperative agreement as determined by the TWC. Budgeted funds for the Remedial Investigation, Phase I and Feasibility Studies, are \$345,650 and \$125,000, respectively.

Submittal Information. Microfiche copies of the relevant files are available through Sheldon Seibel, Records and Library Services Section, (512) 463-8562.

A copy of the Request for Proposals (RFP) may be obtained in one of three ways:

- (1) by certified mail to: Mr. Charles R. Faulds, P.E., Texas Water Commission, Hazardous and Solid Waste Division, 1700 North Congress Avenue, P.O. Box 13087, Austin, Texas 78711.
- (2) by express mail to the address listed in item (1) with a prepaid self-addressed return envelope; or

(3) in person with a signed letter of receipt at Room 304, Employees Retirement System Building, 18th and Brazos Streets, Austin.

Mr. Faulds is the designated person to whom proposals may be made. Additional information may be obtained by calling (512) 463-7786. Five copies of each proposal must be received at the address listed in items (1) or (3) above before 5 p.m. on March 28, 1986, which is the closing date for offers. All statements submitted in response to this request must address the times as described in the RFP. Any and all information submitted by an offeror in variance with the RFP instructions will not be reviewed or evaluated. All contracting procedures shall be conducted in accordance with all applicable State and Federal rules.

Upon submittal, the proposals shall become the property of the State of Texas. The contents of the proposal shall

be considered as a part of the public record unless otherwise identified by the consultant. The submittal of confidential or proprietary information should be under separate cover on or before the due date. Confidential submittals should be limited and must include an explanation of the basis for confidentiality. TWC reserves the right to reject or return confidential information.

Issued in Austin, Texas, on February 14, 1986.

TRD-8601638

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

Filed: February 18, 1986

For further information, please call (512) 463-7786.

★ ★ ★