

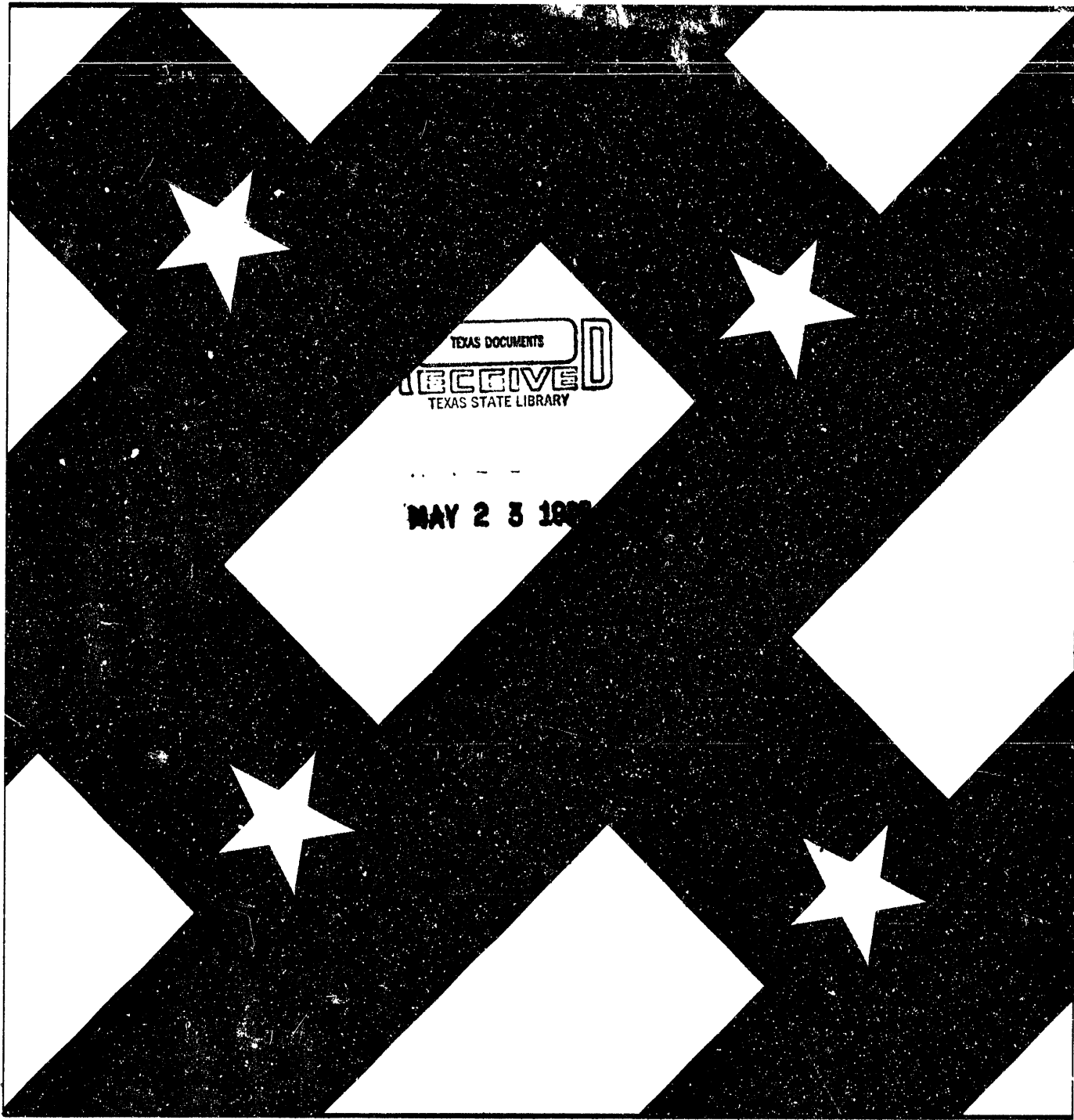
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Texas Register

Volume 11, Number 39, May 23, 1986

Pages 2399-2457



Highlights

The **Office of the Secretary of State** adopts on an emergency basis new sections concerning private use of the Great Seal of Texas. Effective date - May 19.....**page 2410**

The **Board of Nurse Examiners** proposes an amendment concerning criteria necessary for the

establishment of a peer assistance program for registered professional nurses. Earliest possible date of adoption - June 23 **page 2415**

The **Texas Department of Human Services** proposes an amendment concerning reimbursement for ICF-MR vendor rates. Earliest possible effective date - June 23.....**page 2418**

Office of the Secretary of State

Texas Register

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

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- The Legislature—bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and signed 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 accumulative 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

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Illustrations courtesy of Texas Parks and Wildlife Department.

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The Governor

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

Appointments Made May 8

Crime Stoppers Advisory Council

For terms to expire September 1, 1987:

Kathryn Pitts Green
2812 South Parker
Amarillo, Texas 79109

Ms. Green is replacing Frank L. Breedlove of Dallas, whose term expired.

(Rebecca) Ann Rothkamm
6575 Windwood
Beaumont, Texas 77706

Ms. Rothkamm is replacing Cary O. Fox of Conroe, whose term expired.

Issued in Austin, Texas, on May 8, 1986.

TRD-8604776 Mark White
Governor of Texas

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Appointments Made May 9

Task Force on Alcohol and Drug Abuse

For terms to expire August 31, 1987:

William Craig Belknap
308 Kimberly Drive
Mesquite, Texas 75149

Reverend Monsignor Dermot Brosnan
222 East Mitchell Street
San Antonio, Texas 78210

Muriel S. Bumpus
3678 Hidden Drive, #308
San Antonio, Texas 78217

Maxine Darst
County Judge
Kaufman County Courthouse
Kaufman, Texas 75142

Louis Faillace, M.D.
University of Texas
School of Medicine
6431 Fannin, Room 5202
Houston, Texas 77030

Patrick William Ferchill
1408 Washington Terrace
Fort Worth, Texas 76107

Captain Michael E. Harris
4301 Leelend
Houston, Texas 77023

Oscar Jones
#5 Parkland Drive
Ransom Canyon, Texas 79366

Terry Julian
P.O. Box 1201
Sweetwater, Texas 79556

Randall L. Schmidt
4501 Briarhaven Road
Fort Worth, Texas 76109

Frankie E. Williams, M.D.
4603 Yamparika
Vernon, Texas 76384.

Issued in Austin, Texas, on May 9, 1986.

TRD-8604776 Mark White
Governor of Texas

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Appointments Made May 12

Golden Crescent Region Community Development Block Grant Review Committee

For a term to expire January 1, 1987:

Cheryl Taylor
City Alderman
City of Goliad
P.O. Box 939
Goliad, Texas 77963

Cheryl Taylor is replacing Shirley Young of Goliad, who resigned.

Lower Rio Grande Region Community Development Block Grant Review Committee

For a one year term and at the pleasure of this governor:

Hector Elizondo (Chairman)
Mayor
City of La Villa
916 South Mike Chapa
La Villa, Texas 78562

Baldemar Alaniz
Mayor
City of Port Isabel
305 East Main
Port Isabel, Texas 78578

Joe Alexandre, Jr.
Mayor
City of Raymondville

142 South Seventh Street
Raymondville, Texas 78580

Hector Farias
Mayor
City of Weslaco
500 Kansas Street
Weslaco, Texas 78796

Hector F. Palacios
Mayor
City of San Juan
709 South Nebraska
San Juan, Texas 78589

William Michael Rapp
County Judge
Willacy County
190 North Third Street
Courthouse Annex
Raymondville, Texas 78580

Norberto Salinas
County Commissioner
Hidalgo County Courthouse
Edinburg, Texas 78539

Scott Sloane
Mayor
City of La Feria
115 East Commercial
La Feria, Texas 78559

Sara Leal Tatum
Mayor
City of Rio Hondo
P.O. Box 389
Rio Hondo, Texas 78583

Adolph Thomae, Jr.
County Commissioner
Cameron County
Route 1, Box 364
San Benito, Texas 78586

Rodolfo Villareal
Mayor
City of Alamo
423 North Tower Road
Alamo, Texas 78516

Jose M. Yanez
Mayor
City of Donna
912 Miller
Donna, Texas 78537.

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

TRD-8604776 Mark White
Governor of Texas

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Appointments Made May 13

171st Judicial District Court

To be judge, until the next general election and until his successor shall be elected and duly qualified:

Peter S. Peca, Jr.
7400 Biscount
Suite 221
El Paso, Texas 79925

Mr. Peca is replacing Edwin F. Berliner of El Paso, who is deceased.

South East Texas Region Community Development Block Grant Review Committee

For terms to expire January 1, 1988:

Calvin L. Davis
City Councilman
City of Port Neches
1508 Block
Port Neches, Texas 77651

Grady Johnson
Mayor
City of Pinehurst
1703 Stickland
Orange, Texas 77630

Tom E. Lee
City Councilman
City of Nederland
932 17th Street
Nederland, Texas 77627

Melton R. McKinney
County Judge
Hardin County
P.O. Drawer 760
Kountze, Texas 77625

David Shows
City Councilman
City of Silsbee
P.O. Box 1123
Silsbee, Texas 77656

Joel McKim Richardson
City Councilman

City of Kountze
P.O. Box 188
Kountze, Texas 77625.

Issued in Austin, Texas, on May 13, 1986.

TRD-8604776

Mark White
Governor of Texas

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Appointment Made May 14

State Purchasing and General Services Commission

To be chairman:

Richard C. Strauss
8935 Douglas
Dallas, Texas 75225.

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

TRD-8604776

Mark White
Governor of Texas

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Emergency

Rules

An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately 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 1.

ADMINISTRATION

Part IV. Office of the Secretary of State Chapter 71. Office of the Secretary

Private Use of the Great Seal of Texas

★ 1 TAC §71.41, §71.42

The Office of the Secretary of State adopts on an emergency basis the repeal of §71.41 and §71.42, concerning private use of the Great Seal of Texas.

These sections are repealed under the emergency provisions to clarify the process of obtaining, and the exemptions from, a Great Seal of Texas license under the Texas Business and Commerce Code, §17.08.

The repeals are adopted on an emergency basis under the Texas Business and Commerce Code, §17.08(d), which provides the Office of the Secretary of State with the authority to adopt and amend regulations relating to the use of the Great Seal of Texas.

§71.41. *Definitions.*

71.42. *Application Process.*

Issued in Austin, Texas, on May 16, 1986.

TRD-8604853 Myra A. McDaniel
Secretary of State

Effective date: May 19, 1986

Expiration date: September 16, 1986

For further information, please call
(512) 483-5701.

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★ 1 TAC §§71.40-71.42

The Office of the Secretary of State adopts on an emergency basis new §§71.40-71.42, concerning private use of the Great Seal of Texas.

The new sections are adopted under the emergency provisions to clarify the process of obtaining, and the exemptions from, a Great Seal of Texas license under the Texas Business and Commerce Code, §17.08.

The new sections are adopted on an emergency basis under the Texas Business and

Commerce Code, §17.08(d), which provides the Office of the Secretary of State with the authority to adopt regulations relating to the use of the Great Seal of Texas.

§71.40. *Definitions.* The following words and terms, when used in this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise. Unless otherwise expressly provided, the past, present, or future tense includes the other; the masculine, feminine, or neuter gender each includes the other; and the singular and plural number each includes the other.

Abuse—Any departure from reasonable use; immoderate or improper use; use contrary to customary or accepted practices and protocols such as would be a misuse of the Great Seal of Texas.

Annual gross receipts—Gross receipts received during the calendar year.

Applicant—A person who has applied for a license.

Application—The act of making a formal request for licensed permission to use the Great Seal of Texas.

Benefit—Anything reasonably regarded as an economic gain or an economic advantage.

Calendar year—Period of time from January 1-December 31, inclusive.

Commercial purpose—A purpose that is intended to result in a profit or other tangible benefit but does not include an official use in a state function or the use of the Great Seal of Texas or a representation of the Great Seal of Texas for a political purpose by an elected official of this state.

Deceptively similar representation—Any representation which appears to contain at least two elements similar to the Great Seal of Texas or at least four elements similar to the reverse side of the Great Seal of Texas.

Denial—A refusal to grant a license.

Elected official—Any individual who has been elected to an office of state government which is filled by the choice of the voters, including a member of the legislature.

General public—Any person of any nation, state, county, municipality, or community, including individuals who are employed by the State of Texas.

Great Seal of Texas—A seal which contains a five-point star encircled by olive and live oak branches, and the words "the State of Texas," or depicts the reverse side of the Great Seal of Texas.

Gross receipts—Total amount of money or the value of the benefits received from the sale of licensed products.

License—Permission by the Secretary of State to conduct the use, manufacture, distribution, mass production, replication, sale, or incorporation into advertisement, draft, or design the Great Seal of Texas within the accepted criteria of this title.

Licensed product—A Great Seal of Texas product which has been approved by a license.

Licensee—The applicant who receives permission to use the Great Seal of Texas.

Licensing agreement—Contract to use the Great Seal of Texas, signed by applicant and the Secretary of State's Office after the applicant's application has been approved.

Manufacturer—Any individual, partnership, corporation, or other legal entity which transforms raw or prepared materials into a product for trade or sale, including a publisher, printer, or advertiser.

Nonexact representation—A deceptively similar representation of the Great Seal of Texas, including a state agency's seal which incorporates the Great Seal of Texas.

Nonofficial use—Any use of the Great Seal of Texas that is not an official use.

Official use—The use of the Great Seal of Texas by an officer or employee of this state in performing a state function.

Person—An individual or legal entity, including a corporation, partnership, or an association.

Political purpose—Any purpose designed to obtain or publicize a public officer or position.

Product—A good or service produced, manufactured, or provided, either by natural means, by hand, or with tools, machinery, chemicals, or the like.

Representation of the Great Seal of Texas—Includes a nonexact representation that the Secretary of State determines is deceptively similar to the Great Seal of Texas.

Reverse side of the Great Seal of Texas—Comprised of a shield, consisting of a depiction of the Alamo, a cannon, and a bridge. The shield is encircled by oak and olive branches, and the unfurled flags of France, Spain, Mexico, the Republic of Texas, the Confederate States of America, and the United States of America. Above the shield is emblazoned the motto, "Remember the Alamo," and beneath it are the words,

"Texas One and Indivisible," with a five-point star hanging over all.

Revocation—An unconditional cancellation and nullification of an existing license by the Office of the Secretary of the State of Texas.

State agency—Any administrative department, or commission established by the State of Texas Constitution, the Governor, or the Texas Legislature.

State function—A state governmental activity authorized or required by law.

The statute—Texas Business and Commerce Code, §17.08.

Suspension—A temporary stop order to previously licensed uses.

§71.41. Application Process.

(a) Any person not a state public official, or under the express direction of a state agency and conducting official state business must prior to any use of the Great Seal of Texas in any commercial reproduction, distribution, advertisement, manufacture, promotion, replication, sale, or any such activity reasonably construed to be embraced by this description:

(1) complete and file with the Office of the Secretary of State, on a form prescribed by that office, an application for a license for the private nonofficial use of the Great Seal of Texas;

(2) obtain such license from the Office of the Secretary of State.

(b) A complete application must:

(1) be legibly printed or typewritten;

(2) include a specific description of the intended usage involving the Great Seal of Texas;

(3) be accompanied by a precise description and the specification of the actual product to bear the Great Seal of Texas in the form of an architectural drawing, an engineer's draft to scale, sales brochure, or lucid photograph; and

(4) be accompanied by the application fee required by the statute and as set forth in §71.44 of this title (relating to Fees; Payment of Money).

(c) Drawings and drafts must be done on standard size paper (8½ inches by 11 inches). Drawings and drafts will become a permanent part of the application file.

(d) Upon approval of a complete application, payment of the licensing fee, as set forth in §71.44 of this title (relating to Fees; Payment of Money), and execution of a licensing agreement on a form prescribed by the Secretary of State's Office, the licensee shall receive from the Secretary of State a certificate bearing an identification number. Such number will be composed of:

(1) letters representing the initials of the name of the current Secretary of State of Texas;

(2) four digits indicating the numerical month and year in which the license was issued; and

(3) three digits for the sequential number of the license.

(e) Except as otherwise provided by law, no seal of any state agency, which incorporates the Great Seal of Texas, may be used for a nonofficial use by any person including any official or employee of said state agency. Unless a license is first obtained pursuant to the procedures herein described, a person may not use a state agency's representation of the Great Seal of Texas for a commercial purpose.

§71.42. Exemptions.

(a) State agencies and officials who use the Great Seal of Texas for official uses or state functions have no application or fee requirement; however, in an effort to achieve uniformity and continuity, state agencies and officials are encouraged to submit their intended uses and renditions of the Great Seal of Texas to the Secretary of State.

(1) When a manufacturer or vendor solely produces for, or solely sells or distributes to a state agency a product bearing the Great Seal of Texas for an official use or for a state function, no application or license is required.

(2) A manufacturer or vendor seeking the exemption as set forth in paragraph (1) of this subsection must provide the Secretary of State's Office with the following:

(A) a signed statement from that state agency or appropriate state official that the product has been or will be used by the state agency for an official use or a state function; and

(B) a certification, on a form prescribed by the Secretary of State's Office, from the manufacturer or vendor that the product is not available to the general public.

(3) Distribution or sale of the product to the general public by the state agency shall not preclude a manufacturer or vendor from obtaining exemption as set forth in paragraph (1) of this subsection.

(4) When a manufacturer or vendor produces for, or sells or distributes to a state agency a product bearing the Great Seal of Texas that is also available to the general public, the manufacturer or vendor must file an application in accordance with §71.41(a) of this title (relating to Application Process), obtain a license in accordance with §71.45(a) of this title (relating to Licensing), and pay, except as otherwise provided by these administrative regulations, all fees required by §71.44 of this title (relating to Fees; Payment of Money).

(5) Gross receipts received from the sale of licensed products to state agencies under the conditions set forth in paragraph (4) of this subsection are exempt from the royalty fee required by the statute and §71.44 of this title (relating to Fees; Payment of Money), provided the manufacturer or vendor of the licensed products provides the Secretary of State's Office with a signed statement from that state agency or appropriate state official that the products have been or will be used by the state agency for an official use or a state function.

(b) Elected officials who use the Great Seal of Texas for political purposes have no application or fee requirement.

(1) When a manufacturer or vendor solely produces for, or solely sells or distributes to an elected official a product bearing the Great Seal of Texas for a political purpose, no application or license is required.

(2) A manufacturer or vendor seeking the exemption as set forth in paragraph (1) of this subsection must provide the Secretary of State's Office with the following:

(A) a signed statement from the elected official or designated agent that the product has been or will be used by the elected official for a political purpose; and

(B) a certification, on a form prescribed by the Secretary of State's Office, from the manufacturer or vendor that the product is not available to the general public.

(3) Distribution or sale of the product to the general public by the elected official shall not preclude a manufacturer or vendor from obtaining the exemption as set forth in paragraph (1) of this subsection.

(4) When a manufacturer or vendor produces for, sells, or distributes to an elected official a product bearing the Great Seal of Texas that is also available to the general public, the manufacturer or vendor must file an application in accordance with §71.41(a) of this title (relating to Application Process), obtain a license in accordance with §71.45(a) of this title (relating to Licensing), and pay, except as otherwise provided by these administrative regulations, all fees required by §71.44 of this title (relating to Fees; Payment of Money).

(5) Gross receipts received from the sale of licensed products to an elected official under the conditions set forth in paragraph (4) of this subsection are exempt from the royalty fee required by the statute and §71.44 of this title (relating to Fees; Payment of Money), provided the manufacturer or vendor of the licensed products provides the Secretary of State's Office with a signed statement from the elected official or designated agent that the products have been or will be used by the elected official for a political purpose.

(c) The manufacturer of a product bearing the Great Seal of Texas bears the responsibility for filing the necessary application, obtaining the appropriate license, and the payment of all fees required by the statute and these administrative regulations.

(1) Vendors or resellers are exempt from the application, licensing, and fee requirements of the statute and these administrative regulations where the manufacturer of the product transferred has obtained the required Great Seal of Texas license, provided the vendor or reseller, prior to resale, obtains from the manufacturer, on a form prescribed by the Secretary of State's Office, a certification of the manufacturer's license.

(2) The certification shall contain the manufacturer's name, license number, and the type and number of items purchased.

(3) The certification must be kept and maintained at the vendor's or reseller's place of business for four years and made readily available for inspection by the Secretary of State's Office upon request.

(4) A vendor or reseller who fails to obtain, maintain, or make readily available for inspection the certifications of the manufacturer's license shall be responsible for obtaining the necessary license and the payment of all fees required by the statute and these administrative regulations.

(d) Gross receipts received from the sale of a licensed products to the general public are exempt from the royalty fee required by the statute and §71.44 of this title (relating to Fees; Payment of Money) where a royalty is paid to the Texas Sesquicentennial Commission (Texas Civil Statutes, Article 6145-11) for the sale of the licensed products.

Issued in Austin, Texas, on May 16, 1986.

TRD-8604851 Myra A. McDaniel
Secretary of State

Effective date: May 19, 1986
Expiration date: September 16, 1986
For further information, please call
(512) 463-5701.

★ 1 TAC §§71.44-71.46

The Office of the Secretary of State adopts on an emergency basis amendments to §§71.44-71.46, concerning private use of the Great Seal of Texas.

The amendments are adopted on an emergency basis to clarify the requirements necessary to obtain and maintain a Great Seal of Texas license under the Texas Business and Commerce Code, §17.08.

The amendments are adopted on an emergency basis under the Texas Business and Commerce Code, §17.08(d), which provides the Office of the Secretary of State with the authority to adopt and amend regulations relating to the use of the Great Seal of Texas.

§71.44. Fees; Payment of Money [; Exemptions].

(a) Application fees are required to be paid at the time of presenting the original or renewal application for license.

Licensing fees must be paid within 21 days of the approval of the original or renewal license. Royalty fees must be received with each quarterly report and in accordance with the deadlines set forth under §71.46(c) of this title (relating to Quarterly Report). A fee shall be deemed delinquent if not received within 30 [10] days after it is due. [State government agencies are exempt from the fee requirements, since governmental utilization of the Great Seal of Texas is permitted as an official use.]

(b) (No change.)

(c) A mere change of purpose after the payment of fees, as when an applicant desires to withdraw an application from filing, or when a licensee terminates its license, will not entitle either the applicant or the licensee [a party] to a refund of any fees paid under the statute or these administrative regulations.

(d) (No change.)

(e) Failure to pay fees as required by this subsection will result in the following. [Gross receipts received from the sale of a licensed product are exempt from the royalty fee required by the statute and these administrative regulations where a royalty is paid the Texas Sesquicentennial Commission (Texas Civil Statutes, Article 6145-11) for the sale of the licensed product.]

(1) Failure to pay the original or renewal application fee shall result in the denial of the application.

(2) Failure to pay the licensing fee within 21 days of the approval of the original or renewal application shall result in the denial of a license and the cancellation of the previously approved application.

(3) Failure to pay royalty fees may result in suspension or revocation of license.

(4) Appropriate enforcement action may be requested by the Secretary of State under §71.48 of this title (relating to Enforcement) where a licensee has failed to pay fees when due.

§71.45. Licensing.

(a) Grant of license. Upon approval of an application, payment of the licensing fee (as set forth in §71.44 of this title (relating to Fees; Payment of Money [; Exemptions])), and the execution of a licensing agreement on a form prescribed by the Secretary of State's Office, any individual or corporation may be granted a license which will certify to all, that such person has complied with the requirements of application and filing. Licensees may engage in the reproduction of the Great Seal of Texas for private and public nonofficial uses. It is accepted that the licensee will use the Great Seal of Texas in an exemplary manner. Any and all transactions which involve the vendor, manufacturer or distributor of the Great Seal of Texas and the public are expected to be handled in an honest and conscientious fashion. A licensee must display the license in a conspicuous manner in the licensee's office or place of business.

[(1) The manufacturer of a product bearing the Great Seal of Texas bears the responsibility for obtaining the necessary license and the payment of all fees required by the statute and these administrative regulations.

[(2) Vendors or resellers are exempt from the licensing and fee requirements of the statute and these administrative regulations where the manufacturer of the product transferred has obtained the required Great Seal of Texas license, provided the vendor or reseller, prior to resale, obtains from the

manufacturer, on a form prescribed by the Secretary of State's Office, a certification of the manufacturer's license.

[(A) The certification shall contain the manufacturer's name, license number, and the type and number of items purchased.

[(B) The certification must be kept and maintained at the vendor's or reseller's place of business for four years and made readily available for inspection by the Secretary of State's Office upon request.

[(C) A vendor or reseller who fails to obtain, maintain, or make readily available for inspection the certifications of the manufacturer's license shall be responsible for obtaining the necessary license and the payment of all fees required by the statute and these administrative regulations.]

(b) Renewal of license. A renewal of license must take place annually on the renewal application and license form provided by the Secretary of State's Office. A renewal may not be granted if licensee:

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

(3) has violated or breached a term or condition of the licensing agreement.

(c) Suspension of license. The licensee's use of the Great Seal of Texas must not be detrimental to the image of the state and its best interests, by virtue of its draft, design, presentation, association, distribution, manufacture, or sale. Any such use, late payment or nonpayment of a required fee, violation of either the statute or these administrative regulations, or the violation or breach of a term or condition of the licensing agreement will result in the suspension of the license.

(1) (No change.)

(2) Any distribution, manufacture, and, or sale of licensed products after the license has been suspended is unlawful. [A suspension constitutes a stop order. Any further distribution, manufacture, and, or sale fulfilled or contemplated is unlawful.]

(3) (No change.)

(d) Revocation of an existing license.

(1) A license may be revoked for, but not limited to, the following reasons:

(A)-(G) (No change.)

(H) violation or breach of a term or condition of the licensing agreement.

(2) (No change.)

§71.46. Quarterly Report.

(a) Licensees must file with the Office of the Secretary of State a statement (i.e., quarterly report), on a form prescribed by that office, containing the following:

(1)-(4) (No change.)

(5) where the licensee has obtained an exemption under §71.42(a)(5) of this title (relating to Exemptions), the total amount of gross receipts received from the sale of licensed products during the quarter to state agencies;

(6) where the licensee has obtained an exemption under §71.42(b)(5) of this title (relating to Exemptions), the total amount

of gross receipts received from the sale of licensed products during the quarter to elected officials.

(7)[5] the total amount of gross receipts derived by the licensee from other uses of the Great Seal of Texas during the quarter;

(8)[6] the amount of any royalty fee due for the quarter.

(b) (No change.)

(c) Where an applicant is licensed after January 1st of a calendar year, the licensee's first quarterly report shall include the amount of gross receipts received on licensed products from the beginning of the calendar year.

(d)[c] A quarterly report must be filed with the Office of the Secretary of State in each quarter in accordance with the following schedule:

(1)-(4) (No change.)

Issued in Austin, Texas, on May 16, 1986.

TRD-8604849 Myra A. McDaniel
Secretary of State

Effective date: May 19, 1986
Expiration date: September 18, 1986
For further information, please call
(512) 483-5701.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing

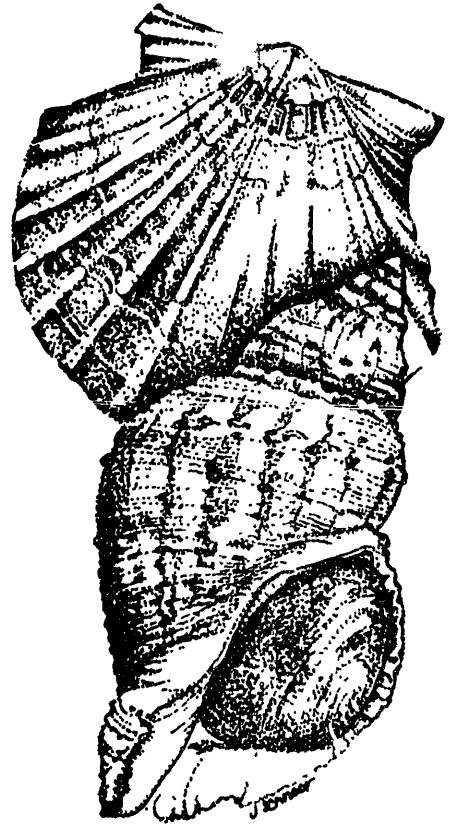
★ 31 TAC §65.63

The Texas Parks and Wildlife Department is renewing the effectiveness of the emergency adoption of amended §65.63 for a 60-day period effective May 25, 1986. The text of the amended §65.63 was originally published in the February 28, 1986, issue of the *Texas Register* (11 TexReg 1035).

Issued in Austin, Texas, on May 15, 1986

TRD-8604772 Boyd M. Johnson
General Counsel
Texas Parks and
Wildlife Department

Effective date: May 25, 1986
Expiration date: July 24, 1986
For further information, please call
(512) 479-4974.



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Proposed Rules

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

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

**TITLE 1.
ADMINISTRATION
Part IV. Office of the
Secretary of State
Chapter 71. Office of the
Secretary
Private Use of the Great Seal
of Texas**

Issued in Austin, Texas, on May 16, 1986.

TRD-8604852 Myra A. McDaniel
Secretary of State

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 463-5701

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★1 TAC §§71.40-71.42

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

The Office of the Secretary of State proposes new §§71.40-71.42, concerning the definitions, the applications process, and the exemptions for private use of the Great Seal of Texas.

Hyattye Simmons, general counsel, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Simmons 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 clarification of the process of obtaining, and the exemptions from, a Great Seal of Texas license under the Texas Business and Commerce Code, §17.08. 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 Hyattye Simmons, General Counsel, P.O. Box 12697, Office of the Secretary of State, Austin, Texas 78711.

The new sections are proposed under the Texas Business and Commerce Code, §17.08 (d), which provides the Office of the Secretary of State with the authority to adopt administrative rules relating to the use of the Great Seal of Texas.

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 May 16, 1986.

TRD-8604850 Myra A. McDaniel
Secretary of State

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 463-5701.

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★1 TAC §§71.44-71.46

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

The Office of the Secretary of State proposes amendments to §§71.44-71.46, concerning the private use of the Great Seal of Texas. The amendments clarify the requirements necessary to obtain and maintain a Great Seal of Texas.

Hyattye Simmons, general counsel, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Simmons 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 clarification of the requirements necessary to obtain and maintain a Great Seal of Texas license under the Texas Business and Commerce Code, §17.08. 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 Hyattye O. Simmons, General Counsel, Office of the Secretary of State, P.O. Box 12697, Austin, Texas 78711.

The amendments are proposed under the Texas Business and Commerce Code, §17.08(d), which provides the Office of the Secretary of State with the authority to adopt and amend administrative rules relating to the use of the Great Seal of Texas.

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 May 16, 1986.

TRD-8604848 Myra A. McDaniel
Secretary of State

Earliest possible date of adoption:

June 19, 1986

For further information, please call
(512) 463-5701

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TITLE 19. EDUCATION
Part I. Coordinating Board,
Texas College and
University System
Chapter 5. Program Development
Subchapter N. Guidelines on
Approval of Course Inventories
for Public Senior Institutions

★ **19 TAC §5.285**

The Coordinating Board, Texas College and University System, proposes new §5.285, concerning guidelines on approval of course inventories for public senior institutions. The new section prevents courses of a less-than-collegiate level from being credited toward baccalaureate degree programs. The section will result in changes in institutional catalog language and other publications directed to students to advise them that precollegiate courses are not counted toward degree requirements.

Bill Sanford, assistant commissioner, Universities and Research, 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. Sanford 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 the quality of baccalaureate degree programs will be protected by the exclusion of less-than-college level being given degree program credit. 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, §§61.002, 61.051(e) and (g), 61.052, and 61.057, which provides the Coordinating Board, Texas College and University System, with the authority to adopt rules regarding guidelines on ap-

proval of course inventories for public senior institutions.

§5.285. *Utilization of Credit in Precollegiate Courses to Satisfy Degree Requirements.*

(a) Credits received for courses, the content of which is identified by the coordinating board as precollegiate, may be applied to satisfy degree requirements. Such courses may be used as prerequisites or corequisites for collegiate level courses applicable toward degree requirements as determined by institutional authority.

(b) Credits received for courses, the content of which is identified as precollegiate, may be recognized on student records, provided they do not apply toward 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 May 13, 1986

TRD-8604766 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Proposed date of adoption: July 18, 1986

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

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Chapter 9. Public Junior Colleges
Subchapter B. Procedures to be
Followed in the Creation of
Public Junior Colleges

★ **19 TAC §9.24**

The Coordinating Board, Texas College and University System, proposes an amendment to §9.24, concerning procedures to be followed in the creation of public junior colleges. The amendment brings coordinating board rules into compliance with election code rules. Citizens petitioning for a new community college district election will have to comply with the amendment and election code rules. This amendment also effects petitions completed for expansion of a public community college district.

Nellie Thorogood, assistant commissioner, 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 compliance with the Texas Election Code so that citizen's petitions are valid

for the county, city, ISD, or union of ISD government structures. 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 amendment is proposed under House Bill 2162, 69th Legislature, 1985, Chapter 895, Page 6483, which provides the Coordinating Board, Texas College and University System with the authority to adopt rules regarding procedures to be followed in the creation of public junior colleges.

§9.24. *Circulation of a Petition.*

(a) The local steering committee is responsible for the circulation of an approved petition for authorization of an election to establish a junior college district. The petition must follow guidelines furnished by the commissioner of higher education, including the amounts of proposed bonds, bond tax rate ceiling to be proposed, and maintenance tax limits that will appear on the ballot in the event an election is authorized.

(b) In accordance with Texas election code for a petition signature to be valid, a petition must:

(1) contain, in addition to the signature:

- (A) the signer's printed name;
- (B) the signer's voter registration number and, if the territory from which signatures may be obtained is situated in more than one county, the county of registration;
- (C) the signer's resident address;

and

- (D) the date of signing; and
- (2) comply with any additional requirements prescribed by applicable state law.

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

Issued in Austin, Texas, on May 13, 1986.

TRD-8604770 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Proposed date of adoption: June 18, 1986

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



TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners

Chapter 217. Licensure and Practice

★22 TAC §217.1

The Board of Nurse Examiners proposes an amendment to §217.1, concerning definitions. The amendment adds new definitions relating to the proposed peer assistance, §217.16, by defining an impaired professional and program.

Margaret L. Rowland, R.N., executive secretary, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Rowland also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Margaret Rowland, Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4514, §1, which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keeping with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall be inconsistent with the provisions of this law.

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

Impaired professional—A registered professional nurse, licensed by the Board of Nurse Examiners for the State of Texas, whose ability to perform as a professional nurse is impaired by chemical dependency on drugs and/or alcohol or by mental illness.

Program—A peer assistance program designed to help impaired professional nurses which meets the minimum criteria established by the Texas Commission on Alcohol and Drug Abuse and the additional criteria established by the Board of Nurse Examiners for the State of Texas.

Shall and will—Requirements to be met.

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 May 13, 1986.

TRD-8604728

Margaret L. Rowland,
R.N.
Executive Secretary
Board of Nurse
Examiners

Earliest possible date of adoption:

June 23, 1986

For further information, please call
(512) 835-4880.

★ ★ ★

★22 TAC §217.16

The Board of Nurse Examiners proposes new §217.16, concerning peer assistance programs. The new section is in regard to additional criteria necessary for the establishment of a peer assistance program for registered professional nurses as provided for in House Bill 900 (69th Legislature, 1985).

Margaret L. Rowland, R.N., executive secretary, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Rowland 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 by having a peer assistance program available for registered nurses, it is anticipated that they will seek early treatment. The primary goal is to protect the public by promoting safe patient care through identifying the impaired nurse and assisting her/him to obtain treatment. The anticipated economic cost to individuals who are required to comply with the proposed section will be a \$1.00 fee assessed to each registered nurse every two years, which will be approximately \$50,000 per year. This fee is included in the renewal fee.

Comments on the proposal may be submitted to Margaret Rowland, Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752.

The new section is proposed under Texas Civil Statutes, Article 4514, §1, and Article 5561(c-2), which provide the Board of Nurse Examiners with the authority to make and enforce all rules and regulations necessary for the performance of its duties and conducting of proceedings before it, to establish standards of professional conduct for all persons licensed under the provisions of this law in keep-

ing with its purpose and objectives, to regulate the practice of professional nursing and to determine whether or not an act constitutes the practice of professional nursing, not inconsistent with this Act. Such rules and regulations shall not be inconsistent with the provisions of this law. The board shall establish additional criteria for a peer assistance program for registered professional nurses.

§217.16. Peer Assistance Programs. A peer assistance program for registered, professional nurses will identify, assist, and monitor professional colleagues with job impairing mental health, alcohol, or drug problems so they may continue to practice nursing.

(1) Additional criteria.

(A) The program will provide statewide peer advocacy services available to all registered nurses impaired by chemical abuse or mental illness.

(B) The program shall have a statewide monitoring system that will be able to track the nurse while preserving anonymity.

(C) The program shall provide a network of trained peer intervenors located throughout the state.

(D) The program shall have a written plan for the education and training of intervenors and other program personnel.

(E) The program shall have a written plan for the education of registered nurses, other practitioners, and employers.

(F) The program shall have a mechanism for documenting program compliance and for timely reporting of noncompliance to the board.

(G) The program shall demonstrate financial stability and funding sufficient to operate the program.

(H) The program shall collect and make available to the board and other appropriate persons data relating to impaired professional nurses and the success/failure of peer assistance.

(I) The program shall have a written plan for a systematic total program evaluation.

(J) The program shall be subject to periodic evaluation by the board or its designee.

(K) Counselors utilized by the peer assistance program shall meet the minimum criteria for counselors as established by the board.

(L) The program shall establish a plan to verify previous disciplinary action relative to impairment prior to admitting a nurse to the peer assistance program.

(M) The program is required to report the impaired nurse to the board unless the nurse has never been reported to either the peer assistance program or the board.

(2) Contractual agreement. The approved program(s) will enter into a contractual agreement with the board to provide the services of an impaired professional program. Said contract can be withdrawn for noncompliance and is subject to annual review and renewal.

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

Issued in Austin, Texas, on May 13, 1986.

TRD-8604727 Margaret L. Rowland, R.N.
Executive Secretary
Board of Nurse
Examiners

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 835-4880

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Part XIV. Texas Optometry Board

Chapter 271. Examinations

★22 TAC §271.6

The Texas Optometry Board proposes an amendment to §271.6, concerning national board examination. This amendment clarifies the grading criteria of the national board and is intended to inform applicants that the Texas Optometry Board accepts the grading criteria of the national board in determining passage of the national board, scores of which are submitted to the Texas Optometry Board, in compliance with §271.6.

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

Ms. Ewald also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. 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 Lois Ewald, Executive Director, Texas Optometry Board, 1300 East Anderson Lane, Suite C-240, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4552, §2.14, which provide the Texas Optometry Board with the authority to promulgate procedural and substantive rules.

§271.6. National Board Examination.

(a) The board determines that the written examination by the National Board of Examiners in Optometry (NBEO) complies in all material respects with the requirements of the Act, §3.05 and §3.06. Beginning June 1, 1986, an applicant for licensure shall have the option of taking and passing all parts of the NBEO written examination or taking and passing the written examination given by the Texas Optometry Board. The passing score of each part of the national board is deter-

mined by a criterion-referenced standard setting approach, in which the passing score is set at a scaled score of 300. [The grading criteria for passing of the NBEO is that an applicant must obtain a general scaled average score of at least 75 on each part of the examination, as determined by the NBEO.] An applicant may take either the written examination given by the NBEO or the written examination given by the board, or both, and passage of either shall be acceptable. It is the intent of the board to determine, no later than February 1, 1988, whether or not to eliminate the written examination given by the Texas Optometry Board.

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

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

Issued in Austin, Texas, on May 13, 1986

TRD-8604729 Lois Ewald
Executive Director
Texas Optometry Board

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 835-1938.

★ ★ ★

Part XXII. Texas State Board of Public Accountancy

Chapter 511. Certification as CPA

★22 TAC §511.79

The Texas State Board of Public Accountancy proposes an amendment to §511.79, concerning request for regrade. The amendment requests for regrading from unsuccessful candidates for the Uniform CPA examination.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to allow the unsuccessful candidates who have reviewed their Uniform CPA examination and the suggested solutions, to submit a written request to have their exam papers regraded. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which

provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the granting of credit to candidates to take the Uniform CPA examination.

§511.79. Request for Regrade. An unsuccessful candidate who thinks his examination warrants a passing grade, and who has obtained a copy of the examination and the suggested solutions, may submit a written request for the board to have [review] the examination paper regraded.

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 May 5, 1986.

TRD-8604734 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 451-0241.

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★22 TAC §511.80

The Texas State Board of Public Accountancy proposes the repeal of §511.80, concerning reexamination upon failure of all subjects. The repeal concerns application requirements for a candidate who has previously failed all parts of the Uniform CPA Examination.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal allows simplified requirements for candidates for reexamination who have failed all parts of the Uniform CPA examination. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the granting of credit to candidates to take the Uniform CPA examination.

§511.80. Reexamination Upon Failure of All Subjects.

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 May 5, 1986.

TRD-8604731 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 451-0241.

★ ★ ★

Partial Reexamination

★ 22 TAC §511.81

The Texas State Board of Public Accountancy proposes the repeal of §511.81, concerning partial reexamination. The repeal concerns the requirements relating to reexamination of candidates for the Uniform CPA examination.

Bob E. Bradley, executive director, has determined that for the first five-year period the proposed repeal will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeal.

Mr. Bradley also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the repeal allows simplified requirements that cover reexamination for individuals who fail all or some parts of the examination. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the granting of credit to candidates to take the Uniform CPA examination.

§511.81. *Partial Reexamination.*

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 May 5, 1986.

TRD-8604732 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 451-0241.

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The Texas State Board of Public Accountancy proposes new §511.81; concerning reexamination. The new section concerns candidates who failed to pass all parts of the previous Uniform CPA examination.

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

Mr. Bradley 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 the new section combines two sections into one, which simplifies requirements for candidates seeking reexamination, whether for one or for all parts of the Uniform CPA examination. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the granting of credit to candidates to take the Uniform CPA examination.

§511.81. *Reexamination.*

(a) Application for reexamination on all or one or more parts of the uniform examination shall be made on the form prescribed by the board, shall be accompanied by the requisite fee, and shall be submitted to the executive director. In order for the application to be accepted, it must continue to show that the candidate remains qualified in all respects to take the examination for a certificate as a certified public accountant.

(b) A candidate who had, prior to September 1, 1979, received credit for any one subject of the examination shall, subject to the approval of his application for reexamination, have the right to be reexamined on the remaining subjects only at subsequent examinations held by the board, except the candidate must pass the remaining subjects within the next 10 consecutive examinations after passing two or more subjects or forfeit all credits received at the end of such 10 consecutive examinations.

(c) A candidate who, after September 1, 1979, shall pass in a single examination two or more subjects, shall have the right, subject to approval of his application for reexamination, to be reexamined on the remaining subjects only at subsequent examinations held by the board, except the candidate must pass the remaining subjects within the next 10 consecutive examinations after passing two or more subjects or forfeit all credits received at the end of such 10 consecutive examinations.

(d) A candidate who, on September 1, 1979, was registered with the board as a public accountant and who shall receive a first credit for one or more subjects at a single examination after September 1, 1979, shall have the right, subject to the approval of his application for reexamination, to be reexamined on the remaining subjects within the next 10 consecutive examinations after passing one or more subjects, or forfeit all credits received at the end of such 10 consecutive examinations.

(e) A candidate who, on September 1, 1979, had received credit for two or more subjects of the examination shall have the right, subject to the approval of his application for reexamination, to be reexamined on the remaining subjects only at subsequent examinations held by the board, and is entitled to an unlimited number of reexaminations on the remaining parts of the examinations.

(f) For the purposes of this section, the subject "accounting practice" shall count as two subjects on examinations taken after September 1, 1979, but not earlier examinations.

(g) When a candidate shall have received credit for all subjects, subject to the time limitations imposed by the Act and this section, the candidate shall then be considered to have passed the examination and may make application for certification as a certified public accountant.

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 May 5, 1986.

TRD-8604733 Bob E. Bradley
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption:
June 23, 1986
For further information, please call
(512) 451-0241.

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TITLE 28. INSURANCE Part I. State Board of Insurance

Chapter 5. Property and Casualty Insurance

Subchapter E. Texas Catastrophe Property Insurance Association Plan of Operation

★ 28 TAC §5.4001

The State Board of Insurance proposes an amendment to §5.4001, concerning protection of directors and officers in the operation of the Texas Catastrophe Property Insurance Association under the association's plan of operation, in response to a petition by the association. This amend-

ment is necessary to clarify the plan of operation by adding language specifically including members and employees in provisions for protection and indemnification which have formerly included references to directors and officers. The Insurance Code, Article 21.49, §11, provides for indemnification of directors, members, officers, and employees.

G. J. Jones, deputy insurance commissioner for the property insurance 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. Jones 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 clarification of §5.4001(b)(6) to conform to the language of the Insurance Code, Article 21.49, §11. Aside from possible reimbursement of members and employees by the association, there is no foreseen possible economic cost to persons required to comply with the amendment as proposed. 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 G. J. (Jack) Jones, Deputy Insurance Commissioner, Property Insurance Program, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment is proposed under the Insurance Code, Article 21.49, §5(d) and §11. Article 21.49, §5(d), provides that the directors of the Texas Catastrophe Property Insurance Association may, subject to the approval of the Board of Insurance, amend the association's plan of operation at any time. Article 21.49, §11, provides for indemnification of each director, member, officer, and employee by the association.

§5.4001. *Plan of Operation.*

(a) (No change.)

(b) Operation of the Texas Catastrophe Property Insurance Association.

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

(6) Protection of directors, [and] members, officers, and employees. The association shall indemnify each former, present, and future director, [or] member, officer, and employee of the association against, and each such director, [and] member, officer, and employee shall be entitled without further act on his part of indemnity from the association for, all expenses (including the amount of judgements and the amount of reasonable settlements made with a view to the curtailment of costs of litigation, other than amounts paid to the association itself) reasonably incurred by him in connection with or arising out of any action, suit, or proceeding in which he may be involved by reason of his being or having been a direc-

tor, [or] member, officer, or employee of the association or of any other association or company which he serves as a director, [or] member, officer, or employee at the request of the association, whether or not he continues to be such director, [or] member, officer, or employee at the time of incurring such expenses; provided, however, that such indemnity shall not include any expenses incurred by and such director, [or] member, officer, or employee in respect of matters as to which he shall be finally adjudged in any such action, suit, or proceeding to be liable for willful misconduct in the performance of his duty as such director, [or] member, officer, or employee, or in respect of any matter in which any settlement is effected in any amount in excess of the amount of expenses which might reasonably have been incurred by such director, [or] member, officer, or employee had such litigation been conducted to a final conclusion; provided, further, that in no event shall anything herein contained be so construed as to protect, or to authorize the association to indemnify such director, [or] member, officer, or employee against any liability to the association or to its members to which he would otherwise be subject by reason of his willful misfeasance, bad faith, gross negligence, or reckless disregard of the duties involved in the conduct of his office as such director, [or] member, officer, or employee. The foregoing right of indemnification shall inure to the benefit of the heirs, executors, or administrators of each such director, [or] member, officer, or employee and shall be in addition to all other rights to which such director, [or] member, officer, or employee may be entitled as a matter of law. **This indemnification shall in no way indemnify a member of the association from participating in the writings, expenses, profits, and losses of the association in the manner set out in this plan of operation or the Act.**

(7) (No change.)

(c)-(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 May 19, 1986.

TRD-8604847 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Earliest possible date of adoption:
June 23, 1986

For further information, please call
(512) 463-8327.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 301. Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements

Subchapter D. Notice and Hearing

★31 TAC §301.51

The Texas Water Commission proposes new §301.51, concerning notice required. The new section distinguishes between types of notice required and specifies that only notice in compliance with the Open Meetings Act is required for district plans of reclamation. The section will not result in any change in handling of applications; it will merely incorporate into rule form current practice of the commission and make for a clearer understanding of notice procedures required. The new section is proposed as a result of comments received by the commission from Ronald Freeman and Larry Dunbar.

Bobbie J. Barker, chief fiscal officer, 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. Barker also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clearer understanding and effective administration of notice procedures required for levees and other improvements and district plans of reclamation. 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 Wade Russell, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

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

§301.51. *Notice Required.* The notice procedures set forth in this subchapter are required for applications for approval of levees and other improvements for which commission approval is required pursuant to the Texas Water Code, §16.236. For the approval of a district's proposed plan of reclamation not involving levees and other improvements for which approval is required pursuant to the Texas Water Code, §16.236, notice in compliance with the Open Meetings Act shall

be sufficient, and the notice procedures set forth in this subchapter shall not be required.

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 May 14, 1986.

TRD-8604743 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption:

June 23, 1986

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
Chapter 27. ICF-MR
Subchapter UUUU. Support Documents

★ **40 TAC §27.9801**

The Texas Department of Human Services proposes an amendment to §27.9801, concerning reimbursement methodology for ICF-MR vendor rates. The amendment permits per-diem supplemental reimbursements to ICF-MR VI facilities providing care for recipients whose needs require amounts of care that are substantially greater than those normally associated with ICF-MR VI services.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the section will be in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The estimated additional costs to the state are \$146,527 in fiscal year 1986; \$433,118 in fiscal year 1987; \$440,153 in fiscal year 1988; \$443,696 in fiscal year 1989; and \$443,906 in fiscal year 1990. There is no effect on local government or small businesses.

Mr. Packard 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 ICF-MR providers will be able to continue offering care to recipients whose needs for exceptional amounts of care might otherwise impose economic burdens on the facilities or might bar eligible residents from ready access to appropriate care. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator,

Policy Development Support Division-263, Texas Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§27.9801. Reimbursement Methodology for Vendor Rates.

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

(d) Rate setting methodology. Reimbursement rates for each class of service are determined by selecting the projected per diem expense, multiplied by [times] 1.07, from each cost area within each class of service that [which] corresponds with the median Medicaid day of service, and summing the cost area amounts to determine the per diem reimbursement rates. Except as specified in paragraphs (5) and (6) of this subsection, the department applies this methodology to services provided on or after January 1, 1984. [The department will apply this methodology to services provided on or after January 1, 1984.]

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

(6) Supplemental reimbursement rate determination for ICF-MR VI. Because the needs of some ICF-MR VI recipient-patients require significantly greater-than-normal amounts of care, the reimbursement rates for these recipient-patients are supplemented for services rendered on or after May 1, 1986. The supplemental rates apply only when recipient-patients' level-of-care assessment forms indicate qualifying scores for all six of the following criteria:

Conditions/Procedures	Qualifying Scores
Mobility/Ambulation	6
Transferring	7
Bathing	7
Dressing/Grooming	7
Eating	6
Toileting	7

(A) The department determines the service-delivery cost for the supplemental ICF-MR rate by calculating the estimated time required by the appropriate class of direct-care personnel. To calculate this time estimate, the department uses the results of time/motion studies conducted by the State of Ohio and found to have nationwide validity. Each time-estimate is multiplied by the projected hourly wage-rate for a given class of personnel. The projected wage-rate includes a factor for payroll, taxes, and benefit expenses. To estimate employee compensation costs, the department uses its Medicaid-provider cost reports and wage-and-hour survey data.

(B) The department determines what portion of the ICF-MR VI class rate covers employee compensation costs for direct-care personnel.

(C) The ICF-MR VI supplemental reimbursement rate is the difference between

the results of calculations described in subparagraphs (A) and (B) of this paragraph.

(e) (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 May 23, 1986.

TRD-8604842 Marlin W. Johnston
Commissioner
Texas Department of Human Services

Earliest possible date of adoption:

June 23, 1986

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

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Chapter 79. Legal Services

The Texas Department of Human Services proposes the repeal of §§79.1601-79.1614 and new §§79.1601-79.1614, concerning contract appeals procedures, in its legal services rule chapter. The proposal allows for contractors' appeals to be conducted before an administrative law judge rather than before the current four-member Contract Appeals Committee. Additional discovery processes are also cited. Nursing facilities placed on sanction vendor hold will have a right to a hearing even if the hold is released before the hearing.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed repeals 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 repeals. For the first five-year period the sections are in effect there will be fiscal implications for state government. The cost to state government will be \$42,420 in fiscal year 1986 and \$43,683 in fiscal years 1987-1990. There will be no effect on local government or small businesses.

Mr. Packard also has determined that for each year of the first five years the repeals and sections are in effect the public benefit anticipated as a result of enforcing the repeals and section will be that hearings will be more expeditiously scheduled and completed, the decisions reached will be more uniform, and all parties will more clearly understand their appeal rights and the procedures used to protect those rights. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals and sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-607, Department of Human Services 153-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

Subchapter Q. Contract Appeals

★ 40 TAC §§79.1601-79.1614

The repeals are proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance programs.

- §79.1601. *Special Requirements for Nursing Facility Contracts.*
- §79.1602. *Preliminary Matters.*
- §79.1603. *Right to Appeal.*
- §79.1604. *Definitions.*
- §79.1605. *Notice of Adverse Action.*
- §79.1606. *Request for Appeal.*
- §79.1607. *Effective Dates of Contract Cancellation.*
- §79.1608. *Contract Appeals Committee.*
- §79.1609. *Hearing Guidelines.*
- §79.1610. *Withdrawal of Hearing Request and Informal Disposition.*
- §79.1611. *General Requirements for Hearings.*
- §79.1612. *Rules of Evidence.*
- §79.1613. *Deliberation.*
- §79.1614. *Decisions.*

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 May 19, 1986.

TRD-8604843 Marlin W. Johnston
 Commissioner
 Texas Department of
 Human Services

Earliest possible date of adoption:

June 19, 1986

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

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The new sections are proposed under the Human Resources Code, Title 2, Chapter 22 and Chapter 32, which authorizes the department to administer public assistance rules.

§79.1601. *Definitions.* The following words and terms, when used in this section, have the following meanings unless the context clearly indicates otherwise.

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

Adverse action—Any action in which the department:

- (A) terminates or suspends a contract between a person and the department before the contract's stated expiration date;
- (B) denies payment in whole or part for any claim(s) arising under a contract when the contractor has filed the claim within the time limits allowed by the contract or by department rules;
- (C) terminates or suspends payments in whole or part to a contractor;
- (D) demands payment for contract or rule violations;

(E) directs one of its contractors to terminate or suspend a subcontract or payments to any subcontractor or provider of medical services;

(F) chooses not to renew a nursing facility contract; or

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

Commissioner—The commissioner of the Texas Department of Human Services.

Contract—Any written document (or series of documents) that obligates the department to pay money to a person in exchange for goods or services from that person or that obligates the department to provide goods or services in exchange for money.

Contractor—Any person with whom the department has a written contract or a provider of medical services who has been approved for participation in the Title XIX Medical Assistance Program.

Days—Calendar days, unless otherwise specified.

Department—The Texas Department of Human Services.

Person—An individual, partnership, corporation, association, governmental subdivision or agency, or a public or private organization of any character.

Petitioner—Any person who has filed a written appeal of adverse action according to these procedures.

Respondent—The department.

§79.1602. *Right to a Hearing.*

(a) A contractor has the right to a hearing on any adverse action as defined in §79.1601 of this title (relating to Definitions).

(b) The appeal procedures in §79.1605 of this title (relating to Request for a Hearing) and §§79.1607-79.1614 of this title (relating to Administrative Law Judge; Hearing Guidelines; Withdrawal of Hearing Request and Informal Disposition; Conduct of Hearings-General Requirements; Prehearing Procedure; Evidence and Dispositions; Deliberation; and Decisions) are available if the department initiates or directs the cancellation or termination of a contract or payments to:

(1) providers of medical services who are paid by the department's health insuring agent; and

(2) subcontractors operating under a prime contract between the department and a contractor.

(c) Contractors also have the right to appeal vendor payment holds as stated in §79.1603 of this title (relating to Special Requirements for Nursing Facility Contracts).

(d) Subcontractors and providers of medical services have the right to a hearing on the adverse action defined in §79.1601 of this title (relating to Definitions).

§79.1603. *Special Requirements for Nursing Facility Contracts.* The following requirements apply to ending nursing facility contracts.

(1) If the department plans to deny, terminate, or not renew a nursing facility's Title XIX Medicaid contract, the facility is entitled to a full evidentiary hearing. If the department decides to take the adverse action before providing an evidentiary hearing, the facility is entitled to an informal reconsideration of the department's decision. The department must provide an evidentiary hearing for the facility within 120 days after the adverse action is taken.

(2) A skilled nursing facility that participates in Medicare and Medicaid is entitled to appeal under Medicare appeal procedures before a Medicare forum if the basis for denial, reduction, or nonrenewal of the Medicaid contract also adversely affects the facility's participation in Medicare. The final decision by Medicare officials is binding for Medicaid purposes.

(3) If the department imposes a vendor hold according to §27.2505 of this title (relating to Sanction Provisions for Violation of Title XIX Nursing Facility Contractual Agreements), Chapter 27 of this title (relating to Intermediate Care Facility for Mentally Retarded) and §16.1510 of this title (relating to Sanction Provisions for Violations of Title XIX Nursing Facility Contractual Agreements) of the ICF/SNF standards for participation, the affected nursing facility is entitled to contest the hold even if it is released before the hearing.

§79.1604. *Notice of Adverse Action.*

(a) The commissioner or his designee is authorized to make decisions concerning adverse action.

(b) The commissioner or his designee sends the contractor a notice advising him of any adverse action. The notice is sent by certified mail, return receipt requested, unless the department determines that a more immediate form of notice is required. The notice includes enough details of the contractor's noncompliance with the provisions of the contract or other basis for the adverse action to enable the contractor to request a hearing under §79.1605 of this title (relating to Request for a Hearing). The notice also informs the contractor that he has the right to a hearing to contest the adverse action by sending a written request to the general counsel. Notices advising contractors of contract cancellations must specify whether the contract will remain in force pending completion of the appeal process.

(c) If the department is unable to state the matters in detail at the time the initial notice of adverse action is served, the initial notice may be limited to a statement of the issues involved. Later, and with a timely ap-

plication from the petitioner, the department's legal representative must furnish the petitioner with a more definite and detailed statement no less than three days before the date set for the hearing.

(d) The department does not have to give a notice of adverse action with each billing transaction for areas of the department that have a large volume of bills or which routinely post debit and credit entries. The department must give the contractor an individual notice of appeal rights any time the contractor informs the department he is dissatisfied with a claim transaction which is an adverse action according to these sections.

(e) Department administrative staff and regional administrators have the responsibility for:

(1) making reasonable attempts to keep contractors informed of compliance issues;

(2) resolving, whenever possible, compliance issues before adverse action is necessary.

§79.1605. *Request for a Hearing.*

(a) A contractor must file a written request for a hearing within 10 days after receiving the official notice of action from the department. The request for a hearing must be addressed to the general counsel. The request for the hearing may be in the form of a petition or a letter. It must state the reasons the contractor considers he is not subject to the adverse action.

(b) If a request does not state specific reasons, the administrative law judge, on his own motion or a motion from the department representative, may order the contractor to file a written statement of the specific reasons or show good cause why the reasons cannot be stated.

(c) Upon receipt of the contractor's written request for a hearing, the matter will be referred to the administrative law judge for disposition according to these sections.

§79.1606. *Effective Dates of Adverse Actions.*

(a) If the department proposes to cancel a Title XIX contract with a provider of medical assistance and the contractor has asked for a hearing, the department may not carry out its proposed action before the completion of a hearing. This is true except when federal matching funds for continued contract payments are no longer available or when the contract expires by its own terms. If a nursing facility contract is to be denied, terminated, or not renewed before a requested hearing is completed, a designee of the deputy commissioner for services to aged and disabled must offer the facility an informal reconsideration of the action before the effective date of the action and attempt to resolve the dispute according to §79.1604(e) of this title (relating to Notice of Adverse Action). Payment may be withheld pending the hearing but must be reinstated retroactively if the hearing decision is favorable to the contractor. If the hearing results are not favorable to the contractor, the effective date of the

termination may be the date specified in the notice of termination; the department is not obligated for services billed after the termination or suspension date.

(b) Contracts with contractors other than Title XIX providers may be cancelled before the completion of the hearing process. All other adverse actions may be implemented before a hearing is held.

§79.1607. *Administrative Law Judge.* An administrative law judge is an attorney appointed by the general counsel or his designee. He hears the case, makes appropriate findings of fact and conclusions of law, and makes the final decision in each case. An attorney who has directly or indirectly participated in, or given advice on issues that are the basis for a particular hearing may not be the administrative law judge in that hearing.

§79.1608. *Hearing Guidelines.*

(a) Department representative. The general counsel or his designee appoints an attorney to represent the department. The attorney has authority over the manner and substance of the presentation of the department's case.

(b) Notice of hearing and statement of issues. If the administrative law judge decides that a petitioner's request for a hearing was filed in a timely manner, he selects a hearing date within 30 days after he receives the request. At least 20 days before the date of the hearing, the administrative law judge must give written notification of the hearing date to the respondent and the petitioner. The administrative law judge may expedite the hearing if any party showing good cause requests it. In this case, all parties must be given at least 10 days notice before the hearing date.

(1) The written notice includes:

(A) a statement of the time, place, and nature of the hearing; and

(B) a statement of the legal authority and jurisdiction under which the hearing will be held.

(2) At least 10 days before the hearing date, the department's representative must deliver to the petitioner and file with the administrative law judge:

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

(B) a concise statement of the matters asserted by the department.

(3) In expedited hearings, the above items must be delivered to the petitioner at least three days before the hearing date.

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

(c) Nature and location of the hearing. The contract hearing is conducted under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a. It is held in Austin, Texas, unless the administrative law judge decides it is necessary to the decision to hold the hearing elsewhere. The administrative law judge decides whether to uphold the adverse action based on all facts and evidence presented at the hearing. He has no authority to overrule state or federal statutes, regulations, or policies, or the terms of the contract in controversy.

(1) Issues must be proven by a preponderance of the evidence.

(2) If the appeal is based on reduction of a contractor's block grant funds, the department must hold one session of the hearing in the contractor's locality if requested in writing by a locally elected official or an organization with at least 25 members. The local session is conducted to hear local public comment about the matter. The request for the local session is sent to the general counsel within 10 days after the contractor requests the appeal.

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

§79.1609. *Withdrawal of Hearing Request and Informal Disposition.*

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

(b) Informal disposition may be made of any case by written stipulation, agreed settlement, consent order, or default.

§79.1610. *Conduct of Hearings—General Requirements.*

(a) The administrative law judge is in charge of proceedings. The administrative law judge has the authority to administer oaths, examine witnesses, issue subpoenas and commissions, and rule on admissibility of evidence and amendments to pleadings. He also may establish reasonable time limits for conducting individual hearings, request additional information, and issue intermediate orders. The administrative law judge has the authority to issue any orders necessary to enforce his rulings. These include, but are not limited to:

(1) exclusion of evidence or witnesses;

(2) exclusion of oral argument;

(3) summary orders or default judgment on any issues; and

(4) postponement or dismissal of the hearing with or without prejudice.

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

(c) The petitioner and the respondent will have an opportunity to call any witnesses desired, but within the limits the administrative law judge sets.

(d) If a party does not appear for the hearing, a default decision may be entered against that party.

(e) The administrative law judge may grant a postponement or continuance of the hearing for just cause.

(f) A record must be made of the proceedings. The record in the case includes:

(1) all pleadings, motions, and intermediate rulings;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on them;

(5) proposed findings and exceptions;

(6) any decision, opinion, or report by the administrative law judge; and

(7) all staff memoranda or data submitted to or considered by the administrative law judge in making his decision.

(g) A stenographic record of each hearing must be made. If requested by the administrative law judge, the proceedings must be transcribed and a transcript given to the administrative law judge. The costs associated with recording and preparing the transcript may be assessed to one or more parties. If a party wants a transcript of the hearing, that party must pay all costs associated with providing the transcript. If a party fails to appear at a hearing and a default decision is entered against that party, the administrative law judge may assess court reporter costs against the defaulting party. The administrative law judge must designate the court reporter to record the proceedings.

(h) The parties to the hearing may conduct cross-examinations required for a full and true disclosure of the facts.

(i) Before or during the hearing, the administrative law judge may call or request any party to call a witness or witnesses the judge believes necessary to make the final decision.

(j) Upon notifying all parties, the administrative law judge may communicate with department employees who have not participated in the hearing for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence. The administrative law judge may allow all parties to be present during such communication and, at his sole discretion, may allow parties to question the employee. The employee's communication is not part of the hearing and need not be recorded.

(k) Any motion relating to a pending proceeding, unless made during a hearing, should be in writing and specify the desired relief and the specific reasons and basis for

this relief. If based upon matters which do not appear of record, it must be supported by affidavit. Motions must be filed with the administrative law judge.

(l) A party filing any protest, reply, answer, motion, or other pleading in any hearing after the hearing request has been filed, must mail or otherwise deliver a copy to every other party of record. If any party has appeared in the proceeding by attorney or other representative authorized to make appearances, the attorney or other representative must be served. The willful failure of any party to make such service will be sufficient grounds for the administrative law judge to enter an order striking the pleading from the record.

(m) A certificate by the party, attorney, or representative who files a pleading stating that it has been served on the other parties will be prima facie evidence of service. The following form of certificate is sufficient: I hereby certify that I have this day of _____, 19____, served copies of the foregoing pleading upon all other parties to this proceeding, by (here state the manner of service). _____Signature

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

(o) Records of the hearing will be kept in department files for four years after a final decision is rendered or until any subsequent litigation arising from the hearing has been resolved.

§79.1611. Prehearing Procedure.

(a) Prehearing conference. On the motion of the petitioner or the respondent or on his own motion, the administrative law judge may direct the parties and their attorneys or representatives to appear before him at a specified time and place for a conference before the hearing for the purpose of formulating issues and considering:

(1) the possibility of making admissions of certain averments of facts or stipulations to avoid the unnecessary introduction of proof;

(2) the simplification of issues;

(3) the procedure at the hearing;

(4) the limitation, when possible, of the number of witnesses; and

(5) such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy, including settlement of such issues as are in dispute.

(b) Discovery and production of documents and things for inspection, copying, or photographing. In all discovery matters not specifically governed by these sections, the Texas Rules of Civil Procedure are followed. Upon the timely motion of any party and notice to all other parties and subject to such limitations of the kind provided for discovery under the Texas Rules of Civil Pro-

cedure, the administrative law judge may order any party to produce and permit the inspection and copying or photographing by or on behalf of the moving party any of the following that are in his possession, custody, or control any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain, or are reasonably calculated to lead to the discovery of, evidence material to any matter involved in the action, and permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation on the property that may be material to any matter involved in the action.

(1) The order must specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe such terms and conditions as are just.

(2) The identity and location of any potential party or witness may be obtained from any communication or other paper in a party's possession, custody, or control; any party may be required to produce and permit reports, including factual observations and opinions of an expert called as a witness, to be inspected and copied. The rights granted in this section may not extend to other written statements of witnesses or other written communication passing between agents or representatives or the employees of any party to the suit or to other communications between any party and his agents, representatives, or other employees, where made subsequent to the occurrence or transaction upon which the appeal is based and made in connection with the prosecution, investigation, or defense of such claim or the circumstances out of which the claim arose.

(3) Any person, whether or not a party, is entitled to obtain, upon request, a copy of any statement he has previously made concerning the action or its subject matter, which is in any party's possession, custody, or control. If the request is refused, the person may move for an order under this section. For the purpose of this subsection a statement previously made is:

(A) a written statement signed or otherwise adopted or approved by the person making it; or

(B) a stenographic, mechanical, electrical, or other recording or a transcription of the same statement, which is a substantially verbatim recital or an oral statement by the person making it and which is contemporaneously recorded.

(c) Nonparty discovery. The administrative law judge may order a person, organizational entity, governmental agency, or corporation not a party to the hearing to produce according to this section. He may make this order only after a motion specifically stating the request and necessity for it is filed. All parties and those who are not parties must have the opportunity to object

in writing to the motion. At his own discretion, the administrative law judge may hold a hearing on the motion.

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

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

§79.1612. Evidence and Depositions.

(a) Rules of evidence.

(1) Irrelevant, immaterial, or unduly repetitious evidence will be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of the state must be followed. When necessary to determine facts not reasonably susceptible of proof under those rules, evidence not admissible under those rules may be admitted. This is true except when precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The rules of privilege recognized by law are in effect. Objections to evidentiary offers may be made and must be noted in the record. Subject to these requirements, any part of the evidence may be received in written form if a hearing will be expedited and if the parties' interest will not be substantially prejudiced. The prepared testimony of a witness upon direct examination, either in narrative or question-and-answer form, may be incorporated in the record as if read or received as an exhibit after the witness has been sworn and has identified that the prepared testimony is as true and accurate as his oral testimony would be. The witness is subject to clarifying questions and to cross-examination. The prepared testimony is subject to a motion to strike either in whole or in part.

(2) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. On request, parties are given an opportunity to compare the copy with the original.

(3) Official notice may be taken of all facts judicially known. In addition, notice may be taken of generally recognized facts within the area of the department's specialized knowledge. Parties must be notified either before or during the hearing, or by reference in preliminary reports or otherwise,

of the material officially noticed, including any staff memoranda or data. Parties must be given an opportunity to contest the material so noticed. The special skills or knowledge of the department and its staff may be used in evaluating the evidence.

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

(c) Depositions.

(1) On its own motion or on any party's written request and on the deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under this section, the department may issue a commission, addressed to the several officers authorized by the statute to take depositions, to require that the deposition of a witness be taken. The commission authorizes the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects as may be necessary and proper for the purposes of the proceeding. The commission may be issued by the commissioner or his designee and the administrative law judge. The deposition of a member of an agency board may not be taken after a hearing date has been set. The deposition is taken according to the requirements of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(2) A deposition may be returned to the department either by mail, by a party interested in taking the deposition, or by any other person. If returned by mail, the department must endorse the deposition to show that it was received from the post office. The department employee receiving the deposition must sign it. If not sent by mail, the person delivering it to the department must make an affidavit before a department representative:

(A) that he received it from the hands of the officer before whom it was taken;

(B) that it has not been out of his possession since; and

(C) that it has undergone no alteration.

(3) After the deposition is filed with the department, any department employee may open the desposition at the request of either party or his counsel. The employee must endorse the deposition by entering the date and who requested it be opened. The employee then signs the deposition. The deposition must remain on file with the department and may be inspected by any party.

(d) Filing. Requests for commissions or subpoenas are addressed to the administrative law judge.

(e) Reimbursement of witness or deponent.

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

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

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

(2) Travel expense and fees for non-employee witnesses the department calls are paid by the program area responsible for the contract under which the appeal arose. Travel expenses and fees for nonemployee witnesses called by the petitioner are the petitioner's responsibility and fees payable to these witnesses are not governed by this subsection.

(f) Failure to comply. If a person fails to comply with a subpoena or commission, the department, acting through the attorney general or the party requesting the subpoena or commission, may bring suit to enforce the subpoena or commission in a district court in Travis County or in the county in which a hearing conducted by the department is held.

§79.1613. Deliberation. After all evidence has been heard, the administrative law judge adjourns the hearing. Within 60 days from the date of adjournment, the administrative law judge makes a final decision upon the appeal.

§79.1614. Decisions.

(a) The final decision will be based solely upon the record of the individual case. The final decision will be in writing and will include the findings of fact and conclusions of law separately stated.

(b) Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(c) Findings of fact must be based exclusively on the evidence and on matters officially noticed. If a party submits a proposed finding of fact, the decision must include a ruling on each proposed finding.

(d) The administrative law judge enters the orders that are necessary to implement his decision. The administrative law judge may also make other recommendations that he considers appropriate.

(e) The decision is mailed by certified mail, return receipt requested, or personally delivered to the petitioner or his attorney and to the respondent.

(f) Either party may file a written motion for a rehearing. This motion must be addressed to the administrative law judge and must be filed within 15 days after the date that the final decision has been rendered. Replies to a motion for a rehearing must be filed within 25 days after the date that the final decision was rendered. The administrative law judge either grants or denies the motion for a rehearing within 45 days after the date that the final decision was rendered.

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 May 19, 1986.

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Marlin W. Johnston
Commissioner
Texas Department of
Human Services

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For further information, please call

(512) 450-3766.



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EX-100-11111

Adopted Rules

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

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

TITLE 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 70. Industrialized Housing and Buildings

The Texas Department of Labor and Standards adopts new §§70.1-70.4, 70.10-70.13, 70.20-70.22, 70.25-70.27, 70.30-70.42, 70.50-70.52, 70.101-70.105, 70.125, and 70.126.

New §§70.3, 70.4, 70.11, 70.12, 70.22, 70.25, 70.32-70.40, 70.50, 70.52, and 70.101-70.104, are adopted with changes to the proposed text published in the November 19, 1985, issue of the *Texas Register* (10 TexReg 4465). The other sections are adopted without changes, and will not be republished

The adoption of these new sections provides the necessary implementation steps and enforcement procedures that are required by Texas Civil Statutes, Article 5521f-1, to assure that industrialized housing and buildings meet or exceed the mandatory state building code.

The new sections delineate the responsibilities and interface between the Texas Industrialized Building Code Council, local municipalities, and the department in the implementation and enforcement of the Act. The new sections also provide manufacturers, builders, the third-party agencies the necessary procedures and requirements to comply with the Act.

On November 26, 1985, the Texas Department of Labor and Standards conducted a public hearing pursuant to Texas Civil Statutes, Article 6252-13a, §5. The department also accepted additional written comments on the hearing until December 6, 1985. The purpose of the hearing was to afford concerned parties the opportunity to present comments on the department's new sections that regulate industrialized housing and buildings to assure they meet or exceed the mandatory state building code, prior to their permanent adoption

Persons who made comments and suggestions were: Charles Clawson, representing the City of Arlington and the Texas Industrialized Building Code Council; James Dodds, representing the Texas Association of Builders; Ronald E. Hudson, P.E.,

representing the City of Houston; Jan A. Sokolnicki, representing Cardinal Industries, Inc.; Ramon Guajardo, representing the City of Fort Worth; Richard Royston, representing the City of North Richland Hills; David F. Morris, representing Morgan Building Systems, Inc.; Bill Hennings, representing the City of Corpus Christi; and James E. Bertram, representing the City of Lubbock. Their comments and department responses are discussed in the following paragraphs.

Mr. Sokolnicki recommended changing §70.1 to indicate that the intent of the Act and sections is to make specific and regulate the construction and administration of industrialized housing, buildings, and modular components for use in and transportation within Texas. The department reviewed the recommendation and determined that §70.1 and §70.2 adequately set forth the intent.

Mr. Morris recommended the addition of a paragraph (6) to §70.3 exempting portable buildings that are constructed on permanently attached wood skids so as to be winched on and off low-boy trailers. The department determined that it did not have the authority to exempt portable buildings through administrative fiat. The department, however, has added a paragraph (6) to §70.3, which requires that portable builders comply with the Act.

Mr. Dodds suggested that a more specific term than builder be used in §70.4(3) because it caused confusion and misunderstanding with on-site builders. The department agreed and added industrialized to make the definition more specific in §70.4(18)

Mr. Sokolnicki recommended deleting the word decal in §70.4(11) and using decal and insignia interchangeably. The department determined that modules and modular components should be separated for administrative and management purposes.

Mr. Guajardo recommended that §70.4(15) include a statement that the stamp shall not be affixed to plans that do not meet the mandatory codes. The department determined that the statement should not be included in the definition but did include it in §70.34(e).

Mr. Morris requested that §70.4(23) include a statement that only manufacturers regulated by the Act and these sections were

included in the definition. The department determined that the additional verbiage was not necessary since it is already inherent throughout the sections that manufacturers not constructing structures that come under the Act would not come within the purview of these sections.

Mr. Morris suggested a revised definition for a permanent foundation system. The department determined that his proposed definition would substantially modify the application of the mandatory codes with reference to what is, or is not, a permanent foundation.

Mr. Guajardo suggested that definitions for sectional and panelized systems and ready built home be included in the definitions. Because of the differing opinions about how these terms should be defined, the department will conduct additional study before the inclusion.

Mr. Sokolnicki requested that on-site construction documentation be added to §70.11(1) and (6). The department concurred with the request.

Mr. Guajardo requested that a statement regarding uniformity of fees be included in §70.11(2), as required by Texas Civil Statutes, Article 5221f-1. The department added applicable local fees to §70.11(2).

Mr. Clawson, Mr. Hudson, and Mr. Sokolnicki requested that the phase approved by the council be deleted from §70.11(7) and replaced with the applicable building code. The department concurred and revised the section to authorize all tests which are required by the mandatory codes.

Mr. Hennings suggested that reports of violations should not be submitted by certified mail as specified in §70.11(8). The department recognizes that the requirement to send violations by certified mail is somewhat restrictive; however, the department believes that for protection of the local building official, certified mail is justified.

Mr. Bertram and Mr. Guajardo suggested that §70.11(9) was unrealistic and should be changed. The statute is very specific on this issue; neither the council nor the department has any discretion in this matter.

Mr. Guajardo suggested modifying §70.12(3) to read that certification should not prevent the review of plans where authori-

ty for plans review is given to an agency or jurisdiction. The department determined that the additional language was not necessary because the authority for plan review is set forth rather specifically in the Act.

Mr. Guajardo suggested that two public hearings be required prior to the council adopting an amendment to the mandatory state codes in §70.12(4). The council and the department agreed that the public hearing required by §5(l) of Texas Civil Statutes, Article 5221f-1, is sufficient.

Mr. Bertram was against §70.13(1), because he felt that the state had preempted local authority to regulate industrialized buildings. Texas Civil Statutes, Article 5221f-1, §6, mandates the department to do this.

Mr. Bertram felt that §70.22(c) amended local codes beyond the scope of the Act and would regulate more than industrialized housing and building. The department determined that only those structures which meet the definition of industrialized housing and buildings as set forth in the Act, §1, will be affected by §70.22(c) as written.

Mr. Sokolnicki suggested that third party inspectors be included in §70.22(c) as officials. The department disagreed since the department does not delegate this authority to its inspectors.

Mr. Clawson, Mr. Bertram, and Mr. Sokolnicki objected to §70.25. The department agreed to align §70.25(a) with the mandatory codes. The council has agreed to allow input from local building officials with reference to alternate materials and methods of construction.

Mr. Bertram objected to §70.26, because it takes away local amendments to the mandatory codes. This provision is mandated by Texas Civil Statutes, Article 5221f-1, and cannot be changed by the department or the council. He also objected to §70.27 because it conflicts with §70.26, in that one states that local amendments do not apply to industrialized housing and buildings and the other states that it should be treated the same as on-site construction. The language of this section essentially comes from the Act and cannot be changed.

Mr. Sokolnicki recommended that subsection (a) of §70.3 be deleted. The department determined that subsection (a) was required to assure entry to the premises of those persons which are not registered under the Act.

Mr. Morris suggested that §70.32(c) be rewritten to state that a manufacturer or builder should file only one registration listing all of their manufacturing facilities or offices to be covered by the Act. Mr. Sokolnicki also objected to the registration of each manufacturing facility. Those operating both as a manufacturer and builder would be required to make one registration as a manufacturer and one registration as a builder. The department

determined that the proposed registration requirements are equitable and within the authority of the department as mandated by the legislature in Texas Civil Statutes, Article 5221f-1.

Mr. Sokolnicki suggested to further clarify what is required in the field and what is provided to the design review agency was adopted and included in the change to §70.34(d).

Mr. Guajardo suggested that stress diagrams be added to §70.34(c)(11) and species of lumber, modulus of elasticity, F's, and lumber grade added as paragraph (18) and strength of steel for construction of steel as paragraph (19). The department determined that these items were already adequately addressed by §70.34(c)(1) and (11).

Mr. Morris suggested that a sentence to §70.34(f) be added, which states that any withdrawal of approval by a design review agency shall have prospective effect only, except for life safety items. The department agreed, and added the last sentence to §70.34(f).

Mr. Sokolnicki suggested, and the department agreed, to add the words "or the department" to the end of the last sentence in §70.35(a), which covers the department when performing as a design review agency. He also suggested replacing §70.35(b)(9)(A) with "identify and establish procedures for tests necessary to assure compliance to the mandatory codes such as: water supply line pressure test, drain waste and vent test, polarity and continuity test, etc." The department determined that the phrase "where applicable" in paragraph (9) qualifies subparagraph (A) and the change is not required.

Mr. Sokolnicki suggested that §70.36(a) be changed to further clarify the difference between the design package and the site details. The department adopted this suggestion. Mr. Morris and Mr. Sokolnicki suggested that §70.36(c) be deleted and the foundation drawing approval be the responsibility of the local building official. The department determined that the subsection is essential since on-site construction outside of a municipality is the responsibility of the department or a designated third-party inspector.

Mr. Morris suggested that plant certifications in §70.37(a) should be conducted by a team of one or more department inspectors or third-party inspectors. The department determined that the Act gives the department the latitude to designate third-party inspectors if required and the requested change is not needed.

Mr. Morris requested that §70.38(a) be changed to state that only the manufacturer's production coming within the provisions of the Act would be inspected. The department determined that it is not necessary to include such language since it is implied throughout the Act and the sec-

tions that only those structures defined in the Act will be regulated.

Mr. Sokolnicki requested that §70.38(c) be changed to allow the manufacturer the option of choosing an approved third-party inspector to perform plant inspections. The department believes that the section as written best serves the regulatory system, the public, and the provision of the Act which permits the department to designate third party inspectors to perform plant inspections.

Mr. Sokolnicki suggested that §70.39(b) be reworded to avoid misunderstanding the intent of who is responsible for an on-site inspection. The department agrees and the change has been accomplished.

Mr. Morris, Mr. Sokolnicki, and Mr. Guajardo requested changes to §70.39(c) ranging from allowing the local building official to approve the on-site design package to not allowing a registered engineer or architect to approve the on-site design package. The department determined that allowing the local building official to approve the design package conflicted with Texas Civil Statutes, Article 5221f-1, §3, and as written the subsection conforms to the authority of architects and engineers pursuant to the appropriate registration statutes of the State of Texas; therefore, a change is not required.

Mr. Morris suggested that the manufacturer's data plate in §70.40(b)(1) contain the manufacturer's name and home address and only the first four entries. The department determined that the manufacturer has substantial flexibility in regard to the data plate and all of the entries are required.

Mr. Sokolnicki recommended that the words "approved by the council" in §70.39(d) be replaced with the words "the applicable mandatory code." The department agreed with the recommendation and the change has been made.

Mr. Hennings suggested that wind speed be added to §70.40(b)(9), and the department incorporated the suggestion.

Mr. Morris suggested that §70.42 be deleted. The department designed this provision to assist manufacturers who produce units for use within Texas as well as for other states. Units built for out-of-state use are not subject to the Act.

Mr. Morris suggested that §70.50(b)(4) be changed to indicate the location and description of the type of structure for which a certificate of occupancy was issued by the city to the builders during the month. The department adopted this suggestion.

Mr. Morris suggested that manufacturer's fee in §70.52(a) be changed to biannually and that the manufacturer pay for not more than two inspections annually. He also suggested that subsection (h)(1), decal fees, be assessed according to the size of the module. He also suggested a

registration fee based on a percentage of products built that come under the Act.

Mr. Sokolnicki also proposed a similar fee schedule for registration and a decal/insignia fee based on square footage. The department determined that it would be more equitable to assess the decal fee on the basis of square footage and the change has been incorporated. The registration fees were not changed since the department is mandated by the legislature to collect sufficient revenue to pay for the administration of the Act.

Mr. Clawson, Mr. Morris, Mr. Hennings, and Mr. Sokolnicki questioned the five-day response time of the local building official and the response time of the commissioner and the council. The department in concert with the council agreed to change the local building officials response time to seven working days, the commissioner's response time to three working days, and the council's response time to the next scheduled council meeting, not to exceed 45 days.

Mr. Morris and Mr. Sokolnicki requested that the owner information be deleted or reduced in content in §70.104 since the same is not required for site-built structures. The department determined that it is necessary to provide owner information for the protection of the customer.

Mr. Guajardo suggested that paragraph (5) be added to §70.104 to include a site plan showing the on-site location of all utilities and utility taps. The department adopted this suggestion.

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

Subchapter A. Legislative Intent, Purpose, Scope, and Definitions

★ 16 TAC §§70.1-70.4

§70.3. Scope of Rules. The scope of the sections in this chapter is limited by the Act; accordingly they do not apply to:

(1) mobile homes or HUD-code manufactured homes as defined in Texas Civil Statutes, Article 5221f;

(2) housing constructed of sectional or panelized systems not utilizing modular components;

(3) ready-built homes which are constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location; provided that modular components are not utilized nor used in the construction of the ready-built home;

(4) any residential or commercial structure which is in excess of three stories or 49 feet in height as measured from the finished grade elevation at the entrance of the structure to the peak of the roof; or

(5) temporary structures which are specifically referenced in the mandatory codes;

(6) a structure designated by a manufacturer as not being designed to be placed on a permanent foundation. Structures so designated by the manufacturer shall have a seal attached by the manufacturer stating that the structure is not designed for placement on a permanent foundation. A municipality with the authority to regulate structures may require a Texas decal on any structure which is placed within its jurisdiction.

§70.4. Definitions.

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

(1) Act—Texas Civil Statutes, Article 5221f-1, as passed in House Bill 1218, Acts of the 69th Legislature, 1985.

(2) Building site—See site, paragraph (35) of this subsection.

(3) Building system—The design and/or method of assembly of modular components represented in the plans, specifications, and other documentation which may include structural, electrical, mechanical, plumbing, fire protection, and other systems affecting health and safety.

(4) CABO—Council of American Building Officials composed of ICBO, SBCCI, and Building Officials and Code Administrators International, Inc. (BOCA).

(5) Commercial structure—An industrialized building classified by the applicable model code for occupancy and use groups other than residential for one or more families.

(6) Commissioner—Commissioner of the Texas Department of Labor and Standards.

(7) Compliance Assurance Program—The system, documentation, and methods of assuring that industrialized housing, buildings, and modular components, including their manufacture, storage, transportation, assembly, handling, and on-site construction, conform with the Act and these rules and regulations.

(8) Component—A subassembly, subsystem, or combination of elements for use as a part of a building system or part of a modular component that is not structurally independent, but may be part of structural, plumbing, mechanical, electrical, fire protection, or other systems affecting life safety.

(9) Closed construction—That condition when any industrialized housing or building, modular component, or portion thereof is manufactured in such a manner that all portions cannot be readily inspected at the site without disassembly or destruction thereof.

(10) Council—The Texas Industrialized Building Code Council.

(11) Decal—The approved form of certification issued by the department to the manufacturer to be permanently affixed to the module indicating that it has been constructed to meet or exceed the code requirements and in compliance with these sections.

(12) Design package—The aggregate of all plans, designs, specifications, and documentation required by these sections to be submitted to the design review agency, or required by the design review agency for compliance review, including the compliance assurance manual and the on-site construction documentation. Unique or site specific foundation drawings and special on-site construction details prepared for specific projects are not a part of the design package except as expressly set forth in §70.103 of this title (relating to Alterations or Deviations).

(13) Design review agency—An approved organization, private or public, determined by the council to be qualified by reason of facilities, personnel, experience, and demonstrated reliability to review designs, plans, specifications, and building systems documentation, and to certify compliance to these sections evidenced by affixing the council's stamp.

(14) Department—Texas Department of Labor and Standards.

(15) ICBO—International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(16) Insignia—The approved form of certification issued by the department to the manufacturer to be permanently affixed to the modular component indicating that it has been constructed to meet or exceed the code requirements and in compliance with these sections.

(17) Industrialized builder—A person who is engaged in the assembly, connection, and on-site construction and erection of modules or modular components at the building site or who is engaged in the purchase of industrialized housing or buildings or of modules or modular components from a manufacturer for sale to the public; a subcontractor of an industrialized builder is not a builder for purposes of these sections.

(18) Industrialized building—A commercial structure that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent commercial site, and that is designed to be used as a commercial building when the modules or modular components are transported to the permanent commercial site and are erected on or affixed to a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems.

(19) Industrialized housing—A residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the per-

manent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected on or affixed to a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems.

(20) Installation—On-site construction (paragraph 28 of this subsection).

(21) Local building official—The agency or department of a municipality with authority to make inspections and to enforce the laws, ordinances, and regulations applicable to the construction, alteration, or repair of residential and commercial structures.

(22) Manufacturer—A person who constructs or assembles modules or modular components at a manufacturing facility which are offered for sale or lease, sold or leased, or otherwise used.

(23) Manufacturing facility—The place other than the building site, at which machinery, equipment, and other capital goods are assembled and operated for the purpose of making, fabricating, constructing, forming, or assembling industrialized housing, buildings, modules, or modular components.

(24) Model—A specific design of an industrialized housing, buildings, or modular components, which is based on size, room arrangement, method of construction, location, arrangement, or size of plumbing, mechanical or electrical equipment, and systems therein in accordance with an approved design package.

(25) Modular component—A structural portion of any dwelling or building that is constructed at a location other than the site in such a manner that its construction cannot be adequately inspected for code compliance at the site without damage or without removal of a part thereof and reconstruction.

(26) Module—An industrialized house or building, or portion thereof, designed and approved to be transported as a single section and as a structurally independent unit to a site for on-site construction with or without other modules or modular components.

(27) NFPA—National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(28) On-site construction—Preparation of the site, foundation construction, assembly and connection of the modules, modular components or components, affixing the structure to the permanent foundation, connecting the structures together, completing all site-related construction in accordance with designs, plans, and specifications and on-site construction documentation.

(29) Open construction—That condition when any industrialized housing, building, or portion thereof is constructed in such a manner that all parts or processes of manufacture can be readily inspected at the building site without disassembly, damage to, or destruction thereof.

(30) Permanent foundation system—A foundation system for industrialized housing or buildings designed to meet the applicable building code as set forth in Subchapter C of this chapter (relating to Standards and Codes).

(31) Person—An individual, partnership, company, corporation, association, or other group, however organized.

(32) Registrant—A person who, or which, is registered with the department pursuant to the rules of this chapter as a manufacturer, builder, design review agency, or third-party inspector.

(33) Residential structure—Industrialized housing designed for occupancy and use as a residence by one or more families.

(34) SBCCI—Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(35) Site or building site—A lot, the entire tract, subdivision, or parcel of land on which industrialized housing or buildings are sited.

(36) Structure—An industrialized house or building which results from the complete assemblage of the modules, modular components, or components designed to be used together to form a completed unit.

(37) Third-party inspector—An approved person or agency, private or public, determined by the council to be qualified by reason of facilities, personnel, experience, demonstrated reliability, and independence of judgment to inspect industrialized housing, buildings, and portions thereof for compliance with the approved plans, documentation, compliance assurance program, and applicable codes.

(b) Other definitions may be set forth in the text of the sections in this chapter. For purposes of these sections, the singular means the plural, and the plural means the singular.

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 May 16, 1986

TRD-8804735 Allen Parker, Sr.
Commissioner
Texas Department of
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For further information, please call
(512) 463-3127.

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Subchapter B. Responsibility and Authority of Local Building Officials, Council, and Department

★ 16 TAC §§70.10-70.13

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules

and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

§70.11. *Local Building Official.* The local building official shall have the authority:

(1) to require and review, for compliance with the mandatory state codes, a set of design plans and specifications bearing the stamp of the council and of the on-site construction documentation for the placement of industrialized housing or buildings within its jurisdiction;

(2) to require that all applicable local permits and licenses be obtained and that applicable local fees be paid before any construction begins on a building site or before the placement of any module or modular component;

(3) to enforce the requirements of all local ordinances relating to land use and zoning, building setback, side and rear yard offsets, site planning, development, subdivision control, and landscape architectural requirements;

(4) to require that all modules or modular components manufactured after January 1, 1986, have affixed the decal or insignia issued by the department;

(5) to witness in-plant inspections to make recommendations for inspection procedures to the council;

(6) to inspect all construction done at the site, including the construction of the foundation system and the erection, assembly, and connection of the modules or modular components to the permanent foundation to assure compliance with the approved design package and the on-site construction documentation for industrialized housing or buildings to be sited within its jurisdiction;

(7) to perform an overall visual inspection for obvious nonconformity to the applicable code, to require final inspections along with any tests which are required by the approved installation instructions, on-site construction documentation, and/or the applicable code, and to require the correction of deficiencies identified by the tests or discovered in final inspections;

(8) to notify the commissioner of any damage to a module or modular component resulting from transportation to, or handling at, the building site which is not corrected by the industrialized builder; to notify the commissioner of any noncompliance to, or deviation from, the approved building system or applicable code; and to report to the commissioner any violation of these rules and regulations; these notices and reports shall be submitted by certified mail; and

(9) to petition the council to amend the mandatory state codes if the amendment is essential for the health and safety of the public on a statewide basis.

§70.12. *Council.* The council shall have authority to:

(1) establish the criteria for the qualification of third-party inspectors and design review agencies;

(2) approved or disapprove all applications to be an approved third-party inspector or design review agency;

(3) adopt and approve a stamp to be used by a design review agency or the department to certify that the design package meets or exceeds the requirements of the mandatory state codes;

(4) determine if amendments or revisions to the model codes as finally approved, respectively, by ICBO, SBCCI, or NFPA are in the public interest and consistent with the purposes of the Act; if so determined, and after a hearing to require that the mandatory state codes be amended accordingly;

(5) determine and resolve all questions relating to the design package concerning code equivalency or the use of alternate materials or methods of construction, from an engineering performance standpoint, to the standards and requirements of the mandatory state codes as may be submitted in writing by a local building official, the department, or a manufacturer;

(6) review a petition for amendment to the mandatory state codes submitted by a local building official and determine if the petition alleges sufficient facts or reasons as to why the amendment is essential in the public interest on a statewide basis; if not, reject the petition, or if so, request the commissioner to call a hearing to receive evidence for and against the proposed amendment; make a determination as to whether the amendment is essential for the health and safety of the public on a statewide basis; if not, reject the proposed amendment, or if so, adopt the amendment to become effective on a date certain;

(7) interpret these rules; and issue instructions for the inspection of both the in-plant and on-site construction of industrialized housing and buildings; and

(8) submit to the department for adoption and issuance, any rules necessary to implement the decisions, actions, and interpretations of the council.

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.

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Subchapter C. Standards and Codes

★ 16 TAC §§70.20-70.22, 70.25-70.27

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

§70.22. *Use and Construction of Codes.*

(a) The local building official shall advise the department in writing as to whether the municipality bases its code on the ICBO codes or the SBCCI codes. Any industrialized housing or building, module, or modular component, to be located within the jurisdiction of the municipality must be constructed to meet or exceed the standards and requirements of the model code referenced in this subchapter for the codes used by the municipality.

(b) If the industrialized housing or building, module, or modular component, is located either outside a municipality or in a municipality that does not base its code on the SBCCI or ICBO codes, then the manufacturer may choose which of the two code groups with which the construction must comply. The manufacturer shall specify which of the two model code groups is applicable to the design package.

(c) The codes adopted in this subchapter shall be construed so as to conform to the intent of the Act and of these rules and regulations. For example, where reference is made in any of the codes to the "building official," the "plumbing" or "mechanical" official or the "administrative authority" or "enforcement official" such reference shall be construed pursuant to the Act and the sections in this chapter to mean, where applicable, the council, the local building official, or the department.

§70.25. *Alternate Methods and Materials.*

(a) Alternate methods of construction or use of materials other than as authorized by the mandatory codes set forth in this subchapter must be approved by the council.

(b) Manufacturers shall submit descriptions of alternate methods or materials required to be approved by the council to the commissioner for consideration by the council. The submittal shall include 15 legible copies of drawings, specifications, and substantiating evidence for each such alternate methods or materials.

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.

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Subchapter D. Administration and Enforcement

★ 16 TAC §§70.30-70.42

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

§70.32. *Registration Requirements.*

(a) A manufacturer, as defined in this chapter, shall not engage in business in this state prior to being issued a manufacturer's certificate of registration. An industrialized builder, as defined in this chapter, shall not engage in business in this state prior to being issued an industrialized builder's certificate of registration.

(b) An application for registration shall be submitted to the department on a form and shall contain such information as may be required by the department. The application must be verified under oath by the owner of a sole proprietorship, the managing partner of a partnership, or the chief executive or chief operating officer of a corporation. The application must be accompanied by the fee set forth in §70.52 of this title (relating to Fees).

(c) The registration shall be for twelve months and must be renewed annually. Every corporate entity must be separately registered. Each separate manufacturing facility must be registered; a manufacturing facility is separate if it is not on property which is contiguous to a registered manufacturing facility. An industrialized builder must register each separate office but is not required to register each job location.

(d) A registered manufacturer or industrialized builder shall notify the department in writing within 10 days of any of the following occurrences:

(1) the corporate or firm name is changed;

(2) the main address of the registrant is changed;

(3) there is a change in 25% or more of the ownership interest of the company within a 12-month period;

(4) the location of any manufacturing facility is changed;

(5) a new manufacturing facility is established; or

(6) there are changes in principal officers of the firm.

(e) Design review agencies and third-party inspectors must register with the de-



partment in accordance with §70.33 of this title (relating to Approval of Design Review Agencies and Third-Party Inspectors).

(f) An application for original registration or renewal may be rejected if any information contained on, or submitted with, the application is incorrect. The certificate of registration may be canceled and the registration revoked or suspended for any violation of the Act, violation of the rules and regulations in this chapter or administrative orders of the department, or violations of the instructions and determinations of the council in accordance with Subchapter G of this chapter.

§70.33. *Approval of Design Review Agencies and Third-Party Inspectors.*

(a) Pursuant to the criteria established by the council, the department will recommend design review agencies and third-party inspectors to the council for approval. An application for approval shall be submitted in writing to the department for consideration and recommendation to the council. The application shall be on the form and contain such information as may be required by the council.

(b) If the application is approved by the council, it shall be filed with the department as the registration of the applicant as a design review agency or a third-party inspector to perform specific functions. This registration shall be a continuous registration so long as the information required by this section is updated in accordance with subsection (c) of this section and the annual fee is paid. The department shall issue a certificate of registration which shall contain the specific functions which the registrant is approved to perform; it shall be valid for a 12-month period on receipt of the application and the registration fee by the department.

(c) Design review agencies and third-party inspectors shall notify the department in writing within 10 days of any of the following occurrences:

- (1) the name of the registrant is changed;
- (2) the address of the registrant is changed;
- (3) if a partnership or corporation is created or exists, there is a change in 25% or more of the ownership of the business entity within a 12-month period; or
- (4) there are changes in principal officers or key supervisory personnel of the business entity.

(d) In the event a third-party inspector or design review agency is not approved, the department shall return one complete application to the applicant with a written explanation attached thereto setting forth the reasons of the council for such disapproval.

§70.34. *Review and Approval of Designs and Plans.*

(a) An approved design review agency or the department shall review all designs, plans, specifications, calculations, compli-

ance control programs, on-site construction documentation or specifications, and other documents as necessary to assure compliance with the mandatory construction codes in accordance with the interpretations, instructions, and determinations of the council. The department or design review agency will obtain from the manufacturer such information as is reasonably necessary to assure that the manufacturer's designs and procedures are in compliance with the mandatory codes and the sections in this chapter.

(b) All documents shall have all pages numbered and arranged in accordance with a table of contents and to the extent practical, they shall be on 8½-inch by 11-inch pages. The floor plans shall have no scale smaller than 1/8 inch equals one foot. All documents shall be identified to indicate the manufacturer's name and address. A rectangular blank space shall be provided on all documents for the council's stamp of approval, and all documents shall be dated by the manufacturer.

(c) The manufacturer shall provide the design review agency a design package which must, at the minimum, contain the following:

- (1) specifications and/or detail drawings for all materials, devices, appliances, equipment, and fasteners used in construction;
- (2) detailed drawings of all assemblies and components (with cross-sections as necessary to identify major building components);
- (3) floor plans for all models and options;
- (4) electrical schematics for all models and options;
- (5) water system and drain waste vent system drawings for all models and options;
- (6) gas piping system drawings for all models and options;
- (7) mechanical system drawings for all models and options;
- (8) fire protection, fire safety, and exit details;
- (9) thermal resistance details;
- (10) heating, ventilation, and air conditioning details;
- (11) structural, thermal, and electrical load calculations;
- (12) weather resistance details;
- (13) condensation protection details;
- (14) decay protection details;
- (15) insect and vermin protection details;
- (16) fastening schedule; and
- (17) assembly and connection instructions for all components, materials, devices, equipment, and appliances.

(d) The manufacturer shall also provide the design review agency a compliance assurance manual and on-site construction documentation or specifications as necessary to indicate compliance with the mandatory codes and to show the extent that site-related

design and construction will occur in accordance with §70.35 of this title (relating to Compliance Control Program) and §70.36 of this title (relating to On-Site Construction Specifications or Documentation).

(e) The department or design review agency will signify approval of a drawing, specification, calculation, or other document by application of the stamp of the council to each page thereof. The stamp shall not be placed on any designs, plans, or specifications which do not meet the requirements of the applicable mandatory state code. The manufacturer and the design review agency (or department) must keep copies of the approved documents. The manufacturer must make a copy available to the person performing in-plant inspections. A design review agency will forward one approved copy of the design package, including additions and revisions, to the department within five days of approval and will return one approved copy to the manufacturer.

(f) The department (when acting as a design review agency) or a design review agency may withdraw the approval of any document whenever the approval is later found to be in violation of code requirements or the rules and regulations in this chapter. Notice of such withdrawal of the approval shall be in writing with the reasons for such withdrawal set forth therein. Any such withdrawal shall have prospective effect only, except for life safety items.

(g) The design review agency shall reimburse the department the cost of actual expenses incurred outside headquarters in monitoring the performance of the design review agency, the reimbursable cost shall include actual travel expenses, per diem and mileage, and an hourly monitoring fee.

§70.35. *Compliance Control Program.*

(a) The utilization of mass production techniques and assembly line methods in the construction of industrialized housing, buildings, modules, and modular components, along with the fact that a large part of such construction cannot be inspected at the ultimate building site, requires manufacturers to develop an adequate compliance control program to assure that these structures meet or exceed mandatory code requirements and are in compliance with the rules and regulations of this chapter. The compliance control program shall be documented in the form of a manual which must be approved by the design review agency.

(b) The compliance control manual shall include at least the following:

- (1) table of contents;
- (2) a chart indicating the manufacturer's organizational structure to assure compliance and to assure that the compliance control staff shall maintain independence from the production personnel;
- (3) a statement which defines the obligation, responsibility, and authority for the manufacturer's compliance control program;

(4) identification of compliance control personnel, their accountability by position, responsibility for inspections, method of marking nonconformances observed, and system for assuring corrections are made;

(5) materials handling methods, including inspection checklists, for receiving materials and methods for marking and removing rejected materials both upon receipt and from the production line. The area for rejected materials must be clearly indicated to assure that such material is not used;

(6) a description of an identification system to mark each individual module, or modular component, at the first stage of production to assure appropriate inspection and rechecking of any deviation corrections;

(7) a diagram of the manufacturing sequence with the plant layout, including a description of the activities to be performed along with a listing of those which may be performed at one or more stations;

(8) an inspection checklist including:

(A) a list of inspections to be made at each production station; and

(B) accept/reject criteria (i.e., each significant dimension and component should be given tolerances);

(9) step-by-step test procedures and a description of the station at which each production test will be performed including, where applicable:

(A) dielectric test, continuity test, polarity test, electrical operational test, gas supply pressure tests, water supply pressure tests, and drain-waste-vent system tests;

(B) description of required testing equipment; and

(C) procedures for periodic checking, recalibration, and readjustment of test equipment;

(10) storage procedures for completed structures at the plant and for any other locations prior to installation;

(11) statement indicating the person who is responsible for compliance assurance at each manufacturing facility and who will assume responsibility for decals and insignia, their application, and the reporting procedure;

(12) procedure for maintaining reliable, retrievable records of the inspections performed, decal and insignia numbers assigned, the deficiencies and how they were corrected, and the site to which the modules or modular components were transported;

(13) procedures and information to demonstrate how the modules and modular components are to be transported to the building site so that damage will not occur or that compliance deviations will not result. (Actual transportation without damage or deviation is evidence sufficient to justify the method.)

(14) procedures that assure that the compliance control procedures are complied with on all regulated structures. As a minimum, regulated structures must be iden-

tified prior to commencing construction.

(c) The compliance control program as set forth in the rules may be waived by the council upon the written request of the manufacturer. Waiver of the compliance control program shall require that each module or modular component be individually inspected at each and every stage of the manufacturing process.

§70.36. *On-Site Construction Specifications or Documentation.*

(a) All work to be performed on the building site shall be specifically identified and distinguished from construction to be performed in the manufacturing facility, i.e., assembly and connection of all modules, modular components, systems, equipment, and appliances and attachment to the foundation system. The work to be performed on-site shall be described in detail in documents (architectural sheets, specifications, instructions, etc.) which shall be made available to the builder for use at the site and provided as required for review and inspection to the agency having local authority.

(b) The on-site construction documentation must contain (but is not limited to) the following:

(1) foundation system designs for all models in accordance with the applicable mandatory state code;

(2) details for module to module or modular component assembly and connection;

(3) details for connection and attachment of all modules and modular components to the foundation system;

(4) firestopping and draftstopping details;

(5) details for fire exits, balconies, walkways, and other site-built attachments;

(6) exterior weatherproofing details;

(7) details for thermal, condensation, decay, corrosion, and insect protection;

(8) electrical, mechanical, heating, cooling, and plumbing system completion details;

(9) electrical, mechanical, heating, cooling, and plumbing system test procedures;

(10) fire safety provisions;

(11) compliance assurance checklist for the preceding requirements; and

(12) specifications and instructions for cooling equipment, and complete information necessary to calculate sensible heat gain along with information on the sizing of the air distribution system, if applicable, and the R values of insulation in the ceiling, walls, and floor.

(c) If the typical foundation drawing in the on-site construction documentation is not suitable for a specific site, or if the structure is only partially constructed of modular components, or if the builder will add unique on-site details, a registered professional engineer (or architect for one and two family

dwelling and buildings having one story and a total floor area of 5,000 square feet or less) shall design and stamp the unique foundation drawings or on-site details and review by a design review agency is not needed or required.

§70.37. *Plant Certification.*

(a) Prior to being issued decals or insignia, each manufacturing facility will undergo a certification inspection. A representative of the design review agency must be present during the manufacturer's certification inspection. The plant certification will be conducted by a department team normally consisting of an engineer, one or more department inspectors or, when designated by the department, third-party inspectors. The purpose of the plant certification inspection will be to assure that the compliance control program in the manufacturing facility is capable of producing structures in compliance with the approved design package. The team will become familiar with all aspects of the manufacturer's approved design package. Structures on the production line will be checked to assure that failures to conform located by the inspection team are being located by the plant compliance control program and are being corrected by the plant personnel. The inspection team will work closely with the plant quality control personnel to assure that the approved design package and compliance control manuals for that facility are clearly understood and are being followed. The plant certification inspection will terminate when the inspection team has fully evaluated all aspects of the manufacturing facility. At least one module or modular component containing all systems, or a combination of modules or modular components containing all systems, shall be observed during all phases of construction. The team must inspect all modules or modular components in the production line during the certification.

(b) Following completion of the plant certification inspection, the team will issue a plant certification report. The plant certification report will contain the following:

(1) name and address of manufacturer;

(2) names and titles of personnel performing the certification inspection;

(3) serial or identification numbers of the modules or modular components inspected;

(4) a list of nonconformances observed on the modules or modular components inspected (with appropriate design package references) and corrective action taken in each case;

(5) a list of deviations from the approved compliance assurance procedures (with section or manual references) observed during the certification with the corrective action taken in each case;

(6) date of certification;

(7) the following statement: "This report concludes that (name of agency), after

evaluating the facility, certifies that (name of factory) of (city) is capable of producing (industrialized housing and buildings or modular components) in accordance with the approved building system and compliance assurance manuals on file in the manufacturing facility and in compliance with the requirements of the Texas Industrialized Building Code Council;"

(8) signature of the inspection team leader.

(c) If during the certification inspection, the manufacturer is judged not capable of building structures in compliance with the approved design package and compliance control manual, the agency will issue a deviation report. The deviation report will detail the specific areas in which the manufacturer was found to be deficient and will make recommendations for improvement. The certification inspection will continue from the date of the report until all certification requirements are met or 45 days, whichever comes first.

(d) A manufacturing facility which was registered with the department for the construction of modular homes on September 1, 1985, and which had previously been issued a plant certification report, shall not be required to have an additional certification inspection in order to receive decals and insignia.

(e) Until May 1, 1986, a manufacturer may elect to continue production prior to establishing a compliance control program and completing a plant certification inspection provided all designs, plans, specifications, and calculations have been approved by a council-approved design review agency or the department and every stage of construction of every unit produced is inspected by the department or, if designated by the department, a council approved third-party inspector. All on-site construction documentation or specifications must be completed and approved by the design review agency prior to the issuance of a decal or insignia. A decal or insignia will not be issued to the manufacturer until all inspections have been completed on a unit.

§70.38. In-Plant Inspections.

(a) The department shall conduct announced and unannounced inspections at the manufacturing facility at reasonable, but varying, intervals to review any and all aspects of the manufacturer's production and compliance control program. In order to determine if the compliance control program is working as set forth in the compliance control manual, inspection of every visible aspect of every module shall be made at least at one point during the manufacturing process. The frequency of modular component inspections will be determined by the department.

(b) Inspections at the manufacturing facility shall be increased in frequency as may be necessary for the department inspectors to assure that the manufacturer is per-

forming in accordance with the approved compliance control manual.

(c) The department, in its discretion, may require or may authorize upon written request by the manufacturer, the use of third-party inspectors approved by the council to perform in-plant inspections subject to the sections in this chapter and to monitoring by department personnel.

(d) The manufacturer shall reimburse the department the cost of actual expenses incurred outside headquarters in monitoring the performance of the third-party inspection agency, the reimbursable cost shall include actual travel expenses, per diem and mileage, and an hourly monitoring fee.

§70.39. Building Site Inspections.

(a) When the building site is within a municipality which has a building inspection agency or department, the local building official will inspect all on-site construction done at the site and the attachment of the structure to the permanent foundation to assure completion and attachment in accordance with the design package, the on-site construction documentation, and any unique foundation system or on-site detailed drawings.

(b) When the building site is outside a municipality, or within a municipality which has no building department or agency, the department or third-party inspectors will perform the required inspections. The industrialized builder may elect to utilize the services of the department or third-party inspectors approved by the council for the on-site construction inspections at these building sites; the election must be made in writing to the commissioner. The industrialized builder may utilize the services of the department on one or more projects and utilize third-party inspectors on other projects; however, the election may not be changed once made for a particular project at the building site except with written approval of the department.

(c) If the design package has the stamp of the council on each page, if the foundation drawing has been approved by a registered architect or engineer, and if the module and/or modular and component have the decal or insignia affixed thereto, the local building official, third-party inspector, or the department shall not stop assembly, connection, and on-site construction except for deviations from, or non-conformance to, the approved design package, on-site construction documentation, or any unique foundation system or on-site detailed drawings.

(d) Destructive disassembly shall not be performed at the site in order to conduct tests or inspections, nor shall there be imposed standards or test criteria different from those approved installation instructions, on-site construction documentation, and the applicable mandatory code. Non-destructive disassembly may be performed

only to the extent of opening access panels and cover plates.

(e) If a structure, or any part thereof, is found by the inspector at the building site to be in violation of the approved design package or the on-site construction documentation, the inspector shall immediately post a deviation notice and notify the industrialized builder. The industrialized builder, after making corrections as necessary to bring the unit into compliance, shall request an inspection, either by the department or the on-site inspector. If the deviation is not corrected, a certificate of occupancy shall not be issued.

§70.40. Manufacturer's Data Plate.

(a) The manufacturer will permanently attach a data plate to each dwelling unit of a residential structure and to each appropriate unit of a commercial structure. The data plate will be placed on or near the electrical distribution panel or in some other easily accessible location as designated in the approved design package.

(b) The data plate must contain the following information:

- (1) manufacturer's name and address;
- (2) serial or identification number of the unit;
- (3) decal and insignia numbers;
- (4) name and date of applicable codes,
- (5) manufacturer and model designation of major appliances;
- (6) identification of permissible type of gas for appliances;
- (7) maximum live load (floor) (psf);
- (8) maximum snow load (roof) (psf);
- (9) maximum wind load (psf)/speed (mph);
- (10) seismic zone;
- (11) heating, ventilation, and air-conditioning (HVAC) design temperatures;
- (12) occupancy/use group type;
- (13) construction type.

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

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TRD-8604739

Allen Parker, Sr
Commissioner
Texas Department of
Labor and Standards

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For further information, please call
(512) 463-3127

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Subchapter E. Fees and Reports

★ 16 TAC §§70.50-70.52

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

§70.50. *Manufacturer and Builder Monthly Reports.*

(a) A monthly report shall be submitted to the department by the manufacturer on a form or in the format required by the department of all industrialized housing, buildings, modules, and modular components which were constructed and to which decals and insignia were applied during the month. The report must state the name and address of the industrialized builder (or other person) to whom the structures, modules, or modular components were sold, consigned, or shipped. If any of such units were produced and stored, the report must state the place and location of storage. The report shall also contain:

- (1) the serial or identification number of the unit;
- (2) the decal and insignia numbers assigned to each identified unit;
- (3) the registration number of the industrialized builder (as assigned by the department) to whom the units were sold, consigned, and shipped;
- (4) the building site location to which any units were shipped;
- (5) an identification as to the type of structure for which the units are to be assembled and installed, i.e., single family residence, duplex, two-story motel, 75-unit three-story apartment, etc.; and
- (6) if activity for the reporting month, a new report indicating zero units built.

(b) Each industrialized builder shall submit to the department a monthly report on a form or in the format required by the department which shall contain:

- (1) the specific address and location of each building site on which the industrialized builder has performed any on-site construction work during the month;
- (2) identification of the city and the number and description of any building permit issued by the city to the builder during the month;
- (3) the decal and insignia numbers and unit identification number of all modules or modular components assembled or installed at a building site during the month;
- (4) the location and description of the type of structure for which a certificate of occupancy was issued during the month; and
- (5) such other information as the department may require on the form or by separate instruction letter.

(c) The manufacturer's and builder's monthly reports must be filed with the department no later than the 10th day of the following month.

§70.52. *Department Fees.*

(a) The manufacturer's registration fee is \$1,000 annually.

(b) The industrialized builder's registration fee is \$500 annually.

(c) The design review agency's registration fee is \$200 annually.

(d) The third-party inspection agency registration fee is \$100 per firm and \$100 per inspector, annually.

(e) The registration fee shall be paid prior to the issuance of the certificate of registration and annually thereafter.

(f) The fee for department personnel for in-plant inspections at a manufacturing facility shall be \$25 per inspector-hour and \$35 per engineer hour for all inspections including plant certification inspections, varying interval inspections to monitor the manufacturer's compliance control program, and for increased frequency inspections. The inspector will give a statement to the manufacturer, and it must be paid to the inspector by either a company check, cashiers check, or money order at the completion of the inspection.

(g) When the department acts as a design review agency, the fee for such services is \$35 per engineer-hour. The fee shall be paid by the manufacturer for whom the services are offered prior to the approval of the designs, plans, specifications, compliance control, and installation manuals and the release of the documents to the manufacturer.

(h) The fees for the issuance of decals and insignia are as follows:

(1) modules: \$0.06 per square foot of floor area, with a minimum of \$15 for each decal; or

(2) modular component: \$0.015 per square foot of surface area or \$0.06 per square foot of floor area, whichever is less, but with a minimum of \$0.50 for each insignia.

(i) The fee for department personnel for building site inspections is as follows and shall be paid to the inspector by either a company check, cashiers check, or money order at the completion of the inspection.

(1) a minimum fee of \$50 per inspector for each day in which any inspections are performed at the site; and

(2) a maximum of \$100 per inspector per day or \$15 per inspector-hour, whichever is less.

(j) The department (as is the case for third-party inspectors) may agree to a reasonable maximum inspection fee per unit or structure based on the number of inspections estimated to be necessary to assure compliance.

(k) The fee for department monitoring of design review agencies and third-party inspection agencies outside headquarters shall be \$25 per inspector-hour and \$35 per engineer hour; the department will present the

agency a statement at the conclusion of the monitoring trip, and it is payable upon receipt.

(l) The fee for department personnel for inspection of approved alterations to industrialized housing and buildings shall be \$25 per inspector-hour and \$35 per engineer hour; the department will present the agency a statement at the conclusion of the inspection, and it is payable upon receipt.

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.

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TRD-8604740

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

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For further information, please call

(512) 463-3127

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Subchapter F. General and Miscellaneous

★ 16 TAC §§70.101-70.105

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

§70.101. *Design Review Agency Selection.*

The manufacturer must select either the department or a council-approved design review agency to perform all required review and evaluation of plans, designs, specifications, compliance control, and on-site construction documentation, etc. This election shall be made in writing to the commissioner and, if an agency other than the department is selected, the written election will state the name, address, and registration number of the design review agency selected.

§70.102. *Compliance Disputes.*

(a) Any dispute, disagreement, or difference of opinion as to whether the approved design package meets or exceeds the requirements of the mandatory building codes set forth in this chapter between the design review agency (or department when acting as a design review agency) and a local building official shall be resolved by the council. The decision or determination by the council shall be timely made and shall be binding on all parties.

(b) If the local building official is of the opinion that the approved design package and on-site construction documentation

does not meet the code requirements of this chapter, this opinion shall be forwarded in writing to the commissioner at the department's Austin office within seven working days following the filing of an application for a building permit and prior to issuance of the building permits. This written opinion shall set forth specifically those sections of the codes for which the noncompliance allegedly exists and the specific reasons the local building official is of the opinion that the design package and on-site construction documentation fail to meet the requirements of such code sections. The local official shall submit 15 copies of the written opinion to the commissioner. The commissioner will submit the local building official's opinion and reasons therefor to the council within three working days following receipt. The council shall determine at the next scheduled meeting, not to exceed 45 days, whether or not the design package and on-site construction documentation meet the requirements of the applicable mandatory state code and shall notify the local building official and the commissioner in writing. If the design package and on-site construction documentation are determined by the council to meet the code requirements, the local building official shall issue a building permit. Questions concerning the code compliance of a design package and on-site construction documentation must be raised prior to the issuance of a building permit and, once a local building permit is issued, the local building official shall not stop any on-site construction due to questions about the approved design package or on-site construction documentation.

(c) If a dispute or difference of opinion arises between the manufacturer and the department or third-party inspector during an in-plant inspection as to whether the construction meets or exceeds the approved design package, the dispute or difference shall be forthwith resolved by the commissioner.

(d) If a dispute or difference of opinion arises between the industrialized builder and a local building official or third-party inspector (or the department when acting as a building site inspector) as to whether the on-site construction meets or exceeds the approved design package and on-site construction documentation or unique foundation system, the dispute or difference of opinion shall be forthwith resolved by the commissioner.

§70.103. Alterations or Deviations.

(a) The industrialized builder shall not alter or deviate from the approved design package and on-site construction documentation. Unique foundation drawings and on-site details are subject §70.36(c) of this title (relating to On-Site Construction Specifications or Documentation).

(b) An alteration of an industrialized housing or building which results in a structure that does not comply with the mandatory state code is prohibited.

(c) A complete set of plans and specifications describing a proposed alteration of an industrialized housing or building shall be submitted to a design review agency for approval prior to construction; all work must be performed in accordance with the approved plans and specifications; the person performing the alteration shall notify the department in writing at least 10 days in advance of the work; the department may inspect the work performed to ensure conformance to the approved plans by utilizing department or third-party inspectors; an alteration to an industrialized housing or building resulting in a change in the principal use of the structure shall require a reclassification of the structure to the appropriate occupancy group defined in the mandatory state code.

§70.104. Owner Information.

(a) The industrialized builder shall provide the purchaser (owner) of any industrialized housing or building the following information:

(1) the name, location, and address of the manufacturer and builder;

(2) description of the location of the data plate and explanation of the information thereon;

(3) floor plan of the dwelling unit or structure as appropriate;

(4) schematic drawings of the plumbing, electrical, and heating/ventilation systems; and

(5) a site plan showing the on-site location of all utilities and utility taps.

(b) The builder must have written proof that the information in subsection (a) of this section was delivered to the purchaser (owner) and keep such proof in the industrialized builder's files for a period of two years.

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

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TRD-8604741 Allen Parker, Sr.
Commissioner
Texas Department of
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(512) 463-3127.

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Subchapter G. Sanctions and Penalties

★ 16 TAC §70.125, §70.126

The new sections are adopted under Texas Civil Statutes, Article 5221f-1, which provide the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure

compliance with the intent and purpose of the Act and to provide for uniform enforcement.

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.

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Commissioner
Texas Department of
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(512) 463-3127.

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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, adopts new §1.4 and §1.5, without changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 983)

The new sections establish formal rules of order for the conduct of coordinating board business and 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

No comments were received regarding adoption of the new sections

The new sections are adopted 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

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 May 13, 1986

TRD-8604771 James McWhorter
Assistant Commissioner
of Administration
Coordinating Board,
Texas College and
University System

Effective date: June 5, 1986
Proposal publication date: February 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, adopts an amendment to §5.173, with changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 983).

The section was amended to clarify that compensatory education courses includes both developmental and remedial education courses. The changes reaffirm the board's commitment to compensatory education, while stipulating that such coursework not be applied toward degrees. One change was made to the proposed version of the amendment. The words "(included developmental and remedial)" were removed. The change was made to eliminate repetition.

The effect of the change will be to permit the teaching of compensatory courses with state funding in the junior colleges, but will not permit credit for such courses to be applied to college degrees.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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 education courses designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students.

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 May 13, 1986.

TRD-8604764 James McWhorter
Assistant Commissioner
for Administration
Coordinating Board,
Texas College and
University System

Effective date: June 5, 1986
Proposal publication date: February 25, 1986
For further information, please call
(512) 462-6420.

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★19 TAC §5.175

The Coordinating Board, Texas College and University System, adopts new §5.175, without changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 984).

The 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 new section reaffirms the board's commitment to support the statutory mandate for community colleges to provide compensatory courses for educationally disadvantaged students.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §61.051, which provides the coordinating board with the authority to establish policy regarding compensatory courses.

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 May 13, 1986.

TRD-8604765 James McWhorter
Assistant Commissioner
of Administration
Coordinating Board,
Texas College and
University System

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For further information, please call
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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, Texas College and University System, adopts new §§9.151-9.155. Sections 9.152 and 9.154 are adopted with changes to the proposed text published in the February 25, 1986, issue of the *Texas Register* (11 TexReg 984). Sections 9.151, 9.153, and 9.155 are adopted without changes and will not be republished.

Senate Bill 911 transferred powers and duties with regard to postsecondary technical and vocational education from the Texas Education Agency to the coordinating board. Changes were made to §9.154 (1)(J), in the same section subparagraph

(P) was added. The changes were made for editorial and clarification purposes.

The sections establish policies and procedures for the review and evaluation of postsecondary technical vocational programs.

One comment, regarding approval of local boards of trustees as a requirement for coordinating board approval, was received from Frank Hunt, dean, Technical and Vocational Education, South Plains College, who spoke against the adoption.

Since local boards control the budgeting of monies from both the state and local levels, it is required that the local board approve new programs. This is supported in related legislation.

The new sections are adopted 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.

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

§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 Technical Institutes Division, and will include the following minimum information:

- (A) program title;
- (B) type of credential offered;
- (C) length of program in weeks and semesters;
- (D) total contact hours of program;
- (E) total credit hours of program as appropriate;
- (F) planned start-up 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, job opportunities, and potential source of students;
- (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;

(O) listing of advisory committee members and minutes of advisory committee meetings involved in planning the program; and

(P) local board approval.

(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 Institutes 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.

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 May 13, 1986.

TRD-8604763

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

Effective date: June 5, 1986

Proposal publication date: February 25, 1986

For further information, please call

(512) 462-6420.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 301. Levee Improvement Districts, District Plans of Reclamation, and Levees and Other Improvements

Subchapter D. Notice and Hearing

★ 31 TAC §§301.52-301.57

The Texas Water Commission adopts new §§301.52-301.57, with changes to the proposed text published in the February 18, 1986, issue of the *Texas Register* (11 Tex-Reg 895). These new sections are adopted with changes only related to numbering, after the commission received comments to proposed rules from Ronald Freeman, Holly Hubenak, Larry Dunbar, and the Sierra Club. The new sections were proposed as §§301.51-301.56, but are adopted as §§301.52-301.57.

These new sections are adopted to provide for a clearer understanding of and effective enforcement of the policy of the commission regarding notice procedures relating to drainage and reclamation activities.

Mr. Freeman suggested a simplified notice procedure for plans of reclamation which do not involve approval by the commission of levees and other improvements pursuant to the Texas Water Code, §16.236. Proposed §§301.51-301.56 have been renumbered as §§301.52-301.57. A new §301.51 is being proposed to provide for the simplified notice procedure and is being published separately.

Mr. Dunbar expressed concerns regarding economic costs associated with the notice procedures; these concerns have been addressed by the revised notice procedure delineated in the previous paragraph. Mr. Dunbar's suggested change to proposed §301.52(c) has not been incorporated by the commission in that the proposed section, now §301.53(c), better insures adequate notice.

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

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

(1) the exact location of the proposed levees and other improvements as nearly as the same can be described;

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

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

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

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

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

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

(8) any additional information the commission deems necessary.

§301.53. Notice of the Application By Mail.

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

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

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

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

(3) the following entities:

(A) the Texas Department of Health;

(B) the Texas Parks and Wildlife Department;

(C) the Texas Railroad Commission;

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

(E) the Texas General Land Office;

(F) the Texas Historical Commission;

(G) local river authorities;

(H) the Federal Emergency Management Agency; and

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

(4) the applicant;

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

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

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

§301.54. Notice of the Application by Publication.

(a) Upon being notified by the chief clerk of the commission to publish a notice of application and commission action, the applicant shall cause the notice to be published in a newspaper of general circulation in each county wherein the project would have potential impact as set forth in §301.33 of this title (relating to Preliminary Plans: Data To Be Submitted) and §301.53 of this title (relating to Notice of the Application By Mail). Publication in one newspaper is sufficient if the newspaper is of general circulation in each county or counties throughout the area of potential impact.

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

§301.55. Action On the Application.

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

(1) at least 30 days prior to the regular meeting at which action is taken, notice of the application and commission action has been given by mail and by publication; and

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

(b) Request for public hearing.

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

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

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

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

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

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

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

§301.56. Publication of Notice of Public Hearing.

(a) If a public hearing shall be held pursuant to §301.55 of this title (relating to Action On the Application), the applicant shall cause the notice to be published in a newspaper of general circulation in each county wherein the project would have potential impact. Publication in one newspaper is sufficient if the newspaper is of general circulation in each county or counties throughout the area of potential impact.

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

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

§301.57. Notice of Remanded Hearing. A hearing on an application which has been remanded by the commission to the office of hearings examiners may be held without the necessity of issuing further notice other than advising the applicant, executive director, public interest advocate, other parties, and all persons who have in writing notified the commission of their interest in the application of the time and place where the hearing is to convene. The chief clerk of the commission shall mail such notice to these persons not less than 10 days before the date of the hearing.

This agency hereby certifies that the 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 May 14, 1986.

TRD-8604744 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: June 2, 1986
Proposal publication date: February 18, 1986
For further information, please call
(512) 463-7875.



TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part IX. Texas Department on Aging
Chapter 265. Grant Related Income

★ 40 TAC §265.1

The Texas Department on Aging adopts the repeal of §265.1, without changes to the proposed text published in the February 8, 1986, issue of the *Texas Register* (11 TexReg 511).

The section established the allowable uses of program income in Older Americans Act programs conducted by area agencies and service providers in the state. Repeal of this section and adoption of the new section permits greater flexibility in the use of program income to ease beginning of year cash flow problems.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to repeal rules governing the function of the department.

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 May 19, 1986

TRD-8604845 O. P. (Bob) Bobbitt
Executive Director
Texas Department on Aging

Effective date: June 9, 1986
Proposal publication date: February 8, 1986
For further information, please call
(512) 444-2727

★ ★ ★
The Texas Department on Aging adopts new §265.1, without changes to the proposed text published in the April 4, 1986, issue of the *Texas Register* (11 TexReg 1646).

This section establishes the allowable uses of program income in Older Americans Act programs conducted by area agencies on aging and service providers in the state. It responds to recommendations by the U.S. Commissioner on Aging to extend the time period three months for expending program income under the deduction and cost sharing alternatives and discontinues the additional cost alternative method previously permitted.

This section permits greater flexibility in using program income funds to ease beginning of year cash flow difficulties of area agencies on aging and service providers.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Chapter 101, which provides the Texas Department on Aging with the authority to develop rules governing the function of the department.

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 May 19, 1986.

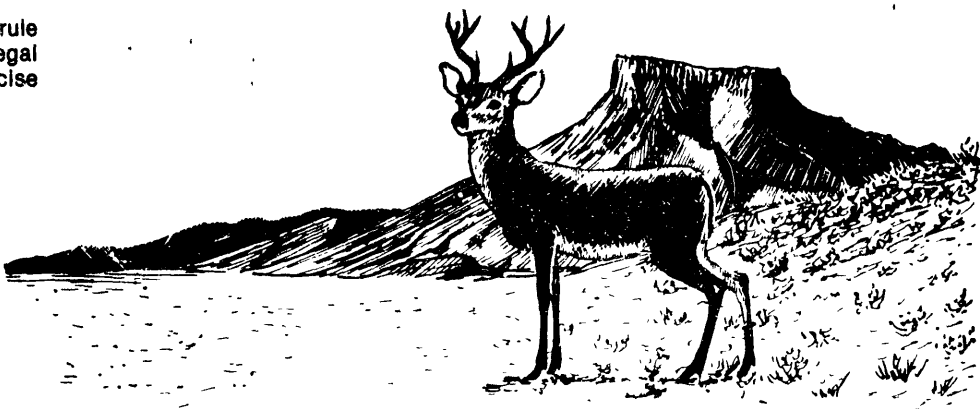
TRD-8604846

O. P. (Bob) Bobbitt
Executive Director
Texas Department on
Aging

Effective date: June 9, 1986

Proposal publication date: April 4, 1986

For further information, please call
(512) 444-2727



State Board of Insurance Exempt Filings

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

(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

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

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

The State Board of Insurance adopts a filing by the Surety Association of American of rates, forms, rating plans and statistical plan filed for fidelity bonds—financial institutions, mercantile, and governmental entities

The rate filing has been reviewed by the Statistical and Rate Development Division for supporting statistical data. The Statistical and Rate Development Division has advised the requested overall rate increase of +40.4% is justified, and they recommend adoption of such rate adjustment.

The form filing includes a revised financial institution bond (formerly bankers blanket bond), Standard Form 24, excess bank employee dishonesty bond (formerly

excess bank employee dishonesty blanket bond), Standard Form 28, and a new combination safe depository policy for financial institutions

The important feature of the revised financial institution bond (standard Form 24 and Form 28) is to limit the liability of the bond to a predetermined dollar amount. All claims paid during the bond period are applied against the aggregate limit, and upon exhaustion of that limit the bond is automatically cancelled. A single loss limit of liability and single loss deductible are shown for the basic bond and individual insuring agreements. The revised bond covers all officers and premises of the insured unless specifically excluded by rider. Other changes in insuring agreements, general agreements, and conditions and limitations are minor and editorial in nature

The combination safe depository policy is practically the same policy previously under the jurisdiction of the insurance services office. This policy may be issued to any financial institution having a safe deposit box exposure.

Submitted are the following riders to be used in connection with various financial institutions bonds:

- SR5886f—Automated Teller Machines
Exclusion, Blanket On Premises
Coverage
Schedule of Excluded Locations of
Unattended Devices
Use on Forms 22 and 24
- SR5976b—Agents Rider
Use on Form 5 and 22
- SR6026a—Automated Teller Machine
Exclusion, Blanket On Premises
Coverage,
Schedule of Excluded Locations of
Unattended Devices
Use on Form 23

SR5977a—Automated Teller Machine
Exclusion, Blanket On Premises
Coverage
Schedule of Excluded Locations of
Unattended Devices
Use on Form 5

SR6130a—Computer Systems Rider
Use on Form 22

SR6131a—Computer Systems Rider
Use on Forms 5 and 14

SR6132a—Computer Systems Rider
Use of Form 15

SR6133a—Computer Systems Rider
Use of Form 23

SR6134a—Computer Systems Rider
Use of Forms 25 and 25-L

SR6135a—Computer Systems Rider
Use of Form 26

SR6149—Computer Systems Rider
Use of Form 24

SR6150—Amend Declarations Page
Use to renew or extend bond period, to
reinstate aggregate limit, to change
limits or deductibles for optional
agreements, or to change single loss
deductible

SR6151—Coinsurance Rider

SR6152—Single Limit

The following bonds are discontinued as standard forms due to their limited use or the fact that, for the most part coverages can be provided under the new fidelity and forgery forms: blanket position bond and its coverage equivalent, agreement I-B of the 3-D policy; public school system employees blanket bond; railroad blanket bond; credit card forgery bond; postal employees forgery bond; merchants check cashing forgery bond; and incoming check forgery coverage (i.e. Agreement VI of the 3-D policy)

The following bonds have been transferred to the financial institutions section of the manual insurance company blanket bond—Form 25; life insurance company blanket bond—Form 25L, and small loan companies blanket bond—Form 26.

Submitted for approval and now constituting part of the financial institution bond, the excess bank employees dishonesty bond, and the combination safe depository policy for financial institutions are the following applications: savings banks blanket bond, standard Form 5, and saving and loan blanket bond, Standard Form 22—Form SR6154; financial institution bond, Standard Form 24—Form SR5874d; insurance companies blanket bond, Standard Form-25, and life insurance companies blanket bond, Standard Form 25-L—Form SA5454a; small loan companies blanket bond, Standard Form 26—Form SA50004a; excess bank employee dishonesty bond, Standard Form 28—Form SA5917c; and combination safe depository policy for financial institutions—Form SA6153

Statistical Plan. The following are revisions to the current statistical plan.

Full Level Statistical Plan

This revision consists of	Section	Page(s)
Fidelity class of insured code	Coding	26
Fidelity class of insured code	Coding	30
Fidelity class of insured code	Coding	31
Fidelity form code	Coding	34a
Fidelity form code	Coding	38

Page 26 is revised to reflect the implementation of two new class of insured code (645 & 647)

Page 30 is revised to reflect the implementation of a new series of class of insured codes (720-729) for commercial banks, based on asset size

Page 31 is revised to reflect the implementation of a new class of insured code (790) for combination safe depository policy for financial institutions

Page 34a is a new page depicting form of coverage codes applicable to risks rated under the fidelity and coverage forms of the new combination crime policy

Page 38 is revised to reflect the implementation of new form of coverage codes for combination safe depository policy for financial institutions

Minimum Level statistical plan

This revision consists of	Section	Page(s)
Fidelity class of insured code	Coding	27
Fidelity class of insured code	Coding	31
Fidelity class of insured code	Coding	32
Fidelity form code	Coding	34a
Fidelity form code	Coding	36

Page 27 is revised to reflect the implementation of two new class of insured codes (645 & 647)

Page 31 is revised to reflect the implementation of a new series of class of insured codes (720-729) for commercial banks, based on asset size

Page 32 is revised to reflect the implementation of a new class of insured code (790) for combination safe depository policy for financial institutions

Page 34a is a new page depicting form of coverage codes applicable to risk rated under the fidelity and coverage forms of the new combination crime policy

Page 36 is revised to reflect the implementation of a new form of coverage code of combination safe depository policy for financial institutions

Ratings Plans. The following are the major revisions to the current rating plans of RP-1 and RP-2. The premium used in the experience rating under RP-1 for financial institutions has been increased to \$500,000; under RP-2 for mercantile establishments, the premium has increased to \$100,000. The experience period under both plans will be three years.

Texas exception sheets to the individual risk modification rating plan of RP-1 and RP-2 are filed. The major change is the elimination of the use of underwriting table credits

There are three new rating plans; RP-3, RP-4, and RP-5. RP-3 and RP-4 are applicable to securities bonds.

RP-5 is applicable to labor organization bonds (name schedule, position schedule, and the consolidated form).

The rates, forms, rating plans, and statistical plan for fidelity bonds—financial institutions, mercantile, and governmental entities is effective June 16, 1986.

This filing is made pursuant to the Texas Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 May 16, 1986.

TRD-8604821 Nicholas Murphy
 Chief Clerk
 State Board of Insurance

Effective date June 16, 1986
 For further information, please call
 (512) 463-6327.

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Open Meetings

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

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

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

Texas Department of Agriculture

Thursday, May 29, 1986. The Texas Department of Agriculture will meet at the Texas Department of Agriculture District Office, 2935 Westhollow Drive, Houston. Times and agendas follow.

10:30 a.m. The department will review an alleged violation of the Texas Agriculture Code §103.001 by Berryman Produce Inc. and Gary Berryman, as petitioned by Magnolia Fruit and Produce, doing business as Green Garden Packaging Company.

Contact: Margo Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 16, 1986, 10:44 a.m.
TRD-8604817

11 a.m. The department will review an alleged violation of the Texas Agriculture Code §103.001 by Chino's Produce Company as petitioned by Sunsprouts of Texas, Inc.

Contact: Margo Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 16, 1986, 10:44 a.m.
TRD-8604818

1:30 p.m. The department will review an alleged violation of the Texas Agriculture Code §103.001 by Ben Vasquez and Ben Vasquez Produce, as petitioned by Griffin and Brand of McAllen, Inc.

Contact: Margo Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: May 16, 1986, 10:44 a.m.
TRD-8604819

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Texas Alcoholic Beverage Commission

Monday, June 2, 1986, 10:30 a.m. The Texas Alcoholic Beverage Commission will meet in the Third Floor Hearing Room, 1600 West 38th Street, Austin. According to the

agenda, the commission will approve the minutes of the April, 1986, meeting; consider the administrator's and staffs' report of agency activity; approve the affidavit of destruction of tested alcoholic beverages; and consider the agency budget request for the 1988-1989 biennium.

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

Filed: May 19, 1986, 4:05 p.m.
TRD-8604871

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State Banking Board

Tuesday, May 27, 1986, 10 a.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will approve change of domicile applications; and review applications approved, but not yet open. The board also will meet in executive session to discuss pending litigation.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: May 19, 1986, 3:27 p.m.
TRD-8604866

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Texas Department of Community Affairs

Tuesday, June 10, 1986, 10 a.m. The State Review Committee of the Texas Department of Community Affairs (TDCA) will meet in the First Floor Conference Room, 8217 Cross Park Drive, Austin. According to the agenda, the committee will present minutes; consider the economic development report; recommendations on economic development projects; appeals; TCDP comments; the planning/capacity building report; and recommendations on planning/capacity building projects.

Contact: Kelly Myrick, 8317 Cross Park Drive, Austin, Texas 78754-5124, (512) 834-6070.

Filed: May 16, 1986, 10:53 a.m.
TRD-8604790

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Texas Cosmetology Commission

Sunday, May 18, 1986, 9:30 a.m. The Texas Cosmetology Commission met in emergency session at the Broadway Plaza Hotel, 1111 Northeast Loop 410, San Antonio. According to the agenda, the commission considered the revision of the operator curriculum. The emergency status was necessary because the committee meeting consisted of commission members (four is quorum).

Contact: Jo Ann Reeves, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

Filed: May 15, 1986, 10:34 a.m.
TRD-8604755

Monday, June 2, 1986, 9 a.m. The Texas Cosmetology Commission made an addition to the agenda for the meeting to be held at Tri-State Beauty School, 6800 Gateway East, Building 4, El Paso. The addition concerns consideration of the minutes; and agreed orders. The meeting is rescheduled from Friday, May 30, 1986.

Contact: Jo Ann Reeves, 1111 Rio Grande, Austin, Texas 78701, (512) 463-3183.

Filed: May 19, 1986, 4:00 p.m.
TRD-8604870

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Advisory Commission on State Emergency Communications

Thursday, May 29, 1986, 9 a.m. The Advisory Commission on State Emergency Communications will meet in Room 104, John H. Reagan Building, 105 West 15th Street,

Austin. According to the agenda, the commission will consider issues related to a statewide 9-1-1 emergency telephone service including the approval of the previous meeting minutes; consideration of policy issues concerning the financing approach, state-level administration, and local planning and implementation; consideration of the commission's work plan and the schedule of future meetings; a discussion with representatives of local governments regarding local planning and implementation of a proposed statewide 9-1-1 service.

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

Filed: May 19, 1986, 11:43 a.m.
TRD-8604859

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Texas Employment Commission

Tuesday, May 27, 1986, 8 a.m. The Texas Employment Commission will meet in Room 644, Texas Employment Commission Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will review prior meeting notes; internal procedures of commission appeals; tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 21; and set the date of the next meeting. The board also will meet in executive session.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: May 19, 1986, 2:35 p.m.
TRD-8604865

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Office of the Governor

Wednesday and Thursday, May 28 and 29, 1986, 8:30 a.m. daily. The State Job Training Coordinating Council of the Governor's Office will meet at the La Mansion Hotel, IH 35 at U.S. Highway 290, Austin. According to the agenda summary, on Wednesday, the council will hold committee meetings including the Oversight Committee; the Worker Adjustment Committee; the Private Sector/Partnership Committee; and the Planning Committee. On Thursday, the council will hear the reports of the committees regarding the various titles of the JTPA Act and related topics.

Contact: Rik Mackay, 107 West 27th Street, Austin, Texas 78712, (512) 471-6010.

Filed: May 20, 1986, 8:52 a.m.
TRD-8604883

Thursday, May 29, 1986, 1:30 p.m. The Advisory Panel on Work and Welfare of the State Job Training Coordinating Council of

the Governor's Office will meet at the La Mansion Hotel, IH 35 at U.S. Highway 290, Austin. According to the agenda, the panel will hold an orientation session; discuss the role and relation to the Governor's Work and Welfare Initiative presentations by council staff and members; state agencies; state legislators; and the Governor's Task Force on Literacy.

Contact: Christopher T. King, 107 West 27th Street, Austin, Texas 78712, (512) 471-6010.

Filed: May 20, 1986, 8:52 a.m.
TRD-8604882

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State Department of Highways and Public Transportation

Tuesday, June 3, 1986, 2 p.m. The Transportation Audit Committee of the State Department of Highways and Public Transportation will meet in the District Office Assembly Room, District 12 Office, 7721 Washington Avenue, Houston. According to the agenda, the committee will consider a presentation by the State Department of Highways and Public Transportation of the One Year Progress Report on the implementation of and response to the Management Audit of department operations (as directed by House Bill 89, Second Called Session, 68th Legislature, and conducted by Price Waterhouse).

Contact: Bob Neely, Suite 2220, 5 Post Oak Park, Houston, Texas 77027, (713) 622-0500.

Filed: May 19, 1986, 10:08 a.m.
TRD-8604856

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Texas Department of Human Services

Tuesday, May 27, 1986, 9:30 a.m. The Council on Child Abuse and Neglect Prevention of the Texas Department of Human Services will meet in Room 5-W, Fifth Floor, West Tower, 701 West 51st Street, Austin. Items on the agenda summary include the overview of current council activities; the presentation of the Children's Trust Fund Communications Plan including the theme options, poster and small pocket brochure, the discussion of graphic representation for CTF; the presentation of the Children's Trust Fund Public Awareness and Fundraising option including the service announcement, the corporate giving video, annual special events; the presentation of the Texas Review and Comments System (TRACS) including the regionalization process option; the final approval of the handbook materials; and the presentation of the request for proposals (RFP) criteria/application.

Contact: Susan Watkins, P.O. Box 2960, Austin, Texas 78769, (512) 450-3306.

Filed: May 19, 1986, 11:19 a.m.
TRD-8604858

Tuesday and Wednesday, May 27 and 28, 1986, 3 p.m. and 9 a.m., respectively. The Texas Board of Human Services of the Texas Department of Human Services will meet in the Public Hearing Room, 701 West 51st Street, Austin. Items on the agenda summary include the adopted rules concerning fraud and abuse in the Medicaid Programs, community care services eligibility, the primary home care revisions of standards; MAO requirements, AFDC policy changes, and the Food Stamp Program; rate methodology change for ICF/MR; reimbursement methodology for inpatient hospital services; the payment limit on medical expenditures for hospital services; the payment limitations on Medicare Part B services; the third-party resource rule change; the out-of-state medical care; the purchased health services; the audit requirements in the child care food program; funds for the Temporary Emergency Food Assistance Program; proposed rule changes in registered family homes; the proposed Day Care Licensing Handbook; staff presentation, public comment, and board direction on the proposed fiscal year 1987 Operating Plan and proposed 1988-1989 LAR.

Contact: Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 450-3047.

Filed: May 19, 1986, 11:19 a.m.
TRD-8604857

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Texas Indian Commission

Monday, May 19, 1986, 3 p.m. The Texas Indian Commission met in emergency session in the administration office, Tigua Indian Reservation, El Paso. According to the agenda, the commission reviewed and approved the fiscal year 1987 budget; and reviewed and approved of fiscal year 1988-1989 budget request. The emergency status was necessary because the approval of the fiscal year 1987 budget and the fiscal year 1988-1989 budget request proposals are necessary to meet the Legislative Budget Board submission deadline.

Contact: Raymond D. Apodaca, Suite 214, 8705 Shoal Creek Boulevard, Austin, Texas 78758, (512) 458-1203.

Filed: May 16, 1986, 3:47 p.m.
TRD-8604820

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State Board of Insurance

Thursday, May 22, 1986, 2 p.m. The State Board of Insurance met in emergency session in Room 101, John H. Reagan Build-

ing, 105 West 15th Street, Austin. According to the agenda, the board considered Professional Mutual Insurance Company's proposed claims made Medical Professional Liability Program for Physicians and Surgeons and rate increase. The emergency status was necessary in order to begin the meeting 1½ hours earlier to provide adequate time for all persons with an interest in the subject of the heraing to make a complete presentation.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: May 19, 1986, 3:36 p.m.
TRD-8604868

Friday, May 23, 1986, 9 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider Docket 1485—Stewart Title Company's application for review of the commissioner's Order 86-0555.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: May 15, 1986, 4:36 p.m.
TRD-8604779

Wednesday, May 28, 1986, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider Docket 9267—application of Neva Diane Taylor, Waco, for a Group I, Legal Reserve Life Insurance Agent's license.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: May 19, 1986, 1:20 p.m.
TRD-8604860

Thursday, May 29, 1986, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider Docket 9270—application of J. E. Williams, Austin, to acquire control of Scotsmen Life Insurance Company, Austin.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: May 19, 1986, 1:20 p.m.
TRD-8604861

Friday, May 30, 1986, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider Docket 9269—application of Texas Capital Holdings, Inc., Dallas, to acquire control of Houston United Casualty Insurance Company, Houston.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: May 19, 1986, 1:20 p.m.
TRD-8604862

Friday, May 30, 1986, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider Docket 9272—application of Family Security Insurance Company of America, Fort Worth, for approval of reevaluation of real estate.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: May 19, 1986, 1:20 p.m.
TRD-8604863

Monday, June 2, 1986, 9 a.m. The State Board of Insurance will meet in the Hearing Room, DeWitt Greer Bulding, 11th and Brazos Streets, Austin. According to the agenda, the board will consider the amended and revised casualty general liability form filings of the Insurance Services Office, Inc. (I.S.O.) and such other matters related thereto as may be properly brought before the board. The occurrence policy form covers bodily injury and property damage that occurs during the policy period and for which a claim is filed at any time subsequent to the injury or damage. The claims made policy form covers bodily injury and property damage that occurs during the policy period and for which a claim is made during the policy period or the extended reporting period. The board will consider these filings under the authority of the Insurance Code, Articles 5.13, 5.15, and 5.97. The policy forms are available for inspection at the office of the Chief Clerk, State Board of Insurance, 1110 San Jacinto Street, Austin.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: May 16, 1986, 3:42 p.m.
TRD-8604826

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Texas Commission on Jail Standards

Wednesday, May 28, 1986, 9 a.m. The Texas Commission on Jail Standards will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will approve the minutes of the last meeting, March 26, 1986; consider the director's report; old business including Cooke, Denton, Johnson, Palo Pinto, Reagan, Rockwall, Tarrant, and Terrell Counties, staffing, electronic monitored confinement, the AIDS mailout, and corrections concepts; and new business including Bastrop, Caldwell, Ector, Ellis, Potter, and Randall Coun-

ties, and applications for variance for Johnson and Lubbock Counties. The commission also will meet in executive session.

Contact: Robert O. Viterna, Suite 200, 611 South Congress Avenue, Austin, Texas 78704, (512) 475-2716.

Filed: May 16, 1986, 1:59 p.m.
TRD-8604812

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Texas Department of Labor and Standards

Thursday, May 29, 1986, 9 a.m. The Labor, Licensing, and Enforcement Committee of the Texas Department of Labor and Standards will meet at the E. O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the committee will consider license and registration; and suspensions and alleged violation of various rules and regulations of the department.

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

Filed: May 16, 1986, 11:07 a.m.
TRD-8604795

Wednesday, June 4, 1986, 9 a.m. The Labor, Licensing, and Enforcement Committee of the Texas Department of Labor and Standards will meet in Room 105, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the committee will consider public comments on rules submitted for adoption by the Department for Professional Boxing.

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

Filed: May 16, 1986, 11:07 a.m.
TRD-8604793

Thursday, June 5, 1986, 9 a.m. The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 103, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the division will consider public comments on whether any and all aluminum wiring will be banned from use in industrialized housing and building, requested by the City of Lubbock Building Inspection Official, Max Garza.

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

Filed: May 16, 1986, 11:07 a.m.
TRD-8604794

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Texas Municipal Retirement System

Saturday, June 14, 1986, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at 1200 IH 35 North,

Austin. According to the agenda summary, the board will approve the minutes of the March 28, 1986, meeting; approve service retirements, disability and supplemental disability retirements; review supplemental death benefits payments; extended supplemental death benefits; financial statements, investment reports, and other reports; the 1985 annual report; the audit report for 1985; the presentation of the actuarial report and approval of the 1986 contribution rates; the Supplemental Death Benefits Contribution rates for 1986; select the auditor for fiscal year 1986 operations; and consider any other business to come before the board.

Contact: Jimm L. Mormon, P.O. Box 2225, Austin, Texas 78768, (512) 476-7577.

Filed: May 19, 1986, 3:55 p.m.
TRD-8604869

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North Texas State University

Friday, May 23, 1986, 9 a.m. The Board of Regents of North Texas State University (NTSU) and the Texas College of Osteopathic Medicine (TCOM) will meet in the board room, Administration Building, North Texas State University, Denton. According to the agenda, the board of TCOM will consider appointments to the advisory council; the Fort Worth cultural district appointment; the holiday schedule; personnel transactions; promotion and tenure recommendations; the student activity fee increase; the gift report; and signature authorization. The board also will meet in executive session. The board of NTSU will consider personnel transactions; the small class report; faculty development leaves; leaves without pay; promotion and tenure recommendations; the faculty workload report; the university review committee charter; the holiday schedule; the gift report; the quantity food production laboratory; the upgrade of Matthews Hall HVAC; the replacement of state lighting for the Speech and Drama Building; the Sports Medicine/Fitness Laboratory; the charge for supervision of construction and in-house work; and university union repairs and equipment purchases.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

Filed: May 16, 1986, 8:42 a.m.
TRD-8604781

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Board of Pardons and Paroles

Tuesday, May 27, 1986, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions (other than Out of Coun-

try Conditional Pardons), including full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-3152.

Filed: May 16, 1986, 10:56 a.m.
TRD-8604792

Tuesday-Friday, May 27-30, 1986, 1:30 p.m. daily except 11 a.m. Friday. A Board Panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

Contact: Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

Filed: May 16, 1986, 10:56 a.m.
TRD-8604791

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Texas State Board of Pharmacy

Wednesday, June 11, 1986, 1 p.m. The Texas State Board of Pharmacy will meet in Room 101, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board will consider the repeal of existing rules 22 TAC §§291.91-291.93, 291.95, and 291.96; and new rules 22 TAC §§291.91-291.93, 291.95, and 291.96 (Class D Clinic) Pharmacies.

Contact: Fred S. Brinkley, Jr., Suite 110, 8505 Cross Park Drive, Austin, Texas 78754, (512) 478-9827.

Filed: May 16, 1986, 10:45 a.m.
TRD-8604814

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Texas State Board of Public Accountancy

Wednesday and Thursday, May 28 and 29, 1986, 9 a.m. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will hold informal conferences and panel hearings regarding complaints involving licensees.

Contact: Bob E. Bradley, Suite 340, 1033 La Posada, Austin, Texas 78752, (512) 451-0241.

Filed: May 19, 1986, 4:29 p.m.
TRD-8604873

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Texas Department of Public Safety

Thursday, May 29, 1986, 9 a.m. The Public Safety Commission of the Texas Department of Public Safety (DPS) will meet in the Commission Room, DPS Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the commission will approve the minutes; discuss budget matters; personnel matters; and other unfinished business.

Contact: James B. Adams, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000 ext. 3700.

Filed: May 20, 1986, 8:12 a.m.
TRD-8604881

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Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Thursday, May 29, 1986, 9 a.m. A telephone prehearing conference in Docket 6501—application of Valley View Telephone Company to amend certificate of convenience and necessity within Denton County.

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

Filed: May 15, 1986, 2:48 p.m.
TRD-8604774

Friday, May 30, 1986, 10 a.m. A prehearing conference in Dockets 6488 and 6841—petition of Cogen Power, Inc., for determination concerning applicability of certificate of convenience and necessity provisions to certain sales of power by a qualifying facility and application of Cogen Power, Inc., for a certificate of convenience and necessity to sell electric power from one portion of a qualifying cogeneration facility to the owner of the other portion of the qualifying facility.

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

Filed: May 15, 1986, 2:27 p.m.
TRD-8604775

Monday, July 28, 1986, 10 a.m. A hearing on the merits in Docket 6848—application of Coleman County Telephone Cooperative for authority to unbundle service connection charges and to make other minor rate changes.

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

Filed: May 15, 1986, 2:49 p.m.
TRD-8604773

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

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

Filed: May 16, 1986, 2:52 p.m.
TRD-8604811

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Railroad Commission of Texas

Monday, May 19, 1986, 9 a.m. Committees of the Railroad Commission of Texas met in the 12th Floor Conference Room, William B. Travis Office Building, 1701 North Congress Avenue, Austin. Committees and agendas follow.

The Gas Utilities Division made an emergency revision to the agenda concerning consideration of Docket 5871—statement of intent filed by East Texas Industrial Gas Company to change rates charged to American Norit Company, Inc. The emergency status was necessary because this item was properly noticed for conference held on May 12, 1986, was passed and is now being considered on less than seven days notice as a matter of urgent public necessity.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: May 16, 1986, 10:21 a.m.
TRD-8604787

The Gas Utilities Division made an emergency revision to the agenda concerning consideration of Dockets 5207, 5280, 5368, and 5400—appeals of Lone Star Gas Company from the actions of the cities of Grand Prairie, Bowie, Saint Jo, Whitesboro, Groesbeck, Saginaw, Blue Mound, Vernon, Early, and Valley Mills. The emergency status was necessary because this item was properly noticed for the conference held on May 12, 1986, was passed and is now being considered on less than seven days notice as a matter of urgent public necessity.

Contact: Lucia Sturdevant, P.O. Drawer, 12967, Austin, Texas 78711, (512) 463-7003.

Filed: May 16, 1986, 10:21 a.m.
TRD-8604788

The Oil and Gas Division made an emergency revision concerning whether to use state funds to plug Thweatt and Gray, Turberville Lease, Well 1, Archer County. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgent public necessity. The well is leaking salt water into the middle fork of Little Wichita River at the rate of approximately 15 barrels per day. The water has a chloride content of 72,500 PPM and could

be a threat to the public's health, safety, and welfare.

Contact: Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6830.

Filed: May 16, 1986, 11:17 a.m.
TRD-8604801

The Transportation Division met in emergency session pursuant to Texas Civil Statutes, Article 6252-17 to consider a petition by Texas Motor Express Association for interim emergency approval of amendment to Tariff 31 that prescribes rates for shipments weighing 201 to 500 pounds. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgent public necessity. The absence of rates by Tariff 31 carriers jeopardizes their continued operation. If the public is without the services of these carriers the public health, safety, or welfare will be threatened.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: May 16, 1986, 11:18 a.m.
TRD-8604798

The Transportation Division met in emergency session pursuant to Texas Civil Statutes, Article 6252-17 to consider motions for reconsideration of the interim orders in the fuel surcharge cases regarding Tariff 41. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgent public necessity. The payment of unreasonably high prices for transportation services is a threat to the public's health, safety, or welfare.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: May 16, 1986, 11:18 a.m.
TRD-8604799

The Transportation Division made an emergency revision to the agenda pursuant to Texas Civil Statutes, Article 6252-17 concerning motions for reconsideration of the interim orders in the fuel surcharge cases regarding Tariffs 25, 31, 50, and 100. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgent public necessity. The payment of unreasonably high prices for transportation services is a threat to the public's health, safety, or welfare.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: May 16, 1986, 11:18 a.m.
TRD-8604800

The Transportation Division made an emergency revision to the agenda concerning consideration of Allied Van Lines, Docket 007143E6D; Allied Van Lines, Inc. Docket 036605A1S; and Benton Van Lines, Inc., Docket 036605A2S for division and to sell authority. The emergency status was necessary because this matter was properly

posted for conference on May 12, 1986, was passed, and is now being considered on less than seven days notice as a matter of urgent public necessity.

Contact: Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: May 16, 1986, 10:21 a.m.
TRD-8604789

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Texas Rehabilitation Commission

Subcommittees of the Governor's Committee for Disabled Persons of the Texas Rehabilitation Commission met in emergency sessions in Room 104, 158 East Riverside Drive, Austin. Days, times, subcommittees, and agendas follow.

Friday, May 16, 1986, 3 p.m. Via a conference call, the Recognition and Award Subcommittee discussed plans for the fiscal year 1987 awards program; plans for the fiscal year 1988-1989 awards program; and developed priorities. The emergency status was necessary in order to meet agency policy deadlines.

Contact: Virginia Robert, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: May 15, 1986, 10:53 a.m.
TRD-8604759

Monday, May 19, 1986, 2 p.m. Via a conference call, the Media Relations and Public Information Subcommittee reviewed subcommittee objectives for the fiscal year 1987 implementation plan and for fiscal year 1988-1989; developed priority ranking of activities; and developed the action plan for top priority activities. The emergency status was necessary because of the tight time constraint required by internal procedures.

Contact: Virginia Robert, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: May 15, 1986, 10:53 a.m.
TRD-8604758

Tuesday, May 20, 1986, 9 a.m. The Subcommittee on Program Accountability approved minutes; developed fiscal year 1987 objectives; and adopted objectives for fiscal year 1988-1989. The emergency status was necessary because the required deadlines for the 1987 implementation plan did not permit a seven day posting.

Contact: Virginia Robert, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: May 15, 1986, 10:53 a.m.
TRD-8604757

Tuesday, May 20, 1986, 2 p.m. Via a conference call, the Disability Barriers Subcommittee discussed projects for fiscal year 1987; projects for fiscal year 1988-1989; and developed priorities. The emergency status was necessary in order to meet agency policy deadlines.

Contact: Virginia Robert, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: May 15, 1986, 10:53 a.m.
TRD-8604760

Tuesday, May 20, 1986, 2 p.m. Via a conference call, the Employment Subcommittee developed fiscal year 1987 objectives; and fiscal year 1988-1989 objectives. A speaker telephone was available. The emergency status was necessary because the required deadline for the 1987 implementation plan did not permit a seven day posting.

Contact: Virginia Robert, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8272.

Filed: May 15, 1986, 10:53 a.m.
TRD-8604756

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Texas Savings and Loan Department

The Texas Savings and Loan Department will meet in Room 201, 2601 North Lamar Boulevard, Austin, Texas. Days, times, and agendas follow.

Tuesday, May 27, 1986, 9 a.m. The department will determine whether to grant or deny the application of Sunbelt Savings Association of Texas, Dallas, Dallas County, to relocate a branch office from the southwest corner of Sugar Creek and Parkway Boulevard, Sugarland, Fort Bend County, to 7502 Greenville, Suite 180, Dallas, Dallas County.

Contact: Russell R. Oliver, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: May 16, 1986, 4:51 p.m.
TRD-8604834

Tuesday, May 27, 1986, 9:30 a.m. The department will determine whether to grant or deny the application of Sunbelt Savings Association of Texas, Dallas, Dallas County, to relocate the home office from 4901 LBJ Freeway, Dallas, Dallas County, to 16521 Dallas Parkway, Addison, Dallas County.

Contact: Russell R. Oliver, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: May 16, 1986, 4:52 p.m.
TRD-8604830

Wednesday, May 28, 1986, 9 a.m. The department will determine whether to grant or deny the application of Western Savings Association, Dallas, Dallas County, for a branch office for 6420 Highway 290 East, Austin, Travis County.

Contact: Russell R. Oliver, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: May 16, 1986, 4:51 p.m.
TRD-8604833

Thursday, May 29, 1986, 9 a.m. The department will determine whether to grant or deny the application of Olney Savings Association, Olney, Young County, for a branch office for 1103 Southeast First Street, Mineral Wells, Palo Pinto County.

Contact: Russell R. Oliver, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: May 16, 1986, 4:51 p.m.
TRD-8604832

Friday, May 30, 1986, 9 a.m. The department will determine whether to grant or deny the application of Jacksonville Savings and Loan Association, Jacksonville, Cherokee County, to relocate a branch office from 1111 East Tyler Street, Athens, Henderson County, to the southeast corner of South Palestine and Dean, Athens, Henderson County.

Contact: Russell R. Oliver, Suite 201, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: May 16, 1986, 4:51 p.m.
TRD-8604831

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School Land Board

Tuesday, May 20, 1986, 10 a.m. The School Land Board made an emergency addition to the agenda for the meeting held in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned consideration of nominations, terms, conditions, and procedures for additional tracts for special oil and gas lease sale. The emergency status was necessary in order to meet the deadline for legal requirements for advertising.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: May 15, 1986, 4:02 p.m.
TRD-8604778

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University System of South Texas

Wednesday, June 4, 1986, 11 a.m. The Board of Directors of the University System of South Texas will meet in the Founders' Room, Lewis Hall, Texas A&I University, Kingsville. According to the agenda, the board will discuss the system organization during the interim period; and the chancellorship of the University System of South Texas. The board also will meet in executive session to discuss the system operation and organization during the interim period; and the selection of the chancellor for the system.

Contact: Dr. Lawrence K. Pettit, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2215.

Filed: May 19, 1986, 9:44 a.m.
TRD-8604855

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Texas Soybean Producers Board

Thursday, May 29, 1986, 1 p.m. The Texas Soybean Producers Board (TSPB) of the Texas Department of Agriculture will meet in the Caprock Room, Civic Center Holiday Inn, 801 Avenue Q, Lubbock. According to the agenda, the board will consider the minutes of the previous meeting; the financial report; the report by the TSPB executive secretary; the report on the biennial election; allocation of funds; old business; and new business.

Contact: Alan Krob, P.O. Box 2182, Dallas, Texas 75221, (800) 558-1305.

Filed: May 15, 1986, 10:56 a.m.
TRD-8604761

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Stephen F. Austin State University

Wednesday, May 21, 1986, noon. The Board of Regents of Stephen F. Austin State University met in Room 307, Austin Building, Stephen F. Austin State University Campus, Nacogdoches. According to the agenda, the board discussed property acquisition.

Contact: William R. Johnson, P.O. Box 6078 SFA, Nacogdoches, Texas 75962, (409) 569-2201.

Filed: May 16, 1986, 3:42 p.m.
TRD-8604827

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Texas A&M University System

Tuesday, May 20, 1986, 1:30 p.m. The Committee on Budgets and Planning of the Board of Regents of Texas A&M University System met in emergency session in the MSC Annex, Texas A&M University, College Station. According to the agenda, the committee held a preliminary review of the 1986-1987 budgets of the Texas A&M University System. The emergency status was necessary in order to have key administrative staff present, it was necessary to change the location of the meeting from Austin to College Station.

Contact: Vickie E. Burt, the Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: May 20, 1986, 8:36 a.m.
TRD-8604884

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Texas Southern University

Friday, June 6, 1986, 9:30 a.m. Committees of the Board of Regents of Texas Southern University will meet in Room 203, Sterling Student Life Center, Texas Southern University, 3100 Cleburne Avenue, Houston. Committees and agendas follow.

The Development Committee will receive reports from the administration on university fund raising efforts and on special fund budgets.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004 (713) 529-8911.

Filed: May 16, 1986, 8:51 a.m.
TRD-8604780

The Student Affairs Committee will consider information from the university administration on tuition installment payments; information on university plans for enhanced recruitment and retention and enrollment of students; and the reports on the current enrollment and on enrollment projections for the 1986 summer school and 1986 fall term.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004 (713) 529-8911.

Filed: May 16, 1986, 8:51 a.m.
TRD-8604783

The Finance Committee will consider matters relating to the issuance of Rosewood Site Dormitory Project Bonds and Proposition II Bonds; the short-term university investments and monthly fiscal reports on university operations; and matters relating to the current biennium budget adjustments.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004 (713) 529-8911.

Filed: May 16, 1986, 8:50 a.m.
TRD-8604784

The Personnel and Academic Affairs Committee will consider the ratification of instructional personnel changes; the enrollment projections and reports; and reports on the academic plans and projections.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004 (713) 529-8911.

Filed: May 16, 1986, 8:50 a.m.
TRD-8604785

The Building and Grounds Committee will consider the payments of architects and contractors; the improvements to land; the construction change orders; the purchase of real estate; bids on construction projects; the reports on on-going construction projects; and plans and projections for new construction.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004 (713) 529-8911.

Filed: May 16, 1986, 8:51 a.m.
TRD-8604786

Friday, June 6, 1986, 1:30 p.m. The Board of Regents of Texas Southern University will meet in Room 203, Sterling Life Center, Texas Southern University, 3100 Cleburne Avenue, Houston. According to the agenda, the board will consider the minutes; the reports from the board's Standing Committee; and consideration of the 1986-1987 annual budget. The board also will meet in executive session to consider personnel evaluation and conference with the university attorney on pending litigation.

Contact: Everett O. Bell, Texas Southern University, Houston, Texas 77004 (713) 529-8911.

Filed: May 16, 1986, 8:51 a.m.
TRD-8604782

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Texas Water Commission

The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Tuesday, May 20, 1986, 10 a.m. In Room 118, the commission considered the application of Windy's Water Works, Inc. for a rate increase and on an inquiry into compliance with the final Public Utility Commission order in Docket 5317. The emergency status was necessary in order to avoid any possible undue litigation expense, the commission is considering the referenced matter as soon as possible.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 16, 1986, 2:17 p.m.
TRD-8604810

Wednesday, May 21, 1986, 3 p.m. In Room 123, the commission met in emergency session to discuss pending litigation. The emergency status was necessary in order to meet deadlines imposed by the court.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 19, 1986, 4:35 p.m.
TRD-8604880

Tuesday, May 27, 1986, 10 a.m. In Room 118, the Commission will consider water district bond applications; change orders; rate matter; proposed water quality permits; amendments and renewals; water use applications; rules; reports of the Texas Water Quality Management Plant; and the remedial investigation/feasibility study.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 16, 1986, 4:58 p.m.
TRD-8604835

Tuesday, May 27, 1986, 2 p.m. In Room 118, the Commission will consider the executive director's preliminary report and petition for a Texas Water Commission order assessing administrative penalties and requiring certain action of the City of Dallas (Central Wastewater Treatment Plant, Permit 10060-01, and Southside Wastewater Treatment Plant, Permit 10060-06.)

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 16, 1986, 4:57 p.m.
TRD-8604836

Friday, May 30, 1986, 10 a.m. In Room 618, the Office of Hearings Examiner will consider Docket 6534—application for a rate increase by Center Point Water Works.

Contact: Charmaine Rhodes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 19, 1986, 4:36 p.m.
TRD-8604879

Wednesday, June 4, 1986, 10 a.m. In Room 118, the Commission will consider the Assessing Administrative penalties and Enforcement Order for the City of Bonham (Permit 10070-01); and the order assessing administrative penalties and requiring certain actions of Trinity Valley Iron and Steel Company (Solid Waste Registration 31092).

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 16, 1986, 2:16 p.m.
TRD-8604806

Thursday, June 5, 1986, 10 a.m. In Room 118, the Commission will consider the application of the City of Harlingen, Valley Water Treatment Company, and McCullough Environmental Services, Inc. for Proposed Permit 10490-04 to authorize the discharge of 3,250,000 gallons per day of treated municipal wastewater effluent in Cameron County, Nueces-Rio Grande Coastal Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 16, 1986, 2:16 p.m.
TRD-8604807

Thursday, June 5, 1986, 10 a.m. In Room 215, The Office of Hearings Examiner will consider Docket 7009D—complaint against the City of Bruceville-Eddy.

Contact: Duncan C. Norton, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 19, 1986, 4:37 p.m.
TRD-8604877

Thursday, June 5, 1986, 2 p.m. In Room 118, the Commission will consider Docket 5949—application of H & J Water Company for a rate increase.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 16, 1986, 2:17 p.m.
TRD-8604808

Tuesday, June 17, 1986, 9 a.m. In Room 119, the Office of Hearings Examiner will consider Docket 6468—application for an amendment to a water certificate of convenience and necessity for the City of Kyle.

Contact: Joseph O'Neal, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: May 19, 1986, 4:38 p.m.
TRD-8604876

Tuesday, July 15, 1986, 10 a.m. In Room 118, the commission will consider Application 5056—John William Davis, seeks a permit to divert 40 acre-feet of water per annum from an exempt 17 acre-foot capacity, on-channel reservoir on an unnamed tributary of South Twin Creek, tributary of Twin Creek, tributary of Cedar Creek, tributary of Trinity River Trinity River Basin, for industrial purposes, Henderson County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 19, 1986, 4:44 p.m.
TRD-8604874

Tuesday, July 15, 1986, 10 a.m. In Room 118, the commission will consider Docket 5057—Tascosa Country Club, Inc. seeks a permit to maintain two existing reservoirs on separate unnamed tributaries of West Amarillo Creek, tributary Canadian River Canadian River Basin, for recreational and erosion control purposes, Potter County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: May 19, 1986, 4:42 p.m.
TRD-8604875

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Regional Agencies Meetings Filed May 15

The Education Services Center, Region XIII, Board of Directors, met in Room 200, 7703 North Lamar, Austin, on May 20, 1986, at 12:30 p.m. Information may be obtained from Dr. Joe Parks, Executive Director, 7703 North Lamar, Austin, Texas 78752, (512) 458-9131.

The Ellis County Tax Appraisal District, met at 406 Sycamore Street, Waxahachie, on May 21, 1986, at 7 p.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Harris County Appraisal District, Board of Directors, met at 3737 Dacoma, Houston, on May 21, 1986, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5203.

TRD-8604754

Meetings Filed May 16

The Angelina and Neches River Authority, Board of Directors, met at Fredonia State Bank, 2400 North Street, Nacogdoches, on May 20, 1986, at 10 a.m. Information may be obtained from William A. Elmore, P.O. Box 387, Lufkin, Texas 75901, (409) 632-7795.

The Coastal Bend Council of Governments, Executive Board, will meet in the Marina North Room (top floor), Sheraton Marina Hotel, 300 North Shoreline, Corpus Christi, on May 23, 1986, at 11:45 a.m. Information may be obtained from John P. Buckner, Executive Director, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743.

The Concho Valley Council of Governments, Executive Committee, met at 5002 Knickerbocker Road, San Angelo, on May 21, 1986, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60040, San Angelo, Texas 76906, (915) 944-9666.

The Dallas Area Rapid Transit, Finance Committee, met at 601 Pacific Avenue, Dallas, on May 19, 1986, at 4 p.m. The South Africa Task Force met at the same location, on May 20, 1986, at 3 p.m. as did the Board of Directors, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Heart of Texas Council of Governments, Executive Committee Meeting, will meet in the conference room, 320 Franklin Avenue, Waco, on May 23, 1986, at 10 a.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Jack County Appraisal District, Board of Directors, met at 216-D, Los Creek Office Building, South Main, Jacksboro, on May 20, 1986, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D, South Main, Jacksboro, Texas 76056, (817) 567-6301.

The Lower Rio Grande Valley Development Council, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on May 22, 1986, at 1:30 p.m. The annual membership meeting was held at the same location, on May 22, 1986, at 2:30 p.m. Information may be obtained from Robert Chandler or Ken Jones, Suite 707, 1701 West Highway 83, McAllen, Texas 78501, (512) 682-3481.

The North Central Texas Council of Governments, Executive Board, met at Centerpoint Two, 616 Six Flags Drive, second floor, Arlington, on May 22, 1986, at 12:45 p.m. Information may be obtained from Edwina J. Hicks, Director of Public

Affairs, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.
TRD-8604805

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Meetings Filed May 19

The Archer County Appraisal District, Appraisal Review Board, will meet at the Lion's Club Building, 106½ East Walnut Street, Archer, on June 2, 1986, at 10 a.m. Information may be obtained from Jean James, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Central Texas Mental Health/Mental Retardation Center, Board of Trustees, met at 408 Mulberry Drive, Brownwood, on May 22, 1986, at 6 p.m. Information may be obtained from Randy K. Harkey, Chairman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574.

The Deep East Texas Regional Mental Health/Mental Health Services, Board of Trustees, will meet at Ward R. Burke Community Room, Administration Facility, 4101 South Medford Drive, Lufkin, on May 27, 1986, at 5:30 p.m. Information may be obtained from Jim McDermott, Ph.D., Executive Director, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1441.

The Gregg Appraisal District, Board of Directors, will meet at the Hot Biscuit Restaurant, 1755 West Loop 281, Longview, on May 27, 1986, at 8 a.m. Information may be obtained from William T. Carroll, CTA, Chief Appraiser, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Hockley County Appraisal District, Appraisal Review Board, will meet at 1103-C, Houston Street, Levelland, on May 29, 1986, at 10:30 a.m. Information may be obtained from Keith Tommire, Chief Appraiser, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

The Houston-Galveston Area Council, Board of Directors, met in the fourth floor conference room, 3555 Timmons, Houston, on May 20, 1986, at 9:30 a.m. Information may be obtained from Sallie Sosa, 3555 Timmons, Houston, Texas 77027, (713) 627-3200.

The Texas Department of Human Services, Council on Child Abuse and Neglect Prevention, will meet on the fifth floor, West Tower, Room 5-W, 701 West 51st Street, Austin, on May 27, 1986, at 9:30 a.m. The Board of Human Services will meet in the Public Hearing Room at the same address, on May 27, 1986, at 3 p.m. and May 28, 1986, at 9 a.m. Information may be obtained from Susan Watkins, P.O. Box 2960, Austin, Texas 78769, (512) 450-3306.

The Lamb County Appraisal District, Appraisal Review Board, will meet in the board meeting room, 330 Phelps Avenue, Littlefield, on May 29, 1986, at 8 p.m. Information may be obtained from Murlene J. Bilbrey, Chief Appraiser, P.O. Box 552, 330 Phelps Avenue, Littlefield, Texas 79339, (806) 385-6474.

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on May 28, 1986, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Liberty County Central Appraisal District, Appraisal Review Board, will meet at 1820 Sam Houston, Liberty, on May 23, 1986, at 9:30 a.m. The Board of Directors will meet at the same location, on May 28, 1986, at 9:30 a.m. Information may be obtained from Sherry Greak, Administrative Assistant, P.O. Box 712, Liberty, Texas 77575, (409) 336-6771.

The Middle Rio Grande Development Council, Board of Directors, will meet at the coun-

ty courtroom, Market Street, Leakey, on May 29, 1986, at 10 a.m. Information may be obtained from Mike Patterson, Executive Director, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Parmer County Appraisal Office, Board of Directors, will meet at 305 Third Street, Bovina, on June 2, 1986, at 8 p.m. Information may be obtained from Ron Procter, R.P.A., P.O. Box 56, Bovina, Texas 79009, (806) 238-1405.

The San Jacinto River Authority, Board of Directors, will meet in the conference room, Lake Conroe Office Building, Highway 105 West, Conroe, on May 27, 1986, at 1 p.m. Information may be obtained from Jack K. Ayer, General Manager, P.O. Box 329, Conroe, Texas 77305, (409) 588-1111.

The Tarrant Appraisal District, Board of Directors, met at 1701 River Run, Suite 505, Fort Worth, on May 22, 1986, at 9 a.m. Information may be obtained from Cecil Mae Perrin, 1701 River Run, Suite 505, Fort Worth, Texas 76107, (817) 332-3151.

The Central Tax Authority of Taylor County, Board of Directors, met at 340 Hickory Street, Abilene, on May 21, 1986, at 10 a.m. Information may be obtained from Richard Petree, RPA-RTA, Chief Appraiser, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381.

The West Texas Council of Governments, Board of Directors, will meet in the second floor city council chambers, Two Civic Center Plaza, El Paso, on May 23, 1986, at 4 p.m. Information may be obtained from Anna M. Maldonado, Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4681.

The Wood County Appraisal District, Board of Directors, will meet in the conference room, 217 North Main, Quitman, on May 27, 1986, at 6:30 p.m. Information may be obtained from W. Carson Wages, Chief Appraiser, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946.

TRD-8604840

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In Addition

The *Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Requests for Proposals

Notice of Invitation for Proposals. The Texas Air Control Board (TACB) is soliciting proposals from interested parties to measure the organic and elemental carbon concentrations in particulate matter on selected samples collected in El Paso, Dallas, and other areas of Texas. This request is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The TACB will receive proposals until 5 p.m., June 10, 1986. Proposals need not be a formal commitment on the part of the proposer's organization to perform the work. They should contain a statement of suggested approach and a statement of qualifications of the principal persons who would be performing the work if it is undertaken. This project is anticipated to be funded up to \$1,500 for the analysis of filters obtained from sampling in El Paso undertaken in the winter of 1985-1986 and with an option for up to \$3,000 for the analysis of additional filters to be obtained from additional sampling projects to be undertaken in Dallas in the summer of 1986 and in El Paso in the winter of 1986-1987.

Data from the analysis will be used to assist in determining the chemical composition of fine particles in the air and the relationship between particulate matter and visibility reduction as part of the TACB's efforts to study visibility and characterize particulate matter in El Paso, Dallas, and other areas in Texas. The purpose of these studies is to begin to determine the nature and origin of the fine particles that cause the visibility reductions in certain urban areas of Texas and to characterize the constituents of particulate matter that may be contributing to poor visibility and to potentially adverse effects on human health by deposition in the respiratory tract and the lungs.

Description of Services. The purpose of this contract is to determine the concentrations of organic and elemental carbon in selected particulate matter samples. These samples are anticipated to be deposited on 37mm quartz filters by a dichotomous sampler. The filters are certified to 800°C and will have been pre-fired to reduce organic contamination of the blanks. Most particulate samples are expected to be taken from the fine fraction (0-2.5 micron aerodynamic diameter). The typical sampling period will be about eight hours at a flow rate of about 15 liters per minute. The samples may also include significant concentrations of lead, copper, zinc, and iron compounds. It is estimated that about 150 samples will be analyzed, approximately 50 for the El Paso study of 1985-1986, and an option for up to 100 for additional studies to be undertaken in Dallas and El Paso.

If dichotomous samplers are not available for the additional studies, samples will be deposited on hi-volume sam-

pler filters. These filters could be either glass fiber or quartz. In addition, the option for 100 filters from additional studies may include filters whose sampling times may range between 8-24 hours.

Any of several analytical procedures will be considered. The proposal should include a description of the analytic procedure and estimates of detection and precision limits on quartz and glass fiber filters. Any special requirements that the filter media must meet (such as for binder impurities or certified temperature) must also be specified. Both organic and elemental carbon must be measured. A proposal to measure only one of the constituents or total carbon only will be considered unacceptable.

If thermal procedures are proposed, the corrections to be used to estimate charring of organics should be discussed in the proposal. If optical procedures are proposed, the corrections to be used for colors in the metal compounds should be discussed.

The cost of collecting the samples is not included in this contract. A test analysis of about 10-20 filters will be conducted to determine the feasibility of using the carbon analysis on these filters. These filters will include some quality assurance filters. A report of the test should be and should include detection limits and related quality assurance data. If the analysis indicates that results will be useful in the identification of carbonaceous species in the study, additional samples will be sent to be analyzed. The option to continue or discontinue the work shall reside with the TACB project officer. Final reports shall include estimates of the organic and elemental carbon concentrations, detection limits, and related quality assurance data.

Final reports for samples from the winter of 1985-1986 El Paso study and each of the additional optional studies shall be due 60 days after delivery of the samples to the contractor.

Procedure for Awarding Contract. The TACB will select and award such contract and engage such services on the basis of demonstrated competence, qualifications, and availability of resources to perform the required work. The TACB agrees to receive proposals only under the condition that they shall become public after 5 p.m., June 10, 1986, and that they are submitted free of charge to the TACB and free from any obligation on the part of the TACB. Moreover, the proposer must provide adequate assurance that release of the proposal will not violate any rights of confidentiality or other property rights. The TACB may choose to enter into one or no contract as a result of this RFP.

Contact Person. Proposals or requests for additional information should be directed to Stuart Dattner, Research Division, Texas Air Control Board, 6330 Highway 290

East, Austin, Texas 78723, (512) 451-5711, ext. 249, STS 824-7249.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604822 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: May 16, 1986
For further information, please call (512) 451-5711, ext. 354.

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Notice of Invitation for Proposals. The Texas Air Control Board (TACB) is soliciting proposals from interested parties to determine urban atmospheric visibility for two sites in Texas using photographic slide scanning. This request is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The TACB will receive proposals until 5 p.m., June 10, 1986. Proposals need not be a formal commitment on the part of the proposer's organization to perform the work. They should contain a statement of suggested approach and a statement of qualifications of the principal persons who would be performing the work if it is undertaken. This project is anticipated to be funded initially at approximately \$2,100 with an option for additional work of approximately \$5,700 for a total not to exceed \$7,800.

Data from the analysis will be used to assist in determining the relationship between particulate matter and visibility reduction as part of the TACB's efforts to study visibility and characterize particulate matter in El Paso, Dallas, and other areas in Texas. The purpose of these studies is to begin to determine the nature and origin of the fine particles that cause the visibility reductions in El Paso, Dallas, and other cities in Texas, and to characterize the constituents of particulate matter that may be contributing to poor visibility and to potentially adverse effects on human health by deposition in the respiratory tract and the lungs.

Description of Services. The purpose of this contract is to analyze 35 millimeter Kodachrome 25 photographic slides taken in El Paso and Dallas, using a scanning densitometer to obtain sky/target contrast data and develop standard visual range (SVR) values. The standard visual range is used to compare visual range at sites having different elevations. Site and target characteristics must be evaluated in order to develop the contrast measurements necessary to calculate SVR values. The SVR values should be reported by target and time of day. The SVR daily geometric means should be graphically presented in seasonal plots and a brief report on the results should be prepared.

Photographic slides taken at 9 a.m., noon, and 3 p.m. for December 1985-June 1986 (582 slides) in El Paso shall be analyzed for the initial contract. Slides taken in El Paso from July 1986-May 1987 (1,002 slides) and slides taken in Dallas from June 1986-May 1987 (1,092 slides) will be analyzed under the option for additional work. The cost of photographic film and photographic processing will not be included in this contract.

A final report on the analysis of the December 1985-June 1986 slides from El Paso shall be delivered within 60 days of receipt of the slides. A final report on the analysis of the July 1986-May 1987 slides from El Paso and the June 1986-May 1987 slides from Dallas shall be delivered by August 31, 1986.

Procedure for Awarding Contract. The TACB will select and award such contract and engage such services on the

basis of demonstrated competence, qualifications, and availability of resources to perform the required work. The TACB agrees to receive proposals only under the condition that they shall become public after 5 p.m., June 10, 1986, and that they are submitted free of charge to the TACB and free from any obligation on the part of the TACB. Moreover, the proposer must provide adequate assurance that release of the proposal will not violate any rights of confidentiality or other property rights. The TACB may choose to enter into one or no contract as a result of this RFP.

Contact Person. Proposals or requests for additional information should be directed to Keith Zimmermann, Research Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas, 78723, (512) 451-5711, ext. 225, STS 824-7225.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604823 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: May 16, 1986
For further information, please call (512) 451-5711, ext. 354.

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Notice of Invitation for Proposals. The Texas Air Control Board (TACB) is soliciting proposals from interested parties to determine the concentration of elements on special filters collected in El Paso and Dallas. The TACB will receive proposals until 5 p.m., June 10, 1986. Proposals need not be a formal commitment on the part of the proposer's organization to perform the work. They should contain a statement of suggested approach with regard to analytical methodology and quality assurance procedures and a statement of qualifications of the principal persons who would be performing the work if it is undertaken. This project is anticipated to be funded up to \$3,300 for filters from a study in El Paso during the winter of 1985-1986, and with an option for up to \$6,600 for additional filters to be obtained in studies in Dallas during the summer of 1986, and El Paso during the winter of 1986-1987.

Data from the analysis will be used to assist in determining the chemical composition of fine particles in the air and the relationship between particulate matter and visibility reduction as part of the TACB's efforts to study visibility and characterize particulate matter in El Paso, Dallas, and other areas in Texas. The purpose of these studies is to begin to determine the nature and origin of the fine particles that cause the visibility reductions in El Paso, Dallas, and other cities in Texas, and to characterize the constituents of particulate matter that may be contributing to poor visibility and to potentially adverse effects on human health by deposition in the respiratory tract and the lungs.

Description of Services. The purpose of this contract is to determine the elemental concentrations on streaker (PIXE International Corporation Model SIAW) sampler filters. The streaker sampler is designed to collect a continuous particulate matter sample for one week. A nucleopore filter is located over a one millimeter by eight millimeter orifice with an airflow of approximately one liter per minute flowing through the filter. The filter rotates over the orifice at a speed of one millimeter per hour collecting particulate matter for up to one week, with each one millimeter streak considered as a distinct one-hour sample. The sampler has 50% aerodynamic diameter cut-off of about 10 micrometers.

The contractor should analyze either each of 168 one-hour streaks or each of 84 two-hour streaks for at least the following elements: aluminum, arsenic, bromine, cadmium, calcium, chlorine, chromium, copper, iron, lead, manganese, nickel, potassium, silicon, sulfur, titanium, vanadium, and zinc.

The contractor should also give estimates of the typical detection limits expected for this type of sample and filter medium for both the one-hour and two-hour streaks. A final report including the measurements of at least three complete weeks of one-hour samples or six weeks of two-hour samples and related quality assurance data shall be delivered within 60 days of receipt of the samples.

Options for additional analyses of either six weeks of one-hour samples or 12 weeks of two-hour samples may be included in this contract. Some of these filters would be delivered by October 31, 1986, and the final report due by December 31, 1986. The other samples would be delivered by March 31, 1987, and the final report due by May 31, 1987.

Procedure for Awarding Contract. The TACB will select and award such contract and engage such services on the basis of demonstrated competence, qualifications, and availability of resources to perform the required work. The TACB agrees to receive proposals only under the condition that they shall become public after 5 p.m., June 10, 1986, and that they are submitted free of charge to the TACB and free from any obligation on the part of the TACB. Moreover, the proposer must provide adequate assurance that release of the proposal will not violate any rights of confidentiality or other property rights. The TACB may choose to enter into one or no contract as a result of this request for proposal.

Contact Person. Proposals or requests for additional information should be directed to Stuart Dattner, Research Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-571, Ext. 249, STS 824-7249.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604824 Allen Eli Bell
Executive Director
Texas Air Control Board

Filed: May 16, 1986
For further information, please call (512) 451-5711.

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State Banking Board Notice of Cancellation

As no opposition has been noted in the application for change in domicile by Liberty Bank, Houston, the hearing previously scheduled for Tuesday, May 20, 1986, has been cancelled.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604813 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: May 16, 1986
For further information, please call (512) 479-1200.

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Texas Department of Health Intent to Revoke a Certificate of Registration

The Texas Department of Health, Bureau of Radiation Control, is seeking the revocation of Certificate of Registration 3-10315, issued to Medical Equipment Services, Inc., because the agency determined that the registrant is no longer located at 319 Princeton, El Paso, Texas 79907. The registrant has not notified the agency of a change of address and no forwarding address is available.

All attempts by the agency to contact the registrant by telephone and by certified mail have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the certificate of registration be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* 13.8, this notice affords the opportunity for a hearing to show why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

Issued in Austin, Texas, on May 13, 1986.

TRD-8604748 Robert A. McLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: May 14, 1986
For further information, please call (512) 458-7236.

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Public Hearing

The department will conduct a public hearing on the following application for a radioactive material license. Uranium Resources, Inc. (URI), Promenade Bank Tower, Suite 735, 1600 Promenade Center, Richardson Texas 75080, has applied to the Texas Department of Health to obtain a radioactive material license permitting in situ uranium extractions at the Kingsville Dome Site in Kleberg County, Texas. The site is located about eight miles southeast of Kingsville and about six miles northwest of Baffin Bay.

The hearing is to determine whether the Texas Department of Health shall issue Radioactive Material License 8-3653 to URI for its Kingsville Dome Project. Pursuant to the provisions of §§6, 11, 11A, 12A, and 14 of the Radiation Control Act, Texas Civil Statutes, Article 4590f, the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.; formal hearing procedures of the Texas Department of Health, 25 TAC §1.21, *et seq.*; *Texas Regulations for Control of Radiation*, Parts 11, 13, 21, 41, and 43; and the conditions of the proposed Radioactive Material License 8-3653, a public hearing on this application will be convened at 9:00 a.m. on Wednesday, June 18, 1986, at Texas A&I University, 100—Biology & Earth Science Building, Kingsville, Texas 78363.

All persons having an interest in this matter shall have the right to appear at the hearing, present evidence, and be represented by counsel. The cost of a written hearing transcript may be assessed against one or more of the designated parties.

A copy of the complete application and the "Environmental Assessment, Safety Evaluation Report and Proposed License Conditions Related to the Uranium Resources, Inc., Kingsville Dome Project, Kleberg County, Texas" are available for public review. Request to review these documents, or receive copies thereof should be made to Edgar D. Bailey, Director of Licensing, Registration and Standards, Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, Texas 78756-3199, (512) 835-7000.

Issued in Austin, Texas, on May 19, 1986.

TRD-8604841 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: May 19, 1986

For further information, please call (512) 835-7000.

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Texas Department of Human Services Consultant Contract Awards

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (DHS) furnishes this notice of contract awards. The request for proposals was published in the January 17, 1986, issue of the *Texas Register* (11 TexReg 308).

Description of Services. The contractor will provide training for residential child care providers to promote the prevention of abuse and neglect in residential child care facilities.

Names of Contractors, Contract Amounts, and Effective Dates of Contracts. ITS-Information Transfer Services, P. O. Box 10998-362, Austin, Texas 78766, May 3, 1986-September 30, 1986—\$160,000; Ralph Wayne Kantor, 4318 May Lou Lane, Abilene, Texas 79606, May 5, 1986-September 30, 1986—\$32,337; Texas Network of Youth Services, 1306 East Seventh, P. O. Box 6503, Austin, Texas 78762, May 5, 1986-September 30, 1986—\$31,942.

Due Dates of Reports. All documents, films, recordings, or reports are due by September 30, 1986.

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

TRD-8604721 Marlin W. Johnston
Commissioner
Texas Department of Human
Services

Filed: May 14, 1986

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

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State Board of Insurance Notice of Public Hearing

The State Board of Insurance will consider and discuss and may act upon the amended and revised casualty general liability policy form filings of the Insurance Services Of-

fice, Inc. (I.S.O.) and such other matters related thereto as may be properly brought before the board at a hearing to be held on Monday, June 2, 1986, at 9 a.m., in the hearing room, DeWitt Greer Building (State Department of Highways and Public Transportation Building), 11th and Brazos Streets, Austin.

The subject I.S.O. filings consist of an occurrence policy form and a claims made policy form. The occurrence policy form covers bodily injury and property damage that occurs during the policy period and for which a claim is filed at any time subsequent to the injury or damage. The claims made policy form covers bodily injury and property damage that occurs during the policy period and for which a claim is made during the policy period or the extended reporting period.

The State Board of Insurance will consider these filings under the authority of the Insurance Code, Articles 5.13, 5.15, and 5.97.

The policy forms are available for inspection at the office of the chief clerk of the State Board of Insurance, Nicholas Murphy, 1110 San Jacinto, Austin.

Please direct inquiries to Milton Troxell, 1110 San Jacinto, Austin, Texas 78701-1998, (512) 463-6317.

Issued in Austin, Texas, on May 16, 1986.

TRD-8604825 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed: May 16, 1986

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

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Texas Department of Mental Health and Mental Retardation Notice of Public Hearing

The National Conference of the Interstate Compact Coordinators on Mental Health met at the West Peachtree Plaza Hotel, Atlanta, Georgia, on Thursday, May 15, 1986, 8 a.m.-7 p.m., and Friday, May 16, 1986, 9 a.m.-3:45 p.m. According to the agenda, the meeting addressed organizational development, standardization of forms, up-date of the Interstate Compact on Mental Health, the transient mentally ill, community placement, formal versus informal procedures, and special need transfers.

Contact: Pam Carley, Texas Interstate Compact Coordinator, Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin, Texas 78757, (512) 465-4678; Harry C. Schnibbe or Roy E. Praschil, National Association of State Mental Health Program Directors, 1001 Third Street, S.W., Suite 15, Washington, D.C. 20024, (202) 554-7807.

Issued in Austin, Texas, on May 13, 1986.

TRD-8604815 R. Coke Mills
Chairman
Texas Department of Mental Health
and Mental Retardation

Filed: May 16, 1986

For further information, please call (512) 465-4670.

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Nortex Regional Planning Commission Request for Proposals

This request by Nortex Regional Planning Commission for proposals is filed under provisions of Texas Civil Statutes, Article 6252-11c.

Background. The Nortex Regional Planning Commission, administrative entity for the Job Training Partnership Act in the 12-county state planning region of Archer, Baylor, Clay, Childress, Cottle, Foard, Hardeman, Jack, Montague, Wichita, Wilbarger, and Young Counties, is soliciting proposals from interested firms, individuals, or organizations to develop and implement advertising programs for the North Texas Service Delivery Area.

The purpose of the advertising programs will be to increase employment opportunities for economically disadvantaged residents of the service delivery area by encouraging the relocation of existing companies and other organizations to the region and other economic and industrial development activities consistent with employment generating activities.

Contact person. Copies of the request for proposals providing detailed information on this project are available on request from Beverly Larsor, Director of Training and Job Development, Nortex Regional Planning Commission, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281.

Due Date. Proposals must be received on or before 4 p.m., June 20, 1986, in the offices of Nortex Regional Planning Commission, 2101 Kemp Boulevard, Wichita Falls, Texas.

Selection Procedure. A proposal review committee consisting of Nortex Regional Planning Commission staff and private industry council members will review the proposals. Proposals will be reviewed and evaluated for reasonableness of costs, responsiveness to the request for proposal, planned approach, and delivery capability. Female, small, and minority business firms are encouraged to submit proposals.

The ability of Nortex Regional Planning Commission to enter into a contract for performance of the proposed program will be dependent on the timely receipt of funds from the Texas Department of Community Affairs.

This solicitation does not commit Nortex Regional Planning Commission to pay any costs incurred in preparing and submitting the proposals or to contract for the services specified. Nortex Regional Planning Commission reserves the right to reject, in total or part, any and all proposals received.

Respondents should indicate proprietary interests where applicable.

The contract will comply with all federal and state laws and regulations applicable to subcontractors, including but not limited to, equal employment opportunity, the Davis-Bacon Act, and records management.

Issued in Wichita Falls, Texas, on May 15, 1986.

TRD-8604804 Edwin B. Daniel
Executive Director
Nortex Regional Planning Commission

Filed: May 16, 1986
For further information, please call (817) 322-5281.

The Nortex Regional Planning Commission is requesting proposals for an audit of all grants and programs of the commission. This audit will serve as a basis for a three-year period beginning October 1, 1985-September 30, 1986, and the subsequent two fiscal years ending in 1987 and 1988. This request is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

The audit must be conducted under the guidelines of generally accepted auditing standards and other guidelines as highlighted in the commission's request for proposals. The proposals will be reviewed by the commission and a contract will be awarded on the basis of the firm's experience, firm knowledge of the work to be performed, the proposed audit cost by year, and the firm size.

Request for proposal packages may be obtained by contacting Dennis Wilde, Director of Finance, Nortex Regional Planning Commission, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281. All proposals must be received no later than 5 p.m., central standard time, on July 15, 1986.

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

TRD-8604803 Edwin B. Daniel
Executive Director
Nortex Regional Planning Commission

Filed: May 16, 1986
For further information, please call (817) 322-5281.

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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, June 10, 1986, at 8:30 a.m. in Room 7-143 at 1701 North Congress, seventh floor, William B. Travis Building, Austin.

Issued in Austin, Texas, on May 16, 1986.

TRD-8604802 Walter Earl Lillie
Special Counsel
Railroad Commission of Texas

Filed: May 16, 1986
For further information, please call (512) 463-7149.

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Veterans Land Board Consultant Contract Amendment

Pursuant to the rules of the Comptroller of Public Accounts, on March 21, 1986, the Veterans Land Board gave notice of its intention to amend a contract with the Lomas and Nettleton Company (11 TexReg 1484). Under the terms of the contract the Lomas and Nettleton Company, hereinafter referred to as Lomas, serves as administrator of the Veterans Housing Assistance Program. No comments concerning the assumption of additional duties by Lomas were received.

On May 8, 1986, the Veterans Land Board amended its contract with Lomas so as to require Lomas to implement and administer a home improvement loan component to the Veterans Housing Assistance Program.

The total value of this contract will be increased by \$5,697,031.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604777 Garry Mauro
Chairman
Veterans Land Board

Filed: May 15, 1986

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

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Texas Water Commission 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 Garland Creosoting Company on May 13, 1986, assessing \$5,800 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Michael Woodward, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604837 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: May 16, 1986

For further information, please call (512) 463-7898.

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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 Aurum Etchings on May 13, 1986, assessing \$2,930 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mary Reagan, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on May 15, 1986.

TRD-8604838 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: May 16, 1986

For further information, please call (512) 463-7898.

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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 Robert Kacz, doing business as Aztec Mercury Company on May 13, assessing \$46,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ann Bjork, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

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

TRD-8604839 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: May 16, 1986

For further information, please call (512) 463-7898.

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Notice of Application for Provisionally-Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally issued temporary permits issued during the period of March 20-May 16, 1986.

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.

Pool Production Services; from the stream crossing of U.S. Highway 377, approximately 10 miles southwest of Junction, Kimble County; South Llano River, tributary Llano River, tributary Colorado River; 10 acre-feet, one-year period; TP-5392; March 20, 1986

Hambrick Wholesale Nursery, Inc.; from a sewage plant adjacent to Cummins Creek, near FM Road 1181, approximately 15 miles southeast of Waxahachie, Ellis County; sewage plant adjacent to Cummins Creek, tributary Chambers Creek, tributary Richland Creek, tributary Trinity River; 10 acre-feet, one-year period; TP-5395; March 25, 1986

D. L. Lennon, Inc.-Contractor; from a reservoir in the vicinity of State Highway 11, approximately seven miles southwest of Bonham, Fannin County; Unnamed Creek, tributary Bois D'arc Creek, tributary Red River; 10 acre-feet, one-year period; TP-5396; March 20, 1986

Adams Brothers, Inc.; from two stream crossings of State Highway 19, approximately 2½ and 9½ miles north of Canton, Van Zandt County; Caney Creek, tributary Mill Creek, tributary Sabine River and an unnamed creek (known locally as Red Hall Creek), tributary of Mill Creek, tributary Sabine River; six acre-feet, one-year period; TP-5397; March 20, 1986

Pool Production Services; from the stream crossing near U.S. Highway 190, approximately eight miles west of Menard, Menard County; San Saba River, tributary Colorado River; 10 acre-feet, one-year period; TP-5404; March 24, 1986

A. K. Gillis & Sons, Inc.; from two reservoirs in the vicinity of State Highway 50, approximately 3½ and 4½ miles northeast of Greenville, Hunt County; Unnamed creek, tributary Dunbar Creek, tributary South Sulphur River, tributary Sulphur River; five acre-feet, one-year period; TP-5407; March 20, 1986

A. K. Gillis & Sons, Inc.; from the reservoir in the vicinity of State Highway 50, approximately 3¼ miles northeast of Greenville, Hunt County; Timber Creek, tributary Cowleech Fork Sabine River, tributary Sabine River; five acre-feet, one-year period; TP-5408; March 24, 1986

West Texas Paving, Inc.; from the stream crossing of FM Road 835, approximately 7½ miles southeast of Lubbock, Lubbock County; North Fork Double Mountain Fork Brazos River, tributary Double Mountain Fork Brazos River, tributary Brazos River; 10 acre-feet, one-year period; TP-5409; March 25, 1986

Allan Construction Company; from two stream crossing of U.S. Highway 83, approximately one mile and six miles north of Leakey, Real County; West Fork Frio River and East Fork Frio River, both tributary Frio River, tributary Nueces River; 10 acre-feet, one-year period; TP-5410; March 25, 1986

Pool Production Services; from the stream crossing near U.S. Highway 83 Business, approximately ½ mile south of Junction, Kimble County; South Llano River, tributary Llano River, tributary Colorado River; 10 acre-feet, one-year period; TP-5411; March 26, 1986

C. T. Martin, Inc.; from the stream crossing of State Highway 78, approximately 18 miles northeast of McKinney, Collin County; Desert Creek River, tributary Pilot Grove Creek, tributary East Fork Trinity River, tributary Trinity River; one acre-feet, 10-month period; TP-5413; March 26, 1986

R. W. McKinney & T. L. James & Co., Inc.; from the reservoir in the vicinity of State Highway 105, approximately 30 miles northwest of Liberty, Liberty County; East Fork San Jacinto River, tributary San Jacinto River; 10 acre-feet, one-year period; TP-5418; March 26, 1986

Robert Lange, Inc.; from the stream crossing of FM Road 1155, approximately nine miles northeast of Brenham, Washington County; New Year Creek, tributary Brazos River; three acre-feet, one-year period; TP-5420; March 27, 1986

Tom Thorp Transports, Inc.; from the stream crossing of a county road, north of FM Road 2469, approximately 15 miles northwest of Mertzson, Irion County; Middle Concho River, tributary Concho River, tributary Colorado River; 10 acre-feet, one-year period; TP-5421; March 26, 1986

R. W. McKinney & T. L. James & Co., Inc.; from the stream crossing of Loop 201, approximately 23 miles east of Houston, Harris County; Goose Creek, tributary Tabbs Bay, tributary Galveston Bay; 10 acre-feet, one-year period; TP-5423; March 27, 1986

Exxon Pipeline Company; from the stream crossing of a pipeline, approximately nine miles northeast of Hillsboro, Hill County; White Rock Creek, tributary Richland Creek, tributary Trinity River; one acre-feet, three-month period; TP-5428; April 1, 1986

Exxon Pipeline Company; from the stream crossing of a pipeline, approximately 11 miles southwest of Waxahachie, Ellis County; Chambers Creek, tributary Richland Creek, tributary Trinity River; one acre-feet, three-month period; TP-5430; April 2, 1986

Texas Eastern Gas Pipeline Company; from a reservoir in the vicinity of State Highway 105, approximately 13 miles west-northwest of Conroe, Montgomery County; West Fork San Jacinto River, San Jacinto River; one acre-feet, one-year period; TP-5452; April 28, 1986

Texas Eastern Gas Pipeline Company; from a reservoir in the vicinity of State Highway 105, approximately 13 miles west-northwest of Conroe, Montgomery County; West Fork San Jacinto River, San Jacinto River; one acre-foot, one-year period; TP-5452; April 28, 1986

Texas Eastern Products Pipeline Company, Inc.; from the stream crossing of State Highway 105, approximately 17½ miles west of Orange, Orange County; Neches River; 10 acre-feet, one-year period; TP-5456; April 17, 1986

Texas Eastern Products Pipeline Company, Inc.; from the stream crossing of State Highway 105, approximately 17½ miles west of Orange, Orange County; Neches River; 10 acre-feet, one-year period; TP-5457; April 17, 1986

Kresta Marine, Inc.; from the stream crossing near County Road 409, approximately one mile south of Edna, Jackson County; Ditch, tributary Post Oak Branch, tributary Dry Creek, tributary Lavaca River; nine acre-feet, one-year period; TP-5461; April 28, 1986

A. K. Gillis & Sons, Inc.; from the stream crossing near State Highway 50, approximately 3½ miles northeast of Greenville, Hunt County; Unnamed creek, tributary Dunbar Creek, tributary South Sulphur River, tributary Sulphur River; five acre-feet, one-year period; TP-5462; April 24, 1986

Gil Felts; from the stream crossing near FM Road 170, approximately 78 miles south of Alpine, Brewster County; Terlingua Creek, tributary Rio Grande; one acre-foot, one-year period; TP-5467; May 6, 1986

Young Brothers, Inc.; Contractors; from the stream crossing of U.S. Highway 84, approximately 8½ miles east of Waco, McLennan County; Unnamed creek, tributary Williams Creek, tributary Tehuacana Creek, tributary Brazos River; eight acre-feet, one-year period; TP-5468; May 6, 1986

Reynolds-Land, Inc.; from the stream crossing near State Highway 155, approximately 16½ miles southwest of Gilmer, Upshur County; Sabine River; seven acre-feet, one-year period; TP-5472; May 6, 1986

Glenn-Wade Contractors; from a reservoir in the vicinity of FM Road 159, approximately 16 miles southeast of Bryan, Brazos County; Unnamed creek, tributary Peach Creek, tributary Navasota River, tributary Brazos River; two acre-feet, six-month period; TP-5473; May 7, 1986

PRC Drilling Company; from the stream crossing of FM Road 1420, approximately 12 miles east of Raymondville, Willacy County; Drainage ditch, tributary North Floodway, tributary Laguna Madre; one acre-foot, two-month period; TP 5474; May 7, 1986

Rio Grande Bridge Company; from two stream crossings of FM Road 2772, approximately 17½ miles northeast of Floresville, Wilson County; Cibolo Creek and Elm Creek, tributary Cibolo Creek, tributary San Antonio River, tributary Guadalupe River; two acre-feet, eight-month period; TP-5475; May 9, 1986

Ballenger Construction Company; from two stream crossings near FM Road 313, approximately 4½ and five miles northeast of Brownsville, Cameron County; Drainage ditches, tributary Resaca del Viejo, tributary Pancho Viejo Floodway, tributary Brownsville Ship Channel, tributary Gulf of Mexico; two acre-feet, one-year period; TP-5476; May 9, 1986

Ballenger Construction Company; from three stream crossings near FM Road 1577, approximately 13½, 14, and 14½ miles northwest of Brownsville, Cameron County; Drainage ditches, tributary Resaca del Vieja, tributary Rancho Viejo Floodway, tributary Brownsville Ship Channel, tributary Gulf of Mexico; two acre-feet, one-year period; TP-5477; May 9, 1986

Issued in Austin, Texas, on May 16, 1986.

TRD-8604809 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: May 16, 1986

For further information, please call (512) 463-7898.



Texas Water Development Board Requests for Proposals

The Texas Water Development Board (board) requests submission under Texas Civil Statutes, Article 6252-11c and Article 664-4, of research proposals to evaluate the costs of water supply and sewerage facilities and services under different types of public and private utilities. The board, on April 29, 1986, published this request for research proposals for consultants (11 TexReg 2023). Because of concerns voiced by professional engineers relative to the language in §6 in the guidelines for proposal contents, this request is being republished to add provisions relating to the Professional Services Procurement Act, Texas Civil Statutes, Article 664-4 (Supp. 1986).

Description of Project Objectives. The purpose of this research is to evaluate the service costs associated with various existing water and sewerage entities to determine the most cost-effective types of management arrangements and levels of service to meet future water and sewerage service needs throughout the state. Specifically, the objectives of the research are:

(1) compute capital, debt service, maintenance, and operating costs for water supply and sewerage services based on a representative state-wide sample of different size water service provision arrangements (cities, municipal utility districts, water control and improvement districts, river authorities, major water supply districts, and private water corporations);

(2) compute estimates of capital, debt service, maintenance, and operating costs for the most common types of water and sewerage utilities—city, municipal utility district, and private for-profit corporation—for five areas of the state (east, west, north, south and central). The selection of specific community settings in each area will be negotiated with the successful bidder. All computations will be expressed in standardized terms so as to provide comparisons of cost of the same levels of service by different types of water and sewerage utilities, as well as for combinations of water and sewerage utilities serving a single area;

(3) develop procedures for individually evaluating and comparing alternative arrangements;

(4) based on computations in objectives (1) and (2) and the procedure developed in objective (3), conduct a comparative evaluation and make recommendations on the most cost-effective arrangements for providing water service, sewerage service, and combinations of both for different size service areas and populations;

(5) evaluate the institutional and legal basis for the creation or establishment of the different types of cost-effective water and sewerage service provision arrangements identified in objective (4); and

(6) compare cost-effectiveness and institutional/legal influences and make recommendations on the most beneficial service provision arrangements for different size service areas, populations, and institutional settings.

Description of Funding Consideration. Funding in an amount not to exceed \$150,000 for the project's duration of 14 months has been authorized from the board's water research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of §355.105.

Explanation of Review Criteria and Procedures. Proposals will be evaluated and selected in accordance with §355.107. The board's Research and Planning Technical Advisory Committee will be required to rate each proposal in the following categories: degree to which the proposal is responsive to the overall purpose and funding criteria and/or the specific purpose of an individual solicitation; qualifications of project staff; reasonableness of proposed budget and time schedule; project organization and management including project monitoring procedures; adequacy of proposed technical scope of work; and directly related project and staff experience.

A summary of all proposals submitted along with evaluations and identification of potential conflicts of interest, if any, will be prepared. On the basis of this information, the executive administrator will make a recommendation to the board on selection of a contractor.

Deadlines. Deadline for submitting research proposals is extended to June 9, 1986. A contract can be awarded no earlier than 30 days after the publication of this notice. Proposals are to be submitted to Dr. Herbert W. Grubb, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231.

Guidelines for Proposal Contents. All proposals will include the following information: project title as listed in the specific request for proposals; discussion of how the proposer intends to fulfill the requirements of the project, including the identification of potential for or plans to incorporate and use proprietary information and any subcontracts planned; availability of matching funds and services indicating amount and sources, if any; resumes of principals, subcontractors, and principal investigators (including names, addresses, and phone numbers) and a summary of pertinent experience of the proposing organization; time schedule for work to be performed by principals and subcontractors; itemized total budget, including fringe benefit costs, overhead costs, profit margin, and an indication of the availability of matching funds. Proposers who qualify under the Professional Services Procurement Act, Texas Civil Statutes, Article 664-4 (Supp. 1986), shall submit only an itemized budget, including a fee schedule for the various professional services to be performed; lists of products (reports, plans, or other products) the board will receive and completion dates (to be negotiated with successful bidder); and suggested monitoring procedures.

Ten copies of the full proposal must be filed with the board.

Designation of Contact Person for Additional Information. T. James Fries, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231 (512) 463-7940.

Statement of Contract Terms and Required Completion Date. Interagency contracts and private contracts will be considered. A contract will be considered for all or parts of the task requirements for accomplishing the objectives set forth under the description of project objectives. Procedures for awarding contracts will comply with Texas Civil Statutes, Article 6252llc, and Article 664-4, where applicable, and with §355.109. In compliance with Article 6252-llc, proposals submitted by state agencies will have priority over proposals submitted by private consultants. Progress reports including work performed and expenditures related to the project, will be submitted on a monthly basis. Summary progress reports will also be required quarterly. A draft final report will be required, and all final data, reports, and documentation will be submitted to and approved by the board no later than August 31, 1987. The final project completion date is August 31, 1987.

Statement Regarding Proprietary Information and Patents. Results of all data collection and analyses completed will comply with the terms of the contract(s) and §355.110.

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

TRD-8604828 Suzanne Schwartz
 General Counsel
 Texas Water Development Board

Filed: May 16, 1986
For further information, please call (512) 463-7850.

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The Texas Water Development Board (board) requests pursuant to Texas Civil Statutes, Article 6252-llc and Article 664-4, the submission of research proposals for identifying potential solutions to meet the water supply and sewage service needs and for estimating the costs associated with providing water supply and sewage collection and treatment services to each colonia in Cameron, Willacy, and Hidalgo Counties. Results, analyses, and computations will provide information necessary for determining the water supply and sewage treatment needs and the associated costs for providing these services to the colonias of Cameron, Willacy, and Hidalgo Counties. The board, on May 6, 1986, published this request for research proposals for consultants under Texas Civil Statutes, Article 6252-llc (11 Tex-Reg 2127). Because of concerns voiced by professional engineers relative to the language in §6 in the guidelines for proposal contents, this request is being republished to add provisions relating to the Professional Services Procurement Act, Texas Civil Statute, Article 664-4 (Supp. 1986).

Description of Project Objectives. The purpose of this project is to identify potential solutions to meet water supply and sewage service needs and to develop estimates of costs associated with providing water supply and sewage collection and treatment services to each of the colonias in Cameron, Willacy, and Hidalgo Counties. Cost estimates for water supply shall be made for projects that will deliver water to the individual structure tap and shall be presented in two separate parts: cost to a central distribution point; and cost from the distribution point to the individual dwelling water taps. Cost estimates for sewage services shall be made in two parts: costs for projects that would collect sewage from individual dwelling sewer taps; and costs for treatment or other disposal alternatives.

All work shall be based on a planning period of 1987 through the year 2010 and shall include project implementation schedules. Specific objectives to be addressed by this research project are as follows.

Objective I. Based on information obtained from the work (copy of work list is presented at end of this objective) of the Lower Rio Grande Valley Development Council (LRGVDC), identify and describe potential service areas and potential projects and approaches needed by each colonia for water supply, and sewage service, taking into account all existing projects, plans, and service areas. Particular attention shall be paid to opportunities for developing or expanding regional water supply and sewage systems, as well as nontraditional or temporary solutions such as installation of a community water tap and on-site sewage treatment systems, where appropriate, as alternatives to providing the individual dwelling services specified in the preceding description of project objectives. Results of work and services performed by the Lower Rio Grande Valley Development Council will provide input to this project as follows: geographical location of all existing colonia settlements (240 known and an undetermined number that have not yet been identified) located in the three-county Lower Rio Grande Valley area; existing water infrastructure service arrangements for the counties of Cameron, Willacy, and Hidalgo; present demographic and water use characteristics of existing individual colonia settlements; and projections of water supply and sewer service needs through the year 2010. All data listed in items 1-4 will be completed and forwarded on a timely basis to meet all data requirements of the selected contractor.

Objective II. Identify and describe potential public and private entities needed to implement and operate projects for each service area for water supply and sewage service. Existing systems and the potential for regional systems must be taken into account.

Objective III. Estimate capital, operation, and maintenance costs, including monthly rates to users, for each potential project identified in Objective I for water supply and sewage service.

Objective IV. Identify and describe potential federal and state financial assistance programs available to implement projects identified in Objective I and according to the implementation schedules identified in Objective I for water supply and sewage service.

Objective V. Prepare and submit a project completion report on or before November 30, 1986.

Description of Funding Consideration. The board has reviewed and evaluated the merits of this proposed project and recommended that funding in an amount not to exceed \$150,000 for the project's duration of four months be authorized from the board's water research and planning fund. In the event that no acceptable proposal is submitted, the board retains the right to make no award of contract funds as specified by provisions of §355.105.

Explanation of Review Criteria and Procedures. Proposals will be evaluated and selected in accordance with §355.107. The board's Research and Planning Technical Advisory Committee will be required to rate each proposal in the following categories: degree to which the proposal is responsive to the overall purpose and funding criteria and/or the specific purpose of an individual solicitation; qualifications of project staff; reasonableness of proposed budget and time schedule; project organization and management including project monitoring procedures; adequacy of proposed technical scope of work; directly related project and staff experience; and other information as may be required for the project.

A summary of all proposals submitted along with evaluations and identification of potential conflicts of interest,

