

# Texas Register

Volume 11, Number 53, July 15, 1986

Pages 3231-3271

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## Highlights

The Railroad Commission of Texas proposes an amendment concerning the plugging of a well. Earliest possible date of adoption - August 15 .....page 3240

The Texas Department of Public Safety proposes amendments concerning breath alco-

hol testing regulations. Earliest possible date of adoption - August 15 ..page 3243

The State Board of Insurance proposes an amendment concerning requirements for the cancellation, denial, and nonrenewal of certain coverages. Earliest possible date of adoption - August 15 .....page 3240

## Texas Register

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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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# 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 73. Statutory Documents

###### ★1 TAC §73.31

The Office of the Secretary of State is renewing the effectiveness of the emergency adoption of amended §73.31 for a 60-day period effective July 19, 1986. The text of the amended §73.31 was originally published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1539).

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

TRD-8606716

Hyattye Simmons  
General Counsel  
Office of the Secretary  
of State

Effective date: July 19, 1986  
Expiration date: September 17, 1986  
For further information, please call  
(512) 463-5701.

★ ★ ★

##### Part X. Automated Information and Telecommunications Council

##### Chapter 205. Acquisition of Telecommunications Systems

###### ★1 TAC §205.1

The Automated Information and Telecommunications Council is renewing the effectiveness of the emergency adoption of amended §205.1 for a 60-day period effective July 22, 1986. The text of the amended §205.1 was originally published in the March 21, 1986, issue of the *Texas Register* (11 TexReg 1415).

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

TRD-8606727

Roy S. Nunnally  
Fiscal Office  
Automated Information  
and Telecommunications  
Council

Effective date: July 22, 1986  
Expiration date: September 20, 1986  
For further information, please call  
(512) 463-5530.

### TITLE 16. ECONOMIC REGULATION

#### Part I. Railroad Commission of Texas

##### Chapter 3. Oil and Gas Division Conservation Rules and Regulations

###### ★16 TAC §3.14

The Railroad Commission of Texas is renewing the effectiveness of the emergency adoption of amended §3.14 for a 60-day period effective July 22, 1986. The text of the amended §3.14 was originally published in the April 1, 1986, issue of the *Texas Register* (11 TexReg 1601).

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

TRD-8606699

Walter Earl Lille  
Special Counsel  
Railroad Commission of  
Texas

Effective date: July 22, 1986  
Expiration date: September 20, 1986  
For further information, please call  
(512) 463-7149.

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### TITLE 40. SOCIAL SERVICES AND ASSISTANCE

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

##### Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

The Texas Department of Human Services adopts on an emergency basis amendments to §§33.112, 33.122, 33.306, 33.317, and 33.402, concerning the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. These amendments limit EPSDT coverage to Medicaid eligible recipients under age 18. Public Law 95-35, the Omnibus Budget Reconciliation Act of 1981, allows states to limit EPSDT coverage to recipients under age 18. This option is included in the federal regulations governing the EPSDT program (42 Code of Federal Regulations, §441.56(a)(2)(III)). Because of current and projected funding limitations, the optional coverage provided to Medicaid eligible recipients ages 18-20 can no longer be continued.

Medical screening providers will be reimbursed for claims with service dates through July 14, 1986, for periodically eligible recipients ages 18-20. Dental providers will be reimbursed for emergency claims and routine claims submitted under the \$150 rule, as specified in §33.317 concerning claims-time limits, return, and denial, with service dates through July 14, 1986. Authorized treatment plans, approved no later than July 14, 1986, are valid until the expiration date printed on the form and may be completed, subject to the recipient's continued eligibility. Requests for dental services will not be processed or approved on or after July 14, 1986.

These amendments do not affect the diagnosis and treatment services recipients may receive under the regular Medicaid program.

Failure to implement these amendments would result in imminent peril to the health, safety, and welfare of individuals as a result of the department's inability to provide requested services to the rest of the EPSDT eligible population.

#### Subchapter A. Eligibility

###### ★40 TAC §33.112

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

§33.112. *Eligibility for Services.* All Medicaid recipients under age 18 [21] are eligible for EPSDT services. Services can be continued through the month the eligible recipient becomes 18 [21].

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

TRD-8606738

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 15, 1986  
Expiration date: November 12, 1986  
For further information, please call  
(512) 450-3766.

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**Subchapter I. Periodicity**

**★ 40 TAC §33.122**

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

**§33.122. Periodicity.**

- (a) (No change.)
- (b) Medical screening services are available once at each of the following time periods:
  - (1)-(10) (No change.)
  - (11) 16 years through 17 [20] years.
  - (c)-(e) (No change.)

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

TRD-8908739      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 15, 1986  
Expiration date: November 12, 1986  
For further information, please call  
(512) 450-3766.

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**Subchapter R. Dental Services**

**★ 40 TAC §33.306, §33.317**

The amendments are adopted on an emergency basis under the Human Resources

Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance and medical programs.

**§33.306. Who is Eligible.** To be eligible for EPSDT dental services, a person must:

- (1) (No change.)
- (2) be under age 18 [21]. Services can be continued through the month the recipient becomes 18 [21].
- (3) (No change.)

**§33.317. Claims—Time Limits, Return, and Denial.**

- (a)-(e) (No change.)
- (f) Claims are denied for the following reasons.
  - (1) Recipient is ineligible. The recipient is not eligible for Medicaid or is 18 [21] years old or older at the time of service.
  - (2)-(7) (No change.)

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

TRD-8908740      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 15, 1986  
Expiration date: November 12, 1986  
For further information, please call  
(512) 450-3766.

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**Subchapter T. EPSDT Eyeglass Program**

**★ 40 TAC §33.402**

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

**§33.402. Benefits and Limitations.** The benefits and limitations applicable to optometric services available through the Medicaid EPSDT Program are as follows.

- (1) Recipient eligibility. All Medicaid recipients under the age of 18 [21] are eligible for EPSDT optometric services. Services may be continued through the month the eligible recipient becomes 18 [21].
- (2)-(3) (No change.)

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

TRD-8908741      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 15, 1986  
Expiration date: November 12, 1986  
For further information, please call  
(512) 450-3766.

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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 X. Automated Information and Telecommunications Council

#### Chapter 201. Acquisition of Automated Information Systems

##### ★1 TAC §201.1

The Automated Information and Telecommunications Council proposes an amendment to §201.1, concerning the acquisition of automated information systems. The amendment further integrates the submissions of long-range plans by state governmental bodies with the legislative appropriations request process and increases the threshold amounts of automated information systems acquisitions requiring council review.

Robert B. Jordan, 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. Jordan 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 integrating state governmental body information systems long-range plans, legislative appropriations requests and procurements, more emphasis can be placed by AITC on cost-effectiveness justification and statewide economies of scale. 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 Robert B. Jordan, Executive Director, Automated Information and Telecommunications Council, P.O. Box 13564, Austin, Texas 78711-3564.

The amendment is proposed under Texas Civil Statutes, Article 4413(32h), §2.02, which provide the Automated Information and Telecommunications Council with the authority to adopt rules governing the acquisition of automated information systems.

##### §201.1. Automated Information and Telecommunications [Systems Advisory] Council Guidelines.

(a) (No change.)  
(b) Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1)-(4) (No change.)  
(5) Long-range plan—A document relating to automated information systems and the computers on which they are automated which has been prepared by the management and approved by the chief executive officer of a state governmental body, which:

(A) includes a statement of strategic objectives, relating to information systems, of the state governmental body for the two years required by the legislative appropriations request and the two years of the subsequent biennium [subsequent four years];

(B)-(G) (No change.)  
(6)-(7) (No change.)  
(c) Long-range plan.

(1) (No change.)  
(2) The long-range plan shall be revised in each even-numbered year [biennially] and submitted to the [advisory] council concurrently with submission of the legislative appropriations request [by June 1 in each even-numbered year]. If an acquisition request for an automated information system, the computers on which they are automated, or a service related to the automation of information systems does not conform to the long-range plan currently on file with the [advisory] council, then the long-range plan should be revised and submitted at the time of filing of the proposal action.

(3) (No change.)  
(d) (No change.)  
(e) Criteria for proposed actions.  
(1) The following provides the criteria for proposed actions of governmental bodies in regard to automated information systems.

(A) The purchase of computers on which information systems are to be automated which will have a cost recorded in an inventory of at least \$300,000 [\$100,000] or 2.0% of the governmental body's annual budget, whichever is less, provided, however, that such purchase cost shall be at least \$75,000 [\$25,000].

(B) The acquisition of proprietary computer programs which shall be components of automated information systems

which have an initial cost of at least \$150,000 [\$50,000] or 1.0% of the governmental body's annual budget, whichever is less, provided, however, that such initial cost shall be at least \$75,000 [\$25,000].

(C) The contracting for a service related to the automation of information systems or the computers on which they are automated which will have a contract cost of at least \$75,000 [\$25,000].

(D) The leasing of computers on which information systems are to be automated, or the licensing of computer programs to be used in automated information systems, or the acquisition of services related to the automation of information systems or the computers on which they are automated which have a monthly cost of \$12,000 [\$4,000] or .08% of the governmental body's annual budget, whichever is less, provided, however, that such monthly cost shall be at least \$3,000 [\$1,000].

(E) An annual purchase of computer time shared service or an annual increase of such service, provided by private sources, of more than \$300,000 [\$100,000] or 2.0% of the governmental body's annual budget, whichever is less, provided, however, that such annual purchase shall be at least \$75,000 [\$25,000].

(2)-(3) (No change.)  
(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 July 15, 1986.

TRD-8606728

Robert B. Jordan  
Executive Director  
Automated Information  
and Telecommunications  
Council

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 483-5530.

★ ★ ★



**TITLE 10. COMMUNITY DEVELOPMENT**  
**Part I. Texas Department of Community Affairs**  
**Chapter 5. Job Training**  
**Subchapter C. Financial Management**

**★10 TAC §5.319**

The Texas Department of Community Affairs (TDCA) proposes new §5.319, concerning the adoption by reference of procedures for the distribution of program year 1986 six percent incentive grants. The requirements apply to TDCA contractors. The new section covers the system for selecting and financing performance incentive grants for service delivery areas (SDAs) who exceed their local performance standards. Copies of the proposed section may be examined in the offices of the TDCA, Training and Employment Development Division, 8317 Cross Park Drive, Austin, or in the *Texas Register* Office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.

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

Clyde McQueen, director, Training and Employment Development Division, 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 requirements set forth in the federal Job Training Partnership Act (JTPA), §202, Public Law 97-300, and with the requirements set forth in the Texas JTPA, Texas Civil Statutes, Article 4413(52), §8(c)(10). There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Douglas C. Brown, General Counsel, P.O. Box 13166, Austin, Texas 78711.

The new section is proposed under Public Law 97-300, §202, and Texas Civil Statutes, Article 4413(52), §8(c)(10), which provides the Texas Department of Community Affairs with the authority to develop and formally issue procedures necessary to comply with the requirements of JTPA and to assure proper accounting for federal funds paid to the state under Titles I and II of the JTPA.

**§5.319. Incentive Grant System.** The Texas Department of Community Affairs herein adopts by reference the program year 1986 six percent incentive grant system. Copies of the section may be obtained in the offices of the Texas Department of Community Affairs, Training and Employment Develop-

ment Division, 8317 Cross Park Drive, Austin, or in the *Texas Register* Office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.

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 July 8, 1986.

TRD-8606887 Douglas C. Brown  
General Counsel  
Texas Department of  
Community Affairs

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 834-6080.

★ ★ ★

**TITLE 16. ECONOMIC REGULATION**  
**Part I. Railroad Commission of Texas**  
**Chapter 3. Oil and Gas Division**  
**Conservation Rules and Regulations**  
**★16 TAC §3.14**

The Railroad Commission of Texas proposes an amendment to §3.14, concerning the plugging of a well. The proposed amendment allows wells that become inactive on or after January 1, 1986, one year instead of 90 days to be plugged or brought into compliance in some other way. The commission's rules, however, do not allow pollution to occur during the one-year period; any problem well is subject to a plugging order.

Lisa Carol Anderson, staff attorney, 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. Anderson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section is the prevention of loss of reserves through premature abandonment of marginal wells. The section also allows wells vital to our national defense to remain unplugged and readily available for production in time of emergency. The possible economic cost to individuals who are required to comply with the section as proposed is negligible since under the current section, an operator is required to act within 90 days, whereas the proposed amendment extends this time period to one year.

Comments on the proposal may be submitted to Lisa Carol Anderson, Legal Section, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under the Texas Natural Resources Code, §§81.052, 85.202, and 91.101, which provides the Railroad Commission of Texas with the authority to adopt and enforce rules relating to the operation, abandonment, and proper plugging of wells.

**§3.14. Plugging.**

(a) (No change.)  
(b) Plugging report and commencement of operations.

(1) (No change.)  
(2) Plugging operations on each dry or inactive well must be commenced within a period of 90 days after drilling or operations have ceased and shall proceed with due diligence until completed; provided that dry or inactive wells on which drilling or operations ceased on or after January 1, 1986, must commence such plugging operations within one year of the date on which drilling or operations ceased. For good cause, a reasonable extension of time in which to start the plugging operations may be granted pursuant to the following procedures.

(A)-(C) (No change.)  
(D)-(H) (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 July 7, 1986.

TRD-8606098 Walter E. Lille  
Special Counsel  
Railroad Commission of  
Texas

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 463-7149.

★ ★ ★

**TITLE 28. INSURANCE**  
**Part I. State Board of Insurance**  
**Chapter 5. Property and Casualty Insurance**  
**Subchapter H. Cancellation, Denial, and Non-Renewal of Certain Property and Casualty Insurance Coverage**

**★28 TAC §§5.7001, 5.7013-5.7015**

The State Board of insurance proposes an amendment to §5.7001 and new §§5.7013-5.7015, concerning requirements for the cancellation, denial, and nonrenewal of certain property and casualty insurance coverage. The state of Texas is currently experiencing a serious construction of the general liability insurance market. Cancellations and nonrenewals of general liability insurance policies have provided some insureds with notice so short as not to allow adequate time to secure other

policies without gaps in coverage. The amendment to §5.7001 includes general liability insurance policies within the applicability of requirements for cancellation, denial, and nonrenewal of insurance coverage. Section 5.7013 defines general liability policies. Section 5.7014 sets out requirements for notice of cancellation and nonrenewal for general liability policies. Section 5.7015 provides for exceptions to the requirements for notice of cancellation and nonrenewal for general liability policies. The amendment and new sections were previously adopted on an emergency basis, effective April 7, 1986. Notice of the emergency adoption appeared in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1539).

Milton Troxell, director of General Liability Insurance, 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. Troxell also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide the commercial insurance buying public with greater security and more predictability as to cancellations and nonrenewals of general liability insurance coverage and to allow time for insurance consumers to replace general liability coverage in a seriously constricted market. 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 Milton Troxell, Director of General Liability Insurance, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment and new sections are proposed under the Texas Insurance Code, Articles 1.04 and 21.49-2, and Texas Civil Statutes, Article 6252-13a. Article 1.04 authorizes the State Board of Insurance to determine policy and rules. Article 21.49-2 authorizes the board to adopt rules and regulations as to the cancellation and the nonrenewal of all policies of insurance regulated by the board pursuant to the Texas Insurance Code, Chapter 5, including notice requirements thereof, and authorizes the board to require written statements of reasons for declination, cancellation, or nonrenewal of such policies. Texas Civil Statutes, Article 6252-13a, prescribes the procedure for adoption of rules by any state administrative agency.

**§5.7001. Applicability.**

(a) [These] Sections 5.7002-5.7012 of this title (relating to Cancellations; Calculation of Time Period; Certain Acts Regarded as Cancellation; Special One-Year Rule Applicable Only to Personal Automobile Policies; Discontinuing the Writing of Certain Lines or Classes, Withdrawing from a Geo-

graphical Area, or Withdrawing from an Agency; Renewal of Policies; Records Required; Texas Insurance Code, Article 21.11-1; Endorsement Forms; Violations; and Reason for Declination, Cancellation, or Nonrenewal) are applicable to companies or insurers writing the following types of insurance policies which become effective on or after February 1, 1972, and to no other policies except as otherwise provided in this section. [that §§5.7006 and 5.7012 of this title (relating to Discontinuing the Writing of Certain Lines or Classes, Withdrawing from a Geographical Area, or Withdrawing from an Agency and Reason for Declination, Cancellation, or Nonrenewal) apply to all property and casualty policies regulated by the board pursuant to the Insurance Code, Chapter 5:]

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

(b) Section 5.7006 of this title (relating to Discontinuing the Writing of Certain Lines or Classes, Withdrawing from a Geographical Area, or Withdrawing from an Agency), and §5.7012 of this title (relating to Reason for Declination, Cancellation, or Nonrenewal) apply to all property and casualty policies regulated by the board pursuant to the Insurance Code, Chapter 5.

(c) Sections 5.7004, 5.7008, 5.7009, and 5.7011 of this title (relating to Certain Acts Regarded as Cancellation; Records Required; Texas Insurance Code, Article 21.11-1; and Violations) are applicable to general liability policies as specified in §5.7013 of this title (relating to General Liability Policies), as well as to the policies specified in subsection (a) of this section.

(d) Sections 5.7013-5.7015 of this title (relating to General Liability Policies; Notice Requirements for Cancellation and Nonrenewal for General Liability Policies; and Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability Policies) apply only to general liability policies as specified in §5.7013 of this title (relating to General Liability Policies). The general liability policies specified in §5.7013 of this title (relating to General Liability Policies) are only those policies delivered, issued for delivery, renewed, or extended on or after April 7, 1986.

(e) Sections 5.7013-5.7015 of this title (relating to General Liability Policies; Notice Requirements for Cancellation and Nonrenewal for General Liability Policies; and Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability Policies) do not apply to policies of insurance issued by the Texas Medical Liability Insurance Underwriting Association Pursuant to the Insurance Code, Article 21.49-3.

**§5.7013. General Liability Policies.** Sections 5.7014 and 5.7015 of this title (relating to Notice Requirements for Cancellation and Nonrenewal for General Liability Policies; and Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability Policies) apply to all general liability policies including, but not limited to, excess

liability policies, excess loss liability policies (umbrella), errors and omissions liability policies, and all miscellaneous liability policies.

**§5.7014. Notice Requirements for Cancellation and Nonrenewal for General Liability Policies.** All general liability policies may be canceled or nonrenewed by the company on 45-days written notice to the insured, except as provided for in §5.7015 of this title (relating to Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability Policies).

**§5.7015. Exceptions to Cancellation and Nonrenewal Notice Requirements for General Liability Policies.**

(a) Upon failure of the insured to discharge his obligation in the payment of premium for the policy or any installment thereof, whether payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit, the company may cancel or refuse to renew the policy on 10-days written notice to the insured.

(b) Upon an increase in hazard within the control of the insured which would produce an increase in rate, the company may cancel or refuse to renew the policy on 10-days written notice to the insured.

(c) Upon a determination by the State Board of Insurance that the continuation of the policy would violate or place the company in violation of the Insurance Code, the company may cancel or refuse to renew the policy on 10-days written notice to the insured.

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 July 8, 1986.

TRD-8606726

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 463-6327.

★ ★ ★



**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION  
Part XVII. Texas State Soil  
and Water Conservation  
Board**

**Chapter 517. Financial  
Assistance**

**Subchapter A. Conservation  
Assistance**

**★31 TAC §§517.1-517.12**

The Texas State Soil and Water Conservation Board proposes new §§517.1-517.12, concerning conservation assistance. The sections implement a program which provides funds to soil and water conservation districts on a matching basis to assist them with expenses incurred through the administration and implementation of conservation programs.

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

Mr. Moore also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conservation of the state's soil and water resources. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Harvey Davis, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 658, Temple, Texas 76503.

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

**§517.1. Policy Statement.** It is the policy of the State Soil and Water Conservation Board to develop and implement a program to provide funds to districts on a matching basis to assist them with expenses incurred through the administration and implementation of conservation programs. In accordance with this purpose, §§517.1-517.12 of this title (relating to Conservation Assistance) are adopted.

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

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

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

**§517.3. Use of Funds.** Funds appropriated from the general revenue fund and other sources for conservation assistance may be used by the state board to provide funds to districts on a matching basis, to assist them with expenses incurred through the administration and implementation of conservation programs and activities.

**§517.4. Allocation of Funds.** The state board may allocate funds appropriated from the general revenue fund and other sources for conservation assistance to districts and may adjust allocations throughout the year as districts needs and ability to match funds change in order to achieve the most efficient use of state funds.

**§517.5. Requests for Allocations.** Districts must submit requests for allocations of conservation assistance funds under this subchapter to the state board on forms provided by the state board.

**§517.6. Approval of Allocations.** The state board may consider and approve, reject or adjust, district requests for allocations giving consideration to relative need for funding, district workload, and fund balances, as well as other information deemed necessary by the state board. Only districts for which the state board has established an allocation are eligible to claim funds under this subsection.

**§517.7. Match Requirements.** In order to be eligible to receive funds under this subchapter, a district must have raised an amount of money that is equal to the amount to be received from funds under this subchapter. District raised funds must be funds other than state funds or earnings from state funds and must have been deposited in a financial institution prior to submitting a claim.

**§517.8. Maximum Allocation.** The state board may establish a per district maximum annual allocation based on appropriation levels and district needs, and may adjust the maximum from time to time as available funds and district needs change.

**§517.9. Claims.** Claims for conservation assistance funds may be submitted to the state board as districts raise funds. Claims shall be submitted on forms provided by the state board and must include certification that an amount of funds equal to that claimed have been raised by the district from sources other than state funds or earnings from state funds and deposited in a local financial institution, since the beginning of the current fiscal year and prior to the date of the claim. Claims shall not be submitted more often than once each month.

**§517.10. Deadlines.**

(a) The state board hereby establishes the following deadlines.

(1) By May 15, districts must have claimed  $\frac{2}{3}$  of the original annual allocation of conservation funds.

(2) By August 1, districts must have all claims for conservation assistance funds in the state office at Temple.

(b) Exceptions to these deadlines can only be made by the state board or the executive director with permission of the state board on a case by case basis.

**§517.11. Audits.** The state board shall have access to all district records for the purpose of verifying compliance with the provisions of this subchapter and other state requirements. The state board may withhold funds under this subchapter from districts found to be in violation of this subchapter or other state requirements and may require districts to reimburse the state board for funds claimed and received in violation of this subchapter or other state requirements. Any district which has not submitted three copies of its biennial audit to the state board's Temple office by January 1, following each audit period as specified in the Agriculture Code of Texas, §201.080(d), will not receive conservation assistance funds under this subchapter until such audits are received in the Temple office.

**§517.12. Nepotism.** The state board may withhold funds under these sections from districts or other entities found by the state board to be in violation of state nepotism statutes.

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

Issued in Temple, Texas, on July 7, 1986.

TRD-8006700

Harvey Davis  
Executive Director  
Texas State Soil and Water  
Conservation Board

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(817) 773-2250.

★ ★ ★

**Chapter 519. Technical  
Assistance  
Subchapter A. Technical Assistance  
Program**

**★31 TAC §§519.1-519.11**

The Texas State Soil and Water Conservation Board proposes new §§519.1-519.11, concerning the technical assistance program. The new sections implement a program to provide technical assistance for the development and implementation of soil and water conservation plans and soil and water conservation measures.

James Moore, engineer, has determined that for the first five-year period the pro-

posed sections will be in effect there will be fiscal implications for local government as a result of enforcing or administering the sections. The effect on local government is an estimated additional cost of \$225,000 in 1986 and in 1987; for each year of the three period 1988-1990, there is an estimated additional cost of \$250,000. There will be no fiscal implications for state government or small business.

Mr. Moore also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be conservation of the state's soil and water resources. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Harvey Davis, Executive Director, Texas State Soil and Water Conservation Board, P.O. Box 858, Temple, Texas 76703.

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

**§519.1. Policy Statement.** It is the policy of the State Soil and Water Conservation Board to develop and implement a program to provide technical assistance for the development and implementation of soil and water conservation plans and soil and water conservation measures. In accordance with this purpose, §§519.1-519.11 of this title (relating to Technical Assistance Program) are adopted.

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

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

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

**§519.3. Use of Funds.** Funds appropriated from the general revenue fund and other sources for technical assistance may be used by the state board to reimburse districts for salaries or wages paid to technical personnel of a district for performing or being trained to perform those duties included in §519.7(a) of this title (relating to Eligible Expenditures), and for other purposes specifically approved by the state board as provided for in §519.7(b) of this title (relating to Eligible Expenditures).

**§519.4. Allocation of Funds.** The state board may allocate funds appropriated from the general revenue fund and other sources for technical assistance to districts, and may adjust such allocations throughout the year

as district needs and available funds change, in order to achieve the most efficient use of state funds. The state board may also allocate such funds for other purposes as provided for in §519.7(b) of this title (relating to Eligible Expenditures), and may adjust such allocations to meet changing conditions.

**§519.5. Requests for Allocations.** Districts must submit requests for allocations of technical assistance funds under this subchapter to the state board on forms provided by the state board, and shall include all information required by such forms.

**§519.6. Approval of Allocations.** The state board may consider and approve, reject or adjust district requests for allocations giving consideration to relative need for funding, district workload, and fund balances, as well as other information deemed necessary by the state board. Only districts for which the state board has established an allocation are eligible to claim funds under this subchapter.

**§519.7. Eligible Expenditures.**

(a) Expenditures eligible for reimbursement include the wages or salary paid to a district soil conservation technician. A soil conservation technician generally works with owners and operators of agricultural or other lands on activities associated with planning, administration, installation, and maintenance of conservation practices.

(b) Other expenditures which may be specifically approved as eligible expenditures by the state board include, but are not limited to:

- (1) wages and salaries paid to technicians at plant material centers;
- (2) other activities contributing to the carrying out of district responsibilities.

**§519.8. Eligible Pay Rates.** The state board hereby establishes maximum pay rates of \$6.50 per hour, or \$13,500 per year, and maximum hours per week of 40 hours. With the prior approval of the state board, a district may exceed the maximum pay rate or maximum hours per week. Expenditures for wages or salaries that are above the maximum pay rate or expenditures for hours over the maximum hours per week will not otherwise be eligible for reimbursement.

**§519.9. Claims for Reimbursement.** Claims for eligible expenditures within the allocations set by the state board shall be submitted on forms provided by the state board. To be eligible for reimbursement, claims must be submitted no later than 60 days following the close of the fiscal year in which the eligible expenditures occurred.

**§519.10. Audits.** The state board shall have access to all district records for the purpose of verifying compliance with the provisions of this subchapter and other state requirements. The state board may withhold funds under this subchapter from districts found to be in violation of this subchapter or other state requirements and may require districts to reimburse the state board for ex-

penditures claimed and reimbursed that are found to be in violation of this subchapter or other state requirements. Any district which has not submitted three copies of its biennial audit to the state board's Temple office by January 1, following each audit period as specified in the Agriculture Code of Texas, §201.080(d), will not receive reimbursements under this subchapter until such audits are received in the state office in Temple.

**§519.11. Nepotism.** The state board may withhold funds under this subchapter from districts or other entities found by the state board to be in violation of state nepotism statutes.

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

Issued in Temple, Texas, on July 7, 1986.

TRD-8606710

Harvey Davis  
Executive Director  
Texas State Soil and  
Water Conservation  
Board

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(817) 773-2250.

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part I. Texas Department of Public Safety Chapter 19. Breath Alcohol Testing Regulations Breath Alcohol Testing Regulations

#### ★37 TAC §§19.1-19.7

The Texas Department of Public Safety proposes amendments to §§19.1 and 19.3-19.7, and new §19.2, concerning breath alcohol testing regulations.

The proposed amendment to §19.1 changes the title and adds and deletes language to comply with the requirements of Texas Civil Statutes, Articles 6701i-1 and 6701i-5, as amended by Senate Bill 1 of the 68th Legislature, 1983, and House Bill 51 of the 69th Legislature, 1985. Clarification has been made where necessary in response to various motions of discovery in county and district courts.

New §19.2 is proposed to clarify the intent and meaning of allied equipment as opposed to certified instrumentation. Sections 19.2-19.6 have been renumbered as §§19.3-19.7.

The proposed amendment to §19.3 changes the title and adds and deletes language to comply with the requirements of Texas

Civil Statutes, Articles 6701i-1 and 6701i-5, as amended by Senate Bill 1 and House Bill 51 of the 68th Legislature, 1983, and the 69th Legislature, 1985. Subsection (c)(8) is added, subsection (e) is new language, subsections (e)-(g) are changed to (f)-(h), and subsection (i) is added.

The proposed amendment to §19.4 changes the title and adds and deletes language to clarify and reformat. Subsection (c) is removed, subsections (d)-(e) are changed to (c)-(d), and subsections (e)-(f) are added.

The proposed amendment to §19.5 changes the title and adds and deletes language to better define qualifications and responsibilities of technical supervisors. Subsections (a)(5), (b)(3) and (4), and (d) are added.

The proposed amendment to §19.6 adds and deletes language to better define the responsibilities of courses of instruction within the original intention of these regulations. Subsection (e) is new language, subsection (e) is changed to (f), and subsections (g) and (h) are added.

The proposed amendment to §19.7 adds, deletes, and expands language to clarify the explanation of the various terms and actions used throughout these regulations. Subsections are alphabetized, which requires renumbering. Subsections (b), (h), and (n) are added to the explanation of terms and actions.

Melvin C. Peeples, Chief Accountant III, 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.

George E. Browne, scientific director, 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 in the state courts of the intent of these regulations in testimony on contested cases of driving while intoxicated, and compliance with legislative changes. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

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

The amendments and new section are proposed under Texas Civil Statutes, Article 6701i-5, which provide the Texas Department of Public Safety with the authority to establish rules approving satisfactory techniques or methods to ascertain the qualifications and competence of individuals to conduct such analysis, and to issue certificates certifying such fact. Breath specimens taken at the request of a peace officer must be taken and analysis made under such conditions as may be prescribed by the Texas Department of Public Safety and by such persons as the

Texas Department of Public Safety has certified to be qualified.

#### §19.1. [Breath Alcohol Test] Instrument Certification.

(a) All breath [alcohol] testing instruments [and allied equipment] to be used for evidentiary purposes [in the State of Texas] must have the approval of and/or [and] be certified by brand and/or model by the office of the scientific director, Alcohol Testing Program, Texas Department of Public Safety (hereinafter referred to as the scientific director).

(1) The scientific director will establish and maintain [make available] a list of approved instruments certified by brand and/or model [and class] for use in the state [of Texas].

(2) If application is made for approval or certification of an instrument by brand and/or model not on the approved list [or any allied equipment], the scientific director shall examine and evaluate the instrument [or other item] to determine if [whether or not] it meets the [certifying] criteria for approval or certification.

(b) In order to be certified, each brand and/or model of breath testing instrument must meet the following criteria. [All breath alcohol testing instruments, in order to be approved, must meet the following criteria.]

(1) The quantity of breath analyzed for its alcohol content shall be established only by direct volumetric measurement, [by] collection and analysis of a fixed breath volume, or any method approved by the scientific director.

(2) (No change.)

(3) The instrument shall [be able to] analyze a [suitable] reference sample, such as headspace gas from a mixture of water and a known weight of alcohol held at a constant temperature [air equilibrated with a reference solution of known alcohol content at a known temperature], the result of which [analysis] must agree with the reference sample predicted value within [the limits of]  $\pm 0.01g/210L$  [% W/V], or such limits as set by the scientific director.

(4) The specificity of the procedure shall be adequate and appropriate for the analyses of breath specimens for the determination of alcohol concentration in traffic law enforcement [as determined by the scientific director].

(5) Any other tests deemed necessary by the scientific director to correctly and adequately evaluate the instrument to give correct results in routine breath alcohol testing and be practical and reliable for traffic law enforcement purposes.

(c) Upon proof of compliance with subsection (b) of this section, an instrument will be certified by brand and/or model and placed on the list of certified instruments. [Allied equipment shall meet any criteria deemed necessary by the scientific director and operate properly and adequately for the function it is designed to perform].

(1) Inclusion of the scientific director's list of approved and/or certified instruments will verify that the instrument by brand and/or model meets subsection (b) of this section.

(2) The scientific director may suspend or revoke the certification of a brand and/or model of instrument and remove it from the list of certified instruments for cause.

(d) The technical supervisor, as the field agent of the scientific director, shall determine if the individual instrument by serial number is the same brand and/or model that is shown on the scientific director's approved list and meets the criteria for certification as stated in subsection (b)(3) of this section. [After breath alcohol testing instruments and allied equipment are certified, no modifications of these will be made without written approval of the scientific director].

(e) After approval and/or certification, if it is determined by the scientific director, or a designated representative or technical supervisor that a specific instrument [or a specified piece of allied equipment] is unreliable and unserviceable, the specific instrument will be removed from service and certification and/or approved may [will] be withdrawn.

(f) It is the intent of these regulations that the technical supervisor, when required, shall provide expert testimony concerning the certification and all other aspects of the breath testing instruments under his/her supervision.

#### §19.2. Approval of Allied Equipment.

(a) All allied equipment as defined in §19.7(b) of this title (relating to Explanation of Terms and Actions) used in conjunction with evidentiary breath alcohol testing must be approved by the scientific director.

(1) The scientific director will establish and maintain a list of approved allied equipment by type, brand, and/or model for use in the state.

(2) If application is made for approval of allied equipment by type, brand, and/or model not on the approved list, the scientific director shall examine the allied equipment to determine if it meets the criteria for approval.

(b) In order to be approved, allied equipment must function properly for the purpose for which it was designed and be compatible with the certified instrumentation.

(c) Upon proof of compliance with subsection (b) of this section, the allied equipment by type, brand, and/or model will be approved and placed on the scientific director's approved list.

(1) Inclusion on the scientific director's list of approved allied equipment will verify that the equipment by type, brand, and/or model meets subsection (b) of this section.

(2) The scientific director may suspend or revoke the approval of a type, brand, and/or model of allied equipment for cause.

(d) The technical supervisor, as the field agent of the scientific director, shall determine if the individual allied equipment meets the requirements of subsection (b) of this section.

(e) After approval, if it is determined by the scientific director or designated representative or technical supervisor that a specific piece of allied equipment is no longer compatible with existing instrumentation or does not perform the purpose and function intended, the specific piece of allied equipment will be removed from service and approval may be withdrawn.

(f) It is the intent of these regulations that, when required, the technical supervisors will provide expert testimony concerning the approval and all other aspects of the allied equipment under their supervision.

**§19.3.[§19.2]. Certification [Approval] of Techniques, Methods, and Programs.**

(a) All breath alcohol testing techniques, [or] methods, and programs to be used for evidentiary purposes [in this state] must have the approval of and be certified by the scientific director.

(b) Prior to initiating a breath alcohol testing program, an agency or laboratory shall submit an application to the scientific director for approval. The application shall show the brand and/or model [make and model] of the instrument and allied equipment to be used and [shall] contain a resume of the technique to be followed. An on-site inspection shall be made by the scientific director or a designated representative to assure compliance with the provisions of the application.

(c) All breath alcohol testing techniques, in order to be approved, shall meet, but not be limited to, the following [criteria]:

(1) continuous observation of the subject for a minimum period of time as set by the scientific director prior to collection of the breath specimen, during which time [period] the subject must not have ingested alcoholic beverages or other fluids, regurgitated, vomited, eaten, [or] smoked, or introduced any substances into the mouth;

(2) the breath alcohol testing instrument and allied equipment must be operated by either a certified operator or technical supervisor and only certified personnel will have access to the instrument [and allied equipment]. This provision will not apply to operators inactivated in accordance with §19.4(c)(2) of this title (relating to Operator Certification);

(3) the use of a system blank analysis in conjunction [connection] with the testing of each subject;

(4) the analysis of a [suitable] reference sample, such as headspace gas from a mixture of water and a known weight of alcohol at a constant temperature [air equilibrated with a reference solution of known alcohol content at a known temperature], the results [result] of which [analysis] must agree with the reference sample predicted value

within [the limits of]  $\pm 0.01\text{g}/210\text{L}$  [% W/V], or such limits as set by the scientific director. This reference analysis shall immediately precede or immediately follow the analysis of the breath of the subject as determined by the scientific director;

(5) all analytical results shall be expressed in terminology established by state statute and reported to two decimal places without rounding off. (For example, a result of 0.237g/210L shall be reported as 0.23, or as stated by the scientific director.) [The results of an analysis as defined by statute shall be expressed in terms of %W/V to the second decimal place as found; for example, 0.237% found shall be reported as 0.23%;

(6) maintenance of any specified records designated by the scientific director [Proper and adequate records of operations, analyses, and results as stated by the scientific director shall be maintained];

(7) supervision of certified operators and testing techniques by a technical supervisor meeting the qualifications set forth in §19.5 of this title (relating to Technical Supervisor Certification). [Breath alcohol testing operators and the testing technique as set forth in this section shall be supervised in each laboratory or agency engaged in breath alcohol analysis by a technical supervisor having the minimum qualifications set forth in §19.4 of this title (relating to Technical Supervisors)];

(8) designation that the instrumentation will be used only for testing subjects that are suspected of driving while intoxicated or in compliance with §19.4(b), (c), and (e) of this title (relating to Operator Certification).

(d) The scientific director or a designated representative may at any time make an inspection of the approved breath alcohol testing agency to insure compliance with these [the] regulations.

(e) Upon proof of compliance with subsections (a), (b), and (c) of this section, certification will be issued by the scientific director. Issuance of a certificate to the certified program shall be evidence that the program possesses certified instruments and approved allied equipment as stated in §19.7(e) of this title (relating to Explanation of Terms and Actions).

(f)(e) Certification of any breath alcohol testing program is contingent upon [on] the applying agencies agreement to conform and abide by any directives, orders, or policies issued or to be issued by the scientific director regarding [in regards to] any aspect of the breath alcohol testing program; this shall include, but not be limited to, the following:

(1) program administration [including reports, records, and forms];

(2) reports [site location and security];

(3) records and forms [public information and demonstrations of certified breath alcohol testing instruments or allied equipment];

(4) site location and security [modification of certified breath alcohol testing instruments or allied equipment];

(5) public information and demonstrations of certified breath alcohol testing instruments [methods of operations and testing techniques];

(6) methods of operations and testing techniques.

(g)(f) Certification [of approval] of a breath alcohol testing program may be denied or withdrawn by the scientific director if, based on information obtained by the scientific director, a designated representative of the scientific director, or a technical supervisor, the certified agency or laboratory fails to meet all [the] criteria stated in subsections (a)-(c) of this section [for approval and performance as stated in this section].

(h)(g) Certification of a breath alcohol testing program under provisions of Texas Civil Statutes, Article 67011-5, is based on breath alcohol testing for evidentiary purposes in driving while intoxicated or related cases. Therefore, any agency or laboratory applying for certification of a breath alcohol testing program must show that such analyses [analysis] will be conducted only for the purposes stated in subsection (c)(8) of this section [intended].

(i) It is the intent of these regulations that the technical supervisors, when required, shall provide expert testimony concerning the certification of the techniques, methods, and programs under their supervision.

**§19.4.[§19.3]. [Breath Alcohol Test Instrument] Operator Certification.**

(a) Initial certification.

(1) In order to apply for certification as an operator of a breath alcohol testing instrument, an applicant must successfully complete [show the successful completion of] a course of instruction approved by the scientific director which [course] must include as a minimum the following:

(A) [a minimum of] three hours of instruction on the effects of alcohol on the human body;

(B) [a minimum of] three hours of instruction on the operational principles of the selected breath alcohol testing instrument to be used [which is to include:]. This instruction shall include:

(i)-(ii) (No change.)

(C) [a minimum of] five hours of instruction on Texas legal aspects of breath alcohol testing;

(D) [a minimum of] three hours of instruction on supplemental information which is to include nomenclature appropriate to [in] the field of breath alcohol testing;

(E) [a minimum of] 10 hours of laboratory participation using appropriate equipment. Laboratory practice will include the analysis of reference alcohol samples, as stated in §19.3(c)(4) of this title (relating to Certification of Techniques, Methods, and Programs), as well as the analysis of breath samples from actual drinking subjects and

completion of all required records and reports needed for documentation;

(F) (No change.)

(G) If [in the event] an operator is certified to operate a specific [type or] brand and/or model of equipment [instrument] and is required [desires] to be certified on an additional brand and/or model of equipment [type or brand of instrument], the scientific director may waive portions of paragraph (1)(A)-(F) of this subsection and require only that [such] instruction [instructions] needed to acquaint the applicant with proper operation of the new brand and/or model [type or brand] of equipment [instrument].

(2) Prior [In order] to [receive] initial certification as an operator of a breath alcohol testing instrument, an applicant must satisfactorily complete examinations, to be prepared and given by the scientific director or a designated representative, which shall include the following:

(A) a written examination which shall cover the academic or lecture material presented in the course of instruction [instructions];

(B) a practical [laboratory] examination that [which] shall encompass [cover] actual operation [operations] of the instrument and allied equipment on which the operator is to be certified [by analyzing unknown reference samples and obtaining results on all the samples within the limits as set by the scientific director]. The examination will consist of analyzing unknown reference samples and obtaining results on all samples within limits as set by the scientific director, plus proper completion of all required records and/or reports. If the correct value is not obtained within the prescribed [these] limits on all of the samples and/or there is an error on any of the required records and/or reports, then the operator will be given a second set of test samples. If the correct value is not obtained on all of the [these] second test samples [specimens,] within the prescribed limits [set by the scientific director,] and/or there is an error on any of the required records or reports [then] the applicant has failed the examination;

(C) failure of the initial written and/or practical examination will cause the applicant to be ineligible for reexamination for a period of 90 days. Subsequent failures will require a waiting period of six months between reexaminations. [If an applicant fails either the written or laboratory portion of the examination, after the expiration of 90 days the applicant may request a second examination. If the applicant fails the second examination, the applicant may not request subsequent examinations until six months have elapsed since the last examination.]

(3) Prior to certification, an applicant must establish proof of participation in a breath testing program that meets the requirements set forth in §19.3 of this title (relating to Certification of Techniques, Methods, and Programs) and has been approved

by the scientific director. [In order to be certified as an operator of a breath alcohol testing instrument, an applicant must have established that after certification the operator will be participating in a breath alcohol testing program that meets the requirements of §19.2 of this title (relating to Approval of Techniques, Methods, and Programs) and §19.6(1) of this title (relating to Explanation of Terms and Actions) and has been approved by the scientific director.]

(4) Upon successful completion of the requirements for initial certification, the scientific director will issue the individual an operator's certificate valid for a period of time designated by the scientific director or until the next examination [annual testing] for renewal unless inactivated, suspended, or revoked [revoked, suspended, or inactivated].

(b) Renewal of current certification. The operator is required to renew certification prior to its expiration date. The minimum requirement for renewal of operator certification [the operator's certificate] will be:

(1) A demonstration by the operator of competence to perform satisfactory reference [breath alcohol] analyses as stated in §19.3(c)(4) of this title (relating to Certification of Techniques, Methods, and Programs). The practical examination as stated in subsection (a)(2)(B) of this section will be conducted [using alcoholic reference sample equipment] under the direct supervision [and close scrutiny] of a technical supervisor. The operator will be evaluated on the basis of ability to:

(A) (No change.)

(B) obtain proper instrument [instrumental] results pursuant to §19.3(c)(4) of this title (relating to Certification of Techniques, Methods, and Programs); and

(C) follow established procedures including, but not limited to, the operation of the instrument and allied equipment and the proper reporting procedures for [and] analysis results.

(2) The satisfactory completion of a [refresher] course of instruction at least four hours in duration, the contents of which should [may] include, but not be limited to, topics such as:

(A)-(C) (No change.)

(D) a discussion of current problems in the field of breath alcohol testing [analysis];

(E) a written examination on the material presented in the renewal [refresher] course and during the basic course of instruction.

(3) The renewal of the certificate will be denied and the operator's current certification will be inactivated when the operator:

(A) (No change.)

(B) uses other than proper [authorized] technique;

(C) fails the laboratory examination as stated in subsection (a)(2)(B) of this section; or

(D) (No change.)

(4) An operator who fails [is denied] renewal will be given the reason for failure and is not eligible to be reexamined [examined again] for a period of 90 days. Subsequent failures [Failure the second and subsequent times] will require six months to lapse between [before] reexaminations [reexamination].

(5) Upon successful completion of the requirements for renewal of certification, the scientific director will issue the individual an operator's certificate valid for a period of time designated by the scientific director or until next renewal unless inactivated, suspended, or revoked. [Renewal of certification as an operator will be for a period of one year or until the next annual renewal unless inactivated, suspended, or revoked].

(c) Recertification.

(1) An operator whose certification lapsed for a period of at least six months due to nonrenewal, was voluntarily surrendered, was inactivated for nonperformance of minimum tests, or was suspended or revoked and the suspension or revocation time has passed, must take the written and lab examinations as stated in initial certification set forth in subsection (a)(2)(A) and (B) of this section to regain certification.

(2) An operator who fails either examination required in paragraph (1) of this subsection is guided by subsection (a)(2)(C) of this section for further examination.]

(c)[(d)] Proficiency requirements.

(1) The scientific director or a designated representative or the operator's technical supervisor, may at any time require an operator [or technical supervisor] to demonstrate proficiency and ability to properly operate the breath alcohol testing instrument and allied equipment [on which certified]. [An operator's technical supervisor may also require the operator to demonstrate proficiency.]

(2) It is the responsibility of the individual operator to maintain the proficiency requirements. Every certified operator is required to perform a minimum of six reference analyses every two consecutive calendar months. Failure to perform this six reference [these minimum] analyses for any one reporting period [any two consecutive months] places the operator in a delinquent status [automatically inactivates the operator's certificate and no further analyses will be made by the operator until the operator contacts the technical supervisor and passes a proficiency test as stated by the scientific director]. The delinquent operator must contact the technical supervisor within the next calendar month and pass a proficiency test as defined in §19.7(n) of this title (relating to Explanation of Terms and Actions). Failure to contact the technical supervisor and pass a proficiency examination within the next calendar month automatically inactivates the operator's certification and no further analyses should be made by the operator until the operator contacts the technical supervisor and passes a proficiency test as defined in §19.7(n) of this title (relating to Explanation



of Terms and Actions). Any [An] operator who performs analyses while the operator's certification [certificate] is inactive shall be subject to certification suspension or revocation as set forth in subsection (d)(2) and (3) of this section [having certification suspended or revoked].

(3) Failure to pass a proficiency test as defined in §19.7(n) of this title (relating to Explanation of Terms and Actions) will result in the operator's certification being suspended for 90 days. [When a certified operator has failed to perform the minimum required analyses, the operator's commanding officer or appropriate supervisor will be contacted once to secure assistance in alleviating the problem before the certificate is inactivated, as provided in paragraph (2) of this subsection. If the operator has not performed the minimum required analyses within 30 days of notification of the operator's commanding officer or appropriate supervisor, the scientific director will take action as stated in paragraph (2) of this subsection].

(4) Subsequent failure to perform the required minimum six reference analyses every two consecutive calendar months within the same 12-month period automatically suspends the operator's certification pursuant to subsection (d)(2) of this section. [Failure to pass a proficiency test will result in the operator's certificate being suspended for 90 days or until annual renewal of certification, whichever is shorter, and in the case of a technical supervisor until proficiency is reestablished].

(d)(e) Certification inactivation, suspension, and revocation [Revocation and suspension].

(1) Inactivation of certification will be utilized in conjunction with administrative program control pursuant to §19.7(i) of this title (relating to Explanation of Terms and Actions). [The operator's certificate may be revoked only by the scientific director based on information acquired personally, by a designated representative, or furnished by the operator's technical supervisor of malfeasance or that the operator's performance is unreliable or the operator is incompetent. The scientific director may suspend the certificate of any operator a minimum of 90 days or for such other period as set by the scientific director when malfeasance, unreliability, incompetence, or noncompliance with any provisions of the regulations by the operator has been determined. If revoked or suspended, the operator shall return any current certificate to the scientific director].

(2) Suspension of certification shall be administered in accordance with §19.7(w) of this title (relating to Explanation of Terms and Actions). A technical supervisor may suspend the certification [certificate] of any operator under the supervision of that technical supervisor and recommend further action to the scientific director for malfeasance or noncompliance with any provisions of these regulations or when in the technical supervisor's judgment the operator's perfor-

mance is unreliable or the operator is incompetent.

(A) The technical supervisor shall immediately notify the scientific director in writing of any such suspension and furnish a copy of such notice to the suspended operator and the operator's appropriate supervisor or department head [operator's department head or appropriate supervisor and the suspended operator, who shall not be permitted to operate the instrument until such time as the suspension is removed]. The suspended operator shall not be permitted to operate the instrument until such time as certification has been restored pursuant to subsection (e) of this section.

(B) Upon receipt of the notification of suspension, the scientific director [upon receipt of the notification of suspension,] shall immediately initiate an inquiry culminating in sustaining the suspension, revoking certification, or setting aside the suspension [revocation of the operator's certificate, sustaining the suspension for a specific time, or removal of the suspension].

(3) Revocation of certification shall be administered in accordance with §19.7(s) of this title (relating to Explanation of Terms and Actions). Certification shall be revoked by the scientific director pursuant to subsection (d)(2)(B) of this section when the operator intentionally or purposefully disregards or violates these regulations, commits a violation of law relating to breath testing, or falsely or deceitfully obtains certification. An operator whose certification has been revoked shall not be eligible for examination for certification again within 12 months of the date of revocation or such other time as determined by the scientific director. [An operator whose certification has been suspended or revoked may appeal such action in writing to the director, Texas Department of Public Safety, who will decide whether the action of the scientific director will be affirmed or set aside. The director may reinstate the certificate of the operator, making such appeal under such conditions as he may deem necessary, and notify the scientific director in writing.]

(4) An operator whose certification has been suspended or revoked may appeal such action in writing to the director, Texas Department of Public Safety, who will determine if the action of the scientific director will be affirmed or set aside. The director may reinstate certification under such conditions as deemed necessary and notify the scientific director in writing. [The scientific director shall revoke a certification if the holder obtained it falsely or deceitfully.]

(5) An operator whose certification has been revoked shall not be eligible for examination for certification again within 12 months of the date of revocation or such other time as determined by the scientific director.]

(e) Recertification.

(1) Certification that has been inactivated, suspended, or revoked must be re-

gained before evidentiary analyses can be administered. It will be the responsibility of the inactivated, suspended, or revoked operator to notify the scientific director in writing of such intent. This notification shall be submitted in close proximity to the completion of any mandatory waiting period imposed under certification cancellation. Recertification shall take place pursuant to the following.

(A) Recertification after voluntary inactivation or for nonproficiency (and the period of inactivation is less than six months) will be pursuant to subsection (a)(2)(B) of this section or §19.7(n) of this title (relating to Explanation of Terms and Actions).

(B) Recertification after voluntary inactivation (and the period of inactivation is more than six months) or for failure to attend annual renewal will be pursuant to subsection (a)(2) of this section.

(C) Recertification after inactivation for failure of the renewal examination and/or examinations will be pursuant to subsection (b) of this section.

(D) Recertification after suspension or revocation will be in accordance with subsection (a)(2)(A) and (B) of this section.

(2) An operator who fails either examination required in paragraph (1)(A)-(D) of this subsection is guided by subsection (a)(2)(C) of this section for further examination.

(f) Intent. It is the intent of these regulations that the issuance of a certificate to the breath test operator shall be evidence that the operator has met the requirements for initial certification and/or renewal of certification. It is further the intent of these regulations that the technical supervisors, when required, shall provide expert testimony concerning the current status of the breath test operators under their supervision.

#### §19.5. §19.4. Technical Supervisor Certification.

(a) The minimum qualifications for certification as [required to be] a technical supervisor are [at least as follows]:

(1) a baccalaureate degree from an accredited college or university with a major in chemistry, or as an alternative, a major in another scientific field with sufficient semester hours [a minor] in chemistry or other qualifications as determined by the scientific director. (For the purposes of these regulations, sufficient hours in chemistry shall be defined as successful completion of the equivalent of a minimum of 18 semester hours of chemistry.);

(2) satisfactory completion of a course of instruction as set forth in §19.4 (a)(1) of this title (relating to Operator Certification) [certification as an operator of the breath alcohol analysis method to be supervised, or possession of equivalent knowledge];

(3) satisfactory completion of [a] technical supervisor [supervisor's] training [course] that is approved by the scientific director, the content of which shall include, but not be limited to:

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

(C) instrument [and allied equipment] operations, maintenance, repair, and calibration;

(D)-(E) (No change.)

(4) knowledge and understanding of the scientific theory and principles as to the operation of the instrument and allied equipment [supervised and ability to inspect and maintain it for proper operation];

(5) prior to receiving certification, a technical supervisor candidate must establish proof of engagement in a certified program or a certified school of instruction or proof of pending engagement upon receipt of certification. (If the technical supervisor candidate or certified technical supervisor cannot establish proof of being actively engaged in a certified program or certified school of instruction certification will be denied or inactivated) [be of good moral character].

(b) Certification.

(1) Upon satisfactory proof to the scientific director by the applicant that the minimum qualifications set forth in subsection (a) of this section [for technical supervisor] have been met, the scientific director will issue certification that will be valid until inactivated, suspended, or revoked for cause [a technical supervisor's certificate valid for a period of five years, unless suspended or revoked].

(2) Technical supervisor certification may be voluntarily inactivated when it is no longer needed or automatically if the technical supervisor fails to maintain the requirements set forth in subsection (a)(5) of this section. [A technical supervisor's certificate may be suspended or revoked only by the scientific director based on information obtained personally or by a designated representative of malfeasance or that the technical supervisor's performance is not in keeping with the best interest of the breath alcohol testing program or that the certificate was obtained falsely or deceitfully.]

(3) Technical supervisor certification may be suspended or revoked only by the scientific director for malfeasance, falsely or deceitfully obtaining certification, or failure to carry out the responsibilities set forth in subsection (c) of this section.

(4) A technical supervisor whose certification has been suspended or revoked may appeal such action in writing to the director, Texas Department of Public Safety, who will decide whether the action of the scientific director will be affirmed or set aside. The director may reinstate certification of the technical supervisor, making such appeal under such conditions deemed necessary, and notify the scientific director in writing.

(c) Responsibilities. Responsibilities of the technical supervisors shall be:

(1) (No change.)

(2) field inspection and supervision of the total breath alcohol testing program in assigned area, including but not limited

to, operators, records, operations, and analyses;

(3) maintenance and repair [calibration] (When necessary) of [certified] breath alcohol testing instruments and approved allied equipment supervised by the technical supervisor;

(4) training and periodic reexamination of operators [reevaluation of operators supervised by that technical supervisor];

(5) preparation of chemicals, when necessary, such as the preparation of the reference sample solutions [periodic reexamination to operators supervised by that technical supervisor to ensure maintenance of technical knowledge and competence];

(6) provide expert testimony concerning the calibration, certification, and maintenance of certified breath testing instruments, approved allied equipment, and analytical technique within assigned areas of responsibility as stated in §19.7(x)(1)-(6) of this title (relating to Explanation of Terms and Actions) [properly check chemicals used for analysis and prepare chemicals when necessary];

(7) direct notification to the scientific director of any malfeasance, noncompliance with any provisions of these regulations, or unreliable actions by any certified operator, agency, or laboratory [provide expert testimony concerning the breath alcohol testing instrument and allied equipment and testing technique supervised. Also, expert testimony to interpret the significance of the analytical results as pertaining to intoxication];

(8) maintain and submit records and reports as stated by the scientific director [send direct notification to the scientific director of any malfeasance, noncompliance with any provisions of these regulations, or unreliable actions by any certified operator, agency, or laboratory];

(9) inspect and investigate matters pertaining to the breath alcohol testing program or operators as directed by the scientific director [maintain and submit records and reports as stated by the scientific director];

(10) comply with all directives concerning the breath alcohol testing program issued by the scientific director [make inspections and investigations of the matters pertaining to the breath alcohol testing program or operators as directed by the scientific director];

[(11) comply with all directives concerning the breath alcohol testing program issued by the scientific director.]

(d) Intent. It is the intent of these regulations that the issuance of a certificate to the technical supervisor shall be evidence that the technical supervisor has met the requirements for certification.

§19.6. [§19.5]. *Certification of Courses of Instruction.*

(a) Prior to any agency, laboratory, institution, school, or college conducting a

course of instruction for operators of breath alcohol testing instruments and allied equipment [in the State of Texas for operators and/or technical supervisors of breath alcohol testing instruments and allied equipment], it [they] shall submit a course resume and list of instructors to the scientific director for approval. The course of instruction must be approved by the scientific director if participants are to be eligible to apply for operator's initial certification [for certification as a technical supervisor].

(b) The operator [operators] course must contain, as a minimum, the subjects, [and] hours of instruction, and laboratory practice set out in §19.4 [§19.3] (a)(1) of this title (relating to Operator Certification) [(Breath Alcohol Test Instrument Operator Certification)]. It is strongly recommended that the minimum operator course be [expanded to] 40 hours (including final exam) of pertinent instruction.

(c) (No change.)

(d) Examinations for operator certification after completion of a course will be in accordance with §19.4 [§19.3] (a)(2) of this title (relating to Operator Certification) [(Breath Alcohol Test Instrument Operator Certification)], and prior to commencing the course it will be the responsibility of the teaching agency to make arrangements [for such examinations] with the office of the scientific director for the administration of such examinations [prior to commencing the course].

(e) Prior to the administration of the examination by the scientific director, it shall be the responsibility of the teaching agency to provide proof that all students attending the course of instruction have been authorized and approved by the technical supervisor responsible for the technical supervision of the operator upon certification. Failure to provide this authorization will delay the administration of the examination and/or certification until such time as proof of authorization can be documented.

(f) [(e)] Failure to maintain the provisions stated in this section [for certification of a course of instruction] will be cause for withdrawal of certification of a course of instruction.

(g) Each certified course of instruction shall be coordinated by or under the general direction or supervision of a certified technical supervisor.

(h) In order to assure that only valid, correct, and uniform technical program information is being promulgated, certified technical supervisors must give written notice to the scientific director at least 10 days prior to engaging in activities such as instructing in seminars, training sessions, etc., dealing with aspects of the Texas Breath Alcohol Testing Program other than operator certification pursuant to §19.7(o) of this title (relating to Explanation of Terms and Actions).

§19.7. [§19.6]. *Explanation of Terms and Actions.*

(a)(w) Alcohol. As used in these regulations, alcohol refers to ethyl alcohol (sometimes referred to as grain alcohol or ethanol).

(b) Approved allied equipment. All items, excluding expendable supplies as defined in subsection (h) of this section, and excluding reference sample solutions, needed for the performance of evidentiary breath alcohol determinations, using certified instrumentation, shall be considered as allied equipment. Approved allied equipment shall include, but not be limited to, such items that are necessary for the proper administration of a breath alcohol analysis as defined by the scientific director. In order to be approved, the allied equipment need only to be functional and compatible with the instrumentation with which it is to be used. If the allied equipment is deemed functional and compatible with existing certified instrumentation, it will be included on the scientific director's list of approved allied equipment by type, brand, and/or model. The technical supervisor will be the scientific director's designated field agent to determine if allied equipment is, in fact, functional and compatible with the certified instrumentation under their direct technical supervision. If, in the course of routine supervision, the technical supervisor discovers that a piece of approved allied equipment cannot be made functional for the purposes intended, notification will be made to the scientific director and the equipment will be taken out of service.

(c)(q) Breath alcohol test (Breath alcohol analysis). Refers to the actual analysis of a specimen of the subject's breath to determine the alcohol concentrations thereof. In order to be valid for evidential purposes, analyses [the analysis] must be performed [in accordance with and] by certified individuals [certified] in accordance with provisions stated in these [the] regulations.

(d)(e) Certification.

(1) Certification refers to meeting and maintaining the requirements set forth in these [the] regulations. Under the provisions of these [the] regulations, certification is granted to:

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

(C) breath alcohol test instruments [and allied equipment];

(D)-(E) (No change.)

(2) Certification is granted only by the scientific director when minimum requirements of certification have been met. All breath alcohol testing for evidential purposes must be performed under certification in order to be admissible for court purposes.

(3)(2) Certificates are issued to [for] operators, technical supervisors, and [certified] breath alcohol test programs. [Other certifications are by list or letter.] Certificates are not issued for breath alcohol test instruments, allied equipment, or courses of instruction [Certifications are granted only by the scientific director when requirements of certification have been met. Cancellation, denial, suspension, revocation, or inactivation

of certification is made by the scientific director or under authority of the scientific director. All breath alcohol testing for evidential purposes must be performed under certification in order to be admissible for court purposes].

(e)(l) Certified breath alcohol testing program (techniques and methods). Refers to any breath alcohol testing program meeting and maintaining the provisions stated in §19.3 of this title (relating to Certification of Techniques, Methods, and Programs) [the regulations]. This certification is referred to as a total breath alcohol testing program, or total local program. Usually a total testing program refers to an [a police] agency or laboratory which meets the minimum requirements of having a certified breath alcohol testing instrument, [and] approved allied equipment, certified technical supervisor and certified operators and techniques, methods and programs which have been inspected and certified by the scientific director. In order to obtain certification as a total [testing] program, the applying agency or laboratory should first contact the office of the scientific director to determine the criteria and regulations regarding certification. After original contact, the applying agency, laboratory, or school will be given an application with [and] instructions which will be a guide [guides] to the acquisition of equipment and materials necessary for certification. When all requirements for certification are met, including the acquisition of certified personnel, [the office of] the scientific director will make an on-site inspection prior to the issuance of certification. Issuance of a certificate shall be evidence that the agency, laboratory, or school possesses certified instruments and approved allied equipment.

(f)(i) Certified operator. Certified operator refers to an individual who has successfully completed the requirements stated in these [the] regulations and has received certification from the scientific director to operate a specific instrument(s). [An] operator [operator's] certification is contingent upon compliance with all provisions stated in §19.4 of this title (relating to Operator Certification) [the regulations]. To be valid for evidentiary purposes, all analyses must be conducted by certified operators on certified instruments under the supervision of a certified technical supervisor, within a breath alcohol test program certified by the scientific director.]

(g)(m) Certified [school] course of instruction. Refers to any school, college, agency, institution, or laboratory which meets the requirements stated in §19.6 of this title (relating to Certification of Courses of Instructions) [the regulations] for certification of courses of training. Operator schools will be certified for instruction on specific instrument(s). Applications for school certification [certifications] must be approved by the scientific director prior to the school's commencement. Certification of operators successfully completing a certified school can

only be made by the office of the scientific director through the administration of appropriate examinations. [In order to be certified, all schools must meet the criteria set forth in the regulations.] The scientific director has the authority to limit enrollment of any school or deny individual enrollment if, in the opinion of the scientific director, such enrollment would not be in the best interest of the scientific integrity of the breath alcohol test program; for example, if enrollment in a certified operator school would produce more operators than could be supervised by the number of available technical supervisors.

(h) Expendable supplies. Expendable supplies are those items that are used or consumed in the process of performing an analysis on the instrumentation and cannot be used again. Expendable supplies are supplies such as mouthpieces, test records, etc., that are used one time only in performing breath alcohol analyses.

(l)(d) Inactivation.

(1) Inactivation refers to the voluntary or temporary discontinuance of certification. Unless specifically stated otherwise [in the regulations] this loss of certification will be an administrative program control [action] as opposed to suspension or [and/or] revocation for violation of these regulations or for unreliability or incompetency [for unreliable or incompetent operations or violation of program regulations]. Inactivation may be initiated by anyone having authority to suspend or revoke, [or] by the certified operator in case of voluntary surrender of [the individual operator] certification, or by the technical supervisor in case of voluntary surrender of technical supervisor certification. In questionable cases, the decision to accept inactivation or invoke suspension or revocation will be determined by the scientific director. Recertification of an inactivated certificate will require a written request from the applicant to [the office of] the scientific director and successful completion of the requirements outlined in §19.4(e) of this title (relating to Operator Certification) [the regulations] for recertification and/or other requirements determined by the scientific director. Inactivation for failure to comply with the minimum proficiency requirement(s) [requirement] will be automatic and handled in accordance with provisions stated in §19.4(c)(2) of this title (relating to Operator Certification) [the regulations] and will apply to operators only. Inactivation for this purpose will not require a letter requesting recertification providing [that] the procedure [procedures] outlined in §19.4(e)(1) (A) or (B) of this title (relating to Operator Certification) [the regulations] is [are] followed and the operator successfully regains active certification. Failure to comply with the procedure [procedures] outlined in §19.4(e)(1)(A) or (B) of this title (relating to Operator Certification) [the regulations] or the inability of the operator to regain active certification may [will] result in suspension.

Subsequent failure [inactivation] to comply with the minimum proficiency requirements during a 12-month period will result in suspension and/or revocation as set forth in §19.4(c)(4) of this title (relating to Operator Certification) and will be processed in accordance with provisions for suspension and/or revocation. Except in cases of inactivation for failure to comply with proficiency requirements, inactivation will [usually] be used, but not limited to, the following situations:

(A) an operator or technical supervisor transfers to a position where certification as a breath test [an] operator or technical supervisor is no longer needed;

(B) an operator temporarily becomes [becomes temporarily] physically incapable to perform tests [analyses] for either medical or administrative reasons;

(C) (No change.)

(D) an operator terminates [quits his] employment under which certification was acquired and new employment does not require certification as an operator, or the new location of the operator cannot be ascertained [and the location of the new employment is not known by the office of the scientific director, or such other employment does not require the certification as an operator];

(E) a technical supervisor resigns from an approved or certified program.

(2) Inactivation will not be considered by the office of the scientific director as a disciplinary action. It is [inactivation will be] for [the purpose of] administrative program control to safeguard the scientific integrity of the breath alcohol test program.

(j)(h) Instruments [and allied equipment]. [Refers to any physical equipment or supplies which are used in breath alcohol analysis.] Instruments are defined as the device(s) which measure or quantify the breath alcohol concentration pursuant to §19.1 of this title (relating to Instrument Certification). Certification of instruments [and allied equipment] is only in conjunction with breath alcohol analysis for evidential purposes as stated in Texas Civil Statutes, Article 6701-5. [Instruments and allied equipment include, but are not limited to, the devices which collect the breath and measure the alcohol concentration of the breath, the reference sample devices, expendable supplies, and facility for security and storage.] Approval [Certification] of breath alcohol test instruments will be made by brand and/or model [model or class] by [the office of] the scientific director [however, each breath alcohol testing instrument must individually meet the requirements for certification stated in the regulations or designated by the scientific director prior to its final certification. Once certified, no changes, deletions, or modifications can be made without the written consent of the scientific director obtained through the technical supervisor].

(k)(v) Office of the scientific director. Refers to the [staff of] the scientific director or his staff [having the responsibility to carry out the provisions of the regulations].

(l)(r) Practice test. Practice test refers to a properly conducted reference analysis by the operator on a certified breath alcohol test instrument using approved [certified] reference sample equipment. Analyses must be conducted in accordance with provisions [provision] stated in §19.3(c)(4) of this title (relating to Certification of Techniques, Methods, and Programs) [the regulations]

(m)(s) Predicted value. The predicted value refers to the known value of the reference sample. It is the result, within tolerance, which should be obtained in analyzing [by analysis of] the reference sample.

(n) Proficiency test. A test administered by, and in the presence of, a technical supervisor to establish and/or ascertain the competency of an operator to obtain valid results on breath testing instrumentation. This test is usually administered in conjunction with operator inactivation and/or delinquency, but may be utilized in any situation where operator competency is in question. If the test is administered in conjunction with operator proficiency delinquency, the operator must successfully complete a minimum of six reference analyses in order to reestablish proficiency.

(o)(n) Public information and demonstration [demonstrations]. Public information and demonstration refers to all demonstration(s) [demonstration] of certified breath alcohol test instruments [and allied equipment] and certain public information programs involving certain technical and administrative aspects of breath alcohol testing. Instruments [and allied equipment] are approved and certified for the purpose of breath alcohol analyses [analysis] at certain approved locations and should not be used for demonstration purposes, including police schools not certified as a breath alcohol course of instruction as stated in §19.6 of this title (relating to Certification of Courses of Instruction) [test school]. Use of certified instruments in such cases would deprive their use for the purpose for which they were certified and could cause technical problems which would not be in the best interest of the scientific integrity of the breath alcohol testing [test] program. Use of instruments [and/or allied equipment] for purposes of maintaining program regulations, such as recertification or annual renewal, or use in certified courses of instruction [training], or any other function approved by the scientific director will not be considered as a demonstration and/or public information program. Public information programs involving the technical aspects of breath alcohol testing should be conducted only by technical supervisors in order to insure that only factual technical data is disseminated while [and] inaccurate or misinformation of a technical nature is eliminated. [Likewise,] Public information dealing with administration, enforcement, and implementation of these regulations [concerning administration of the breath alcohol test program and implementation and enforcement of the regulations]

should be conducted only by certified technical supervisors. All regulations involving demonstrations and/or public information apply only to certified instruments, operators, technical supervisors, techniques and course of instruction [training]. Regulations imposed on demonstrations and/or public information programs in regards to breath alcohol analyses [analysis] should not be construed to imply restrictions regarding [in regards to] public information programs concerned with enforcement of DWI or DWI-related cases where mention of breath alcohol analysis as a tool of enforcement is concerned, provided that the public information in this regard is limited to the enforcement aspect and not the technical or administrative aspect of breath alcohol analyses. Regulations involving demonstrations and public information are concerned with the source [method] of information dissemination and are for the purpose of safeguarding the scientific integrity of breath alcohol analyses [analysis] and are not intended to deprive the public of [from] the right to know, [or] to cover up, or withhold any information.

(p)(g) Renewal of current certification. Renewal of current certification is referred to as certification renewal. [Annual] Renewal of certification refers to the continuance of active certification by meeting the requirements stated in §19.4(b) of this title (relating to Operator Certification) [the regulations]. Operator [and technical supervisor] certificates have an expiration date and in order to be kept current, require renewal. [Requirements for renewal are specifically stated in the regulations and/or directives from the scientific director.] Failure or inability to renew current certification will result in inactivation or suspension. It is the responsibility of the certification holder to renew certification. The [office of the] scientific director, through the technical supervisor [supervisors], will make available opportunities for certification [annual] renewal on a mass basis but cannot accept responsibility for individual renewal

(q)(k) Reports and records. Reports and records refer to [Refers to the accurate completion of] all documents and reports required in breath alcohol testing. The scientific director, through the technical supervisor, supervises all reports and records of analyses conducted and/or documents relating to instruments and allied equipment. Each specific brand and/or model [type and class] of instrument [and appropriate allied equipment] requires specific records and forms which are explained in detail in the basic course of instruction for the specific instrument [and allied equipment] and which should be approved by the scientific director. Certification of a breath alcohol test program requires the completion and proper filing of certain documents relating to arrest. The scientific director, through the technical supervisor [supervisors], is responsible to see that such documents are completed and filed, but

does not supervise these documents in regard to content. In addition to any forms, records, or documents required in the breath alcohol test program, the scientific director may require additional specific reports from the technical supervisors or other reports and records in regard to certifications and compliance with program regulations.

(r)(f) Recertification. Recertification refers to the renewal of lost certification; for example, certification loss by inactivation, suspension, or revocation [suspension, revocation, or inactivation]. Unless provided for by specific provision in these regulations [the regulations], application for recertification requires a written request from the applicant to [the office of] the scientific director. Upon receipt of the request, the applicant will be advised of the [steps] necessary procedure [in order] to regain certification. Recertification requires the successful completion of requirements stated in §19.4(e) of this title (relating to Operator Certification) [the regulations] and/or additional requirements as stated by the scientific director.

(s)(c) Revocation.

(1) Revocation is an action taken only by the scientific director. To regain certification after revocation requires a written request from the applicant to the office of the scientific director and successful completion of [all] the requirements for [original] certification and/or recertification and/or any additional requirements [as] determined by the scientific director. [A] Revocation invalidates any current program, course of instruction, instrument, operator, or technical supervisor certification issued to the revoked entity for the period of revocation and until recertification. Unless provided for by specific provision in these [the] regulations revocation will apply [usually be involved] in cases such as, but not limited to, the following:

(A) a certified instrument [or piece of allied equipment] that is found to be unreliable, inaccurate, or unserviceable, and continued use of which, in the opinion of the scientific director, would not maintain the scientific integrity of the breath alcohol test program;

(B) a certified breath alcohol test program, or course of instruction which can no longer maintain the provisions of these [testing] regulations; or

(C) an operator [operator's] or technical supervisor [supervisors'] certificate not in compliance with the provisions stated in these regulations [the regulations] or when continuance of such certification in the opinion of the scientific director would not uphold the scientific integrity of the breath alcohol test program.

(2) Revocation will not be considered by [the office of] the scientific director as a disciplinary action. Revocation will be for the purpose of enforcing these [the] regulations and maintaining the scientific integrity of the breath alcohol test program.

(t)(u) Scientific Director. Denotes the title of the individual responsible for the implementation, administration, and enforcement of the Texas breath alcohol testing regulations [of the regulations of breath alcohol testing and charged with the responsibility of certification of all phases of breath alcohol testing and safeguard of the scientific integrity of the breath alcohol test program]. For the purpose of these regulations, it shall also denote those as specified in §19.1(a) of this title (relating to Instrument Certification).

(u)(o) Security. Refers to the safeguard of [all] certified instruments at testing locations [and allied equipment and location of testing]. [As stated in the regulations] only certified operators, technical supervisors, and individuals defined in §19.3(c)(2) of this title (relating to Certification of Techniques, Methods, and Programs) shall [will] have access to certified breath alcohol testing instruments [and certain approved allied equipment. After certification is obtained, no modification of equipment can be made without the written consent of the scientific director obtained through the technical supervisor.] The technical supervisor has the responsibility and authority to maintain [see that] security [is maintained] at all times.

(v)(p) Site location. Refers to the [actual] physical site where the breath alcohol testing [test] instrument and allied equipment is [are] located, and where testing is [analyses are] conducted pursuant to §19.3(b) of this title (relating to Certification of Techniques, Methods, and Programs. Relocation of certified breath alcohol test equipment requires the approval of the technical supervisor(s) and documentation of this fact. The technical supervisor has the authority to approve the site with [in] regards to [its] technical acceptability for breath alcohol testing and pursuant to subsection (u) of this section [and] compliance with regulations for security. Movement of a certified breath alcohol test equipment requires the approval of the technical supervisor(s) and notification to the office of the scientific director by the technical supervisor(s).]

(w)(b) Suspension. Suspension refers to the immediate cancellation of certification. A suspension can be initiated by [a] the scientific director, technical supervisor, or designated representative of the scientific director [, or the scientific director]. Prior to appeal to the director of the Texas Department of Public Safety, suspensions may be set aside or sustained only after investigation by the scientific director [after investigation]. The minimum period of [sustained] suspension as [shall be] determined by the scientific director will be for a [specific] period of time [of] not less than 90 days. The technical supervisor or a designated representative of the scientific director may recommend a specific period of suspension [or revocation] to the scientific director. Usually, suspensions will be immediate action taken by the suspending authority when there is reason to believe that unreliable or incompe-

tent operations have occurred or there has been some violation of these [the] regulations. Due to the immediate nature and the procedure for appeal, the individual initiating the suspension shall not be required to confer, consult, or obtain permission or approval from anyone prior to the initiation of the suspension. However, all suspensions must be consistent with procedures outlined in these [the] regulations. A suspension invalidates any [current program, operator, or technical supervisor] certification issued to the suspended entity for a [the] period of suspension [and] until recertification. To regain certification after the period of suspension requires a written request from the applicant to [the office of] the scientific director. Upon receipt of the written request, the applicant will be advised of the necessary steps [steps necessary] to be taken in order to regain certification. Suspension [Suspensions] will not be considered by [the office of] the scientific director as a disciplinary action but [Suspensions] shall be for the purpose of [upholding the regulations for breath alcohol testing and] maintaining the scientific integrity of the breath alcohol test program and upholding these regulations.

(x)(j) Technical supervisor and technical supervision. This term refers to an individual meeting the minimum requirements set forth in §19.5 of this title (relating to Technical Supervisor Certification) [the regulations] and certified by the scientific director. Technical supervisor certification [certifications], like operator certification [certifications], is [are] limited to specific instrumentation [instrument(s) and have specified expiration dates]. Technical supervisors have the responsibilities as listed in §19.5(c) of this title (relating to Technical Supervisor Certification) [the regulations] and the authority to inactivate, suspend, or recommend revocation of any certification under their supervision. Inactivation, suspension, or recommended revocation by the technical supervisor will not be considered a disciplinary action, but [as] a means [method] to enforce these [the] regulations and safeguard the scientific integrity of the breath alcohol testing [test] program. Certification as a technical supervisor does not in itself imply disciplinary control or administrative in-line supervision over certified operators. However, technical supervisors must exercise complete supervisory authority over all operators in their assigned areas in all matters pertaining to breath alcohol testing and in enforcement of all provisions stated in these [the] regulations. [Likewise,] Certification as a technical supervisor does not imply disciplinary administrative supervision of the technical supervisor by the scientific director. However, certification of the technical supervisor and the program in which the technical supervisor operates is contingent upon the technical supervisor's ability to function in accordance with the provisions stated in these [the] regulations and by directives issued by the scientific director. The technical supervisor must

have open and direct lines of communication with [the office of] the scientific director in all matters pertaining to the breath alcohol testing [test] program, especially in [these] areas of a [which would be considered] technical, administrative, or [in] enforcement nature [of the regulations]. The primary function [purpose] of the technical supervisor, in conjunction with the responsibilities listed in these [the] regulations is to provide [in providing] the technical, administrative, and supervisory expertise in [order to] safeguarding [safeguard] the scientific integrity of the breath alcohol testing program [test programs] and to assure the breath alcohol testing program's [test programs] acceptability for evidential purposes. Toward this end [In regard to this purpose], the free and open communication between the technical supervisor and [the office of] the scientific director must be void of any administrative pressures or delays due to communication policies, approvals, or recommendations from any interim source. Any [of the] aforementioned administrative interference, either by accident [accidental] or by design, would eventually be related in testimony and could cause a serious loss of scientific credibility [integrity and], thus necessitating [necessitate] the suspension of certification of the certified breath alcohol test program in which the technical supervisor operates. The technical supervisor, in matters pertaining to breath alcohol testing, is the field agent of the scientific director. Supervision by the technical supervisor [as] in accordance with the provisions stated in these [the] regulations shall include, but not be limited to:

(1) supervision of certified operators in performance of breath alcohol test operations, including the proper completion of forms and records, and operator's compliance with the provisions stated in these [the] regulations and the authority to testify to such;

(2) supervision of data gathered for [and] initial certification and/or approval of individual instruments and approval of allied equipment in an [the] assigned area and the authority to testify to such;

(3) supervision of techniques of testing, maintaining scientific integrity and upholding these [the] regulations as they apply [it applies] to the certification of a total testing program, and the authority to testify to such;

(4) selection and supervision of a testing location as it applies to security and technical suitability for testing, and the authority to testify to such;

(5) supervision of compliance with the policy of public information and/or demonstrations of breath alcohol testing instruments [or allied] and equipment, and the authority to testify to such; and

(6) all phases of technical and [or] administrative aspects of breath alcohol testing, and the authority to testify to such aspects.

(y)(t) Tolerance. Refers to the difference between the predicted value and the actual reference analysis results, established [as set] by the scientific director, to be acceptable for evidential purposes or for purposes of certification.

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

Issued in Austin, Texas, on July 2, 1986.

TRD-8608711

James B. Adams  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 465-2000.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 10. Family Self-Support Services

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Human Services, 701 East 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Human Services proposes the repeal of §§10.3401-10.3413, and proposes a new Chapter 54, concerning the Family Violence Program, to include new §§54.101-54.404. The Family Violence Program is no longer administered through the department's Family Self-Support Branch. The program is now administered through the Protective Services Branch of the department. The new sections are being proposed to provide a revised policy base for a new *Family Violence Program Handbook* that is currently being developed. The new sections clarify service requirements, contracting requirements, and procurement methods, but they do not deviate from the current Family Violence Program and the way it is operated.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed repeals or new 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 repeals or new sections.

Mr. Packard also has determined that for each year of the first five years the repeals or new sections are in effect the public benefit anticipated as a result of enforcing the repeals or new sections will be to ensure consistent services statewide for victims of family violence. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals or new sections.

A public hearing will be held in Austin on August 7, 1986, at 1:30 p.m. in the Public Hearing Room, John H. Winters Building, 701 West 51st Street. Written comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division (465), Texas Department of Human Services, P.O. Box 2960, Austin, Texas 78769, Mail Code 153-E, within 30 days of publication in the *Texas Register*.

### Family Violence Program

#### ★ 40 TAC §§10.3401-10.3413

The repeals are proposed under the Human Resources Code, Title 2, Chapter 51, which authorizes the department to contract for shelter center services and to adopt rules necessary to implement these services.

- §10.3401. *Eligibility.*
- §10.3402. *Family Violence Program Mandated Services.*
- §10.3403. *Twenty-four-Hour-A-Day Shelter.*
- §10.3404. *Twenty-four-Hour Crisis Call Hotline.*
- §10.3405. *Emergency Medical Care and Emergency Transportation.*
- §10.3406. *Counseling or Psychological Services.*
- §10.3407. *Legal Assistance.*
- §10.3408. *Services for Children.*
- §10.3409. *Employment Services.*
- §10.3410. *Cooperation with Law Enforcement Officials.*
- §10.3411. *Recruitment and Training of Volunteers.*
- §10.3412. *Community Education.*
- §10.3413. *Information and Referral Services.*

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 July 9, 1986.

TRD-8608730

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 450-3786.

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## Chapter 54. Family Violence Program

### ★ 40 TAC §§54.101-54.103

The new sections are proposed under the Human Resources Code, Title 2, Chapter 51, which authorizes the department to contract for shelter center services and to adopt rules necessary to implement these services.

#### §54.101. Administration.

(a) Shelter centers must keep minutes of the meetings of the governing body.

(b) The governing body of shelter centers must designate an authorized representative to negotiate, execute, and maintain contracts with DHS.

#### §54.102. Eligibility.

(a) Eligible persons include victims of family violence as defined in the Human Resources Code, Chapter 51, and family members. Shelter centers are responsible for determining eligibility. Information and referral services may be provided without determining eligibility.

(b) Since shelter centers are not licensed to provide child care, they must not provide shelter services to a person who is not at least 18 years of age, unless that person is:

- (1) accompanied by a parent or legal guardian; or
- (2) legally emancipated.

§54.103. Confidentiality. Shelter centers must develop policy to ensure the confidentiality of persons requesting or receiving services.

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 July 9, 1986.

TRD-8608731      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:

August 15, 1986

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

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## Shelter Center Operational Requirements

### ★ 40 TAC §§54.201-54.208

The new sections are proposed under the Human Resources Code, Title 2, Chapter 51, which authorizes the department to contract for shelter center services and to adopt rules necessary to implement these services.

§54.201. Shelter Center Policies. Shelter centers must have written policies concerning the following subjects:

- (1) fiscal management;

- (2) volunteers;
- (3) personnel, with job descriptions attached;
- (4) daily operation (house rules, data collection, case management, and case records);
- (5) confidentiality;
- (6) safety and security; and
- (7) client rights (including grievance procedures).

§54.202. Volunteer Recruitment. Shelter centers must:

(1) have a staff position (paid or volunteer) designated to be responsible for volunteers;

(2) have an ongoing recruitment program for volunteers to help at the shelter center and offer training for volunteers at least twice annually; and

(3) develop and document agency policies concerning volunteers that address each of the following areas:

- (A) recruitment;
- (B) written agreement between volunteers and center;
- (C) retention;
- (D) termination; and
- (E) personnel management.

§54.203. Orientation for Board Members. Shelter centers must provide an oral orientation for new board members. Topics to be covered include, but are not limited to:

- (1) legal responsibilities of board members;
- (2) fiscal responsibilities and management;
- (3) fundraising;
- (4) relationship between the board and staff;
- (5) philosophy of the shelter center;
- (6) committees of the board;
- (7) contracting process;
- (8) dynamics of family violence;
- (9) local community involvement;
- (10) program services; and
- (11) policy development.

§54.204. Orientation and Training for Employees.

(a) Shelter centers must provide an orientation to employees that covers the policies listed in §54.201 of this title (relating to Shelter Center Policies).

(b) Shelter centers must provide training to employees. The training must cover all of the topics listed in §54.205 of this title (relating to Volunteer Training).

§54.205. Volunteer Training.

(a) Shelter centers must train their direct delivery volunteers (volunteers who work with shelter center clients) in the dynamics of family violence, basic crisis intervention techniques, legal aspects of family violence, and other areas pertinent to their assigned responsibilities.

(b) Legal aspects may include:

- (1) rights of victims (Texas Penal Code, Title 5, Offenses Against the Person);

(2) restraining orders (Texas Family Code, Chapter 3);

(3) protective orders (Texas Family Code, Chapter 71);

(4) the warrantless arrest law (Texas Code of Criminal Procedures, Article 14.03 (b));

(5) requirements for reporting to DHS' child protective and adult protective services program staff (Texas Family Code, Chapter 34 and Human Resources Code, Chapter 48, respectively); and

(6) Family Violence Prevention Act.

(c) Volunteers who do not provide direct delivery services must receive a basic orientation about the duties they perform. At a minimum, shelter centers should inform volunteers not involved in direct service delivery about the shelter center's principles and practices concerning confidentiality.

§54.206. Community Education.

(a) Shelter centers must educate the community about the following:

(1) need for and benefits of family violence services;

(2) dynamics of family violence; and

(3) prevention of family violence.

(b) Shelter centers must focus part of their community education on informing victims of family violence about existing family violence services.

(c) Shelter centers must use all of the following methods for community education:

(1) making presentations;

(2) distributing written materials; and

(3) establishing and using media

(newspaper, radio, television) contacts.

§54.207. Cooperation with Law Enforcement and Criminal Justice Officials. Shelter centers must:

(1) attempt to establish an on-going working relationship with local criminal justice officials (police chief, sheriff, prosecutor);

(2) maintain a current list of local law enforcement agencies and contact persons;

(3) offer to participate in the training of law enforcement officers and other criminal justice officials; and

(4) offer to provide information and education to law enforcement and criminal justice officials about the dynamics of family violence, services available, and the support needed from the criminal justice system.

§54.208. Mandatory Reporting of Suspected Abuse and Neglect. Shelter centers must develop procedures for meeting the state law requirements regarding reporting suspected abuse and neglect of children or elderly or disabled persons and work with local DHS child protective services and community care staff when providing services to mutual clients. Procedures must be consistent with 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.

Earliest possible date of adoption:

August 15, 1986

For further information, please call  
(512) 450-3768.

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## Shelter Center Services

### ★ 40 TAC §§54.301-54.311

The new sections are proposed under the Human Resources Code, Title 2, Chapter 51, which authorizes the department to contract for shelter center services and to adopt rules necessary to implement these services.

#### §54.301. *Persons Served.*

(a) Shelter centers must provide services to victims of family violence and to violent family members. Shelter centers must assist family members in examining the options concerning family reconciliation and independent living.

(b) Shelter centers may receive contributions or donations from clients who have been or will be provided family violence services; however, eligible victims of family violence must not be denied shelter center services if they do not donate or contribute.

#### §54.302. *Twenty-Four Hour-A-Day Shelter.*

(a) Shelter centers must provide access, admittance, and residence to temporary shelter for victims of family violence 24 hours a day, every day of the year.

(b) Shelter services may be provided through any of the following types of housing:

(1) a facility primarily serving victims of family violence;

(2) another existing community or emergency shelter facility;

(3) a safe home (a private individual or family offering their home); or

(4) other accommodations arranged by shelter center staff, such as motels.

(c) Shelter centers must:

(1) maintain safety and security of residents as described in the shelter center policy;

(2) ensure that crisis intervention services are available; and

(3) provide food, clothing, and personal hygiene items for victims of family violence, as needed.

(d) Shelter centers must ensure that a staff person:

(1) has a face-to-face contact with a new resident within 16 hours after the resident's admission to determine needed emergency services; and

(2) signs a written agreement with each resident about services to be provided by the center, house rules, length of stay, resident's privacy, and confidentiality of case records.

(e) If shelter is provided through another community or emergency shelter facility that serves other kinds of clients, shelter center staff must document:

(1) letters of assurance concerning acceptance of clients and capacity; and

(2) referral procedures.

(f) If shelter is provided by safe homes, shelter center staff must document:

(1) an in-depth screening of the home that addresses suitability of the house and the host family or individual; and

(2) proof of liability insurance for the family or the individual.

(g) If other accommodations are used, shelter centers must ensure that:

(1) a telephone and bathroom are safely accessible; and

(2) all doors have locks.

(h) Shelter centers must assist victims of family violence in obtaining other temporary shelter if the primary method of providing shelter is full. Minimum assistance in this situation is providing information and referral.

#### §54.303. *Twenty-Four Hour-A-Day Hotline.*

(a) Shelter centers must provide a 24-hour crisis call hotline either directly or by written arrangement with another resource. The number must be listed in a local telephone book and widely distributed.

(b) An individual who is trained in crisis intervention or who has immediate access to someone who has had this training must answer the hotline. Use of an answering machine is not acceptable.

(c) Shelter centers must provide emergency telephone counseling, including:

(1) assessment of critical needs;

(2) crisis intervention; and

(3) information and referral to available community resources.

(d) Shelter centers must have a minimum of two phone lines.

#### §54.304. *Emergency Medical Care and Emergency Transportation.* Shelter centers must:

(1) develop and adhere to a written procedure for assisting victims of family violence to receive emergency medical services;

(2) maintain a current list of emergency and nonemergency medical care resources that can provide medical services for victims of family violence; and

(3) provide transportation to and from emergency medical facilities for persons accepted as residents of the shelter center.

#### §54.305. *Counseling Services.*

(a) Shelter centers must provide counseling services to family members to strengthen problem-solving and decision-making skills, reduce stress, encourage planning for the future, and assist family members to identify options and make appropriate choices.

(b) Counseling must address:

(1) needs identified by the victim;

(2) options to ensure a victim's safety;

(3) dynamics of family violence;

(4) legal options;

(5) violent family member's responsibility for violent behavior; and

(6) skills in building self esteem and in problem solving.

#### §54.306. *Services for Children.* Shelter centers must:

(1) conduct an orientation in a manner appropriate to the child's level of understanding;

(2) assess the child's basic needs;

(3) refer the child to community resources as necessary;

(4) offer recreational and social activities;

(5) make arrangements for the child's continued education; and

(6) provide transportation for education, if necessary.

#### §54.307. *Nonresident and Former Resident Services.* Shelter centers must:

(1) offer services to nonresidents and former residents similar to those provided to residents. These services include counseling, advocacy, information, and referral. All services are provided as appropriate and as resources allow; and

(2) provide crisis telephone counseling.

#### §54.308. *Violent Family Member Services.*

Shelter centers must offer the following services by telephone as requested by violent family members:

(1) crisis telephone counseling;

(2) information about other counseling alternatives; and

(3) information and referral services.

#### §54.309. *Information and Referral Services.*

Shelter centers must provide information and referral services for families experiencing violence. This includes maintaining a current list of community resources for the staff operating the 24-hour hotline.

#### §54.310. *Legal Assistance.* Shelter centers must:

(1) assist victims of family violence in accessing legal services; and

(2) maintain a current list of legal services and resource people who provide legal assistance to victims of family violence.

#### §54.311. *Employment Services.*

(a) Shelter centers must provide information about employment training and employment opportunities either directly or through formal arrangements with other agencies.

(b) Shelter centers must maintain a list of the training and employment services and resources available in the area.

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 July 9, 1986.

TRD-8606733

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:

August 15, 1986

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

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## Contracting Requirements

### ★ 40 TAC §§54.401-54.404

The new sections are proposed under the Human Resources Code, Title 2, Chapter 51, which authorizes the department to contract for shelter center services and to adopt rules necessary to implement these services.

#### §54.401. Eligibility to Contract.

(a) To be eligible to apply for a contract, a public or private nonprofit organization must operate a shelter center for victims of family violence. For at least nine months before the date DHS awards a contract to a shelter center, the center must have:

(i) been incorporated (if private) and been portraying itself to the public as a facility that specifically, although not necessarily solely, serves family violence victims;

(2) offered shelter services that included at least:

- (A) food and clothing;
- (B) hotline;
- (C) community education; and
- (D) information and referral;

and

(3) had the continuous capacity to offer 24-hour-a-day shelter for at least five victims of family violence. Continuous capacity is defined to include a break in services due to extenuating circumstances for not longer than one month.

(b) Shelter centers must have documentation that they meet the listed criteria.

#### §54.402. Procurement.

(a) The following factors must be considered when procuring family violence contracts:

- (1) geographic distribution;
- (2) need;
- (3) the shelter center's eligibility for and use of funds from the federal government, philanthropic organizations, and voluntary sources;
- (4) community support for the shelter center as evidenced by financial contributions from civic organizations, local governments, and individuals;
- (5) evidence that the shelter center provides services that encourage rehabilitation and effectively uses community resources;
- (6) the endorsement and involvement of local law enforcement officials;
- (7) support for the shelter center through volunteer work, especially volun-

teers who were victims of family violence; and

(8) the shelter center's efforts to provide services to violent family members and to encourage family reconciliation if rehabilitation occurs.

(b) DHS uses procurement methods as detailed in its rules regarding contract administration.

(c) DHS may use noncompetitive or competitive negotiation to procure family violence contracts.

(d) DHS uses noncompetitive negotiation if:

(1) shelter centers are not in competition for local funding;

(2) shelter centers serve different service areas as defined by DHS regional administrative staff; and

(3) only one source is available for solicitation.

(e) DHS must use competitive negotiation if competition for the contract is apparent. In competitive negotiation, a formal request for proposals (RFP) is used for solicitation.

#### §54.403. Contractor's Payment.

(a) DHS funding for a shelter center must not exceed prescribed yearly percentages of the shelter center's total operating costs. DHS funding will not exceed the following percentages:

- (1) first year of contract—75%;
- (2) second year of contract—74%;
- (3) third year of contract—72%;
- (4) fourth year of contract—69%;
- (5) fifth year of contract—65%;
- (6) sixth year of contract—60%;

and

(7) subsequent years of contract—50%.

(b) To receive payment, shelter centers must bill DHS monthly according to the payment schedule specified in the contract. The family violence program: monthly activity report form must be submitted with the bill.

#### §54.404. Shelter Center Records.

(a) Shelter centers must keep records specified in the family violence program: plan of operation/program description form for a minimum of three years plus 90 days after the termination of the contract.

(b) Shelter centers must keep a copy of the following for administrative purposes:

- (1) DHS contract;
- (2) billings;
- (3) exhibits referenced in the contract;
- (4) Family Violence Program: monthly activity report form;
- (5) the center's operating policies and procedures;
- (6) correspondence with DHS;
- (7) copies of DHS audit reports and related correspondence; and
- (8) accounting records that track DHS expenditures.

(c) Shelter centers must maintain accounting records of revenues and expenses using generally accepted accounting prin-

ciples. Accounting records must include identification of major funding sources and an operating budget.

(d) Shelter centers must use a double entry accounting system. It can be cash, accrual, or modified accrual.

(e) Shelter centers may request assistance with recordkeeping from contract managers.

(f) Shelter centers must keep written documentation of services for each adult resident and for each nonresident served.

(g) Shelter centers must complete intake forms for residents and nonresidents. These forms are completed for each adult receiving direct services other than information and referral.

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 July 9, 1986.

TRD-8606734

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:

August 15, 1986

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

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## Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

*(Editor's note: The Texas Department of Human Services proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The Texas Department of Human Services proposes amendments to §§33.112, 33.122, 33.306, 33.317, and 33.402, concerning the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. The amendments limit EPSDT coverage to Medicaid eligible recipients under age 18. Public Law 95-35, the Omnibus Budget Reconciliation Act of 1981, allows states to limit EPSDT coverage to recipients under the age of 18. This option is included in the federal regulations governing the EPSDT program (42 Code of Federal Regulations, §441.56(a)(2)(iii)). Because of current and projected funding limitations, the optional coverage provided to Medicaid eligible recipients ages 18-20 can no longer be continued. This action does not affect the diagnosis and treatment services recipients may receive under the regular Medicaid program.

These same amendments are on an emergency basis effective July 15, 1986, as published in this issue of the *Texas Register*.

Brian Packard, associate commissioner for budget, planning, and economic analysis has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on state government will be a savings of \$246,571 for fiscal year 1986, \$4,351,121 for fiscal year 1987, \$4,882,143 for fiscal year 1988, \$5,160,007 for fiscal year 1989, and \$5,456,018 for fiscal year 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 sections are in effect the public benefit anticipated as a result of enforcing the sections will be the ability to continue provision of EPSDT services to recipients under age 18 within the current appropriations. 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 Cathy Rossberg, Administrator, Policy Development Support Division, (453), Texas Department of Human Services, P.O. Box 2080, Austin, Texas, 78769, Mail Code 153-E, within 30 days of publication in the *Texas Register*.

#### Subchapter H. Eligibility

##### ★ 40 TAC §33.112

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

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

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

TRD-8606742 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 450-3766.

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#### Subchapter I. Periodicity

##### ★ 40 TAC §33.122

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

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

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

TRD-8606743 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 450-3766.

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#### Subchapter R. Dental Services

##### ★ 40 TAC §33.306, §33.317

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

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

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

TRD-8606744 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 450-3766.

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#### Subchapter T. EPSDT Eyeglass Program

##### ★ 40 TAC §33.402

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

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

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

TRD-8606745 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 450-3766.

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## Part XII. Texas Advisory Board of Occupational Therapy

### Chapter 361. Statutory Authority and Definitions

#### ★ 40 TAC §361.2

The Texas Advisory Board of Occupational Therapy proposes an amendment to §361.2, concerning definitions. The amendment adds the definition of the Compliant Review Committee.

Cary Westhause, 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. Westhause 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 complaints concerning the enforcement of this Act will be acted upon more efficiently and effectively. 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 Cary Westhause, Executive Director, Texas Advisory Board of Occupational Therapy, 118 East Riverside Drive, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 8651, §5(e), which provides the Texas Advisory Board of Occupational Therapy with the authority to propose rules consistent with this Act to carry out its duties in administering this Act.

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

**Compliant Review Committee**—A committee created by the board to review and make recommendations concerning complaints.

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 July 2, 1986.

TRD-8606708 Vernon H. Newman  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Earliest possible date of adoption:  
August 15, 1986  
For further information, please call  
(512) 445-8366.

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## Chapter 385. Complaints

### ★40 TAC §385.1

The Texas Advisory Board of Occupational Therapy proposes an amendment to §385.1, concerning complaints. The amendment creates a Complaints Review Committee to review and advise concerning complaints when such a review is deemed necessary to insure the appropriate action is taken.

Cary Westhouse, 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. Westhouse 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 increased consumer protection in

that complaints will be acted upon in a more timely, appropriate manner. 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 Cary Westhouse, Executive Director, Texas Advisory Board of Occupational Therapy, 118 East Riverside Drive, Austin, Texas 78704

The amendment is proposed under Texas Civil Statutes, Article 8851, §5(e), which provide the Texas Advisory Board of Occupational Therapy with the authority to propose rules consistent with this Act to carry out its duties in administering this Act.

#### §385.1. Complaints.

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

(c) The board may, in its discretion, call a meeting to hear or determine the matter, or it may refer the matter to the Com-

plaint Review Committee. If the matter requires immediate action in the opinion of the executive director and on notification [of], the board does not call a meeting to determine the matter or refer it to the Complaint Review Committee, it will be determined by the executive director. If the board meets, the matter may be determined by it or referred to the Complaint Review Committee or back to the executive director for determination.

(d) (No change.)

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

Issued in Austin, Texas, on July 2, 1986.

TRD-8606707

Vernon H. Newman  
Assistant Commissioner  
Texas Rehabilitation  
Commission

Earliest possible date of adoption:

August 15, 1986

For further information, please call  
(512) 445-8368.

# Adopted Rules

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

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

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

### ★ 1 §71.41, §71.42

The Office of the Secretary of State adopts the repeal of §71.41 and §71.42, without changes to the proposed text published in the May 23, 1986, issue of the *Texas Register* (11 TexReg 2412).

The repeals concern the process of obtaining and the exemptions from a Great Seal of Texas License. New sections are simultaneously adopted.

No comments were received regarding adoption of the repeals.

The repeals are adopted 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 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 July 7, 1986.

TRD-8606714 Myra A. McDaniel  
Secretary of State

Effective date: July 29, 1986  
Proposal publication date: May 23, 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 new §§71.40-71.42, without changes to the proposed text published in the May 23, 1986, issue of the *Texas Register* (11 TexReg 2412).

The new sections clarify the process of obtaining, and the exemptions from a Great Seal of Texas License under the Texas Business & Commerce Code, §17.08.

The sections replace the repeals of §71.41 and §71.42 and add §71.40. These sections clarify the process of obtaining either a Great Seal of Texas License or an exemption by defining, in greater detail, the steps necessary to obtain either a license or an exemption.

No comments were received regarding adoption of the new sections.

The new sections are adopted 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 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 July 7, 1986.

TRD-8606713 Myra A. McDaniel  
Secretary of State

Effective date: July 29, 1986  
Proposal publication date: May 23, 1986  
For further information, please call  
(512) 483-5701.

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### ★ 1 TAC §§71.44-71.46

The Office of the Secretary of State adopts amendments to §§71.44-71.46, without changes to the proposed text published in the May 23, 1986, issue of the *Texas Register* (11 TexReg 2412).

The amendments clarify the requirements necessary to obtain and maintain a Great Seal of Texas License under the Texas Business and Commerce Code, §17.08.

These amendments define in greater detail the requirements necessary to maintain and obtain a Great Seal of Texas License.

No comments were received regarding adoption of the amendments.

The amendments are adopted 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 re-

lating to the use of the Great Seal of Texas.

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

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

TRD-8606712 Myra A. McDaniel  
Secretary of State

Effective date: July 29  
Proposal publication date: May 23, 1986  
For further information, please call  
(512) 483-5701.



## Chapter 73. Statutory Documents

### ★ 1 TAC §73.31

The Office of the Secretary of State adopts an amendment to §73.31, without changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1543).

The amendment clarifies the manner and the responsibility for obtaining service of process upon the Secretary of State under existing statutory authorities.

This amendment places the responsibility for determining when to obtain and to secure personal service of process upon the Secretary of State on the attorney or person seeking service of process.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Business Corporations Act, Articles 6252-13a, §4(a)(1); 1396-0.04; and 9.03, which provides the Office of the Secretary of State with the authority to adopt and amend regulations necessary to efficiently administer the duties of the Office of the Secretary of State.

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 July 7, 1986.

TRD-8608715

Myra A. McDaniel  
Secretary of State

Effective date: July 29, 1986  
Proposal publication date: March 28, 1986  
For further information, please call  
(512) 483-5701.

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## Chapter 81. Elections Voter Registration

### ★1 TAC §81.10

The Office of the Secretary of State adopts new §81.10, with changes to the proposed text published in the June 6, 1986, issue of the *Texas Register* (11 TexReg 2575).

The new section provides procedures for transmitting data for the registration service program implemented by the secretary of state pursuant to the Texas Election Code, Chapter 18, Subchapter C. The only change from the proposal is that the Elections Division has obtained a new post office box number.

The new section standardizes procedures for the transmission of data for the registration service program.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Election Code, §14.025 and §18.063, which requires the secretary of state to prescribe the form of the lists required to be transmitted to the secretary of state under those sections in connection with the registration service program.

**§81.10. Voter Registration Transactions.** The publication "Voter Registration Transactions - Data Processing Reporting Instructions," January 1986, is hereby adopted by reference and said publication is made a part of this section for all purposes. The publication is published by and is available from the Elections Division, Office of the Secretary of State, P.O. Box 12060, Austin, Texas 78711.

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 July 7, 1986.

TRD-8608688

Myra A. McDaniel  
Secretary of State

Effective date: July 29, 1986  
Proposal publication date: June 6, 1986  
For further information, please call  
(512) 483-5701.

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## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

#### Chapter 5. Job Training

##### Subchapter C. Financial Management

### ★10 TAC §5.301

The Texas Department of Community Affairs adopts an amendment to §5.301, with changes to the proposed text published in the January 17, 1986, issue of the *Texas Register* (11 TexReg 249).

The section concerns the administration of the Texas Job Training Partnership Act (JTPA) by the adoption by reference of changes and amendments to the text of the JTPA Financial Management Manual for the purpose of updating the manual to conform to the requirements of JTPA and regulations. The JTPA Financial Management Manual sets forth policies and procedures necessary to ensure accountability for JTPA funds in compliance with the requirements set forth in the federal Job Training Partnership Act, §164, Public Law 97-300, and with the requirements set forth in the Texas Job Training Partnership Act, Texas Civil Statutes, Article 4413(52).

The amendment pertains to agencies and organizations that receive funding under the JTPA. The amendment, in making changes to the text of the JTPA Financial Management Manual, provides procedures for the allocation of costs among the JTPA cost categories and amended financial reporting forms.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Public Law 97-300, §164, and Texas Civil Statutes, Article 4413(52), §8(c)(10), which provides the Texas Department of Community Affairs with the authority to develop and formally issue financial management procedures to ensure proper accounting for federal funds paid to the state under Titles I and II of the JTPA.

**§5.301. JTPA Financial Management Manual.** The Texas Department of Community Affairs herein adopts by reference the *JTPA Financial Management Manual*, as amended March 1985, September 1985, and March 1986. Copies of the section may be obtained in the offices of the Texas Department of Community Affairs, Training and Employment Development Division, 8317 Cross Park Drive, Austin, or in the *Texas Register* Office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.

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 July 8, 1986.

TRD-8608688

Douglas C. Brown  
General Counsel  
Texas Department of  
Community Affairs

Effective date: July 29, 1986  
Proposal publication date: January 17, 1986  
For further information, please call  
(512) 834-6080.



## Chapter 9. Texas Community Development Program

### Subchapter A. Allocation of Program Funds

### ★10 TAC §9.4

The Texas Department of Community Affairs (TDCA) adopts an amendment to §9.4, without changes to the proposed text published in the June 3, 1986, issue of the *Texas Register* (11 TexReg 2540).

The amendment concerns the allocation of federal fiscal year 1986 community development block grant (CDBG) nonentitlement area funds to eligible units of general local government under the planning/capacity building fund.

The amendment increases the points available for scoring the community distress selection criterion for planning/capacity building applications.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4413(201), §4A, which provide the TDCA with the authority to allocate CDBG nonentitlement area funds to eligible counties and municipalities in accordance with rules and regulations adopted by the TDCA.

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

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

TRD-8608688

Douglas C. Brown  
General Counsel  
Texas Department of  
Community Affairs

Effective date: July 29, 1986  
Proposal publication date: June 3, 1986  
For further information, please call  
(512) 834-6080.

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**TITLE 28. INSURANCE**  
**Part I. State Board of**  
**Insurance**

**Chapter 5. Property and**  
**Casualty Insurance**  
**Subchapter D. Fire and Allied**  
**Lines Insurance**  
**Statistical Reporting**

**★ 28 TAC §5.3501**

The State Board of Insurance adopts new §5.3501, without changes to the proposed text published in the May 9, 1986, issue of the *Texas Register* (11 TexReg 2176).

Section 5.3501 concerns requirements for nonrate regulated insurers to report in accordance with the current Texas property statistical plan for residential and commercial risks. The specified insurers are not required to use rates promulgated by the State Board of Insurance. Heretofore, these insurers have not been required to maintain and report information to the board in the manner required by this section. A rapidly increasing amount of business has been written by these companies. The board has determined that adoption of this new section is necessary because the board must receive from these insurers the information specified in the statistical plan in order to maintain effective rate regulation for the specified lines of insurance, and in order to provide a more accurate and complete statistical basis for promulgation of rates. Rate regulation is an extremely important function of the board. It is now and has been historically of paramount importance to the public in general. Such regulation ultimately is determinative of the amount the public pays for certain insurance and relates directly to the solvency of certain insurers.

Section 5.3501 establishes reporting requirements which apply to nonrate regulated insurers regulated under the Insurance Code, Chapters 17-19, and subject to the Insurance Code, Articles 5.35 and 5.36. The section makes clear that the time and manner of reporting shall be as set forth in the current Texas property statistical plan for residential and commercial risks. The statistical plan is adopted by reference to be applicable to Chapters 17-19 insurers. The statistical plan specifies detailed information to be maintained by insurers writing property and multiperil insurance business in this state. The information relates, among other matters, to premiums, losses, claims, and exposure. The plan also specifies the time and manner of reporting the information required to be maintained.

No comments were received regarding adoption of the new section.

This new section is adopted under the Insurance Code, Articles 1.24, 17.25, §§18, 18.12, and 19.08. Article 1.24 authorizes the

board to address inquiries to an insurance company or to any holder of any authorization under the Insurance Code in relation to its business and condition or any matter connected with its transactions which the board deems necessary for the protection of the public good or for a proper discharge of its duties, and requires each addressee to promptly answer such inquiries. Article 17.25, §18, authorizes the board, whenever it deems it advisable, to compel written reports from Chapter 17 companies respecting their condition. Article 18.12 authorizes the board to require Lloyds plan insurers to file information with the board. Article 19.08 requires Chapter 19 insurers to furnish certain information and reports to the board.

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 July 8, 1986.

TRD-8608724      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: July 30, 1986  
Proposal publication date: May 9, 1986  
For further information, please call  
(512) 463-6327.

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**Subchapter E. Texas Catastrophe**  
**Property Insurance Association**  
**Plan of Operation**

**★ 28 TAC §5.4001**

The State Board of Insurance adopts an amendment to §5.4001, without changes to the proposed text published in the May 23, 1986, issue of the *Texas Register* (11 TexReg 2416).

Section 5.4001(b)(6) concerns protection of directors and officers in the operation of the Texas Catastrophe Property Insurance Association under the association's plan of operation. This amendment is necessary to make provisions for such protection conform with the Insurance Code, Article 21.49, §11, which provides for indemnification of directors, members, officers, and employees.

In response to a petition by the association, the amendment clarifies the plan of operation for the Texas Catastrophe Property Insurance Association by adding language specifically including members and employees in provisions for protection and indemnification which have formerly included references to directors and officers.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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 In-

surance 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.

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 July 8, 1986.

TRD-8608725      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: July 30, 1986  
Proposal publication date: May 23, 1986  
For further information, please call  
(512) 463-6327.

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**TITLE 31. NATURAL**  
**RESOURCES AND**  
**CONSERVATION**

**Part II. Texas Parks and**  
**Wildlife Department**

**Chapter 65. Wildlife**  
**Subchapter Q. Furbearers**

**★ 31 TAC §§65.371, 65.376, 65.378,**  
**65.380-65.382**

The Texas Parks and Wildlife Commission adopts amendments to §§65.371, 65.376, 65.378, 65.380-65.382. Section 65.371 is adopted with changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1559). The other sections are adopted without changes and will not be republished.

The amendments complete the repeal of special county laws concerning fur-bearing animals as was provided for by Senate Bill 94, Article 1, §37 (Wildlife Conservation Act of 1983), 68th Legislature, 1983. Additionally, the amendments establish new requirements that fur-bearing animal propagators must meet in providing live fur-bearing animals with facilities that promote good health of the animals, thereby minimizing public health hazards. More stringent requirements are provided for holding live skunks, which are of concern in transmission of rabies to humans.

Needs to improve public compliance with fur marketing restrictions, to facilitate transportation and handling of live furbearers, and to address public health considerations required that the commission adopt regulation changes.

The amendments complete the repeal of special laws that were inconsistent with statewide fur-taking regulations, specify existing exceptions to fur-bearing animal regulations, establish specific facility requirements and annual inspection prior to licensing to be met by persons process-

ing live fur-bearing animals under a propagation license, require special department authorization to possess live skunks, specify documentation necessary to import, export, and release live fur-bearing animals, and clarify time limitations for possession and marketing of pelts. Special restrictions on taking fur-bearing animals in Angelina, Hardin, Jasper, Leon, Marion, Morris, Newton, Sabina, and Shelby counties are eliminated on the effective date of this regulation. The amendments provide for public use interests consistent with controls necessary to conserve fur-bearing animal populations, improve enforcement, and provide for public health relative to contact with fur-bearing animals.

Comments by the public were presented to the Texas Parks and Wildlife Commission as a narrative summary of two telephone calls. No comments were received via the *Texas Register* or letter. Comments concerned the propagation facility requirements, specifically the overlap with United States Department of Agriculture requirements to be met annually by people who sell live mammals. Suggestions also were made that simpler requirements should apply to persons who possess live fur-bearers as pets only. Comments are available for public inspection at the department's headquarters complex, 4200 Smith School Road, Austin, Texas 78744.

Comments were received via telephone from Sonny Spears of Houston and Leonard Warren of Midland. Mr. Spears generally supported the proposal; Mr. Warren was against the annual examination of facilities prior to licensing. In the public hearing, there were no persons speaking directly for or against the amendments.

The Texas Parks and Wildlife Commission disagrees with comments received because they were not consistent with the need to apply controls equitably among persons licensed to handle live furbearers. The commission must act to deal effectively with changing conditions to prevent depletion or waste of fur-bearing animals and to ensure public health.

The amendments are adopted under Texas Parks and Wildlife Code, Chapter 71, which authorizes the Texas Parks and Wildlife Commission to regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals, pelts, and carcasses as necessary to manage the species or protect health or property.

**§65.371. Application.** These sections apply to fur-bearing animals statewide, except Texas Parks and Wildlife Code, §81.404 (relating to Contract Removal of Fur-Bearing Animals on Management Areas), Chapter 43, Subchapter C (relating to Scientific Permits), and §§299.021, 344.041, and 350.021 (relating to The Sale of Certain Live Animals in Kaufman, Van Zandt, and Wood Counties) are not affected by this subchapter.

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 July 7, 1986.

TRD-8606846

Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: August 1, 1986

Proposal publication date: March 28, 1986

For further information, please call  
(512) 479-4974.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services Chapter 48. CCAD

The Texas Department of Human Services (TDHS) adopts the repeal of existing §48.5907 and new §48.5907 and §48.9803 in its Community Care for the Aged and Disabled chapter. The sections are adopted without changes to the proposed text published in the April 29, 1986, issue of the *Texas Register* (11 TexReg 1970).

The sections establish a statewide monthly rate ceiling that includes reimbursement for equipment costs in the Emergency Response Services Program. The sections define allowable and unallowable costs in rate ceiling determination and outline cost report and audit requirements for providers.

No comments were received regarding adoption of the repeal and new sections.

### Contracting for CCAD Services

#### ★40 TAC §48.5907

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

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

TRD-8606735

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 30, 1986

Proposal publication date: April 29, 1986

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

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#### ★40 TAC §48.5907

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

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

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

TRD-8606736

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 30, 1986

Proposal publication date: April 29, 1986

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

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### Support Documents

#### ★40 TAC §48.9803

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

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

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

TRD-8606737

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: July 30, 1986

Proposal publication date: April 29, 1986

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

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## State Board of Insurance Exempt Filings

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

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

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

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

On this date, the State Board of Insurance considered a filing by Insurance Services Offices, Inc., proposing an amendment to Pollution Exclusion Endorsement IL 09 28 (Ed.6-85) which indicates that the exclusion does not apply to bodily injury or property damage caused by heat, smoke, or fumes from a hostile fire on the insureds premises or job location. Included also is a proposed amendment to Pesticide and Herbicide Applicator Coverage Endorsement GL 04 18 (Ed.11-79) to be consistent with Endorsement IL 09 28. With the implementation of these two amendatory endorsements, presently approved endorsements IL 09 28 (Ed.6-85) and GL 04 18 (Ed.11-79) are withdrawn.

This filing was approved to become effective September 1, 1986, in accordance with the following rule of application. These changes are applicable in all policies effective on or after September 1, 1986.

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

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

TRD-8000097

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: September 1, 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*.

## State Bar of Texas

**Thursday, July 17, 1986, 9 a.m.** The Executive Committee of the State Bar of Texas will meet at the Texas Law Center, 1414 Colorado Street, Austin. According to the agenda, the committee will consider the reports of the officers and executive committee members, the executive director, and general counsel; reports of the supreme court liaison, associate executive director; reports on the status of the Bar Leaders Conference, ABA—Texas Delegation Breakfast, the convention update for Corpus Christi, and a report on the status of the M.C.L.E. guidelines.

Contact: Paula Welch, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: July 9, 1986, 10:02 a.m.  
TRD-8606729

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## Texas Department of Community Affairs

**Thursday and Friday, July 24 and 25, 1986, 9 a.m. daily.** The Older Worker Task Force of the Texas Department of Community Affairs will meet at 8317 Cross Park Drive, Austin. According to the agenda, the task force will review the program progress report; the update of the Demonstration Project Activities; review the R&L independent evaluation report; and discuss the policy development for older worker programming through IIA-3% JTPA funding.

Contact: Clyde McQueen, 8317 Cross Park Drive, Austin, Texas 78754, (512) 834-6090.

Filed: July 9, 1986, 4:26 p.m.  
TRD-8606768

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## Texas Education Agency

**Monday-Wednesday, July 14-16, 1986, 9 a.m., 8:30 a.m., and 8:30 a.m. respectively.** The State Textbook Committee of the Texas Education Agency will meet in emergency session in Room 1-104, William B.

Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the committee will conduct joint hearings before the commissioner of education and the State Textbook Committee. The emergency status was necessary because the information was not received in time for regular filing, and travel plans for all witnesses and State Textbook Committee members had already been finalized.

Contact: J. Henry Perry, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

Filed: July 8, 1986, 2:29 p.m.  
TRD-8606695

**Thursday and Friday, July 31 and August 1, 1986, 1 p.m. and 8:30 a.m. respectively.** The Apprenticeship and Training Advisory Committee of the Texas Education Agency will meet in the River Room, El Tropicano Motor Hotel, 110 Lexington Avenue, San Antonio. According to the agenda, the committee will recognize the designated representative of the Coordinating Board, Texas College and University System; review the status report regarding apprenticeship and training in the state; discuss contact hour estimates for school year 1986-1987; consider tasks and a program of work for the committee; subcommittee assignment; schedule subcommittee meeting; and consider new officers for the committee.

Contact: James Woodman, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9294.

Filed: July 9, 1986, 1:23 p.m.  
TRD-8606748

**Sunday, August 3, 1986, 2 p.m.** The Software Advisory Committee of the Texas Education Agency will meet at the Infomart, 1950 Stemmons Freeway, Dallas. According to the agenda, the committee will discuss short range options for fulfilling the legislative mandate to create an approved list of software to be recommended to the State Board of Education; discuss long range options for fulfilling the legislative mandate to

create an approved list of software to be recommended to the State Board of Education; discuss alternatives for generating input from the publishers and developers of software and other interested parties to the short and long range option; and establish a future means of communication and future meeting dates.

Contact: Geoffrey H. Fletcher, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-3723.

Filed: July 8, 1986, 2:30 p.m.  
TRD-8606693

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## Finance Commission of Texas

**Thursday, July 24, 1986, 9 a.m.** The Banking Section of the Finance Commission of Texas will meet at the State Banking Department, 2601 North Lamar Boulevard, Austin. Items on the agenda include the review and approval of minutes; a discussion of statutory provisions relating to the financial institutions; review of the departmental operations including budget and personnel; and a legislative update.

Contact: Jorge A. Gutierrez, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Filed: July 8, 1986, 2:27 p.m.  
TRD-8606690

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## Texas Department of Health

**Saturday, July 19, 1986, 9:30 a.m.** The Cardiovascular Advisory Committee of the Texas Department of Health will meet in the Second Floor Conference Room, Texas Department of Health, 1101 East Anderson Lane, Austin. According to the agenda summary, the committee will approve the minutes; hear the report of the board of health May 31 and June 1, 1986, meeting; approve the Crippled Children's Services Cardiovascular Centers and continue approval of ex-

isting centers including the subcommittee presentation, discussion, and recommendations; schedule site visits; consider the annual reporting format for existing centers to assist in quality assurance; approve physician applications; and consider the proposed meeting date and review the next meeting's agenda items.

**Contact:** J. S. Barkley-Booher, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2666.

**Filed:** July 9, 1986, 3:33 p.m.  
TRD-8606755

**Friday, July 25, 1986, 10 a.m.** The Birthing Center Ad Hoc Committee of the Texas Department of Health will meet in Room G-107, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the committee will hold a work session to review public comments on draft regulations for the Texas Birthing Center Licensing Act.

**Contact:** Dr. Juanita Carrell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7240.

**Filed:** July 9, 1986, 3:33 p.m.  
TRD-8606756

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### Texas Housing Agency

**Wednesday, July 16, 1986, 1 p.m.** The Finance and Audit Committee of the Texas Housing Agency will meet in Suite 1100, 411 West 13th Street, Austin. According to the agenda summary, the committee will hear the summary report on the Finance and Audit Committee meeting on May 28, 1986; discuss office space considerations; the Mortgage Credit Certificate budget; hear the summary report on mortgage insurance; and consider the program compliance agent related to the current refunding bond issue; The committee also will meet in executive session to consider personnel matters.

**Contact:** Dan A. McNeil, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

**Filed:** July 8, 1986, 4:20 p.m.  
TRD-8606703

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### Texas Industrial Accident Board

**Monday, July 14, 1986, 9:30 a.m.** The Texas Industrial Accident Board met in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed its policy on structured settlements. The board also met in executive session to discuss board files, pursuant to the workers' compensation statute.

**Contact:** William Treacy, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

**Filed:** July 9, 1986, 4:06 p.m.  
TRD-8606762

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### University Interscholastic League

**Wednesday, August 6, 1986, 9:30 a.m.** The Standing Committee on Music of the University Interscholastic League will meet in Room 2.120, Thompson Conference Center, 26th and Red River Streets, Austin. According to the agenda summary, the committee will hear proposals from educational association, school officials, and individuals that are applicable to music matters; and take appropriate action in preparation for the October Legislative Council meeting.

**Contact:** Vicki Wilson, P.O. Box 8028, Austin, Texas 78712, (512) 471-5883.

**Filed:** July 8, 1986, 2:44 p.m.  
TRD-8606696

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### Texas State Library and Archives Commission

**Thursday, July 10, 1986, 10 a.m.** The Texas State Library and Archives Commission made an emergency addition to the agenda for a meeting held in Room 314, Lorenzo de Zavala Archives and Library Building, 1201 Brazos Street, Austin. The addition concerned the election of a vice-chairman of the commission. The emergency status was necessary because the commission desired all six members to be in attendance, and the confirmation of all six attending could not meet the seven-day deadline.

**Contact:** William D. Gooch, Room 205, 1201 Brazos Street, Austin, Texas 78701, (512) 463-5460.

**Filed:** July 8, 1986, 11:20 a.m.  
TRD-8606700

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### Texas State Board of Medical Examiners

**Thursday, July 10, 1986, noon.** The Ad Hoc Committee on Corporate Practice of Medicine of the Texas State Board of Medical Examiners met in emergency session at 1101 Camino LaCosta, Austin. According to the agenda, the committee considered a request; discussed daily inquiries; and advertising. The committee also met in executive session under the authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §§2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion H-484 (1974). The emergency status was necessary because the

information had just become available and needed attention. The meeting will be referred to in a later full meeting of the board.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

**Filed:** July 8, 1986, 4:41 p.m.  
TRD-8606704

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### Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

**Wednesday, July 16, 1986, 9 a.m.** The commissioners will consider Dockets 6095, 6636, 5610, 6680, 6838, 6873, 6788, 6789, and 6872. The division also will meet in executive session to consider pending litigation and personnel matters.

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

**Filed:** July 8, 1986, 2:57 p.m.  
TRD-8606702

**Wednesday, July 16, 1986, 9 a.m.** The division made an addition to the previous agenda to include Docket 6200—petition of Southwestern Bell Telephone Company for authority to change rates (tariff approval).

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

**Filed:** July 8, 1986, 4:08 p.m.  
TRD-8606705

**Friday, July 18, 1986, 10 a.m.** The division will consider permanent adoption of the proposed Public Utility Commission substantive Rule §23.23 (Fuel Rule). The division also will meet in executive session to consider pending litigation and personnel matters.

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

**Filed:** July 9, 1986, 2:30 p.m.  
TRD-8606758

**Monday, July 21, 1986, 10 a.m.** A prehearing conference in Docket 6900—inquiry of the Public Utility Commission of Texas into the failure of El Paso Electric Company to pay certain expenses and petition to show cause.

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

**Filed:** July 9, 1986, 2:29 p.m.  
TRD-8606759

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### Texas Rehabilitation Commission

**Wednesday, July 16, 1986, 9:30 a.m.** The Executive Committee of the Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission (TRC) will meet in Room 302, TRC, 118 East Riverside Drive, Austin. Items on the agenda include approval of the summary report of the April 17, 1986, meeting; discussion of policy revisions; the grant award announcement procedure discussion; the fiscal year 1987 grants update; the employee protection provisions—DD state plan; the NADDC update; and the grants update, including the TRC role and any audit concerns.

**Contact:** Roger Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8004.

**Filed:** July 8, 1986, 11:19 p.m.  
TRD-8606701

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### State Securities Board

**Thursday, July 17, 1986, 9:30 a.m.** The State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the board will review the minutes of the April 18, 1986, board meeting; discuss the published proposals to amend §117.4, amend §133.31, create new §143 (regarding Real Estate Investment Trusts), and amend §115.2; and the new rule proposal creating new §111.4 (regarding §6H of the Act); discuss new business items for subsequent board meetings; possible legislative proposals; and discuss the update on the agency operations with reports from division directors and the securities commissioner. The board also will meet in executive session to discuss personnel matters pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

**Contact:** Richard D. Latham, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

**Filed:** July 9, 1986, 1:27 p.m.  
TRD-8606749

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### University of Texas System

**Saturday, July 12, 1986, 9 a.m.** The Board of Regents of the University of Texas System met in the Parisian Room, Banquet Level, Southside Fairmont Hotel, 1717 North Akard Street. According to the agenda, the board considered a proposed exception to the regents' rules and regulations to confer the title of President-Emeritus and to name the clinical science building; and considered personnel matters related to the possible election and employment of a president for the University of Texas Health Science Center at Dallas.

**Contact:** Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

**Filed:** July 8, 1986, 1:19 p.m.  
TRD-8606689

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### Texas Tourist Development Agency

**Monday, July 28, 1986, noon.** The Board's Marketing Committee of the Texas Tourist Development Agency will meet in Suite 400, Neal Spelce Communications' Conference Room, Two Republic Plaza, 333 Guadalupe Street, Austin. According to the agenda, the committee will plan the advertising campaign for fiscal year 1987.

**Contact:** Larry Todd, P.O. Box 12008, Austin, Texas 78711, (512) 463-7400.

**Filed:** July 10, 1986, 8:43 a.m.  
TRD-3606772

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### Texas Veterans Commission

**Tuesday, August 5, 1986, 1:30 p.m.** The Texas Veterans Commission will meet in the Cottonwood Room, Holiday Inn Hotel, 3233 Northwest Loop 410, San Antonio. According to the agenda, the commission will consider the reports on activities of the commission and make decisions relative to general administrative matters pertaining to the Texas' veterans' programs.

**Contact:** Aubrey L. Bullard, P.O. Box 12277, Austin, Texas 78711, (512) 463-5538.

**Filed:** July 9, 1986, 8:41 a.m.  
TRD-8606723

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### Texas Water Commission

**Tuesday, July 29, 1986, 9 a.m.** The Office of Hearings Examiners of the Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office will consider Application TA-5471 of George McAlister.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** July 8, 1986, 2:31 p.m.  
TRD-8606692

**Wednesday, August 13, 1986, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider possible litigation against Donald B. Copeland and Chemcentral Corporation (Solid Waste Registration 36797), Coryell County; and possible litigation against Daniel Amaya and Ms. Edna Amaya regarding unauthorized disposal of industrial solid waste in Bexar County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** July 8, 1986, 2:31 p.m.  
TRD-8606691

**Tuesday, August 19, 1986, 7 p.m.** The Texas Water Commission will meet on the Second Floor, Building B, University of Texas Health Science Center, Tyler. According to the agenda summary, the commission will hear public comments on a draft survey to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment. Pursuant to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13, as amended by House Bill 2358, 69th Legislature, 1985, the commission must complete a draft survey to identify such facilities or areas and publish, by January 1, 1987, a registry identifying each facility or area, the relative priority of the need for remedial action and setting forth recommendations for action to achieve clean-up.

**Contact:** Mary Reagan, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

**Filed:** July 9, 1986, 4:21 p.m.  
TRD-8606767

**Thursday, August 21, 1986, 7 p.m.** The Texas Water Commission will meet in the Board of Directors Conference Room, Fourth Floor, 3555 Timmons, Houston. According to the agenda summary, the commission will hear public comments on a draft survey to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment. Pursuant to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13, as amended by House Bill 2358, 69th Legislature, 1985, the commission must complete a draft survey to identify such facilities or areas and publish by January 1, 1987, a registry identifying each facility or area, the relative priority of the need for remedial action and setting forth recommendations for action to achieve clean-up.

**Contact:** Mary Reagan, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

**Filed:** July 9, 1986, 4:23 p.m.  
TRD-8606765

**Tuesday, August 26, 1986, 7 p.m.** The Texas Water Commission will meet in the conference room, 2910 Leopard Street, Corpus Christi. According to the agenda summary, the commission will hear public comments on a draft survey to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment. Pursuant to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13, as amended by House Bill 2358, 69th Legislature, 1985, the commission must complete a draft survey to

identify such facilities or areas and publish, by January 1, 1987, a registry identifying each facility or area, the relative priority of the need for remedial action and setting forth recommendations for action to achieve clean-up.

Contact: Mary Reagan, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: July 9, 1986, 4:22 p.m.  
TRD-8606766

Thursday, August 28, 1986, 10 a.m. The Texas Water Commission will meet in Room 1149A and B, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will hear public comments on a draft survey to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or the environment. Pursuant to the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §13, as amended by House Bill 2358, 69th Legislature, 1985, the commission must complete a draft survey to identify such facilities or areas and publish, by January 1, 1987, a registry identifying each facility or area, the relative priority of the need for remedial action and setting forth recommendations for action to achieve clean-up.

Contact: Mary Reagan, P.O. box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: July 9, 1986, 4:28 p.m.  
TRD-8606764

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### Regional Agencies Meetings Filed July 8

The Concho Valley Council of Governments, Executive Committee, met at 5002 Knickerbocker Road, San Angelo, on July 9, 1986, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Dewitt County Appraisal District, Board of Directors, will meet at 103 Bailey Street, Cuero, on July 15, 1986, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5735.

The Edwards County Appraisal District, Appraisal Review Board, will meet in the New County office building, on July 21, 1986, at 10 a.m. Information may be obtained from Sondra Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-7490.

The Harris County Appraisal District, Board of Directors, will meet on the eighth floor, 2800 North Loop West, Houston, on July 16, 1986, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292-0975, (713) 957-5203.

The Lee County Appraisal District, Board of Review, will meet at 218 East Richmond Street, Giddings, on July 16, 1986, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Mason County Appraisal District, Appraisal Review Board, will meet at 206 Ft. McKavitt Street, Mason, on July 21, 1986, at 9 a.m. Information may be obtained from Ann Stapp, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989.

The Mills County Appraisal District, Appraisal Review Board, will meet at Mills County Courthouse, Goldthwaite, on July 16 and 17, 1986, at 9 a.m. The district will also meet at the same location, on July 17, 1986, at 7:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The Texas Association of Regional Councils, Board of Directors, met at Waller Creek Plaza Hotel, Austin, on July 11, 1986, at 9 a.m. Information may be obtained from Katherine Bennet Ray, 508 West 12th Street, Austin, Texas (512) 478-4715.

The Texas Political Subdivisions Workers Compensation Joint Insurance Fund, Board of Trustees, met at the Austin Club, Austin, on July 14, 1986, at 9:30 a.m. Information may be obtained from Thomas P. Vick, Manager, P.O. Box 2759, Dallas, Texas 75221, (214) 760-6183.

TRD-8606683

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### Meetings Filed July 9

The Bexar Appraisal District, Board of Directors, will meet at 535 South Main, San Antonio, on July 21, 1986, at 5 p.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Callahan County Appraisal District, Board, will meet on the first floor, Callahan County Courthouse, Baird, on July 22, 1986, at 8 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 806, Baird, Texas 79504, (915) 854-1165.

The Central Counties Center for Mental Health and Mental Retardation Services, Board of Trustees, will meet at 302 South 22nd Street, Temple, on June 15, 1986, at 7:45 p.m. Information may be obtained from Steven B. Schnee.

The Guadalupe-Blanco River Authority, Board of Directors, will meet at First National Bank, 1101 IH 35 Bypass South, Port Lavaca, on July 17, 1986, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156, (512) 379-5822.

The Hays County Central Appraisal District, Board of Directors, will meet on the first floor, Courthouse Annex, San Marcos, on July 15, 1986, at 6 p.m. Information may be obtained from Lynnell Sedlar.

The Houston-Galveston Area Council, Project Review Committee, and the Board of Directors, will meet on the fourth floor, Conference Room, H-GAC, 3555 Timmons, Houston, on July 15, 1986, at 8:30 a.m. and 9:30 a.m., respectively. Information may be obtained from Sallie Sosa, 3555 Timmons, Houston, Texas 77027, (713) 627-3200.

The Jack County Appraisal District, Board of Directors, will meet at the Los Creek Office Building, 216-D South Main, Jacksboro, on July 15, 1986, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 77056, (817) 567-6301.

The Mason County Appraisal District, will meet at 206 Ft. McKavitt Street, Mason, on July 16, 1986, at 5:15 p.m. and July 21, 1986, at 9 a.m. Information may be obtained from Ann Stapp, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989.

The Nolan County Central Appraisal District, Appraisal Review Board, will meet in Suite 317A, Courthouse, Sweetwater, on July 15, 1986, at 9 a.m. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

The North Texas Municipal Water District, Board of Directors, will meet at 505 East Brown Street, Wylie, on July 24, 1986, at 4 p.m. Information may be obtained from Carl W. Riehn, (214) 442-5405.

The Red River Authority of Texas, Board of Directors, will meet in Room 218, Activity Center, 1001 Indiana, Wichita Falls, on July 17, 1986, at 9:30 a.m. Information may be obtained from Ronald J. Glenn, 520 Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.

The Tyler County Tax Appraisal District, Board of Review, will meet at 103 Pecan, Woodville, on June 21, 1986, at 10 a.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Upshur County Appraisal District, Board of Directors, met at Warren and Trinity Street, Gilmer, on June 14, 1986, at 7:30 p.m. Information may be obtained from Louise Strecener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041.

TRD-8606720

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## Meetings Filed July 10

The Nortex Regional Planning Commission, Executive Committee, will meet in the Bounty Room, Trade Winds Motor Hotel, 122 Broad Street, Wichita Falls, on July 17, 1986, at noon. Information may be obtained from Edwin B. Daniel, 2101 Kemp Boulevard, Wichita Falls, Texas 76309, (817) 322-5281.

The West Texas Council of Governments, Board of Directors, will meet in the Eighth Floor Conference Room, Two Civic Center Plaza, El Paso, on July 18, 1986, at 9:30 a.m. Information may be obtained from Cecile C. Gamez, Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4681.

TRD-8606770

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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.

## State Banking Board Notice of Hearing

The Hearing Officer of the State Banking Board will conduct a hearing on Tuesday, August 26, 1986, at 9 a.m., at 2601 North Lamar, Austin, on the charter application for Citizens State Bank of Brownsville, Brownsville, Cameron County.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar, Austin, Texas 78705, (512) 475-4551.

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

TRD-8606706 William F. Aldridge  
Director of Corporate Activities  
State Banking Board

Filed: July 8, 1986  
For further information, please call (512) 479-1200.

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## Comptroller of Public Accounts Consultant Contract Award

This contract award for consulting services is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the May 13, 1986, issue of the *Texas Register* (11 TexReg 2260).

On June 30, 1986, a consultant contract was awarded to Coopers & Lybrand Management Consulting Services, 600 Congress Avenue, 1800 One American Center, Austin, Texas 78701. The contract was awarded for the company to determine the computer equipment, telecommunication, software, and support requirements necessary to prepare a request for proposal (RFP) for a facilities management consultant contract.

The total value of the contract is \$138,000. Work was begun on June 30, 1986, and shall terminate on or about September 8, 1986.

The contractor's final report is due on or before September 8, 1986.

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

TRD-8606718 Bob Bullock  
Comptroller of Public Accounts

Filed: July 7, 1986  
For further information, please call (512) 463-4004.

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## Court Reporters Certification Board Announcement of Meeting

The Court Reporters Certification Board will meet at 8:30 a.m. on Saturday, July 19, 1986, in the Palmwood Room of the Embassy Suites Hotel, located at 300 South Congress Avenue, Austin. The agenda will include a report on staff activities, consideration of complaints miscellaneous business, and grading of exams. For further information, contact C. Raymond Justice, Administrative Director, Office of Court Administration, Secretariat, 1414 Colorado Street, Suite 602, Austin, Texas 78701.

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

TRD-8606722 Jim Hutcheson  
General Counsel  
Office of Court Administration

Filed: July 9, 1986  
For further information, please call (512) 463-1630.

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## Texas Education Agency Request for Proposals

**Intent.** The Texas Education Agency is requesting proposals from local education agencies, education service centers, and colleges and universities to participate in the establishment of four to eight pilot sites in which specific instructional problems can be addressed with computer-based tools. One or two pilot sites will be established in education service centers and/or colleges and universities to serve as dissemination centers for program information, training materials, and evaluation information from 1985-1986 pilot sites and 1986-1987 pilot sites. Vendors have submitted proposals for participation in this project, and summary information regarding these proposals is available from the Texas Education Agency contact. The budget submitted by a given vendor will become a subset of the budget submitted to a given selected LEA. Grants will be awarded directly to the LEAs, who will pay vendors the designated price for equipment and software.

**Due Date.** Deadline for receipt of proposals by TEA is 5 p.m., August 26, 1986. The right to reject any or all applications is reserved.

**Contact.** Further information and copies of instructions and forms for the preparation and submission of applications may be obtained by contacting Sandra Pratscher, Director of Educational Technology, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9087, or P.O. Box 100057 on The Electric Pages.

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

TRD-860694 W. N. Kirby  
Commissioner of Education

Filed: July 8, 1986  
For further information, please call (512) 463-8212.

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## Texas Department of Human Services Reduction in EPSDT Dental and Medical Screening Fees

Effective September 1, 1986, the department will reduce payment for all dental claims for emergency and routine services by 10%. In addition, the fee for medical screening will be reduced from \$30 to \$27. These actions are necessary because of current and projected funding limitations.

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

TRD-8606746 Marlin W. Johnston  
Commissioner  
Texas Department of Human Services

Filed: July 9, 1986  
For further information, please call (512) 450-3766.

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## State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration:

(1) Application for incorporation of AmeriGroup Health Plan, Inc., to be a domestic health maintenance organization. The home office is to be in Dallas.

(2) Application for incorporation of United Healthcare Insurance Company, to be a domestic accident and health insurance company. The home office is to be in Houston.

(3) Application for admission to do business in Texas of Monumental General Casualty Company, a foreign fire and casualty insurance company. The home office is in Baltimore, Maryland.

(4) Application for admission to do business in Texas of National Affiliated Investors Life Insurance Company, a foreign life insurance company. The home office is in Alexandria, Louisiana.

(5) Application for admission to do business in Texas of New York Marine and General Insurance Company, a foreign fire and casualty insurance company. The home office is in New York, New York.

(6) Application for a name change by Technology Insurance Company, a domestic fire and casualty insurance company. The home office is in Austin. The proposed new name is Titan Indemnity Company.

(7) Application for incorporation of Alliance Health Plan of Fort Worth, Inc., to be a domestic health maintenance organization. The home office is to be in Fort Worth.

(8) Application for admission to do business in Texas of Valley Insurance Company, a foreign fire and casualty insurance company. The home office is in San Francisco, California.

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

TRD-8606719 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: July 7, 1986  
For further information, please call (512) 463-6327.

The following applications have been filed with the State Board of Insurance and are under consideration:

(1) Application for admission to do business in Texas of Aetna Casualty and Surety Company of America, a foreign fire and casualty insurance company. The home office is in Hartford, Connecticut.

(2) Application for admission to do business in Texas of Baltica-Skandinavia Reinsurance Company of America, Inc., a foreign fire and casualty insurance company. The home office is in Morristown, New Jersey.

(3) Application for admission to do business in Texas of County Casualty Insurance Company, a foreign fire and casualty insurance company. The home office is in Bloomington, Illinois.

(4) Application for admission to do business in Texas of Life of Boston Insurance Company, a foreign life insurance company. The home office is in Malden, Massachusetts.

(5) Application for admission to do business in Texas of Omni Insurance Company, a foreign property and casualty insurance company. The home office is in Norcross, Georgia.

(6) Application for incorporation of Pan American Fire & Casualty Company, to be a domestic fire and casualty insurance company. The home office is to be in Houston.

(7) Application for admission to do business in Texas of Redland Insurance Company, a foreign fire and casualty insurance company. The home office is in Council Bluffs, Iowa.

(8) Application for a name change by Employees Mutual Benefit Association, a foreign life, accident, and health insurance company. The home office is in Chicago, Illinois. The proposed new name is Trustmark Life Insurance Company.

(9) Application for admission to do business in Texas of United Health and Life Insurance Company, a foreign life, accident, and health insurance company. The home office is in Phoenix, Arizona.

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

TRD-8606717 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: July 8, 1986  
For further information, please call (512) 463-6327.



# Texas State Library and Archives Commission Consultant Contract Reports

Senate Bill 737 of the 65th Legislature (Texas Civil Statutes, Article 6252-11c) requires state agencies and regional councils of governments to file with the Office of Secretary of State invitations to bid and details on bidding on private consultant contracts expected to exceed \$10,000. Within 10 days of the award of the contract, the agency is required to file with the secretary of state a description of the study to be conducted, the name of the consultant, the amount of the contract, and the due dates of the reports. Additionally, the Act directs the contracting agencies to file copies of the resulting reports with the Texas State Library. The library is required to compile a list of the reports received and submit the list quarterly for publication in the *Texas Register*.

Following is the list of reports received for the second quarter of 1986. The reports may be examined in Room 300, Texas State Library, 12th and Brazos Street, Austin.

Agency: Edwards Underground Water District  
Consultant: CH2M Hill Central Inc. of Denver,  
Colorado

Title: San Antonio Regional Water Resource Study

Agency: Employees Retirement System of Texas  
Consultant: Wilshire Associates

Titles: (1) Investment Performance Analysis  
(2) Investment Performance Analysis:  
Executive Summary

Agency: Texas Historical Commission  
Consultant: Linda Flory

Title: Texas Main Street Handbook: A Practical Guide to Small Town Revitalization

Agency: Texas Tourist Development Agency  
Consultant: Pannell Kerr Forster

Title: Estimated Volume of Out-of-State Overnight Visitors to Texas, 1985.

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

TRD-8806721 William D. Gooch  
Assistant State Librarian  
Texas State Library and Archives  
Commission

Filed: July 9, 1986  
For further information, please call (512) 463-5460.

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## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of June 30-July 3, 1986.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets

out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

### Period of June 30-July 3, 1986

Trinity River Authority of Texas, Ferris; wastewater treatment plant; approximately two miles northeast of the City of Ferris, north of Ten Mile Creek and 3½ miles from its confluence with the Trinity River in Dallas County; 10984-01; amendment

Intercontinental Motors, Inc., Houston; wastewater treatment plant; at 13915 IH 45 North at Kuykandahl Road in the City of Houston, Harris County; 02550; amendment

The City of Winters; wastewater treatment facilities; approximately 5,600 feet east of and 2,900 feet south of the intersection of FM Road 53 and U.S. Highway 83, southeast of the City of Winters, in Runnels County; 10320-01; renewal

AMF Tuboscope, Inc., Houston; wastewater treatment facilities; approximately ¼ mile south of the intersection of Old Beaumont Highway and Sheldon Road, on the east side of Sheldon Road in Harris County; 12386-01; renewal

Little Cypress-Mauriceville Consolidated Independent School District, Orange; wastewater treatment facilities; approximately 800 feet northwest of FM Road 1130 at a point 3,500 feet southwest of the intersection of FM Road 1130 and State Highway 62 in Orange County; 11094-02; renewal

Little Cypress-Mauriceville Consolidated Independent School District, Orange; wastewater treatment facilities; on the school site adjacent to the west side of State Highway 87 approximately 1½ miles north on the City of Orange in Orange County; 11094-01; renewal

The Porch, Inc., doing business as Prime Times, Cypress; wastewater treatment facilities; on the northwest corner of the restaurant property which is situated on the west side of State Highway 6 approximately ¾ mile north of FM Road 1093 in Harris County; 12361-01; renewal

Pinehurst Utilities, Inc., Baytown; wastewater treatment facilities; at the intersection of Bayou Vista Drive and Bayou Woods Drive in Baytown, approximately two miles south of IH 10 in Chambers County; 11774-01; renewal

Petty Water Supply and Sewer Service Corporation, Petty; wastewater treatment facilities; approximately .4 mile southwest of the intersection of FM Road 137 and FM Road 1509 in Lamar County; 12305-01; renewal



City of Mount Pleasant; wastewater treatment plant; approximately one mile east-northeast of the intersection of U.S. Highways 271 and 67 in Titus County; 10575-02; renewal

Denton County Development Company, Dallas; wastewater treatment facilities; approximately 1½ miles north-northeast of the intersection of U.S. Highway 377 and State Highway 114 and ½ mile east of U.S. Highway 377 in Denton County; 11072-01; renewal

Berwind Railway Service Company, Marshall; wastewater treatment facilities; approximately 3,500 feet east of the intersection of FM Road 1998 and FM Road 2199 and 1,000 feet south of FM Road 1998 in Harrison County; 12390-01; renewal

NL Industries, Inc., Attn: NL Shaffer Division, Houston; wastewater treatment facilities; 12950 West Little York Road within the City of Houston, Harris County; 11758-01; renewal

Jerry J. and Jean H. Moore, doing business as Royce Properties, Houston; wastewater treatment facilities; approximately 680 feet north of the intersection of U.S. Highway 59 and Mount Houston Road just off the north bank of Harris County Flood Control Ditch P-118-14, northeast of the City of Houston in Harris County; 11082-01; renewal

City of Goldthwaite; wastewater treatment facilities; approximately 2,500 feet east of FM Road 3023 and 1,600 feet north of State Highway 16 in Mills County; 10459-01; renewal

Protestant Episcopal Church Council of the Diocese of Texas, Navasota; wastewater treatment facilities; on FM Road 362 immediately north of its crossing with the Waller-Grimes county line in Grimes County; 11462-01; renewal

The City of Karnes City; wastewater treatment plant; approximately ½ mile southeast of the intersection of State Highway 80 and Calvert Avenue (FM Road 1144) in Karnes County; 10352-02; renewal

Monsanto Company, Alvin; plant which manufactures organic chemicals; 10 miles south of the City of Alvin; WDW-2 and WDW-13; amendment

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

TRD-8608747

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: July 7, 1986

For further information, please call (512) 463-7898.

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