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Texas Register

Volume 11, Number 55, July 22, 1986

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Highlights

The **Coordinating Board, Texas College and University System** proposes an amendment concerning coverage for dependents. Earliest possible date of adoption - August 22 **page 3332**

The **State Board of Veterinary Medical Examiners** proposes an amendment concerning

eligibility of veterinarians. Earliest possible date of adoption - August 22 **page 3333**

The **Texas Department of Health** adopts an amendment concerning food, drug, device, and cosmetic salvage establishment license fees. Effective date of adoption - August 5 **page 3350**

**Office of
the Secretary
of State**

Texas Register

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



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Myra A. McDaniel
Secretary of State

Director

Dan Procter

Documents Section Coordinator
Cynthia Cooke

Document Editors
Molly Gardner
Sabra Noyes
Jane Orcutt

Document Filing
Lainie Crease
Denise Roberts

Production Editors
Jody Allen
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Typographers
Dawn VanCleave
Glynn Fluitt

Circulation Section Coordinator
Dee Wright

Circulation Assistant
Kristine Hopkins Mohajer

TAC Editors
W. Craig Howell
Beth Glasnapp

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The Governor

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

Appointments Made July 9

1st Administrative Judicial Court

To be judge for a term to expire four years
from the date of qualification:

Ron Chapman
Criminal District Court
Dallas County Government Center
Dallas, Texas 75202

Judge Chapman is replacing John David
Ovard of Dallas, whose term expired.

Texas Hospital Equipment Financing Council

For a term to expire September 1, 1991:

Jose A. Botello
2777 Stemmons Freeway
Suite 1155
Dallas, Texas 75207

Mr. Botello is replacing Dr. Joseph T.
Ainsworth of Houston, whose term expired.

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

TRD-8609979

Mark White
Governor of Texas

Appointment Made July 10

282nd Judicial District Court

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

John R. Leigh
1719 Creekhaven Drive
Duncanville, Texas 75137

Mr. Leigh is replacing Kelly Loving of
Dallas, who resigned.

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

TRD-8609979

Mark White
Governor of Texas

Attorney General

Description of attorney general submissions. Under provisions set out in the Texas Constitution, Texas Civil Statutes (Article 4399), and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Request for Opinion

RQ-844. Request from Carlos Valdez, county attorney, Nueces County Courthouse, Corpus Christi, concerning the validity of a contract between Nueces County and an economic development company.

TRD-8606919

★ ★ ★

a county sheriff or constable to contract with a nongovernmental entity to provide law enforcement services is invalid, as an attempt to delegate legislative power to a private entity in violation of the Texas Constitution, Article II, §1 and Article III, §1.

TRD-8606916

★ ★ ★

to the Texas School for the Blind for certain construction. The legislature has not appropriated interest in the treasury that may be earned on the proceeds of the sale or lease.

TRD-8606918

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Opinions

JM-508 (RQ-616). Request from Timothy D. Yeats, Howard County attorney, P.O. Box 2096, Big Spring, concerning the duty of a county clerk to record a deed conveying real property under Texas Civil Statutes, Articles 974a and 6626a.

Summary of Opinion. A county clerk must record a properly acknowledged deed even if the deed subdivides land which the subdivider has failed to bring into compliance with applicable statutes governing subdivision of land. However, a city may require a subdivider to prepare and file a plat in compliance with Texas Civil Statutes, Article 6702-1, §2.401.

TRD-8606915

★ ★ ★

JM-509 (RQ-682). Request from Ray Keller, chairman, Committee on Law Enforcement, Texas House of Representatives, Austin, concerning whether a sheriff or constable may provide law enforcement services under contract with a private home-owners association, in light of Texas Civil Statutes, Article 1581b-2.

Summary of Opinion. Texas Civil Statutes, Article 1581b-2, which attempts to authorize

JM-510 (RQ-690). Request from William R. Moore, Tom Green County attorney, County Courthouse, San Angelo, concerning the validity of Texas Civil Statutes, Articles 4594 and 4595, the Texas Hotel/Motel Operators Lien Law.

Summary of Opinion. Texas Civil Statutes, Articles 4594 and 4595, the Hotel/Motel Operators Lien Law, are facially unconstitutional under the due process clause of the 14th Amendment to the United States Constitution because they fail to provide notice of an impartial hearing before a proprietor exercises statutorily authorized self-help to take property from the proprietor's business guests.

TRD-8606917

★ ★ ★

JM-511 (RQ-697). Request from William H. Miller, executive director, Texas School for the Blind, Austin, concerning whether the Texas School for the Blind may expend interest earned on proceeds received pursuant to the 69th Legislature, 1985, Chapter 362.

Summary of Opinion. The 69th Legislature, 1985, Chapter 362, authorizes the sale or lease of certain state-owned land, and appropriates the proceeds from the sale or lease

JM-512 (RQ-786). Request from Brad Wright, chairman, Committee on Public Health, Texas House of Representatives, Austin, concerning licensing of out-of-state physicians.

Summary of Opinion. The Medical Practice Act does not prevent the licensing by reciprocity of a physician solely because the physician took the federal licensing examination before graduation from medical school.

TRD-8606975

★ ★ ★

JM-513 (RQ-785). Request from James S. McGrath, Criminal District Attorney, P.O. Box 2553, Beaumont, concerning whether a lottery occurs where persons make donations to a nonprofit organization and receive thereby a chance to win a painting.

Summary of Opinion. A random drawing for artwork, sponsored by a nonprofit organization, in which tickets are available for free, but where persons who request tickets are asked to make donations, constitutes a lottery under the Texas Penal Code, §47.01(6), once any person actually makes a donation for a ticket.

TRD-8606978

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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 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

★34 TAC §3.545

The Comptroller of Public Accounts is renewing the effectiveness of the emergency adoption of amended §3.545 for a 60-day period effective July 30, 1986. The text of the amended §3.545 was originally published in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1541).

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

TRD-8607010 Bob Bullock
Comptroller

Effective date: July 30, 1986
Expiration date: September 28, 1986
For further information, please call
(512) 463-4004.



★ ★ ★

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 19. EDUCATION Part I. Coordinating Board, Texas College and University System Chapter 25. Administrative Council Subchapter B Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

★ 19 TAC §25.50

The Coordinating Board, Texas College and University System proposes an amendment to §25.50, concerning coverage for dependents. This amendment deletes the subsection providing continuation for up to one year of group coverage to surviving spouses and dependents of employees with less than 20 years of service in higher education in Texas. This amendment is necessary to bring the rules in compliance with recent federal legislation (House Resolution 3128) which requires the continuation period for surviving spouses and dependents to be three years.

James McWhorter, executive secretary to the administrative council, 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. McWhorter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the removal of the limitation of one year for continuation of group coverage for surviving spouses and/or dependents of employees in higher education in Texas. 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 James McWhorter, Executive Secretary to the Administrative Council, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Insurance Code, Article 3.50-3, §4 (b)(4)(G), which provides the Administra-

tive Council with the authority to adopt rules and regulations consistent with the provisions of the Act to carry out its statutory responsibilities.

§25.50. Coverage for Dependents.

(a) (No change.)

(b) As a minimum standard, a surviving spouse and/or dependents who are covered by the group at the time of death of an employee with less than 20 years of state service creditable under either ORP, TRS, or ERS (including public junior/community college service), except as provided in subsection (c) of this section, may, at their option, continue such coverage up to one year, subject to continued payment of group premiums for the surviving spouse and/or dependents. Upon leaving the group, the spouse and/or dependents have the right to convert to an individual policy without evidence of insurability, if applied for within 31 days of termination of group status.]

(b)(c) As a minimum standard, a surviving spouse and/or dependents who are covered by the group at the time of death of a retiree, an employee who is at least age 55 with at least 10 years of state service creditable under either ORP, TRS, or ERS (including public junior/community college service), or an employee at any age with 20 or more years of state service creditable under either ORP, TRS, or ERS (including public junior/community college service) may, at their option, continue such coverage indefinitely, subject to continued payment of group premiums for the surviving spouse and/or dependents. Upon leaving the group, the spouse and/or dependents have the right to convert to an individual policy without evidence of insurability, if applied for within 31 days of termination of group status.

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 10, 1986.

TRD-8608922

James McWhorter
Executive Secretary
Administrative Council
Coordinating Board,
Texas College and
University System

Earliest possible date of adoption.
August 22, 1986

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

★ 19 TAC §25.56

The Coordinating Board, Texas College and University System proposes new §25.56, concerning continuation of coverage. Federal legislation, House Rule 3128, requires employers to provide a continuation of coverage option to certain individuals covered by the group who would otherwise lose coverage as a result of a qualifying event. The proposed section incorporates the reference to federal law and requires institutions to include in their health plans the continuation of coverage option.

James McWhorter, executive secretary to the administrative council, 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. McWhorter also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the provision of continuation of group coverage to eligible employees and dependents who would otherwise lose coverage as a result of a qualifying event as defined by federal law. 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 James McWhorter, Executive Secretary to the Administrative Council, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new section is proposed under the Texas Insurance Code, Article 3.50-3, §4 (b)(4)(G), which provides the Administrative Council with the authority to adopt rules and regulations consistent with the provisions of the Act to carry out its statutory responsibilities.

§25.56. Continuation of Coverage. Individuals covered by the group, including an eligible spouse and/or dependents, must be given the option to continue coverage in the institution's plan when certain qualifying events occur. The requirements governing the continuation of coverage shall be subject to the provisions of the Public Health Service Act, Title XXII, as amended, and the regulations thereof. Copies of the federal

rule and regulations are available from the Director of Higher Education Insurance Program, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

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 10, 1986.

TRD-8606921 James McWhorter
Executive Secretary
Administrative Council
Coordinating Board, Texas
College and University
System

Earliest possible date of adoption:
August 22, 1986
For further information, please call
(512) 462-6420.

TITLE 22. EXAMINING BOARDS Part XXIV. State Board of Veterinary Medical Examiners Chapter 571. Licensing Examinations

★22 TAC §571.3

The State Board of Veterinary Medical Examiners proposes an amendment to §571.3, concerning eligibility. The amendment ensures that veterinarians are better qualified to serve consumers.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be insurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. 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 Donald B. Wilson, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.3. *Eligibility.* To be eligible to participate in the state board licensing examina-

tions [to be conducted by the board], an applicant must be certified by the dean of the college from which he is expected to graduate that he is in the last 120 days of his veterinary college from which he is expected to graduate, that he is in the last 120 days of his veterinary the applicant did in fact graduate and obtain his diploma before the applicant is eligible to obtain his license, if he has satisfied all other requirements. To be eligible to participate in the national board examination (NBE) or the clinical competency test (CCT) examination, an applicant must be certified by the dean of the college from which he/she is expected to graduate, that the applicant is a graduating senior in good academic standing and is expected to graduate.

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 11, 1986

TRD-8606934 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:
August 22, 1986
For further information, please call
(512) 458-1183.

★22 TAC §571.4

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Veterinary Medical Examiners proposes the repeal of §571.4, concerning participation in P.E.S. The repeal deletes obsolete wording.

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

Mr. Wilson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be insurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Donald Wilson, Executive Secretary, State Board of Veterinary Medical

Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The repeal is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.4. *Participation in P.E.S. or National Examination.*

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 11, 1986.

TRD-8606938 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:
August 22, 1986
For further information, please call
(512) 458-1183.

★22 TAC §571.5

The State Board of Veterinary Medical Examiners proposes an amendment to §571.5, concerning certification of score. The amendment ensures that veterinarians are better qualified to serve consumers.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be insurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. 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 Donald B. Wilson, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.5. *Certification of Score* The State Board of Veterinary Medical Examiners will accept the results of the [P.E.S. or] national examination (NBE) and the clinical competency test (CCT) provided the applicant for

licensure in Texas satisfies the following conditions.

(1) (No change.)

(2) The applicant must have participated in the examination within the five-year period immediately prior to the commencing date of the state board licensing examination being conducted by the board.

(3) The applicant must have obtained a minimum passing score of 75% on each of the examinations [examination] to be qualified to take the state board licensing examination [based on a -1.5 standard deviation].

(4) Applicants taking the NBE and/or CCT concurrently with the state board examination will not be furnished a state board examination grade if they do not pass the NBE and the CTT per the criteria in paragraph (3) of this section.

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 11, 1986.

TRD-8606942 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:

August 22, 1986
For further information, please call
(512) 458-1183.

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★ 22 TAC §571.6

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Veterinary Medical Examiners proposes the repeal of §571.6, concerning spelling. The repeal deletes obsolete wording.

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

Mr. Wilson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be ensurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Donald B. Wilson, Executive Sec-

retary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The repeal is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.6. Spelling.

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 11, 1986.

TRD-8606940 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:

August 22, 1986
For further information, please call
(512) 458-1183.

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★ 22 TAC §571.7

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The State Board of Veterinary Medical Examiners proposes the repeal of §571.7, concerning the examination and weighting of grades. The repeal deletes obsolete wording.

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

Mr. Wilson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be ensurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Donald B. Wilson, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756 (512) 458-1183.

The repeal is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medi-

cal Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.7. The Examination and Weighting of Grades.

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 11, 1986.

TRD-8606935 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:

August 22, 1986
For further information, please call
(512) 458-1183.

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★ 22 TAC §571.8

The State Board of Veterinary Medical Examiners proposes an amendment to §571.8, concerning overall average. The amendment ensures that veterinarians are better qualified to serve consumers.

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

Mr. Wilson 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 ensurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. 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 Donald B. Wilson, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.8. [Overall] Average. To be eligible for a license, an applicant for the state board examination must attain an [overall minimum] average grade of 75 [on all subjects] with a minimum grade of 50 on any one subject in the short answer or station identification practical. The minimum score on any one subject of less than 50 must be reviewed by the members of the board before the individual is required to be re-examined on the

subject failed. Upon re-examination, the applicant must attain a minimum score of 75 on the subject in which he was re-examined. The member of the board whose subject was failed is to submit the applicant's papers and a key to the board office for submission to the other board members for concurrence in the failure and imposition of the re-examination requirement. In the event the applicant is required to retake any part of the examination at the discretion and direction of the board, it may be administered by the staff at the board office in Austin, or at any other place designated by the board. All examinations administered under this section shall be administered on the same day and within 45 days from the date of the letter notifying the applicants of failure requiring re-examination. One unsuccessful attempt to obtain a passing score of 75 on the below 50 failure will result in the applicant being required to participate in the full short answer practical at the next regularly scheduled examination or subsequent thereto.

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 11, 1986.

TRD-8606937 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:
August 22, 1986
For further information, please call
(512) 458-1183.

★ 22 TAC §571.15

The State Board of Veterinary Medical Examiners proposes an amendment to §571.15, concerning score information. The amendment ensures that veterinarians are better qualified to serve consumers.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be insurance that practicing veterinarians are better qualified to serve consumers with their veterinary needs. 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 Donald B. Wilson, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §7(a), which

provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§571.15. *Score Information.* All requests for information with reference to examination scores shall be processed as follows.

(1) All requests for other state boards for raw scores made on the [P.E.S. or] national examination (NBE) or clinical competency test (CCT) shall be referred to the Interstate Reporting Service [of the National Board of Veterinary Medical Examiners].

(2) The average for the converted scores shall be based upon the national date that is submitted by the Professional Examination Service or their report of scores.

(3) The State Board of Veterinary Medical Examiners shall certify state board examination [weighted average] scores only to other states.

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 11, 1986.

TRD-8606941 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:
August 22, 1986
For further information, please call
(512) 458-1183.

Chapter 577. General Administration and Duties Staff and Miscellaneous

★ 22 TAC §577.11

The State Board of Veterinary Medical Examiners proposes an amendment to §577.11, concerning appointment and fund disbursements. The amendment aids in compliance with prompt payment to vendors.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be insurance of more prompt payment to vendors providing services to the Veterinary Board. 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 Donald B. Wilson, Executive Secretary, State Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

§577.11. *Appointments and Fund Disbursements.* The president of the board is authorized to appoint a member of the board or staff and the executive secretary to co-sign each voucher and any other instrument required by state law to be signed by the board for disbursement of funds or other purposes or both.

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

Issued in Austin, Texas, on July 11, 1986

TRD-8606939 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Earliest possible date of adoption:
August 22, 1986
For further information, please call
(512) 458-1183.

TITLE 25. HEALTH SERVICES Part I. Texas Department of Health Chapter 217. Milk and Dairy Bulk Milk Haulers

★ 25 TAC §§217.21-217.25

The Texas Department of Health proposes new §§217.21-217.25, concerning bulk milk haulers. The new sections cover bulk milk hauler qualifications and requirements; equipment and facilities required for handling, storing, and transporting bulk milk; transport tanks; transport tank unloading and transport tank wash stations; and training outline and bulk milk hauler duties and responsibilities.

Stephen Seale, 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.

Mr. Seale 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 that the department will be using the most definitive rules in the regulation of Grade A bulk raw milk operations. 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 Kirmon C. Smith, Director, Divi-

sion of Milk and Dairy Products, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7281. Comments will be received for 45 days from the date of publication of the proposed new sections. A public hearing will be held at 9 a.m., Tuesday, August 12, 1986, in the Texas Department of Health auditorium located at 1100 West 49th Street, Austin, Texas 78756.

The new sections are proposed under Texas Civil Statutes, Article 165-3, §2(a) and §2A, which authorize the Texas Board of Health to adopt rules covering milk and milk products.

§217.21. Bulk Milk Hauler Qualifications and Requirements.

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

(1) Bulk milk hauler—Any person who hold a milk hauler's certification issued by the department, and who transports raw milk from a dairy farm to a milk processing plant, receiving station, or transfer station.

(2) Certified milk sampler/collector—Any industry personnel, other than the milk hauler, who collects or stores an official milk sample.

(3) Department—The Texas Department of Health, the commissioner of health, or his authorized representative.

(4) Grade A Pasteurized Milk Ordinance—The Grade A Pasteurized Milk Ordinance published by the U.S. Public Health Service and adopted by the Texas Department of Health in §217.61 of this title (relating to Grade A Milk Ordinance).

(5) State commissioner of health—The state commissioner of health or his representative.

(6) 3-A sanitary standards—Construction standards for milk production and processing equipment which must be met prior to acceptance for use in the milk and dairy industry.

(7) 3-A sanitary standards committee—The committee composed of appointees from the International Association of Milk, Food, and Environmental Sanitarians and the Food and Drug Administration/Public Health Service that reviews and establishes standards for production and processing equipment intended for use in this country.

(8) Transport tank—Any tank which is used for the pickup of farm bulk milk or the transportation of milk or milk products to or from any dairy farm, milk plant, receiving station, or transfer station where Grade A milk and milk products are handled or processed.

(9) Transport tank washing station—The facilities used for the washing and sanitizing of milk transport tanks.

(10) Unloading station—Any receiving station, transfer station, or milk processing plant where Grade A raw-to-plant milk or Grade A milk or milk product is unloaded from milk transport tanks.

(b) Requirements for bulk milk hauler certifications.

(1) The department shall carry out a comprehensive training program, which shall include a short course teaching specific procedures necessary to properly handle milk from the dairy farm to the plant, receiving station, or transfer station. This course shall further include practical field training sufficient to develop a proficient working knowledge of proper bulk milk handling procedures.

(2) After training has been completed by each hauler or group of haulers, the department shall conduct a qualifying examination. The examination shall consist of a written test, oral test, and a practical test, which includes correct sampling procedures. A passing grade requirement on these examinations shall be a combined score of 90 on a 100 top score basis.

(3) An industry sponsored training program may be used in lieu of this program, provided that:

(A) such training program meets or exceeds the minimum standards and requirements set forth in these regulations;

(B) the program is acceptable to the department; and

(C) the qualifying examination is administered by the department.

(4) The department shall provide for annual inspections of each milk transport tanker to be used for hauling Grade A raw milk for pasteurization.

(5) The department shall provide for a biennial evaluation of all official milk samplers which shall include bulk milk haulers.

(6) The requirements in paragraphs (1)-(5) of this subsection do not eliminate or supersede other licenses or permits required by any other official regulatory agency.

(c) Procedure and handling requirements.

(1) Each transport tank used for farm bulk milk pickup shall be supplied with sanitized sample bottles or bags, other sampling equipment, and supplies necessary to clean and sanitize multi-use equipment used in sampling and pickup operations.

(2) All milk haulers operating farm bulk milk pickup transport tanks shall make available to the department upon request, a current list of producers for each route pickup load with the following information:

(A) producer name and number in the order of milk pickup;

(B) time of arrival at each dairy;

(C) time of arrival at the unloading station; and

(D) the name and address of the unloading station.

(d) Bulk milk hauler certification.

(1) Bulk milk haulers successfully qualifying by examination will be certified by the department to perform milk hauler duties. Only those milk haulers having certification will be allowed to remove milk from a farm bulk milk tank and collect milk samples for laboratory examination.

(2) The department is granted authority to issue temporary hauler certification in emergency situations without the prescribed examinations and training program, provided acceptable certification of competence is made. The period of the temporary permit shall not exceed 30 days.

(3) The bulk milk hauler certification shall be issued and remain in effect unless suspended for violation of these requirements, or when a hauler has not been active as a milk hauler in Texas for a period of one year.

(4) The department is authorized to suspend hauler certification when, upon investigation, the department finds a violation of any one of the following:

(A) §§217.21-217.25 of this title (relating to Bulk Milk Haulers);

(B) §§217.61-217.76 of this title (relating to Grade A Milk Specifications).

§217.22. Equipment and Facilities Required for Handling, Storing, and Transporting Bulk Milk.

(a) Generally. These provisions of the Texas milk grading and labeling specifications and requirements shall apply to the bulk system in the handling of bulk milk in Texas.

(b) Bulk milk holding tank.

(1) The farm bulk tank shall have a capacity adequate for production between routine pick-ups. The time between pick-ups shall not exceed 48 hours. Milk must be of sufficient quantity for adequate mechanical agitation at the completion of the first milking.

(2) Farm bulk milk holding tanks shall be equipped with an indicating thermometer, the sensor of which shall be located to permit the registering of the temperature of the contents when the tank contains no more than 20% of its calibrated capacity.

(3) Farm bulk milk tanks will be equipped with easily accessible sampling ports or a sample cock.

§217.23. Transport Tanks.

(a) The permitting of milk transport tanks. Each individual milk transport tank used to transport Grade A milk or milk products to or from a dairy farm, milk plant, or receiving station will be permitted by the department.

(b) Labeling of milk transport tanks.

(1) The permit number will be placed on both sides of the milk transport tank or on both skirts. The numbers must be a minimum of three inches in height. These numbers must be legible.

(2) The name and address of the hauler must also be placed on the skirts or the sides of the transport tank in a manner which is legible. The letters must be a minimum of three inches in height.

(c) The inspection of milk transport tanks.

(1) The milk transport tank must be inspected prior to the issuance of a permit

and a minimum of once each 12 months thereafter.

(2) The owner or manager of the transportation company will report to the department within 10 days any milk transport tanks taken out of service or severely damaged.

(d) Operations of milk transport tanks. Transport tanks used for hauling Grade A raw milk must be operated in compliance with the following provisions.

(1) Permanently installed milk transport tank washing equipment must be in compliance with the current edition of the 3-A Sanitary Standards at the time of installation and be approved by the department. This equipment shall be so designed that it will properly clean and sanitize when connected to a cleaning system capable of providing 140 gallons of solution per minute at 50 pounds of pressure per square inch at the pump head.

(2) Each transport tank used to pick up bulk milk shall be provided with a tight and well insulated service cabinet. The inner surface of the cabinet shall be of stainless steel construction. The cabinet shall be of sufficient size and so constructed as to provide adequate space, without overcrowding, for fittings, valves, milk pumps, racks for milk conducting equipment wrenches, sample bottles, dippers, solutions for washing and sanitizing milk contact equipment, and all other equipment used for milk handling purposes.

(3) When compartment transport tanks are used, Grade A milk shall not be permitted to be hauled in one compartment while ungraded milk or another product is being hauled in another compartment on the same tanker.

(4) Agitating and sampling transport tank milk shall be accomplished in such a manner as to provide maximum protection against product contamination. In no instance shall this be done at a place other than an approved unloading station.

§217.24. Transport Tank Unloading and Transport Tank Wash Station.

(a) Transport tank unloading station.

(1) When the transport tank unloading station is a receiving station or a milk processing plant, it shall comply with the following items of Part II of the Grade A Pasteurized Milk Ordinance: items 1p to 15p inclusive, and 17p, 20p, and 22p, except that the partitioning requirement of item 5p shall not apply.

(2) When the unloading station is a transfer station, it shall comply with the following items of Part II of the Grade A Pasteurized Milk Ordinance: items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p; provided, however, that in every case overhead protection shall be provided. Facilities for the cleaning and sanitizing of milk tank trucks shall comply with item 1p,

4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p of the ordinance; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p; provided, however, that in every case, overhead protection shall be provided.

(3) The pump-out of the transport tank shall be done in an area where a cover extends over the complete transport tank or, where climatic and operating conditions require, in a completely enclosed area. Pump-out operations must be protected in such a manner as to prevent product contamination. If the area is not completely enclosed or doors of the unloading area are open during unloading, a suitable filter is required for the manhole or the air inlet vent.

(4) The agitating and sampling of the transport tank milk shall be accomplished in such a manner as to provide maximum protection against product contamination. The unloading station shall provide the necessary equipment to adequately agitate the milk in the transport tank. In no instance shall this be done at a place other than an approved unloading station.

(5) The unloading station shall record the following information on each load of milk received, and maintain these records for a period of not less than 90 days:

- (A) date the load was received;
- (B) time received;
- (C) number of pounds in the load;
- (D) temperature of the milk;
- (E) the permit number of the truck delivering the milk;
- (F) the name of the station operator receiving the milk; and
- (G) the manifest with the driver's license number of sample collector.

(6) The transport tank cleaning tag must be removed and kept with the other records for a period of 30 days.

(7) In no case shall milk be received from a transport tank that appears to be damaged, dirty, or does not have a current cleaning tag without the permission of the department.

(b) Transport tank washing station.

(1) It shall be the responsibility of each transport tank unloading station to provide a transport tank washing station. The transport tank washing station may be an integral part of the unloading station or a separate facility. When the transport tank washing station is a separate facility, it shall be located convenient to and in the proximity of the unloading station.

(2) The transport tank washing station shall comply with the following items of Part II, the Grade A Pasteurized Milk Ordinance: items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p, and as climatic and operating conditions require, the applicable provisions of items 2p and 3p; provided, however, that in every case, overhead protection shall be provided.

(3) An unloading station which receives milk in transport tanks equipped with permanently installed tank washers will pro-

vide a transport tank washing station equipped with the following:

- (A) adequate water heating facilities;
- (B) tanks of an adequate size to hold the rinse, wash, and sanitizing solution;
- (C) a wash pump which will deliver the cleaning and sanitizing solutions to the milk contact surface of the transport tank at an adequate rate and velocity. This pump should deliver a minimum of 140 gallons per minute with a pressure of 50 pounds per square inch at the pumphead;
- (D) a removal pump which will remove rinse and cleaning solutions from the transport tank as fast as such solutions are pumped into the transport tank;
- (E) a screening device, which will prevent the passage of any foreign material into the system that would adversely affect the performance of the spray device(s), and located so as to be easily cleaned and sanitized;
- (F) a 24-hour temperature recorder.

It is recommended that a 24-hour pressure recorder also be provided. These may be an integral unit or in two separate units. The temperature sensor shall be located in the return solution line. The pressure sensor shall be located in the solution-rinse line downstream from the pressure supply pump. Recording charts shall be properly identified (showing date, permit number of transportation tank cleaned, operator's initials, etc.) and kept on file for not less than 90 days;

(G) the necessary equipment for the cleaning of transport tank pumps, gaskets, hoses, etc., which do not clean in place. Equipment shall be provided to clean the hoses by circulation of cleaning solution;

(H) all equipment and utensils in compliance with the current edition of the 3-A Sanitary Standards at the time of installation;

(I) a cleaning regimen, established and posted in the transport tank washing area. This regimen shall provide for a pre-rinse, wash, post-rinse, and sanitizing of the transport tank. The wash solution must have a minimum temperature in the return line of 135°F.

(4) The Texas Department of Health may permit an unloading station to utilize a transport tank washing station equipped only with portable tank washing equipment (drop in washers) or with the equipment and personnel necessary for hand cleaning, providing they can demonstrate the capability of effectively cleaning and sanitizing the transport tanks. In no case will transport tanks equipped with installed tank washers be unloaded into these unloading stations without the permission of the department. This permission will be granted only in emergency situations. When the transport tank washing station utilizes a drop in unit, paragraph (3)(A), (B), and (D)-(I) of this subsection will apply.

(5) The milk transport tank shall be adequately cleaned immediately after unloading so as to pass inspection at all times.

(6) The transportation tank and appurtenances shall be sanitized immediately after washing with an approved acid sanitizer or any other approved non-corrosive sanitizer. The transport tank shall be sanitized by pumping the sanitizing solution through the wash-rinse system. When a transport tank is taken out of service for more than 72 hours, it shall be sanitized again before it is used.

(7) All milk transport tanks shall be tagged after each cleaning and sanitizing. This tag shall remain attached to the transport tank until the milk is unloaded at the unloading station. The tag shall bear the following information:

- (A) the transport tank permit number;
- (B) the date and time it was cleaned and sanitized;
- (C) the name and location of the cleaning station; and
- (D) the name of the person who cleaned and sanitized the transport tank.

§217.25. Training Outline And Bulk Milk Hauler Duties And Responsibilities.

(a) Personal cleanliness. A hauler shall practice good hygiene, shall be neat appearing, and wear clean clothing and head covering.

(b) Checking the transport tank and tractor.

(1) Cleanliness and sanitization. A hauler shall:

- (A) clean inside and outside;
- (B) close covers, and cap outlet valves;
- (C) check transport tank in-place cleaning equipment if applicable;
- (D) determine if transport tank, pump, and hose have been sanitized;
- (E) check for a valid cleaning tag less than 72 hours old.

(2) Tractor and trucks. A hauler shall check to assure that tractor or truck is serviced and ready for day's run.

(3) Equipment and supplies. A hauler shall check to assure that the trucks and tractors have the following equipment and supplies with a check list conveniently located:

- (A) sufficient sample bottles or bags properly sanitized;
- (B) dippers or sample tubes;
- (C) straws and cups;
- (D) a standardized pocket thermometer (unbreakable standardized once each six months);
- (E) chlorine or other approved sanitizing agent and solution container;
- (F) a sample case and sufficient ice;
- (G) sanitary gaskets and wrenches;
- (H) a weight record book;
- (I) a pen or pencil;
- (J) paper towels;
- (K) a watch (for timing milk agitation);
- (L) test papers for checking the strength of sanitizing agent.

(c) Driving safely. A hauler shall:

- (1) observe traffic rules; and
- (2) check for safety of persons, animals, and property before backing transport tank at dairy.

(d) Bulk milk pickup and sampling procedures. A hauler shall:

- (1) remove milk transfer hose and electrical cord for milk pump from transport tank storage compartment;
- (2) insert capped end of milk transfer hose and the cord plug through hose port into the milkroom;
- (3) plug in electrical cord to transfer pump (safety precaution: check for grounding; ungrounded circuits are extremely dangerous);
- (4) wash hands, using soap and water, and wipe dry with paper towel;
- (5) remove port cover from holding tank;
- (6) record holding tank thermometer temperature. The hauler shall monthly check the tank thermometer temperature against the temperature taken with the pocket thermometer. The pocket thermometer must be sanitized before use;
- (7) reject milk over 45°F, and record variance;
- (8) be sure agitator has been stopped long enough for milk to become still;
- (9) check for off-odors and record in book;
- (10) observe surface of milk for foreign matter, icing, foam, etc., and record in book;
- (11) check milk quality;
- (12) make the decision to reject the milk if it is of poor quality;
- (13) measure the milk. A hauler also shall:
 - (A) remove measuring stick, rinse with hot water, and wipe dry with paper towel. If measuring stick is stored outside of milk tank, the hauler shall wash, sanitize, and wipe dry with sanitary single service towel before using;
 - (B) carefully insert stick into tank, withdraw, and observe stick measurement. The hauler shall repeat procedure to get two identical measurements and then record measurement weight ticket;
 - (C) replace port cover;
 - (D) check stick measurement with tank calibration chart, record corresponding pounds on weight tickets, and then sign. If there is any doubt in the hauler's mind about the correctness of readings or weights, the hauler shall repeat the measuring process;
 - (E) check the serial number on the gauge and tank against the serial number on the chart;
- (14) start agitator and agitate for ten minutes.
 - (A) in order for the hauler to obtain an accurate representative sample, the milk in the tank must roll for 10 minutes;
 - (B) while the milk is agitating, the hauler shall:

- (i) remove cap from tank outlet valve, and check for milk deposits or foreign matter, and then sanitize valve; and

- (ii) remove cap from transfer hose, sanitize connection, and attach to tank outlet;

(15) sample the milk. A hauler also shall:

- (A) assemble sampling equipment which includes sample bottle or bag, sampling device, sample case, sample form, straws or cups;
- (B) sanitize sampling equipment before each use, if sterile sampling tube or dipper not used;
- (C) wash hands before sampling milk;
- (D) remove port cover or open tank lid and observe to assure that the milk is completely mixed;
- (E) remove dipper or sampling tube from sanitizing solution and rinse twice in milk before transferring sample;
- (F) transfer required amount of milk with sampling device to a sample bottle or bag. When transferring milk from sampling equipment to sample bottle or bag, the hauler should use caution to assure that no milk spills back into the tank. The hauler also shall:
 - (i) be careful not to allow fingers or any contaminating matter to come in contact with lid or mouth of bottle or bag;
 - (ii) close sample bottle/bag tightly; and
 - (iii) make sure that sample bottle/bag is properly identified;
- (G) replace port cover or close tank lid and place sample in ice container or refrigerated cabinet in tanker. The hauler also shall:
 - (i) assure that the sample had been cooled immediately and maintained at 32°-40°F (avoid freezing) until delivered to laboratory;
 - (ii) drain excess water from sample case; and
 - (iii) deliver sample to laboratory promptly;
- (16) pump-out tank. The hauler also shall:
 - (A) open tank outlet valve;
 - (B) start pump and agitator;
 - (C) cut off agitator when milk is lowered to a level that will cause over-agitation. (Variances will be observed. The milk level should be decided by producer and field man);
 - (D) completely pump out tank (no partial pump-outs will be permitted. Partial pump-out may result in flavor deterioration, loss of butterfat, or other problems);
 - (E) stop pump and disconnect electrical connection when all the milk has been drawn from tank. If pump is left running, it may be damaged; also, it will incorporate air into milk in the tanker; and
 - (F) disconnect and cap tanker milk hose. The hauler also shall return the hose to tanker compartment;

(17) clean-up tank. The hauler also shall:

(A) observe the walls and bottom of tank for foreign matter or extraneous material and record observations; and

(B) thoroughly rinse entire inside surfaces of the tank with warm water and with outlet valve open;

(18) conduct a predeparture check-up. The hauler shall assure that:

(A) all records are completed;

(B) the sample and equipment are properly placed in transport tank compartment;

(C) floors are clean;

(D) agitator and lights are off;

(E) hose port and milkroom door closed; and

(F) children and animals are away from tanker before starting truck.

(e) Arrival at plant, receiving station, or transfer station. At this point, the hauler takes on a joint responsibility with the plant milk receiver in the completion of his total daily operations.

(1) The hauler shall conduct proper procedures involving spotting the tanker. Under this procedure, the hauler shall know where to spot tanker (place, order, etc.) and drive and back cautiously.

(2) The hauler shall conduct proper procedures involving sample delivery and reporting in. Under this procedure the hauler shall:

(A) deliver producer samples to designated place and personnel;

(B) turn in weight tickets to designated place and personnel;

(C) discuss quality defects on route (odors, flavors, high temperatures, icing, etc., with appropriate plant or marketing cooperative representative). If any milk has been rejected, immediate notice must be given to the plant representative who, in turn, will notify the department, giving him/her the reasons for rejection;

(D) make arrangements for the next day's supplies;

(E) breakdown, wash, and reassemble pump and transfer hose. Time can be saved by cleaning pump and hose during delivery pump out; and

(F) be sure tank has been cleaned, sanitized, and cleaning tag attached.

(3) Milk shall not be stored in the transport tanks for more than 72 hours. The temperature of the milk shall not exceed 45°F.

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-8606996

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

Proposed date of adoption, September 20, 1986
For further information, please call
(512) 458-7281.

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Grade A Milk Specifications

★25 TAC §217.61, §217.64

The Texas Department of Health proposes amendments to §217.61 and §217.64, concerning Grade A milk specifications. The amendment to §217.61 adopts by reference the most recent version of the "Grade A Pasteurized Milk Ordinance" published by the U.S. Food and Drug Administration. The amendment to §217.64 makes an appropriate reference to the ordinance.

Stephen Seale, 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.

Mr. Seale 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 that the department will be using the most recent version of the Pasteurized Milk Ordinance. It represents the most recent development in the areas of Grade A milk, milk products, processes, chemicals, materials, and marketing patterns as a result of advanced technology and knowledge. 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 Kirmon C. Smith, Director, Division of Milk and Dairy Products, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7281. Comments will be received for 45 days from the date of publication of the proposed amendments. A public hearing will be held at 9 a.m., Tuesday, August 12, 1986, in the Texas Department of Health Auditorium, located at 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 165-3, §2A, which authorize the Texas Board of Health to adopt rules covering milk and milk products.

§217.61. Grade A Pasteurized Milk Ordinance. [1978 Recommendations of the United States Department of Health, Education and Welfare Public Health Service/Food and Drug Administration, Part II]. The Texas Department of Health adopts by reference the document entitled, "Grade A Pasteurized Milk Ordinance [-1978 recommendations of]", published by the United States Department of Health and Human Services [Education, and Welfare], Public Health Service/Food and Drug Administration[, Part II"]. The document consists of the following parts: Part I, The Grade A Pasteurized Milk Ordinance; Part II, The Grade

A Pasteurized Milk Ordinance with Administrative Procedures; appendices; and an index. Copies [The document was published by the U.S. Department of Health, Education, and Welfare and copies] are on file in the [Division of] Milk and Dairy Products Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756, and are available for review during normal business hours.

§217.64. Grade A Raw for Retail Milk. Grade A raw for retail milk shall conform to all of the applicable requirements in the **Grade A** [1978 Recommended] Pasteurized Milk Ordinance, which is adopted by reference in §217.61 of this title (relating to Grade A Pasteurized Milk Ordinance [-1978 recommendations of the United States Department of Health, Education, and Welfare Public Health Service/Food and Drug Administration, Part II]), and to the requirements described in these sections.

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-8606995

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

Proposed date of adoption, September 20, 1986
For further information, please call
(512) 458-7281

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Fees

★25 TAC §217.81

The Texas Department of Health proposes an amendment to §217.81, concerning the collection of milk and milk product fees, in accordance with Texas Civil Statutes, Article 165-3, as amended by House Bill 1593, §43, 69th Legislature, 1985. The amendment removes milk products from consideration for inspection fees.

Stephen Seale, Chief Accountant III, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. The effect on state government will be no additional enforcement cost but an estimated \$200,000 decrease in revenue per year for the years 1986-1990. The cost of compliance for small businesses will be the fees schedule stated in Texas Civil Statutes, Article 165-3, and in subsection (e) of this section. There will be no effect on local government.

Mr. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the section will be in compliance with the mandate of the House Bill

1593, §43 amendment to Texas Civil Statutes, Article 165-3, by the 69th Legislature, 1985, and will provide uniformity of milk and milk products fee collections. 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 Kirron C. Smith, Director, Division of Milk and Dairy Products, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7281. Comments will be received for 45 days from the date of publication of the proposed section. A public hearing will be held at 9 a.m., Tuesday, August 12, 1986, in the Texas Department of Health auditorium located at 1100 West 49th Street, Austin.

The amendment is proposed under Texas Civil Statutes, Article 165-3, §2A, which authorize the Texas Board of Health to adopt rules covering milk and milk products.

§217.81. Milk [and Milk Product] Fees.

(a) Purpose. The purpose of this section is to provide for the uniform collection of fees covering milk [and milk products]. Included in this section are requirements covering the issuance and revocation of permits, the prescribing of fees for permits and inspections, and the availability of hearing procedures in the event of proposed revocation of permits.

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

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

(5) Milk products—Includes cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured buttermilk, acidified buttermilk, cultured milk, cultured lowfat milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, milk, lowfat milk, or skim milk with added safe and suitable microbial organisms. This also includes butter, cottage cheese, lowfat cottage cheese, cream cheese, all soft and hard cheeses, whey, and dry milk products.]

(5) [(6)] Milk transport tanker—A vehicle including the truck and tank used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station, or milk plant.

(6) [(7)] Producer dairy farm—Any place or premises where one or more cows

or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

(7) [(8)] Receiving station—Any place, premises, or establishment where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting.

(8) [(9)] Sale:

(A) the manufacture, production, processing, packing, exposure, offer, or holding of any milk, and milk product for sale;

(B) the sale, dispensing, or giving of any milk, milk product or frozen dessert product; or

(C) the supplying or applying of any milk or milk product, in the conduct of any retail establishment.

(9) [(10)] Transfer station—Any place, premises, or establishment where milk or milk products are transferred directly from one milk transport tanker to another.

(c)-(d) (No change)

(e) Inspection Fees.

(1) All milk [and milk products] processed, manufactured, or bottled by milk plants located in the State of Texas shall be assessed a \$.01 per hundredweight inspectional fee. This fee shall be assessed on a monthly basis and shall be computed by the Texas Department of Health using official U.S. Department of Agriculture/Milk Market Administrators' monthly accounting figures for each plant. The milk plants not regulated by the USDA/Milk Market Administrator shall submit monthly production data to the Texas Department of Health no later than 15 days after the end of each reporting month accompanied by the remittance fee required by this subsection. These reports shall be maintained by the Texas Department of Health for a five-year period. Also, each milk plant is required to furnish, upon request from the department, production records for the preceding three years for auditing purposes. This fee shall be considered delinquent if it is not received by the Texas Department of Health 30 days after the end of the reporting month.

(2) All milk [and milk products] processed, manufactured, or bottled by milk plants located outside the legal boundaries of the State of Texas that export milk [and milk products] into the State of Texas for sale or distribution shall be assessed a \$.01 per hundredweight inspectional fee or \$100 per month, whichever is greater. Also, the actual cost of analyzing samples of milk and milk products shall be assessed out-of-state milk plants that qualify for the minimum \$100 per month inspectional fee. This fee shall be assessed on a monthly basis and shall be computed by the Texas Department of Health using official U.S. Department of Agriculture/Milk Market Administrators' monthly accounting figures for each plant. The milk plants not regulated by the USDA/Milk Market Administrator shall submit monthly production data to the Texas Department of Health no later than 15 days

after the end of each reporting month accompanied by the required remittance fee. These reports shall be maintained by the Texas Department of Health for a five-year period. Also, each plant will be required to furnish, upon request, production records for the preceding three years for auditing purposes. This fee shall be considered delinquent if it is not received by the Texas Department of Health 30 days after the end of the reporting month.

(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.

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TRD-860697

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

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For further information, please call
(512) 458-7281.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION Part III. Texas Air Control Board

Chapter 101. General Rules

★ 31 TAC §101.24

The Texas Air Control Board (TACB) proposes an amendment to §101.24, concerning inspection fees. The amendment specifies the emissions inventory year for fee calculation, changes and moves the fee table, requires a review of the inspection fee system in 1987, changes the payment schedule, deletes the additional 10% fee for late payment, and deletes provisions that no longer apply.

The proposed changes to §101.24(a) specify applicability to 1984 emissions, move the third sentence with one minor change to a more suitable location in subsection (b), extend the requirement for the executive director's review of the inspection fee system from 1986 to 1987, and move the fee table with changes to subsection (b).

The proposed changes to §101.24(b) specify that the 1984 emissions inventory, rather than the preceding year inventory, is to be used for fee calculation. This allows accounts to use the same emissions data for calculation of 1987 inspection fees as were used for 1986 fees. Also, the fees in the fee table, moved from subsection (a), are combined with the 45% supplemental fee that was adopted in March, 1986. This combination of fees into one table will result in no increase, except in

possible rounding of numbers, in applicable fee amounts based on 1984 emissions.

The proposed changes to §101.24(c) move the period of fee payment to November and December to expedite the receipt of fees somewhat earlier in the fiscal year, and delete paragraph (2), which is no longer necessary.

The proposed changes to §101.24(d) delete the current subsection, add a deadline for fee payment, and provide for enforcement action if fees are not paid in full by the deadline. The current paragraph (1) is deleted, since it is no longer necessary, and the additional 10% fee for late payment is deleted from paragraph (2) because it has not proven to be enough of an effective deterrent to late fee payment to justify the additional administrative burden for the agency.

The TACB is contemplating development of a revised inspection fee system for fiscal year 1988 based on industrial classification. Once developed, such a system would be proposed to replace the current emissions-based system. To support this effort, the TACB will be requesting data on locations and types of operations having air emissions associated with each company. This information will be used to help establish an appropriate inspection fee schedule based on industrial classification.

Bennie Engelke, director of management and staff services, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state government and small businesses as a result of enforcing or administering the section. The effect on state government will be the same additional costs and revenues as those estimated with the original proposal of §101.24 in July 1985 (10 TexReg 2313), plus the revenues estimated with the supplemental fee proposal in January 1986 (11 TexReg 585). The effect on small businesses will be the applicable fee amount calculated in the fee table of §101.24(b), if the air contaminant emissions levels from the small business equal or exceed the thresholds which require a fee to be paid. The cost to small businesses will be the same

as the cost to large businesses. There will be no effect on local government.

Les Montgomery, P.E., director, Technical Support and Regulation Development Program, 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 simplification of the section and improved understanding by the regulated community. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

A public hearing on this proposal is scheduled for 2 p.m. on August 20, 1986, in the auditorium of the Texas Air Control Board located at 6330 Highway 290 East, Austin.

Copies of the proposed amendment are available from Barry Irwin at the TACB central office and at all TACB regional offices. Both oral and written public comment on the proposal is invited at the hearing. The TACB would appreciate receiving five copies of any written testimony prior to or at the hearing. Written testimony received by 4 p.m. on August 22, 1986, at the TACB central office will be included in the hearing record and should be sent to the Control Strategy Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The amendment is proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the TACB with the authority to make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§101.24. Inspection Fees.

(a) Applicability. The owner or operator of each account, as defined in this subsection, for which actual emissions in 1984 of total suspended particulates (TSP), nitrogen oxides, volatile organic compounds (VOC), or any other air contaminant equal or exceed 50 tons per year (tpy) and for which potential emissions of TSP, nitrogen oxides, VOC, or any other air contaminant equal or exceed 100 tpy shall remit to the Texas Air Control Board (TACB) an annual fee for inspections performed in enforcement of the Texas Clean Air Act (TCAA) and the rules of the board. For purposes of this section,

emissions of nitrogen, carbon dioxide, water, methane, and ethane shall not be considered air contaminants. A separate fee is required for each account. [The amount of the fee shall be determined by the highest aggregate emission rate of any air contaminant at an account applied to the following table.] For purposes of this section, an account shall be defined as all of the facilities located at a property. Where contiguous properties or properties contiguous except for intervening roads, railroads, rights-of-way, canals, watercourses, and the like are under common ownership but contain separate operations, or are managed independently, or are carried on the records of this agency under separate account numbers, a separate fee will be charged and collected for each such account. Provisions of this section apply to all accounts, including accounts which have not been assigned specific TACB account numbers. The owner or operator of an account subject to an inspection fee requirement is responsible for contacting the TACB to obtain an account number. Provisions of this section shall not apply to those accounts which contain only nonregulated, nonpermitted facilities which have received no TACB notices of violation (NOVs) within the most recent five-year period. In this context, nonregulated means that facilities are not subject to any of the requirements of Chapters 111-113 of this title (relating to Control of Air Pollution from Visible Emissions and Particulate Matter, Control of Air Pollution from Sulfur Compounds, and Control of Air Pollution from Toxic Materials); Chapter 115 of this title (relating to Control of Air Pollution from Volatile Organic Compounds); Chapter 117 of this title (relating to Control of Air Pollution from Nitrogen Compounds); and Chapter 119 of this title (relating to Control of Air Pollution from Carbon Monoxide). Nonpermitted means that facilities have not been issued a construction permit, special permit, special exemption, or operating permit pursuant to the requirements of Chapter 116 of this title (relating to Permits). By May 31, 1987 [1986], the executive director shall review the fees assessed and the costs recovered pursuant to this section and present to the board a report of the results of such review which shall include recommended changes to the section as may be appropriate.

[Emission Rate (tpy rounded down to the nearest ton)]	Base Fee	Incremental Fee *
50-99	\$ 500	\$12.00/ton
100-249	1,100	9.00/ton
250-999	2,450	3.00/ton
1,000-up**	4,700	1.50/ton

*incremental fee to be applied to each ton in excess of the initial tonnage in that category

**Maximum fee is \$10,000]

(b) Payment. The amount of the fee shall be determined by the highest aggregate emission rate of any regulated or nonregulated air contaminant at an account applied to the following table. Fees shall be remitted in the form of a check or money order made payable to the Texas Air Control Board and delivered to the Texas Air Control Board,

6330 Highway 290 East, Austin, Texas 78723. A completed inspection fee form shall accompany fees remitted. The inspection fee form shall include at least the company name, property address, TACB account number, and a statement of the aggregate emission rate for that single air contaminant which was [is] emitted in the largest quantity at the

account during the 1984 calendar year [preceding the beginning of the December-January payment cycle]. The maximum fee shall be required if no statement of the aggregate emission rate is included with the inspection fee form. All fees paid pursuant to subsection (a) of this section shall be remitted in accordance with the provisions of subsection (c) of this section.

[Emission Rate (tpy rounded down to the nearest ton)]	Base Fee	Incremental Fee *
50-99	\$ 725.00	\$17.40/ton
100-249	1,595.00	13.63/ton
250-999	3,552.50	4.35/ton
1,000-up**	6,815.00	2.18/ton

*Incremental fee to be applied to each ton in excess of the initial tonnage in that category

**Maximum fee is \$14,500]

(c) Schedule.

[(1)] Fees shall be due and payable according to the following schedule. The last numeric character of the TACB account number indicates the month in which payment is due.

Last numeric character of account number	Month in which fees are due
1, 2, 3, 4, or 5	November [December]
6, 7, 8, 9, or 0	December [January]

[(2) Fees shall be due and payable during the month of April, 1986, from those accounts which were assigned TACB account numbers after October 21, 1985.]

(d) Nonpayment of fees. Each inspection fee payment must be received by the last business day of the month during which the fee is due. Failure to remit the full inspection fee by that deadline may result in action under the Texas Clean Air Act (TCAA), §4.041 (regarding Administrative Penalty), or §4.02 (regarding Enforcement by Suit).

[(d) Additional fees.

[(1) A supplemental inspection fee shall be paid by the owner or operator of every account to which subsection (a) of this section applies and shall be the amount of 45% of the inspection fee due according to the provisions of subsection (a). This supplemental fee shall be due and payable during the month of April 1986.

[(2) An additional fee shall be paid by the owner or operator of an account for

each inspection fee payment not received by the 10th day of the month following the month due. The additional fee to be remitted shall be 10% of the unpaid fee for the first month, or part thereof, after the month the inspection fee is due. Thereafter, failure to have remitted the full inspection fee shall result in action under the TCAA, §4.041, or §4.02. Each day the fee remains unpaid shall be considered a separate violation.]

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-8606985 Allen Ell Bell
Executive Director
Texas Air Control
Board

Proposed date of adoption: December 1, 1986
For further information, please call
(512) 451-5711, ext. 354.

Chapter 114. Motor Vehicles

★31 TAC §114.4

The Texas Air Control Board (TACB) proposes new §114.4, concerning equipment evaluation procedures for vehicle exhaust gas analyzers. The new section describes the procedures for approval of vehicle exhaust gas analyzers to be used in the Texas Vehicle Idle Emissions Inspection/Maintenance (I/M) Program and incorporates detailed equipment specifications by reference. The Idle I/M Program is a part of the state implementation plan for carbon monoxide and is scheduled to be initiated in El Paso in early 1987. The proposed new section requires analyzer manufacturers interested in participating in the program to submit information to the executive director of the TACB which demonstrates the conformance of a specified analyzer model with the equipment design, construction, and performance require-

ments of the I/M Program. The Texas Department of Public Safety (DPS) will administer the Idle I/M Program as a part of the annual safety and parameter inspection programs in El Paso and will authorize inspection stations to use only TACB-approved analyzers to perform emissions testing and certification.

Bennie L. Engeike, director of management and staff services, has determined that for the first five-year period the proposed section will be in effect there will be additional costs of approximately \$3,000 incurred by the agency as a result of administering the section. The basis for this determination consists of the staff time to review the information provided by manufacturers applying for approval of vehicle exhaust gas analyzers. For the next four-year period the section is in effect, there will be no significant additional costs incurred by the agency. There will be no fiscal implications to local government and fiscal implications to small businesses are no greater than those which would be incurred by large businesses.

Les Montgomery, P.E., director, Technical Support and Regulation Development Program, 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 improved air quality as a result of an increased effectiveness of the Vehicle Idle I/M Program due to the higher level of quality control and data analysis capabilities required in the emissions analyzers. The possible economic costs or benefits to manufacturers who choose to participate in the Vehicle Idle I/M Program will be determined by the market potential in El Paso and will not be directly associated with compliance with the section as proposed. The cost of providing necessary information to the TACB will be offset by the sale of acceptable analyzers to DPS inspection stations.

A public hearing on this proposal is scheduled for August 20, 1986, 10 a.m., Texas Air Control Board, Auditorium, 6330 Highway 290 East, Austin. Copies of the proposed new section and referenced equipment specifications are available at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, and at the TACB regional office at 1200 Golden Key Circle, Suite 369, El Paso, Texas 79925. Public comment, both written and oral, on the proposed new section is invited at the hearing. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on August 20, 1986, at the TACB central office will be included in the hearing record. Written comments should be sent to the Control Strategy Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The new section is proposed under Texas Civil Statutes, Article 4477-5, §3.00(a), which provide the TACB with the authority to

make rules and regulations consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule or regulation the TACB makes.

§114.4. Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.

(a) Any manufacturer or authorized distributor of vehicle testing equipment may apply to the executive director for approval of an exhaust gas analyzer or analyzer system for use in the Texas Vehicle Idle Inspection/Maintenance (I/M) Program administered by the Texas Department of Public Safety (DPS). Each applicant must provide sufficient information regarding a specific analyzer or analyzer system to demonstrate conformance with the criteria set forth in *Specifications for Vehicle Exhaust Gas Analyzer Systems for Use in the Texas Vehicle Idle Emissions Inspection/Maintenance Program* dated July 11, 1986, which is herein adopted by reference. Copies of this document are available at the Texas Air Control Board (TACB) Central Office, 6330 Highway 290 East, Austin, and at the DPS Central Office, 5805 North Lamar Boulevard, Austin.

(b) The conformance demonstration shall include, but is not limited to:

(1) certification that equipment design and construction conforms with the specifications referenced in subsection (a) of this section;

(2) documentation of successful results from appropriate performance testing;

(3) evidence of necessary changes to internal computer programming, display format, and data recording sequence; and

(4) a commitment to fulfill all maintenance, repair, training, and other service requirements described in the specifications referenced in subsection (a) of this section. A copy of the minimum service/maintenance agreement to be offered to the purchaser of an approved vehicle exhaust gas analyzer shall be included in the demonstration of conformance.

(c) If a review of the demonstration of conformance and all related support material indicates compliance with the criteria listed in subsections (a) and (b) of this section, the executive director may issue a notice of approval to the analyzer manufacturer which endorses the use of the specified analyzer or analyzer system in the Texas Vehicle Idle Emission I/M Program. A copy of this notice shall be submitted to the DPS for final authorization.

(d) The applicant shall comply with all special provisions and conditions specified by the executive director in the notice of approval.

(e) Any manufacturer or authorized distributor which receives a notice of approval from the executive director for a vehicle exhaust gas analyzer for use in the Vehicle Idle I/M Program may be subject to appropriate enforcement action and penalties prescribed in the Texas Clean Air Act or the

rules and regulations promulgated thereunder if:

(1) any information included in the conformance demonstration as required in subsection (b) of this section is misrepresented, resulting in the purchase or operation of equipment in the Vehicle Idle I/M Program which does not meet the specifications referenced in subsection (a) of this section; or

(2) the applicant fails to comply with any requirement or commitment specified in the notice of approval issued by the executive director or implied by the representations submitted by the applicant in the conformance demonstration required by subsection (b) of this section.

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 14, 1986.

TRD-8606967

Allen Eli Bell
Executive Director
Texas Air Control
Board

Proposed date of adoption: December 1, 1986
For further information, please call
(512) 451-5711, ext. 354.

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
Chapter 14. County Indigent Health Care Program

The Texas Department of Human Services (DHS) proposes amendments to §§14.1-14.2, 14.101-14.103, 14.105, 14.107, 14.108, 14.203, and 14.204, concerning the County Indigent Health Care Program.

Section 14.1 is amended to add information concerning DHS audit procedures used in determining if counties are eligible for state assistance. Section 14.203 is amended to specify that a flat payment rate may be used by counties to reimburse providers for services. This payment standard will particularly benefit those who provide services through a health maintenance organization.

Other changes were made to clarify requirements, to track the language of the Indigent Health Care and Treatment Act, and to eliminate redundancy.

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 no fiscal implications for state or local government or

small businesses as a result of enforcing or administering the sections.

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 thorough guidelines for counties for operation of the program and more options for providing benefits. 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-380, 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*.

Subchapter A. Program Administration

★40 TAC §14.1, §14.2

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

§14.1. County Program Administration.

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

(c) General administrative requirements.

Each county required to administer a program must:

(1)-(10) (No change.)

(11) maintain a case record for each eligible case. Cases for [and] denied applicants [applicant] must be retained for a minimum of three state fiscal years from the date the application is received;

(12) (No change.)

(d) County administrative option.

[(1)] Counties may administer or may contract with others to administer a program that uses:

[(1)(A)] the eligibility policies; the application, documentation, and verification procedures; and the service definitions contained in this chapter; or

[(2)(B)] county-developed standards and procedures that are less restrictive than those contained in this chapter.

[(2) Counties cannot credit expenditures towards eligibility for state assistance if the expenditures are for a:

[(A) resident eligible under less restrictive eligibility standards but ineligible under the DHS-established standards; or

[(B) resident whose eligibility is established using application, documentation, and verification procedures not contained in this chapter.]

(e) State assistance fund.

(1) The Department of Human Services (DHS) is responsible for distributing state assistance to eligible counties to the extent appropriated state funds are available. [In distributing the state assistance fund, DHS must ensure that the county]:

(2) A county is eligible for the state assistance fund only if the county:

(A) complied with the eligibility policies and the application, documentation, and verification procedures contained in this chapter; and

(B) expended 10% of the applicable GRTL in the state fiscal year for the provision of mandatory health care services to eligible county residents. [For purposes of receiving state assistance, the county's 10% GRTL amount applies only to county expenditures during the state fiscal year.]

(3) Counties may not credit expenditures towards eligibility for state assistance if the expenditures are for a resident eligible under less restrictive eligibility standards, but ineligible under the DHS eligibility standards.

(4)[(2)] DHS distributes funds to eligible counties on a first-come, first-served basis. If DHS anticipates that the state assistance fund will be expended before the end of the state fiscal year, DHS notifies all counties in writing of the unavailability of state assistance for the remainder of that state fiscal year.

(f) Eligibility requirements for counties applying for state assistance.

(1) Each county that plans to credit expenditures towards eligibility for the state assistance fund must:

(A) comply with the eligibility standards and the application, documentation, and verification procedures contained in this chapter. County use of the DHS application for county medical assistance form, the eligibility worksheet, [the medical services record,] and the monthly financial/activity report is also required. County use of other DHS forms is not required if the county substitutes a similar form with the same content as the DHS form;

[(B) expend 10% of the county's GRTL during the state fiscal year for mandatory health care services for eligible county residents;

[(C) notify DHS, in writing, by July 31 of each year, that the county:

[(i) intends to comply with the requirements established for counties applying for state assistance; and

[(ii) budgeted 10% of its GRTL to provide mandatory services to eligible households;]

[(B)(D)] notify DHS and the county's mandated providers, in writing, within seven days after the county has expended 8.0% of its GRTL;

[(C)(E)] notify DHS, by telephone and in writing, as soon as possible before the date on which the county anticipates it will expend 10% of its GRTL;

[(D)(F)] use adequate, auditable accounting records and procedures that establish a clear, accurate audit trail for each expenditure;

[(E)(G)] complete and submit reports prescribed by DHS to DHS within 10 days after the end of each month;

[(F)(H)] complete and submit a State of Texas purchase voucher to DHS to claim state matching funds;

[(G)(I)] maintain a case record for each eligible and denied resident;

[(H)(J)] cooperate fully with DHS by providing any and all information requested by DHS in an audit of county records or a review of county eligibility for state assistance;

[(I)(K)] maintain all records and vouchers for three state fiscal years after the relevant state fiscal year; and

[(J)(L)] request the county appraisal district to determine the GRTL of county property located outside the area served by a hospital district, if the county is partially served by a hospital district, and report this GRTL to the State Property Tax Board by July 31 of each year.

(2) Counties may not credit payments for the following towards eligibility for state assistance:

(A) ineligible individuals [households];

(B)-(E) (No change.)

(g) DHS audits to determine county eligibility for state assistance.

(1) DHS must complete an audit of county expenditures and conduct an audit exit conference with the county within 30 days from the date DHS receives written notification that the county has expended 8.0% of its GRTL for mandatory services for eligible residents. DHS notifies the county of its right to appeal and its responsibilities at the audit exit conference.

(2) After notifying DHS in writing that the county has expended 10% of its GRTL for mandatory services to eligible residents, the county may claim state assistance if the following requirements are met:

(A) DHS completed the county's audit report and transmitted it to the county. If DHS does not complete the audit report within the initial 30-day period, the audit division may request that DHS extend 30-day temporary emergency eligibility to the county, pending completion of the audit report. If DHS does not complete the audit within 60 days, the county is presumed eligible until the audit is completed.

(B) DHS audit exceptions totaled no more than \$15,000 or 5.0% of the county's 10% GRTL amount, whichever is larger; and

(C) the county agrees, in writing, to return state matching funds to DHS, if necessary, to resolve any outstanding audit exceptions.

(3) A county with total audit exceptions exceeding \$15,000 or 5.0% of the county's 10% GRTL amount, whichever is larger, cannot claim state assistance until the audit exceptions are resolved. DHS may waive this provision only if no receipt of state assistance would require the county to discontinue its program or if DHS determines the county has otherwise shown good cause for a waiver. If DHS waives the provision, DHS

cannot authorize state assistance funds to the county for more than 30 days pending resolution of the audit. The county must also agree to resolve all audit exceptions and, if necessary, return state assistance to DHS before requesting additional state assistance.

(4) A county may request an administrative review of the DHS audit report if the county disagrees with the report findings. The county requests an administrative review by sending written notice, an explanation of the county's reason for disagreement, and all relevant information to the DHS Indigent Health Care Policy Section. The county's written request must be postmarked within 14 days from the date of the county's audit exit conference.

(5) If the policy section does not receive a written request for administrative review as stipulated in paragraph (4) of this subsection, the DHS audit report is final.

(6) The policy section must determine the accuracy of the DHS audit report and notify the county of its decision by letter postmarked within 14 days from the date DHS received the county's written request for administrative review.

(7) If the county disagrees with the policy section's decision on the audit report, the county may file a request to appeal the policy section's decision with DHS' Office of the General Counsel. The county must send its written request appealing the policy section's decision, and all other relevant information, within 14 days from the date the county received the policy section's decision.

(8) The Office of the General Counsel conducts the appeal hearing according to the department's contract appeal rules.

(h)(g) DHS administration of state assistance fund. The following procedures are established to assist counties in the management of their programs.

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

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

§14.2. Residency Disputes and Fraud.

(a) (No change.)

(b) The following procedures are used to request DHS to resolve a residency dispute.

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

(3) The policy section determines the applicant's [household's] residency based on the information submitted and notifies the involved entities of the decision and basis for the decision.

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

(e) If an individual [a household] is otherwise eligible, services must be provided [to the eligible household] pending resolution of the dispute.

(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 16, 1986.

TRD-8606992

Marlin W Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:

August 22, 1986

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

★ ★ ★

Subchapter B. Determining Eligibility

★ 40 TAC §§14.101-14.103, 14.105, 14.107, 14.108

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

§14.101. Application Processing.

(a) The applicant for indigent health care or his representative may [must] request an application form by contacting the office designated by the county or a provider participating in the program. If the applicant wants help in completing the form, he may request that eligibility staff assist him.

(b) (No change.)

(c) The applicant is responsible for correctly filling out the form and providing all needed verification for all eligible household members. If the applicant is married and his spouse is a household member, the spouse must also sign the form. By signing the form, the applicant and spouse swear [swears] to the truth of the information supplied. Persons that intentionally misrepresent information to receive benefits they are not entitled to receive:

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

(d) If the applicant requests help in completing the application process, eligibility staff must assist the applicant in [with] correctly filling out the form and completing the process [getting needed verification. Anyone who helped fill out the form must sign it].

(e) Eligibility staff must accept the application only if it is complete. A completed application must include:

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

(5) information about medical insurance and hospital or health care benefits for which the applicants are eligible [received by the listed household members];

(6)-(9) (No change.)

(f)-(g) (No change.)

(h) Eligibility staff must determine if the applicant is eligible or ineligible within 14 days after the completion date. By the 14th day, eligibility staff must give or send the applicant and any provider who assisted in the application process a notice of his eligibility or denial.

(i) Eligibility staff must consider each eligibility factor and document the basis for

the eligibility decision on the DHS eligibility worksheet. [After approving an application, eligibility staff must give the client information about the services he is entitled to receive and his rights and responsibilities.]

(j) Notice of approval to the applicant must include information about the services he is entitled to receive and his rights and responsibilities.

(k)(j) An approved resident [household] is entitled to services beginning with:

(1) the earliest date in the month of application that the eligible resident [household] meets all eligibility factors [and has unpaid medical bills for mandatory services]; or

(2) the earliest date in any of the three months before the application month that the eligible resident [household] meets all eligibility factors and has unpaid medical bills for mandatory services.

(l) Anyone who helped fill out the form must sign it.

§14.102. Residency.

(a) Applicants must live in the Texas county to [in] which they apply for assistance under this program. A person lives in the county if:

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

(b)-(e) (No change.)

(f) [Eligibility staff must verify residency at each application and at case review, if questionable.] The applicant [person] is responsible for proving county residency or intent to live in the county. Proof of residency and intent to live in the county include, but are not limited to:

(1)-(8) (No change.)

(g) (No change.)

§14.103. Household Determinations.

(a)-(e) (No change.)

(f) The following persons are disqualified from inclusion in the household:

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

(3) a person who receives AFDC or SSI benefits.

(g)-(k) (No change.)

§14.105. Resources.

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

(c) Types of resources. The following resources are countable or exempt. Eligibility staff must count the equity value of any resource not specifically exempted in this subsection.

(1)-(8) (No change.)

(9) Life insurance is exempted unless [counted if] the cash value of life insurance policies exceeds \$1,000 per household. The amount in excess of \$1,000 is countable.

(10)-(17) (No change.)

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

§14.107. Notification and [Household] Appeals.

(a) Individuals [Households] have the right to appeal denial of their application or eligibility.

(b) Eligibility staff must send the denied individual [household] a denial notice

which includes information about the individual's [household's] right to appeal.

(c) **Denied individuals** [Households] are entitled to notification if their eligibility is denied unless they [all household members] are deceased or their [the household's] location is unknown.

(d) If the county hearing authority determines that a **denied individual** [household] was eligible while the appeal was pending, the county must pay for medical services he [the household] received during the pending period.

(e) **Denied individuals** [Households] have the right to appeal within 90 days from the effective date of the denial action. The [household's] request for appeal may be oral or written.

(f) If the **individual** [household] does not clearly understand English, eligibility staff must ensure, if possible, that the appeal procedures are explained in a language the **individual** [household] understands.

(g) (No change.)

§14.108. *Reviews.*

(a) An **eligible resident's** [A household's] continuing eligibility for county health care assistance must be redetermined once every six months.

(b) **Eligible residents** [Households] must cooperate with eligibility staff in periodically redetermining their eligibility for assistance. [A household's] Failure to cooperate is a basis for denial.

(c) Eligibility staff must send the **eligible resident** [household] an application for county medical assistance form when the case is due for review. **Eligible residents** [Households] may return the application for county medical assistance form in person or by mail.

(d) Eligibility staff must assist an **eligible resident** [a household] that requests help with completing the application for county medical assistance form or getting required verification.

(e) (No change.)

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

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

TRD-8606993

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
August 22, 1986

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

Subchapter C. Providing Services

★ 40 TAC §14.203, §14.204

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

§14.203. *Payments for Mandatory Services.*

(a) This section defines payment standards for mandatory services. State matching funds are not available for payments in excess of the payment standard.

(b) If a provider's charge exceeds the payment standard, the county is liable for paying no more than the amount established by the payment standard. The county may negotiate with a provider to pay an amount below the established payment standard. DHS may update the program payment standards annually.

(c) The payment standards for the individual mandatory service are:

(1) (No change.)

(2) Physician, laboratory, and x-ray services. The payment standard for the procedures DHS identifies as the most commonly performed procedures in the Medicaid Program is the average Texas Medicaid payment for the procedure. If providers perform a procedure that DHS has not identified as a common Medicaid procedure, counties may use either the:

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

(3)-(6) (No change.)

(d) A county may enter into an agreement with one or more providers, health maintenance organizations (HMOs), or insurance companies to pay the provider a flat monthly payment for delivery of one or more of the types of mandatory services to each eligible county resident. This monthly payment method does not apply to rural health care clinic services.

(1) The monthly payment standard for a type of mandatory service provided to each eligible county resident is the monthly payment standard established by DHS, based on the average monthly Texas Medicaid Program costs for AFDC adults for the type of mandatory service.

(2) If one provider, HMO, or insurance company enters into a monthly payment method agreement with the county to provide multiple types of mandatory services to each eligible county resident, the monthly payment standard is the sum of the individ-

ual monthly payment standards for the types of mandatory service provided.

(3) The provider must agree to reimburse other providers according to the DHS payment standard for delivery of any mandatory emergency services to eligible county residents.

(4) If the county resident is eligible in any of the three months before the month of application and has unpaid bills for mandatory services received during those months, the provider must agree to reimburse other providers for the unpaid services. The county pays the provider the flat monthly payment for the month(s) of prior eligibility.

(5) A county that selects the monthly payment method for a type of mandatory service must consistently apply this payment method when providing that type of mandatory service to each eligible county resident.

(6) The full amount of the flat monthly payment may be credited toward the county's 10% limit and county eligibility for state assistance.

§14.204. *Services and Payment Liability, Limitations, and Options.*

(a) This section defines county liability. Counties are liable for payment for mandatory services unless an eligible county resident:

(1) (No change.)

(2) receives services in a hospital that is out of compliance with a Hill-Burton obligation to provide free services to indigent persons. The county may require the hospital to verify [certify] that it is in compliance with its Hill-Burton obligation;

(3) (No change.)

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

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

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

TRD-8606994

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption:
August 22, 1986

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

★ ★ ★

Withdrawn

Rules An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Register*, it will automatically be withdrawn by the *Texas Register* office and a notice of the withdrawal will appear in the *Register*.

TITLE 19. EDUCATION
Part I. Coordinating Board,
Texas College and
University System
Chapter 25. Administrative
Council
Subchapter B. Administration of
the Texas State College and
University Employees Uniform
Insurance Benefits Program

★ 19 TAC §25.50

The Coordinating Board, Texas College and University System has withdrawn from consideration §25.50, concerning administrative council. The text of the amendment appeared in the January 28, 1986, issue of the *Texas Register* (11 TexReg 496). The effective date of the amendment is July 14, 1986.

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

TRD-8606923

James McWhorter
Executive Secretary
Coordinating Board,
Texas College and
University System

Filed: July 14, 1986
For further information, please call
(512) 462-6420.

★ ★ ★



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 19. EDUCATION

Part I. Coordinating Board, Texas College and University System

Chapter 25. Administrative Council

Subchapter B. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

★ 19 TAC §25.32

The Coordinating Board, Texas College and University System adopts §25.32, with changes to the proposed text published in the May 9, 1986, issue of the *Texas Register* (11 TexReg 2151).

The amendment clarifies the intent in the rules and regulations concerning the definition of a retired employee eligible for insurance coverage and when such eligibility becomes effective. The amendment is adopted with changes from the published text. The words "of retirement is the date" is deleted from the definition of date of retirement, and the date July 1, 1986, is added to the end of the definition of date of retirement.

The amendment adds a new definition of date of retirement to provide a bridge between the definition of retired employee and the procedures for enrollment in the retired employees plan; clarifies and strengthens the requirements for eligibility as a retired employee; and adds two new definitions of membership service and state service credit.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Article 3.50, §4, which provides the Administrative Council with the authority to adopt rules and regulations consistent with the provisions of the Act to carry out its statutory responsibilities.

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

Date of retirement—The date a former employee satisfies the basic criteria set forth in the definition of retired employee. This

definition will not apply to individuals who have separated employment prior to the effective date of adoption (July 1, 1986).

Membership service—Service during a time that a person is a member of either TRS, ERS, or ORP.

Retired employee—Any former employee, regardless of date of retirement who retires or has retired and who receives or is eligible to receive benefits under a retirement provision under the jurisdiction of:

(A) the Teacher Retirement System of Texas, pursuant to Texas Education Code, Chapter 3, as amended, provided, however, that the employee has at least 10 years of state service credit under ORP, TRS, or ERS (including public community/junior college service) or a combination thereof;

(B) the Optional Retirement Program, Texas Education Code, 51.351 *et. seq.*, as amended, provided, however, that the employee has at least 10 years of state service credit under ORP, TRS, or ERS (including public community/junior college service), or a combination thereof, and any withdrawn TRS or ERS state service credit when the withdrawal is made in conjunction with the election to enroll in ORP or if the ORP election precludes the repurchase of withdrawn state service credit under TRS or ERS and is at least 55 years of age (no age limit with 30 years services credit);

(C) the Employees Retirement System of Texas, Chapter 352, 50th Legislature, 1947, as amended (Texas Civil Statutes, Article 6228a), as authorized by Chapter 75, 54th Legislature, 1955, as amended (Texas Civil Statutes, Article 6228a-2), provided, however, that the employee has at least 10 years of state service credit under ORP, TRS, or ERS (including public community/junior college service), or a combination thereof, and whose last state employment (including community/junior college employment) prior to retirement was as an employee of an institution of higher education in Texas in a benefits eligible status;

(D) any other federal or state statutory retirement program to which the institution has made employer contributions, provided, however, that the employee has at least 10 years of state service credit under ORP, TRS, or ERS (including public community/junior college service), or a combination thereof; and further provided that the individual is not a former member of ORP, TRS, or ERS who has voluntarily forfeited

retirement benefits, except that TRS or ERS state service credit withdrawn in conjunction with the election to enroll in ORP or if the ORP election precludes the repurchase of withdrawn state service credit under TRS or ERS shall not be considered a voluntary forfeiture. However, persons who have rendered the appropriate amount of state service, but who are not eligible for a retirement benefit without establishing credit for all previous unreported eligible service under TRS, may retire under this section;

(E) in addition, retired employee shall mean any former employee who has not reached the age to apply for full formula service retirement benefits but who has reached a state of permanent and total disability, where the individual is unable to perform the assigned duties and:

(i) if the individual is approved for disability retirement benefits by the Teacher Retirement System of Texas, then that individual may continue in the institution's group insurance plan for the duration of the disability if the individual has at least 10 years of state service credit in TRS, or may continue in the institution's group insurance plan for a period of time equal to the number of months of state service credit in TRS if the individual has less than 10 years of state credit and has a nonoccupational disability; or

(ii) if the individual is not a participant in the Teacher Retirement System but has been determined by the institution to be permanently and totally disabled as defined by TRS, then that individual may continue in the institution's group insurance plan for the duration of the disability if the individual has at least 10 years of state service credit under ORP, TRS, or ERS (including public community/junior college service), or a combination thereof and any withdrawn TRS or ERS state service credit when the withdrawal is made in conjunction with the election to enroll in ORP or if the ORP election precludes the repurchase of withdrawn state service credit under TRS or ERS, or may continue in the institution's group insurance plan for a period of time equal to the number of months of such state service credit if the individual has less than 10 years of such state service credit and has a non-occupational disability; or

(iii)-(iv) (No change.)

State service credit—The amount of membership service ascribed to a person's

account in either TRS, ERS, or ORP while employed by the state as a regular employee in a benefits eligible status (including public community/junior college employment) for which all required contributions have been made. For the purpose of ORP, one year of state service credit shall be calculated the same as it is calculated under TRS.

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 10, 1986.

TRD-8606920 James McWhorter
Executive Secretary
Administrative Council
Coordinating Board, Texas
College and University
System

Effective date: August 4, 1986
Proposal publication date: May 9, 1986
For further information, please call
(512) 462-6420.

★ ★ ★

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners Chapter 101. Pertaining to Dentistry Examination-Application

★22 TAC §101.13

The Texas State Board of Dental Examiners adopts an amendment to §101.13, without changes to the proposed text published in the May 20, 1986, issue of the *Texas Register* (11 TexReg 2378).

This amendment eliminates refunds of examination fees except for two reasons: failure to pass the national board exam or failure to graduate. The board can only examine a certain number of applicants at each exam. If an applicant fails to notify us that they cannot appear, then we have a vacant space which could have been used by an alternate applicant. This amendment will discourage those applicants from applying months in advance of an exam, unless they are really serious about taking the state examination.

Examination fees will only be refunded to those applicants who fail to pass the national board examination or who fail to graduate.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may

be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 11, 1986.

TRD-8606924 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Effective date: September 1, 1986
Proposal publication date: May 20, 1986
For further information, please call
(512) 463-5536.

★ ★ ★

Chapter 103. Dental Hygiene Examination-Application

★22 TAC §103.14

The Texas State Board of Dental Examiners adopts an amendment to §103.14, without changes to the proposed text published in the May 20, 1986, issue of the *Texas Register* (11 TexReg 2378).

This amendment eliminates examination refunds, except for two reasons: failure to pass the national board exam or failure to graduate. The board can only examine a certain number of applicants at each exam. If an applicant fails to notify us that they cannot appear, then we have a vacant space which could have been used by an alternate applicant. This amendment discourages those applicants from applying months in advance of an exam, unless they are really serious about taking the state examination.

Examination fees will only be refunded to those applicants who fail to pass the national board examination or who fail to graduate.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 11, 1986.

TRD-8606925 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Effective date: September 1, 1986
Proposal publication date: May 20, 1986
For further information, please call
(512) 463-5536.

★ ★ ★

Chapter 115. Extension of Duties of Auxiliary Personnel Dental Hygiene

★22 TAC §115.2

The Texas State Board of Dental Examiners adopts an amendment to §115.2, without changes to the proposed text published in the May 20, 1986, issue of the *Texas Register* (11 TexReg 2379).

The board adopts this amendment to bring board rules in line with a recent statute amendment and an attorney general's opinion. This amendment clarifies board rules regarding duties which may be performed by dental hygienists.

An additional permitted duty of dental hygienists is the smoothing of the roughened root surfaces during the performance of a routine prophylaxis. The incidental removal of cementum is permissible during this procedure.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 11, 1986.

TRD-8606926 William S. Nail
Executive Director
Texas State Board of
Dental Examiners

Effective date: September 1, 1986
Proposal publication date: May 20, 1986
For further information, please call
(512) 463-5536.

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 229. Food and Drug Regulation of Food, Drug, Device, and Cosmetic Salvage Establishments and Brokers

★ 25 TAC §229.203

The Texas Department of Health adopts an amendment to §229.203, concerning license fees, with changes to the proposed text published in the February 14, 1986, issue of the *Texas Register* (11 TexReg 831). The amendment modifies the fees for the licensing of food, drug, device, and cosmetic salvage establishments and brokers.

The basis for this amendment is the requirement for new fees imposed by House Bill 2091, 69th Legislature, 1985.

This amendment establishes new registration fees for food, drug, device, and cosmetic salvage establishments and salvage brokers doing business within the State of Texas

Commenters representing firms with no facilities located within the State of Texas objected to the increased fees. The agency's response is that the inspection of facilities is only one of the criteria by which the new fees were determined.

Commenters stated that the increased fees are unfair and unjustified. The agency's response is that the increase is mandated by legislation, and the criteria used in determining the fees are set forth in the legislation.

A commenter stated that the current fee of \$100 is reasonable but collecting 50% of the department's actual expense could regulate his firm out of business. The agency responds that the referenced requirement is legislatively mandated.

Commenters suggested that small volume salvage businesses should have a smaller fee. The agency responds that regulatory problems occur with small establishments that are just as demanding on the department's resources as if the problems originated with large volume establishments

A commenter said that subsection (b)(2)(G) is not parallel to subparagraphs (A)-(F). The commenter recommended that subparagraph (G) be deleted and placed in parentheses at the end of subparagraph (b)(2)(F). The department agrees and has made the recommended change.

As far as can be determined, there are no organized associations of this industry within the State of Texas. The following individuals commented as representatives of salvage establishments or brokers: Bud Bobblitt, Topline Salvage, Inc., Grand Prairie; Larry Boling, M. L. Boling Appliance Re-

pair, Inc., Lubbock; Don Jones, Houston Grain Trading, Inc., Houston; J. A. Guidry, Valley Salvage Center, Inc., McAllen; Gary P. Johnson, The First Place Warehouse, Temple; Charles Montesana, J C Salvage, Inc., Dallas; T. M. Cox, West Texas Discount, Amarillo; Larry Dockrey, Shawnee Sales and Marketing, Shawnee.

The amendment is adopted under Texas Civil Statutes, Article 4476-5e, §5(a) and §9A, which provide the Texas Board of Health with the authority to adopt rules and to set fees covering food, drug, device, and cosmetic salvage establishments and brokers.

§229.203. License.

(a) (No change.)
(b) Application for an issuance of license.

(1) (No change.)
(2) The application shall include:
(A)-(E) (No change.)
(F) A nonrefundable license fee of \$300. (A nonprofit organization is exempt from payment of the \$300 license fee.)

(3)-(4) (No change.)

(c) Annual renewal of license.
(1) A person who holds a license issued under the Act may renew the license by filing an application for renewal on a form prescribed by the department accompanied by a nonrefundable renewal fee of \$300. A licensee must file for renewal before the expiration date of the current license.

(2)-(3) (No change.)
(d) (No change.)

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

Issued in Austin, Texas, on July 15, 1986

TRD-8608998 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: August 5, 1986
Proposal publication date February 14, 1986
For further information, please call
(512) 458-7248

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Chapter 325. Solid Waste Management

The Texas Department of Health adopts amendments to §325.221 and §325.22 and new §325.233. The amendment to §325.222 and new §325.223 are adopted with changes to the proposed text published in the April 25, 1986, issue of the *Texas Register* (11 TexReg 1910). The amendment to §325.221 is adopted without changes and will not be republished.

The changes to existing sections and addition of the administrative penalty provide the department an additional enforce-

ment tool, may reduce costs, and will reduce the amount of time necessary to bring about compliance as compared to court action.

The amendments update and clarify the existing sections. The new section provides for administrative penalties for violations of municipal solid waste management rules and/or violations of those portions of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, within the department's jurisdiction. The department will continue to attempt to achieve voluntary compliance through the enforcement and compliance schedule letters. However, the amendments provide an option to hold an enforcement conference to explain to the violator what the violations are and the department's options for further enforcement actions.

As one of the further enforcement actions, the administrative penalty can be used as an alternative to referral to the attorney general when deemed appropriate. Through this procedure, compliance can be achieved more expeditiously.

Concerning §325.222(2)(C), a commenter questioned if the wording "history, or previous violations" was correct. The agency agrees the wording was incorrect and the wording is altered to read "history of previous violations".

Concerning §325.223, a commenter questioned if administrative penalties could or would be imposed on sites for first-time minor violations. Section 325.222 was discussed with the commenter and through that clarification, the concern was negated and no further recommendation or comment was made by the commenter.

Concerning §325.223(b)(1)(C), a commenter suggested that the rating for vector control should be increased and three potential violations should be added at rating 10 concerning scavenging, pesticide containers, and dead animal cover. The agency agrees and modified §325.223 (b)(1)(C) accordingly.

Concerning §325.223(b)(1)(C), a commenter questioned if the wording "waste stream quality control (WSQCP)" was correct. The agency agrees the wording was incorrect and the wording is altered to read "waste stream quality control plan (WSQCP)".

Concerning §325.223(c)(2), a commenter questioned if the wording "amount necessary to determine future violations" was correct. The agency agrees the wording was incorrect and the wording is altered to read "amount necessary to deter future violations".

Concerning §325.223(c)(4), a commenter questioned the wording "ability to pay" and if that meant different violators would be treated differently. The intent of this statement which is to impose penalties that will relatively equally discourage future reoccurrences, was discussed with the commenter. The commenter under-

stood and made no further recommendation or comment on this matter.

Concerning §325.223(d), a commentor questioned if the draft report mentioned herein would be provided directly to the department within the entity with jurisdiction for the solid waste disposal facility. The commentor was told that past policies would remain the same in that the official notification would be to the mayor in the case of a city; however, department policy is to send copies to known individuals or departments with specific jurisdiction within the city for instance. The commentor was satisfied and made no further comment or recommendation on this matter.

The only agency, group, or association that commented on the proposal was the City of Dallas. The city was for the changes but had some questions concerning implementation of the proposed administrative penalty rule. Two individuals commented and made several recommendations as previously mentioned.

Subchapter H. Surveillance and Enforcement

★ 25 TAC §325.221, §325.222

The amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, which authorizes the Texas Board of Health to adopt rules implementing administrative penalties for municipal solid waste management activities.

§325.222. *Enforcement Policy.* The department's policy is to gain improvements in solid waste management through voluntary operational compliance by providing the site operator with technical assistance and guidance during routine inspections or upon the operator's request. Appropriate legal action as provided by law will be sought where timely voluntary operational compliance is not accomplished.

(1) (No change.)

(2) Levels of enforcement. The department normally seeks compliance in the following steps; however, certain steps may be omitted or combined when the department deems necessary to protect the public health and safety or the environment or where there has been an apparent willful violation of these rules.

(A) Advisory and enforcement letters. When noncompliance with these rules is determined, the violations may be discussed with the violator and/or he will be advised by a follow-up letter outlining the noncompliance and what is required to come into compliance.

(B) Compliance schedule. When improvements resulting from advisory and

enforcement letters are not satisfactory, the department will impose a written compliance schedule outlining specifically what must be done and the date by which it must be completed. Violation of a compliance schedule is a further violation of the department's regulations and failure to comply with a compliance schedule will be grounds for the department to initiate one or more of the actions specified in subparagraph (D) of this paragraph.

(C) Enforcement conference. Where compliance is not being achieved, the bureau may hold an enforcement conference with the violator to review needed corrective actions and further enforcement actions. The violator will be provided an opportunity to address seriousness of violations, history of previous violations, efforts to correct violations, amount to deter future violations, and other matters justice may require.

(D) Further enforcement actions. Where voluntary compliance is not obtained, one or more of the following legal remedies will be pursued.

(i) Emergency order. An emergency order may be either mandatory or prohibitory in nature, and may be issued regarding any activity of solid waste management within the department's jurisdiction if the department determines that an emergency exists requiring immediate action to protect the public health and safety or the environment. Such activity may or may not be covered by a permit. The order may be issued without notice and hearing, or with such notice and hearing as the department deems practicable under the circumstances. If an emergency order is issued under this authority without a hearing, the department shall fix a time and place for a hearing to be held in accordance with TDH formal hearing procedures, so as to affirm, modify, or set aside the emergency order.

(ii) Administrative or other department order. Such orders may be mandatory or prohibitory and may be issued regarding any activity of solid waste management within the department's jurisdiction.

(iii) Permit revocation. When applicable and operational history supports such action, the department may initiate permit revocation procedures in accordance with these rules and TDH formal hearing procedures.

(iv) Referral to the attorney general. When the department deems it appropriate, the case will be referred to the attorney general for appropriate legal relief.

(v) Administrative penalties. When the department deems it appropriate, administrative penalties will be assessed in accordance with §325.223 of this title (relating to Administrative Penalty Determination) and TDH formal hearing procedures.

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

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

TRD-8606947

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

Effective date: August 4, 1986

Proposal publication date: April 25, 1986

For further information, please call
(512) 458-7271.

★ 25 TAC §325.223

The new section is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2091, Article 8, §2, which authorize the Texas Board of Health to adopt rules implementing administrative penalties for municipal solid waste management activities.

§325.223. *Administrative Penalty Determination.*

(a) The following will be considered:

(1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the prohibited acts and the hazard or potential hazard created to the health or safety of the public;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) efforts to correct the violation;

and

(5) any other matters that justice may require.

(b) The procedure for determining a base penalty (BP) amount will be as follows.

(1) For solid waste disposal sites or facilities (either authorized or unauthorized) the BP will be based on the extent of individual violations for each day of violation.

(A) Each inspection report will be reviewed independently relative to the seriousness of each individual violation noted on that report. A point system rating of 1-10 (one being less serious) will be applied to each individual violation. The total rating will be used to determine the BP for that day of violation.

(B) Each violation will also be reviewed as to its continuity between each pair of reports. Where a continuity of a violation exists, the point rating from the two reports for that individual violation may be applied to that violation for each day between the two reports. Where the point ratings determined for the two reports are not the same, an average may be used for the period between the reports. The total rating may be used to determine the BP for each day of the period between the two reports.

(C) Example ratings are listed in this subparagraph with specific violations noted. The referenced violations may typically be given the noted rating; however, changes from the given number may frequently be varied as much as ± 3 or more based on the extent of violation or other circumstances.

Rating	Relative Violations
2	<p>Failure to provide and/or maintain a sign at the entrance meeting Texas Department of Health (TDH) requirements.</p> <p>Failure to properly handle large or bulky items.</p> <p>Failure to implement and/or maintain the required grid system.</p>
3	<p>Failure to provide or maintain the required markers denoting areas which have had proper soils evaluations accomplished.</p> <p>Failure to properly control windblown materials and/or provide for litter collection.</p> <p>Failure to provide or maintain proper screening.</p>
4	<p>Failure to provide or maintain adequate fire protection.</p> <p>Failure to protect boundary buffer zones or provide or maintain the required markers.</p> <p>Failure to provide or maintain access roads that are all weather.</p> <p>Failure to meet record requirements for sludge disposal or to maintain these records as required.</p>
5	<p>Failure to adequately confine the unloading to as small an area as practical.</p> <p>Failure to operate a site or facility in accordance with an approved site development plan.</p> <p>Failure to provide or maintain access control to prevent the disposal of unauthorized waste.</p> <p>Acceptance of enclosed containers at a Type IV landfill without an approved waste stream quality control plan (WSQCP) or accepting such containers in other than the approved manner.</p> <p>Failure to properly control salvaging.</p>
6	<p>Disposal of waste in contact with unconfined waters.</p> <p>Failure to provide or maintain required drainage controls.</p> <p>Failure to control or clean up material lost from vehicles on access routes.</p> <p>Failure to provide the required washdown.</p> <p>Failure to meet safety requirements.</p>

- 7 **Acceptance of waste at a site not authorized to accept that waste.**
- Failure to control overloading.**
- Failure to meet requirements for water under pressure, the provision of fire-fighting equipment, or a fire plan.**
- Failure to control sludge application rates.**
- Failure to meet sludge storage impoundment requirements at land application for beneficial use sites.**
- 8 **Failure to meet groundwater protection requirements such as soil and liner evaluation.**
- Acceptance of Class I industrial wastes or special wastes without proper approval or in other than the approved manner.**
- Failure to provide the required compaction, intermediate cover, final cover, or final cover grades.**
- Failure to control odors from ponded water.**
- Failure to adequately control vectors.**
- 9 **Failure to operate a site or facility in accordance with permit special provisions.**
- 10 **Suffering or allowing disposal of solid waste without a permit or registration as required.**
- Failure to prevent scavenging.**
- Failure to render pesticide containers unusable upon receipt.**
- Failure to adequately cover dead animals upon receipt.**

(2) For violations of requirements involving solid waste activities other than described in paragraph (1) of this subsection, a base penalty amount will be established

that considers the seriousness of the violation. Examples of possible violations and a possible base penalty for each violation and each day of violation are as follows. The vio-

lations are not limited to this list and the base penalty may vary depending upon the circumstances.

Violation Description	Possible Penalty
Discharging sludge in or on a site not approved to accept the waste.	\$5,000
Discharging solid waste other than sludge in or on a site not approved to accept the waste.	\$3,000
Hauling sludges without the proper registration from TDH.	\$2,000
Failure of a sludge waste generator to utilize a TDH registered hauler.	\$2,000
Failure of a sludge waste generator to ensure that a waste control record is used.	\$2,000
Failure of a sludge waste generator to retain copies of waste control records for 12 months.	\$2,000
Failure of a municipal wastewater treatment plant operator to properly notify TDH of their sludge disposal activities.	\$2,000
Failure of a sludge transporter to properly mark and identify all collection and transportation equipment.	\$2,000
Failure of a sludge transporter to initiate or maintain a record of each individual collection and deposit.	\$2,500
Failure of a sludge transporter to retain copies of all control records (collection and deposit) for 12 months.	\$2,000
Failure to timely submit a required annual report or fee.	\$2,000

(3) Each rating point referred to in paragraph (1)(A) and (B) of this subsection will have a value of \$100 each, which when multiplied by the total points per day will yield a BP amount prior to adjustment considerations.

(c) A collective review of Texas Department of Health (TDH) records and other factors, including information that may be submitted by the person charged, will be conducted and may result in adjustments to the BP determined in subsection (b) of this section. The adjustments will be determined in percentages of reduction or addition to the BP as appropriate in four categories.

(1) History of previous violation. Consideration will be given to such items as length of time violation has occurred and inconsistency of site compliance history.

(2) Amount necessary to determine future violations. Considerations will be given to such items as financial documents provided by the person charged and the previous cooperative nature of the person charged.

(3) Efforts to correct the violations. Considerations will be given to such items as completeness of corrective effort, cooperation to accomplish corrections, and provision of additional equipment and personnel to accomplish the task.

(4) Other matters that justice may require. Considerations will be given to such items as ability to pay, budgeting restraints, and acts of God that may have caused the violation or affected the effort to correct the violation.

(d) The net adjustment from subsection (c) of this section will be applied to the BP from subsection (b) of this section and the result will be a draft report of administrative penalty. The person charged and department representatives will be mailed or personally provided a copy of the draft report and given a reasonable time for review and comment.

(e) Comments on the draft report will be reviewed and as appropriate will be considered prior to issuance of a preliminary report of administrative penalty.

(f) The notice of recommended penalty with opportunity for a public hearing, hearing procedures, and judicial review, shall all be accomplished in accordance with the Solid Waste Disposal Act and TDH Formal Hearing Procedures.

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

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

TRD-8608948

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

Effective date: August 4, 1986
Proposal publication date: April 25, 1986
For further information, please call
(512) 58-7271.

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TITLE 28. INSURANCE

Part I. State Board of

Insurance

Chapter 25. Insurance Premium Finance

Subchapter F. Power of Attorney

★ 28 TAC §25.509

The State Board of Insurance adopts new §25.509, without changes to the proposed text published in the January 14, 1986, issue of the *Texas Register* (11 TexReg 188). Adoption does include one correction of the published text. In the final sentence of the rule, the phrase "agent or agency" was originally published as "agent or agent".

Section 25.509 concerns premium finance agreements, notification to insurers, and return of unearned premiums. This new section is necessary in order to enunciate requirements which the Insurance Code, Articles 24.17 and 24.22, places on insurers and on premium finance companies.

The new section provides that a premium finance company shall provide notice of the existence of a premium finance agreement directly to the insurer assuming the risk, rather than to an insurance agent. The new section also provides that a properly notified insurer must provide return of any unearned premium, in accordance with any power of attorney, directly to the premium finance company.

For this section, Bruce C. McLean, assistant counsel for Utica National Insurance Group, submitted comments in favor of this section. Submitting comments objecting to that proposal were Richard P. Keating, secretary and general counsel for AFCO Credit Corporation, Avrohm I. Wisenberg, president of the American Association of Managing General Agents, and Alvin Breeland, vice-president of Insured Loyds and Southern County Mutual Insurance Company, who were against adop-

tion of the proposal. Mr. McLean commented that this section clarifies notice provisions to a great extent. Mr. Keating comments that the section is an overly broad solution to a problem that exists primarily in the limited area of a county mutual insurance companies. Mr. Wisenberg commented that the section ignores the reality of the insurance marketplace and would establish a procedure that would be disruptive, especially in the conduct of business by managing general agents. Mr. Breeland commented that the section will cause problems in connection with transactions involving a premium finance company, a local agent, a managing general agent, and an insurance company.

The board disagrees with these comments. The board is of the opinion that the section imposes no additional or different requirement on any entity; instead, it merely enunciates the provisions of existing law.

The new section is adopted under the Insurance Code, Articles 24.09, 24.17, and 24.22. Article 24.09 provides that the State Board of Insurance may adopt and enforce rules necessary to carry out provisions of the Insurance Code concerning financing of insurance premiums. Article 24.17 provides requirements for return of unearned premium to a premium finance by an insurer. Article 24.22 provides that a premium finance company shall notify the insurer of the existence of a premium finance agreement.

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 14, 1986.

TRD-8606959 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: August 4, 1986
Proposal publication date: January 14, 1986
For further information, please call
(512) 463-6327.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

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

★ 34 TAC §3.353

The Comptroller of Public Accounts adopts new §3.353, without changes to the proposed text published in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2805).

The comptroller determined that sales tax permits on which there has been no business activity reported have been abandoned. However, maintenance of these permits continues to cost the taxpayers a substantial amount. The new section makes provision for affected taxpayers to receive a new permit.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Texas Tax Code, Title 2.

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 14, 1986.

TRD-8606957 Bob Bullock
Comptroller

Effective date: August 4, 1986
Proposal publication date: June 17, 1986
For further information, please call
(512) 463-4004.

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Open Meetings

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

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

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

Texas Department of Agriculture

Friday, July 25, 1986, 2:30 p.m. The Family Farm and Ranch Security Program Advisory Council of the Texas Department of Agriculture will meet in Room 1033, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the council will review the application of James Lee Dowty, Case 00616, Family Farm and Ranch loan guarantee. The meeting was rescheduled from July 18, 1986, (11 TexReg 3216).

Contact: Larry Strange, P.O. Box 12847, Austin, Texas 78711, (512) 463-7624.

Filed: July 16, 1986, 10:42 a.m.
TRD-8607035

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Texas Conservation Foundation

Monday, July 28, 1986, 8:30 a.m. The Texas Conservation Foundation will meet via telephone conference from Room 611, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the foundation will review the minutes; consider the appropriation request; a proposal for support of TPWD volunteer programs; and select the September meeting date and place.

Contact: Alicia Reban, Room 611, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-1296.

Filed: July 16, 1986, 10:51 a.m.
TRD-8606991

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Texas Education Agency

Friday, July 25, 1986, 10 a.m. The Accountable Costs Advisory Committee of the Texas Education Agency will meet in Room 3-108, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will review the pro-

gress report on the Accountable Costs Committee studies. The meeting was rescheduled from July 17, 1986.

Contact: Wess Robinson, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: July 16, 1986, 3:40 p.m.
TRD-8607022

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Commission on Fire Protection Personnel Studies and Education

Thursday, July 24, 1986. Committees of the Commission on Fire Protection Personnel Studies and Education will meet in the Mockingbird Conference Room, Hilton Inn, 801 University Drive, College Station. Times, committees, and agendas follow.

8:30 a.m. The Higher Education Committee will hear a status report on the progress for developing transfer curriculum and a four year degree for fire service personnel; and hear comments on the transfer curriculum and four year degree program from all interested parties that attend the committee meeting.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas, 78704 (512) 474-8066.

Filed: July 16, 1986, 2:43 p.m.
TRD-8607027

9:45 a.m. The Recruitment Selection Committee will consider proposals obtained from previous public hearings on minimum physical tests required for entry level fire service personnel; and hear comments on physical test requirements from all interested parties that attend the committee meeting.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas, 78704 (512) 474-8066.

Filed: July 16, 1986, 2:42 p.m.
TRD-8607025

11 a.m. The Arson Investigation Committee will consider proposals for fire marshal certification and for increasing certification requirements for arson investigator certification; and hear comments from all interested parties who attend the committee meeting.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas, 78704 (512) 474-8066.

Filed: July 16, 1986, 2:42 p.m.
TRD-8607026

1:30 p.m. The Commission on Fire Protection Personnel Studies and Education will consider a report from the Recruitment Selection Committee on physical entrance tests for fire service personnel; the Higher Education Committee report on transfer curriculum and a four year degree program; the Arson Investigation Committee report on the proposed fire marshal certification and additional hours for arson investigator certification; take final action on board orders relating to violation hearings; adopt rules for aircraft crash and rescue instructor and training facilities certification; hear the budget and legislation report for fiscal year 1988-1989; and hear the staff activities report.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas, 78704 (512) 474-8066.

Filed: July 16, 1986, 2:41 p.m.
TRD-8607024

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Texas Department of Health

Wednesday, July 23, 1986, 10 a.m. The Advisory Board of Athletic Trainers of the Texas Department of Health will meet in the Waco Convention Center, Waco. According to the agenda summary, the board will approve the minutes from the previous meeting; consider special requests for prior board approval of an apprenticeship; discuss a request from a physical therapist regarding the duties of an athletic trainer, raising per diem for test assistants and the purchase of a Resusc-Anne for licensure examination; review

amendments to the general requirements and guidelines submitted to the Board of Health for final adoption on July 12, 1986; and other matters relating to the licensure of athletic trainers (not requiring board action).

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

Filed: July 15, 1986, 4:02 p.m.
TRD-8606987

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State Department of Highways and Public Transportation

Wednesday and Thursday, July 23 and 24, 1986, 10 a.m. daily. The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation will meet in Rooms 101 and 101-A, Dewitt C. Greer Building, 11th and Brazos Streets, Austin. According to the agenda summary, the commission will consider presentation in Room 101, by the public for various highway, bridge, and F.M. Road requests for Ellis, Bell, Tarrant, Dallas, Denton, Tarrant, Hood, Bexar, and Shelby Counties. Upon completion, the commission will meet in Room 101-A, to execute contract awards and routine minute orders; consider decisions on presentation from public hearing dockets; and review staff reports relative to planning and construction programs and projects.

Contact: Lois Jean Turner, Room 203, Dewitt C. Greer Building, 11th and Brazos Streets, Austin, Texas 78701, (512) 463-8616.

Filed: July 15, 1986, 3:16 p.m.
TRD-8606988

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Texas Industrial Accident Board

Monday, July 21, 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 met in executive session, pursuant to the workers' compensation statute, to review the board files.

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

Filed: July 16, 1986, 4 p.m.
TRD-8607013

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State Board of Insurance

Friday, July 25, 1986, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider a filing by CNA Lloyds of rate increases for Class I and Class II dentists and an addition of a new Class III for dentists; a filing by Insur-

ance Corporation of America of a rate increase for physicians and surgeons; filings by St. Paul Insurance Companies including a rate increase for hospitals, dentists, nurse anesthetists, physicians, surgeons, oral surgeons, and dentist anesthetists; and a conversion from occurrence to claims made and a rate increase for nursing homes.

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

Filed: July 16, 1986, 3:14 p.m.
TRD-8607023

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Texas Commission on Jail Standards

Wednesday, July 23, 1986, 9 a.m. The Texas Commission on Jail Standards made an emergency revision to the agenda for the meeting held in Room 100, 18th and Brazos Streets, Austin. According to the agenda summary, the commission will consider old business including Guadalupe County; and new business including Willacy County, applications for variance, and Deaf Smith County; and other business including temporary low risk facilities. The emergency status is necessary because the request to be put on the agenda came in late.

Contact: Robert O. Viterna, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: July 16, 1986, 10:49 a.m.
TRD-8607053

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Texas Parks and Wildlife Department

Wednesday, July 23, 1986, 7 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 218 East Sixth Street, Austin. According to the agenda summary, the commission will have dinner. Although this function is primarily a social event and no formal action is planned, the commission may discuss items scheduled for July 24, 1986, 9 a.m.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas, 78744 (512) 479-4802.

Filed: July 15, 1986, 2:30 p.m.
TRD-8606984

Thursday, July 24, 1986, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 4200 Smith School Road, Complex Building B, Austin. According to the agenda, the commission will approve the minutes of the June 12, 1986, public hearing court report meeting; hear a presentation of service awards; consider a request for funding local parks from the Land and Water Conservation Fund or the Texas Local Parks, Recreation and Open Space Fund; consider the early season migratory game bird proclamation,

1986-1987; the proposed 1986-1987 proclamation for hunting, fishing, and trapping on wildlife management areas; park concession rules; the interpretive development for Dinosaur Valley State Park; and a request for an electric line guy wires easement for Galveston Island State Park.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas, 78744 (512) 479-4802.

Filed: July 15, 1986, 2:30 p.m.
TRD-8606982

Thursday, July 24, 1986, noon. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at 4200 Smith School Road, Complex Building B, Austin. According to the agenda, the commission will meet in executive session to approve the June 12, 1986, executive session court reporter minutes; consider land acquisition and boat ramp construction for Richland-Chambers Reservoir; and discuss a potential historic site acquisition.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas, 78744 (512) 479-4802.

Filed: July 15, 1986, 2:32 p.m.
TRD-8606983

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Public Utility Commission of Texas

Wednesday, July 16, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas made an emergency addition to the agenda for the meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned consideration of Docket 6931—regarding Houston Lighting and Power Company's failure to file a petition pursuant to Substantive Rule 23.23(b)(2)(D)(ii), Appeal of Examiner's Order 1. The emergency status was necessary in order to correspond with appeals being heard on emergency basis with statutory deadline.

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

Filed: July 15, 1986, 10:51 a.m.
TRD-8606980

Wednesday, July 23, 1986, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will consider Dockets 6200, 6689, 6751, 6685, 6850, 6047, 5307, 6138, 6648, 6892, 6781, 6840, 6864, 6887, 6849, 6855, 6914, and 6918; and consider permanent adoption of the following proposed rules: §23.24, Tariffs; §23.50, Central Systems or Nonsubmetered Master Metered Utilities; §23.51, Submetering, §23.63, Water Utilities, and §23.64, Sewer Utilities. 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 15, 1986, 3:18 p.m.
TRD-8607006

Thursday, July 24, 1986, 9 a.m. The Administrative Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will approve the minutes of the June 26, 1986, meeting; consider reports, discussion and action on budget and fiscal matters; and set the time and place for the next meeting. The division also will meet in executive session to consider personnel and litigation matters.

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

Filed: July 16, 1986, 3:38 p.m.
TRD-8607012

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.

Monday, July 28, 1986, 9 a.m. A prehearing conference in Dockets 6566 and 6716—application of General Telephone Company of the Southwest to modify its access tariff to provide for a white page surcharge; and application of General Telephone Company of the Southwest to eliminate the directory assistance service rate upon approval of the white pages surcharge.

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

Filed: July 16, 1986, 3:53 p.m.
TRD-8607019

Monday, July 28, 1986, 1:30 p.m. A prehearing conference in Docket 6640—application of Wood County Electric Cooperative, Inc., for certificate of convenience and necessity for a proposed transmission line and associated substation within Wood County.

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

Filed: July 16, 1986, 3:54 p.m.
TRD-8607017

Tuesday, July 29, 1986, 10 a.m. A hearing on the merits in Docket 6848—application of Coleman County Telephone Cooperative for authority to unbundle service connection charges and to make other minor rate changes.

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

Filed: July 16, 1986, 3:53 p.m.
TRD-8607020

Monday, August 11, 1986, 10 a.m. A hearing on the merits in Docket 6906—application of Lipan Telephone Company to revise its tariff and make minor rate changes.

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

Filed: July 15, 1986, 3:18 p.m.
TRD-8607037

Thursday, August 21, 1986, 9 a.m. A hearing on the merits in Docket 6611—petition of Southwestern Electric Power Company for recovery of unrecovered fuel expense with interest thereon and the setting of revised fixed fuel factors.

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

Filed: July 15, 1986, 3:18 p.m.
TRD-8607036

Wednesday, October 8, 1986, 10 a.m. A hearing on the merits in Docket 6890—application of Central Power and Light Company for approval of the transfer of a portion of Oklaunion Unit 1 to the Public Utilities Board of the City of Brownsville.

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

Filed: July 15, 1986, 3:24 p.m.
TRD-8607038

Wednesday, October 29, 1986, 10 a.m. A hearing on the merits in Docket 6920—application of Kimble Electric Cooperative, Inc. for authority to change rates.

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

Filed: July 16, 1986, 3:53 p.m.
TRD-8607018

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State Purchasing and General Services Commission

Thursday, July 24, 1986, 10 a.m. The State Purchasing and General Services Commission (SPGSC) will meet in Room 916, L.B.J. Building, 111 East 17th Street, Austin. According to the agenda summary, the commission will consider adoption of proposed rule changes, the repeal of existing §§111.41-111.43, and adoption of new commission §§111.41-111.43; consider approval of the revised and updated Uniform General Conditions; the status of the VAX education process; the SPGSC safety program; the toll free legislators' telephones; the TPBA bond projects with discussion of scheduling and its effect on parking during the legislative session; the repair and renovation of the SPGSC service station; review information on facility readiness for the tentative legislative session and preliminary plans for the governor's in-

auguration; an overview of AT&T proposals regarding the revision of energy manuals; discuss a request to increase the delegated spot purchase and no bid limits; and set the date and time for the next meeting. The commission also will meet in executive session to consider internal administrative and management matters.

Contact: John R. Neel, P.O. Box 13047, Austin, Texas 78711, (512) 463-3446.

Filed: July 16, 1986, 9:31 a.m.
TRD-8607007

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Texas Rehabilitation Commission

Thursday, July 24, 1986, 9:30 a.m. The Applications Review Committee of the Texas Advisory Board of Occupational Therapy (TABOT) of the Texas Rehabilitation Commission will meet on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin. According to the agenda, the committee will review and discuss applications for licensure received by the TABOT; and discuss the American Occupational Therapy Association change in its certification policy.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8386.

Filed: July 16, 1986, 8:11 a.m.
TRD-8606990

Thursday, July 24, 1986, 9:30 a.m. The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet upon adjournment of the Applications Review Committee meeting on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin. According to the agenda summary, the board will hear a report from the Applications Review Committee; and the office report. The board also will meet in executive session, if required.

Contact: Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

Filed: July 16, 1986, 8:11 a.m.
TRD-8606989

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Board for Lease of State-Owned Lands

Thursday, July 24, 1986, 3 p.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve the minutes of the previous board meeting; and consider an easement application.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: July 15, 1986, 4:47 p.m.
TRD-8607003

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Stephen F. Austin State University

Monday, July 28, 1986, 9 a.m. The Board of Regents of Stephen F. Austin State University will meet at the Henderson Clay Products Lodge, Huxley Bay. Items on the agenda summary include approval of minutes; consideration of personnel items; approval of the university holiday schedule; approval of a policy reduction in force for non-academic employees; acceptance of the enrollment report; approval of parking and traffic regulations; approval of the general bulletin; approval of budget adjustment; bank depository contract; the legislative request; authorization to approve official travel; authorization to charge fees relating to teacher certification; authorization to grant easement and lease to the City of Nacogdoches; authorization for plans to replace water lines at Power Plant 1; authorization to request assistance from the attorney general; authorization for renovation in the Home Economics Building; approval of the revised budget for statute site preparation; approval of improvements in the press box; the revised budget for statue site preparation; and ratification of a contract to purchase the Tucker property.

Contact: William R. Johnson, P.O. Box 6078 Stephen F. Austin, Nacogdoches, Texas 75962, (409) 569-2201.

Filed: July 16, 1986, 10:49 a.m.
TRD-8607028

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The Texas A&M University System

Committees of the Board of Regents of the Texas A&M University System met in the MSC Annex, Texas A&M University, College Station. Days, times, committees, and agendas follow.

Sunday, July 20, 1986, 2 p.m. The Planning And Building Committee considered cancellation of unexpanded balances of appropriations; a report of contract actions by the chancellor; a report of construction project appropriations and authorizations by the chancellor; a report of contract actions by the deputy chancellor or presidents; initiations of major construction projects; actions on bids; appropriations for designs; and appropriations for renovations.

Contact: Vickie E. Burt, Board of Regents, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: July 16, 1986, 10:42 a.m.
TRD-8607034

Sunday, July 20, 1986, 3:30 p.m. The Committee for Service Units discussed authorization to executive license agreements, research agreements and a water easement; the granting of emeritus titles; and discussed the establishment of an outreach division at the University of Texas at San Antonio College of Science and Engineering.

Contact: Vickie E. Burt, Board of Regents, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: July 16, 1986, 10:46 a.m.
TRD-8607031

Sunday, July 20, 1986, 4 p.m. The Executive Committee discussed the authorization of securities for investment; a revision of the investment policy; an amendment to the System Policy and Reporting Manual; a confirmation of appointments and promotions; terminations; budget and fiscal changes and personnel actions; the granting of academic tenure; acceptance of gifts, grants, loans, and bequests; the holiday schedule; employment beyond age 70; personnel matters; appropriations from the permanent university fund bond proceeds, available university fund, unappropriated plant funds; and telephone capital outlay; establishment of a branch office of the Texas A&M University System in the Texas Medical Center, Houston; adoption of resolutions; receipt of the Five-Year Plan; naming of facilities and roads; consideration of any and all personnel matters including matters relating to the appointment of a chancellor of the Texas A&M University System; consideration of land and investment matters; consideration of litigation; and the Board of Regents of the Texas A&M University System PUF Refunding Bonds, Series 1986.

Contact: Vickie E. Burt, Board of Regents, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: July 16, 1986, 10:45 a.m.
TRD-8607032

Monday, July 21, 1986, 9:15 a.m. The Committee for Academic Campuses discussed granting emeritus titles; a revision of the guidelines for matching private grants; authorization to execute an agreement to distribute interest in the Beutel Homestead; a change in funding of the English Writing Laboratory; establishing revolving funds; approval of contracts; and authorization for part-time, temporary employment while on faculty development leave.

Contact: Vickie E. Burt, Board of Regents, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: July 16, 1986, 10:43 a.m.
TRD-8607033

Tuesday, July 22, 1986, 8:30 a.m. The Board of Regents of Texas A&M University System will meet in the MSC Annex, Texas A&M University, College Station. According to the

agenda summary, the board will discuss construction matters for the Texas A&M University System; the emeritus titles; resolutions; the execution of agreements and easements; establishing an Outreach Division of the Texas English Experiment Station; revising guidelines for matching private grants; establishing revolving funds; a change in funding; vending machines contracts; the faculty development leave; authorization of securities for investment; the revision of policies; appointments and promotions; terminations; the budget and fiscal changes and personnel actions; academic tenure; gifts, grants, loans, and bequests; holidays; appropriations from PUF bond proceeds, available university fund, unappropriated plant funds, and telephone capital outlay; establishing a branch office of the Texas A&M University System in the Texas Medical Center, Houston; receipts of the Five-Year Plan; naming of facilities and road; consideration of any and all personnel matters including matters relating to the appointment of a chancellor of the Texas A&M University System; land and investment matters; litigation; and the Board of Regents of Texas A&M University System PUF Refunding Bonds, Series 1986.

Contact: Vickie E. Burt, Board of Regents, Texas A&M University System, College Station, Texas 77843, (409) 845-9603.

Filed: July 16, 1986, 10:46 a.m.
TRD-8607030

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University of Texas at Austin

Friday, July 18, 1986, 2 p.m. The Council for Intercollegiate Athletics for Women of the University of Texas at Austin met in emergency session in the conference room, Belmont Hall, Memorial Stadium, San Jacinto and 21st Streets, Austin. According to the agenda, the council discussed the proposed "Adopted Parents" program for new incoming athletes. The emergency status was necessary because the program must be initiated August 1, 1986, to go into effect this year, and a council member requested this short meeting prior to institution of the program.

Contact: Rhonda Lands, Belmont Hall, 606, University of Texas, Austin, Texas 78712, (512) 471-7693.

Filed: July 16, 1986, 2:18 p.m.
TRD-8607005

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Texas Water Commission

Wednesday, August 20, 1986, 2 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 618, 1700 North Congress Avenue, Austin. According to the agenda summary, the office

will consider Docket 6708—a water and sewer certificate of convenience and necessity by Redland Estates Utilities.

Contact: Marcella Sellers, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 16, 1986, 11:41 a.m.
TRD-8607039

Tuesday, September 30, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the examiner will consider Docket 7018-R—an application for a rate increase filed by Industrial Utilities Service, Inc.

Contact: J. Kay Trostle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 16, 1986, 3:51 p.m.
TRD-8607021

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Texas Water Development Board

Wednesday, July 23, 1986, 5 p.m. The Texas Water Development Board will meet in emergency session in Room 513E, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will be briefed relating to bay and estuary studies. The emergency status is necessary because immediate action is necessary to assure timely planning for the board's bay and estuary program.

Contact: Charles E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 16, 1986, 4:26 p.m.
TRD-8607015

Wednesday, July 23, 1986, 7 p.m. The Texas Water Development Board will meet in emergency session on the Second Floor, Jorge's Downtown Restaurant, 218 East Sixth Street, Austin. According to the agenda, the board, at the invitation of the Texas Parks and Wildlife Commissioners, will have dinner with the commissioners. This will be a social event and no formal actions are planned. The emergency status is necessary because the invitation for the meeting has just been received.

Contact: Charles E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 16, 1986, 4:26 p.m.
TRD-8607014

Thursday, July 24, 1986, 10 a.m. The Texas Water Development Board will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will consider the minutes of the May 13, and June 12, 1986, meetings; the Development Fund manager's report; the City of Kountze extension of its loan commitment; financial assistance for the Palo Duro River Authority in the amount of \$22,300,000; financial assistance for the City of Leander in the amount of

\$3,670,000; financial assistance for Cameron County Fresh Water Supply District 1 in the amount of \$8,250,000; a grant increase for Harris County Water Conservation and Improvement District 1 in the amount of \$448,799; a briefing on the status of the bond sale; approval of a grant of \$4,500 by the Brazos-Robertson and Bursleson-Lee Soil and Water Conservation District; flood protection planning assistance for \$73,500 by the Hardin County Water Conservation and Improvement District 1; a grant application for \$150,000 by North Harris County Water Supply Corporation; a planning grant for \$212,750 by San Jacinto River Authority; a planning grant for \$632,500 by the Angelina-Neches River Authority; consider selecting a contractor to meet water supply and sewage service needs of the Colonias in Cameron, Willacy, and Hidalgo Counties; and select a contractor to evaluate costs of water supply and sewage facilities and services under different types of public and private entities.

Contact: Charles E. Nemir, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: July 16, 1986, 4:25 p.m.
TRD-8607016

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Regional Agencies Meetings Filed July 15

The Dallas Area Rapid Transit Authority, Board of Directors, met at 601 Pacific Avenue, Dallas, on July 15, 1986, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Gillespie County Appraisal District, Board of Directors, will meet in the city hall assembly room, Fredericksburg, on July 22, 1986, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807.

The Middle Rio Grande Development Council, Private Industrial Council, will meet in the Park Building, Highway 377, Rocksprings, on July 23, 1986, at 2 p.m. Information may be obtained from Juan Pablo Velez, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Texas Municipal League Risk and Insurance Management Services, Joint Insurance Fund/Joint Self Insurance Fund, met at 900 North Shoreline Boulevard, Corpus Christi, on July 19, 1986, at 9 a.m. Information may be obtained from Allen F. Hyman, 211 East Seventh Street, Suite 1020, Austin, Texas 78701-3283, (512) 478-6601.

The Central Appraisal District of Rockwall County, Appraisal Review Board, met at 106 North San Jacinto, Rockwall, on July 17,

1986, at 4:30 p.m. Information may be obtained from Ray E. Helm, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

The Scurry County Appraisal District, Appraisal Review Board, met at 2612 College Avenue, Snyder, on July 16, 1986, at 10 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The West Central Texas Municipal Water District, will meet in Suite 300, First National West Building, 401 Cypress Street, Abilene, on July 22, 1986, at 11 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

The West Central Texas Council of Governments, Executive Committee, will meet at 1025 East North 10th Street, Abilene, on July 23, 1986, at 12:45 p.m. Information may be obtained from Brad Helbert, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544.

TRD-8607004

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Meetings Filed July 16

The Blanco County Appraisal District, Board of Directors, will meet at the Blanco County Courthouse Annex, Johnson City, on July 25, 1986, at 4 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Brazos River Authority, Board of Directors, met at 4400 Cobbs Drive, on July 21, 1986, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

The Central Plains Mental Health/Mental Retardation Center, Board of Trustees, will meet at 715 Houston, Plainview, on July 24, 1986, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636.

The Colorado River Municipal Water District, Board of Directors, will meet at 400 East 24th Street, Big Spring, on July 22, 1986, at 10 a.m. Information may be obtained from O.H. Ivie, P.O. Box 869, Big Spring, Texas 79270, (915) 267-6341.

The Ellis County Tax Appraisal District, Appraisal Review Board, will meet at 406 Sycamore Street, Waxahachie, on August 4-15, 1986, at 8:30 a.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Garza County Appraisal District, Appraisal Review Board, met in the appraisal office, Post, on July 18, 1986, at 1 p.m. In-

formation may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

The Central Appraisal District of Johnson County, Board of Directors, will meet at 109 North Main, Cleburn, on July 23, 1986, at 7:30 p.m. The Appraisal Review Board met at the same location, on July 21, 1986, at 9 a.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburn, Texas 76031, (817) 645-3986.

The Lamar County Appraisal District, Appraisal Review Board, met at 1523 Lamar Avenue, Paris, on July 21, 1986, at 4 p.m. Information may be obtained from Rodney Anderson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Lavaca County Central Appraisal District, Appraisal Review Board, met at 113

North Main, Hallettsville, on July 21, 1986, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Middle Rio Grande Development Council, Area Advisory Council on Aging, will meet at the Uvalde Fairgrounds, Uvalde, on July 23, 1986, at 10 a.m. The Texas Review and Comment System Committee will meet in the city council chambers, 109 West Broadway, Del Rio, on July 22, 1986, at 10:30 a.m. Information may be obtained from Estella Hernandez, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The Palo Pinto Appraisal District, Board of Directors, will meet at the Palo Pinto County Courthouse, Palo Pinto, on July 23, 1986,

at 3 p.m. Information may be obtained from Jack Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-3651.

The Tarrant Appraisal District, Board of Directors, will meet in Suite 200, 1701 River Run, Fort Worth, on July 17, 1986, at 10 a.m. Information may be obtained from Christine Salinas, 1701 River Run, Suite 200, Fort Worth, Texas 76107, (817) 332-3151.

The West Central Texas Council of Governments, Regional Alcohol and Drug Abuse Advisory Committee, will meet at 1025 East North 10th Street, Abilene, on July 22, 1986, at 10 a.m. Information may be obtained from Sue Smith, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544.

TRD-8607009

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In Addition

The Register is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of June 23-27, 1986.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Fina Oil and Chemical Company, Port Arthur; crude unit; Port Arthur Refinery, Jefferson County; 3615A; modification

Fina Oil and Chemical Company, Port Arthur; conversion of boilers to oil burning; Port Arthur Refinery, Jefferson County; 1599A; modification

Fina Oil and Chemical Company, Port Arthur; conversion of furnaces to oil burning H-101, 201, 301; Port Arthur Refinery, Jefferson County; 1598A; modification

Fina Oil and Chemical Company, Port Arthur; unifiner; Port Arthur Refinery, Jefferson County; 2347A; modification

Fina Oil and Chemical Company, Port Arthur; seven storage tanks; Port Arthur Refinery, Jefferson County; 2099A; modification

Fina Oil and Chemical Company, Corner of Pine; crude oil storage facility; State Route 366, Jefferson County; 2012B; modification

Fina Oil and Chemical Company, Port Arthur; sulfur recovery unit; Port Arthur Refinery, Jefferson County; 983A; modification

Fina Oil and Chemical Company, Port Arthur; sour water stripper; Port Arthur Refinery, Jefferson County; 253A; modification

Fina Oil and Chemical Company, Port Arthur; HDS-catalytic reformer and aromatic complex; Port Arthur Refinery, Jefferson County; 5694A; modification

Fina Oil and Chemical Company, Port Arthur; residual solvent extraction unit; Port Arthur Refinery, Jefferson County; 8983A; modification

Fina Oil and Chemical Company, Port Arthur; gas oil HDS & associated Phase III units; Port Arthur Refinery, Jefferson County; 9193A; modification

Fina Oil and Chemical Company, Port Arthur; alkylation and associated Phase III units; Port Arthur Refinery, Jefferson County; 9194A; modification

Fina Oil and Chemical Company, Port Arthur; hydrocracker and associated Phase IV units; Port Arthur Refinery, Jefferson County; 9195A; modification

Fina Oil and Chemical Company, Houston; plastic bottle manufacturing line; 6831 Silsbee Street, Jefferson County; 9197A; modification

Fina Oil and Chemical Company, Deer Park; polypropylene plant; Battleground Road, Harris County; 3908A; modification

Fina Oil and Chemical Company, Deer Park; polypropylene plant expansion; Battleground Road, Harris County; 2269B; modification

Fina Oil and Chemical Company, Deer Park; storage tank (13,000 gals.); Battleground Road, Harris County; 5206A; modification

Fina Oil and Chemical Company, Deer Park; steam generator conversions fuel oil fired; Battleground Road, Harris County; 2558A; modification

Fina Oil and Chemical Company, Deer Park; incinerator; Battleground Road, Harris County; 5236A; modification

Texas Lehigh Cement, McAllen; cement transfer station; 20th and Eric Streets, Hays County; 7545B; modification

Texas Lehigh Cement, Buda; modification Portland Cement; FM 2770, Hays County; 3611D; modification

Texas Lehigh Cement, Corpus Christi; cement unloading station; 1800 Navigation Boulevard, Nueces County; 5720A; modification

Five Star Industries, Inc., Orange Grove; concrete batch plant; Leonia and Rose Streets, Jim Wells County; 6174A; modification

Ethyl Corporation, Houston; catalytic incinerator; 1000 North South Street, Harris County; 17342; new

Continental Can Company, Houston; increase production; 105 North Greenwood Street, Harris County; 17350; new

Fina Oil and Chemical Company, Port Arthur; asphalt plant modification; intersection of Highway 366 and 32nd Street, Jefferson County; 17352; new

Texas New Mexico Power, Calvert; lignite fired steam generator No. 1; eight miles north of Calvert, Highway 6, Robertson County; 17294; new

Texas New Mexico Power, Calvert; lignite fired steam generator No. 520; eight miles north of Calvert, Highway 6, Robertson County; 17295; new

Texas New Mexico Power, Calvert; lignite fired steam generator No. 3; eight miles north of Calvert, Highway 6, Robertson County; 17296; new

Texas New Mexico Power, Calvert; lignite fired steam generator No. 4; eight miles north of Calvert, Highway 6, Robertson County; 17297; new

Texas New Mexico Power, Calvert; coal handling facility (1-4); eight miles north of Calvert, Highway 6, Robertson County; 17298; new

Texas New Mexico Power, Calvert; limestone handling facility (1-4); eight miles north of Calvert, Highway 6, Robertson County; 17299; new

Texas New Mexico Power, Port Arthur; petroleum storage facility; north end Houston Avenue, Jefferson County; 17289; new

Quality Marble Company, Abilene; manufacturing cultured marble; 2561 South Treadway, Taylor County; 17301; new

Mobile Producing Texas & New Mexico, Inc., Sinton; gas processing and dehydration; Victoria Highway, San Patricio County; 9390A; modification

Mobile Producing Texas & New Mexico, Inc., Sweet Home; gas processing and dehydration; 68 miles west on FM Road 318, Lavaca County; 7408A; modification

Mobile Producing Texas & New Mexico, Inc., New Ulm; gas sweetening and dehydration; five miles northeast of New Ulm, Austin County; 7333A; modification

Mobile Producing Texas & New Mexico, Inc., Sweet Home; gas sweetening and dehydration unit; FM Road 318, three miles north of Lavaca County; 7169A; modification

Phillips Petroleum Company, Birthright; high pressure flare stack; four miles west, three miles north IH 19, Hopkins County; 641A; modification

Phillips Petroleum Company, Birthright; low pressure gas flare; four miles west, three miles north IH 19, Hopkins County; 643A; modification

Phillips Petroleum Company, Birthright; absorption oil heater; four miles west, three miles north IH 19, Hopkins County; 733A; modification

Phillips Petroleum Company, Birthright; sulfur recovery facility and tailgas incinerator; four miles west, three miles north IH 19, Hopkins County; 170A; modification

Thomson Components—Mostek Corporation, Carrollton; clean room hood panel paint booth; 1215 West Crosby Road, Dallas County; 15505A; modification

Thomson Components—Mostek Corporation, Carrollton; semiconductor manufacturing facility; 1215 West Crosby Road, Dallas County; 6532A; modification

Thomson Components—Mostek Corporation, Carrollton; semiconductor manufacturing facility; 1515 Montary Drive, Dallas County; 8852A; modification

Thomson Components—Mostek Corporation, Carrollton; semiconductor manufacturing facility; 1215 West Crosby Road, Dallas County; 7758A; modification

Thomson Components—Mostek Corporation, Carrollton; vapor degreasers; 1215 West Crosby Road, Dallas County; 16259A; modification

Thomson Components—Mostek Corporation, Carrollton; semiconductor manufacturing facility; 1215 West Crosby Road, Dallas County; 12043A; modification

Phillips 66 Natural Gas Company, Andrews; cryogenic ethane recovery unit; on State Highway 176, three miles west, one mile south on County Road, Andrews County; 5772A; modification

Phillips 66 Natural Gas Company, Dumas; gas compressor engine; 16 miles east, Moore County; 8864A; modification

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

TRD-8607011

Paul M. Shinkawa
Director of Hearings
Texas Air Control Board

Filed: July 16, 1986

For further information, please call (512) 451-5711, ext. 354.

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Availability of Draft Specifications

The Texas Air Control Board (TACB) announces the availability of draft specifications which will be used to determine the acceptability of vehicle exhaust gas analyzers for use in the vehicle idle emissions inspection/maintenance (I/M) program to be initiated in El Paso, in early 1987. The TACB is soliciting comments and suggestions from analyzer manufacturers and other interested parties regarding the technical reasonableness of the proposed equipment and operational requirements. Copies of the draft specifications are available from the TACB central office, 6330 Highway 290 East, Austin, Texas 78723.

Acceptable analyzers, at a minimum, will satisfy the operational criteria of the federal vehicle warranty programs and other specified equipment requirements suggested by the U.S. Environmental Protection Agency and the Califor-

nia Bureau of Automotive Repair. An internal computer or microprocessor will also be utilized to reduce the operator's influence on the test results and to ensure all appropriate quality controls are performed. This will include a tamper-resistant lockout system on all critical functions and an automatic data recording system.

A workshop will be held by the TACB to meet with representatives of all interested analyzer equipment manufacturers and other related firms or companies regarding changes to the draft specifications which may be appropriate prior to final publication and distribution. Most major analyzer manufacturers, including members of the I/M Subcommittee of the Equipment and Tool Institute, have been contacted. Any additional company, agency, or individual is encouraged to participate in this informal workshop. Discussion, however, will be limited to equipment design and operational criteria, and computer software and data handling requirements of the idle I/M program. Comments regarding general program requirements, administration, or enforcement will not be appropriate.

The meeting will be held on August 7, 1986, at 9 a.m. at the Texas Air Control Board, Room 332, 6330 Highway 290 East, Austin.

Proposed revisions to TACB Regulation IV, control of air pollution from motor vehicles, are being prepared which will incorporate final specifications and approval procedures of exhaust gas analyzers for the idle I/M program. These proposed revisions and a notice of public hearing will be published in the near future. All written comments received at the workshop or after publication of the hearing notice will be included in the official hearing record for consideration by the board. A listing of TACB approved analyzers will be submitted to the Texas Department of Public Safety for incorporation into its rules prior to the start-up of the I/M program in El Paso.

Issued in Austin, Texas, on July 15, 1986.

TRD-8606968 Allen Ell Bell
Executive Director
Texas Air Control Board

Filed: July 15, 1986
For further information, please call (512) 451-5711, ext. 354.

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Notice of Public Hearing

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.09; 40 Code of Federal Regulations 51.4 of the Environmental Protection Agency regulations concerning state implementation plans; the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a; and the procedural rules of the Texas Air Control Board (TACB), §103.11(4), the TACB will conduct a public hearing to receive testimony concerning revisions to its rules and to the state implementation plan.

Specifically, the TACB is proposing to revise Regulation IV, control of air pollution from motor vehicles, to provide a procedure for evaluating and approving exhaust gas analyzer equipment and to incorporate by reference analyzer specifications. Proposed new §114.4, concerning equipment evaluation procedures for exhaust gas analyzers, specifies the procedures to be followed in evaluating equipment specifications submitted to the TACB for approval for use in the Texas vehicle idle inspection and maintenance

(I/M) program. The new section would also incorporate by reference detailed equipment specifications developed by the TACB that must be met by any exhaust gas analyzer to be approved for use in Texas.

A hearing will be held at 10 a.m. on August 20, 1986, in the auditorium of the TACB located at 6330 Highway 290 East, Austin. Both oral and written public comments on the proposed revisions are invited at the public hearing. The hearing is structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to answer questions informally immediately before and after the hearing.

Written comments not presented at the hearing may be submitted to the TACB central office in Austin prior to and including August 20, 1986. Comments received by 4 p.m. on that date will be considered by the board prior to any final action on the proposed revisions. Five copies of all written comments would be helpful to the board in making its review.

Copies of the proposal are available for inspection at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, and at the regional offices of the agency. For further information, call Russ Baier at (512) 451-5711.

Issued in Austin, Texas, on July 15, 1986.

TRD-8606965 Allen Ell Bell
Executive Director
Texas Air Control Board

Filed: July 15, 1986
For further information, please call (512) 451-5711.

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Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.09; the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and the procedural rules of the Texas Air Control Board (TACB), §103.11(4), the TACB will conduct a public hearing to receive testimony concerning revisions to its rules.

Specifically, the TACB proposes to revise §101.24, concerning inspection fees, to specify that the emissions inventory data for calendar year 1984 be used as a basis for calculation of inspection fees due in fiscal year 1987, to change and move the current fee table, and to exclude nitrogen, carbon dioxide, water, methane, and ethane as air contaminants. Also, revisions to §101.24 are proposed, which will require a review of the inspection fee system in 1987, change the payment schedule, delete the additional 10% fee for late payment, and delete provisions of the section which no longer apply.

The hearing will be held at 2 p.m. on August 20, 1986, in the auditorium of the TACB located at 6330 Highway 290 East, Austin. Public comments, both oral and written, on the proposed revisions are invited at the public hearing. The hearing is structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted, although a TACB staff member will be available immediately before and after to answer questions informally.

Written comments not presented at the hearing may be submitted to the TACB central office in Austin up to and including August 22, 1986. Comments received by 4 p.m.

on that date will be considered by the board prior to any final action on the proposed revisions. Five copies of all written comments are requested.

Copies of the proposal are available for inspection at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, and at the regional offices of the agency. For further information, call Barry Irwin at (512) 451-5711, ext. 292.

Issued in Austin, Texas, on July 15, 1986.

TRD-8606986 Allen Ell Bell
Executive Director
Texas Air Control Board

Filed: July 15, 1986
For further information, please call (512) 451-5711, ext. 364.

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Public Hearing

Pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.09; 40 Code of Federal Regulations §51.4 of the Environmental Protection Agency (EPA) regulations concerning State Implementation Plans (SIPs); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and 31 TAC §103.11(4) of the procedural rules of the Texas Air Control Board (TACB), the TACB will conduct a public hearing to receive testimony concerning revisions to its rules and to the SIP.

The TACB is proposing to revise the Ozone SIP for Dallas, Tarrant, and El Paso Counties and the carbon monoxide SIP for El Paso County. These revisions are proposed in response to correspondence from the EPA on March 14, 1986, identifying changes and additional documents necessary for SIP acceptability.

Specifically, the TACB is proposing to modify the Harris County anti-tampering inspection and maintenance (I/M) program description to provide reference for applicability to Dallas, Tarrant, and El Paso Counties; include a schedule for the development and implementation of an idle emissions I/M program in El Paso County; and add the following documents to Appendix X of the Ozone SIP: Texas Department of Public Safety (DPS) parameter vehicle emission inspection and maintenance rules and regulations for official vehicle inspection stations and certified inspectors, VI-50, January 1, 1986; DPS rules and regulations, 37 TAC §23.91, concerning the Parameter Vehicle Emission Inspection and Maintenance Program, December 9, 1985; letters of commitment to enforce the Parameter Vehicle Emission Inspection and Maintenance Program from officials in Dallas, Tarrant, and El Paso Counties; and House Bill 1593, authorizing the DPS to issue two-year inspection certificates for new vehicles.

The hearing will be held at 10 a.m. on August 26, 1986, in the auditorium of the TACB, 6330 Highway 290 East, Austin. Public comments, both oral and written, on the proposed new sections are invited at the public hearing. The hearing is structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to answer questions informally immediately before and after the hearing.

Written comments not presented at the hearing may be submitted to the TACB central office in Austin prior to and including August 28, 1986. Material received by 4 p.m.

on that date will be considered by the board prior to any final action on the proposed revisions. Five copies of all written comments would be helpful to the board in making its review.

Copies of the proposed revisions are available for inspection at the central office of the TACB, 6330 Highway 290 East, Austin, Texas 78723, and at the regional offices of the agency. For further information, call Russ Baier at (512) 451-5711, ext. 354.

Issued in Austin, Texas, on July 15, 1986.

TRD-8606986 Allen Ell Bell
Executive Director
Texas Air Control Board

Filed: July 15, 1986
For further information, please call (512) 451-5711.

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Texas Commission on Alcohol and Drug Abuse Notice of Public Hearings

The Task Force on Alcohol and Drug Abuse held its first meeting on June 11, 1986. The task force has decided to hold four public hearings around the state to receive public comment on necessary changes in alcohol and drug laws. The intent of the hearings, scheduled over four months, is to help fulfill the mandate of Senate Bill 601, which established the task force. Senate Bill 601, 69th Legislature, 1985, created the Texas Commission on Alcohol and Drug Abuse by transferring the state drug abuse program from the Texas Department of Community Affairs to what was then the Texas Commission on Alcoholism. The lack of time to study discrepancies between alcohol legislation and drug legislation led the legislature to create the task force "to study necessary changes in certification, licensure, and commitment for substance abusers." The 18 members of the task force were appointed by Governor Mark White, Lieutenant Governor Bill Hobby, and Speaker of the House of Representatives Gib Lewis.

Dates and locations of the hearings are as follows:

July 21, 1986, in Arlington at the North Central Texas C.O.G. Boardroom, Centerpoint Two Building, Second Floor, 616 Six Flags Drive, 2 p.m.

August 11, 1986, in McAllen at the McAllen City Hall, Commissioners Meeting Room, Second Floor, 311 North 15th Street, 10 a.m.

September 4, 1986, in Lubbock at the Garden and Arts Center Auditorium, 4215 University Avenue, 2 p.m.

October 9, 1986, in Austin at the John H. Reagan Building, Room 103, 105 West 15th Street, 10 a.m.

The task force will compile its draft recommendations based on public comments from the first three hearings. These draft recommendations will be presented for public comment at the Austin hearing. All written and oral comments will be presented to members of the 70th Legislature, 1987.

Information concerning these hearings can be obtained by contacting: Randall Schmidt, Chair, Task Force on Alcohol and Drug Abuse, Texas Commission on Alcohol and Drug Abuse, 1705 Guadalupe, Austin, Texas 78701-1214, (512) 463-5510.

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

TRD-8606932

Ross A. Newby
Executive Director
Texas Commission on Alcohol and
Drug Abuse

Filed: July 14, 1986

For further information, please call (512) 463-5510.

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Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricul- tural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 07/14/86-07/20/86	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 07/01/86-07/31/86	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 07/01/86-07/30/86	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11(3) 07/01/86-07/31/86	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d)(3) 07/01/86-09/30/86	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2)(2) 07/01/86-09/30/86	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11(3) 07/01/86-09/30/86	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 07/01/86-09/30/86	18.00%	N/A
Judgment Rate—Article 1.05, §2 07/01/86-07/31/86	10.00%	10.00%

(1) For variable rate commercial transactions only.
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f)
(3) Credit for personal, family, or household use.
(4) Credit for business, commercial, investment, or other similar purpose.

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

TRD-8606981

Al Endalay
Consumer Credit
Commissioner

Filed: July 15, 1986

For further information, please call (512) 479-1280.

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Texas Department of Health Intent to Amend a Radioactive Material License

Notice is hereby given by the Texas Department of Health for the amendment of the following radioactive material license.

To be issued to Conquista Project Corporation (mailing address: Conquista Project Corporation, 8010 North New Braunfels, Suite 255, San Antonio, Texas 78217) for the Conquista Project located in Karnes County, near Falls City. The amendment would authorize a change in ownership from Conoco Inc., to the Conquista Project Corporation and allow them to operate it as a byproduct material disposal site. Final agency action on this amendment to transfer ownership is contingent upon approval of an escrow agreement to assure that adequate financial security is present under the requirements of *Texas Regulations for Control of Radiation* (TRCR) 43.60 to reclaim the tailings pond associated with the project. At least \$7.1 million must be deposited into the escrow account to satisfy reclamation requirement estimates.

The Division of Licensing, Registration, and Standards has determined that: the amendment has no significant impact on the human environment; the applicant is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety and the environment; the applicant's equipment, facilities, and procedures are adequate to minimize danger to public health and safety and the environment; the amendment of the license will not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in Part 43 of the TRCR.

This notice affords the opportunity for a public hearing upon written request by a person affected as required by Texas Civil Statutes, Article 4590f, §11, as amended, and as set out in TRCR 13.3. This notice is being published in advance of final agency action rather than after the fact as is normally done. A person affected is defined as a person who is a resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be used, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A written hearing request must be received within 30 days from the date of this notice by David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Should no request for a public hearing be timely filed, the amendment will be issued 14 days following the end of the 30-day period of notice only if approved financial security is in place.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin.

Information relative to the proposed amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation

Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

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

TRD-8606944 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: July 11, 1986
For further information, please call (512) 458-7238.

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Texas A&M University System Request for Bids

The Board of Regents of the Texas A&M University System (hereinafter board), pursuant to authority granted by the Texas Education Code, §88.203, hereby offers for sale its experiment station located at Iowa Park, Wichita County.

Description of land offered. The board offers for sale all of its right, title, and interest in the surface only of the Iowa Park Station, said station being approximately 160 acres lying in the James Ventress Survey, A-102, out of Block 14, Cowherd Brothers Subdivision, Wichita County. A complete field note description of the surface acreage offered may be obtained from the Texas Agricultural Experiment Station. No mineral interests are offered for sale.

Bidding procedures. Bidders shall obtain from the Texas Agricultural Experiment Station and complete an offer to purchase Iowa Park Station for submission of a prospective bid. The completed forms shall be submitted to the Texas Agricultural Experiment Station, System Administration Building, Texas A&M University, College Station, Texas 77843, along with a deposit equal to 5.0% of the bid amount in cashier's check, bank money order, or other form of instrument approved in advance by the Texas Agricultural Experiment Station in a sealed envelope marked "bid for Iowa Park Station." Bids must be received by the Texas Agricultural Experiment Station on or before Friday, August 1, 1986, or they will not be considered. Bids will be opened by the Texas Agricultural Experiment Station in College Station, on Monday, August 4, 1986. The board reserves the right to reject all bids. Acceptance of a bid by the board shall render that bidder contractually liable to perform under the terms of sale contained in the offer to purchase Iowa Park Station. Failure to perform by the winning bidder shall cause forfeiture of his deposit. Unsuccessful bidders shall have their deposits returned to them within 10 working days after acceptance of a bid by the Texas Agricultural Experiment Station.

Minimum bid. The minimum bid shall be the appraised value of \$161,795. Bids for less than that amount will not be considered.

Inquiries should be directed to Mr. Tim Shaunty, Assistant Director, Texas Agricultural Experiment Station, System Administration Building, Texas A&M University, College Station, Texas 77843, (409) 845-4776.

Issued in College Station, Texas, on June 28, 1986.

TRD-8606973 Dr. Neville P. Clarke
Director
Texas Agricultural Experiment Station

Filed: July 15, 1986
For further information, please call (409) 845-3511.

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The Board of Regents of the Texas A&M University System (hereinafter board), pursuant to authority granted by the Texas Education Code, §88.203, hereby offers for sale its experiment station located at Spur, Dickens County.

Description of land offered. The board offers for sale all of its right, title, and interest in the surface only of the Spur Station, said station being approximately 1,400 acres lying in Sections 222, 246, and 247, Dickens County. A complete field note description of the surface acreage offered may be obtained from the Texas Agricultural Experiment Station. No mineral interests are offered for sale.

Bidding procedures. Bidders shall obtain from the Texas Agricultural Experiment Station and complete an offer to purchase Spur Station for submission of a prospective bid. The completed forms shall be submitted to the Texas Agricultural Experiment Station, System Administration Building, Texas A&M University, College Station, Texas 77843, along with a deposit equal to 5.0% of the bid amount in cashier's check, bank money order, or other form of instrument approved in advance by the Texas Agricultural Experiment Station in a sealed envelope marked "bid for Spur Station." Bids must be received by the Texas Agricultural Experiment Station on or before Friday, August 1, 1986, or they will not be considered. Bids will be opened by the Texas Agricultural Experiment Station in College Station, on Monday, August 4, 1986. The board reserves the right to reject all bids. Acceptance of a bid by the board shall render that bidder contractually liable to perform under the terms of sale contained in the offer to purchase Spur Station. Failure to perform by the winning bidder shall cause forfeiture of his deposit. Unsuccessful bidders shall have their deposits returned to them within 10 working days after acceptance of a bid by the Texas Agricultural Experiment Station.

Minimum bid. The minimum bid shall be the appraised value of \$278,058. Bids for less than that amount will not be considered.

Inquiries should be directed to Mr. Tim Shaunty, Assistant Director, Texas Agricultural Experiment Station, System Administration Building, Texas A&M University, College Station, Texas 77843, (409) 845-4776.

Issued in College Station, Texas, on June 26, 1986.

TRD-8606974 Dr. Neville P. Clarke
Director
Texas Agricultural Experiment Station

Filed: July 15, 1986
For further information, please call (409) 845-3511.

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Texas Water Commission Invitation for Bids

Notice to bidders of the intention of the Texas Water Commission (TWC) to let contract for construction of Triangle Chemical Company Remedial Action.

Sealed proposals addressed to David Sorrells, P.E., Chief, Superfund Section, Hazardous and Solid Waste Division, will be received until 3 p.m. on August 15, 1986, for fur-

nishing all labor, equipment, materials, supplies, and supervision necessary for construction of the Triangle Chemical Company Remedial Action.

Specified work shall consist of treating contaminated soil by tilling, removal, and disposal of hazardous waste from tanks and drums, and decontamination of the building. Contractor will supply all labor, materials, supplies, and supervision as shown and specified in accordance with the project plans and specifications for the Triangle Chemical Company site. The site is located on Texas State Highway 87, approximately 1½ miles northeast of Bridge City.

Plans and specifications may be examined without charge at the Texas Water Commission, Room 304N, 1800 Brazos Street, Austin, Texas or one copy may be obtained for the nonrefundable purchase price of \$200 from Roy F. Weston, Inc., 5599 San Felipe, Suite 700, Houston, Texas 77056, (713) 621-1620.

A certified or cashier's check, or an acceptable bid bond in an amount not less than 5.0% of the total bid, shall accompany each bid as a guaranty that, if awarded the contract, the bidder will promptly enter into contract with the TWC and furnish bonds on the forms provided.

The successful bidder, or bidders will be required to furnish a performance bond and a payment bond, each in the amount of the contract, written by a responsible surety company authorized to do business in the State of Texas, and satisfactory to the TWC as required by Texas Civil Statutes, Article 5160.

Bidders are expected to inspect the site of the work as provided in the instructions to bidders and to inform themselves of all local conditions. Time of completion shall be 40 calendar days including Saturdays, Sundays, and legal holidays.

Attention to bidders is directed to the provisions of House Bill 54, Chapter 45, 43rd Legislature, requiring that not

less than the general prevailing rates of per diem wages for work of similar character in the locality where the work is performed shall be paid all laborers, workmen, and mechanics employed in the construction of public works. Also, the successful bidder will be required to comply with the Labor Standard Provisions for Federally Assisted Construction Contracts (Form 5720-4).

No bid may be withdrawn after the scheduled closing time for receipt of bids for at least 90 calendar days.

In case of ambiguity or lack of clearness stating the price in the bids, the TWC reserves the right to consider the most advantageous construction thereof, or to reject the bid.

Any contract or contracts awarded under this invitation for bids are expected to be funded in part by a grant from the United States Environmental Protection Agency. Neither the United States nor any of its departments, agencies, or employees is or will be a party to this invitation for bids or any resulting contract. This procurement will be subject to regulations contained in 40 Code of Federal Regulations Part 33.

Equal opportunity in employment. All qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin. Bidders on this work will be required to comply with the President's Executive Order 11246, as amended. The requirements for bidders and contractors under this order are explained in the specifications.

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

TRD-8006014 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Filed: July 14, 1986
For further information, please call (512) 463-8070.

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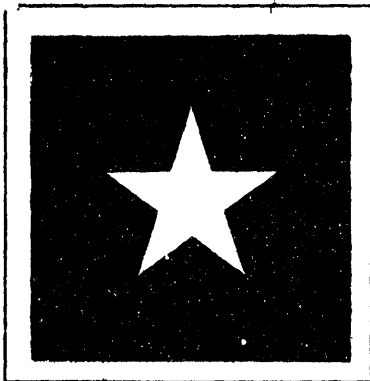
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