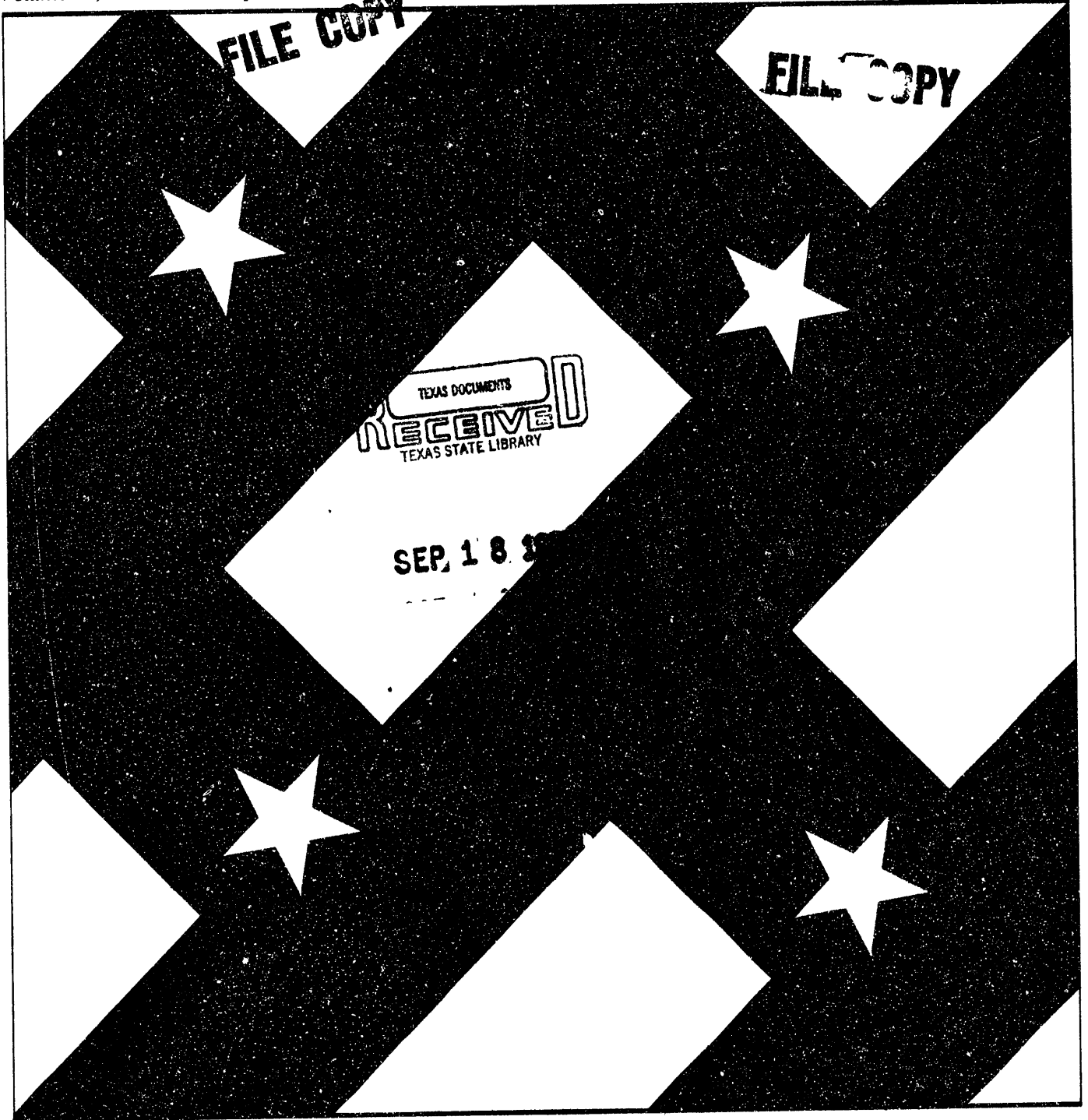


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Texas Register

Volume 11, Number 69, September 16, 1986

Pages 3951-3980



Highlights

The Texas Parks and Wildlife Department adopts an emergency amendment concerning the nontoxic shot zone for migratory game birds. Effective date - September 13 **page 3950**

The State Board of Veterinary Medical Examiners propose sections concerning the candidates requests for critiques of failing

papers. Earliest possible date of adoption - October 17 **page 3962**

The Commission on Fire Protection Personnel Standards and Education proposes a new section concerning minimum standards for aircraft crash and rescue firefighter training facilities. Earliest possible date of adoption - October 17 **page 3963**

**Office of
the Secretary
of State**

Texas Register

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

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

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

Texas Administrative Code

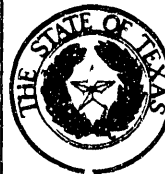
The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

a division of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512 463-5561

Myra A. McDaniel
Secretary of State

Director
Dan Procter

Documents Section Coordinator
Cynthia Cooke

Document Editors
Lainie Crease
Molly Gardner
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Document Filing
Roberta Knight

Production Editors
Jody Allen
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Typographer
Dawn VanCleave

Circulation Section Coordinator
Dee Wright

Circulation Assistant
Kristine Hopkins Mohajer

TAC Editors
W. Craig Howell
Beth Glasnapp

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

Illustrations courtesy of Texas Parks and Wildlife Department.

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TAC Titles Affected—September

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TITLE 7 BANKING AND SECURITIES

Part I State Finance Commission
7 TAC §1301 3856

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37 TAC §233.158 3963

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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 September 9

Texas Diabetes Council

For terms to expire February 1, 1987:

Carolyn Grubb
1500 Thornridge Road
Austin, Texas 78758

David C. Warner, Ph.D.
5701 Trailridge Drive
Austin, Texas 78731

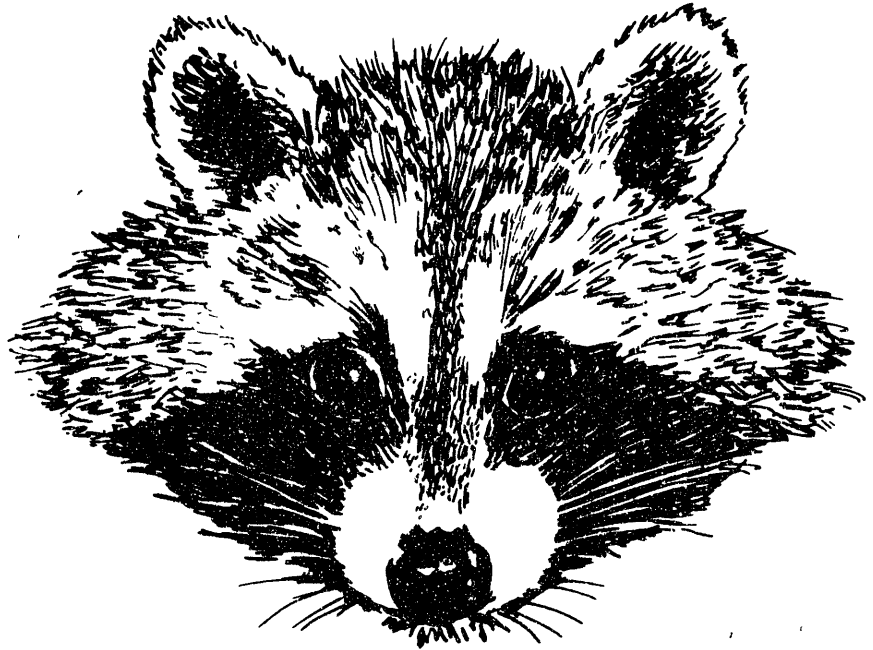
Ms. Grubb and Dr. Warner are being reappointed.

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

TRD-8608713

Mark White
Governor of Texas

★ ★ ★



Executive Order MW-38A

Rescinding Executive Order MW-38, reserving for housing bonds a portion of the 1986 state ceiling on nonessential function bonds imposed by House Rule 3838 and allocating such portion among certain state agencies and other issuing authorities within the State of Texas.

WHEREAS, Executive Order MW-38 was premised upon the enactment into law of provisions of House Rule 3838 §701(b), in the form approved by the United States House of Representatives on December 17, 1985; and

WHEREAS, House Rule 3838 in the form approved in principle by members of the House-Senate Conference Committee on the United States Congress on August 16, 1986, substantially differs from that form approved by the United States House of Representatives on December 17, 1985;

NOW, THEREFORE, I, Mark White, Governor of Texas, under the authority vested in me, do hereby order and proclaim that Executive Order MW-38 is rescinded and no longer in effect. Upon enactment of House Rule 3838, a subsequent executive order will be issued allocating authority to issue such private activity bonds and qualified mortgage bonds subject to the state unified volume cap contained herein.

Issued in Austin, Texas, on August 29, 1986.

TRD-8608634

Mark White
Governor of Texas

Proclamations 41-2092

WHEREAS, a vacancy now exists in the office of mayor of the City of Wylie; and vacancies now exist in membership of the city council of the City of Wylie for Places 3 and 4;

WHEREAS, the charter of the City of Wylie requires filling such vacancies by special election; and

WHEREAS, pursuant to §201.053, Vernon's Texas Codes Annotated, Election Code, if the governor determines that an emergency warrants holding a special election to fill a vacancy before the first authorized uniform election date, the election may be held on an earlier nonuniform date; and

WHEREAS, the next available uniform election date is January 17, 1987.

NOW, THEREFORE, I, Mark White, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby find an emergency exists due to the urgent need to fill the existing vacancies in the membership of the city council of the City of Wylie and the imminent peril to the public welfare which would result from delay in filling the existing vacancies, and do hereby grant permission that a special election be held in the City of Wylie on December 6, 1986.

Issued in Austin, Texas, on September 4, 1986.

TRD-8608635

Mark White
Governor of Texas

41-2093

WHEREAS, Texas Civil Statutes, Article 6701d, §169B, provide that the State Highway and Public Transportation Commission may establish temporary maximum prima facie speed limits applicable to all highways in this state, including highways under the control of the Texas Turnpike Authority, incorporated cities and towns, and counties if certain circumstances are found to be existing and if specific problems and proper notice to the public are followed in establishing such speed limits, and

WHEREAS, Texas Civil Statutes, Article 6701d, §169B(b)(4), provide that the State Highway and Public Transportation Commission may issue an order establishing temporary maximum prima facie speed limits if "the failure to alter state speed limits will prevent the state from receiving revenue for highway purposes from the federal government."; and

WHEREAS, the United States Congress has enacted, and the President has signed into law, Public Law 93-643, 23 United States Code 154, which Act provides that unless a state establishes a maximum speed limit of 55 miles per hour for any highway within its jurisdiction, the secretary of transportation has the authority to withhold federal highway funds from any such state so failing to comply; and

WHEREAS, the State Highway and Public Transportation Commission of the State of Texas issued its Finding or Minute Order 84806 dated August 28, 1986, finding that a specified maximum speed limit of 55 miles per hour is required by federal law, and that unless the State of Texas establishes a maximum speed limit of 55 miles per hour the State of Texas is threatened with the loss of federal highway funds and so fixed the maximum speed limit on all highways in the State of Texas, within and outside the limits of incorporated cities, at 55 miles per hour effective on September 30, 1986, at 12:01 a.m. for a period of 120 days or until such time as such order is amended or repealed for reasons consistent with federal laws and directives or state law.

WHEREAS, said finding or minute order having been fully filed in my office, and I have independently found that the failure to alter our state speed limits to a maximum speed limit of 55 miles per hour will prevent the State of Texas from receiving revenue for highway purposes from the federal government

NOW, THEREFORE, I do hereby proclaim that the facts necessary to support the issuance of the State Highway and Public Transportation Commission Finding or Minute Order 84806 exist and the Commission's Finding or Minute Order shall take effect on September 30, 1986, at 12:01 a.m.

Issued in Austin, Texas, on September 4, 1986.

TRD-8608636

Mark White
Governor of Texas

Emergency

Rules

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

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter K. Migratory Game Birds—Nontoxic Shot Zones

★ 31 TAC §65.261

The Texas Parks and Wildlife Commission adopts on an emergency basis an amendment to §65.261, concerning the nontoxic shot zone for waterfowl. The amendment increases the number of nontoxic shot zones for waterfowl. The amendment is a result of the United States Fish and Wildlife Service's mandate that waterfowl seasons will not be opened in these zones unless the state approves the three new areas in Northeast Texas as nontoxic shot zones for the 1986-1987 hunting seasons. Waterfowl season (early teal season) begins September 13, 1986; therefore, there was insufficient time to allow the normal (30-day public comment) rule-making process.

The amendment provides added protection for bald eagles, an endangered species. Eagles feed on dead or dying waterfowl and are thus secondarily poisoned by toxic shot originally ingested by waterfowl. The commission found imminent peril to the public's waterfowl resources requires the emergency amendment.

The amendment is adopted on an emergency basis under the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the Texas Parks and Wildlife Commission with authority to provide an open season, and means, methods, and devices for the taking and possessing of migratory game birds.

§65.261. Nontoxic [(Steel)] Shot Zones.

(a) During waterfowl seasons commencing after September 1, 1986, no person may possess shotgun shells containing any shot material which is not approved by the federal government as being nontoxic to wildlife or the environment [lead shot] while taking or killing or attempting to take or kill waterfowl within the nontoxic [(steel)] shot zones, these zones are described as [the areas] lying within boundaries beginning at:

[(1) the Louisiana state line, thence westward along Interstate Highway 10 to the

junction of U.S. Highway 90 and Interstate Highway 10 in Beaumont, thence westward along U.S. 90 to the junction of U.S. Highway 90A, thence along U.S. Highway 90A to its junction with Interstate Highway 45 in Houston, thence southward along Interstate Highway 45 to the junction with State Highway 35, thence southwestward along State Highway 35 to the junction with the Brazos River, thence along the eastern shore of the Brazos River to the shoreline of the Gulf of Mexico, thence seaward to the three marine league limit, thence northeastward along the three marine league limit to the Louisiana state line; and

[(2) beginning at the Matagorda Bay shoreline between Matagorda and Calhoun Counties, thence northward along the Matagorda-Calhoun County line to the junction with the Jackson County line, thence along the Jackson-Calhoun County line to State Highway 35, thence southward along State Highway 35 to the junction of FM Road 774, thence westward along FM Road 774 to the junction of U.S. Highway 77 in Refugio, thence southward along U.S. Highway 77 to the Nueces-Kleberg County line, thence eastward along the Nueces-Kleberg County line to the Laguna Madre Bay, thence east and seaward to the three marine league limit, thence northeastward along the three marine league limit to the three marine league limit between Calhoun and Matagorda Counties, thence northward along the Calhoun-Matagorda County line to the Matagorda Bay shoreline between Calhoun and Matagorda Counties.]

[(1)(3) During waterfowl seasons commencing after September 1, 1983, the nontoxic (steel) shot zone shall be that area lying within boundaries beginning at] the Louisiana state line, thence westward along Interstate Highway 10 to the junction of U.S. Highway 90 and Interstate Highway 10 in Beaumont, thence westward along U.S. 90 to its junction with Interstate Highway 610 in Houston, thence north and west along Interstate Highway 610 to its junction with U.S. Highway 290 in Houston, thence westward along U.S. Highway 290 to its junction with State Highway 159 in Hempstead, thence southwestward along State Highway 159 to its junction with State Highway 36 in Bellville, thence eastward along State Highway 36 to its junction with FM 2429, thence southward along FM 2429 to its junction with FM 949, thence southwestward along FM 949 to its junction with Interstate 10,

thence westward along Interstate 10 to its junction with U.S. Highway 77 at Schulenburg, thence southward along U.S. Highway 77 to its junction with the U.S.-Mexico international boundary at Brownsville, thence eastward along the U.S.-Mexico international boundary to the Gulf of Mexico, thence east and seaward to the three marine league limit, thence northeastward along the three marine league limit to the Louisiana state line, thence northward along the Texas-Louisiana state line to its junction with Interstate Highway 10; and

(2) beginning at the Oklahoma state line, thence southward along I-35 to its junction with U.S. Highway 82 at Gainesville, thence eastward along U.S. Highway 82 to its junction with State Highway 78 at Bonham; thence northward along State Highway 78 to its junction with the Oklahoma-Texas state line; thence westward along the Oklahoma-Texas state line to its junction with I-35; and

(3) beginning at the Louisiana state line, thence westward along State Highway 49 to its junction with U.S. Highway 259 at Dalgardfield; thence southward along U.S. Highway 259 to its junction with State Highway 450 at Ore City; thence eastward on State Highway 450 to its junction with State Highway 154 at Harleton; thence southeastward along State Highway 154 to its junction with U.S. Highway 80 at Marshall; thence eastward along U.S. Highway 80 to its junction with State Highway 43; thence northeastward along State Highway 43 to its junction with FM 2682 at Karnack; thence eastward along FM 2682 to its junction with FM 134; thence southward along FM 134 to its junction with FM 1999 at Leigh; thence eastward along FM 1999 to its junction with the Louisiana state line; thence northward along the Louisiana-Texas border to its junction with State Highway 49; and

(4) beginning at the junction of State Highway 31 and FM 2661; thence westward along State Highway 31 to its junction with U.S. Highway 175 at Athens; thence northwestward along U.S. Highway 175 to its junction with FM 90; thence northward along FM 90 to its junction with FM 1391; thence westward along FM 1391 to its junction with U.S. Highway 175 at Kemp; thence southward along U.S. Highway 175 to its junction with State Highway 274; thence south along State Highway 274 to its junction with State Highway 31 at Trinidad; thence eastward along State Highway 31 to its junction with FM 3441 at Malakoff; thence

southward along FM 344¹ to its junction with FM 59 at Cross Roads; thence southward along FM 59 to its junction with U.S. Highway 287 at Cayuga; thence southeastward along U.S. Highway 287 to its junction with FM 837; thence northeastward along FM 837 to its junction with U.S. Highway 175 at Frankston; thence eastward along U.S. Highway 175 to its junction with FM 855; thence northward along FM 855 to its junction with FM 346; thence northward along FM 346 to its junction with FM 344; thence northward along FM 344 to its junction with FM 2661; thence northward along FM 2661 to its junction with State Highway 31.

(b)-(c) (No change.)

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

TRD-8808711

Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: September 13, 1986
Expiration date: January 11, 1987
For further information, please call
(512) 479-4974.

★ ★ ★



Proposed

Rules

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

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

Definitions

★ 22 TAC §501.2

The Texas State Board of Public Accountancy proposes new §501.2, concerning definitions. The new section establishes definitions of particular terms that will be used in the rules of professional conduct.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be new definitions which conform to the prevailing practice in the public accounting profession. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

The new section is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the practice of public accountancy.

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

Advertisement—A message which is transmitted to multiple persons by or at the direction of a licensee and which has reference to the availability of the licensee to perform professional services. Such messages may be transmitted orally or by any written or electronic medium which is recorded, transcribed or otherwise preserved. The message must be in identical form. In the case of

transmissions in written form (letter or postcard), salutations are considered a part of the message and must be in identical form.

Board—The Texas State Board of Public Accountancy.

Client—The person or entity which retains a licensee for the performance of professional services.

Competitive bid—Any communication by a licensee which is a proposal, other than an advertisement or a fee estimate as herein defined, to a prospective client to perform professional services when:

(A) such proposal refers to the compensation to be charged or received, whether referred to as a lump sum, a maximum or minimum amount, or any form of unit price, including per diem or per hour rates with or without a maximum, minimum, or average sum; and

(B) the proposal is given with the knowledge that similar proposals are being sought concurrently from one or more other licensees. The fact that a licensee is invited to make a proposal by a person not already a client is indicative that similar proposals are being invited from other licensees and it shall be incumbent upon the licensee to ascertain by direct inquiry whether other proposals have been or will be invited. For the purposes of this chapter a "fee estimate" shall not be deemed to be a competitive bid. A fee estimate is defined as any written communication by way of which a licensee provides to a prospective client, at his or its request, an estimate of the charges proposed by the licensee for specific services and which clearly states:

(i) that the amount quoted is an estimate and that the licensee will not be bound to provide the subject services for the estimated amount;

(ii) the estimated number of people by classification to be involved in performing the work and the range of education and experience in each classification; and

(iii) the estimated time to be required for the engagement by personnel classification and the anticipated completion date.

Enterprise—Any person or entity, whether organized for profit or not, for which a licensee performs professional services.

Financial statements—Statements and footnotes related thereto that purport to

show financial position which relates to a point in time or changes in financial position which relate to a period of time, on the basis of generally accepted accounting principles or another comprehensive basis of accounting. The term "financial statements" does not include incidental financial data included in management advisory services reports to support recommendations to a client, nor does it include tax returns and supporting schedules.

Firm—A proprietorship, partnership, or professional corporation engaged in the practice of public accountancy.

He, his, him—Masculine pronouns when used in this chapter also include the feminine and the neuter.

Holding out—As that term is used in the definition of practice of (or practicing) public accountancy in these sections, any representation of the fact that a person holds a certificate or registration made in connection with an offer to perform services for the public. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate or registration in connection with the services offered to be performed. For purposes of this section, a representation shall be deemed to include any oral or written communication conveying the fact that the licensee holds a certificate or registration, including, without limitation, the use of titles or legends displayed in letterheads, professional cards, office doors, advertisements, and listings. Holding out does not include:

(A) the display of the original (but not a copy) of a currently valid certificate or registration;

(B) any representation by a faculty member in an educational institution that such faculty member holds a certificate or registration when the purpose of such representation reasonably relates to his functioning in the capacity of faculty member; or

(C) any representation in a book, article, or other publication or in any promotional advertising for such book, article, or other publication that the author holds a certificate or registration, provided that such book, article, or other publication does not offer the performance of services or the sale of any products (other than the book, article, or publication itself) of any kind.

Licensee—The holder of a certificate or registration issued by the board, pursuant to the Public Accountancy Act of 1979, as

amended, Texas Civil Statutes, Article 41a-1, or pursuant to provisions of a prior law or prior Public Accountancy Act. The term includes each firm of which a licensee is a partner, officer, or shareholder, and each partner, officer, or shareholder of a firm which is a licensee.

Other compensation—Compensation received by a licensee who is engaged in the practice of public accountancy for other than the performance of professional services, including compensation for the sale of products (other than work product of the licensee) or for referral of products or services of others.

Person—An individual, sole proprietorship, partnership, corporation, or other entity.

Practice of (or practicing) public accountancy—The performance or offering to perform by a person holding himself out to the public as a licensee, for a client or potential client, of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. The phrase "services involving the use of accounting or auditing skills," as used in this definition, includes the provision of advice or recommendations in connection with the sale or offer for sale of products, when the advice or recommendations require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

Professional services—Any services performed or offered to be performed by a licensee in the course of the practice of public accountancy.

Report—When used with reference to financial statements, an opinion, report, or other form of language that states or implies assurance as to the reliability of any financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that he is an accountant or auditor or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements to which reference is made and/or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence.

Solicitation—A communication, other than an advertisement, by a licensee which has reference to the performance or offer of

performance of professional services for the persons to whom the message is transmitted.

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 September 9, 1986.

TRD-880882

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

Earliest possible date of adoption:

October 17, 1986
For further information, please call
(512) 450-7065.

★ ★ ★

Part XXIV. State Board of Veterinary Medical Examiners Chapter 571. Licensing

★22 TAC §571.11

The State Board of Veterinary Medical Examiners proposes an amendment to §571.11, concerning candidates requesting critiques of failing papers. The amendment is proposed to expedite critiques of failing papers.

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 there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to 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 7485a, §7(a), which provide the Veterinary Board 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.

§571.11. Request to Examine Failing Papers. Any applicant who fails the examination and make a request to examine the failing paper will be required to meet with the executive staff in the central office [full board at its next meeting for this purpose.]

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 September 8, 1986.

TRD-880887

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

Earliest possible date of adoption:

October 17, 1986
For further information, please call
(512) 458-1183.

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part IX. Texas Water Commission Chapter 297. Water Rights, Substantial Subchapter A. Definitions

★31 TAC §297.1

The Texas Water Commission proposes an amendment to §297.1, concerning the definition of the term "state water." The current definition is overly broad and does not reflect the way the term has been construed by the courts and the commission. As amended, the references to the terms "canyon, ravine, depression, or watershed" will be deleted and replaced by the term "watercourse." The term "watercourse" is defined in §297.1.

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

Mr. Monroe also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of the commission's jurisdiction over state water, and exemption of all activities relating to diffused surface water from commission regulation. 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 Patricia E. Carls, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711. The deadline for submitting written comments is 30 days from the date of this publication.

The amendment is proposed under the Texas Water Code, §§5.103 and §5.105, which

provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

§297.1. Definitions. The following words and terms, when used in this chapter and in Chapter 295 of this title (relating to Water Rights, Procedural), shall have the following meanings, unless the context clearly indicates otherwise:

State water—The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the stormwater, floodwater, and rainwater of every river, natural stream, and watercourse [canyon, ravine, depression, and watershed] in the state. State water also includes water which is imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state.

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 September 8, 1986.

TRD-8008642

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

Earliest possible date of adoption:

October 17, 1986

For further information, please call
(512) 463-8087.

★ ★ ★

Subchapter C. Types of Uses

★31 TAC §297.26

The Texas Water Commission proposes new §297.26, concerning spreader dams, contouring, and terracing. This new section exempts common land management and soil conservation practices from the water rights permitting process under the Texas Water Code, Chapter 11.

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

Mr. Monroe 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 exemption of common land management and soil conservation practices from the water use permitting process and from state regulation. 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 Patricia E. Carls, Staff Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711. The deadline for submitting written comments is 30 days from the date of this publication.

The new section is proposed under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any regulations necessary to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

§297.26. Spreader Dams, Contouring, Terracing. No permit shall be required to construct or maintain any system of contouring, terracing, spreader dams, or other such practices designed to make maximum beneficial use of diffused surface water and overbank flooding and to implement any generally accepted conservation practices necessary to prevent or reduce erosion on one's own property.

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

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

TRD-8008643

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

Earliest possible date of adoption:

October 17, 1986

For further information, please call
(512) 463-8087.

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VIII. Commission on Fire Protection Personnel Standards and Education

Chapter 233. Minimum Standards Manual

Minimum Standards for Aircraft Crash and Rescue Training Facilities

★37 TAC §233.158

The Commission on Fire Protection Personnel Standards and Education proposes new §233.158, concerning minimum standards for aircraft crash and rescue firefighter training facilities. The new section provides rules for facilities, equipment, apparatus testing, staff requirements, and general information.

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

Mr. Goad 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 adequate training facilities for aircraft crash and rescue firefighters, which will provide effective training for aircraft crash and rescue firefighters who will contribute to public safety at all Texas airports. 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 Ray L. Goad, Executive Director, 510 South Congress Avenue, Suite 408, Austin, Texas 78704, (512) 474-8066.

The new section is proposed under Texas Civil Statutes, Article 4413(35), which provide the Commission on Fire Protection Personnel Standards and Education with the authority to adopt and amend rules for the administration of this Act, and to establish minimum requirements for schools operated for the specific purpose of training fire protection personnel.

§233.158. Minimum Standards for Aircraft Crash and Rescue Firefighter Training Facilities.

(a) General requirements.

(1) Minimum requirements for approval as an aircraft crash and rescue recruit training facility shall include the facilities, apparatus, equipment, reference materials updated as needed, and records to support a quality basic aircraft crash and rescue education and training program. The resources must provide for classroom instruction demonstrations and practical exercises for the trainees to develop the knowledge and skills required for basic aircraft crash and rescue certification.

(2) The facilities and training shall be performance oriented. Practical performance training with maximum practical participation by trainees should be an integral part of the training program. The evaluation process for each phase of training will emphasize performance testing to determine if the trainee has acquired the knowledge and skills to achieve the required level of competency.

(3) It must be clearly understood that the minimum standards for aircraft crash and rescue recruit training facilities are applicable only as the title implies and does not address the additional training facilities which are required for the continuing inservice training essential to the development and maintenance of a well coordinated and effective fire service organization.

(4) An organization, installation, or facility may submit a written application for

approval as an aircraft crash and rescue recruit training facility to the Commission on Fire Protection Personnel Standards and Education. Such application will include descriptions and addresses of physical facilities together with inventory of apparatus, equipment, and reference material to be utilized in conducting the basic aircraft crash and rescue training curriculum as specified by the commission. It is not required that the equipment be permanently assigned nor kept at the training facility. Photographs of resources, annotated to reflect applicant and identity of the resource, may be included with such applications.

(5) The minimum resources required for approval as an aircraft crash and rescue recruit training facility may be combined, or separate, utilizing one or more structures. In either event, the facilities and equipment must be available and used by the instructor and trainees. Resources from several government entities may be utilized for a recruit training school.

(6) All training shall be submitted to, and approved in writing, by the commission prior to commencement of the school.

(b) Facilities.

(1) Adequate training aids to comply with hot drill requirements as provided in §233.142(k) of this title (relating to Minimum Standards for Aircraft Crash and Rescue Firefighters) are required for each facility.

(2) There must be adequate space for classroom instruction with appropriate environmental control, and seating capacity for the anticipated trainees. The space utilized must be conducive to effective classroom instruction.

(3) There must be an area available for practical application of principles and procedures of pump operations, friction loss, nozzle reaction, fire stream patterns, and gallons per minute discharge utilizing various layouts for hand lines and master stream appliances.

(4) A room must be provided for practical training with self-contained breathing apparatus. This may be a smoke and fire room, or enclosed area which can be charged with smoke producing devices to provide a realistic training environment.

(c) Apparatus.

(1) Fire apparatus that is equipped to perform aircraft crash and rescue operations must be available for training.

(2) The aircraft crash and rescue trainee must receive training on all types of apparatus utilized by the authority having jurisdiction.

(d) Equipment.

(1) Portable fire extinguishers utilized by the authority having jurisdiction must be available for training.

(2) Forcible entry tools utilized by the authority having jurisdiction must be available for training.

(3) Salvage and overhaul equipment utilized by the authority having jurisdiction must be available for training.

(4) Self-contained breathing apparatus in sufficient numbers to enable each trainee to wear the equipment for at least the life of one breathing air tank during the training. American National Standards Institute, 1403 Broadway, New York, 10018, (ANSI Z88.5) or its successor, must be used in order to comply with self-contained breathing apparatus requirements.

(5) Standard first aid supplies and equipment are required for teaching the first aid training required in the basic aircraft crash and rescue training curriculum in §233.142 of this title (relating to Minimum Standards for Aircraft Crash and Rescue Firefighters).

(6) Standard classroom equipment shall include a chalkboard, a speaker's rostrum, etc.

(7) Supportive instructional aids should include audiovisual projection equipment. The use of cutaways, models, flip charts, and other visual aids are recommended to enhance the effectiveness of the instruction.

(e) Reference material.

(1) Suggested reference material is supplied by the commission office, but an instructor may add to the list and update as needed.

(2) Fire service magazine and journals should be available for instructor reference. Such publications contain current events and improved methods which should be utilized to enhance the effectiveness of the training program.

(f) Training records.

(1) Training records shall be maintained which reflect:

(A) who was trained, subject, instructor, and date of instruction;

(B) individual trainee test scores to include performance testing; and

(C) a system to evaluate the effectiveness of the instruction (utilizing the comprehension of the student).

(2) Individual records are encouraged rather than class records and shall be maintained for a period of three years.

(g) Testing.

(1) Testing techniques utilized should determine the progress or lack of same for each trainee.

(2) Performance testing should be utilized to the maximum extent practical.

(3) Written tests shall be designed to encompass the significant contents of the subjects being taught and phrased in a manner which can be readily understood by a trainee whose comprehension is at a level consistent with the academic level of the material being presented.

(4) Periodic written tests shall be given covering each subject area listed in the basic aircraft crash and rescue curriculum. A minimum of four such tests shall be given. These tests serve the dual purpose of permitting the instructor to evaluate the effectiveness of the instruction and the comprehension of the trainees. The instructor shall assure that each trainee has developed an understanding and mastered the knowledge

of subject matter presented. Each fire department or other organization conducting recruit training shall establish a minimum passing grade for each of these periodic examinations.

(5) In addition to the periodic written tests, comprehensive written test(s) shall be administered utilizing one of the following options.

(A) Option A. A minimum of two comprehensive written tests shall be given. If this option is utilized, the first comprehensive test shall be given no later than midway through the basic aircraft crash and rescue training curriculum and the final comprehensive test shall be given at the conclusion of the training curriculum. The first of the comprehensive tests shall relate to subjects presented from the beginning of the training until the date of the test. The other comprehensive test(s) shall relate to subject matter presented since the previous comprehensive test. Trainees must obtain an overall grade average of 70% on the two comprehensive tests.

(B) Option B. A comprehensive test shall be administered at the conclusion of the basic aircraft crash and rescue training which relates to all subject matter presented during the entire training curriculum. All trainees must score at least 70% on the test under this option.

(h) Requirements for satisfactory completion of training and education for aircraft crash and rescue fire fighter. In order to satisfactorily complete the basic aircraft crash and rescue training, each trainee must satisfy the following three distinct and separate requirements:

(1) performance testing;

(2) comprehensive written test(s), either option A or B; and

(3) periodic written tests.

(i) Staff requirements.

(1) There must be a designated person to coordinate the aircraft crash and rescue basic training. This person does not need to be certified as an aircraft crash and rescue firefighter.

(2) There must be an individual certified as a class A aircraft crash and rescue instructor, as provided in §233.43(1) of this title (relating to Certificates), employed by the government entity or agency seeking aircraft crash and rescue training facility certification.

(3) All instructors, except guest instructors, must possess certification by the Texas Commission on Fire Protection Personnel Standards and Education.

(4) Guest instructors, which include fire protection personnel utilized on a limited basis, are not required to be certified as instructors. These guest instructors can teach under the endorsement of the instructor responsible for subject being taught. Refer to §233.43 of this title (relating to Certificates) for the minimum standards for aircraft crash and rescue instructor certification. A guest instructor is an individual with special knowl-

edge and expertise in a specific subject area who has the ability to enhance the effectiveness of the training.

(5) The commission encourages all training facility staff to upgrade their instructor classification by completing the required teacher training courses and other educational requirements set forth for higher levels of instructor certification.

(j) General requirements.

(1) All recruit training facilities for aircraft crash and rescue firefighters, after October 1, 1986, shall meet these minimum requirements. The commission shall take action on applications within 90 days from receipt of applications.

(2) Approved recruit aircraft crash and rescue training facilities are subject to inspection by the commission at any time during regular business hours.

(3) An approved aircraft crash and rescue training facility is encouraged to upgrade and improve the physical facilities, equipment and reference material on a continuing basis.

(4) A school desiring to make substantive changes in the facilities, or other areas under which the school was originally approved, must coordinate those changes with the commission office.

(5) The commission shall be notified promptly on any change in the approved recruit aircraft crash and rescue training facility coordinator. The term coordinator as used in these standards is the official responsible for recruit aircraft crash and rescue training facilities or schools, regardless of his or her official title.

(6) The commission shall be notified promptly of any change in Class A instructors (certified as provided in §233.43(1) of this title (relating to Certificates)) at an approved aircraft crash and rescue recruit training facility. A new instructor may be appointed to the aircraft crash and rescue training facility that possesses a Class B instructor certificate, (as provided in §233.43(2) of this title (relating to Certificates)) provided that a Class A instructor certificate is obtained within one year from the date of appointment.

(7) The commission may revoke the certification of a recruit aircraft crash and rescue training facility when in the judgment of the commission the school is:

(A) inadequate and fails to provide the quality of training required for basic aircraft crash and rescue firefighter certification; or

(B) fails to comply with commission rules and/or these minimum standards; or

(C) fails to submit required reports in a timely manner or submits false reports to the commission.

(k) Revocation and suspension procedures. The administrative procedure adopted by the Commission on Fire Protection Personnel Standards and Education in Chapter 231 of this title (relating to Practice and Procedure) will be followed prior to suspending or revoking the certificate of an aircraft crash and rescue training facility.

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 September 9, 1986.

TRD-8608689

Ray L. Goad
Executive Director
Commission on Fire
Protection Personnel
Standards and Education

Earliest possible date of adoption:
October 17, 1986
For further information, please call
(512) 474-8068.

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 22. EXAMINING BOARDS

Part XXII. Texas State Board
of Public Accountancy
Chapter 501. Professional
Conduct

Definitions

★ 22 TAC §501.2

The Texas State Board of Public Accountancy has withdrawn from consideration §501.2, concerning professional conduct. The text of the new section appeared in the May 6, 1986, issue of the *Texas Register* (11 TexReg 2057). The effective date of the withdrawal is September 9, 1986.

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

TRD-8608683

William A. Sansing
Enforcement Coordinator
Texas State Board of
Public Accountancy

Filed: September 9, 1986
For further information, please call
(512) 451-0241



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of
Human Services

Chapter 85. General Licensing
Procedures

Subchapter U. Day Care Licensing
Procedures

★ 40 TAC §85.2018

The Texas Department of Human Services has withdrawn from consideration §85.2018, concerning day care licensing procedures. The text of the amendment appeared in the August 5, 1986, issue of the *Texas Register* (11 TexReg 3469). The effective date of the withdrawal is September 10, 1986.

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

TRD-8608704

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Filed: September 10, 1986
For further information, please call
(512) 450-3786.



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 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards Chapter 65. Boiler Division Administration

★16 TAC §65.20

The Texas Department of Labor and Standards adopts an amendment to §65.20, without changes to the proposed text published in the August 8, 1986, issue of the *Texas Register* (11 TexReg 3527).

The special inspection fee has been enhanced to more adequately reflect the actual costs of the special inspection of the department.

Persons requesting a special inspection for boilers will pay the new enhanced fee to the department.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5221c, which provide the commissioner of the Texas Department of Labor and Standards with the authority to promulgate and enforce a code of rules and regulations in keeping with standard usage, for the construction, inspection, installation, use, maintenance, repair, alternations, and operation of boilers.

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 September 9, 1986.

TRD-8608669

Allen Parker, Sr
Commissioner
Texas Department of
Labor and Standards

Effective date: October 1, 1986
Proposal publication date: August 8, 1986
For further information, please call
(512) 463-3127

★ ★ ★



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 adopts an amendment to §571.3, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3333).

The amendment ensures that candidates for examination are qualified.

The amendment requires examinees to be in their senior veterinary year prior to participation in the national board examination, clinical competency test, and state board examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986

TRD-8608668

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

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183.

★ ★ ★

★22 TAC §571.4

The State Board of Veterinary Medical Examiners adopts the repeal of §571.4, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3333).

With establishment of common dates for administration of the national board examination, this section no longer applies.

The repeal brings practice and procedure rules up to date.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608669

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

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183.

★ ★ ★

★22 TAC §571.5

The State Board of Veterinary Medical Examiners adopts an amendment to §571.5, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3333).

The amendment brings the section in line with current licensing procedures of the board.

The amendment requires candidates for licensure to participate in a clinical competency test and obtain a minimum score prior to being eligible to sit for the state board examination.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608670 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183

★ ★ ★

★22 TAC §571.6

The State Board of Veterinary Medical Examiners adopts the repeal of §571.6, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3334).

This section is no longer enforceable, as examinations are machine graded.

The repeal brings practice of the board up-to-date with present procedures.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608671 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183

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★22 TAC §571.7

The State Board of Veterinary Medical Examiners adopts the repeal of §571.7, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3334).

Weighted averages on examination scores will no longer be utilized in determining eligibility for licensure.

The repeal brings the sections governing practices and procedures of the board up-to-date.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608672 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Effective date: September 30, 1986
Proposal publication date: July 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 adopts an amendment to §571.8, with changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3334).

The amendment ensures that candidates for licensure adequately demonstrate their competency and removes the possibility of licensure without competency in all aspects of veterinary medicine.

The amendment requires all candidates participating in the state board to obtain a minimum of 75% on all disciplines involved in veterinary medicine.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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. *Average.* To be eligible for a license, an applicant for the state board examination must attain an average grade of 75.

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 September 8, 1986

TRD-8608673 Donald B. Wilson
Executive Director
State Board of Veterinary
Medical Examiners

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183.

★ ★ ★

★22 TAC §571.15

The State Board of Veterinary Medical Examiners adopts an amendment to §571.15, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3335).

The amendment allows for accurate reporting of examination scores to other states.

The amendment requires that candidates have scores converted to Texas' deviation and certified to the board prior to eligibility to sit for state board.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608674 Donald B. Wilson
Executive Secretary
State Board of Veterinary
Medical Examiners

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183.

★ ★ ★

★22 TAC §571.17

The State Board of Veterinary Medical Examiners adopts new §571.17, without changes to the proposed text published in the June 13, 1986, issue of the *Texas Register* (11 TexReg 2700).

The new section ensures that veterinarians out of active practice for a period of time demonstrate their competency prior to re-licensure.

The new section requires licensees that have had their licenses revoked or suspended be re-examined prior to being permitted to re-enter practice.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608675

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

Effective date: September 30, 1986
Proposal publication date: June 13, 1986
For further information, please call
(512) 458-1183.

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Chapter 573. Rules of Professional Conduct

★22 TAC §573.32

The State Board of Veterinary Medical Examiners adopts new §573.32, with changes to the proposed text published in the June 13, 1986, issue of the *Texas Register* (11 TexReg 2700).

The new section aids in promoting better veterinary services provided to consumers.

The new section provides clients with complete, documented information concerning care of their charges.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 7465a, §8(a), which provide the board with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§573.32. *Patient Record Keeping.* Individual records will include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, names and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment. Patient records shall be maintained for a period of three years and are the responsibility and property of the employing veterinarian.

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 September 8, 1986

TRD-8608676

Donald B. Wilson
Executive Director
State Board of Veterinary
Medical Examiners

Effective date: September 30, 1986
Proposal publication date: June 13, 1986
For further information, please call
(512) 458-1183.

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★22 TAC §573.34

The State Board of Veterinary Medical Examiners adopts new §573.34, without changes to the proposed text published in the June 13, 1986, issue of the *Texas Register* (11 TexReg 2700).

The new section aids in promoting better veterinary services provided to consumers.

The new section provides clients with complete, documented information concerning care of their charges.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 7465a, §8(a), which provide the board with the authority to adopt, alter, or amend such rules of professional conduct appropriate to establish and maintain a high standard of integrity.

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 September 8, 1986

TRD-8608677

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

Effective date: September 30, 1986
Proposal publication date: June 13, 1986
For further information, please call
(512) 458-1183.

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Chapter 577. General Administration and Duties Staff and Miscellaneous

★22 TAC §577.11

The State Board of Veterinary Medical Examiners adopts an amendment to §577.11, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3335).

The amendment provides for prompt payment of debts incurred by the board in accordance with statutes recently enacted concerning same.

The amendment allows staff to expedite payments and reimbursements with the board's supervision.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 7465a, §7(a), which provide the board 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.

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 September 8, 1986.

TRD-8608678

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

Effective date: September 30, 1986
Proposal publication date: July 22, 1986
For further information, please call
(512) 458-1183.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 69. Resource Protection Fish and Wildlife Values

★31 TAC §§69.23-69.27, 69.31

The Texas Parks and Wildlife Commission adopts new §§69.23-69.27, and an amendment to §69.31, without changes to the proposed text published in the June 27, 1986, issue of the *Texas Register* (11 TexReg 2953).

These sections fulfill the mandate of the Texas Parks and Wildlife Code, §12.301, effective September 1, 1985, which directs the adoption of rules to establish guidelines for determining the value of fish and wildlife injured or destroyed in violation of the Texas Parks and Wildlife Code or because of violations subject to the Texas Water Code, §26.124(b). Guidelines of this type are needed to assist courts in quantifying damages due the state in civil actions seeking recovery for lost fish and wildlife; this quantification is particularly difficult in the absence of guidelines, given the lack of well-defined, traditional market values for most fish and wildlife resources.

The new sections prescribe a methodology for making an objective determination of the monetary value attributable to an individual of any species of fish or other aquatic life, excluding threatened and endangered species of aquatic life. Under the methodology, forage species are valued by reference to the American Fisheries Society (AFS) publication "Monetary Values of Freshwater Fish and Fish-kill Counting Guidelines"—a survey of hatcheries that indicates the cost of restocking various species of fish. Sports species are valued by combining the cost determined by AFS with an amount representing the value that fishermen apparently place upon fish of various sizes, as determined from documented expenditures by sportsmen in pursuit of fish. Commercial species are valued according to ex-vessel or dockside market prices, with a multiplier of three applied to account for the spin-off of additional

economic activity that depends upon the initial harvest and sale of those commercial species. In addition, for all types of species, lost productivity value must be compensated when the incident that killed the individual fish also impaired their environment, thus preventing the replacement, reproduction, and growth of fish that otherwise would have occurred. The methodology can be used independently to determine appropriate values by any party or decision-maker involved in a dispute concerning injury or destruction to fish or aquatic life.

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

The amendment and new sections are adopted pursuant to the Texas Parks and Wildlife Code, §12.302, which authorizes the adoption of rules establishing guidelines for determining the value of fish and wildlife illegally injured or destroyed.

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 September 9, 1986.

TRD-8608684 Boyd M. Johnson
General Counsel
Texas Parks and Wildlife
Department

Effective date: September 30, 1986
Proposal publication date: June 27, 1986
For further information, please call
(512) 479-4724.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 2. Medically Needy Program

Program Requirements

★40 TAC §2.1004, §2.1006

The Texas Department of Human Services (DHS) adopts amendments to §2.1004 and §2.1006, without changes to the proposed text published in the August 8, 1986, issue of the *Texas Register* (11 TexReg 3529).

The justification for the amendment to §2.1004 is to clarify paragraph (6) to indicate that people sanctioned under the Aid to Families with Dependent Children Program (AFDC) may be eligible for the Medically Needy Program (MNP). In §2.1006, because of regulations issued by the United States Department of Health and Human Services, DHS is adding an exception to its MNP resource policy. The exception concerns certification pending the sale of

real property, which does not apply to the MNP. Also in §2.1006, because of a directive in the Deficit Reduction Act of 1984, subsection (f) is added to note that clients must cooperate in third-party resources activities. Section 2.1004 and §2.1006 also are amended to reflect the department name change.

Section 2.1004 and §2.1006, as amended, will function as DHS' rules concerning groups eligible for the MNP and requirements for application.

No comments were received regarding adoption of the amendments.

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

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

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

TRD-8608652 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 8, 1986
For further information, please call
(512) 450-3766.

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Chapter 4. Medical Programs— Children and Pregnant Women

The Texas Department of Human Services (DHS) adopts the repeal of §§4.1006, 4.1008, 4.1010, 4.1012, and 4.2002 and new §§4.1006, 4.1008, 4.1010, 4.1012, and 4.1016, without changes to the proposed text published in the August 8, 1986, issue of the *Texas Register* (11 TexReg 3530).

The justification for the repeals and new sections is to rewrite and reformat several existing sections. The new sections clarify the requirements for application and client reporting and the procedures for determining income and Medicaid eligibility, and add definitions. Because of regulations issued by the United States Department of Health and Human Services, DHS is clarifying its resource policy concerning certification pending the sale of real property which does not apply to the CPW Program (§4.1006(2)). Because of a directive in the Deficit Reduction Act of 1984, an addition is made to program requirements that clients must cooperate with third-party resources activities (§4.1006 (7)).

The repeals and new sections will function in providing clearer rules for the Children and Pregnant Women Program needed to extend benefits to clients most in need of medical assistance.

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

Eligibility Requirements

★40 TAC §§4.1006, 4.1008, 4.1010, 4.1012

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

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

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

TRD-8608653 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 8, 1986
For further information, please call
(512) 450-3766.

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Program Requirements

★40 TAC §§4.1006, 4.1008, 4.1010, 4.1012, 4.1016

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

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

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

TRD-8608655 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 8, 1986
For further information, please call
(512) 450-3766.

Case Management

★40 TAC §4.2002

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

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

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

TRD-8608654 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 8, 1986
For further information, please call
(512) 450-3766.

Chapter 12. Child Nutrition Program

Child Care Food Program

★ 40 TAC §12.22

The Texas Department of Human Services (DHS) adopts an amendment to §12.22, without changes to the proposed text published in the July 29, 1986, issue of the *Texas Register* (11 TexReg 3436).

The justification for the amendment is to revise the Child Care Food Program audit requirements to conform to the United States Department of Agriculture's Uniform Federal Assistance Regulations; and to outline how available funds may be used to perform program audits.

The section as amended will function as DHS' rule governing the conduct of audits in the Child Care Food Program.

Comments against adoption of the proposed amendment were received from the YWCA of Corpus Christi. The commenter is opposed to the requirement that contractors arrange for an audit to be conducted by an independent auditor. The DHS does not have authority to change this USDA-mandated requirement.

The commenter also questioned whether DHS would increase funding to cover the additional costs of having audits conducted. The DHS will provide no increase in funding to cover the cost of audits; however, these costs are an allowable expense and may be claimed for reimbursement as an administrative expense. The DHS believes that, after conducting audits for which it is responsible under the Single Audit Act of 1984, any money remaining from funds for conducting audits will most benefit the program if used to provide additional technical assistance to contractors.

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

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

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

TRD-8606696

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: July 29, 1986
For further information, please call
(512) 450-3766.

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Chapter 15. Medicaid Eligibility Subchapter II. Budgeting for Individuals Related to the SSI Program

★ 40 TAC §15.3411

The Texas Department of Human Services (DHS) adopts an amendment to §15.3411, concerning budgets to determine eligibility for medical assistance only (MAO), in its Medicaid eligibility chapter, with changes to the proposed text published in the June 27, 1986, issue of the *Texas Register* (11 TexReg 2963).

The amendment clarifies that increases in the MAO special income limit are timed to coincide with cost-of-living adjustments in social security benefits. Modification to the text is made to clarify that increases in the MAO special income limit occur only when authorized by the legislature. Subsection (g) is included in the adoption of the amendment; it was inadvertently omitted from the proposal. There is no intent to change the budget steps to determine eligibility for companion cases, and the only changes to this subsection are its redesignation from (f) to (g) and the redesignation of cross-references.

The amendment ensures that more recipients will remain Medicaid eligible under a type program that receives federal matching funds.

The amendment clarifies that increases in the MAO special income limit are timed to coincide with cost-of-living adjustments in social security benefits.

No comments were received regarding adoption of the amendment.

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

§15.3411. Budget to Determine Eligibility.

(a) The department uses a special income limit established by the legislature to determine an individual's or couple's eligibility for medical assistance only if the individual or couple:

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

(b) When authorized by the legislature, increases in the special income limit are set to coincide with cost-of-living adjustments in social security benefits.

(c) Federal regulations establish a standard equal to 300% of the SSI standard payment amount for an individual as the maximum gross income permitted for individuals living in a long-term care setting. The standard is doubled for measuring the gross income of a couple.

(d) The caseworker must compare gross income with this federal maximum for all individuals and couples whose eligibility in a vendor living arrangement is determined under Type Program 03 or 14 criteria. This test is not required, however, for individuals

and couples whose eligibility is extended under Type Program 51.

(e) If gross income is less than the federal maximum, the caseworker applies appropriate deductions to the income and compares the resulting countable income with the department's special income limit. If the individual's or couple's income is at least \$.01 less than the department's limit and all other eligibility criteria are met, the individual or couple is eligible for medical assistance only.

(f) For individual or couple cases, the caseworker must use the following procedures for determining need based on both the federal maximum and the department's special income limit at the time of application and redetermination.

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

(g) For companion cases, the caseworker uses the following budget steps to determine eligibility.

(1) For initial applications, if eligibility is to be determined for the calendar month of separation, available income must be deemed from the ineligible spouse to the applicant as outlined in §15.3303 of this title (relating to Procedures for Deeming Income). Deemed income is considered the individual's own unearned income and is considered in subsection (f)(1)-(5) of this section.

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

(2) If eligibility is determined for the month(s) after the month of separation, income is not deemed from the ineligible spouse. Only the income of the applicant is considered according to the procedures in subsection (f)(1)-(5) of this section.

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

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

TRD-8608705

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 22, 1986
Proposal publication date: June 27, 1986
For further information, please call
(512) 450-3766.

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Chapter 49. Child Protective Services

The Texas Department of Human Services (DHS) adopts the repeal of §49.1109 and new §49.1109 and §49.1110, without changes to the proposed text published in the July 4, 1986 issue of the *Texas Register* (11 TexReg 3096).

The repeal and new sections are adopted based on requirements under Title IV-D of the Social Security Act.

The new sections include the requirements for enforcement of child support collection for children receiving Title IV-E (AFDC) foster care assistance.

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

Subchapter K. Court-Related Services

★ 40 TAC §49.1109

The repeal is adopted under the Human Resources Code, Title 2, Chapter 31, which authorizes the department to administer financial assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children.

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 September 10, 1986.

TRD-8608707 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: July 4, 1986
For further information, please call
(512) 450-3766.

★ ★ ★

★ 40 TAC §49.1109, §49.1110

The new sections are adopted under the Human Resources Code, Title 2, Chapter 31, which authorizes the department to administer financial assistance programs, and Chapter 41, which authorizes the department to enforce laws for the protection of children.

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 September 10, 1986.

TRD-8608706 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: July 4, 1986
For further information, please call
(512) 450-3766

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Chapter 85. General Licensing Procedures

The Texas Department of Human Services (TDHS) adopts the repeal of §§85.2036, 85.2037, and 85.4016; amendments to §§85.2001-85.2003, 85.2005, 85.2007, 85.2011-

85.2013, 85.2017, 85.2019-85.2024, 85.2026-85.2028, 85.2030, 85.2033-85.2035, 85.2040, 85.2041, 85.4001, 85.4003, 85.4006, 85.4010, 85.4011, 85.4013-85.4015, and 85.4017; and new §§85.1406, 85.2045, and 85.4021, concerning exemptions, day care licensing procedures, and appeals of licensing staff decisions. Sections 85.1406, 85.2045, and 85.4001 are adopted with changes to the proposed text published in the August 5, 1986, issue of the *Texas Register* (11 Tex-Reg 3469). Section 85.2018 is being withdrawn. Section 85.1406(a) is changed to clarify that a program may be exempt based on law as well as administrative rule. Section 85.2045(c) changes resident child care to residential child care to be consistent with administrative terminology. Section 85.4001(a) deletes the words "for a license" because the intent of the paragraph is to state that a person whose application for a license, certification, or registration was denied may request an appeal hearing.

The adoption is justified because agency family day homes are no longer regulated as independent entities by the department, probation is now being incorporated in §85.2019, and the requirements governing the proposal for decision in an appeal hearing are in Texas Civil Statutes, Article 6252-13a. The new sections address requirements for exempt programs and licensed facilities and facilities offering overnight and weekend care and general procedures for conducting appeal hearings on licenses, certifications, and registrations. The amendments streamline the regulation of registered family homes by eliminating biennial registration as a process separate from paying annual fees and establish a continuum of corrective and adverse actions. Additional amendments clarify administrative procedures.

The adoption will function to increase cooperation among the department, child care providers, parents of children in care, and the community by streamlining licensing procedures without causing an increased risk to children in care. In addition, combining licensing staff's technical assistance and enforcement duties is expected to have a long-term preventative effect.

No comments were received regarding adoption of the repeals, new sections, and amendments.

Subchapter O. Exemptions from Licensing

★ 40 TAC §85.1406

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

§85.1406. *Multiple Programs: Exempt Programs and Licensed Facilities.*

(a) If a governing body operates one program that is exempt based on law or administrative rule and also operates a day care

facility that is subject to regulation, the two facilities must meet the following criteria.

(1) They must be in separate buildings, operate in separate areas of the same building, or use the building at different times.

(2) They must use separate outdoor areas or the same outdoor area at separate times.

(b) The exempt program and the licensed facility must be separated from each other at all times. At the end of the school day, children may leave an exempt school and enter the regulated facility.

(c) If separateness cannot be established, both programs are subject to regulation.

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 September 10, 1986.

TRD-8608703 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766.

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Subchapter U. Day Care Licensing Procedures

★ 40 TAC §§85.2001-85.2003, 85.2005, 85.2007, 85.2011-85.2013, 85.2017, 85.2019-85.2024, 85.2026-85.2028, 85.2030, 85.2033-85.2035, 85.2040, 85.2041

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

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

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

TRD-8608702 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766

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★ 40 TAC §85.2036, §85.2037

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

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

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

TRD-8608701 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766.

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★ 40 TAC §85.2045

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

§85.2045. Facilities Offering Overnight or Weekend Care.

(a) A day care facility may offer overnight or weekend care during which the same child(ren) are in care more than 24 hours. This is acceptable under a day care center or group day care home license if the facility is licensed to offer night care and if it offers care for more than 24 hours no more than three consecutive nights with a maximum total of six nights per month. The facility must meet all conditions of the license and requirements of minimum standards.

(b) If any of the conditions are not met, the facility may request a waiver for the specific standards involved, and conditions may be imposed.

(c) If a regulated foster home also provides day care, residential child care licensing staff regulates all aspects of care.

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 September 10, 1986

TRD-8608700 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766.

Subchapter OO. Appeals of Licensing Staff Decisions

★ 40 TAC §§85.4001, 85.4003,
85.4006, 85.4010, 85.4011,
85.4013-85.4015, 85.4017

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

§85.4001. Request for Appeal Hearing and Preliminary Procedures.

(a) The sections in this subchapter apply to hearings on licenses, certifications, and registrations unless otherwise noted. The applicant, licensee, or holder of a certificate or registration has the right to request an appeal hearing on a department decision to deny an application or to revoke a license, certificate, or registration. To request an appeal hearing, the appellant must send a certified letter to the assistant commissioner for licensing within 30 days after receipt of the adverse action notice. The appellant must include in the letter the reasons against denial or revocation. The appellant must send a copy of the letter to the licensing representative.

(b) Within two weeks after the appellant mails the appeal request, the assistant commissioner for licensing must notify the appellant whether the request for an appeal hearing has been granted.

(c) If a request for a licensing appeal is granted, the assistant commissioner for licensing appoints the members of the advisory review board to hear the appeal and asks the general counsel to appoint an administrative law judge to conduct the proceedings. This must be done within two weeks after notifying the appellant that his hearing request was granted. The appeal hearing must be held within four weeks after the members of the advisory review board were appointed, unless the time limit is extended for good cause or by agreement.

(d) If a request for a registration appeal is granted, the assistant commissioner for licensing asks the general counsel to appoint an administrative law judge to conduct the proceedings and make a final decision in the case.

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 September 10, 1986.

TRD-8608699 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766.

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★ 40 TAC §85.4016

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

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

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

TRD-8608698 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766.

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★ 40 TAC §85.4021

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

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

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

TRD-8608697 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: October 1, 1986
Proposal publication date: August 5, 1986
For further information, please call
(512) 450-3766.

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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

Tuesday, September 23, 1986, 10:30 a.m. The Texas Department of Agriculture will meet at the district office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will conduct an administrative hearing to review the alleged violation of Texas Agriculture Code §76.116(a)(1) by David Wilon, doing business as Farmers Co-Op Air Service, holder of commercial applicator license.

Contact: Deborah E. Brown, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: September 9, 1986, 1:57 p.m.
TRD-8608664

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Texas Alcoholic Beverage Commission

Monday, September 22, 1986, 1:30 p.m. The Texas Alcoholic Beverage Commission will meet in the Hearing Room, third floor, 1600 West 38th Street, Austin. According to the agenda, the commission will approve the minutes of the August 25, 1986, meeting; hear administrator's and staffs' report of agency activity; and approve an affidavit of destruction of tested alcohol beverages.

Contact: James J. Glover, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: September 9, 1986, 1:23 p.m.
TRD-8608665

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Interagency Council on Early Childhood Intervention

Friday, September 19, 1986, 1:30 p.m. The Interagency Council on Early Childhood Intervention will meet in the Recreation Building, Mesa Village Condominiums, 4159 Steck, Austin. According to the agenda summary, the council will discuss and evaluate the Advisory Committee structure and func-

tioning; consider the Advisory Committee report to the council and appointment of Advisory Committee members; discuss the contributed agency roles in light of budget and personnel reductions; discuss the legislative strategies for fiscal year 1987; review the health program standards; discuss the probationary contracts; merit raises and staff travel for fiscal year 1987; appoint the council chairperson and vice-chairperson for fiscal year 1987; and approve the calendar.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

Filed: September 10, 1986, 1:51 p.m.
TRD-8608718

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Texas Economic Development Commission

Wednesday, September 17, 1986, 9:30 a.m. The Texas World Trade Council of the Texas Economic Development Commission will meet in emergency session in Room 1061, Infomart, 1950 Stemmons Freeway, Dallas. According to the agenda, the council will hear the executive director's report; a briefing on the Hannover Trade Fair; consider a proposal on Barter/Countertrade; and discuss new business. The emergency status is necessary because of pending agenda items.

Contact: Sandy Harris, 410 East Fifth Street, Austin, Texas 78701, (512) 472-5059.

Filed: September 10, 1986, 9:09 a.m.
TRD-8608695

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Texas Education Agency

Thursday, September 11, 1986, 10 a.m. The Price Differential Index Advisory Committee of the Texas Education Agency met in emergency session in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. Items on the agenda included the approval of minutes; a discussion of

component indices; a discussion of weighting schemes; the adoption of component indices and weighting schemes; and adoption of the report. The emergency status was necessary to ensure that the committee could complete its work on schedule.

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

Filed: September 10, 1986, 2:05 p.m.
TRD-8608724

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Texas Employment Commission

Wednesday, September 17, 1986, 8:30 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider prior meeting notes; discuss internal procedures of commission appeals; consider and possibly act on higher level appeals in unemployment compensation cases on Commission Docket 37; and set the date of the next meeting.

Contact: Courtenay Browning, 101 East 15th Street, Austin, Texas 78778, (512) 463-2226.

Filed: September 9, 1986, 2:44 p.m.
TRD-8608688

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Firemen's Pension Commission

Wednesday, September 17, 1986, 4 p.m. The Administrative Division of the Firemen's Pension Commission will meet at the Lubbock Plaza Hotel, 3201 South Loop 289, Lubbock. According to the agenda, the Board of Trustees for the Senate Bill 411 Pension System, as prescribed by Texas Civil Statutes, Article 6243e.3, will meet to discuss the pension plan, followed by a volunteer workshop meeting and a paid seminar for fire departments, held Thursday and Friday, September 18 and 19, 1986.

Contact: Hal H. Hood, 3910 IH 35 South, Suite 235, Austin, Texas 78704, (512) 462-0222.

Filed: September 9, 1986, 12:57 p.m.
TRD-8608663

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Texas Industrial Accident Board

Monday, September 15, 1986, 9:30 a.m. The Texas Industrial Accident Board made a revision to the agenda for a meeting held in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. The revision concerned the letter to William O. Whitehurst, Jr., President, State Bar of Texas.

Contact: William Treacy, 100 East Riverside Drive, Austin, Texas 78704, (512) 448-7962.

Filed: September 10, 1986, 3:34 p.m.
TRD-8608728

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State Board of Insurance

The State Board of Insurance will meet in the State Insurance Building, 1110 San Jacinto Street, Austin. Days, times, rooms, and agendas follow.

Wednesday, September 17, 1986, 10 a.m. In Room 414, the board will consider setting the procedure for appeals from denials of coverage or other nonclaim decisions of the Texas Catastrophe Property Insurance Association to be heard directly by the board itself or referred for hearing before a hearings officer of the board; consider final action on 28 TAC §§27.306, 27.311, 27.313, and 27.316-27.318 published in 11 TexReg 1557; board orders on several different matters; hear the fire marshal's report on personnel matters; the commissioner's report on personnel matters; and consider pending and contemplated litigation.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: September 9, 1986, 3:55 p.m.
TRD-8608692

Friday, September 19, 1986, 9 a.m. In Room 414, the board will consider the appeal of Charles D. Hawkins from Commissioner's Order 86-0605.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: September 10, 1986, 1:47 p.m.
TRD-8608719

Thursday, October 2, 1986, 10 a.m. In Room 414, the board will consider the appeal of Nan-Travis Memorial Hospital from action of the Texas Medical Liability Insurance Underwriting Association.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: September 10, 1986, 1:47 p.m.
TRD-8608720

Wednesday, October 8, 1986, 9 a.m. In Room 342, the board will consider the appeal of George Guilbeaux from action of the Texas Catastrophe Property Insurance Association.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

Filed: September 10, 1986, 1:47 p.m.
TRD-8608721

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Lamar University System

Thursday, September 11, 1986, 11 a.m. The Athletic Committee of the Board of Regents of Lamar University, met in emergency session in the Spindletop Room, Gray Library, Beaumont. According to the agenda, the committee discussed conference affiliation. The emergency status was necessary due to open meeting posting requirements.

Contact: Dr. George McLaughlin, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: September 10, 1986, 11:25 a.m.
TRD-8608714

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Texas State Board of Medical Examiners

Friday, September 12, 1986, 11 a.m. The Executive Committee of the Texas State Board of Medical Examiners met in emergency session at 1101 Camino La Costa, Austin. According to the agenda, the committee considered the matter involving licensee under the provisions of Texas Civil Statutes, Article 4495b, §4.13. The committee also met in executive session under the authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §§2.07, 3.05(d), 4.05(d), 5.06(e)(1) and Attorney General Opinion H-484, 1974; and considered licensure. The emergency status was necessary because the information just available needs attention. The matter will be referred to in a later open meeting of full board.

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

Filed: September 10, 1986, 4:19 p.m.
TRD-8608729

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State Pension Review Board

Monday, September 22, 1986, 10 a.m. The State Pension Review Board will meet in the Conference Room 403, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the board will conduct a full board meeting to discuss the biennial report.

Contact: Jeanette Owen, Room 501, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: September 10, 1986, 12:27 p.m.
TRD-8608715

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Texas State Board of Public Accountancy

Wednesday, September 17, 1986, 3 p.m. The Entry and Reentry Screening Committee of the Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will discuss ratification of applications for registration of partnerships and professional corporations; consider the reinstatement of CPA certificates; the ratification of applications under §§12, 13, and 14; consider hearings for individuals requesting appearances before the committee; review convictions reported by licensees on their 1986 renewal notices; review information relating to Department of Public Safety criminal background investigation reports; review requests for the surrender of CPA certificates; review the licensing of statistics; discuss the November 1986, swearing-in ceremony for new CPA's; review reciprocal applications; and consider other matters coming before the committee.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: September 9, 1986, 2:35 p.m.
TRD-8608685

Thursday, September 18, 1986, 9 a.m. The Executive Committee for Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the committee will discuss the fiscal year 1987 budget, the status of fiscal year 1988-1989 appropriation request, the status of distribution of the *History of the Texas State Board of Public Accountancy*; consider activities of the National Association of State Boards of Accountancy; discuss the status of the Constructive Enforcement Program; consider personnel actions; discuss the hearing held September 16, 1986, on certain proposed substantive rules; hear a memorandum from the American Institute of CPA's on GATAP; and consider other matters coming before the committee.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: September 9, 1986, 2:36 p.m.
TRD-8608686

Thursday and Friday, September 18-19, 1986, 1 p.m. The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the full board will meet en banc to discuss reports of the Entry and Reentry Screening Committee, the Examination Committee, the Enforcement Committee, the Technical Standards Review Committee, and the Executive Committee; consider the adoption of substantive rules; discuss possible amendments to the Public Accountancy Act of 1979, as amended; review request for Attorney General opinions; review the board's financial condition; review pending litigation; consider ratification of board orders, consent orders, and proposals for decision; review certain board communications; review the board activity summary; and review future meeting/hearing schedules.

Contact: Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

Filed: September 9, 1986, 2:35 p.m.
TRD-8608687

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Public Utility Commission of Texas

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

Wednesday, September 24, 1986, 9 a.m. The division will conduct a prehearing conference in Docket 7020—application of Southwestern Bell Telephone for authority to implement rates for INTRA-LATA service provided over multi-jurisdictional WATS access lines.

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

Filed: September 10, 1986, 3:19 p.m.
TRD-8608726

Monday, October 20, 1986, 10 a.m. The division will conduct a prehearing conference in Docket 6995—petition of Lower Colorado River Authority *et al.* for determination of the wheeling impact of the transmission of Fulk Power from Oklahoma Unit No. 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: September 10, 1986, 3:19 p.m.
TRD-8608727

Wednesday, November 12, 1986, 10 a.m. The division will conduct a hearing on the merits in Docket 6967—application of Texas Utilities Electric Company for a proposed transmission line and associated substations in Scurry County.

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

Filed: September 9, 1986, 2:56 p.m.
TRD-8608690

Friday, November 14, 1986, 10 a.m. The division will conduct a hearing on the merits in Docket 6983—application of Midwest Electric Cooperative, Inc., for authority to change rates.

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

Filed: September 9, 1986, 2:56 p.m.
TRD-8608691

State Rural Medical Education Board

Sunday, September 14, 1986, noon. The State Rural Medical Education Board made an emergency revision to the agenda for a meeting held in the Seventh Floor Conference Room, Southwest Tower Building, 211 East Seventh Street, Austin. The revision concerned consideration of general business; the position of the director; student loan applications; and other business. The emergency status was necessary because of a change in the format.

Contact: Renee Luckie, Room 408, 211 East Seventh Street, Austin, Texas 78701, (512) 463-5501.

Filed: September 10, 1986, 1:50 p.m.
TRD-8608722

State Committee of Examiners for Speech-Language Pathology and Audiology

Thursday and Friday, September 25 and 26, 1986, 9 a.m. daily. The State Committee of Examiners for Speech Language Pathology and Audiology will meet in Room T-407, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda, the committee will approve minutes of the August 1, 1986, meeting, review and finalize comments received concerning proposed rules published in the *Texas Register*; adopt final rules to be approved by the Texas Board of Health for publication, discuss a public information brochure, the committee's budget, committee members participating as a panel at the annual Texas Speech-Language-Hearing Association Convention; review complaints and complaint investigations; review correspondence addressed to the committee; consider other matters relating to licensing and regulation of Speech-Language Pathologists and Audiologists (no committee action required); and set the date of the next meeting.

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7502.

Filed: September 9, 1986, 1:55 p.m.
TRD-8608666

Teachers' Professional Practices Commission of Texas

Thursday, September 18, 1986, 9 a.m. The Teachers' Professional Practices Commission of Texas will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, a three member panel of the commission will meet in executive session according to Texas Civil Statutes, Article 6252.17, §(g), to reach a decision on a case filed by an active certified member of the teaching profession against three other active certified members of the teaching profession, pursuant to the Texas Education Code, §§13.201-13.218. All testimony in these cases have been concluded. The commission will then reconvene in an open meeting for the purpose of declaring the findings of the commission and taking final action on the recommendations to the commissioner.

Contact: James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78705, (512) 463-9332.

Filed: September 10, 1986, 8:07 a.m.
TRD-8608708

Thursday, September 18, 1986, 10 a.m. The Teachers' Professional Practices Commission of Texas will meet in Room 6-101, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will adopt minutes of the August 23, 1986, meeting; discuss the Code of Ethics revision; discuss the Bolton, Word, and Lowery cases; consider an overview of cases pending before the commission; discuss commission activities; and set the date for the next meeting.

Contact: James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78705, (512) 463-9332.

Filed: September 10, 1986, 8:06 a.m.
TRD-8608709

Friday, September 19, 1986, 9 a.m. The Teachers' Professional Practices Commission of Texas will meet in Room 1-109, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, a three-member panel of the commission will hear a complaint filed by an active certified member of the teaching profession against another active certified member of the teaching profession, pursuant to Texas Education Code, §§13.201-13.218.

Contact: James A. Salmon, 1701 North Congress Avenue, Austin, Texas 78705, (512) 463-9332

TRD-8608710

Texas Water Commission

Wednesday, September 10, 1986, 10 a.m. The Texas Water Commission met in emergency session in Room 118, Stephen F. Austin Building, Austin. According to the agenda, the commission considered the request of the executive director for an emergency order which would require Tri-County Util-

ties to drill a well and make such improvements as are necessary to bring the water system supplying Melody Hills Subdivision in Tarrant County into compliance with the Texas Water Code, the rules of the Texas Water Commission, and the regulations and standards of the Texas Department of Health; and further, authorizing the executive director to refer this matter to the attorney general's office for enforcement action. The emergency status was necessary inasmuch as the existing wells are not providing an adequate quantity and quality of water for the customers and the company has failed to respond to previous directives, this is being considered by the commission as soon as possible.

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

Filed: September 9, 1986, 4:09 p.m.
TRD-8608693

Friday, September 19, 1986, 10 a.m. The Waste District and River Authority Study Committee of the Texas Water Commission will meet in Room 107, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the committee, created under Senate Bill 249, 69th Legislature, Regular Session, will hear staff presentations regarding the powers and duties of the Texas Water Commission and the Texas Water Development Board. Members of the public are also invited to speak. The committee also will meet in executive session at 1 p.m..

Contact: Kate Wilkins, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7863.

Filed: September 10, 1986, 4:16 p.m.
TRD-8608731

Regional Agencies Meeting Filed September 9

The Texas Municipal League Risk and Insurance Management Services Board of Trustees, Workers Compensations, Joint Insurance Fund/Joint Self-Insurance Fund, met at the Marriott Hotel, 6121 IH 35 North, Austin, on September 13-15, 1986, at 2 p.m. Saturday and Sunday, and at 8:30 a.m. Monday. Information may be obtained from Allen F. Hyman, 211 East Seventh Street, Suite 1020, Austin, Texas 78701-3283, (512) 478-6601.

TRD-8608681

Meetings Filed September 10

The Bexar Appraisal District, Board of Directors, will meet at 535 South Main, San Antonio, on September 22, 1986, at 5 p.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Capital Area Rural Transportation System (CARTS), Board of Directors, will meet

in the conference room, CARTS Central Office, 5021 East First Street, Austin, on September 25, 1986, at 10 a.m. Information may be obtained from Edna Burroughs, 5021 East First Street, Austin, Texas 78702, (512) 478-7433.

The Grayson Appraisal District Board of Directors, will meet at 205 North Travis, Sherman, on September 17, 1986, noon. Information may be obtained from Deborah Reneau, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.

The Guadalupe-Blanco River Authority, Board of Directors, will meet at 933 East Court Street, Seguin, on September 18, 1986, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78156-0271, (512) 379-5822.

The Hansford County Appraisal District, will meet at 709 West Seventh Avenue, Spearman, on September 16, 1986, at 9 a.m. Information may be obtained from Alice Paddy, P.O. Box 567, Spearman, Texas 79081, (806) 659-5575.

The Harris County Appraisal District, Board of Directors, will meet on the eighth floor, 2800 North Loop West, Houston, on September 17, 1986, at 1:30 p.m. Information may be obtained from Margie Hilliard, P.O. Box 920975, Houston, Texas 77292, (713) 957-5203.

The Lower Colorado River Authority, Audit and Budget Committee, will meet at 3700 Lake Austin Boulevard, Austin, on September 17, 1986, at 8 a.m. The Energy Operations Committee, Finance and Administration Committee, Natural Resources Committee, and the Planning and Public Policy Committee, will meet at the same location on September 17, 1986, at 8 a.m. The Board of Directors will meet at the same location on September 18, 1986, at 9 a.m. Information may be obtained from John E. Bagalay, Jr., 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3200.

The Mason County Appraisal District, will meet at 206 Ft. McKavitt Street, Mason, on September 17, 1986, at 5:15 p.m. Information may be obtained from Ann Stapp, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989.

The Texas Municipal Power Agency, Board of Directors, met in emergency session in the E-Systems Recreation Hall, FM Road 1570, Greenville, on September 11, 1986, at 10 a.m. Information may be obtained from Jim Bailey, P.O. Box 7000, Bryan, Texas 77805, (409) 873-2013.

The Red River Authority of Texas, Board of Directors, will meet in Room 216, Activity Center, 1001 Indiana, Wichita Falls, on September 18, 1986, at 9:30 a.m. Information may be obtained from Ronald J. Glenn, 520

Hamilton Building, Wichita Falls, Texas 76301, (817) 723-8697.

The San Antonio River Authority Board of Directors, will meet at 100 East Guenther Street, San Antonio, on Wednesday, September 17, 1986, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.

The Wise County Appraisal District, Board of Directors, met in emergency session at 206 South State, Decatur, on September 11, 1986, at 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081.
TRD-8608694

Meetings Filed September 11

The Ark-Tex Council of Governments, Board of Directors, will meet at The Alps Restaurant, Quality Inn, IH 30 and Highway 271, Mount Pleasant, on September 18, 1986, at 5:30 p.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75505, (214) 832-8636.

The Fisher County Appraisal District Appraisal Review Board, will meet in the Commissioner's Courtroom, Fisher County Courthouse, Roby, on September 18, 1986, at 2 p.m. Information may be obtained from Teddy Kral, P.O. Box 512, Roby, Texas 79543, (915) 776-2733.

The Hale County Appraisal District, Appraisal Review Board, will meet in the Hale County Appraisal District Office, 302 West Eighth Street, Plainview, on September 18, 1986, at 11 a.m. Information may be obtained from Linda Jaynes, 302 West Eighth Street, Plainview, Texas 79072, (806) 293-4226.

The Houston-Galveston Area Council, Projects Review Committee, will meet in the Fourth Floor Conference Room, 3555 Timmons, Houston, on September 16, 1986, at 8:30 a.m. The Board of Directors will meet at the same location on September 16, 1986, at 9:30 a.m. Information may be obtained from Aquina Janice, H-GAC, 3555 Timmons, Houston, Texas 77027, (713) 627-3200, ext. 555.

The Lone Star Municipal Power Agency, met in the City Hall, 1212 Avenue M, Huntsville, on September 15, 1986, at 5:30 p.m. Information may be obtained from Cathy Locke, P.O. Box 9960, College Station, Texas 77840, (409) 764-3525.

The Region IX Education Service Center, Board of Directors, will meet in the Region IX Education Service Center Boardroom, 301 Loop 11, Wichita Falls, on September 23, 1986, at 6 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.
TRD-8608732

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 Commission on Alcohol and Drug Abuse Notice of Advisory Council Meeting

The Advisory Council of the Texas Commission on Alcohol and Drug Abuse will meet on September 18 from 12:30 p.m. to 4:30 p.m. and on September 19 from 8:30 a.m. to noon. The meeting will be held in the Terrace Room at the Stephen F. Austin Hotel in Austin.

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

TRD-8608641 Ross Newby
Executive Director
Texas Commission on Alcohol and
Drug Abuse

Filed: September 8, 1986
For further information, please call (512) 463-5510.

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Banking Department of Texas Notice of Hearing Cancellation

The hearing scheduled for September 11, 1986, 9 a.m., to review practices of Money Master Express, Inc., has been canceled. The hearing has not been rescheduled.

Additional information may be obtained from Jorge A. Gutierrez, General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

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

TRD-8608686 Jorge A. Gutierrez
General Counsel
Banking Department of Texas

Filed: September 9, 1986
For further information, please call (512) 479-1200.

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Texas Department of Health Intent to Revoke a Certificate of Registration

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Certificate of Registration 11-02853, issued to Dayton Memorial Hospital, Inc., for the following reasons:

- (1) the agency determined that the registrant is no longer located at 702 North Winfree, Dayton, Texas 77535. The registrant has not notified the agency of a change of address and no forwarding address is available; and
- (2) the certificate of registration expired October 31, 1985. The agency has not received a request for renewal.

All attempts by the agency to contact the registrant by telephone, by certified mail, and by inspection have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the certificate of registration be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* 13.8, this notice affords the opportunity for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed, the certificate of registration will be revoked at the end of the 30-day period of notice.

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

TRD-8608638 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 8, 1986
For further information, please call (512) 458-7236.

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Proposed Radioactive Material License Issuance

Notice is hereby given by the Texas Department of Health that it proposes to issue the following radioactive material license:

Radioactive Material License 5-3915 to be issued to Nutopes (mailing address: Nutopes, P.O. Box 1098, Denton, Texas 76202).

The license is summarized as follows:

authorizes Nutopes to receive radioactive waste from other persons and to store indoors, process, and transfer radioactive waste to an authorized disposal site within the limits for a Class A storage and processing facility;

limits the total radioactive waste from other persons that may be stored and processed to 50 cubic feet/year and the following activity limits:

Group I	Group II	Group III	Group IV
10 mCi	100 mCi	1 Ci	10 Ci

exempts the licensee from the major requirements of *Texas Regulations for Control of Radiation Part 44, Licensing of Radioactive Waste Processing and Storage Facilities*, under *Texas Regulations for Control of Radiation 44.6 (b)(2)*; and

imposes certain procedures for the processing and storing of radioactive waste and establishes radiation safety procedures.

The division of licensing, registration, and standards has determined that: the proposed issuance 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 issuance of the license will not be inimical to public health and safety, or have a detrimental impact on the environment; and the applicant satisfies any applicable special requirements in Texas Regulations for Control of Radiation Part 41 and 44.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(a), as amended, and as set out in Texas Regulations for Control of Radiation 13.5(a). 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 located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the license will be issued 14 days following the end of the 30 day period of notice.

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 issuance 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 78756-3189. For further information, please call (512) 835-7000.

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

TRD-8608680 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: September 9, 1986
For further information, please call (512) 458-7236.

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Public Utility Commission of Texas Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Public Utility Commission of Texas (PUCT) invites proposals from qualified firms, public agencies, and individuals to provide no-cost on-site maintenance and operations energy evaluations for Texas school districts. This program is the continuation of a service which is current-

ly offered by the Energy Resource Center for Texas schools. All programs of the Energy Resource Center are funded by petroleum violation escrow (PVE) monies budgeted for this program.

The contractor will provide on-site energy evaluation for requesting school districts throughout the state. Contractor will use an established approach in conducting the evaluation and a prescribed format to report the findings and recommendations.

In providing an energy evaluation survey, the contractor will be expected to complete the following steps:

- (1) contact the designated energy manager at the requesting school district to explain the service and set up an evaluation date;
- (2) travel to the audit site, meet with the energy manager, review the district's utility consumption and cost figures, and discuss current and past energy efficiency efforts;
- (3) screen individual buildings to determine suitable candidates for walk-through surveys (number of walk-through audits provided will be determined by the size of the district);
- (4) conduct walk-through surveys of specific buildings;
- (5) debrief the school representatives on the findings of the survey;
- (6) return to the firm office and perform a technical analysis of specific energy cost reduction opportunities (ECRO) to calculate projected energy consumption and cost savings for each ECRO;
- (7) prepare a written report based on the analysis;
- (8) provide a telephone follow-up three months after the audit visit to determine the level of ECRO implementation; and
- (9) prepare a report supplement to provide a realistic assessment of the savings the school district is likely to achieve as a result of the evaluation and the resulting action taken.

The fee to be paid to the contractor for each school evaluation will be set by the PUCT and will range from \$550 to \$7,500, depending on the size of the district and the number of building walk-through audits allowed. The contract period will extend through May 1987.

Contractor selection will be based on the recommendations of a review committee. Final selection of the contractor will be based on the following criteria:

- (1) proposer's experience with energy using systems found in Texas school facilities;
- (2) proposer's familiarity with the operational patterns and special energy needs of Texas school districts;
- (3) proposer's knowledge of the range of technical capabilities found in school maintenance and operations programs for schools;
- (4) proposer's experience in performing on-site energy analyses on school facilities and success in communicating the findings to school administrators;
- (5) proposer's ability to assign qualified and experienced personnel to the project;
- (6) the technical quality of the proposer's past work in the area of school energy auditing; and
- (7) proposer's suggested approach to effectively marketing a service which has already been provided to over 25% of the school districts in Texas.

Additional information regarding the consultant proposal request and project specifications may be obtained by contacting Nel Roberts, Energy Efficiency Division, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, (512) 458-0313.

To be considered, written proposals must arrive at the PUCT office no later than 3 p.m. on September 29, 1986. The proposal opening date is September 29, 1986. Five copies of the proposal should be sent to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, Attention: Sandy Becker. The proposal envelope should reflect the following bid identification number: 473-7-180033. Bid identification number and date filed should be clearly marked on the outside of the proposal package.

Issued in Austin, Texas, on September 4, 1986.

TRD-8608639 Rhonda Colbert Ryan
Secretary
Public Utility Commission of Texas

Filed: September 8, 1986
For further information, please call (512) 458-0100.

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Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of September 1-5, 1986.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hear-

ing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

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

Period of September 1-5, 1986

Arthur Klekar, Schulenburg; pullet raising facility; ¼ mile south of County Road 329, ½ mile west of its intersection with County Road 334; 1.9 miles southwest of Engle in Fayette County; 02853; new permit

West Texas Utilities Company, Abilene; steam generating station; at the end of FM Road 2082 and the northeast end of Lake Stamford in Haskell County; 00963; renewal

M. W. Carpot, Inc., Hereford; animal hair and hides processing facility; north of and adjacent to West Walnut Road, approximately .5 mile south of the City of Hereford, Deaf Smith County; 02198; amendment

West Texas Utilities Company, Quanah; steam electric power plant; on the north shore of Lake Pauline approximately 4½ miles southeast of the City of Quanah in Hardeman County; 00962; renewal

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

TRD-8608644 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: September 8, 1986
For further information, please call (512) 463-7898.

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