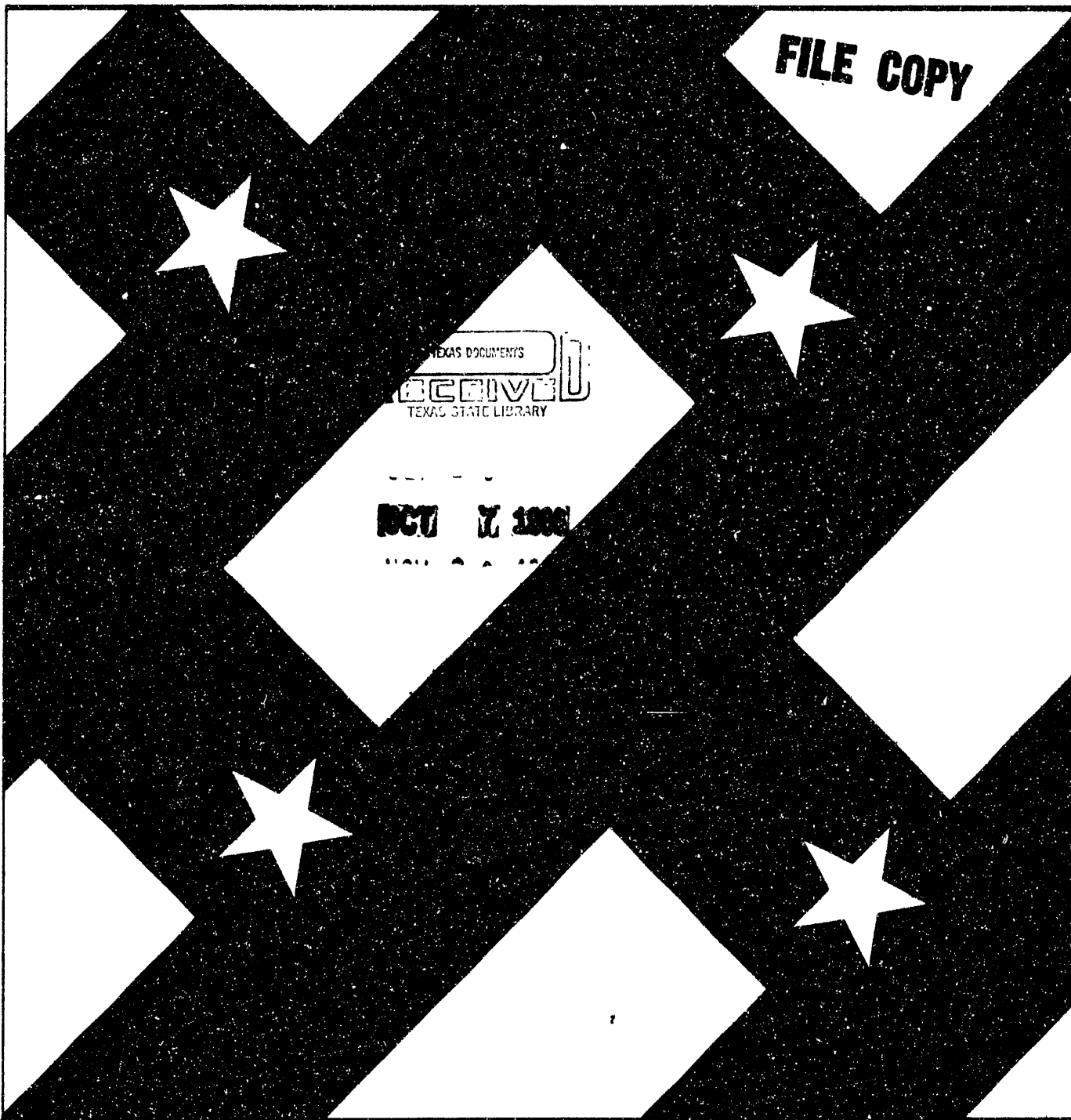


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Texas Register

Volume 11, Number 74, October 3, 1986

Pages 4131-4184



Highlights

The **Railroad Commission of Texas** proposes sections concerning unprotected proceedings and application to establish or change rates. Earliest possible date of adoption - November 3 **page 4142**

The **Texas Department of Health** proposes amendments concerning drinking water standards governing drinking water quality

and reporting requirements for public water systems. Earliest possible date of adoption - November 3 **page 4144**

The **Fire Protection Personnel Standards and Education** proposes amendments concerning certified inspectors. Effective date - November 3 **page 4147**

**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, P.O. Box 13824, Austin, Texas 78711-3824.

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

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

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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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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.

Appointment Made
September 24

110th Judicial District

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

David C. Cave
P.O. Box 456
Spur, Texas 79370

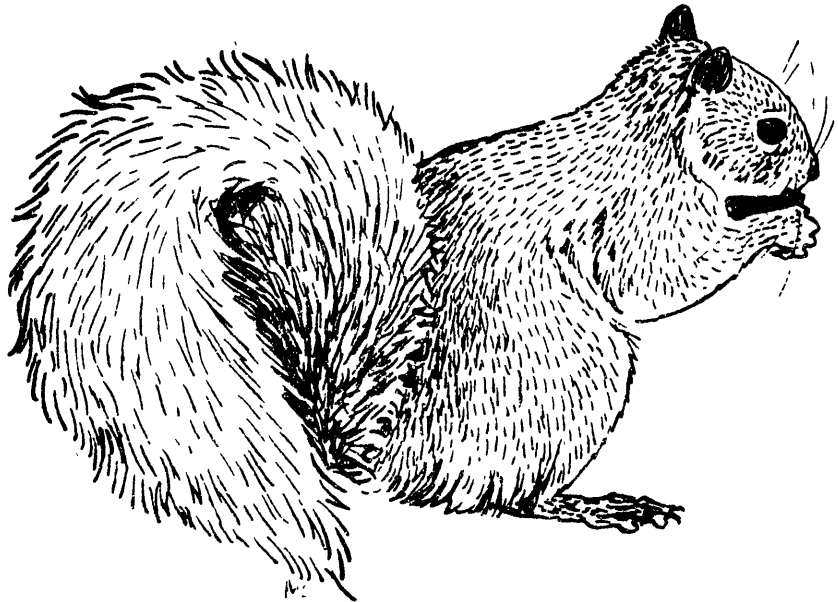
Mr. Cave is replacing George W. Miller of Floydada, Floyd County, who resigned.

Issued in Austin, Texas, on September 24, 1986.

TRD-8609182

Mark White
Governor of Texas

★ ★ ★



Proclamations 41-2103

Under the provisions of the Texas Constitution, Article III, §40, I, Mark White, Governor of Texas, do hereby add to the call of this Third Called Session of the 69th Legislature, 1985, now convened, the following:

Legislation relating to the name and powers of water supply corporations.

The secretary of state will take notice of this action and will notify the members of the legislature.

41-2104

WHEREAS, a vacancy now exists in the Texas House of Representatives in the membership of District 53, which consists of part of Bell County; and

WHEREAS, the Texas Election Code, §203.002 and §203.013 (Vernon) requires that a special election be ordered upon such vacancy, and requires that said special election shall be held on an election date occurring between the 21st day and the 45th day after the date the election is ordered, inclusive; and

WHEREAS, the November 4, 1986, uniform election date falls within the prescribed period;

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 order a special election to be held in District 53 on Tuesday, the 4th day of November, 1986, for the purpose of electing a state representative for District 53 to serve out the unexpired term of the Honorable Bill Messer.

Candidates who wish to have their names placed on the special election ballot must file their applications with the secretary of state no later than 5 p.m. on Monday, the 6th day of October, 1986.

A copy of this order will be mailed immediately to the county judge of Bell County, and all appropriate writs will be issued and all proper proceedings will be followed to the end that said election may be held to fill the vacancy in District 53 and its result proclaimed in accordance with law.

Issued in Austin, Texas, on September 22, 1986.

TRD-8609183

Mark White
Governor of Texas

Attorney

General

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

Requests for Opinions

RQ-897. Request from Glenn Williams, police legal advisor, City of Austin, Austin, concerning whether records of an investigation into allegations of sexual abuse of children at the Texas School for the Deaf are exempted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

TRD-8609282

★ ★ ★

RQ-898. Request from Robert Bernstein, M.D., F.A.C.P., commissioner of health, Texas Department of Health, Austin, concerning whether information collected by the Texas Department of Health regarding a shigellosis outbreak is available to the public under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

TRD-8609283

★ ★ ★

Opinions

JM-547 (RQ-803). Request from Vernon M. Arrell, commissioner, Texas Rehabilitation Commission, Austin, concerning whether a state agency may insure mail or freight in transit.

Summary of Opinion. A state agency does not need specific authorization to insure mail or freight in transit.

TRD-8609284

JM-549 (RQ-771). Request from Joseph C. Gagen, chairman, Industrial Accident Board, Austin, concerning whether the Industrial Accident Board is entitled in interest earned in the compensation to victims of crime fund.

Summary of Opinion. The victims of crime compensation fund is not entitled to be credited with interest earned by deposit of its funds; Texas Civil Statutes, Article 4393-1, §3.042(a), require that such interest be credited to the General Revenue Fund.

TRD-8609286

JM-550 (RQ-832). Request from Benjamin Euresi, Jr., Cameron County attorney, Brownsville, concerning the disposition of funds received from the sale of vehicles forfeited under Texas Civil Statutes, Article 4476-15, §5.08.

Summary of Opinion. Texas Civil Statutes, Article 4476-15, §5.08(b)(2), control the disposition of proceeds from a sale of forfeited property if a court has ordered the property forfeited to the state. Section 5.08(f) controls the disposition of a court orders the property forfeited to any agency of the state or a political subdivision of the state authorized by law to employ peace officers. Texas Civil Statutes, Article 4476-15, §5.08(f), do not permit an agency or office to receive proceeds from the sale of forfeited property until the claims bona fide secured parties have been satisfied.

TRD-8609287

★ ★ ★

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 16. ECONOMIC REGULATION

Part IV. Texas Department of Labor and Standards

Chapter 70. Industrialized Housing and Buildings

Subchapter D. Administration and Enforcement

★ 16 TAC §70.38, §70.39

The Texas Department of Labor and Standards adopts on an emergency basis, amendments to §70.38 and §70.39. The amendments concern the clarification of the procedure for the handling of third party pass through fees; clarification of the requirements and the procedures for the department to perform on-site inspections outside of a municipality that regulates on-site construction and a requirement for a builder to obtain an occupancy certificate prior to a building being occupied. The amendments are adopted on an emergency basis to protect the health, safety, and welfare of the manufactured housing consumer in Texas.

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

§70.38. *In-Plant Inspections.*

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

(c) The department, in its discretion, may require or may authorize upon written request by the manufacturer, the use of third party inspections subject to the sections in this chapter and to monitoring by department personnel. **If an approved third-party inspector is utilized, fees may be paid directly to the third-party inspector but must be forwarded through the department for approval. A note must be attached to the third-party reimbursement stating, "third-party pass through inspection fee."**

(d) (No change.)

§70.39. *Building Site Inspections.*

(a) (No change.)

(b) When the building site is outside a municipality, or within a municipality which

has no building department or agency, the department or third-party inspectors will perform the required inspections. **The on-site inspection is normally accomplished in the following three phases: site preparation, set, and final. The builder is responsible to schedule each phase of the inspection with the inspecting agency. Additional inspections will be scheduled as required for larger structures and to correct discrepancies. The builder is responsible to ascertain that the request for an on-site inspection and the fee arrive at the department's Austin office a minimum of 10 working days prior to the first requested inspection date on the form and in the format prescribed by the department. If a council approved third-party inspector is approved by the department and completes the inspection, fees may be paid directly to the third-party inspector but must be forwarded through the department for approval. A note must be attached to the third-party reimbursement stating, "third-party pass through inspection fee." The department must be notified by the third-party inspector of the time, date, and location of the inspection, a minimum of three working days prior to the inspection.** [The industrialized builder may elect to utilize the services of the department or third-party inspectors approved by the council for the on-site construction inspections at these building sites; the election must be made in writing to the commissioner.] The industrialized builder may utilize the services of the department on one or more projects; however, the election may not be changed once made for a particular project at the building site except with written approval of the department.

(c)-(e) (No change.)

(f) **The builder shall not permit occupancy of a structure until a successful final inspection has been completed and a certificate of occupancy issued. The department will issue a certificate of occupancy for structures located outside of a municipality that regulates on-site construction.**

Issued in Austin, Texas, on September 22, 1986.

TRD-8609165

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

Effective date: October 1, 1986

Expiration date: January 29, 1987

For further information, please call

(512) 463-3127.

★ ★ ★

Subchapter E. Fees and Reports

★ 16 TAC §70.52

The Texas Department of Labor and Standards adopts on an emergency basis, an amendment to §70.52. The amendment concerns changes of the on-site inspection fee to a standard fee in relation to structure type and size that will be collected before the inspection. The amendment is adopted on an emergency basis to protect the health, safety, and welfare of the manufactured housing consumer in Texas.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 5221f-1, which provides the commissioner of the Texas Department of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

§70.52. *Department Fees.*

(a)-(h) (No change.)

(i) The fee for department personnel for on-site [building site] inspections is as follows and shall be submitted with the on-site inspection request [paid to the inspector] by either a company check reflecting the name of the industrialized builder, cashier's check, or money order [at the completion of the inspection]:

(1) **\$150 for residential structures designed for one-four families, plus \$25 for each dwelling unit in excess of two; or [a minimum fee of \$50 per inspector for each day in which any inspections are performed at the site; and]**

(2) **\$750 for those residential structures which exceed two stories in height or which are designed for separate living use of more than four families, plus \$25 for each additional family dwelling unit in excess of four; or [a maximum of \$100 per inspector per day or \$15 per inspector-hour, whichever is less.]**

(3) **\$150 for commercial structures up to 800 square feet of floor space, plus \$.10 per additional square foot over 800; and**

(4) **\$50 for each reinspection not to exceed two inspector hours and \$25 for each additional inspector hour in excess of two hours. Reinspection fees will be paid to the inspector by either a company check reflecting the name of the industrialized builder,**

cashiers check, or a money order at the completion of the inspection.

(j)-(l) (No change.)

Issued in Austin, Texas, on September 22, 1986.

TRD-8609166

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

Effective date: October 1, 1986
Expiration date: January 29, 1987
For further information, please call
(512) 463-3127.

★ ★ ★

Subchapter F. General and Miscellaneous

★ 16 TAC §70.102

The Texas Department of Labor and Standards adopts on an emergency basis, an amendment to §70.102, which drops the term "department" because the commis-

sioner will determine any disputes that arise. The amendment is adopted on an emergency basis to protect the health, safety, and welfare of the manufactured housing consumer in Texas.

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

§70.102. *Compliance Disputes.*

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

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

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

Issued in Austin, Texas, on September 22, 1986.

TRD-8609167

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

Effective date: October 1, 1986
Expiration date: January 29, 1987
For further information, please call
(512) 463-3127.

★ ★ ★

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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter A. General Provisions

★ 16 TAC §5.4

The Railroad Commission of Texas proposes an amendment to §5.4, concerning definitions. This amendment establishes a definition of rate by referencing another section of the commission's rules.

Stephen P. Webb, hearings examiner, 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. Webb 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 clarification to carriers, bus companies, and shippers of the definition of the term "rate." 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 Stephen P. Webb, Hearings Examiner, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under Texas Civil Statutes, Article 911a, §4(a) and Article 911b, §4(a), which provide the Railroad Commission of Texas with the authority to establish ratemaking standards and procedures for all transportation services which it regulates under those statutes.

§5.4. Definitions.

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

(1)-(19) (No change.)

(20) **Rate**—The same meaning as prescribed in §5.401 of this title (relating to Definitions).

(b) (No change.)

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

Issued in Austin, Texas, on September 23, 1986

TRD-889253 Walter Earl Lille
Special Counsel
Railroad Commission
of Texas

Earliest possible date of adoption:
November 3, 1986

For further information, please call
(512) 463-7094.

★ ★ ★

Subchapter H. Tariffs and Schedules

★ 16 TAC §§5.145-5.149

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Railroad Commission of Texas, 1701 North Congress Avenue, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §§5.145-5.149, concerning rates, charges, and classifications; ascertaining revenues and expenses of carriers; applications to establish or change rates, charges, or classifications; rate making standards; and prescription rate making. The repeal of these sections and the simultaneous proposal of new §§5.145-5.148 allows the implementation of the Motor Carrier Act, Article 911b, and recent federal case law.

Stephen P. Webb, hearings examiner, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Webb also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the clarification to carriers and shippers of the standards and procedures to be followed by the commission in prescribing rates and charges. There is no anticipated economic cost to individuals who

are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Stephen P. Webb, Hearings Examiner, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeals are proposed under Texas Civil Statutes, Article 911b, §4(a), which provide the Railroad Commission of Texas with the authority to prescribe rules pertaining to the prescription of rates, charges, and classifications for motor carriers of commodities.

§5.145. Rates, Charges, and Classifications.

§5.146. Ascertaining Revenues and Expenses of Carriers.

§5.147. Applications to Establish or Change Rates, Charges, or Classifications.

§5.148. Rate Making Standards.

§5.149. Prescription Rate Making.

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 23, 1986.

TRD-8809254 Walter Earl Lille
Special Counsel
Railroad Commission
of Texas

Earliest possible date of adoption:
November 3, 1986

For further information, please call
(512) 463-7094.

★ ★ ★

★ 16 TAC §§5.145-5.148

The Railroad Commission of Texas proposes new §§5.145-5.148, concerning prescribed ratemaking; rates; ratemaking standards; and collective applications. These new sections reorganize, clarify, and amplify current agency rules covering ratemaking under the Motor Bus Act and the Motor Carrier Act. The changes separate substantive and procedural rules, provide clearer standards for ratemaking, and clarify that existing collective ratemaking procedures are not inconsistent with individualized rate determinations in appropriate circumstances.

Stephen P. Webb, hearings examiner, has determined that for the first five-year pe-

riod the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Webb also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the clarification to carriers, bus companies, and shippers of the standards and procedures to be followed by the commission in prescribing rates and charges. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Stephen P. Webb, Hearings Examiner, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new sections are proposed under Texas Civil Statutes, Article 911a, §4(a), and Article 911b, §4(a), which provide the Railroad Commission of Texas with the authority to establish ratemaking standards and procedures for all transportation services which it regulates under those statutes.

§5.145. Prescribed Rates. Rates applicable to motor carriers under the Motor Carrier Act and to motor bus companies under the Motor Bus Act are effective and lawful only when prescribed by order of the commission. No motor carrier or motor bus company shall charge or apply any rates not prescribed and effective by order of the commission.

§5.146. Rates.

(a) Policy. To ensure just, reasonable, and nondiscriminatory rates for all regulated transportation services.

(b) Procedures. The commission will follow and enforce collective ratemaking procedures for all transportation services for which it prescribes rates. Such procedures shall ensure that the revenues and expenses of motor carriers or motor bus companies are ascertained for the transportation service provided or proposed to be provided. Nothing in this chapter shall be construed to prohibit independent action by any person in a rate application.

(c) Enforcement. Failure on the part of any motor carrier or motor bus company to comply with the commission's ratemaking procedures may result in suspension or cancellation of the motor carrier's or motor bus company's operating authority.

§5.147. Ratemaking Standards. Rates set by the commission shall be reasonable to the shipping public and reasonably compensatory to the involved motor carrier(s) or motor bus company(s). Rates shall be set at a level that will cover the operating expenses of the involved motor carriers or motor bus companies and provide a reasonable margin in excess of those expenses.

§5.148. Collective Applications. Applications to establish or change rates may be submitted and prosecuted, or opposed by an authorized carrier association on behalf of a motor carrier(s) pursuant to an agreement which has been approved by the commission under §5.315 of this title (relating to Approval of Agreements between Carriers Concerning Group Representation). Applications, protests, or interventions in opposition filed by an association must disclose, by reference to documents on file with the commission or otherwise, on whose behalf the application, protest, or intervention is filed.

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 23, 1986.

TRD-8609255 Walter Earl Lillie
Special Counsel
Railroad Commission
of Texas

Earliest possible date of adoption:

November 3, 1986

For further information, please call
(512) 463-7094.

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Subchapter U. General and Special Rules of Practice and Procedure

★ 16 TAC §5.423, §5.424

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Railroad Commission of Texas, 1701 North Congress Avenue, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The Railroad Commission of Texas proposes the repeal of §5.423 and §5.424, concerning uncontested proceedings and expedited procedure for applications. The repeal of these sections and the simultaneous proposal of new §5.423 and §5.424 allows the implementation of the Motor Carrier Act, Article 911b, and recent federal case law.

Stephen P. Webb, hearings examiner, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Webb also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the clarification to carriers and shippers of the standards and procedures to be followed by the commission in prescribing rates and charges. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Stephen P. Webb, Hearings Examiner, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711-2967.

The repeals are proposed under Texas Civil Statutes, Article 911b, §4(a), which provide the Railroad Commission of Texas with the authority to prescribe rules pertaining to the prescription of rates, charges, and classifications for motor carriers of commodities

§5.423. Uncontested Proceedings.

§5.424. Expedited Procedure for Applications.

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 23, 1986.

TRD-8609256 Walter Earl Lillie
Special Counsel
Railroad Commission
of Texas

Earliest possible date of adoption:

November 3, 1986

For further information, please call
(512) 463-7094

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The Railroad Commission of Texas proposes new §5.423 and §5.424, concerning unopposed proceedings and applications to establish or change rates. These new sections reorganize, clarify, and amplify current agency rules covering ratemaking under the Motor Bus Act and the Motor Carrier Act. The changes separate substantive and procedural rules, provide clearer standards for ratemaking, and clarify that existing collective ratemaking procedures are not inconsistent with individualized rate determinations in appropriate circumstances.

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

Mr. Webb also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections is the clarification to carriers, bus companies, and shippers of the standards and procedures to be followed by the commission in prescribing rates and charges. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Stephen P. Webb, Hearings Examiner, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new sections are proposed under Texas Civil Statutes, Article 911a, §4(a), and Article 911b, §4(a), which provide the Railroad Commission of Texas with the authority to establish ratemaking standards and procedures for all transportation services which it regulates under those statutes.

§5.423. Applications to Establish or Change Rates.

(a) Filing of application.

(1) Generally. Applications to establish or change rates may be submitted and prosecuted, or opposed by any person or entity having an administratively cognizable or justiciable interest.

(2) Form of application. An application to establish or change rates must be submitted on appropriate commission forms, under oath, and contain:

(A) an identification of the tariff and the tariff item number proposed to be established or changed;

(B) a legible copy of the proposed tariff or item(s) in tariff format (8½" x 11" paper). If the proposed amendment affects an existing tariff item, only the affected part of the item showing the changes proposed need be submitted.

(b) Evidence in support of applications.

(1) Evidence submitted in support of an application to establish or change rates shall include:

(A) a description of pertinent current rates, if any;

(B) revenues at proposed rates—a statement of operating revenues projected to be received under the proposed rates by any motor carrier(s) or motor bus company(s) for which the rates would apply;

(C) expenses at proposed rates—a statement of operating expenses incurred, or which would be incurred, by any motor carrier(s) or motor bus company(s) for which the rates would apply;

(D) operating ratio—a statement of resulting operating ratio (operating expenses divided by operating revenues) based upon projected revenues and expenses at proposed rates, and;

(E) allocations, methodology, or special studies—a statement of any allocation, methodology, or special study used in preparation of the evidence in support of an application to establish or change rates.

(2) Where the application does not directly seek establishment of a rate or change of an existing rate, it must include evidence to show that the proposal would be reasonable and not unduly discriminatory.

(3) The commission may require that the evidence included in rate applications demonstrate that the revenues and expenses submitted are representative of the revenues and expenses of motor carrier(s) or motor bus company(s) for which the rates would apply.

(4) Unless otherwise specified in the application or as provided in paragraphs (5) and (6) of this subsection, rates shall apply to all motor carriers or motor bus companies

having authority to provide transportation services under the application.

(5) Within 15 days after the date of the published transportation notice of hearing of an application for a reduction in rates, a motor carrier or motor bus company may request in writing that it be allowed to participate or not to participate in the application as published. A copy of the request shall be timely served upon the applicant. The request will be granted upon good cause shown. If the request is not granted, it may be refiled as a separate application, subject to all applicable commission rules.

(6) On any application for an increase in rates:

(A) a motor carrier or motor bus company may file a written request with the commission within 15 days after the date of the published transportation notice of hearing of the application, that it not be subject to the rates as proposed. A copy of the request shall be timely served upon the applicant. The request will be granted upon good cause shown. If the request is not granted, it may be refiled as a separate application, subject to all applicable commission rules;

(B) any motor carrier or motor bus company seeking to participate in the rates proposed for the account of a named motor carrier(s) or motor bus company(s) must file as an intervenor in support thereof in accordance with §5.411 of this title (relating to Parties in Interest) and offer evidence supporting its participation.

(7) Applications seeking rate increases based on overall revenue needs will not be subject to the provisions of paragraphs (5) and (6) of this subsection.

(8) Documents and workpapers which underlie evidence submitted by a party shall be made available for inspection on request by a party or the commission

§5.424. Unprotested Proceedings.

(a) An application before the Transportation Division may be given expedited processing if the applicant, in addition to meeting all other requirements of an application, submits with the application all supporting evidence that would be required at oral hearing. The applicant shall state in writing that, in the event a favorable decision is reached by the commission, he expressly waives opportunity for adjudicative hearing and any requirements for preparation of a proposal for decision.

(b) If an application contains all information necessary to enable the commission to reach a decision, it shall be docketed and published in the transportation notice of hearing as an expedited application. If no protest has been filed against the application by the filing deadline, an order will be prepared and presented to the commission without further proceedings.

(c) If the application does not contain all necessary information for processing without a oral hearing, the application will be docketed and published in the transportation

notice of hearing and the director shall assign the application to be heard as an unprotested case. An application that has not been noticed for expedited processing and that seeks to establish or change a rate may be processed without an oral hearing, if the applicant submits, under oath, all evidence required by §5.423(b) of this title (relating to Applications to Establish or Change Rates) within 15 days from the publication of notice, and if the application is not protested.

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 23, 1986.

TRD-8609257

Walter Earl Lillie
Special Counsel
Railroad Commission
of Texas

Earliest possible date of adoption.

November 3, 1986

For further information, please call
(512) 463-7094.

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**Part IV. Texas Department
of Labor and Standards
Chapter 70. Industrialized
Housing and Buildings
Subchapter D. Administration and
Enforcement**

★ 16 TAC §70.38, §70.39

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

The Texas Department of Labor and Standards proposes amendments to §70.38 and §70.39, concerning clarification of the procedure for the handling of third-party pass through fees; clarification of the requirements and the procedures for the department to perform on-site inspections outside of a municipality that regulates on-site construction; and a requirement for a builder to obtain an occupancy certificate prior to a building being occupied.

Jimmy G. Martin, assistant director for industrialized housing and buildings, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections

Mr. Martin also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be an easier means of complying with the sections. There is no antici-

pated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Jimmy G. Martin, Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711.

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

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

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

TRD-8609168

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

Earliest possible date of adoption:

November 3, 1986

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

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Subchapter E. Fees and Reports

★ 16 TAC §70.52

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

The Texas Department of Labor and Standards proposes an amendment to §70.52, concerning the changing of the on-site inspection fee to a standard fee in relation to structure type and size that will be collected before the inspection.

Jimmy G. Martin, assistant director for industrialized housing and buildings, 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. Martin 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 an easier method of establishing the on-site inspection fee. 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 Jimmy G. Martin, Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711.

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

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

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

TRD-8609169

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

Earliest possible date of adoption:

November 3, 1986

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

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Subchapter F. General and Miscellaneous

★ 16 TAC §70.102

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

The Texas Department of Labor and Standards proposes an amendment to §70.102, concerning the dropping of the term "department." The term is deleted, since it is thought that the use of the term in that part of the section was redundant. The commissioner of the department is the arbitrator of disputes arising within the department's jurisdiction.

Jimmy G. Martin, assistant director for industrialized housing and buildings, 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. Martin 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 ease of compliance with the rules. 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 Jimmy G. Martin, Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221f-1, which provide the commissioner of the Texas De-

partment of Labor and Standards with the authority to adopt rules and regulations and promulgate administrative orders as necessary to assure compliance with the intent and purpose of the Act and to provide for uniform enforcement.

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

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

TRD-8609170

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

Earliest possible date of adoption:

November 3, 1986

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

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 337. Water Hygiene Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems

★ 25 TAC §§337.3, 337.14, 337.18

The Texas Department of Health proposes amendments to §§337.3, 337.14, and 337.18, concerning drinking water standards governing drinking water quality and reporting requirements for public water systems. Section 337.3, Standards of Chemical Quality, will be changed to reflect an increase in the maximum allowable fluoride standard to a value of 4.0 mg/l.

Also, a secondary constituent level of 2.0 mg/l for fluoride will be added to §337.14, concerning recommended secondary constituent levels. These revisions will bring the standards up-to-date with recent changes made on the federal level by the U.S. Environmental Protection Agency. An additional change is proposed in §337.18, concerning fees for services to drinking water systems, by further defining the application of the fee schedule based on number of connections to a water system.

Stephen Seale, chief accountant III, has determined that for the first five-year period the proposed amendments will be in effect there will be fiscal implications for state government as a result of enforcing or administering the amendments. The effect on state government will be an estimated increase in revenue of \$4,150 each year for the years 1987-1991. There will be no effect to local government or small businesses.

Mr. Seale also has determined that for each year of the first five years the amendments are in effect the public benefit anticipated as a result of enforcing the amendments will be to bring the current standards in line with changes made by the United States Environmental Protection Agency and further define the application of fees to a particular group of community public water systems. The anticipated economic cost to individuals who are required to comply with the proposed amendments will be of little or no effect.

Comments on the proposal may be submitted to Thomas D. Tiner, Director, Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3192. Comments will be accepted for 30 days after publication of the proposal.

The amendments are proposed under Texas Civil Statutes, Article 4414c, §2, which authorize the Texas Board of Health to charge fees to persons who receive public health services from the department, and Article 4477-1, §23, which authorize the Texas Board of Health to adopt rules covering drinking water and water systems.

§337.3. Standards of Chemical Quality. All analyses to determine compliance shall be performed by laboratories approved by the department. Analyses shall be performed on treated water as furnished to the customer.

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

(3) Fluoride. Maximum allowable level for fluoride is 4.0 mg/l. Also, see §337.14 of this title (relating to Recommended Secondary Constituent Levels Applicable to All Public Water Systems) which establishes a recommended secondary constituent level of 2.0 mg/l. [When the annual average of the maximum daily air temperatures for the location in which the community water system is situated is the following, the maximum allowable levels for fluoride are as follows:

Temperature Degrees Fahrenheit	Temperature Degrees Celsius	Level, Milligrams Per Liter
63.9-70.6	17.7-21.4	1.8
70.7-79.2	21.5-26.2	1.6
79.3-90.5	26.3-32.5	1.4

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

§337.14. Recommended Secondary Constituent Levels Applicable to All Public Water Systems.

(a) The following secondary constituent levels are recommended limits, except for water systems which are not in existence as of the effective date of these standards. For water systems which are constructed after the effective date, no source of supply which does not meet the recommended secondary constituent levels may be used without written approval by the department. The determining factor will be whether or

not there is an alternate source of supply of acceptable chemical quality available to the area to be served.

Constituent	Level
Chloride	300 mg/l
Color	15 color units
Copper	1.0 mg/l
Corrosivity	non-corrosive
Fluoride	2.0 mg/l
Foaming agents	0.5 mg/l
Hydrogen sulfide	0.05 mg/l
Iron	0.3 mg/l
Manganese	0.05 mg/l
Odor	3 Threshold Odor Number
pH	7.0
Sulfate	300 mg/l
Total Dissolved Solids	1,000 mg/l
Zinc	5.0 mg/l

(b) (No change.)

(c) Community water systems that exceed the secondary maximum constituent level for fluoride but are below the level listed in §337.3 of this title (relating to Standards of Chemical Quality) must notify the public. The notice must be made annually by including it with the water bill or by separate mailing to all customers. The form and content of the notice shall be as prescribed by the department.

§337.18. Fees for Services to Drinking Water Systems.

(a) (No change.)

(b) Services to public water systems.

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

(3) The fees which the department will charge for services provided to community water systems under this subsection will be according to the following schedule:

Number of Connections*	Fee
1-49	\$50
50-199	\$100
200-499	\$250
500-999	\$400
1000-1999	\$500
2000-4999	\$1,000
5000-9999	\$1,500
10,000-29,999	\$2,000
30,000-99,999	\$3,000
100,000-199,999	\$4,000
200,000 and greater	\$5,000

* Number of connections will be determined from data collected from the latest sanitary survey report. State, federal and certain community water system installations determined by the department which serve large populations through a few connections shall have the number of connections for fee purposes determined by dividing the population served by a value of 10. Examples of such installations are universities, children's homes, correctional facilities, military facilities, etc., which generally do not bill customers for water service.

(4)-(6) (No change.)

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

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

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

TRD-8609290

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

Earliest possible date of adoption:

November 3, 1986

For further information, please call
(512) 458-7533.

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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 Fire Suppression Personnel

★ 37 TAC §233.31

The Commission on Fire Protection Personnel Standards and Education proposes an amendment to §233.31, concerning certificate requirements for intermediate, advanced and master fire-fighter certificates. The new amendment adds new language that will provide additional options for obtaining intermediate, advanced and master fire fighter certificates. The amendment should give individuals added incentives to obtain advanced fire fighter training.

Ray L. Goad, executive director, has determined that for the first five-year period the amendment 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 amendment is in effect the public benefit anticipated as a result of enforcing the section will be added incentives for full-time, paid fire-fighters to obtain advanced level training in order to provide more proficient fire protection to the citizens of Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Ray L. Goad, Executive Director, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8068.

The amendment is proposed under Texas Civil Statutes, Article 4413(35), §§2(1), (5),

(8), and (14), 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 curriculum requirements for schools or academies operated for the specific purpose of training fire protection personnel for basic and advanced courses in fire protection.

§233.31. Certificates. In accordance with the provisions and standards hereafter set forth, the Texas Commission on Fire Protection Personnel Standards and Education shall, by acting by and through the executive director of said commission, award the following certificate to qualified applicants:

(1) (No change.)

(2) intermediate fire fighter certificate. In addition to the requirements set forth in paragraph (1) of this section [(relating to Basic Fire-Fighter Certification)], the following requirements must be met for the award of an intermediate certificate:

(A) (No change.)

(B) Each applicant shall have acquired the following combination of education and training points combined with the prescribed years of full-time, paid fire-fighting experience: [, or, the college degree designated, and approved by the commission, combined with the prescribed years of fire fighting experience. The education and training points, as used in the schedule hereinafter set forth in paragraphs (2) and (3) of this section, shall be determined as follows:]

(i) 20 college semester hours or 20 training points, or any combination of the two, and eight years of service; or [one semester hour or unit or a recognized college or university shall equal one training point.]

(ii) 40 college semester hours or 40 training points, or any combination of the two, and six years of service; or [20 classroom hours of fire protection or fire fighting training in a program approved by the commission shall equal one training point.]

(iii) 60 college semester hours or 60 training points, or any combination of the two, and four years of service. [all programs to be eligible for credit must be submitted to, and approved in writing by the commission, prior to commencement of program. (Repeat programs will not be accepted for credit.)]

[Education and Training Points and Years of Fire Protection Experience	20 and 8	40 and 6	60 and 4

(C) all training programs to be eligible for credit, must be submitted to and approved in writing by the commission prior to commencement of the program. Repeat training programs or courses of study will not be accepted for training credit. Twenty noncollege training hours equal one training point, or one college semester hour equals one training point.

(3) Advanced fire fighter certificate. In addition to the requirements set forth in paragraph (2) of this section [(intermediate certification)] the following requirements must be met for the award of the advanced certificate:

(A) each applicant shall possess an intermediate certificate; and

(B) each applicant shall have acquired the following combination of education and training points, combined with the prescribed years of full-time, paid fire protection experience: [, or, the college degree designed and approved by the commission, combined with the prescribed years of fire protection experience.

[40, 12 or 60, 9, or associate degree, 9 or baccalaureate degree, 4]

(i) 40 college semester hours or 40 training points, or any combination of the two, and 12 years of service; or

(ii) 60 college semester hours or 60 training points, or any combination of the two, and nine years of service; or

(iii) an associate degree and nine years of service; or

(iv) 120 college hours or 120 training points, or any combination of the two and four years of service; or

(v) a baccalaureate degree and four years of service.

(4) Master fire-fighter certificate. In addition to the requirements set forth in paragraph (3) of this section, the following requirements must be met for the award of the master certificate: [Each applicant shall possess an advanced fire-fighter certificate and shall have acquired the following education and years of fire protection experience. The first part of the line represents the required education while the second part, following the comma, represents years of fire protection experience:]

[associate degree, 12 or baccalaureate degree, 6 or master degree, 4.]

(A) each applicant shall possess an advanced certificate; and

(B) each applicant shall have acquired the following combination of college semester hours, or college degrees and years of service:

Associate Degree and 4	Baccalaureate Degree and 2

(i) 60 college semester hours or associate degree and 12 years of service; or

(ii) 120 college semester or baccalaureate degree and 6 years of service; or

(iii) masters degree and four years of fire service experience.

(5) Verification of training. All training for intermediate, advanced and master certification must be verified by copies of certificates, transcripts, or other approved [proof of] training. Applications must be signed by the applicant and the department head.

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 26, 1986.

TRD-8609269

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

Earliest possible date of adoption:

November 3, 1986

For further information, please call
(512) 474-8066.

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Minimum Standards for Fire and Arson Investigator

★ 37 TAC §§233.62-233.64

The Commission on Fire Protection Personnel Standards and Education proposes amendments to §§233.62-233.64, concerning intermediate, advanced, and master fire and arson investigator certificates. The amendments provide additional options for obtaining intermediate, advanced, and master fire and arson investigator certificates. The amendments should give individuals added incentives to enhance their knowledge and ability in fire and arson detection

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

Mr. Goad also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be fire and arson investigator(s) that have obtained additional skills to prevent and investigate fires which should reduce the fire costs to Texas citizens, and also reduce the annual number of fires in Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Ray L. Goad, Executive Director, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

The amendments are proposed under Texas Civil Statutes, Article 4413(35), §§2(1), (5), (8), and (14), which provide the Commission on Fire Protection Personnel Stan-

dards and Education with the authority to adopt and amend rules for the administration of this Act, and to establish curriculum requirements for schools or academies operated for the specific purpose of training fire protection personnel for basic and advanced courses in fire protection.

§233.62. Intermediate Fire and Arson Investigator Certificate.

- (a) Each applicant:
 - (1) must possess a basic fire and arson investigator certificate;
 - (2) must possess an intermediate law enforcement certificate;
 - (3) must complete 40 additional class hours of accredited training; and
 - (4) shall have acquired the following combination of education and training points, combined with the prescribed years of full time fire protection experience:
 - (A) 20 college semester hours or 20 training points or any combination of the two, and eight years of service; or
 - (B) 40 college semester hours or 40 training points, or any combination of the two, and six years of service; or
 - (C) 60 college semester hours or 60 training points, or any combination of the two, and four years of service; or
 - (D) an associate degree in a related field and four years of service; or
 - (E) 120 college hours or 120 training points, or any combination of the two that equals 120, and two years of service; or

(F) a baccalaureate degree in a related field and two years of service.

(b) All training programs, to be eligible for credit, shall be submitted to, and approved in writing by the commission prior to commencement of the program. (Repeat programs or courses of study will not be accepted for credit.) Twenty noncollege hours equal one training point or one college hour equals one training point.

See deleted language in Chart A.

§233.63. Advanced Fire and Arson Investigator Certificate.

- (a) Each applicant:
 - (1)-(3) (No change.)
 - (4) shall have acquired the following combination of education and training, [points] combined with the prescribed years of full time fire protection experience:
 - (A) 40 college semester hours or 40 training points or any combination of the two, and 12 years of service; or
 - (B) 60 college semester hours or 60 training points, or any combination of the two, and nine years of service; or
 - (C) an associate degree and nine years of service; or
 - (D) 120 college hours or 120 training points, or any combination of the two and four years of service; or
 - (E) a baccalaureate degree and four years of service.

See deleted language in Chart B.

§233.64. Master Fire and Arson Investigator Certificate.

(a) The requirements set forth in §233.63 of this title (relating to Advanced Fire and Arson Investigator Certificate) must be met for the award of the master fire and arson investigator certificate; and

(b) In addition, each applicant shall possess an advanced fire and arson investigator certificate and shall have acquired the following education and years of full time fire protection experience:

See deleted language in Chart C.

- (1) 60 college hours or associate degree and 12 years of fire service; or
- (2) 120 college hours or baccalaureate degree and six years of fire service experience; or
- (3) master's degree and four years of fire service experience.

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 26, 1986.

TRD-8609270

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

Earliest possible date of adoption
November 3, 1986
For further information, please call
(512) 474-8066

Chart A

[Education and Training Points and Years of Fire Protection Experience	20 and 8	40 and 6	60 and 4	Associate Degree and 4	Baccalaureate Degree and 2
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Chart B

[Education and Training Points and Years of Fire Protection Experience	40 and 12	60 and 9	Associate Degree and 9	Baccalaureate Degree and 4
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Chart C

[Education and Years of Fire Protection Experience	Associate Degree 12	Baccalaureate Degree 6	Master's Degree 4
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Minimum Standards for Fire and Prevention Personnel

★ 37 TAC §§233.108-233.110

The Commission on Fire Protection Personnel Standards and Education proposes amendments to §§233.108-233.110, concerning intermediate, advanced, and master certified inspectors. The amendments provide additional options for obtaining intermediate, advanced, and master inspector certification. The amendments should provide individuals with incentive to obtain advanced fire-inspector training which would enhance their ability to provide fire prevention and protection to their communities.

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

Mr. Goad also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be enhanced fire prevention and protection for Texas citizens by providing additional training incentives to full time, paid fire prevention personnel in Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Ray L. Goad, Executive Director, 510 South Congress Avenue, Suite 406, Austin, Texas 78704, (512) 474-8066.

The amendments are proposed under Texas Civil Statutes, Article 4413(35), §§2(1), (5), (8), and (14), 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 curriculum requirements for schools or academies operated for the specific purpose of training fire protection personnel for basic and advanced courses in fire protection.

§233.108. Intermediate Certified Inspector.

(a) An applicant for intermediate certified inspector:

- (1) must be a certified inspector—level A;
- (2) must be a full time inspector; and

(3) must acquire the following combination of education and training points combined with the prescribed years of fire protection experience:

(A) 20 college semester hours or 20 training points or any combination of the two, and eight years of service; or

(B) 40 college semester hours or 40 training points, or any combination of the two, and six years of service; or

(C) 60 college semester hours or 60 training points, or any combination of the two, and four years of service; or

(D) an associate degree in a related field and four years of service; or

(E) 120 college hours or 120 training points, or any combination of the two that equals 120, and two years of service; or

(F) a baccalaureate degree in a related field and two years of service.

(b) All training programs, to be eligible for credit, shall be submitted to, and approved in writing by the commission prior to commencement of the program. (Repeat programs or courses of study will not be accepted for credit.) Twenty noncollege hours equal one training point or one college hour equals one training point. [Each applicant shall have acquired the following combination of education and training points combined with the prescribed years of fire protection experience. There is no mandatory time limit to complete the required courses. The education and training points, as used in the following schedule shall be determined as follows:]

[(1) one semester hour or unit in a recognized college or university shall equal one training point;

[(2) 20 classroom hours of fire prevention training in a program approved by the commission shall equal one training point;

[(3) all programs to be eligible for credit must be submitted to, and approved in writing by the commission, prior to commencement of the program. (Repeat programs will not be accepted for credit nor will the requirements for basic or other fire fighter certificate.)]

See deleted language in Chart A.

§233.109. Advanced Certified Inspector.

Each applicant:

(1) must possess an intermediate inspector certificate;

(2) must be a full-time, paid inspector; and

(3) shall have acquired the following combination of education and training, combined with the prescribed years of full time fire protection experience:

(A) 40 college semester hours or 40 training points or any combination of the two, and 12 years of service; or

(B) 60 college semester hours or 60 training points, or any combination of the two, and nine years of service; or

(C) an associate degree and nine years of service; or

(D) 120 college hours or 120 training points, or any combination of the two and four years of service; or

(E) a baccalaureate degree and four years of service.

[(a) Each applicant shall be an intermediate certified inspector.

[(b) Each applicant must be a full-time inspector.

[(c) Each applicant shall have acquired the following combination of education or training points or both, combined with the prescribed years of fire protection experience.

[(d) All programs, to be eligible for credit, shall be submitted to and approved in writing by the commission prior to commencement of the program. (Repeat programs or courses of study will not be accepted for credit.)]

See deleted language in Chart B.

§233.110. Master Certified Inspector. Each applicant:

(1) must possess an advanced inspector certificate;

(2) must be a full-time, paid investigator; and

(3) shall have acquired the following combination of education and training, combined with the prescribe years of full-time fire protection experience:

(A) 60 college hours or associate degree and 12 years of fire service; or

(B) 120 college hours or baccalaureate degree and six years of fire service experience; or

(C) master's degree and four years of fire service experience.

[(a) Each applicant shall be an advanced certified inspector.

[(b) Each applicant must be a full-time inspector.

[(c) Each applicant shall have acquired the following education and years of fire protection experience:]

See deleted language in Chart C.

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 26, 1986.

TRD-8609268

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

Earliest possible date of adoption:

November 3, 1986

For further information, please call

(512) 474-8066



Chart A

Education and Training Points and Years of Fire Protection Experience	20 and 8	40 and 6	60 and 4	Associate Degree and 4	Baccalaureate Degree and 2
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Chart B

Education and Training Points and Years of Fire Protection Experience	40 and 12	60 and 9	Associate Degree and 4	Baccalaureate Degree and 4
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Chart C

Education and Years of Fire Protection Experience	Associate Degree 12	Baccalaureate Degree 6	Master's Degree 4
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Aircraft Crash and Rescue Fire Fighter Standards

★ 37 TAC §233.142

The Commission on Fire Protection Personnel Standards and Education proposes an amendment to §233.142, concerning minimum standards for aircraft crash and rescue fire fighters. The amendment adds additional options for obtaining a master aircraft crash and rescue fire fighter certificate. The amendment should provide individuals with additional incentives to improve their skills for providing fire protection at the major airports in Texas.

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 added incentives for full-time, paid aircraft crash and rescue fire fighters to obtain additional specialized training to improve their skills for providing fire protection at major 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 406, Austin, Texas 78704 (512) 474-8066.

The amendment is proposed under Texas Civil Statutes, Article 4413(35), (11), (14), (5) and §2, subsection (8), 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 curriculum requirements for schools of academies operated for the specific purpose of training fire protection personnel for basic and advanced courses in the protection.

§233.142. Minimum Standards for Aircraft Crash and Rescue Fire Fighters.

- (a)-(i) (No change.)
- (j) Master aircraft crash and rescue fire-fighter certification.
 - (1) must possess advanced aircraft crash and rescue certification;
 - (2) eight years service and 60 college hours or associate degree in a related field; or
 - (3) six years service and 120 college hours or baccalaureate degree in a related field; or
 - (4) four years service and masters [postgraduate] degree.

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 26, 1986

TRD-8609267

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

Earliest possible date of adoption:
November 3, 1986
For further information, please call
(512) 474-8066.

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part IX. Texas Department on Aging
Chapter 265. Grant Related Income
Statutes and Regulations
★ 40 TAC §265.1

The Texas Department on Aging proposes an amendment to §265.1, concerning grant related income, to further ease the cash flow problems which may occur during the first quarter of subsequent fiscal years. This amendment will permit even greater flexibility in the use of program income funds to ease beginning of year cash flow difficulties of area agencies on aging and service providers.

Linda Heath, chief, Grant's Management Division, 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.

Tim Shank, deputy executive director, 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 less disruption and greater efficiency in the funding processes of grantees and service providers during the transitional period from previous fiscal years to current fiscal years which will complement service delivery of Title III programs throughout the state. 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 Edwin R. Floyd, Chief of Administrative Services, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The amendment is proposed under the Human Resources Code, Chapter 101, which

provides the Texas Department on Aging with the authority to promulgate rules governing the function of the department.

§265.1. Allowable Use of Program Income.

(a) (No change.)

(b) Policies.

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

(3) It is the policy of the TDoA that program income shall be used for current costs. The only allowable exception is that program income collected in [the final quarter of] the current fiscal year [(July, August, September)] may be deferred for expenditure during the first quarter of the next fiscal year (October, November, December) for the sole purpose of easing first-of-year cash flow problems caused by delays in receiving new federal awards. Any program income earned in

a prior year and expended after the end of the first quarter of the succeeding [current] year will be deemed as unallowable costs.

(4) (No change.)

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

Issued in Austin, Texas, on September 24, 1986.

TRD-8609146

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

Earliest possible date of adoption:
November 3, 1986
For further information, please call
(512) 444-2727.

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 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 37. Maternal and Child Health Services

Special Senses and Communication Disorders

★ 25 TAC §37.38, §37.39

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §37.38 and §37.39, submitted by the Texas Department of Health, have been automatically withdrawn, effective September 30, 1986. The amendments as proposed appeared in the March 28, 1986, issue of the *Texas Register* (11 TexReg 1556).

TRD-8609332

Filed: September 30, 1986

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Adopted

Rules

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

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

TITLE 1.

ADMINISTRATION

Part III. Office of the

Attorney General

Chapter 55. Child Support

Enforcement

Subchapter C. Enforcement

★1 TAC §55.102

The Office of the Attorney General adopts new §55.102, without changes to the proposed text published in the August 19, 1986, issue of the *Texas Register* (11 TexReg 3674).

The new section is justified because it establishes appeal procedures for the non-custodial parent whose past-due child support is to be reported to consumer reporting agencies by the Child Support Enforcement Division.

The section establishes formal procedures by which a noncustodial parent can appeal a decision to make nonpayment of his or her child support known to consumer reporting agencies. These procedures are required under the Social Security Act, Title IV-D.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Chapter 76, which authorizes the Office of the Attorney General to administer the Texas child support enforcement program.

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

Issued in Austin, Texas, on September 22, 1986.

TRD-8609151

Lou McCreary
Special Assistant
Office of the Attorney
General

Effective date: October 15, 1986

Proposal publication date: August 19, 1986

For further information, please call
(512) 463-2087.

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TITLE 7. BANKING AND SECURITIES

Part VII. State Securities

Board

Chapter 111. Securities

Exempt from Registration

★7 TAC §111.4

The State Securities Board adopts new §111.4, with changes to the proposed text published in the August 15, 1986, issue of the *Texas Register* (11 TexReg 3619). As adopted, the word "unsecured" is eliminated in subsection (a), and the phrase "current transactions" is substituted for "short-term assets" in subsection (b). Both changes are in response to comments received.

The new section is adopted to put persons on notice as to what certain phrases mean for purposes of the Securities Act, §6.H, so that they will be in a better position to determine whether the exemption would be available for a given security.

The section, as amended, clarifies the meaning of certain phrases contained in the Securities Act, §6.H.

J. Mark Metts of Vinson and Elkins, Houston, commented that the proposed section might be narrower in scope than the federal exemption, which uses the term "current transactions." The board agreed and substituted the term "current transactions" for "short-term assets." Mr. Metts also suggested that the proposal be revamped to provide a safe harbor rather than absolutely preclude the exemption's availability whenever the issuer is dependent upon the continuing sale of notes and commercial paper to generate funds to retire the notes or paper at maturity. The board thought it preferable to be specific about what would fall outside the scope of the exemption since a safe harbor would not address the problem of persons claiming the exemption when it is not available.

Jeanine Marie Lehman of Fields, Cisneros and Session, San Antonio, commented that a broader interpretation of good faith is the intention to repay principal and interest when due and not to defraud. The board recognized that there is always a presumption that one claiming the exemption lacked intent to defraud; therefore,

the board decided that such a broad definition would not be particularly helpful. The board also disagreed that the section precludes using the proceeds of the notes or paper for working capital purposes since that is what is encompassed by use of the term "current transactions." The board agreed that there is no good reason to have the term "unsecured" modify "short-term (24 months or less) promissory notes" in subsection (a), so the qualifier was stricken.

Ms. Lehman commented on use of the term "high quality," which she felt was ambiguous. However, the board was of the opinion that the term "high quality" was better than another term such as "prime quality," which might imply that certain rating agencies had rated that notes or paper when, in fact, much high quality commercial paper is unrated (because no rating is sought). Finally, Ms. Lehman suggested that subsection (a) specifically list additional institutional investors; however, the board decided that there was no necessity to include a laundry list of institutional investors (since that term has a commonly understood meaning in the securities industry) even though banks are specifically mentioned since, historically, they have been the primary purchasers of commercial paper.

The new section is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§111.4. *Good Faith Issuances Pursuant to the Act, §6.H.*

(a) As used in the Act, §6.H, the phrase "negotiable promissory notes or commercial paper" shall include bills of exchange, bank checks, drafts, bank acceptances, short-term (24 months or less) promissory notes and other negotiable instruments of high quality that are commonly used in trade or commerce and usually sold or offered for sale to banks, institutional investors, and accredited investors who generally purchase negotiable promissory notes and commercial paper.

(b) Negotiable promissory notes or commercial paper are considered to be issued in good faith only if the issuer is financing current transactions with the notes or commercial paper and the issuer is not dependent on the continuing sale of notes and commercial paper to generate funds to retire the notes or paper at maturity.

(c) Negotiable promissory notes or commercial paper offered to the general public through advertisements in newspapers and magazines of general circulation are not considered to be issued in the usual course of carrying on and conducting the business of the issuer.

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 26, 1986.

TRD-8609264 Richard D. Latham
Commissioner
State Securities Board

Effective date: October 17, 1986
Proposal publication date: August 15 1986
For further information, please call
(512) 474-2233.

★ ★ ★

TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter AA. Rail Safety

★ 16 TAC §5.620

The Railroad Commission of Texas adopts an amendment to §5.620, without changes to the proposed text published in the July 18, 1986, issue of the *Texas Register* (11 TexReg 3283). The amendment eliminates certain superfluous language so that it is clear that billboards and signs required for the safe operation of the railroad are exempted. Additionally, the amendment supplies an explanation that billboards and signs which are legally permitted by the state or a political subdivision are not unnecessary permanent obstructions, so long as they do not obscure the view of approaching trains to vehicular road traffic.

No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Civil Statutes, Article 6448a, which authorize the Railroad Commission of Texas to regulate railroad safety.

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

Issued in Austin, Texas, on September 22, 1986.

TRD-8609261 Mack Wallace
Commissioner
Railroad Commission
of Texas

Effective date: October 17, 1986
Proposal publication date: July 18, 1986
For further information, please call
(512) 463-7149.

★ ★ ★

Part VI. Texas Motor Vehicle Commission Chapter 107. Warranty Performance Obligations

★ 16 TAC §§107.1-107.9

The Texas Motor Vehicle Commission adopts new §§107.1-107.9. New §§107.2, 107.3, 107.6, and 107.7 are adopted with changes to the proposed text published in the May 16, 1986, issue of the *Texas Register* (11 TexReg 2274). New §§107.1, 107.4, 107.5, 107.8, and 107.9 are adopted without changes to the proposed text and will not be republished.

The new sections are adopted to provide a simplified and fair procedure for the enforcement and implementation of the Texas Motor Vehicle Commission Code, §6.07, including the processing of complaints, the conduct of hearings, and the disposition of complaints filed under the lemon law.

Section 107.2(c) was changed to require additional information to be included in complaints filed under the lemon law, and §107.3 was changed by deleting from subsection (b) the last sentence regarding other assistance to be provided by the commission and by adding a new subsection (d) to clarify what constitutes the commencement of a proceeding and the date of filing of a complaint. Section 107.6, concerning hearings, was changed to provide that the conduct of hearings at a location convenient to the complainant is subject to the availability of commission personnel and funds; that any party who intends to be represented by an attorney at a hearing must give advance notice of such fact to the other party and the commission; that the vehicle in question must be brought to the hearing, unless good cause is shown for not bringing the vehicle to the hearing; that any independent inspection of the vehicle is to be made upon notice to all parties who shall have the right to be present at the inspection, with copies of any findings or report to be provided to the parties prior to the hearing; and that copies of the tape recordings of the hearings will be provided to any party upon request and upon payment for the tapes. Section 107.7(a) was changed by deleting the word "promptly" and §107.7

(b) was changed to provide that in oral argument before the commission the parties may not present any evidence or information concerning the merits of the case that was not presented at the original hearing.

Comments were received from Chrysler Corporation; Ford Motor Company; General Motors Corporation; Mazda Distributors (Gulf), Inc.; Nissan Motor Corporation in U.S.A., Inc.; Porsche Cars North America, Inc.; Southwest Subaru, Inc.; and Texas Automobile Dealers Association. In general, the comments suggested various changes and revisions in the proposed sections, such as requiring additional information to be included in complaints; requiring vehicles to be brought to hearings; requiring notice to other party where one party intends to be represented by an attorney; providing for notice and opportunity for all parties to be present at any independent inspection of a vehicle; and prohibiting evidence to be presented in oral argument that was not presented at the original hearing. The commission agreed with these comments and appropriate changes in the sections were made.

Other comments requested that leased vehicles be excluded from lemon law coverage; that definitions of the terms "substantial impairment of the use and market value of the vehicle" and "reasonable allowance for the use of the vehicle" be included in the sections; that the dealer's profit on a vehicle be excluded from the amount of the purchase price to be refunded to prevailing complainants; and that mediation of complaints before hearing be made compulsory.

The commission did not agree with these comments as it believes leased vehicles are covered by the statute; that determinations of substantial impairment of a vehicle and reasonable allowance for use must be made on a case-by-case basis; that the statute requires that the full purchase price of the vehicle be refunded by the manufacturer; and that compulsory mediation of complaints is not contemplated by the statute.

The new sections are adopted under Texas Civil Statutes, Article 4413(36), §6.07(e), which provide that the commission shall adopt rules for the enforcement and implementation of the Texas Motor Vehicle Commission Code, §6.07.

§107.2. Filing of Complaints.

(a) Complaints for relief under the lemon law must be in writing and filed with the commission at its office in Austin, Texas. Complaints may be in letter form or any other written format or may be submitted on complaint forms provided by the commission.

(b) Complaints should state sufficient facts to enable the commission and the party complained against to know the nature of the complaint and the specific problems or

circumstances which form the basis of the claim for relief under the lemon law.

(c) Complaints must provide the following information:

- (1) name, address, and phone number of vehicle owner;
- (2) identification of vehicle by make, model, and year, and manufacturer's vehicle identification number;
- (3) type of warranty coverage;
- (4) name and address of dealer, or other person, from whom vehicle was purchased or leased, and with respect to leased vehicles, written consent of owner of vehicle to lemon law action must be provided;
- (5) date of delivery of vehicle to original owner;
- (6) vehicle mileage at time vehicle was purchased or leased, mileage when problems with vehicle were first reported, name of dealer or manufacturer's or distributor's agent to whom problems were first reported, and current mileage;
- (7) brief description of history of problems and repairs on vehicle, including date and mileage of each repair, with copies of repair orders where possible;
- (8) date on which written notification of complaint was given to the vehicle manufacturer or distributor, and if vehicle has been inspected by manufacturer, the date and results of such inspection;
- (9) any other information which the complainant believes to be pertinent to the complaint.

(d) The commission's staff will provide information concerning the complaint procedure and complaint forms to any person requesting information or assistance.

§107.3. Review of Complaints All complaints will be reviewed promptly by the commission's staff to determine whether they satisfy the requirements of the lemon law.

(1) If it cannot be determined whether a complaint satisfies the requirements of the lemon law, the complainant will be contacted for additional information.

(2) If it is determined that the complaint does not meet the requirements of the lemon law, the complainant will be notified of this fact.

(3) If it is determined that the complaint does meet the requirements of the lemon law, the complaint will be processed in accordance with the following procedures in §§107.4-107.9, of this title (relating to Notification of Manufacturer and Distributor; Mediation, Settlement, Hearings; Hearing Officer's Report; Decisions; and Compliance).

(4) For purposes of §6.07(h), the commencement of a proceeding means the filing of a complaint with the commission, and the date of filing is determined by the date of receipt by the commission.

§107.6 Hearings Complaints which satisfy the jurisdictional requirements of the Texas Motor Vehicle Commission Code, §6.07, will be set for hearing and notification of the date, time, and place of the hear-

ing will be given to all parties by certified mail.

(1) Where possible, and subject to the availability of commission personnel and funds, hearings will be held in the city where the complainant resides or at a location reasonably convenient to the complainant.

(2) Hearings will be scheduled at the earliest date possible, provided that 20 days prior notice must be given to all parties. A notice of hearing will also be provided to the dealer involved who will be requested to have a representative appear at the hearing.

(3) Hearings will be conducted by commission staff hearing officers or by independent hearing officers designated by the executive director of the commission.

(4) Hearings will be informal in nature, it being the intent of the lemon law to provide a procedure and forum which does not necessitate the services of attorneys and which does not involve strict legal formalities applicable to trials in county or district court.

(5) The parties have the right to be represented by attorneys at a hearing, although attorneys are not necessary in hearings on lemon law complaints. Any party who intends to be represented by an attorney at a hearing must notify the commission and the other party at least five days prior to the hearing and failure to do so will constitute grounds for postponement of the hearing if requested by the other party.

(6) The parties have the right to present their cases in full, including testimony from witnesses; documentary evidence such as repair orders, warranty documents, vehicle sales contract, etc.

(7) Each party will be subject to being questioned by the other party, within limits to be governed by the hearing officer.

(8) The complainant will be required to bring the vehicle in question to the hearing for the purpose of having the vehicle inspected and test driven, unless otherwise ordered by the hearing officer upon a showing of good cause as to why the complainant should not be required to bring the vehicle to the hearing.

(9) The commission may have the vehicle in question inspected prior to the hearing by an independent expert, where the opinion of such expert will be of assistance to the hearing officer and the commission in arriving at a decision. Any such inspection shall be made upon prior notice to all parties who shall have the right to be present at such inspection, and copies of any findings or report resulting from such inspection will be provided to all parties prior to the hearing. Any such expert will be present at the hearing to present his report on the inspection of the vehicle and to respond to questions by the parties.

(10) All hearings will be recorded on tape by the hearing officer. Copies of the tape recordings of a hearing will be provided to any party upon request and upon payment for the cost of the tapes.

§107.7. Hearing Officer's Report. Following the hearing, the hearing officer will submit a report to the commission which will be in writing and which will contain the hearing officer's findings and recommendations on the complaint.

(1) The hearing officer's report will be filed with the commission and sent to the parties upon completion of the report.

(2) The parties have the right to file exceptions to the hearing officer's findings and recommendations, and the parties also have the right to appeal and present argument to the members of the commission at the time the complaint comes before the commission for decision. The parties will not be permitted to present any evidence or information concerning the merits of the case that was not presented at the original hearing.

(3) The hearing officer's report and any exceptions thereto will be considered by the commission at the next scheduled meeting of the commission following the issuance of the hearing report, at which time a final decision will be made by the commission.

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 19, 1986.

TRD-8809288

Russell Harding
Executive Director
Texas Motor Vehicle
Commission

Effective date: October 20, 1986

Proposal publication date: May 16, 1986

For further information, please call
(512) 476-3587.

★ ★ ★

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 1. Texas Board of Health

Petition for the Adoption of a Rule

★ 25 TAC §1.81

The Texas Department of Health adopts an amendment to §1.81, concerning a petition for the adoption of a rule, without changes to the proposed text published in the July 25, 1986, issue of the *Texas Register* (11 TexReg 3390)

The amendment will expedite the disposition of petitions submitted to the department for the adoption of rules.

All initial petitions will continue to be decided by the Texas Board of Health; however, the commissioner of health may refuse to forward to the board for con-

sideration any subsequent petition for the adoption of the same or similar rule submitted within six months after the date of the initial petition.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6252-13a, §11, which authorize the Texas Board of Health to adopt rules concerning the submission, consideration, and disposition of a petition to adopt a rule.

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 25, 1986

TRD-8609171

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

Effective date: October 16, 1986

Proposal publication date: July 25, 1986

For further information, please call
(512) 458-7236

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Clinical Health Services

★ 25 TAC §1.91

The Texas Department of Health adopts an amendment to §1.91, without changes to the proposed text published in the July 25, 1986, issue of the *Texas Register* (11 TexReg 3390)

The justification for the amendment is that the poverty income guidelines used in the program will reflect changes in the federal consumer price index.

The amendment revises the poverty income guidelines contained in the schedule of fees in the section to reflect changes in the federal consumer price index.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4414c, §2, which provide the Texas Board of Health with the authority to charge fees to persons who receive public health services from the department.

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

Issued in Austin, Texas, on September 25, 1986

TRD-8609172

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

Effective date: October 16, 1986

Proposal publication date: July 25, 1986

For further information, please call
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Chapter 145. Long-Term Care Subchapter J. Procedures Covering Certification and Decertification of Long-Term Care Facilities Which Participate in the Title XIX Medical Assistance Program

The Texas Department of Health adopts amendments to §§145.141-145.145, the repeal of §145.146, and new §145.146, without changes to the proposed text published in the July 25, 1986, issue of the *Texas Register* (11 TexReg 3392).

The changes update and clarify the appeal and related procedures concerning the certification and decertification of long-term care facilities that participate in the Title XIX medical assistance program

The amendments update and clarify existing procedures, and the repeal and new section substantially revise the appeal process.



Concerning survey recommendations in §145.145, a commenter recommended that the section be expanded to include additional facts, information, and related materials provided by facility representatives or gathered by the department during additional onsite visits to the facility. The department disagrees because the facility will have the opportunity during the informal reconsideration stage to offer additional facts, information, and related materials concerning the survey recommendation. In addition, time, personnel, and funding restraints preclude the department from conducting additional onsite visits to every facility prior to the imposition of administrative actions.

The following comments concern the informal reconsideration procedure in §145.146. A commenter recommended that the facility be given the opportunity for an informal reconsideration before the expiration of the time given by the department to correct a deficiency. The department disagrees because it is important, if sufficient reasons exist, to take administrative action against the facility as soon as possible to protect the health and safety of the patients in the facility. In contrast, the time for correcting deficiencies under a plan of correction may be considerably longer. It is neither reasonable nor in the best interests of the patients to tie the informal reconsideration period to the period for correcting deficiencies.

A commenter recommended that the facility be given the opportunity for an informal reconsideration before the department making a recommendation to the Texas Department of Human Services that vendor payments be held in abeyance or that the facility's medical contract be canceled. The department disagrees because the informal reconsideration rules do not cover abeyances of vendor payments or contract cancellations. By law, the Texas Department of Human Services is responsible for these actions and has adopted rules covering the actions.

A commenter recommended that the notice to the facility of the proposed department action mention the alleged violations or deficiencies with respect to applicable laws. The department disagrees that the section has to be this specific because the proposed section requires that the notice contain the findings upon which the action shall be based. The findings will include the violations or deficiencies.

A commenter recommended that the written affirmation or reversal of the proposed action shall be based on the facts, information, and related material in the survey report documentation and the facility's refutation. The department does not believe that the additional language is necessary because the written affirmation or reversal will contain the basis for the decision.

A commenter recommended that the written affirmation or reversal, if appropriate, be based on additional facts, information, and related materials gathered during additional onsite visits to the facility. The department disagrees because the department does not intend to make additional visits. The survey reports should contain sufficient information upon which to make a decision. In addition, time, personnel, and funding restraints preclude the department from conducting additional onsite visits to every facility prior to issuing a written affirmation or reversal.

The only commenter on the amendments was the Texas Association of Private ICF-MR Providers. It was not opposed to the amendments in their entirety, but recommended changes to the amendments as proposed.

★ 25 TAC §§145.141-145.145

The amendment is adopted under the Human Resources Code, §32.023, Texas Civil Statutes, Article 6252-13a, §4, and Article 4414b, §1.05, and 42 Code of Federal Regulations, Chapter IV, Subchapter C, which authorize the Texas Board of Health to adopt rules concerning the certification and decertification of long term care facilities participating in the Title XIX Medicaid Program under the U. S. Social Security 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 25, 1986

TRD-8609173

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

Effective date, October 16, 1986
Proposal publication date, July 25, 1986
For further information, please call
(512) 458-7236.

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★ 25 TAC §145.146

The repeal is adopted under the Human Resources Code, §32.023, Texas Civil Statutes, Article 6252-13a, §4, and Article 4414b, §1.05; and 42 Code of Federal Regulations, Chapter IV, Subchapter C, which authorize the Texas Board of Health to adopt rules concerning the certification and decertification of long-term care facilities participating in the Title XIX Medicaid Program under the U. S. Social Security 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 25, 1986.

TRD-8609174

Robert A. MacLean
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Health

Effective date: October 16, 1986
Proposal publication date: July 25, 1986
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The new section is adopted under the Human Resources Code, §32.023, Texas Civil Statutes, Article 6252-13a, §4, and Article 4414b, §1.05, and 42 Code of Federal Regulations, Chapter IV, Subchapter C, which authorize the Texas Board of Health to adopt rules concerning the certification and decertification of long-term care facilities participating in the Title XIX Medicaid Program under the U. S. Social Security 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 25, 1986.

TRD-8609175

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

Effective date, October 16, 1986
Proposal publication date, July 25, 1986
For further information, please call
(512) 458-7236

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Chapter 205. Product Safety Bedding Rules

The Texas Department of Health adopts the repeal of §§205.1-205.13 and new §§205.1-205.10, without changes to the proposed text published in the June 20, 1986, issue of the *Texas Register* (11 TexReg 2867).

The repeal and new sections update and clarify the existing requirements on bedding and implement requirements of Senate Bill 803, 69th Legislature, 1985.

The new sections describe the terms, definitions, nomenclature, and conditions concerning the manufacture, sale, and distribution of bedding, furniture products, and filling material in bedding.

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

★ 25 TAC §§205.1-205.13

The repeal is adopted under authority of Texas Civil Statutes, Article 4476a, §5, which provide the Texas Board of Health with the authority to adopt rules covering

bedding, furniture products, and filling materials in bedding

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 25, 1986

TRD-8609176

Robert A. MacLean
Deputy Commissioner
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Health

Effective date: October 16, 1986

Proposal publication date: June 20, 1986

For further information, please call
(512) 458-7519

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★ 25 TAC §§205.1-205.10

The new sections are adopted under Texas Civil Statutes, Article 4476a, §5, which provide the Texas Board of Health with the authority to adopt rules covering bedding, furniture products, and filling material in bedding.

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 25, 1986

TRD-8609177

Robert A. MacLean
Deputy Commissioner
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Health

Effective date: October 16, 1986

Proposal publication date: June 20, 1986

For further information, please call
(512) 458-7519.

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Chapter 217. Milk and Dairy Bulk Milk Haulers

★ 25 TAC §§217.21-217.25

The Texas Department of Health adopts new §§217.21 - 217.25. New §§217.22, 217.24, and 217.25 are adopted with changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3335). New §217.21 and §217.23 are adopted without changes and will not be republished.

The new sections provide for the uniform regulations of bulk milk haulers and bulk milk hauling operations.

The new sections cover bulk milk hauler qualifications and requirements, definitions, certification requirements, equipment standards, and operating procedures.

Concerning §217.22(b)(1), several commenters suggested that allowing 72 hours

between pickups of raw milk at a dairy would adversely affect bacteria counts. The department agrees and has drafted language to the effect that bulk milk must be picked up at a dairy no less frequently than every other day

Concerning §217.24, several commenters suggested that transport tank cleaning tags should only be retained for 15 days rather than 30 days as was proposed in subsection (a)(6). The 15-day period would be in compliance with the latest edition of the Grade A Pasteurized Milk Ordinance. The department agrees and has changed the 30-day cleaning tag storage period in subsection (a)(16) to a 15-day period of storage and retention.

Several commenters objected to the 24-hour designation recorders used with the clean-in-place (CIP) cleaning solution—rinse pipelines provision in subsection (b)(3)(F). This could place this provision into a position of non-compliance with the latest edition of the Grade A Pasteurized Milk Ordinance. The department agrees and has inserted language that states, "A temperature recorder that complies with the applicable requirements of Appendix H of the most recent edition of the Grade A Pasteurized Milk Ordinance shall be provided. It is recommended that a pressure recorder also be provided."

Several commenters requested that the department add in subsection (b)(3)(G) that clean-out-of-place (COP) vats used for circulating cleaning and rinse solutions through tanker receiving hoses be equipped with an approved temperature recorder to insure proper cleaning and sanitizing of these hoses. They also requested that the department include requirements for the utilization of an integrated CIP system. In both instances the department agrees and has developed language to address these concerns.

Concerning subsection (b)(6), several commenters objected to allowing a transport tank to pickup milk when it has been as long a period as 72 hours since the sanitization process. They stated that the time duration for an out-of-service transport tanker to require resanitization should not exceed two days. They explained that bacteria problems could arise from this practice. The department agrees and has changed the time period for resanitization from 72 hours to two days

Concerning §217.25, several commenters objected to the 72-hour maximum elapsed time placed on cleaning tags of transport tanks eligible for unloading a Grade A product proposed in subsection (b)(1)(E). They thought that this time should be no more than two days to insure the quality of the milk and so that the time would correspond to the maximum time allowed between milk pickups at each producer dairy. The department agrees and has drafted language to address this concern.

Several commenters objected to the 72-hours in subsection (e)(3) that milk could be stored on transport tankers. They contended that any storage time beyond two days would cause elevated bacteria counts. The department agrees and has drafted language limiting milk storage transport tankers to two days.

Other minor editorial changes were made in §§217.22, 217.24, and 217.25.

The following organizations made comments on the new sections: H. E. Butt Grocery Company, Dairy Products Institute, and Vandervoort Dairy Foods Company. None of the groups or associations commenting opposed adoption of the new sections; however, they had questions and recommendations concerning certain parts of the sections.

The new sections are adopted under Texas Civil Statutes, Article 165-3, §2A, which provide the Texas Department of Health with the authority to adopt rules covering milk and milk products

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

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

(b) Bulk milk holding tank.

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

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

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

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

(a) Transport tank unloading station.

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

(2) When the unloading station is a transfer station, it shall comply with the following items of Part II of the Grade A Pasteurized Milk Ordinance: items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p; and as climatic and operating conditions require, the applicable provisions of

items 2p and 3p; provided, however, that in every case overhead protection shall be provided. Facilities for the cleaning and sanitizing of milk tank trucks shall comply with items 1p, 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, and 22p of the ordinance; and as climatic and operating conditions require, the applicable provisions of items 2p and 3p; provided, however, that in every case, overhead protection shall be provided.

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

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

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

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

(6) The transport tank cleaning tag must be removed and kept with the other records for a period of 15 days

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

(b) Transport tank washing station.

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

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

provided, however, that in every case, overhead protection shall be provided.

(3) An unloading station which receives milk in transport tanks equipped with permanently installed tank washers will provide a transport tank washing station equipped with the following:

(A) adequate water heating facilities;

(B) tanks of an adequate size to hold the rinse, wash, and sanitizing solution;

(C) a wash pump which will deliver the cleaning and sanitizing solutions to the milk contact surface of the transport tank at an adequate rate and velocity. This pump should deliver a minimum of 140 gallons per minute with a pressure of 50 pounds per square inch at the pumphead;

(D) a removal pump which will remove rinse and cleaning solutions from the transport tank as fast as such solutions are pumped into the transport tank;

(E) a screening device, which will prevent the passage of any foreign material into the system that would adversely affect the performance of the spray device(s), and located so as to be easily cleaned and sanitized;

(F) a temperature recorder which meets the applicable requirements of Appendix H of the most current revision of the Grade A Pasteurized Milk Ordinance. In addition, a pressure recorder shall be provided. These may be an integral unit or in two separate units. The temperature sensor shall be located in the return solution line. The pressure sensor shall be located in the solution-rinse line downstream from the pressure supply pump. Recording charts shall be properly identified (showing date, permit number of transportation tank cleaned, operator's initials, etc.) and kept on file for not less than 90 days;

(G) the necessary equipment for the cleaning of transport tank pumps, gaskets, hoses, etc., which do not clean in place. Equipment shall be provided to clean the hoses by circulation of cleaning solution in conjunction with the clean-out-of-place (COP) vat that is equipped with a temperature recorder which meets the applicable requirements of Appendix H of the most current revision of the Grade A Pasteurized Milk Ordinance; however, if an integrated clean-in-place (CIP) system designed to clean transport tanker, milk pumps, gaskets, hoses and appurtenances, by circulation is provided, the following criteria must be met:

(i) a temperature recorder that complies with the applicable requirements of Appendix H of the most current revision of the Grade A Pasteurized Milk Ordinance and a pressure recorder shall be provided;

(ii) the extended tube holder for cleaning milk hoses and receiving hoses shall be of adequate length to accommodate hoses of 35 feet maximum length;

(iii) the CIP system shall provide a cleaning regimen for a prerinse, wash,

post-rinse and sanitizing of the transport tanker, milk pumps, gaskets, hoses, receiving hose and appurtenances;

(iv) the CIP system shall be capable of a minimum wash temperature of 135°F and minimum circulation flow rate of five feet per second; and

(v) all equipment and utensils shall be in compliance with the standards outlined in the current edition of the 3-A Sanitary Standards at the time of installation;

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

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

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

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

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

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

(A) the transport tank permit number;

(B) the date and time it was cleaned and sanitized;

(C) the name and location of the cleaning station; and

(D) the name of the person who cleaned and sanitized the transport tank.

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

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

(b) Checking the transport tank and tractor

(1) Cleanliness and sanitization. A hauler shall:

(A) clean inside and outside;
(B) close covers and cap outlet valves;

(C) check transport tank in-place cleaning equipment if applicable;

(D) determine if transport tank, pump, and hose have been sanitized;

(E) check for a valid cleaning tag less than two days old.

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

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

(A) sufficient sample bottles or bags properly sanitized;

(B) dippers or sample tubes;

(C) straws and cups;

(D) a standardized pocket thermometer (unbreakable standardized once each six months);

(E) chlorine or other approved sanitizing agent and solution container;

(F) a sample case and sufficient ice;

(G) sanitary gaskets and wrenches;

(H) a weight record book;

(I) a pen or pencil;

(J) paper towels;

(K) a watch (for timing milk agitation);

(L) test papers for checking the strength of sanitizing agent.

(c) Driving safely. A hauler shall:

(1) observe traffic rules; and

(2) check for safety of persons, animals, and property before backing transport tank at dairy.

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

(1) remove milk transfer hose and electrical cord for milk pump from transport tank storage compartment;

(2) insert capped end of milk transfer hose and the cord plug through hose port into the milkroom;

(3) plug in electrical cord to transfer pump (safety precaution: check for grounding; ungrounded circuits are extremely dangerous);

(4) wash hands, using soap and water, and wipe dry with paper towel;

(5) remove port cover from holding tank;

(6) record holding tank thermometer temperature. The hauler shall mon-

thly check the tank thermometer temperature against the temperature taken with the pocket thermometer. The pocket thermometer must be sanitized before use;

(7) reject milk over 45°F, and record variance;

(8) be sure agitator has been stopped long enough for milk to become still;

(9) check for off-odors and record in book;

(10) observe surface of milk for foreign matter, icing, foam, etc., and record in book;

(11) check milk quality;

(12) make the decision to reject the milk if it is of poor quality;

(13) measure the milk. A hauler also shall:

(A) remove measuring stick, rinse with hot water, and wipe dry with paper towel. If measuring stick is stored outside of milk tank, the hauler shall wash, sanitize, and wipe dry with sanitary single service towel before using;

(B) carefully insert stick into tank, withdraw, and observe stick measurements. The hauler shall repeat procedure to get two identical measurements and the record measurement weight ticket;

(C) replace port cover;

(D) check stick measurement with tank calibration chart, record corresponding pounds on weight tickets, and then sign. If there is any doubt in the hauler's mind about the correctness of readings or weights, the hauler shall repeat the measuring process;

(E) check the serial number on the gauge and tank against the serial number on the chart;

(14) start agitator and agitate for 10 minutes:

(A) in order for the hauler to obtain an accurate representative sample, the milk in the tank must roll for 10 minutes;

(B) while the milk is agitating, the hauler shall:

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

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

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

(A) assemble sampling equipment, which includes sample bottle or bag, sampling device, sample case, sample form, straws, or cups;

(B) sanitize sampling equipment before each use, if sterile sampling tube or dipper not used;

(C) wash hands before sampling milk;

(D) remove port cover or open tank lid and observe to assure that the milk is completely mixed;

(E) remove dipper or sampling tube from sanitizing solution and rinse twice in milk before transferring sample;

(F) transfer required amount of milk with sampling device to a sample bottle or bag. When transferring milk from sampling equipment to sample bottle or bag, the hauler should use caution to assure that no milk spills back into the tank. The hauler also shall:

(i) be careful not to allow fingers or any contaminating matter to come in contact with lid or mouth of bottle or bag;

(ii) close sample bottle/bag tightly; and

(iii) make sure that sample bottle/bag is properly identified;

(G) replace port cover or close tank lid and place sample in ice container or refrigerated cabinet in tanker. The hauler also shall:

(i) assure that the sample had been cooled immediately and maintained at 32°—40°F (avoid freezing) until delivered to laboratory;

(ii) drain excess water from sample case; and

(iii) deliver sample to laboratory promptly;

(16) pump-out tank. The hauler also shall:

(A) open tank outlet valve;

(B) start pump and agitator;

(C) cut off agitator when milk is lowered to a level that will cause over-agitation. (Variances will be observed. The milk level should be decided by producer and field man);

(D) completely pump out tank (no partial pump-outs will be permitted. Partial pump-out may result in flavor deterioration, loss of butterfat, or other problems);

(E) stop pump and disconnect electrical connection when all the milk has been drawn from tank. If pump is left running, it may be damaged; also, it will incorporate air into milk in the tanker); and

(F) disconnect and cap tanker milk hose. The hauler also shall return the hose to tanker compartment;

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

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

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

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

(A) all records are completed;

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

(C) floors are clean;

(D) agitator and lights are off;

(E) hose port and milkroom door closed; and

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

(e) Arrival at plant, receiving station, or transfer station. At this point, the hauler takes on a joint responsibility with the plant

milk receiver in the completion of his total daily operations.

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

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

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

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

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

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

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

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

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

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 25, 1986

TRD-8609178

Robert A MacLean
Deputy Commissioner
Professional Services
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Health

Effective date: October 16, 1986

Proposal publication date: July 22, 1986

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

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Grade A Milk Specifications

★ 25 TAC §217.61, §217.64

The Texas Department of Health adopts amendments to §217.61 and §217.64, without changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3339)

The amendment to §217.61 updates the previously adopted (by reference) 1978 edition of the Grade A Pasteurized Milk Ordinance published by the U. S. Public Health Service, Food and Drug Administration. Adoption of the latest revision of the ordinance will provide the department

with the most recent developments in the areas of Grade A milk, milk products, processes, chemicals, materials, and marketing practices. The amendment to §217.64 makes an appropriate reference to the ordinance

The document covers definitions, milk and milk product standards, sanitation requirements, processes, chemicals, materials, and marketing practices.

No comments were received regarding adoption of the amendments.

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

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 25, 1986.

TRD-8609179

Robert A MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: October 16, 1986

Proposal publication date: July 22, 1986

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

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Fees

★ 25 TAC §217.81

The Texas Department of Health adopts an amendment to §217.81, without changes from the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3339)

The amendment brings the section into compliance with Texas Civil Statutes, Article 165-3, §2, as amended by House Bill 1593, §43, of the 69th Legislature, 1985, by removing milk products from consideration for inspection fees

The amendment removes milk products other than milk from consideration for inspection fees

No comments were received regarding adoption of the amendment

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

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 25, 1986.

TRD-8609180

Robert A MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date: October 16, 1986

Proposal publication date: July 22, 1986

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

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Chapter 295. Environmental Health

Hazard Communication

★ 25 TAC §295.8

The Texas Department of Health adopts new §295.8, with changes to the proposed text published in the April 25, 1986, issue of the *Texas Register* (11 TexReg 1908).

The public benefits anticipated as a result of enforcing the section will be to provide an incentive for businesses to comply with the requirements of the Hazard Communication Act and to have the criteria and procedures described by which the department will assess administrative penalties against businesses that violate the law.

The new section covers the criteria for determining a violation, issuance of a notice of violation, procedures for responding to a notice of violation, assessment of a penalty, payment of the penalty, and followup inspections

One commenter opposed adoption of the new section unless certain changes were made, specifically to subsections (d), (e), and (j). He thought the proposed section too lenient. He recommended that the levels of seriousness be reduced from three to two (minor and serious); that minor violations be penalized at \$100 for the first occurrence, \$200 for the second occurrence, and \$300 for the third occurrence. He also recommended that the examples given in the proposed section be revised, with the first three originally given in subsection (j)(1)(A)-(C) as examples of minor violations, the second two, (D) and (E) deleted, and all other examples retained as serious violations. The commenter stated that the changes would give more emphasis to the importance of the Act and to the seriousness of violating its provisions. The result would be a greater awareness of the Act and a greater likelihood that it would be treated with respect by legislators and others who will control its funding.

The agency partially agrees with the commenters suggestions, and adjustments have been made to the penalties schedule

to raise a first time minor penalty from \$25 to \$50. The agency points out that any serious or critical violation that goes uncorrected may be considered for additional civil or criminal fines. To clarify this possibility, the agency has revised the footnote for the penalty schedule in §295.8(e) to remove the word "repeated," so that any failure to correct serious or critical violations may result in such stronger action.

Concerning subsections (e) and (h), other commenters suggested a lowering of the first and second time critical penalties from \$500 to \$300 and \$400, respectively. The commenters also asked that clarifications be made that employers could be penalized only after receiving a written notice of violation and that such employers have several alternative procedures available to them after being notified.

The agency partially agrees with some of the suggestions of the commenters. Several subsections have been reworded or repositioned to clarify, chronologically, the steps taken in determining violations and assessing penalties. Adjustments have been made to the penalty schedule to lower the first and second time critical penalties from \$500 to \$300 and \$400, respectively. Wording has also been added to subsection (a) to emphasize that employers must be notified by the agency in writing of any violations before they are penalized and to specify the existing rules. The latter half of subsection (a) has been changed to new subsection (b), to emphasize that inspections are not always required to determine that a violation has occurred. Subsection (g) has been repositioned to new subsection (d) to clarify the alternative procedures available to a person who has been notified of a violation. The remaining subsections have been renumbered accordingly.

Another commenter posed some questions, which were answered, but raised no objections to the proposed section.

During the public comment period, Dr. Ken Kramer, Sierra Club, Austin, commented against adoption of the new section, and

William Pribble, Texas Department of Mental Health/Mental Retardation, Austin, commented in favor of the new section. The first commenter was against the section as proposed, but offered suggested changes as outlined in the summary of comments.

The new section is adopted under the Hazard Communication Act, Texas Civil Statutes, Article 5182b, §12 and §13(c), which provides the Texas Board of Health with the authority to adopt rules covering the assessment of administrative penalties against businesses that violate the Hazard Communication Act.

§295.8. Assessment of Administrative Penalties.

(a) Inspections may be conducted by the commissioner or his designated representative to determine if persons are in violation of the Hazard Communication Act, Texas Civil Statutes, Article 5182b, or rules adopted by the Texas Board of Health to enforce the Act, §§295.1-295.7 of this title (relating to Purpose and Scope; Definitions; Responsibility for Implementation of Program; Labeling; Posting of Workplace Notice; Compliance Deadlines; and Training). (See 11 TexReg 850 and 10 TexReg 4889.) Persons found to be in violation will be notified in writing of the violation.

(b) Inspections are not necessary to confirm violations in all instances. Failure to annually file with the department the required workplace chemical list and addenda or, for nonmanufacturing employers only, to file the required notice of training, will be considered violations of the Act that do not necessarily require an inspection. Other violations may be confirmed by the department through correspondence with authorized company officials and may not warrant an inspection.

(c) Persons found to be in violation of the Act are subject to administrative penalties authorized by the Act, §13(c). Each violation will be assessed as a separate penalty. The total penalty will be the sum of all individual violation penalties.

(d) A person notified in writing of a violation must do one of the following within 14 days: correct the violation, pay an administrative penalty, or request a hearing. A written response electing one of these actions must be received by the Administrator, Occupational Health Program, on or before the 15th day following the receipt of the written notification of violations. A request for a hearing must specify the points of disagreement and relief sought. Hearings shall be held in accordance with §§1.21-1.33 of this title (relating to Formal Hearing Procedures).

(e) Penalties will be due on the 15th day following the date that a written notification of violations is received by the person, unless the Occupational Health Program receives an acceptable written response that each violation has been abated or that a hearing has been requested. The written response must list separately each violation and must be signed by a duly authorized company official. An inappropriate or unacceptable response will not alleviate the necessity of paying the penalty when due.

(f) Followup inspections may be made to confirm the status of abatement of violations. Any violation found on such followup inspection will be subject to an additional administrative penalty. If the first 14-day notice period has expired, that penalty will be due and a second or subsequent notice will be provided for determining second or subsequent penalty due dates.

(g) The amount of penalty per violation will be based on the seriousness of the violation.

(h) The degree of seriousness of each violation will be classified in one of three levels:

- (1) a minor violation, which is a minimal threat to employees or the public and/or temporary inability to fully comply;
- (2) a serious violation, which is a threat or hazard to employees or the public;
- (3) a critical violation, which has caused, or is likely to cause harm to employees or the public.

(i) Penalties will be charged based on the following schedule:

Seriousness of Violation	First Occurrence 1	Second Occurrence 2	Subsequent Occurrence 3
Minor	\$50	\$100	\$250
Serious*	\$100	\$250	\$500
Critical*	\$300	\$400	\$500

* Failure to correct serious or critical violations may be considered for additional civil or criminal penalties.

(j) Individual violations may be reduced or enhanced based on consideration of the history of previous violations, good faith efforts made to correct violations promptly, and on any other consideration that justice may require. A maximum reduction or enhancement of 50% per individual violation may be considered, based on the facts presented to the department.

(k) The following are examples of violation seriousness categories and are neither exhaustive nor controlling:

(1) minor violation—level I:

(A) failure to post the worker notice on one of five bulletin boards;

(B) failure to list a hazardous chemical which was not known to be a significant hazard by the employer or manufacturing employer;

(C) failure to adequately label a hazardous material that was obtained before the Act went into effect;

(D) failure to send an addendum to the workplace chemical list to the Texas Department of Health;

(E) inadvertent failure of a manufacturer or distributor to provide an up-to-date material safety data sheet to a school district or other employer covered by the Act;

(2) serious violation—level II:

(A) failure to inform the local fire department of appropriate contact persons at the company;

(B) failure to train new employees on the hazards of their jobs;

(C) failure to compile a workplace chemical list;

(D) failure to provide employees a warning and information on hazardous chemicals being used in the workplace by a contractor, with employees subsequently complaining of irritation caused by vapors;

(E) failure to train and protect office workers exposed to ammonia from a blueline machine;

(3) critical violation—level III:

(A) refusal to provide hazard information to an employee on request;

(B) failure to initiate a training program;

(C) failure to provide requested information to the local fire department;

(D) failure to provide information on a hazardous chemical to a health professional for diagnosis or treatment of a patient;

(E) failure to keep a file of material safety data sheets on hazardous chemicals normally present in the workplace.

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 25, 1986.

TRD-8609181

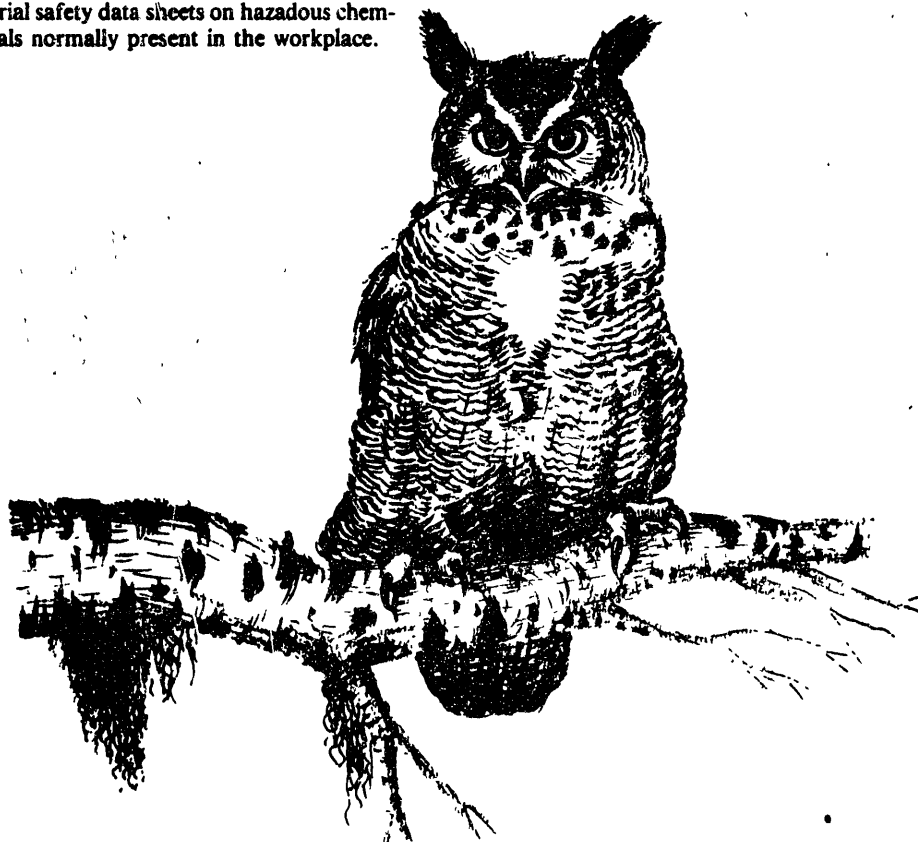
Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of
Health

Effective date, October 16, 1986

Proposal publication date: April 25, 1986

For further information, please call
(512) 458-7410.

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TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 27. State Fire Marshal Subchapter C. Sprinkler Rules

★ 28 TAC §§27.306, 27.311, 27.313,
27.316-27.318

The State Board of Insurance adopts amendments to §§27.306, 27.311, 27.313, and 27.316-27.318. The amendment to §27.313 is adopted with changes to the proposed text published in the March 28, 1986, issue of the *Texas Register* (11 Tex-Reg 1557). The other amendments are adopted without changes and will not be

republished.

These amendments are necessary to assure that persons planning, selling, installing, maintaining, or servicing sprinkler systems will provide such services in a manner that will protect lives and property

The amendment of §27.306 adds specific examples of water supply facilities to the definition of a fire protection sprinkler system, deletes the definition of full time employment basis, adds the definition of full-time, and adds the definition of water supply. Section 27.311 conforms full-time employment of responsible managing employees to the statutory requirement. The amendment to §27.313 requires foreign corporations to submit copies of the Texas certificate of authority to do business in Texas, gives direction to certificate of registration applicants as to designating a responsible managing employee (RME) who is the only RME of another firm, allows six months in certain circumstances for certificate holders to obtain a sole RME, and allows issuance of certificates only to firms having at least one licensed full-time RME

The amendment to §27.316 deletes the aspect of inspection, clarifies point of installation of sprinkler systems to begin at the point the water supply is tapped for fire protection not at point water is to be used exclusively for sprinklers, and requires service, maintenance, or testing by other than owners be done by certified firms. The amendment to §27.317 deletes, for budgetary reasons, requirement to submit plans and hydraulic calculations to the state fire marshal, but requires firms to maintain as-built plans for the life of the sprinkler system. Section 27.318 deletes the requirement for a new service tag following an inspection

Charles W Allen Company submitted the sole comment received. The commenter opposes the amendment to §27.313, which limits a company hiring as its only full-time RME who is also employed by another company as its only full-time RME because, in effect, it penalizes small businesses. The commenter stated that the quality of work being performed by the RME should be of higher priority than limiting companies from hiring an RME that is also hired as an RME for another company.

The board is of the opinion that the amendment more clearly gives effect to the statutory mandate in the Insurance Code, Article 5 43-3, §4(b), that a fire protection sprinkler system contractor must employ at least one licensed responsible managing employee on a full-time basis. The work quality of an RME, although of immediate concern to the employer sprinkler contractor, is always subject to review through the state fire marshal's complaint and inspection process.

The amendments are adopted under the Insurance Code, Article 104, which authorizes the State Board of Insurance to determine policy and rules, and the Insurance Code, Article 5 43-3, pursuant to which the State Board of Insurance may adopt rules it considers necessary for the administration of the article through the

state fire marshal for the protection and preservation of life and property.

§27.313. Applications.

(a) Certificates of registration.

(1) (No change.)

(2) Applications shall be signed by the sole proprietor, by each partner of a partnership, or by an officer of a corporation or organization and where applicable, accompanied by evidence of incorporation in Texas, or in the case of a foreign corporation a copy of the Texas certificate of authority to do business in Texas, or evidence of compliance with the Assumed Business of Professional Name Act, Texas Business and Commerce Code, §36.01. The application shall also include written authorization by the applicant permitting the state fire marshal or his representative to enter, examine, and inspect any premises, building, room or establishment used by the applicant while engaged in the business to determine compliance with the provisions of the Insurance Code, Article 5.43-3, and these sections.

(3) An applicant who designates an RME to be the only full-time RME for the applicant's firm, shall not designate an RME who is employed by another certified firm as that firm's only full-time RME.

(4) A firm presently employing on a full-time basis one RME, who is also the only full-time RME of another firm will have six months from the effective date of this subsection to obtain an RME who is not the only full-time RME of another firm, until such time has expired paragraph (5) of this subsection will not be applied to the affected firms.

(5) A certificate of registration will not be issued or renewed unless the firm has at least one licensed full-time RME.

(6) Bond and insurance required.

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

(b) (No change.)

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

Issued in Austin, Texas, on September 26, 1986

TRD-8609273

Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date, October 17, 1986

Proposal publication date March 28, 1986

For further information, please call
(512) 463-6327

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

Chapter 101. General Rules

★31 TAC §101.24

The Texas Air Control Board (TACB) adopts an amendment to §101.24, with changes to the proposed text published in the July 22, 1986, issue of the *Texas Register* (11 TexReg 3340).

This amendment specifies that the emissions inventory data for calendar year 1984 are to be used as a basis for calculation of inspection fees due in fiscal year 1987, changes and moves the current fee table, and excludes nitrogen, carbon dioxide, water, methane, ethane, hydrogen, and oxygen as air contaminants for fee calculation purposes. Also, the amendment requires a review of the inspection fee system in 1987, changes the payment schedule, deletes the additional 10% fee for late payment, and deletes provisions of the section that no longer apply.

A public hearing was held August 20, 1986, in Austin, to receive comments on the proposal. The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being for or against a proposal. A commenter who suggested any changes in the proposal is categorized as against the proposal, while a commenter who agreed with the proposal in its entirety is categorized as being for the proposal.

Eleven commenters testified concerning the proposed amendment to §101.24. No one commented in favor of the proposal. Those commenting against the proposal were: Brandt Mannchen; Gulf States Utilities Company; Sun Exploration and Production Company; El Paso Natural Gas Company; Cities Service Oil and Gas Corporation; Texas Mid-Continent Oil and Gas Association; Cabot Corporation Energy Group; Pride Refining, Inc.; Mitchell Energy Corporation, Texas Utilities Generating Company; and Southwestern Public Service Company

A summary of comments and a discussion of issues related to the amendment follows. While many of the comments addressed specific revisions in the proposal, several remarks were made concerning issues which are beyond the scope of this rule-making process. Comments that related directly to the proposal have been divided into parts that correspond to the four subsections of §101.24.

Testimony regarding the provisions of subsection (a) dealt with one major issue. Gulf States Utilities Company, Cabot Corporation (Cabot), Mitchell Energy Corporation, Pride Refining, and Southwestern Public Service Company (SPS) objected

to the use of 1984 emissions inventory data for the calculation of inspection fees in fiscal year 1987. These companies contended that a more recent emissions inventory should be used to reflect any subsequent emission reductions due to reduced production or to shutdowns. Further, Cabot and SPS contended that the subsection contains no provision for assessment of fees from those new accounts which began production after 1984. Texas Mid-Continent Oil and Gas Association (TMOGA) recommended that fees not be collected from inactive facilities or accounts. Texas Utilities Generating Company (TUGCO) and TMOGA supported the use of 1984 emissions inventory data. The use of 1984 emissions inventory data was proposed as an interim measure for the calculation of fiscal year 1987 inspection fees. The intent of this proposal was to maintain the same inspection fee amounts due in fiscal year 1987 as were due in fiscal year 1986, while the TACB conducts an in-depth study of alternative inspection fee systems. Approximately six to nine months will be required to perform this task. In addition, use of 1984 data will save companies the costs of time and money associated with the preparation of new emissions inventories. However, in relation to TACB administration of this section, the staff will not require fees from previously active accounts which are permanently shut down at the time the fiscal year 1987 fee is due. For instance, if the facilities have been dismantled or removed, no fee would be required. The staff agrees that new accounts, which began operations after 1984, should be included in the inspection fee system for fiscal year 1987. Such accounts will be required to base inspection fee calculations on an emission inventory for 1985.

Mr. Mannchen objected to the exclusion of carbon dioxide (CO₂) from consideration as an air contaminant in §101.24. He contended that CO₂ is a major contributor to the greenhouse effect and should be regulated. The exclusion of CO₂ from this section is for purposes of inspection fee calculation only. Also, the staff has added hydrogen and oxygen to the list of excluded compounds to make this section consistent with changes to §116.6 and §116.7, concurrently adopted.

El Paso Natural Gas Company and TUGCO recommended that the fee table in subsection (b) be adjusted downward to prevent the over-collection of fees in fiscal year 1987 such as occurred in fiscal year 1986. Cabot recommended two additional tiers for the fee table to provide a more equitable assessment. The fee table is a combination of the original fiscal year 1986 fee table and the 45% supplemental inspection fee which was assessed in April, 1986. As stated previously, the intent of the proposal was to maintain the fiscal year 1986 fee amount in fiscal year 1987 and to change the current system as little as possible. The amount of fees that will

be collected in fiscal year 1987 is uncertain since some accounts which paid fees in fiscal year 1986 may have shut down permanently and since the revenue to be expected from permit fees may be dependent on economic conditions. Also, there are indications that the Texas Legislature may require an increase in the fee revenues collected by the TACB. Accordingly, the fee levels established by the section are considered to be appropriate.

Cities Service Oil and Gas Corporation and TUGCO requested retention of the fiscal year 1986 payment schedule in subsection (c). The proposed fiscal year 1987 payment schedule would have required some accounts to pay the fiscal year 1987 inspection fees during the same calendar year in which previous fees were paid. The two companies contended that paying fees for two fiscal years during one calendar year would be disruptive to some company budgets. While the staff understands the impacts that may occur as a result of the change in the payment schedule, the agency is seeking to minimize the cash flow concerns faced during fiscal year 1986. The new payment schedule of December 10, 1986, will enable the TACB to more quickly account for inspection fee revenues for the fiscal year. As the legislature is likely to require the TACB to receive more of its operating funds through fee revenues in future years, the agency will need to obtain accurate revenue information in a timely manner. In addition, record keeping for the TACB will be simplified with a single due date. There will be some savings in agency staff resources due to the simpler record keeping.

Mr. Mannchen urged replacement of the word "may" in subsection (d) with a stronger verb to emphasize that the TACB intends to collect inspection fees as required and in accordance with the payment schedule. The language of the old §101.24(d), which has been deleted, stated, ". . . failure to have remitted the full inspection fee shall result in action under the TCAA. . ." The verb "shall" replaces "may" in the new language as well.

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

§101.24. Inspection Fees.

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

of the board. Accounts which did not previously remit an inspection fee because operations commenced during or after 1984 shall also be subject to an inspection fee providing the above conditions are met, except that actual and potential emissions in 1985 shall be considered. For purposes of this section, emissions of nitrogen, carbon dioxide, water, methane, ethane, hydrogen, and oxygen shall not be considered air contaminants. A separate fee is required for each account. For purposes of this section, an account shall be defined as all of the facilities located at a property. Where contiguous properties or properties contiguous except for intervening roads, railroads, rights-of-way, canals, watercourses, and the like are under common ownership but contain separate operations, or are managed independently, or are carried on the records of this agency under separate account numbers, a separate fee will be charged and collected for each such account. Provisions of this section apply to all accounts, including accounts which have not been assigned specific TACB account numbers. The owner or operator of an account subject to an inspection fee requirement is responsible for contacting the TACB to obtain an account number. Provisions of this section shall not apply to those accounts which contain only nonregulated, nonpermitted facilities which have received no TACB notices of violation (NOVs) within the most recent five-year period. In this context, nonregulated means that facilities are not subject to any of the requirements of Chapters 111-113 of this title (relating to Control of Air Pollution from Visible Emissions and Particulate Matter, Control of Air Pollution from Sulfur Compounds, and Control of Air Pollution from Toxic Materials); Chapter 115 of this title (relating to Control of Air Pollution from Volatile Organic Compounds), Chapter 117 of this title (relating to Control of Air Pollution from Nitrogen Compounds); and Chapter 119 of this title (relating to Control of Air Pollution from Carbon Monoxide). Nonpermitted means that facilities have not been issued a construction permit, special permit, special exemption, or operating permit pursuant to the requirements of Chapter 116 of this title (relating to Permits). By May 31, 1987, the executive director shall review the fees assessed and the costs recovered pursuant to this section and present to the board a report of the results of such review which shall include recommended changes to the section as may be appropriate.

(b) Payment. The amount of the fee shall be determined by the highest aggregate emission rate of any regulated or nonregulated air contaminant at an account applied to the following table. Fees shall be remitted in the form of a check or money order made payable to the Texas Air Control Board and red to the Texas Air Control Board, 6500 Highway 290 East, Austin, Texas 78723. A completed inspection fee form shall accompany fees remitted. The inspection fee

form shall include at least the company name, property address, TACB account number, and a statement of the aggregate emission rate for that single air contaminant which was emitted in the largest quantity at the account during the 1984 (or for new accounts, 1985) calendar year. The maximum fee shall be required if no statement of the aggregate emission rate is included with the inspection fee form. All fees paid pursuant to subsection (a) of this section shall be remitted in accordance with the provisions of subsection (c) of this section.

(c) Schedule. Fees shall be due and payable by all accounts on or before December 10, 1986.

(d) Nonpayment of fees. Failure to remit the full inspection fee by the December 10, 1986, deadline shall result in action under the TCAA, §4.041 (regarding Administrative Penalty) or §4.02 (regarding Enforcement by Sute).

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 29, 1986

TRD-8609299

Allen Eli Bell
Executive Director
Texas Air Control
Board

Effective date October 20, 1986

Proposal publication date July 22, 1986

For further information, please call
(512) 451-5711, ext 354

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Part IX. Texas Water Commission

Chapter 311. Watershed Protection

Subchapter A. Lake Travis and Austin Water Quality

★31 TAC §§311.1-311.5

The Texas Water Commission adopts new §§311.1-311.5. Section 311.4 is adopted with changes to the proposed text published in the April 11, 1986, issue of the *Texas Register* (11 TexReg 1712). The other sections are adopted without changes and will not be republished.

Although this subchapter is adopted as new, the regulations have been in effect in 31 TAC Chapter 359 as rules of the Texas Water Development Board under the Texas Department of Water Resources. Senate Bill 249, 69th Texas Legislature, 1985, effective September 1, 1985, abolished the Texas Department of Water Resources and

Emission Rate (tpy rounded down to the nearest ton)

	Base Fee	Incremental Fee *
50-99	\$ 725.00	\$17.40/ton
100-249	1,595.00	13.05/ton
250-999	3,552.50	4.35/ton
1,000-up**	6,815.00	2.18/ton

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

**Maximum fee is \$14,500

transferred jurisdiction under the Texas Water Code, §26.011, to the Texas Water Commission. Adoption of these sections supersedes the regulations contained in former Chapter 359. The new sections reenact the Water Quality Management rules for Lakes Travis and Austin.

Section 311.1 defines the water quality areas and watersheds. Section 311.2 prohibits the discharge of pollutants into the defined water quality areas. Section 311.3 sets out two options for secondary treatment and disposal of any proposed sewage treatment facility in a water quality area. A treatment facility would have to provide secondary treatment and provide for disposal by discharge into on-channel ponds or storage ponds for land application.

Section 311.4 provides that currently permitted facilities may continue to operate under existing permits and may apply for renewal of the permits. Permit amendments which result in additional treatment capacity will require treatment and disposal in accordance with §311.3. Facilities which are noncompliant with their permits will be subject to permit amendment to require compliance with §311.3.

Section 311.5 requires new permit applicants within the watersheds to provide for disposal without direct discharge to the state's waters under §311.3 or a demonstration that any alternative treatment and disposal method will consistently protect and maintain the existing water quality in Lakes Austin and Travis. The purpose of these new sections is to protect the water quality of the two lakes.

A hearing to receive public comments on these and other subchapters of Chapter 311 was held on May 2, 1986, in Austin. Written comments were received until May 16, 1986.

Most of the comments were favorable. Several people commented that the regulations should be considered temporary, pending completion of further studies of the lakes, which might require either more or less stringent water quality standards. These commenters included Molly Bean for the Sierra Club; Lee Biggart; Texas Parks and Wildlife Department; the Travis County Municipal Utilities District 1 and

Bruce Wasinger for the Lower Colorado River Authority. Jimmy Alan Hall and Dr. L. Taylor Ollman suggested that the 10-stream-mile limit for defined water quality areas be extended to 25 stream miles.

Lakeway Municipal Utility District suggested changing the requirement that expansions had to comply with the no-discharge regulation. The district also requested a variance provision which would allow a new plant to discharge into the lakes. The district submitted a report showing the estimated cost to the district of converting to a no-discharge system.

The City of Lago Vista, through Mayor J. H. Moore, supported effluent limits of 5-5-1 in lieu of a total ban on discharges.

Other commenters who favored the sections as proposed included the League of Women Voters; Brandt Mannchen; Travis County Water Control and Improvement District 15; Cecil Laws; Wayne McEwen, representing the Austin Yacht Club; Parker Taylor; Robert Delaney, representing Travis County Water Control and Improvement District No. 17; J. F. Powell, representing Lake Austin Hill Country Neighborhood Association; Tom Buckle, representing Protect Lake Travis Association; Robert Rood, representing Protect Lakes Buchanan and Inks Association; Bob Carlile; Ray Nelson; Homer Virgil, representing Protect LBJ-Marble Falls Lakes Association; and Jimmy Alan Hall, representing Protect Lakes Buchanan and Inks Association.

The commission retains the right to modify water quality rules under the authority of the Texas Water Code, §26.011 and §26.023, and will consider modification of the sections if water quality studies show that to be necessary and appropriate. The commission believes that the sections as proposed will best serve to protect water quality in Lakes Travis and Austin, and therefore declines to make the changes suggested by several commenters at this time.

The new sections are adopted pursuant to the Texas Water Code, §§5.103, 5.105, and 26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water

quality and to carry out the commission's powers under the Texas Water Code.

§311.4. Existing Facilities in Water Quality Areas.

(a) Any currently permitted treatment facility in the Lake Austin or Lake Travis Water Quality Areas may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit unless the facility becomes substantially non-compliant or an expansion of the treatment facility is included in the application for renewal.

(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.3 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.

(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.3 of this title (relating to Wastewater Disposal).

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 29, 1986

TRD-860294

James K Rourke, Jr
General Counsel
Texas Water Commission

Effective date October 20, 1986

Proposal publication date. April 11, 1986

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

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Subchapter B. Lakes Inks and Buchanan Water Quality

★31 TAC §§311.11-311.15

The Texas Water Commission adopts new §§311.11-311.15. Section 311.14 and §311.15 are adopted with changes to the proposed text published in the April 11, 1986, issue of the *Texas Register* (11 TexReg 1713). Sections 311.11-311.13 are adopted without changes and will not be republished.

These new sections are promulgated in response to a petition for rulemaking. A great deal of concern over the water quality of Lakes Inks and Buchanan and the potential impact on Lake Austin and Travis has been expressed to the commission. The lakes are valuable to the tourist industry and for recreational use by area residents. The commission has, therefore, decided to propose regulations to protect the water quality of the lakes.

The new sections are similar to the water quality management regulations for Lake Travis and Austin, §§311.1-311.5.

Section 311.11 defines the water quality areas and watersheds. Section 311.12 prohibits the discharge of pollutants into the defined water quality areas. Section 311.13 sets out two options for secondary treatment and disposal of any proposed sewage treatment facility in a water quality area. A treatment facility would have to provide secondary treatment and provide for disposal by discharge into on-channel ponds or storage ponds for land application.

Section 311.14 is changed. As originally proposed, the section required existing facilities to comply with the requirements of §311.13 upon permit expiration. Section 311.14 is changed to provide that currently permitted facilities may continue to operate under existing permits and may apply for renewal of the permits. Permit amendments which result in additional treatment capacity will require treatment and disposal in accordance with §311.13. Facilities which are noncompliant with their permits will be subject to permit amendment to require compliance with §311.13.

Section 311.15 requires new permit applicants within the watersheds to provide for disposal without direct discharge to the waters of the state under §311.13 or a demonstration that any alternative treatment and disposal method will consistently protect and maintain the existing water quality in Inks Lake and Lake Buchanan. The purpose of these new sections is to protect the water quality of the two lakes.

A hearing to receive public comments on these and other subchapters of Chapter 311 was held on May 2, 1986, in Austin. Written comments were received until May 16, 1986.

Most of the comments were in support of the sections as proposed. Favorable comments were received from Jimmy Allan Hall, representing the Protect Lakes Buchanan and Inks Association, Cassie Community Association; Council Creek Lodge; Inks Lake Property Owners Association; Mr. and Mrs. Duane Kunze; the League of Women Voters; the Lower Colorado River Authority; Brandt Mannchen; Joyce L. Montag, Henry Parker; Lee Root; the Sierra Club, Texas Parks and Wildlife Department; Travis County Water Control and Improvement District Number 17; Homer Virgil; Cecil Laws, W. P. Cardiff; Robert Rood; Jim Spidle, J. E. Buell, Bob Barton, Karl Holdren, and Neoma Watson.

The City of Burnet expressed concern over the effect of the new sections on the city's discharge permit, which allows the city to discharge on an emergency basis. Leslie Barras of the law firm Lloyd, Gosse-link, Ryan and Fowler, represented Les and Juanita Anders, the owners of the Sil-

ver Creek Lodge. Ms. Barras requested the existing discharges be grandfathered. Phil Haag, of the law firm of Hooper, Robinson, Moeller and Haag, represented Southwestern Graphite Company. Mr. Haag also requested that existing discharges be grandfathered. As noted, §311.14 is changed to incorporate these requests.

Jack Chaney, representing the City of Marble Falls, said the city does not support a total ban on discharges. Jimmy Alan Hall of the law firm Bickerstaff, Heath, and Smiley, representing the Protect Lakes Buchanan and Inks Association, wanted existing discharges phased out.

The commission's position is that these new sections should be consistent with the similar provisions of Subchapter A, concerning Lake Travis and Austin. The new sections are more consistent with agency practice and will serve to protect water quality in Lakes Buchanan and Inks.

The new sections are adopted pursuant to the Texas Water Code, §§5.103, 5.105, and 26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.14. Existing Facilities in Water Quality Areas.

(a) Any currently permitted treatment facility in the Inks Lake or Lake Buchanan water quality areas may continue operation in accordance with the terms and conditions of the existing permit for the facility and can apply for renewal of the permit, unless the facility becomes substantially noncompliant or an expansion of the treatment facility is included in the application for renewal.

(b) Any modification of a facility described in subsection (a) of this section that requires a permit amendment and which results in additional treatment capacity will also require treatment as described in §311.13 of this title (relating to Wastewater Disposal) for the total wastewater flow from the permitted facility.

(c) Any permitted facility not meeting its permit limitations because of overloading of sewage will be subject to amendment as described in §305.62 of this title (relating to Amendment) in order to impose permit limitations consistent with §311.13 of this title (relating to Wastewater Disposal).

§311.15. Inks Lake and Lake Buchanan Watershed Management. Any proposed new or expanded treatment facility in the Inks Lake or Lake Buchanan watersheds, but outside the Inks Lake or Lake Buchanan water quality areas may be permitted only if it provides for disposal without discharge in accordance with §311.13 of this title (relating to Wastewater Disposal) or if the applicant establishes that any alternative proposed wastewater treatment and disposal will

consistently protect and maintain the existing water quality of Inks Lake and Lake Buchanan.

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 29, 1986.

TRD-8609295 James K Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: October 19, 1986
Proposal publication date: April 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter C. Water Quality Management in the Clear Lake Watershed

★ 31 TAC §§311.21, §311.22

The Texas Water Commission adopts new §311.21 and §311.22, without changes to the proposed text published in the April 11, 1986, issue of the *Texas Register* (11 TexReg 1714)

Although this subchapter is adopted as new, the regulations have been in effect in 31 TAC §§333.1-333.3, as rules of the Texas Water Development Board under the Texas Department of Water Resources. Senate Bill 249, 69th Legislature, 1985, effective September 1, 1986, abolished the Texas Department of Water Resources and transferred jurisdiction under the Texas Water Code, §26.011, to the Texas Water Commission. Adoption of these new sections supersedes former §§333.1-333.3.

The new sections re-enact the water quality management rules for the Clear Lake watershed

Section 311.21 states that all municipal waste discharges within the Clear Lake watershed shall improve and upgrade their facilities and operations to achieve the minimum effluent quality criteria listed in the section. The new section also requires industrial waste discharges to meet effluent quality criteria commensurate with the criteria applicable to municipal discharges

Section 311.22 directs the commission to revise permits in the Clear Lake watershed to conform to the requirements in §311.21, upon the direction of the executive director. The purpose of these new sections is to protect the water quality in Clear Lake

A hearing to receive public comments on these and other subchapters of Chapter 311 was held on May 2, 1986, in Austin. Written comments were received until May 16, 1986

Comments were received from three persons. Brandt Mannchen supported more stringent standards, including nutrient

removal, for Clear Lake. The Sierra Club supports adoption of the sections as proposed. Texas Parks and Wildlife Department requested that treatment levels be modified if studies show that to be necessary.

The commission believes that the new sections, as adopted, are adequate to maintain and improve water quality in Clear Lake. The commission retains the right to modify the sections under the authority of the Texas Water Code, §26.011 and §26.023, should studies show that such changes are warranted.

The new sections are adopted pursuant to the Texas Water Code, §§5.103, 5.105, and 26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

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 29, 1986.

TRD-8609296 James K Rourke
General Counsel
Texas Water Commission

Effective date: October 20, 1986
Proposal publication date: April 11, 1986
For further information, please call
(512) 463-8087.

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Subchapter D. Water Quality Management within Lake Houston Watershed

★ 31 TAC §§311.31-311.36

The Texas Water Commission adopts new §§311.31-311.36, without changes to the proposed text published in the April 11, 1986, issue of the *Texas Register* (11 TexReg 1715)

Although this subchapter is adopted as new, the regulations have been in effect in §§333.41-333.47 as rules of the Texas Water Development Board under the Texas Department of Water Resources. Senate Bill 249, 69th Legislature, 1985, effective September 1, 1985, abolished the Texas Department of Water Resources and transferred jurisdiction under the Texas Water Code, §26.011, to the Texas Water Commission. Adoption of these new sections supersedes former §§333.41-333.47

The new sections re-enact the water quality management rules for the Lake Houston watershed, except for former §333.46 (concerning Hydraulic Overloads). That section has been recodified in §305.126

Section 311.31 defines the Lake Houston Watershed. Section 311.32 applies to domestic wastewater permittees and pro-

vides that all new permittees, permittees who construct facility expansions, and permittees requesting increased effluent flows must comply with the effluent limitations provided in the section by the specified deadlines

Section 311.33 applies to industrial wastewater discharges and provides that all new permittees, permittees who construct facility expansions, and permittees requesting increased pollutant loadings shall comply with the effluent limitations specified in the section by the specified deadlines

Section 311.34 requires sewage treatment facilities which use land disposal methods to provide secondary treatment of the effluent before it is discharged into storage ponds.

Section 311.35 requires a solids management plan to be submitted with all applications for renewal, amendment, or new permits. The section lists the minimum information required in reports describing solids management plans

Section 311.36 requires the installation of dual-feed chlorination systems by permittees utilizing gaseous chlorination disinfection systems by May 1, 1986. The disinfection systems are required to be operated so that a maximum chlorine residual of 4.0 milligrams per liter is not exceeded. The purpose of these sections is to protect and improve the water quality of Lake Houston and its tributaries

A hearing was held on May 2, 1986, to receive public comments on this and other subchapters of Chapter 311. Written comments were received until May 16, 1986

Comments were received from three persons. Brandt Mannchen suggested the following changes to the sections as originally proposed: eliminating the variance provision, shortening time periods for compliance, and allowing for alternate forms of disinfection other than gaseous chlorination. Mr. Mannchen also opposed eliminating the hydraulic overloading section from these sections. The Sierra Club supports adoption of the sections, but has requested alternatives to gaseous chlorination be allowed. Texas Parks and Wildlife Department requested the sections be modified if studies warrant, and suggested that the 4 mg/l chlorine residual is excessive and might have an adverse impact on some aquatic organisms.

The commission believes the sections as adopted will best protect water quality in Lake Houston. The hydraulic overloading requirement has been recodified at §305.126.

The new sections are adopted pursuant to the Texas Water Code, §§5.103, 5.105, and 26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

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 29, 1986.

TRD-8609297

James K. Rourke
General Counsel
Texas Water Commission

Effective date: October 20, 1986
Proposal publication date: April 11, 1986
For further information, please call
(512) 463-8087



Subchapter E. Colorado River Watershed

★ 31 TAC §§311.41-311.44

The Texas Water Commission adopts new §§311.41-311.44. Section 311.43 is adopted with changes to the proposed text published in the April 11, 1986, issue of the *Texas Register* (11 TexReg 1716). Sections 311.41, 311.42, and 311.44 are adopted without changes and will not be republished.

The new sections are promulgated in accordance with the directive contained in Senate Concurrent Resolution 121. Senate Concurrent Resolution 121 requested the Texas Water Commission to adopt the recommendations made by the Governor's Select Committee on Water Quality Standards for the Colorado River. The Governor's Select Committee issued a report on April 8, 1985, which recommended certain levels of treatment for effluent discharged into the main stem of Segment 1428 of the Colorado River and its tributaries, and for Segment 1427, Onion Creek, and its tributaries.

The new sections are primarily based on the recommendations of the Governor's Select Committee and the preliminary findings of ongoing studies. The adopted sections requiring treatment levels of five milligrams per liter (mg/l) biochemical oxygen demand, five mg/l total suspended solids, two mg/l of ammonia nitrogen, and one mg/l of phosphorus for tributaries of Segment 1428, and Segment 1427, Onion Creek, and its tributaries will not apply to existing facilities so long as those facilities remain at their permitted flow limits and do not expand. The sections as adopted apply to all permitted facilities and phased facility expansions, under substantial construction as of September 25, 1986, which are required to comply with the specified treatment levels by June 1, 1990.

Section 311.41 delineates the scope of Subchapter E. Subchapter E will apply to Segment 1428 of the Colorado River, and its tributaries, and to Segment 1427, Onion Creek, and its tributaries. The portion of the Colorado River in Segment 1428 extends from Longhorn Dam to 100 meters downstream of State Highway 95/State Highway Loop 230 bridge in Smithville.

Section 311.42 sets out the effluent treatment levels required for discharges directly to the main stem of Segment 1428 of the Colorado River. The section applies to all new domestic sewage treatment permit applicants, all permittees constructing facility expansions, and all permittees applying for increased flows. The new section requires treatment to the following levels, all based on a 30-day average: 10 mg/l biochemical oxygen demand, 15 mg/l of total suspended solids, two mg/l of ammonia nitrogen, and at least five mg/l of dissolved oxygen. Existing facilities must meet this level of treatment by June 1, 1990, unless the commission decides to modify the date of compliance based on consideration of economic and technical feasibility, environmental impacts, or other appropriate factors. The treatment levels may be modified if water quality studies show that to be necessary.

Section 311.43 sets out the level of treatment required for discharges into tributaries of Segment 1428 of the Colorado River and for Segment 1427, Onion Creek, and its tributaries. This new section requires treatment to the following levels, again based on a 30-day average, five mg/l biochemical oxygen demand, five mg/l total suspended solids, two mg/l ammonia nitrogen, and one mg/l of phosphorus. Existing facilities in this area are exempt from meeting this level of treatment as long as they remain at their permitted flows. The City of Austin's Walnut Creek treatment facility must meet 10 mg/l biochemical oxygen demand, 15 mg/l total suspended solids, two mg/l ammonia nitrogen, and five mg/l of dissolved oxygen in its final effluent. The commission may modify the treatment levels specified in §311.43 if water quality studies show that to be necessary.

Section 311.44 requires installation of dual-feed chlorination systems. These systems must be installed at all new treatment facilities discharging in Segment 1428 of the Colorado River and its tributaries, and in Segment 1427, Onion Creek, and its tributaries. All existing facilities must install these systems by June 1, 1990. Minimum and maximum chlorine residuals of 1.0 mg/l and 4.0 mg/l, respectively, based on a grab sample, are required by this section. The commission may consider other forms of disinfection on a case-by-case basis.

The purpose of these sections is to protect and improve water quality in the Colorado River in accordance with the recommendations of the Governor's Select Committee.

A hearing to receive public comments on these sections was held in Austin on May 2, 1986. Written comments were received until May 16, 1986. A motion to reopen the record was received on June 13, 1986, and was granted on July 11, 1986, extending the time for submission of written comments until August 15, 1986.

Comments were received both in favor of and in opposition to the proposed new sections. Technical comments were also received. Cost estimates detailing the potential cost of compliance with the requirements were submitted.

Favorable written comments were received from the Clear Clean Colorado River Association; the League of Women Voters; the Lower Colorado River Authority; the Honorable J. H. Moore, Mayor Pro-Tem of Lago Vista, Brandt Mannchen; the Sierra Club; and the Texas Parks and Wildlife Department. The Sierra Club requested addition of a requirement that each permit affected by the new sections include a definition of the mixing zone for that permittee's discharge and a public hearing be held whenever a proposed discharge is shown to degrade water quality. The Sierra Club also requested that two grab samples per week be required of permittees. The Texas Parks and Wildlife Department expresses concern that a four mg/l chlorine residual might have adverse consequences for some aquatic organisms.

Oral comments which favored the proposed sections were received from Bruce Wasinger, representing the Lower Colorado River Authority; Molly Bean, representing the Sierra Club; Roy Kleinsasser, representing the Clear Clean Colorado River Association; Ken Kramer, representing the Sierra Club, and Murray Walton, representing the National Audubon Society.

Written comments opposing the sections were received from Lee Biggart, representing various landowners and developers; Kinnan Golemon of the law firm Brown, Maroney, Rose, Barber and Dye; Northeast Utilities, Inc., the Cities of Manor, Elgin, and Pflugerville; the Honorable Jack A. Griesenbeck, County Judge of Bastrop County; the Honorable Robert M. Saunders, State Representative for District 30; South Austin Growth Corridor Municipal Utility District Number 1, and Storm Development.

Mr. Biggart and Mr. Golemon both emphasized the costs of compliance and lack of studies demonstrating any benefits from removal of phosphorus. Northeast Utilities, Inc., South Austin Growth Corridor Municipal Utility District Number 1, and Storm Development commented that their facilities should not be required to comply with the sections because they intend to stop providing wastewater treatment service once they can tie-in to the City of Austin's wastewater treatment facilities. The Cities of Manor, Elgin, and Pflugerville, and the Honorable Judge Griesenbeck, all requested that the three cities be exempted from compliance with the sections because they believe cities' discharges had relatively little impact on the Colorado River and the costs of compliance would be burdensome to their citizens. Representative Saunders requested reconsideration of the sections as applied to small towns, since he believes the sec-

tions have a disproportionate adverse impact on small towns

Oral comments opposing the sections were received from Ed Small, representing Charles Morrison; Kinnan Golemon, representing the law firm of Brown, Moroney, Rose, Barber and Dye, Joseph Malina; and Lee Biggart, representing several area banks and savings and loan associations.

Mr Small stated that the sections should be uniform and not exempt the City of Austin. Mr. Golemon commented that there is insufficient scientific data to support the sections, that the notice of the April 11 hearing was defective, and suggested that the proposed sections were intended to limit growth. Mr. Malina said requiring nutrient removal was premature and should not be required until a study was completed. Mr. Biggart questioned the benefits which would result from compliance with the sections and expressed concern that the treatment standard would be applied statewide.

The City of Austin, represented by Davis Ford, submitted written and oral comments. The city requested that the record of the enforcement hearing against it be reviewed in connection with promulgation of the sections.

Dr. J. D. Miertschin submitted a paper entitled "Costs of Municipal Wastewater Treatment Alternatives," which was informative and did not take a position regarding the sections. Joseph Malina submitted a paper in support of his oral comments. Dr. R. A. Short submitted a paper entitled "Nutrient Limitation and Possible Influence of Wastewater Effluent on the Upper Guadalupe River," which examined the Guadalupe River below Kerrville.

The commission has considered these comments and concluded that Senate Concurrent Resolution 121 and the prelimi-

nary findings of commission studies require adoption of the sections as proposed, except for the changes to §311.43(b), which are made to minimize the impact of the new sections on existing discharges. The commission's position is that the sections as adopted will serve to protect and maintain the water quality in the Colorado River until such time as ongoing water quality studies demonstrate that a different set of effluent limitations is necessary.

These new sections are adopted pursuant to the Texas Water Code, §§5.103, 5.105, 26.011, which provides the Texas Water Commission with the authority to promulgate rules necessary to protect water quality and to carry out the commission's powers under the Texas Water Code.

§311.43. Effluent Requirements for All Tributaries of Segment 1428 of the Colorado River and Segment 1427, Onion Creek, and Its Tributaries, of the Colorado River Basin.

(a) Except as provided in subsections (b) and (c) of this section, all discharges of treated sewage effluent into the waters of the state in the tributaries of Segment 1428 of the Colorado River or directly into Segment 1427, Onion Creek, of the Colorado River Basin and its tributaries shall, at a minimum, achieve the following level of effluent treatment:

- (1) five milligrams per liter of biochemical oxygen demand, based on a 30-day average;
- (2) five milligrams per liter of total suspended solids, based on a 30-day average;
- (3) two milligrams per liter of ammonia nitrogen, based on a 30-day average; and
- (4) one milligram per liter of phosphorus, based on a 30-day average.

(b) Subsection (a) of this section does not apply to any existing facilities which

discharge treated domestic sewage effluent into tributaries of Segment 1428 of the Colorado River or Segment 1427, Onion Creek, and its tributaries of the Colorado River Basin, so long as that facility remains at its currently permitted flow for the facility currently constructed. However, subsection (a) of this section shall apply to all permitted facilities and phased facility expansions, under substantial construction as of September 25, 1986, no later than June 1, 1990. This subsection shall not preclude the commission from imposing more stringent treatment levels to such facilities in the future if the results of water quality studies show that such is necessary.

(c) The City of Austin's Walnut Creek wastewater treatment facility, located at the south side of Farm-to-Market Road 969, approximately one mile east of the intersection of Farm-to-Market Road 969 and United States Highway 183 in Travis County, Texas, must by June 1, 1990, meet, at a minimum, the effluent treatment level in §311.42(a) of this title (relating to Effluent Requirements for the Main Stem of Segment 1428 of the Colorado River).

(d) The treatment level in subsection (a) of this may be modified if the results of water quality studies show that this is necessary.

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 29, 1986.

TRD-8609298 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Effective date: October 19, 1986
Proposal publication date: April 11, 1986
For further information, please call
(512) 463-8087

State Board of Insurance Exempt Filings

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

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

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

The text of the material being adopted will not be published, but may be examined in

the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has adopted amendments to the *Texas Automobile Manual*.

The board has adopted physical damage rating symbols for certain 1985 and 1986 model private passenger automobiles.

The symbols adopted were developed from manufacturers FOB list price data and adjusted in accordance with the prescribed vehicle series rating rule.

The FOB list price/symbol chart from which the appropriate symbols are derived is on page 2 of the symbol and identification section of the *Texas Automobile Manual*.

If applicable, the appropriate symbol has been raised or lowered based on the experience thresholds set out in the vehicle

series rating rule in the symbol and identification section of the *Texas Automobile Manual*.

The amendment is effective at 12:01 a.m. on the 15th day after notice of this action is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on September 24, 1986.

TRD-8609222 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date: October 19, 1986
For further information, please call
(512) 463-6327.

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Open Meetings

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

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

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

Texas Commission for the Blind

Monday, September 29, 1986, 1:30 p.m. The Texas Commission for the Blind met via conference call in emergency session in Room 300, Commission Administrative Building, 4800 North Lamar Boulevard, Austin. According to the agenda, the board approved expenditure of federal funds. The emergency status was necessary because as a result of reallocation from other states, the agency has received federal funds which must have been encumbered by October 1 for Texas use.

Contact: Pat D. Westbrook, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: September 26, 1986, 8:58 a.m.

TRD-8609220

Tuesday, October 7, 1986, 2:30 p.m. The Nominations Committee of the Texas Commission for the Blind will meet via conference call in Room 300, Commission Administrative Building, 4800 North Lamar Boulevard, Austin. According to the agenda, the committee will discuss nominations for employers of the year.

Contact: Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: September 26, 1986, 8:58 a.m.
TRD-8609221

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Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

Thursday, October 9, 1986, 10 a.m. The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet at the Texas Rehabilitation Commission, 118 East Riverside Drive, Austin. Items on the agenda include the acceptance of minutes; discussion and action on new services; and discussion and action on new products, including the five-span

steno chairs, metal folding tables, laminated printer tables, and polybag liners.

Contact: Ron P. Mansolo, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

Filed: September 30, 1986, 9:09 a.m.
TRD-8609328

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Texas Commission for the Deaf

Saturday, October 10, 1986, 9 a.m. The Texas Commission for the Deaf will meet at 510 South Congress Avenue, Austin. Items on the agenda include BEI reports, the vote for Council Disability Representative, director and staff reports, public comments, and the chairperson's report. The commission also will meet in executive session if necessary.

Contact: Larry D. Evans, P.O. Box 12904, Austin, Texas 78711, (512) 469-9891.

Filed: September 29, 1986, 9:05 a.m.
TRD-8609291

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Interagency Council on Early Childhood Education

Friday, October 3, 1986, 8:30 a.m. The Interagency Council on Early Childhood Intervention will meet in rescheduled session in Room T-604, 1100 West 49th Street, Austin. According to the agenda, the council will hear public comment and a report on the visit to the Brazoria County Center for the Retarded and act on their fiscal year 1987 contract.

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

Filed: September 25, 1986, 4:29 p.m.
TRD-8609210

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Texas Employment Commission

Wednesday, October 8, 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, internal procedures of commission appeals, consider and act on higher level appeals in unemployment compensation cases on Commission Docket 40; and set the date of the next meeting.

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

Filed: September 29, 1986, 11:26 a.m.
TRD-8609304

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Texas Department of Health

Monday, October 6, 1986, 1:30 p.m. The Advisory Council on Massage Therapy of the Texas Department of Health will meet in Room T-507, 1100 West 49th Street, Austin. Items on the agenda include approval of June 9, 1986, meeting minutes, the program administrator's report concerning the update on requests for attorney general opinions and a discussion of complaints investigated and hearings, reports from each committee to include discussions on applications and reciprocity; discussion and consideration of rules concerning recognized massage therapy schools and rules relating to advertising; legislative amendments; roster of registered massage therapists; other matters not requiring council action relating to the registration and regulation of massage therapists; and the setting of the next meeting date.

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

Filed: September 25, 1986, 4:29 p.m.
TRD-8609211

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Texas Statewide Health Coordinating Council

Friday, September 26, 1986, 1 p.m. The Texas Statewide Health Coordinating Council met in emergency session in the Azalea-Bluebonnet Room, Holiday Inn at Town Lake, 20 IH-35 North, Austin. According to the agenda, the council elected officers. The emergency status was necessary because council members were just appointed and are required to elect officers.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: September 25, 1986, 4:29 p.m.
TRD-8609208

Friday, September 26, 1986, 11 p.m. The Nominating Committee of the Texas Statewide Health Coordinating Council met in emergency session in the Azalea-Bluebonnet Room, Holiday Inn at Town Lake, 20 IH-35 North, Austin. According to the agenda summary, the committee selected the slate for officers. The emergency status was necessary because council members were just appointed and are required to elect officers.

Contact: Carol S. Daniels, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261.

Filed: September 25, 1986, 4:28 p.m.
TRD-8609209

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Texas Historical Commission

Saturday, October 11, 1986, 9 a.m. The State Board of Review of the Texas Historical Commission will meet at Gethsemane Lutheran Church, 1510 Congress Avenue, Austin. According to the agenda, the board will elect the chairman, vice-chairman, and secretary; approve the minutes of the last meeting; and review of National Register nominations.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: September 30, 1986, 9:51 a.m.
TRD-8609331

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State Board of Insurance

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto Street, Austin. Dates, times, and agendas follow.

Friday, October 3, 1986, 9 a.m. The reinsurance agreement whereby Beck-Richards Insurance Company, Tyler, will be reinsured by Memorial Service Life Insurance Company.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: September 25, 1986, 11:34 a.m.
TRD-8609185

Friday, October 3, 1986, 10:30 a.m. The reinsurance agreement whereby Beck-Richards Insurance Company, Pilot Point, will be reinsured by Memorial Service Life Insurance Company, Abilene.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6525.

Filed: September 25, 1986, 2:22 p.m.
TRD-8609187

Monday, October 6, 1986, 1:30 p.m. The reinsurance agreement whereby Reeder-Davis Insurance Company, Hughes Spring, will be reinsured by American Family Life.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: September 25, 1986, 11:34 a.m.
TRD-8609186

Tuesday, October 7, 1986, 9 a.m. The Fire Marshal's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket FM-056—whether disciplinary action should be taken against A-Best Fire and Safety Equipment Company, Inc., Waco, who holds a certificate of registration to install fire detection and alarm devices and systems.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6524.

Filed: September 29, 1986, 10:30 a.m.
TRD-8609303

Tuesday, October 7, 1986, 10 a.m. The State Board of Insurance will meet in Room 414, State Insurance Building, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will discuss a deductible on defense costs in a fiduciary liability policy, board orders on several different matters; hear the fire marshal's report on personnel matters; consider matters related to the Third Called Session of the 69th Legislature including, but not limited to, budgetary items; hear the commissioner's report on personnel matters; consider pending and contemplated litigation, and the board order appointing members to the board of directors of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association to fill vacancies occurring in 1986.

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

Filed: September 29, 1986, 2:39 p.m.
TRD-8609320

Monday, October 13, 1986. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San

Jacinto Street, Austin. Times and dockets follow.

1:30 p.m. The section will consider Docket 9358—application for amendment to articles of incorporation of Members Life Insurance Company, Dallas, increasing the authorized capital.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: September 29, 1986, 12:27 p.m.
TRD-8609305

2:30 p.m. The section will consider Docket 9359—application for amendment to articles of incorporation of Members Insurance Company, Dallas, increasing the authorized capital.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: September 29, 1986, 12:27 p.m.
TRD-8609306

3:30 p.m. The section will consider Docket 9357—application for amendment to articles of incorporation of Members Service Insurance Company, Dallas, increasing the authorized capital.

Contact: O. A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

Filed: September 29, 1986, 12:27 p.m.
TRD-8609307

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Texas Juvenile Probation Commission

Friday, October 10, 1986, 10 a.m. The Texas Juvenile Probation Commission (TJPC) will meet at 2015 IH 35 South, Austin. According to the agenda, the commission will approve the minutes of the June 27, 1986, meeting; consider the director's report; discuss the state auditor's report on the TJPC for the years ending August 31, 1986, 1985, and 1984; approve the fiscal year 1986 budget amendments, the fiscal year 1987 administrative budget; fiscal year 1987 state aid adjustments, fiscal year 1988-1989 budget request—second submission; and approve detention facility standards and the juvenile detention officer certification program.

Contact: Bill Anderson, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: September 30, 1986, 8:16 a.m.
TRD-8609327



Texas Music Commission

Friday, October 3, 1986, 10 a.m. The Texas Music Commission will meet in the Lieutenant Governor's Room, State Capitol, Austin. Items on the agenda include introduction of visitors and guests; approval of previous meeting minutes; committee reports; and public comment

Contact: Bekki Lammert, P O. Box 2910, Austin, Texas 78769, (512) 463-1100.

Filed: September 25, 1986, 2:44 p.m.
TRD-8609189

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Texas Board of Licensure for Nursing Home Administrators

Wednesday, October 15, 1986, 10 a.m. The Texas Board of Licensure for Nursing Home Administrators will meet in Room 355, Commission for the Blind Administrative Building, 4800 North Lamar Boulevard, Austin. According to the agenda, the board will approve the minutes of July 30, 1986; consider the Suitability Committee report, Education Committee report, Texas Department of Health report, Texas Department of Human Services report, executive director's report, chair's report, and personal appearances

Contact: Dottie Mathieson, 4800 North Lamar Boulevard, Austin, Texas 78756, (512) 458-1955

Filed: September 29, 1986, 9:02 a.m.
TRD-8609292

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Board of Pardons and Paroles

Tuesday, October 7, 1986, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider and act on the minutes of the September 4, 1986, meeting; consider and act on the Sunset Commission report, halfway house case-loads, presumptive parole dates, special reviews, USI detainer case review, the budget, Parole in Absentia Committee report, Parole Review Procedures Committee report, Grievance Procedure Committee report, alternative sanctions report, halfway house contracts, and the executive director's report.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

Filed: September 29, 1986, 4:02 p.m.
TRD-8609326

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Texas Parks and Wildlife Department

Tuesday, October 7, 1986, 10 a.m. The Operation Game Thief Committee of the Texas Parks and Wildlife Department will meet at 4200 Smith School Road, Austin. Items on the agenda include approval of the April 8, 1986, public hearing minutes; a financial report; consideration of payment of rewards; a five-year overview; and setting the date of the next meeting.

Contact: M. Stanley Brooks, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4850.

Filed: September 26, 1986, 2:08 p.m.
TRD-8609243

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Public Utility Commission of Texas

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

Friday, October 3, 1986, 9 a.m. Consideration of dockets with tariff control 7032, 6477, 6525, 6660, 6748, and 6842 and publication of a proposed rule regarding deregulation of dominant interexchange carriers. The division will also meet in executive session to consider pending litigation and personnel matters.

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

Filed: September 25, 1986, 2:42 p.m.
TRD-8609192

Tuesday, October 7, 1986, 9 a.m. A prehearing conference in Docket 7020—application of Southwestern Bell Telephone Company for authority to implement rates for intralata service provided over multi-jurisdictional WATS access lines.

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

Filed: September 25, 1986, 2:42 p.m.
TRD-8609190

Tuesday, October 7, 1986, 10:30 a.m. A prehearing conference in Docket 6981—application of El Paso Electric Company for approval of tariff revisions.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0111.

Filed: September 26, 1986, 2:38 p.m.
TRD-8609247

Friday, October 10, 1986, 9 a.m. A hearing in Docket 6992—application of Texas-New Mexico Power Company for certification of a lignite fired electrical generation station in Robertson County.

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

Filed: September 29, 1986, 3:26 p.m.
TRD-8609321

Tuesday, October 14, 1986, 10 a.m. A prehearing conference in Docket 7027—application of AT&T Communications of the Southwest, Inc., to reduce rates of its 1.544 mbps digital services tariff.

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

Filed: September 26, 1986, 2:38 p.m.
TRD-8609249

Thursday, October 16, 1986, 1:30 p.m. A prehearing conference in Docket 6990—application of Texas Utilities Electric Company for certificate of convenience and necessity for proposed transmission line and associated facilities within Ellis County.

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

Filed: September 26, 1986, 2:38 p.m.
TRD-8609248

Friday, October 17, 1986, 1:30 p.m. A prehearing conference in Docket 7022—complaint of Marie Pierce against Victoria County Electric Cooperative.

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

Filed: September 25, 1986, 2:42 p.m.
TRD-8609191

Monday, November 17, 1986, 10 a.m. A hearing on the merits in Dockets 6925 and 7029—application of Contel Corporation to purchase stock of Colmesneil Telephone Company, Inc., and application of Continental Telephone Company of Texas for merger of Colmesneil Telephone Company, Inc., with Continental Telephone Company of Texas.

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

Filed: September 26, 1986, 2:37 p.m.
TRD-8609250

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Railroad Commission of Texas

Monday, September 29, 1986, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas made emergency additions to the agenda of a meeting that was held in Room 12-126, William B Travis Building, 1701 North Congress Avenue, Austin. The emergency status was necessary due to urgent public necessity. These items were properly noticed and passed for the Sep-

tember 22, 1986, meeting. The additions follow.

The consideration of Gas Utilities Division Dockets 6384-6388—statements of intent filed by East Texas Industrial Gas Company to change rates charged to Joy Manufacturing, Foseco, Kordell Industries, Snider Industries, and Marshall Pottery Company.

Contact: Lucia Sturdevant, P O Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: September 26, 1986, 10:37 a.m.
TRD-8609224

Consideration of whether to initiate rule-making proceedings to amend statewide Rule 8 (16 TAC §3 8) relating to water protection (Docket 20,88,970).

Contact: Lori Wrottenberry, P O Drawer 12967, Austin, Texas 78711, (512) 463-6763

Filed: September 26, 1986, 10:38 a.m.
TRD-8609225

The adoption of a proposed amendment to statewide Rule 5 (16 TAC §3.5) for the State of Texas (Docket 20-86,873)

Contact: Lisa C. Anderson, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7291.

Filed: September 26, 1986, 10:38 a.m.
TRD-8609226

Application of Zinn Petroleum Company and Cecil V Hagen to separate the Bell Lake (9800) field into three separate fields to be called the Bell Lake (9800) (9800-A) and (9800-B) fields, Brazoria County, Docket 3-86,358

Contact: Margaret Allen, P O. Drawer 12967, Austin, Texas 78711, (512) 463-6924.

Filed: September 26, 1986, 10 39 a.m.
TRD-8609227

Whether to enter a commission order assessing administrative penalties and/or requiring compliance with commission regulations on the Texas Western, Inc., Delaware, J S Hart (00397) Lease, Wells 1, 1WS, and 2-18, Callahan County regular field, Callahan County, Docket 7B-84,729.

Contact: Mike Borkland, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6763.

Filed: September 26, 1986, 10:39 a.m.
TRD-8609228

Monday, October 6, 1986, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257.

Filed: September 26, 1986, 10:43 a.m.
TRD-8609234

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251.

Filed: September 26, 1986, 10:42 a.m.
TRD-8609233

The Flight Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6787.

Filed: September 26, 1986, 10:50 a.m.
TRD-8609237

Various matters falling within the Gas Utilities Division's regulatory jurisdiction.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

Filed: September 26, 1986, 10:55 a.m.
TRD-8609242

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710.

Filed: September 26, 1986, 10:52 a.m.
TRD-8609240

The LP-Gas Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

Filed: September 26, 1986, 10:42 a.m.
TRD-8609232

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

Contact: Tim Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

Filed: September 26, 1986, 10:40 a.m.
TRD-8609230

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108

Contact: Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: September 26, 1986, 10:41 a.m.
TRD-8609231

Consideration of procedure to be used in the application of Bennett and Burrow to reduce the allowable of all oil and gas wells

in the state other than stripper wells and wells with tertiary production by a percentage of 10%.

Contact: Susan Cory, P.O. Box 12967, Austin, Texas 78711, (512) 463-6922

Filed: September 26, 1986, 10:40 a.m.
TRD-8609229

The Personnel Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: September 26, 1986, 10:51 a.m.
TRD-8609239

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

Filed: September 26, 1986, 10:50 a.m.
TRD-8609236

The Office of the Special Counsel director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 463-7149.

Filed: September 26, 1986, 10:51 a.m.
TRD 8609238

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters; acceptance of ride for an incremental bond increase for the operations of Northwestern Resources Company under Permit 15; proposed amendment to 16 TAC §11.221, state program regulation, consisting of the adoption by reference of revised coal mining regulations concerning effluent limitations, prime farmland, notices of violation, and lands unsuitable for mining.

Contact: J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

Filed: September 26, 1986, 10:49 a.m.
TRD-8609235

Various matters falling within the Transportation Division's regulatory jurisdiction.

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

Filed: September 26, 1986, 10:54 a.m.
TRD-8609241

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School Land Board

Friday, October 3, 1986, 1:30 p.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous board meeting minutes; pooling applications; proposed acquisition of land by the permanent school fund and sale of permanent school fund land.

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

Filed: September 25, 1986, 4:40 p.m.
TRD-8609219

Tuesday, October 7, 1986, 10 a.m. The School Land Board will meet in Room 831, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the minutes of the previous board meeting; consider opening bids received for the oil, gas, and other minerals lease sale, pooling application. the pooling agreement amendments, lease suspension applications, the deposit of condemnation proceeds in the special escrow account, acceptance of the gift of land to the permanent school fund by the Jewish Federation of San Antonio, the proposed acquisition of the land by the permanent school fund and sale of permanent school fund land, land sale for February 3, 1987, coastal public lands and commercial lease applications, easement applications, and an amendment of pooling rules.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-5016.

Filed: September 29, 1986, 3:37 p.m.
TRD-8609329

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Board for Lease of State-Owned Lands

Monday, September 29, 1986, 4:15 p.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands met in a rescheduled emergency session in Room 833, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board approved the minutes of the previous meeting and considered applications for lease suspensions. The emergency status was necessary because of the expiration of leases on October 1, 1986. The meeting was rescheduled from September 30, 1986, at 3 p.m.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-5016.

Filed: September 29, 1986, 10:18 a.m.
TRD-8609301

Tuesday, September 30, 1986, 3 p.m. The Board for Lease of Texas Parks and Wildlife Department of the Board for Lease of State-Owned Lands met in emergency session in Room 833, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board approved the minutes of the previous board meeting; and considered the application for lease suspension and/or extension. The emergency status was necessary because of the expiration of leases, October 1, 1986.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-5016.

Filed: September 26, 1986, 4:33 p.m.
TRD-8609271

Tuesday, October 7, 1986, 2 p.m. The Board for Lease of Texas Department of Corrections of Board for Lease of State-Owned Lands will meet in Room 833, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the minutes of the previous board meeting; and consider bids received for the October 7, 1986, oil, gas, and other minerals lease sale.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-5016.

Filed: September 29, 1986, 3:37 p.m.
TRD-8609324

Wednesday, October 8, 1986, 1:30 p.m. The Board for Lease of Texas Parks and Wildlife Lands of the Board for Lease of State-Owned Lands will meet in Room 833, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve the minutes of the previous board meeting; and consider bids received for the October 8, 1986, oil, gas, and other minerals lease sale.

Contact: Linda K. Fisher, Room 836, 1700 North Congress Avenue, Austin, Texas 78711, (512) 463-5016.

Filed: September 29, 1986, 3:36 p.m.
TRD-8609325

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Texas Tech University

Thursday, October 2, 1986. Committees of the Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center met in the Board Suite, Administration Building, Texas Tech University, Lubbock. Times, committees, and agendas follow.

8:30 a.m. The Public Affairs and University Relations Committee considered reports on legislative actions. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:45 p.m.
TRD-8609201, 8609200

9 a.m. The Campus and Building Committee considered the amendment of the construction contract for rehabilitation of various sections of utility tunnels and systems; appointed project architects for the replacement of roofs of Chitwood, Weymouth, and Coleman Halls, the 1987 bathroom renovation in Wells Hall, the renovation of serving counters in Wells/Carpenter Residence Hall, construction of the computer room in the Advanced Technology Learning Center; appointed project engineers to replace hot water supply lines in Chitwood and Weymouth Halls and replace hot water generators in Carpenter Hall; renamed the Industrial Engineering/Textile Research Center the "Industrial Engineering Building" and the "Mechanical Engineering Building;" ratified acceptance dates; and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:44 p.m.
TRD-8609199

9:30 a.m. The Athletic Affairs Committee considered the medical aspects on drug testing; and heard reports. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:46 p.m.
TRD-8609202

10 a.m. The Finance and Administration Committee considered budget adjustments for June and July, 1986; revised the Board of Regents Policy 04.03, audits; and heard reports. The Finance and Administration Committee of Texas Tech University Health Sciences Center considered a statement of general policy to govern the granting of emergency enrollment loans in fiscal year 1987, and the grant of academic scholarships in fiscal year 1987. The Finance and Administration Committee of Texas Tech University considered the acceptance of gifts-in-kind with value in excess of \$100,000; and considered the lease of Lubbock Lake Landmark land from the City of Lubbock. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:44 p.m.
TRD-8609197, 8609198

1 p.m. The Academic and Student Affairs Committee ratified the leaves of absence; heard reports; and considered policy on renaming of colleges and schools. The Academic and Student Affairs Committee of Texas Tech University Health Sciences

Center reviewed the five year plan, academic and capital. The Academic and Student Affairs Committee of Texas Tech University considered the report on English proficiency of faculty; and the report on the Lubbock Lake Landmark. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:43 p.m.
TRD-8609195, 8609196

3 p.m. The Development Committee reviewed the Enterprise Campaign and considered the receipt of gifts. The committee also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: September 25, 1986, 3:46 p.m.
TRD-8609203, 8609204

4 p.m. The Committee of the Whole considered future agenda items and heard reports. The committee also met in emergency session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:46 p.m.
TRD-8609205, 8609206

Friday, October 3, 1986, 8:30 a.m. The Board of Regents of Texas Tech University and Texas Tech University Health Sciences Center met in the Board Suite, Administration Building, Texas Tech University, Lubbock. According to the agenda summary, the board considered reports and action on the minutes, Academic and Student Affairs Committee, Finance and Administration Committee, Campus and Building Committee, and Development Committee. The board also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: September 25, 1986, 3:42 p.m.
TRD-8609193, 8609194

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University of Texas

Friday, October 3, 1986, 2 p.m. The Intercollegiate Athletics for Women of the University of Texas will meet in Conference Room 606, Bellmont Hall, 21st and San Jacinto Streets, Austin. According to the agenda summary, the committee will approve the minutes of the August 28, 1986, meeting; and consider announcements, old business, and new business.

Contact: Donna A. Lopiano, 21st and San Jacinto Streets, Austin, Texas 78712, (512) 471-7693

Filed: September 29, 1986, 9:53 a.m.
TRD-8609300

University Interscholastic League

Wednesday, October 1, 1986, 1:20 p.m. The State Executive Committee of the University Interscholastic League met in Room 1.126, Thompson Conference Center, 26th and Red River Streets, University of Texas Campus, Austin. According to the agenda summary, the committee conducted hearings on alleged violations.

Contact: Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

Filed: September 25, 1986, 4:23 p.m.
TRD-8609207

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Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Wednesday, October 8, 1986, 10 a.m. The commission will consider water district applications for the release from escrow, the appointment of temporary directors, the surface water supply project, water rate applications, water quality proposed permits, amendments and renewals, an amendment to water use permit, certificate of adjudication, an extension of time application and approving rules regarding regulation of private sewage facilities in Mitchell County.

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

Filed: September 26, 1986, 4:07 p.m.
TRD-8609278

Tuesday, October 14, 1986, 2 p.m. The commission will consider Docket 7017-G—application by Walker Village Water System for an increase in rates for water utility service; and cancellation of Certificate of Adjudication 23-266 of Mrs. Kurtis E. Hopperstad and Ms. Alta M. Day.

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

Filed: September 26, 1986, 4:08 p.m.
TRD-8609277

Wednesday, October 15, 1986, 10 a.m. The commission will consider the motion to dismiss of the executive director concerning the administrative penalty on the City of San Marcos, Permits 10273-01 and 10273-02.

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

Filed: September 26, 1986, 4:09 p.m.
TRD-8609276

Wednesday, October 22, 1986, 2 p.m. The commission will consider the application by Canyon Ridge Investment Company for an amendment to Permit 11198-01, Red River Basin, Randall County; an order assessing

administrative penalties and requiring certain actions of the City of Canyon Permit 10073-01.

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

Filed: September 26, 1986, 4:09 p.m.
TRD-8609275

Wednesday, October 29, 1986, 2 p.m. The commission will consider Dockets 6506 and 6596—dismissal without prejudice of the application of Parke Utility Corporation for water and sewer certificates of convenience and necessity; and application by Homecraft Enterprises Corporation for Proposed Permit 13160-01, Fort Bend County, Brazos River Basin.

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

Filed: September 26, 1986, 4:09 p.m.
TRD-8609274

The Office of Hearings Examiner of the Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

Thursday, November 6, 1986, 9 a.m. In Room 1149A, the office will consider the application of Charles M. Lamascus, Jr., Rt. 1, Box 266, Schulenburg, Texas 78956, for a Proposed Permit 02850 to authorize disposal of agricultural waste by evaporation and/or irrigation from a confined poultry/caged laying operation. The facility will consist of three hen houses with 60,000 bird capacity each (180,000 bird maximum); liquid manure handling system in which daily flush water is routed into settling troughs; thence piped into a 34 acre-foot retention lagoon excavated in clay soils; lagoon wastewater is re-used for flushwater; any wastewater disposal is by evaporation and/or irrigation on 185 acres in coastal bermuda hay production; accumulated settleable matter from troughs and lagoon will be periodically removed by vacuum truck and disposed of on farmland.

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

Filed: September 25, 1986, 4:18 p.m.
TRD-8609212

Wednesday, November 12, 1986, 9 a.m. In Room 1028, the office will consider the application of Glen C. Anderson, 1004 MoPac Circle, Suite 100, Austin, Texas 78746, for renewal of Permit 11488-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 150,000 gallons per day from the Chimney Hill of Austin Plant wastewater treatment facilities which are located approximately 200 feet north of U.S. Highway 290 and 1.5 miles east of the intersection of U.S. Highway 290 and U.S. Highway 183 in Travis County. The effluent is discharged into Walnut Creek; thence to the Colorado River

in Segment 1428 of the Colorado River Basin.

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

Filed: September 25, 1986, 4:17 p.m.
TRD-8609213

Wednesday, November 12, 1986, 9 a.m. In Room 512, the office will consider the application of Lakeway Municipal Utility District No. 1, 1097 Lohmans Crossing, Austin, Texas 78734, for renewal of Permit 10531-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 65,000 gallons per day from the wastewater treatment facilities which are located at 101 Lakeway Drive in Travis County. The effluent is discharged into a pond on an unnamed tributary of Lake Travis in Segment 1404 of the Colorado River Basin. There shall be no discharge from the pond into Lake Travis except a flow which results from a rainfall in excess of one inch per hour for three consecutive hours in the drainage area of the pond. The meeting was rescheduled from July 9 and 10, 1986.

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

Filed: September 25, 1986, 4:17 p.m.
TRD-8609214

Wednesday, November 12, 1986, 9 a.m. In Room 512, the office will consider the application of Lakeway Municipal Utility District No. 1, 1097 Lohmans Crossing, Austin, Texas 78734, for renewal of Permit 11281-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 105,000 gallons per day from the wastewater treatment facilities which are located approximately two miles northwest of the intersection of Lohmans Crossing Road and FM Road 620 in Travis County. The effluent is discharged into a pond on an unnamed tributary of Lake Travis in Segment 1404 of the Colorado River Basin. There shall be no discharge from the pond into Lake Travis except a flow which results from a rainfall in excess of one inch per hour for three consecutive hours in the drainage area of the pond. The meeting is rescheduled from July 9 and 10, 1986.

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

Filed: September 25, 1986, 4:17 p.m.
TRD-8609215

Thursday, November 13, 1986, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the Reading Room, Uvalde City Hall Civic Center, 300 East Main, Uvalde. According to the agenda summary, the office will consider the amended application of the City of Uvalde, P.O. Box 799, Uvalde, Texas 78801, for an amendment to Permit 10306-01 to authorize

an increase in the final discharge of treated domestic wastewater effluent from 1,500,000 gallons per day to 2,500,000 gallons per day average. Upon completion of the final discharge phase, requirements for monitoring total suspended solids and biochemical oxygen demand would be revised to 20 mg/l. The proposed amendment would also add provisions for disposing of effluent by irrigation on a city farm adjacent to and south of the treatment plant site. Application rates for the irrigated land are not to exceed 4.1 acre-feet/acre/year

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: September 26, 1986, 4:28 p.m.
TRD-8609279

Friday, November 14, 1986, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 1149A and B, Stephen F Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office considered Docket 7050-R—application for a rate increase filed by Oakridge Water Company

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

Filed: September 25, 1986, 4:28 p.m.
TRD-8609216

Tuesday, November 25, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider William James Wooten and wife Lou Ellen Bryan Wooten No 5092, who seek a permit to divert water per annum from the San Marcos River, tributary of the Guadalupe River, Guadalupe River Basin, to irrigate, Caldwell County

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

Filed: September 25, 1986, 4 28 p.m.
TRD-8609217

Tuesday, November 25, 1986, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider Texas Products Pipeline Company No 5091, which seeks a permit to divert water directly from the Neches River, Neches River Basin, for industrial purposes, Orange County.

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

Filed: September 25, 1986, 4.18 p.m.
TRD-8609218

Tuesday, November 25, 1986, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the office will consider Docket

7054-R—application for a rate increase filed by H & J Water Company and Affiliates.

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

Filed: September 26, 1986, 4:10 p.m.
TRD-8609272

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Regional Agencies Meetings Filed September 25

The Golden Crescent Regional Review Committee met in Building 102, Victoria Regional Airport, Victoria, on September 2, 1986, at 5:30 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587.

The Henderson County Appraisal District, Board of Directors, met in emergency session in the conference room, 101 East Corsicana, Athens, on September 26, 1986, at 3 p.m. The board also met at the same location on September 29, 1986, at 7:30 p.m. Information may be obtained from Ron Groom, 101 East Corsicana, Athens, Texas 78751, (214) 675-9296.

The Region I Education Service Center, Board of Directors, will meet in the Holiday Inn Civic Center, on October 18, 1986, at 7 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611.

The Region XVII Education Service Center, Board of Directors, will meet at 4000 22nd Place, Lubbock, on October 7, 1986, at 10 a.m. Information may be obtained from Weldon E. Day, 4000 22nd Place, Lubbock, Texas 79410, (806) 792-4000, ext. 200.
TRD-8609184

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Meetings Filed September 26

The Dallas Area Rapid Transit (DART), Executive Search Committee, met in the Melrose Hotel, 3015 Oaklawn, Dallas, on Tuesday, September 30, 1986, 8:30 a.m. The Board of Directors will meet in the Dart Office, 601 Pacific Avenue, Dallas, on the same day at 3:30 p.m. Information may be obtained from Sue Bauman, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6232.

The Eastland County Appraisal District, Board of Directors, made a revision to the agenda for a meeting to be held in the Commissioner's Courtroom, Eastland County Courthouse, Eastland, on October 8, 1986, at 3 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597.

The Region IV Education Service Center, Board of Directors, will meet in the boardroom, Region IV Education Service Center, 7145 West Tidwell, Houston, on October 14, 1986, at 6 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 462-7708.

The Tarrant Appraisal District, Board of Directors, met in Suite 505, 1701 River Run, Fort Worth, on Wednesday, October 1, 1986, at 9 a.m. Information may be obtained from Cecil Mae Perrin, Suite 505, 1701 River Run, Fort Worth, Texas 76107, (817) 332-8522.

The Wheeler County Appraisal District, Board of Directors, will meet in the district office, County Courthouse Square, Wheeler, on October 6, 1986, at 2 p.m. Information may be obtained from Marilyn Copeland, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-8609251

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Meetings Filed September 29

The Bexar, Medina-Atascosa Counties Water Control and Improvement District No. 1, Board of Directors, will meet in the district office, Highway 81, Natalia, on October 6, 1986, at 8 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Canadian River Municipal Water Authority, Board of Directors, will meet at the Plainview Country Club, 2902 West Fourth, Plainview, on October 8, 1986, at 10:30 a.m. Information may be obtained from John C. Williams, P.O. Box 99, Sanford, Texas 79078, (806) 865-3325.

The Dallas Area Rapid Transit (DART), Minority Affairs Committee will meet in the DART Office, 601 Pacific Avenue, Dallas, on Wednesday, October 1, 1986, at 4 p.m. Information may be obtained from Sue Bauman, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658 6232.

The Ellis County Tax Appraisal District will meet at 406 Sycamore Street, Waxahachie, on Thursday, October 9, 1986, at 7 p.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Erath County Appraisal District, Board of Directors, will meet in the boardroom, 1390 Harbin Drive, Stephenville, on Wednesday, October 8, 1986, at 10 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

The Jasper County Appraisal District, Board of Directors, will meet in the Evadale ISD Administration Building, Highway 105, Evadale, on Monday, October 6, 1986, at 6:30 p.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Palo Pinto Appraisal District, Appraisal Review Board, will meet in the Palo County Courthouse, Palo Pinto, on Wednesday, October 8, 1986, at 1:30 p.m. Information may be obtained from Jack Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-3651.

The Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan Street, Woodville, on Tuesday, October 7, 1986, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8609253

In Addition

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

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

Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of August 22-September 19, 1986.

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

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

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

General Motors Corporation, Arlington; first color oven incinerator; 2525 East Abram Street; 17556; new

Tex-Cret, Inc., concrete batch plant; south end of Tarrant Main Street, 6585B, modification

Darnell Enterprises, nitrogen rejection plant; Foard County; 9885A; modification

Boeing Electronics Company, Corinth; electronics manufacturing facility; Denton County; 17571; new

IMC Industry Group, Inc., Corpus Christi; petroleum coke processing facility; Nueces County; 2523B; modification

Apache Gas, Ozone; gas sweetening plant; 1404 West Wall; 9824A, modification

Polycom Huntsman, Seabrook; banbury mixer; Harris County; 15125A; modification

Dynagen, Inc, Odessa; crumb rubber dryer A, B, and C; South Grandview and Pool Road; 17573; new

Russell-Stanley SW Inc, Houston; drum painting facility; 4004 Homestead; 17590; new

Baytech Inc., Midland; gas sweetening plant; Crockett County; 17594; new

Issued in Austin, Texas, on September 23, 1986.

TRD-8609158 Bill Ehret
Hearings Examiner
Texas Air Control Board

Filed: September 25, 1986
For further information, please call (512) 451-5711, ext. 353.



Contested Case Hearing

Pursuant to the authority provided in the Texas Clean Air Act (the Act), Article 4477-5, §§3.15-3.17, 3.27, and 3.271, and the procedural rules of the Texas Air Control Board (TACB), §§103.31, 103.41, and 103.81, an examiner for the TACB will conduct a hearing on the qualification by Pioneer Concrete of Texas, Inc. (the company), under TACB Standard Exemption 71 of §116.6 to construct a concrete batch plant to be located at 2401 Sleepy Hollow Road in Conroe, Montgomery County.

Said company is directed to appear at the time and place shown following and demonstrate by a preponderance of evidence that the facility will comply with all requirements of TACB Regulation VI, §116.6, and with the conditions of Standard Exemption 71.

The record of this hearing will be used by the TACB in determining whether or not the company qualifies for Standard Exemption 71.

Information regarding the application for the exemption and copies of the board's rules and regulations are available for public inspection at the central office of this agency located at 6330 Highway 290 East, Austin, Texas 78723; the regional office of this agency located at 5555 West Loop, Suite 300, Bellaire, Texas 77401; and the Conroe City Hall, 505 West Davis, Conroe, Texas 77305.

The examiner has set the hearing to begin at 1 p.m., October 29, 1986, at the central office of this agency located at 6330 Highway 290 East, Room 209, Austin, Texas 78723. Prospective parties to the hearing will be the TACB staff and the company. Any other persons desiring to be made a party to the hearing must specifically apply in writing for party status to Examiner Bill Ehret, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at the previously listed address by 5 p.m., October 8, 1986. Previous correspondence with the TACB is not effective for this purpose. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing, but who does not desire to be a party, may call the Legal Division of the TACB at (512) 451-5711, ext. 350, to determine the names and addresses of all admitted parties. The parties may then be contacted about the possibility of presenting testimony.

Pursuant to the procedural rules of the TACB, §103.46, the examiner has scheduled a prehearing conference on October 15, 1986, at 1 p.m., at the central office of this agency

located at 6330 Highway 290 East, Room 209, Austin, Texas 78723. All persons wishing to be admitted as parties must attend the conference. Proposed written disputed issues for consideration at the hearing on the merits and written requests for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference, a specific date prior to the hearing on the merits will be established for the exchange of written direct testimony and copies of written and documentary evidence pursuant to §103.46(2). Prehearing orders setting out discovery periods and other prehearing requirements may also be issued following this prehearing conference.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin, Texas, at (512) 451-5711, ext. 350, a day or two before the hearing date to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on September 24, 1986.

TRD-8609159 Allen Ell Bell
Executive Director
Texas Air Control Board

Filed: September 25, 1986
For further information, please call (512) 451-5711, ext. 353.

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State Banking Board Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by First State Bank, Temple, the hearing previously scheduled for September 29, 1986, has been canceled.

Issued in Austin, Texas, on September 23, 1986.

TRD-8609160 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed: September 25, 1986
For further information, please call (512) 479-1200.

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Office of Consumer Credit Commissioner Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 09/29/86-10/05/86	18.00%	18.00%
Monthly Rate— Article 1.04(c)(1) 09/01/86-09/30/86	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 10/01/86-12/31/86	18.00%	18.00%

Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 10/01/86-12/31/86	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 10/01/86-12/31/86	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2) ⁽²⁾ 10/01/86-12/31/86	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 10/01/86-12/31/86	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 10/01/86-12/31/86	18.00%	N/A
Judgment Rate—Article 1.05, §2 10/01/86-10/31/86	10.00%	10.00%

- (1) For variable rate commercial transactions only
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f)
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on September 22, 1986.

TRD-8609161 Al Endsley
Consumer Credit Commissioner

Filed: September 25, 1986
For further information, please call (512) 479-1280.

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Texas Commission for the Deaf Consultant Proposal Request

Pursuant to the authority provided in the Texas Commission for the Deaf Act, Texas Human Resources Code, Chapter 81, §81.013, and Senate Bill 384, §20, 69th Legislature, 1985, the Texas Commission for the Deaf will implement an outdoor training program for students who are deaf and hearing impaired during the summer of fiscal year 1987. In compliance with Texas Civil Statutes, Article 6252-11c, the commission is requesting proposals for the operation of a summer camp program for school-aged children who are deaf and hearing impaired, or for school-aged children who are deaf and hearing impaired and their parents.

The commission is seeking a camp program designed to provide a broad range of recreational and education camping experiences for campers who are deaf and hearing impaired 8-15 years old. In conjunction, the commission desires to include a counselor-in-training (CIT) program and a possible training program for parents of campers who are deaf and hearing impaired. The CIT program is to focus on the development and preparation of future camp counselors. Such counselors-in-training will be 16 and 17 years old and deaf or hearing impaired. The training program for parents is to enhance a broad understanding of deafness and deaf culture and communication skills.

Description of Recommended Services. Respondents should be licensed by the Texas Department of Health, have an approved camp advisor/director with experience with deaf children, and have three years experience as a director in camping for deaf children. Respondents should provide three meals daily and one snack; make available safe, comfortable, and well-maintained facilities; and have comprehensive campsite insurance. Programs should be planned and provided for deaf and hearing impaired campers 8-15 years old and counselors-in-training (CITs) 16 and 17 years old, and/or parents of those children. An orientation program should be conducted for counselors and CITs.

Respondents should provide a broad spectrum of camping activities including, but not limited to, water sports, i.e., swimming, fishing, canoeing, etc., in a natural water setting; horseback riding, with a minimum of 65 horses; riflery on a National Riflery Association or equivalent affiliated rifle range; arts and crafts, nature trail hikes, evening programs, i.e., skits, movies, campfire stories, etc; life-long sports, i.e., golf, tennis, soccer; and other related camping experiences.

The respondents must employ a camp advisor/director and staff who have knowledge of sign language and experience working with children who are deaf and hearing impaired, recommended by the commission.

The commission will consider proposals for a one-week camping session for approximately 160 deaf and hearing impaired students, or for approximately total 160 deaf and hearing impaired students and their parents.

Proposal Evaluation Criteria and Selection. Proposals will be evaluated by a screening committee on submission of proposal on or before the established deadline; operation of the program within the monetary limits established; submission of proposal utilizing provided format; minimum and maximum number of campers allowed within specified budget; respondents' program; respondents' ability to provide a sound, high quality recreational and educational program specifically directed to, and suited for, youngsters who are deaf and hearing impaired; and willingness of respondent to employ staff and camp advisor/director with knowledge of and experience in working with the deaf as recommended by the commission. Final selection with the commission approval will be based on the results of the screening committee's evaluation of the listed criteria. However, contract award will not necessarily be made to the respondent offering the lowest cost, but to the best respondent, considering results of the evaluation criteria and cost allocated within the commission's specified budget.

Funding. Respondents should provide a complete estimated budget of expenditures. The budget should specify expected costs, minimum and maximum number of campers and shall not exceed a cumulative of \$34,500. The respondents should show their own payment schedule for completion of required task. A contractor will be paid 1/3 of the allocation upon completion of each of three segments of the program enumerated and described in an awarded contract. In no event will the final payment be made until the program is completed. No advance payments will be made under contract mechanism.

Deadline for Proposals. Proposals must be postmarked no later than 5 p.m. on Friday, November 7, 1986. Proposals postmarked after this established deadline cannot be considered for selection. Proposals are to be addressed to Texas Commission for the Deaf, Attention: Tammy Weiner, P.O. Box 12904, Austin, Texas 78711.

Intent to Award to Prior Consultant. The commission intends to award a contract for outdoor training program to the consultant that previously performed the program unless a better proposal is submitted as determined by the criteria stated in evaluation and selection.

Contact Person. Further information and format guidelines for submitting proposals may be obtained by contacting Tammy Weiner, Program Specialist, Texas Commission for the Deaf, P.O. Box 12904, 510 South Congress, Suite 300, Austin, Texas 78711, (512) 469-9891.

Issued in Austin, Texas, on September 23, 1986.

TRD-8809162 Larry D. Evans
Executive Director
Texas Commission for the Deaf

Filed: September 25, 1986
For further information, please call (512) 469-9891.



Texas Economic Development Commission Consultant Contract Awards

Description. This award of consulting services is filed pursuant to Texas Civil Statutes, Article 6252-11c. Following publication of the consultant proposal request in the August 22, 1986, issue of the *Texas Register* (11 TexReg 3760), the Texas Economic Development Commission (TEDC) on September 26d, 1986, executed a contract with Luis A. Morales, State of Texas Office, Apartado Postal 5-602, 05600 Mexico D.F., to serve as the director of the State of Texas Office.

Job Description. The individual serving as manager will be required to render the following services as the same may from time to time be required:

(1) manage the day-to-day operations of the State of Texas office, including the supervision of other contract personnel and employees of such office, simple accounting functions, and the translation and composition of correspondence concerning trade and foreign investment in Mexico, Central, and South America;

(2) advise and assist Texas manufacturers and businessmen in making contacts and appointments with Mexican government officials, U.S. Embassy officials, and Mexican, Central and South American industry importers who may be interested in products, services, and/or materials offered by Texas businesses;

(3) conduct or assist in conducting an on-going public relations program within Mexico, Central, and South America to promote the sale, lease, or rental of products, services, and/or materials offered by Texas businesses;

(4) advise and assist or participate in the advising and assistance of Texas businessmen in displaying their products, services, and/or materials at trade fairs, trade shows, or otherwise, to enhance and encourage the rental, lease, or sale thereof to users in Mexico, Central, and South America;

(5) research and locate, or assist in the research and location of Mexican, Central, and South American suppliers of products, services, and/or materials, on request, for Texas businessmen;

(6) assist Mexican, Central, and South American exporters, manufacturers, and suppliers in making contact with Texas businessmen who inquire about the importation of manufactured products, raw materials or services, or who inquire about joint ventures, licensing agreements and transfers of technology;

(7) when requested, to advise and assist State of Texas officials in the conduct of their duties in Mexico, Central and South America, including the making and monitoring of appointments; and

(8) supervise and provide all necessary support for Texas state agencies as may be required under existing and future interagency agreements between TEDC and other state agencies.

Cost and Dates. The total amount of the contract is \$33,996. The beginning date of the contract is September 1, 1986, and the ending date is August 31, 1987.

Due Dates of Documents. Mr. Morales shall prepare a monthly report on the activities of the State of Texas office.

Issued in Austin, Texas, on September 26, 1986.

TRD-8609244 David V. Brandon
Executive Director
Texas Economic Development
Commission

Filed: September 26, 1986
For further information, please call (512) 472-5059.

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Descriptions. This notice is filed pursuant to Texas Civil Statutes, Article 6252-11c. Following publication of the consultant proposal request in the August 22, 1986, issue of the *Texas Register* (11 TexReg 3761), the Texas Economic Development Commission (TEDC) on September 26, 1986, executed a contract with Graciela Letayf, State of Texas Office, Apartado Postal 5-602, 05600 Mexico, D.F. to serve as administrative manager of the State of Texas Office.

Job Description. The individual serving as administrative assistant will be required to render the following services as the same may from time to time be required:

(1) advise and assist Texas manufacturers and businessmen in making contact and appointments with Mexican government officials, U.S. Embassy officials, and Mexican, Central and South American industry importers who may be interested in products, services, and/or materials offered by Texas businesses,

(2) conduct or assist in conducting an on-going public relations program within Mexico, Central and South America to promote the sale, lease, or rental of products, services, and/or materials offered by Texas businesses;

(3) advise and assist or participate in the advising and assistance of Texas businessmen in displaying their products, services, and/or materials at trade fairs, trade shows, or otherwise, to enhance and encourage the rental, lease, or sale thereof to users in Mexico, Central and South America;

(4) research and locate, or assist in the research and location of Mexican, Central and South American suppliers of products, services, and/or materials, on request, for Texas businessmen;

(5) assist Mexican, Central and South American exporters, manufacturers, and suppliers in making contact with Texas businessmen who inquire about the importation of manufacturer products, raw materials or services, or who inquire about joint ventures, licensing agreements, and transfers of technology;

(6) when requested, to advise and assist State of Texas officials in the conduct of their duties in Mexico, Central and South America, including the making and monitoring of appointments; and

(7) supervise and provide all necessary support for Texas state agencies as may be required under existing or future

interagency agreements between TEDC and other state agencies.

Cost and Dates. The total amount of the contract is \$22,224. The beginning date of the contract is September 1, 1986, and the ending date is August 31, 1987.

Due Dates of Documents. Ms. Letayf will contribute to the monthly report prepared on the activities of the State of Texas Office.

Issued in Austin, Texas, on September 26, 1986.

TRD-8609245 David V. Brandon
Executive Director
Texas Economic Development
Commission

Filed: September 26, 1986
For further information, please call (512) 472-5059.

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Texas Education Agency Requests for Proposals

This request is filed in accordance with Texas Civil Statutes, Article 6252-11c. The Texas Education Agency is requesting proposals from school districts, education services centers, colleges and universities, individuals, nonprofit organizations, or corporations to develop and disseminate training packages which identify exemplary research-based program practices being used in school districts. The training packages may include, but are not limited to, high-quality videotape and printed descriptive materials. This project is funded through the United States Department of Education, Education Consolidation and Improvement Act (ECIA), Chapter 2 program and will be administered by the agency's assistant commissioner for program development.

Dates of the subcontract will be approximately November 17, 1986-June 30, 1988. The total amount of funds to be awarded will not exceed \$400,000. The subcontractor will be expected to develop, produce, and disseminate demonstration and training materials based on selections made by Texas Education Agency staff of exemplary program practices in effect in Texas school districts.

Selection of the subcontractor will be based on proposer capacity and related experience, management and staffing plans, budget, and evaluation procedures.

A copy of the request for proposal may be obtained by calling or writing the Document Control Center, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

Proposals may be delivered by mail or in person to the Texas Education Agency Document Control Center. Proposals received after November 14, 1986, will not be considered for funding.

Issued in Austin, Texas, on September 26, 1986.

TRD-8609280 W. N. Kirby
Commissioner of Education
Texas Education Agency

Filed: September 29, 1986
For further information, please call (512) 463-9212.

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This request is filed in accordance with Texas Civil Statutes, Article 6252-11c. The Texas Education Agency is requesting proposals from school districts, education service centers, colleges and universities, individuals, nonprofit organizations, or corporations to conduct a study entitled, "Task Force on Dropout Prevention." The contractor for this study will be responsible for coordinating the activities of a state level task force to investigate possible solutions to the rising dropout rate in Texas. The contractor will also develop technical assistance materials, train Texas Education Agency staff in dropout prevention, and develop model programs.

This project is funded through the United State Department of Education Consolidation and Improvement Act, Chapter 2 Program, and will be administered by Dr. Sylvia Garcia, education program director, Texas Education Agency.

Dates of the contract will be approximately December 1, 1986-June 30, 1988. The total amount of funds to be awarded will not exceed \$300,000.

Selection of the contractor will be based on proposer capacity and related experience, management and staffing plans, budget, and procedures for conducting all activities that are a part of this study.

A copy of the complete request for proposal may be obtained by calling or writing the Document Control Center, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304.

Proposals may be delivered by mail or in person to the Texas Education Agency Document Control Center. Proposals received after November 14, 1986, will not be considered for funding.

Issued in Austin, Texas, on September 28, 1986.

TRD-8609281 W. N. Kirby
 Commissioner of Education
 Texas Education Agency

Filed: September 29, 1986
For further information, please call (512) 463-9212.

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Texas Department of Health Radioactive Material License Amendment

Notice is hereby given by the Texas Department of Health that it has granted an amendment to the following radioactive material license: Radioactive Material License 9-3903 issued to Syncor International Corporation, for their facility located in San Antonio, Texas (mailing address: Syncor International Corporation, 7342 Oak Manor, Suite B-130, San Antonio, Texas 78229).

The amendment to this license is summarized as follows: changes Conditions 11 and 12 of the radioactive material license, which changes the person designated as radiation safety officer.

The Division of Licensing, Registration, and Standards has determined that: the amendment has no significant impact on the human environment; the licensee 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 licensee's equipment, facilities, and procedures are adequate to

minimize danger to public health and safety and the environment; the issuance of the license amendment will not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in Part 44 of the TRCR.

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(b), as amended, and as set out in TRCR 13.6. 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 amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on September 24, 1986

TRD-8609163 Robert A. MacLean
 Deputy Commissioner
 Professional Services
 Texas Department of Health

Filed: September 25, 1986
For further information, please call (512) 835-7000.

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Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded an order or revocation issued August 7, 1986, to Quail Creek Minor Emergency Center, 9411 Parkfield Drive, Suite 500, Austin, Texas 78758, holder of Certificate of Registration 6-12148.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, Monday-Friday, 8 a.m.-5 p.m. (except holidays).

Issued in Austin, Texas, on September 24, 1986.

TRD-8609223 Robert A. MacLean
 Deputy Commissioner
 Professional Services
 Texas Department of Health

Filed: September 26, 1986
For further information, please call (512) 458-7236.

PUB warrants that it has reached agreements with or contacted those intra-ERCOT electric utilities which studies by Utility Consulting Services of Dallas indicate may possibly be impacted by the transmission of Oklahoma power and has previously agreed to pay compensation in accordance with the positive MW method approved by the Texas Public Utility Commission (PUC) rule, 16 TAC §23.67.

The Lower Colorado River Authority, which at this time has not reached agreement with the PUB, has petitioned the PUC in a docket styled Docket 6995 for a determination of the wheeling impact on its system of the transmission of bulk power from Oklahoma Unit Number 1 to the PUB and to determine an appropriate wheeling tariff.

Those who believe that their utility's transmission system will be impacted by the previously described transaction and that their utility is entitled to compensation by the PUB may wish to intervene or otherwise participate in the previously numbered proceeding. Those who so determine must notify the commission as soon as possible, but not later than October 16, 1986, which is the deadline for receipt by the commission of requests for intervention.

A request to intervene, participate, or for further information should be mailed to the Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757. Further information may also be obtained by calling the Public Utility Commission Consumer Affairs Division at (512) 458-0223 or (512) 458-0227, or (512) 458-0221 teletypewriter for the deaf.

A prehearing conference will be held in Docket 6995 on October 20, 1986, at 10 a.m., at which time all motions to intervene or participate in the proceeding will be considered.

Issued in Austin, Texas, on September 25, 1986.

TRD-8609188 Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of Texas

Filed September 25, 1986

For further information, please call (512) 458-0100.

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Railroad Commission of Texas LP-Gas Advisory Committee Meeting

The LP-Gas Division of the Railroad Commission of Texas previously announced a meeting of the LP-Gas Advisory Committee in the September 12, 1986, issue of the *Texas Register* (11 TexReg 3949), to be held on Wednesday, October 8, 1986, at 8:30 a.m., in Room 7-144 at 1701 North Congress, Seventh Floor, William B. Travis Building, Austin, Texas. The time for the meeting has been changed from 8:30 a.m. to 1 p.m., to be held on the same date.

Issued in Austin, Texas, on September 26, 1986

TRD-8609263 Walter Earl Lillie
Special Counsel
Railroad Commission of Texas

Filed September 26, 1986

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



Office of the Secretary of State Texas Register

Due to the upcoming November 4, 1986, election, the *Texas Register* has revised issue dates and deadlines for the November 4, 1986, Quarterly Index, and the November 7, 1986, issue of the *Texas Register*.

The Quarterly Index will be published on November 7, 1986. The November 7, 1986, issue of the *Texas Register* will be published on November 4, 1986, thereby changing the deadline for submission of rules to 10 a.m., Wednesday, October 29, and the deadline for open meeting submissions to 10 a.m., Thursday, October 30, 1986.

The publication schedule will resume with the November 11, 1986, issue and follow publication schedule deadlines thereafter.

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 22-26, 1986.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 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 22-26, 1986

Brown and Root, Inc., (amended notice), Galena Park; wastewater treatment facilities; near the east end of Industrial Road and just west of the Todd Shipyards with Greens Bayou to the north and the Houston Ship Channel to the south; and east of the City of Galena Park in Harris County; 13317-01; new permit

Lake LBJ Municipal Utility District, Horseshoe Bay; sewage treatment plant; north of FM Road 2147 and approximately three miles northeast of the intersection of FM 2147 and State Highway 71 in Horseshoe Bay Subdivision, Llano County, 11217-01; amendment

Diamond Shamrock Refining and Marketing Company, Corpus Christi Refined Products Terminal, Cor-

pus Christi; petroleum products storage and distribution terminal; at 2700 Texaco Road, approximately 1/2 mile north and 1/2 mile west of the High Bridge crossing at the Corpus Christi Inner Harbor outside the City of Corpus Christi, in Nueces County, 02857; new permit

The City of Gonzales, Gonzales; wastewater treatment facility; approximately 5 mile east of U.S. Highway 183, approximately 1,000 feet south of St. Vincent Street, immediately south of Gonzales in Gonzales County; 10488-01; renewal

City of Deport, Deport; wastewater treatment facility; approximately 3/4 mile east of FM Road 1503 and one mile south of U.S. Highway 271 in Lamar County; 10741-01; renewal

City of Robinson, Robinson; wastewater treatment plant; approximately 1/4 mile east of U.S. Highway 77 and northeast of the intersection of U.S. Highway 77 and Shamrock Street in the City of Robinson in McLennan County; 10780-01, renewal

Issued in Austin, Texas, on September 26, 1986

TRD-8609265 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed: September 26, 1986
For further information, please call (512) 463-7898.

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Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Boyles Galvanizing Company on September 23, 1986, assessing \$12,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mary Reagan, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on September 26, 1986

TRD-8609266 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed: September 26, 1986
For further information, please call (512) 463-7898.

