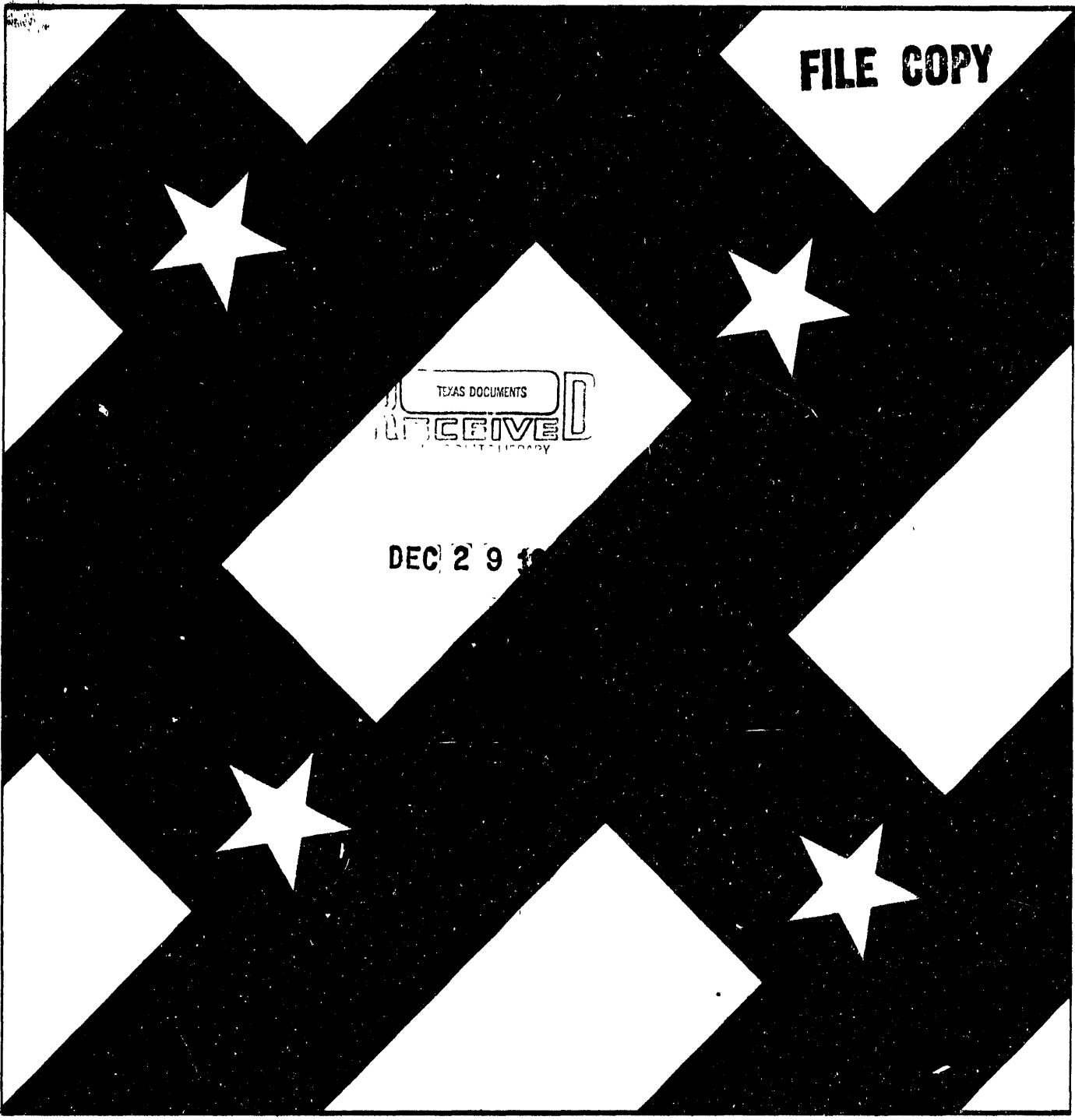


# Texas Register

Volume 11, Number 93, December 19, 1986

Pages 5029-5071



### Highlights

The **Texas Department of Health** proposes amendments concerning the Waste Disposal Act, Texas Civil Statutes, Article 4477-7. Proposed date of adoption - January 31 ..... **page 5038**

The **Texas Water Commission** proposes new sections concerning water quality management in Lakes LBJ and Marble Falls Water-

sheds. Earliest possible date of adoption - January 19 ..... **page 5043**

The **Texas Water Commission** proposes new sections concerning household materials which could be classified as hazardous wastes. Earliest possible date of adoption - January 19 ..... **page 5045**

**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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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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
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In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written: "11 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 11 TexReg 3."

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

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

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*Illustrations courtesy of Texas Parks and Wildlife Department.*

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# 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 and 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

**JM-581 (RQ-912).** Request from David T. Garcia, Brooks County attorney, Falfurrias, concerning the constitutionality of Texas Civil Statutes, Article 5996a; the nepotism statute.

**Summary of Opinion.** The nepotism statute, Texas Civil Statutes, Article 5996a, not unconstitutionally vague. The nepotism statute prohibits the county library from employing someone related to a county judge within a prohibited degree of consanguinity.  
TRD-8611573

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**JM-582 (RQ-804).** Request from Dale Hanna, Johnson County attorney, Cleburne, concerning the eligibility of a firefighter to take a promotional examination under Texas Civil Statutes, Article 1269m.

**Summary of Opinion.** Under the Firemen's and Policemen's Civil Service Act, Texas Civil Statutes, Article 1269m, all firemen with at least two years continuous service in the classification immediately below a classification for which a promotion examination is held are eligible to take the promotion examination.  
TRD-8611574

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Name: Cristian Vasquez

Grade: 7

School: Baker Junior High, Corpus Christi

# Proposed Rules

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

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

## TITLE 1. ADMINISTRATION Part VI. Texas Surplus Property Agency Chapter 143. Plan of Operation

### ★ 1 TAC §143.1

The Texas Surplus Property Agency proposes an amendment to §141.3, concerning the Texas plan of operation. The amendment changes the wording in paragraph G.2., Part III, Inventory and Property Accounting; Part IX, Maintaining Eligibility, and pen and ink changes throughout the plan raising the base federal acquisition cost on property from \$3,000 or more to \$5,000 or more, as required by Public Law 99-386.

Marvin J. Titzman, 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. Titzman also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Nollie D. Thomas, P.O. Box 8120, San Antonio, Texas 78208-0120, (512) 661-2381.

The amendment is proposed under Texas Civil Statutes, Article 6252-6b, which provide the Texas Surplus Property Agency with the authority to make rules.

**§143.1 Texas Plan of Operation.** The Texas Surplus Property Agency adopts by reference the rules contained in the October 17, 1977, Texas Plan of Operation, as amended January, 1984, [and] as amended August 1985, and as amended December, 1986. This document serves as a guideline for this agency in the administration of the Donation Program within the State of Texas. The plan outlines to the administrator of the General Services Administration the methods by which this agency will implement the rules and regulations as set forth in the

G.S.A. Donation Handbook. Copies of this document are available for public inspection at any Texas Surplus Property Agency office in the state.

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

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

TRD-8611517

Marvin J. Titzman  
Executive Director  
Texas Surplus Property  
Agency

Earliest possible date of adoption:  
January 19, 1987  
For further information, please call  
(512) 661-2381

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## TITLE 22. EXAMINING BOARDS Part IX. Texas State Board of Medical Examiners Chapter 163. Licensure

### ★ 22 TAC §163.6, §163.9

The Texas State Board of Medical Examiners proposes amendments to §163.6 and §163.9, concerning licensure. The proposed changes eliminate unneeded language and clarify the matter of issuance of temporary licenses.

Florence Allen, business manager, and Jean Davis, *Texas Register* liaison, have 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.

Ms. Davis also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to enable a qualified physician to serve the needs of an area without interruption while awaiting permanent licensure. 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 Jean Davis, P.O. Box 13562,

Austin, Texas 78711. Although no definite date has been set, a public hearing will probably be held at either the January or February board meeting. More information can be obtained from the board office around January 15.

The amendments are proposed under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rule regulations, and bylaws not inconsistent with the Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of the Act.

### §163.6. Temporary Licensure.

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

(c) Each applicant shall receive on one nonrenewable temporary license prior to the issuance of a permanent license. The board, in unusual circumstances, may allow the issuance of one additional temporary license if it finds it is in the best interest of the public and that the health and welfare of the public would not be endangered, and would be served. These exceptions are reviewed by the board's secretary-treasurer or executive director on a case-by-case basis.

### §163.9. Procedural Rules for all Licensure Applicants.

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

[(c) A license issued by reciprocal endorsement must be based on a state or province where original license was issued.]

(e) [(d)] Prior to sitting for the FLE, after the third failure, the applicant must satisfactorily complete one year of training. After each subsequent failure, the applicant must satisfactorily complete one additional year of training before repeating the FLEX. This training must be acceptable to the secretary-treasurer or executive director of the board.

(d) [(e)] An applicant will be allowed to sit for the Texas medical jurisprudence examination only three times.

(e) [(f)] An applicant who in any way falsified the application will be requested to appear before the board. It will be at the discretion of the board whether or not the applicant will be allowed to sit for the examination or be issued a Texas license.

(f) [(g)] An applicant on whom adverse information is received by the board office may be required to appear before the



It will be at the discretion of the board whether or not the applicant will be required to sit for the examination or be issued a Texas license.

(g) [(h)] A licensure applicant who has been examined for licensure in a 10-year period prior to the filing date of his or her application must pass Component II of the exam, unless the applicant has obtained specialty certification or recertification within the preceding 10 years.

(h) [(i)] An applicant shall be required to comply with the board's rules and regulations which are in effect at the time his or her completed application and fee are filed with this board.

(i) [(j)] An applicant who elects to file for licensure by examination under §163.3(a) of this title (relating to Examinations Required by the Board for Licensure) cannot subsequently file for licensure by reciprocity or endorsement under §163.3(b) of this title (relating to Examinations Required by the Board for Licensure).

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 December 12, 1986

TRD-8611587 G V Brindley, Jr  
Executive Director  
Texas State Board of  
Medical Examiners

Earliest possible date of adoption:  
January 19, 1987  
For further information, please call  
(512) 452-1078.

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## Part XI. Board of Nurse Examiners Chapter 217. Licensure and Practice

### 22 TAC §217.2

The Board of Nurse Examiners proposes an amendment to §217.2, concerning licensure by examination. The board is proposing to delete the remedial course requirement currently applied to repeat candidates who have gone beyond five years from their date of eligibility to write the exam. Data collected in the board's office indicated that the remedial work is not warranted since there was no significant improvement in the candidate's success following remedial work.

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

Ms. Sanders also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the

section will be to remove the cost of remedial course for those candidates who have been unsuccessful in passing the licensure examination after five years from their date of eligibility. In removing this requirement, candidates may write the licensure examination twice a year without a time lapse. 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 Louise Sanders, RN, Ph.D., Acting Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752.

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

§217.2. *Licensure by Examination.* The requirements for licensure by examination are as follows.

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

[(5) Candidates who have not successfully passed the licensing examination within five years of the date of eligibility to write the examination must present evidence to the board that their nursing knowledge and skills are current.]

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 December 10, 1986.

TRD-8611518 Louise Sanders  
Acting Executive  
Secretary  
Board of Nurse  
Examiners

Earliest possible date of adoption:  
January 19, 1987  
For further information, please call  
(512) 835-4880.

### ★ ★ ★ 22 TAC §217.13

The Board of Nurse Examiners proposes an amendment to §217.13, concerning unprofessional conduct. The proposed amendment permits the reporting of certain nurses to a peer assistance program instead of reporting them to the Board of Nurse Examiners, in compliance with House Bill 900, 69th Legislative Session, 1985.

Louise Sanders, RN, Ph.D., acting executive secretary, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications as a result of enforcing or administering the section. The effect on state government will be an estimated reduction in cost of \$1,000 in 1987, \$1,500 in 1988, \$500 in 1989, and \$0 in 1990 and 1991. There will be no fiscal implications for local government or small businesses.

Ms. Sanders also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that nurses may seek treatment for drug and/or alcohol abuse earlier instead of waiting until their behavior may result in injury to the public. 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 Louise Sanders, RN, Ph.D., Acting Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752.

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

§217.13. *Unprofessional Conduct.* The term "unprofessional conduct that is likely to injure the public" means any act, practice, or omission that fails to conform to the accepted standards of the nursing profession and which results from conscious disregard for the health and welfare of the public and of the patient/client under the nurse's care and includes, but is not limited to, the conduct listed as follows:

(1)-(12) (No change.)

(13) failing to report to the board [or the appropriate authority in the organization in which the nurse is working,] within a reasonable time of the occurrence, any violation or attempted violation of the Texas Nurse Practice Act or duly promulgated rules, regulations, or orders. **In lieu of reporting to the board, a nurse may report the violation:**

(A) to a board-approved peer assistance program if the nurse being reported is suspected of being impaired by chemical dependency, alcohol, drugs, or by mental illness; or

(B) to the appropriate professional nurse supervisor in the organization in which the nurse is working.

(14)-(15) (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 December 10, 1986.

TRD-8611515 Louise Sanders,  
Acting Executive  
Secretary  
Board of Nurse  
Examiners

Earliest possible date of adoption  
January 19, 1987  
For further information, please call  
(512) 835-4880

★ ★ ★  
**Part XXII. Texas State  
Board of Public  
Accountancy**

**Chapter 503. Definitions**

**Definitions**

★22 TAC §503.1

The Texas State Board of Public Accountancy proposes an amendment to §503.1, concerning definitions. The definition of client has been standardized and is now included in another section.

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

Mr. Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the definition of client may be found in one section. The amendment standardizes the definition to eliminate misunderstandings and misconceptions. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to definition of terms used within the substantive rules of the board.

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

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

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 December 12, 1986

TRD-8611571 Bob E Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption  
January 19, 1987  
For further information, please call  
(512) 450-7066

★ ★ ★  
**Chapter 523. Continuing  
Professional Education  
Programs**

★22 TAC §523.2

The Texas State Board of Public Accountancy proposes an amendment to §523.2, concerning standards for continuing professional education (CPE) program development for licensees of the board. The proposal provides guidelines for course composition, which enhances professional education courses in areas appropriate to the practice of public accountancy

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

Mr Bradley also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be appropriate course content in appropriate areas for the practitioners of public accountancy There is no anticipated economic cost to individuals who are required to comply with the proposed section.

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

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to establishment and operation of the continuing education program.

§523.2. *Standards for CPE Program Development.* The fundamental purpose of continuing education is to increase the practitioner's professional competence. A professional person is one characterized as conforming to the technical and ethical stan-

dards of his profession. This characterization reflects the expectation that a person holding out to perform services of a professional quality needs to be knowledgeable within a broad range of related skills. The concept of professional competence is to be broadly interpreted. It includes, but is not restricted to, accounting, auditing, taxation and management advisory services. [Accordingly, programs contributing to the development and maintenance of other professional skills should be recognized as acceptable continuing education programs.] Such program might include, but not be restricted to, areas of communication, ethics, quantitative methods, behavioral sciences, statistics, and practice management if they contribute the development and maintenance of the professional skills.

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 December 12, 1986

TRD-8611572 Bob E Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Earliest possible date of adoption:  
January 19, 1987  
For further information, please call  
(512) 450-7066

★ ★ ★  
**TITLE 25. HEALTH  
SERVICES**  
**Part I. Texas Department of  
Health**

**Chapter 325. Solid Waste  
Management**

**Subchapter L. Household  
Hazardous Waste**

★25 TAC §§325.271-325.282

The Texas Department of Health proposes new §§325.271-325.282, concerning hazardous household waste.

The new subchapter is proposed in response to amendments to the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, enacted by House Bill 2356 69th Legislature, 1985. The bill stipulates that the Texas Department of Health and the Texas Water Commission provide by rule for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous waste. The bill also requires that such rules specify any necessary requirements relating to the training of persons involved in the collection and disposal of such household materials.

The new sections also incorporate provisions to carry out the purpose of the Act

safeguard the health, welfare, and physical property of the people, and to protect the environment

comply with the mandate of House Bill 58, the Texas Department of Health and the Texas Water Commission propose to adopt related sections in this issue of the *Register* that apply to persons who collect, transport, or dispose of hazardous household waste. By proposing their sections on a coordinated basis, the department and the commission intend to eliminate possible confusion and jurisdictional problems that might otherwise result

The new sections do not require persons to engage in the collection or disposal of hazardous waste but do specify requirements for hazardous household wastes are segregated, collected, and aggregated for the purpose of disposal or recycling

Both the Texas Department of Health and the Texas Water Commission believe that those cases where a local community chooses by means of an organized effort to separate hazardous household waste from other household solid wastes, such as hazardous household waste should be transported and subsequently treated, stored, or disposed of at a fully regulated hazardous waste facility.

The majority of persons affected by these proposed sections will be subject to those rules implemented and enforced by the Texas Department of Health. The Texas Water Commission will generally regulate those hazardous waste transporters who will be handling manifested hazardous household waste and those established hazardous waste treatment, storage, or disposal facility owners/operators who accept or receive hazardous waste at their respective facilities

Stephen Seale, chief accountant III, Budget and Planning Division, Texas Department of Health, has determined that the first five-year period the sections in effect there will be fiscal implications for local government as a result of enforcing and administering the sections. Because these sections do not mandate implementation of programs, any fiscal impact on local governments will result from their voluntary participation. If they do participate, the cost will vary according to the amount and types of waste handled and degree of promotional activity. Cities under 10,000 in population would experience costs of about \$5,000, and cities over 10,000 in population would experience costs ranging from \$50,000 to \$100,000 per special waste collection campaign. There will be no effect on state government of retail businesses.

Seale also has determined that for each year of the first five years the sections as proposed are in effect the public benefit anticipated as a result of enforcing the section will be a controlled means which household materials which could be classified as a hazardous waste are collected and disposed of separately from

other household wastes. If a community wishes to engage in such activities there would be less hazardous materials handled in the normal waste collection effort, providing for safer working conditions for collectors and there would be less hazardous materials disposed of in the community landfill reducing the risk to workers and the environment. There is no anticipated cost to individuals who are required to comply with the sections as proposed

Public comments will be accepted for 30 days after publication of the proposed rules in the *Texas Register*. In addition, public hearing on this proposal is scheduled for 10 a.m. on January 8, 1987, in the auditorium of the Texas Department of Health, located at 1100 West 49th Street, Austin

Copies of the proposed rules are available from Division of Solid Waste Management, Texas Department of Health, and at all Texas Department of Health regional offices. Public comments, both oral and written, on the proposed rules are invited at the hearing. Written comments received by 5 p.m., January 19, 1987, will be included in the hearing record. Written comments should be sent to Hector H. Mendietta, P.E., Director, Division of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199.

The new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4, as amended by House Bill 2358, §7, 69th Legislature, 1985, which requires the Texas Department of Health and the Texas Water Commission to provide rules for the collection and disposal of household materials that could be classified as hazardous wastes.

**§325.271. Purpose.** The purpose of this subchapter is to provide requirements for interested persons to engage in activities which involve the collection and disposal of hazardous household waste including recycling or reclamation of such wastes. These rules have been adopted in conjunction with the rules (31 TAC §§335.401-335.412) of the Texas Water Commission. It is the intent of the Texas Solid Waste Act, Texas Civil Statutes, Article 4477-7, that the two agencies establish and maintain a cooperative effort with regard to providing regulation and direction for hazardous household waste collection programs so as to insure that waste aggregated as a result of such programs is properly handled and disposed of in a safe manner.

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

**Act**—The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

**Aggregate**—To bring together hazardous household waste that has been segregated and collected from two or more households and accumulated at a collection center or a transporter's facility for the purpose of

disposing of, to include recycling or reclaiming, the waste in a special controlled manner.

**Collector**—Any person who accepts directly from two or more households any unmanifested waste materials that have been separated from other household waste and offered to the collector because the generator either knows or considers the materials to be hazardous household waste.

**Collection center**—A designated site and facilities within that site used or planned for use by an operator to aggregate hazardous household waste delivered to the site by individuals, households, or collectors.

**Commission**—The Texas Water Commission, P. O. Box 13087, Austin, Texas 78711.

**Department**—The Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

**Division**—The Division of Solid Waste Management, Texas Department of Health.

**EPA**—The United States Environmental Protection Agency.

**Hazardous household waste**—Any municipal solid waste derived from households that exhibits a characteristic or which contains a constituent or constituents which would, except for the exclusion in 40, Code of Federal Regulations Part 261, §261.4(b)(1), pertaining to household wastes, cause the waste to be identified as a regulated hazardous waste.

**Hazardous waste treatment, storage, or disposal facility**—Any facility that has a permit from a state or the United States Environmental Protection Agency to store, process, treat, reclaim, or dispose of hazardous waste or that qualifies as an interim status facility under 40 Code of Federal Regulations Parts 265 and 270.

**Household**—Single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, camp grounds, picnic grounds, and day-use recreational areas.

**Manifest**—A uniform hazardous waste manifest.

**Operator**—Any person responsible for a program to collect and/or aggregate hazardous household waste.

**Receiver**—Any facility that has a permit from a state or the United States Environmental Protection Agency to store, process, treat, reclaim, or dispose of hazardous waste or that qualifies as an interim status facility under 40 Code of Federal Regulations Parts 265 and 270.

**Recurring collection program**—An organized effort to collect and/or aggregate hazardous household waste in a community at scheduled intervals, at least annually.

**Transporter**—A person who has notified EPA that he is engaged in transporting hazardous waste and who has an EPA ID number

**§325.273. Authority.**

(a) Authority of the Texas Department of Health. The department is the state

agency having overall responsibility for regulation of nonhazardous municipal solid waste. Solid waste originating from households is by definition under state law and by special exclusion contained in 40 Code of Federal Regulations Part 261, exempt from the definition of hazardous waste and, thus, technically is a nonhazardous waste. Refer to the definition of the term "hazardous household waste" in §325.272 of this title (relating to Definitions) for further explanation. Furthermore, household solid waste clearly qualifies as municipal solid wastes under the Act. For these reasons both the department and the commission agree that the department has primary regulatory authority over hazardous household waste, persons who provide household pick-up of hazardous household waste at point generation; and persons who establish and operate hazardous household waste collection centers, other than those owners/operators of established hazardous waste treatment, storage, or disposal facilities. The following regulatory portions of this subchapter shall be primarily implemented and enforced by the department

(1) §325.276(a)-(c) of this title (relating to General Requirements for Collectors and Operators);

(2) §335.277(a)-(f) of this title (relating to Operation of Collection Centers);

(3) §325.278 of this title (relating to Household Pick-Up),

(4) §325.280 of this title (relating to Reuse of Collected Material), except in those cases where the collector or operator determining the reuse suitability of the collected material is the owner/operator of a hazardous waste treatment, storage, or disposal facility; and

(5) §325.281(b) of this title (relating to General Requirements for Transporters).

(b) Authority of the Texas Water Commission. The commission is the state agency having overall responsibility for regulating hazardous waste as defined in 40 Code of Federal Regulations Part 261. The requirements of this subchapter require all hazardous household waste, once it has been collected and aggregated at a collection center or a transporter's facility, to be further transported only by a hazardous waste transporter. When subsequently shipped for treatment, storage, or disposal the waste is to be received only at authorized hazardous waste treatment, storage, or disposal facilities. The department and the commission agree that the commission has primary regulatory authority over persons transporting hazardous household waste, particularly in those cases where a manifest is required, and over owners/operators of hazardous waste treatment, storage, or disposal facilities who receive and handle hazardous household waste. Accordingly, the following regulatory portions of this subchapter shall be primarily implemented and enforced by the commission:

(1) §325.276(d) of this title (relating to General Requirements for Collectors and Operators);

(2) §325.277(g) of this title (relating to Operation of Collection Centers);

(3) §325.280 of this title (relating to Reuse of Collected Material), except in those cases where the collector or operator determining the reuse suitability of the collected material is subject to the requirements of §335.276(a)-(c) of this title (relating to General Requirements for Collectors and Operators);

(4) §325.281(a) of this title (relating to General Requirements for Transporters); and

(5) §325.284 of this title (relating to General Requirements for Treatment, Storage, or Disposal Facilities).

(c) Joint authority. The department and commission shall jointly implement, and each may enforce as appropriate, the requirements contained in §325.279 of this title (relating to General Shipping, Manifesting, Record-Keeping, and Reporting Requirements).

#### §325.274. *Interagency Coordination.*

(a) The department shall serve as the lead agency with regard to the regulation and oversight of organized hazardous household waste collection and point of generation pick-up programs in the state. The department also will be the lead agency with regard to the assurance of proper handling of hazardous household wastes at collection centers or transporter facilities, other than at hazardous waste treatment, storage, or disposal facilities regulated by the commission.

(b) The division shall be the point of contact between collectors/operators and the commission, subject to the requirements of §325.176(b)-(c) of this title (relating to General Requirements for Collectors and Operators). The division also will provide to the collectors and operators the necessary forms, ID numbers, waste codes, and special instructions from the commission concerning transportation and ultimate disposition of aggregated hazardous household waste.

(c) Pursuant to the requirement under the Act, §3(c), the department in adopting these rules concurs in the treatment, storage, disposal, recycling, or reclaiming of hazardous household waste at a hazardous waste facility that has obtained written approval by the commission to receive such waste.

§325.275. *Applicability.* The rules of this subchapter are applicable to persons who:

(1) collect and/or aggregate hazardous household waste for disposal, to include recycling or reclamation;

(2) are involved in household pick-up of hazardous household waste which has been separated by the generator from other solid wastes,

(3) operate hazardous household waste collection centers;

(4) transport any hazardous household waste required by the rules of this subchapter to be manifested; and

(5) own or operate a hazardous waste treatment, storage, or disposal facility that receives manifested hazardous household waste.

#### §325.276. *General Requirements for Collectors and Operators.*

(a) Except as provided in subsection (d) of this section, no person may engage in any activity to collect or aggregate hazardous household waste that has been segregated from other solid waste without having first notified the division in accordance with subsection (b) of this section and without having submitted to the division an operational plan as provided for in subsection (c) of this section.

(b) The notification shall be submitted 90 days prior to the expected collection date, by letter or on a form provided by the department. It shall include the following information:

(1) name and address of the operator;

(2) name, address, and telephone number of an individual to be the contact person for the operator;

(3) date of planned collection;

(4) areas that are planned to be covered by the collection effort, i.e., city, county, precinct, neighborhood, district, region, etc.; and

(5) organization of the collection effort and names of persons or groups providing support.

(c) The collector or operator shall submit to the division a complete operational plan not less than 45 days prior to collection day. Collectors or operators conducting recurring collection programs need not submit a plan for the second and subsequent operations. The plan shall be prepared according to the format and content requirements in the following paragraphs, as applicable, or as otherwise specified by the division.

(1) The plan shall be in a typewritten report form (except for maps and drawings) on 8½ inch by 11 inch white paper; all materials in excess of 8½ inches by 11 inches shall be folded to that size. Undersized materials shall be mounted on 8½ inch by 11 inch paper, and the report stapled in the upper left-hand corner or bound along the left margin. All folded material shall be affixed so it can be unfolded without removing binders.

(2) The title page shall show the name of the project, the location by city and county, name of responsible person, and date of plan.

(3) The table of contents shall list the main sections of the plan.

(4) The plan shall identify the nature, type, and quantity of waste proposed for collection and disposal, including a brief description of the general sources and generation areas contributing wastes.

(5) If the waste is to be collected households by a pick-up service, the shall describe in detail how this is to be

(6) The plan shall give the approximate number of residences, institutions (identify types), and business establishments within 300 feet of the proposed collection center, including the distances and directions to the nearest residences, institution, or business.

(7) Information relating to adequacy of access to the collection center shall be submitted as part of the plan.

(8) The plan shall identify the type of location of fences or other means of access control to protect the public from exposure to potential health and safety hazard and to discourage unauthorized entry.

(9) The following operational controls shall be discussed in detail:

(A) the storage of waste at the collection center;

(B) provisions for inclement weather operation, e.g., alternate collection center, or alternate collection day, etc;

(C) provisions for wastes requiring special handling and for waste that is identified as nonhazardous;

(D) provisions for classifying and controlling the wastes;

(E) procedures to ensure that authorized waste, i.e., hazardous waste (Class I industrial solid waste) from industries, businesses, or institutions subject to rules of the commission, is not accepted as hazardous household waste;

(F) fire control measures, e.g., availability of local fire departments and on-site fire fighting equipment;

(G) spill control measures and clean up procedures;

(H) the minimum required number of personnel, their functions, and their qualifications;

(I) provisions for security, screening waste for acceptability, traffic control, and safety;

(J) measures to control unloading within collection center; and

(K) the posting of signs at the collection center and enforcement of site rules.

(10) The operator shall provide information on the planned disposal of the waste collected, to include the transporter's name and ID number, and the name, location, and ID number of the hazardous waste facility which is to be used for the treatment, storage, disposal, or recycling of the waste.

(11) The operator shall provide information on planned disposition of materials that are accepted at the collection center and are in usable condition.

(12) The plan shall have the following attachments.

(A) Attachment 1—general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the

State Department of Highways and Public Transportation, with the collection site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If the site is located within a city, a city map may be used for this purpose.

(B) Attachment 2—planimetric map. This will normally be a constructed map showing the features of the collection center. It need not be drawn to scale but the improvements and boundaries should fairly represent the collection center area. The map should be annotated to show flow of traffic, unloading points, location of emergency vehicles, and classification and storage areas.

(C) Attachment 3—evidence of financial responsibility. Collectors or operators other than governmental entities shall submit evidence of financial responsibility which assures the department that sufficient assets are available to properly operate the collection center, enable appropriate shipment and disposal of the waste, and to provide for proper closure of the collection center.

(D) Attachment 4—evidence of competency. Evidence of competency to operate the center shall be provided, to include experience and qualifications of key personnel.

(E) Attachment 5—responsible party's statement. The operator, or the authorized representative empowered to make commitments for the operator, shall provide a statement that she or he is familiar with the operational plan, is aware of all commitments represented in the plan, is familiar with all pertinent requirements in these rules, and agrees to develop and operate the site in accordance with the rules and any special written instructions from the division.

(d) Owners/operators of hazardous waste treatment, storage, or disposal facilities who accept or intend to accept unmanifested hazardous household waste directly from household waste generators or their representatives are not subject to the requirements of this section, provided that prior to first accepting such waste, they notify the commission's executive director in writing concerning their intention to accept such waste. The notification shall contain the following:

(1) TWC registration number and EPA ID number;

(2) date they intend to start receiving such hazardous household waste;

(3) kinds of hazardous household waste they intend to accept;

(4) types or classes of household waste that will not be accepted;

(5) information to be required from each generator so as to enable proper classification and handling of waste;

(6) how they intend to handle at their facility waste which may be accepted

and what the ultimate disposition of the waste will be;

(7) methods and procedures to be utilized so as to assure that hazardous waste or Class I industrial solid waste, subject to the requirements of 31 TAC Chapter 335, subchapters A-M, and requiring accompaniment during any shipment of a generator completed manifest, are not accepted as hazardous household waste; and

(8) identities of all organizations or groups involved together with the notifier in any advertising, public service campaigns, or other public information efforts concerning the dangers or risks associated with hazardous household waste, the need or desirability of separating such waste from other household solid waste, and the procedures by which the household waste generator may deliver his or her hazardous household waste to the notifier's facility.

#### §325.277. Operation of Collection Centers.

(a) General. Except as provided in subsection (g) of this section, collection centers established for the purpose of accepting and aggregating hazardous household waste must be operated so as to comply with the minimum requirements set forth in subsections (b)-(f) of this section.

(b) Location. Collection centers shall be located, organized, and operated so as to safeguard the health, welfare, and physical property of the people, and to protect the environment. As a minimum, collection centers shall:

(1) be located based on the types and quantities of waste to be collected and suitability of the site for collecting such waste;

(2) provide parking for the public and for essential project vehicles so as not to interfere with the safe entry and exit of traffic;

(3) whenever possible, be structured in a way that allows incoming wastes to be sorted upon arrival and placed in a controlled area for packaging;

(4) keep incompatible wastes separated, including unidentified wastes, while they are waiting to be packaged for further storage or transport;

(5) provide an area, not accessible to the public, for sorting, packaging, and storing waste that is accepted;

(6) have designated eating, drinking, and smoking areas for personnel working at the center (such activities shall be prohibited at the collection center work area); and

(7) be prepared for the possibility of inclement weather; and

(8) have materials and procedures to control spills.

(c) Personnel. Personnel who work at the collection center shall be familiar with the operational plan. Other requirements pertaining to personnel utilized at the collection center are included in the following paragraphs.

(1) Personnel who sort and package waste, or who supervise these activities, for transport to a hazardous waste facility must be trained and knowledgeable concerning the incompatibility of various classes of waste and be qualified to package waste for transport.

(2) At least one person trained to classify hazardous waste and who is competent to perform tests to identify characteristics of hazardous waste (e.g., pH, flammability, etc.) shall be utilized at the collection center to accept or supervise the acceptance of waste at the center.

(3) Personnel involved with handling waste must be instructed in accident prevention, the proper response to fires, explosions, and spills, and in the use of protective devices to minimize exposure to hazardous waste, e.g., use of respiratory gear, gloves, etc.

(4) Packaging and labeling of waste shall be supervised by a person familiar with the requirements of the United States Department of Transportation (DOT) for packaging, placarding, and labeling of hazardous materials and the hazardous waste manifesting requirements of the commission.

(5) At least one person must be on-site who is trained to perform general first aid and who is knowledgeable concerning safety measures to be taken in the event of an accidental contact with a hazardous waste.

(6) An on-site supervisor must be available and responsible for initiating an emergency response plan that includes site evacuation procedures. The on-site supervisor also assumes responsibility for accepting all unidentified wastes and insuring proper handling and disposal.

(7) The on-site supervisor shall have the authority to remove anyone from the site and prohibit re-entry if it is determined that the person threatens site security or personnel safety.

(8) Manning of the collection center shall consist of an adequate number of persons who jointly possess the necessary skills and expertise needed to accept, sort, package, transport, and manifest the waste and be responsible for on-site supervision and public relations.

(d) Equipment and materials. Equipment and materials shall be available at the collection center to provide protection, safety, and first aid for persons operating the center, to contain and clean up spills, and to properly handle, classify, package, and label the waste. All disposable cleanup materials and protective clothing used during a spill cleanup shall be handled as a hazardous household waste. Nondisposable equipment/materials used and contaminated should be decontaminated before removing from site. As a minimum the provision for equipment and material shall include the following:

(1) a first aid kit at each collection center and available during door-to-door pick-up service;

(2) a method of communication in the event of a spill, personal injury, etc., at the site and in the door-to-door pick-up vehicle (such method of communication may include a telephone or a CB radio);

(3) an eyewash, shower station or hosing device, and fire extinguisher near the collection area; and

(4) spill containment materials at the collection center and in each door-to-door pick-up vehicle and enough absorbent materials to contain a spill of 10% of the anticipated volume.

(e) Waste accepted/excluded. The collection center shall accept only those household wastes that are thought to be hazardous household wastes. The operator shall take necessary precautions to prohibit the receipt of waste classified as a hazardous waste by the Act, or as a Class I industrial solid waste by the commission. Other requirements related to acceptance or exclusion of wastes are the following.

(1) Any unidentified waste accepted shall be identified by a chemist or trained individual knowledgeable in chemical characteristics and incompatibilities before being packaged for transport. Wastes that cannot be identified by physical assessment or conversation with the owner may not be packaged until the substance/waste has been analyzed and the appropriate chemical class identified.

(2) Announcements and promotional material shall state that neither compressed gas or explosive (including ammunition) shall be brought to the collection center. However, if such materials are brought to the collection center the staff should accept the waste and immediately contact the appropriate authorities, e.g., explosives experts, etc., to properly dispose of the waste.

(3) Decisions to accept certain wastes shall depend on the capabilities of the personnel collecting, sorting, and packaging the waste. A generic list of proposed wastes to be accepted must be submitted to the division with the operational plan. The list should be developed with the intent of minimizing the need for chemical analysis of unidentified wastes. Acceptable wastes may include, but are not necessarily limited to, the following:

(A) pesticides, (includes herbicides, disinfectants, wood preservatives, fungicides, rodenticides, and insecticides);

(B) household cleaners and polishers;

(C) paint/paint products;

(D) automotive products;

(E) thinners/solvents;

(F) pharmaceuticals;

(G) aerosol products;

(H) pool chemicals;

(I) waste oil; and

(J) hobby supplies (e.g., photographic chemicals, glazes, etc.).

(4) Empty hazardous material pesticide containers from households, which do not drip when turned upside down, five gallons or less in capacity, may be disposed of as a nonhazardous waste if they are rendered unusable before leaving the collection center.

(5) A container shall be provided the collection center for collection and storage of nonhazardous materials.

(f) Temporary storage. Storage at collection center or other site identified in operational plan shall be operated and maintained so as to provide safe handling and storage of waste awaiting final disposition. Operators shall comply with the following paragraphs when storing aggregated hazardous household waste.

(1) An operator shall not store aggregated hazardous household waste longer than 10 days except under one of the following conditions:

(A) the storage facility is a hazardous waste treatment, storage, or disposal facility;

(B) the operator obtains a variance from the division; or

(C) the operator is conducting recurring collection program and does not accumulate more than 3,000 kilograms hazardous household waste and the waste not stored longer than 180 days.

(2) A label shall be maintained on all containers in which hazardous household waste is stored and shall include the following:

(A) composition and physical state of the waste;

(B) special safety recommendations and precautions for handling the waste

(C) statement(s) which call attention to the particular hazardous properties of the waste; and

(D) date of acceptance at the collection center.

(3) Records for storage of all hazardous household wastes shall be maintained to include all the information necessary to complete manifests for the wastes. (Copies of manifests may be used in lieu of a separate record.)

(g) Facilities which in accordance with the definitions contained in §325.272 of this title (relating to Definitions) qualify as hazardous waste treatment, storage, or disposal facilities and whose owners/operators comply with the notification requirements of §325.276(d) of this title (relating to General Requirements for Collectors and Operators) are not subject to the requirements of this section, except for the requirements of subsection (c) with respect to personnel; of subsection (d)(5) of this section with respect to disposal of cleanup materials and protective clothing used during a spill cleanup; and subsection (f)(2)-(3) of this section with respect to container labeling and record keeping.

§325.278. Household Pick-Up. Collectors or operators offering pick-up service for

ardous household waste that has been egated from other household waste shall:

(1) develop and implement a collec- program that minimizes the potential for man and animal exposure to such waste unless the pick-up procedures involve per- contact with the generator, the collec- shall provide instructions to households details of packaging, labeling, securing, any other procedures to safeguard humans animals and to protect the environment);

(2) have a person in each crew that experience and training in handling haz- dous waste to include classifying, deter- ming waste incompatibility, spill preven- , clean-up, and safety; and

(3) deliver such waste to a collection nter to be aggregated with other hazardous ousehold waste, to a transporter's transport transfer facility, or to a hazardous waste atment, storage, or disposal facility that approved by the commission to accept zardous household waste.

**325.279. General Shipping, Manifesting, ecord-Keeping, and Reporting Require- ents.** Except for those collected reusable aterials handled in accordance with the equirements of §325.280 of this title (relating Reuse of Collected Materials), persons o collect, receive, and/or aggregate hazar- ous household waste shall:

(1) when transporting or shipping ch waste from a collection center or from transport or transfer facility, utilize only azardous waste transporters who have no- ed the commission with respect to trans- ortation of hazardous waste, who have noti- ed EPA of their involvement in transport- g hazardous waste, and who have been is- ued an EPA ID number;

(2) transport or ship such waste only eceivers who qualify as hazardous waste eatment, storage, or disposal facilities and at have agreed to accept the waste;

(3) assure, prior to offering such waste for shipment, that the waste is pack- ed and labeled so as to comply with ap- plicable United States Department of Trans- ortation (DOT) requirements and to com- ply with the requirements contained in §335.11 f this title (relating to Shipping Re- uirements for Transporters of Municipal azardous Waste or Class I Industrial Solid aste);

(4) retain for at least one year from he date of shipment copies of all manifests tilized for the shipment of such waste; and

(5) provide, within 30 days of receiv- ng the manifest back from the waste eceiver, a copy of such manifest showing he signature of the receiver and date of ceipt, to the division, or in those cases here the person shipping the waste is the wner/operator of a hazardous waste treat- ment, storage, or disposal facility, to the ommission.

**325.280. Reuse of Collected Material.** ny material collected or accepted at a col- ction center in its original container with

a legible label and determined by the collec- tor or operator to be in a usable condition may be removed from the aggregated hazar- ous household waste and provided to a gov- ernmental entity, institution, or other responsible party for use.

**§325.281. General Requirements for Transporters.**

(a) No person shall transport any hazardous household waste, required by this subchapter to be accompanied by a manifest, unless such person:

(1) has notified the commission with respect to such transportation activities in accordance with the requirements con- tained in 31 TAC §335.6(3) (relating to No- tification Requirements);

(2) has notified the United States Environmental Protection Agency as to his or her transporter status, and has been issued an EPA ID number;

(3) complies with the requirements outlined in 31 TAC §335.11 (relating to Ship- ping Requirements for Transporters of Mun- icipal Hazardous Waste or Class I Indus- trial Waste) with respect to all manifested household waste;

(4) complies with the requirements outlined in 31 TAC §335.14 (relating to Record-Keeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Waste) with respect to all manifested household waste;

(5) complies with the manifesting requirements outlined in 31 TAC §335.24 (relating to Requirements for Recyclable Materials and Nonhazardous Recyclable Materials); and

(6) complies with the requirements of 31 TAC §335.4(1)-(3) (relating to General Prohibitions) with respect to all waste ac- cepted or handled.

(b) Transporters engaged in house- hold pick-up of hazardous household waste, who operate or intend to operate hazardous household waste collection centers, or who otherwise handle or accept unmanifested hazardous household waste, are subject to all the requirements of this subchapter set forth for collectors and shall comply with the following paragraphs.

(1) Prior to engaging in such activi- ty, notify and submit a plan to the division in accordance with §325.276 of this title (relating to General Requirements for Col- lectors and Operators).

(2) All activities to collect and/or aggregate hazardous household waste shall be in accordance with rules of this sub- chapter applicable to collectors and oper- ators and written instructions from the division.

(3) All hazardous household waste accumulated by the transporter shall be kept separate and apart from non-household hazardous waste which may be accumulated at transport or transfer facilities.

(4) Transporters performing service under this subsection shall comply with re-

quirements specified for operators or collec- tors engaged in similar activities.

**§325.282. General Requirements for Treat- ment, Storage, or Disposal Facilities.** Own- ers/operators of hazardous waste treatment, storage, or disposal facilities may receive manifested shipments of hazardous house- hold waste provided they:

(1) comply with the requirements of 31 TAC §335.12 (relating to Shipping Re- quirements Applicable to Owners or Oper- ators of Storage, Processing, or Disposal Facilities) with respect to all manifested wastes received;

(2) comply with the requirements of 31 TAC §335.15 (relating to Record-Keeping and Reporting Requirements Applicable to Owners or Operators of Storage, Process- ing, or Disposal Facilities) with respect to all manifested wastes received; and

(3) handle on-site all received or ag- gregated hazardous household waste in the same manner as if the waste were subject to full regulation under 40 Code of Federal Regulations Parts 262 through 266;

(4) comply with the requirements of paragraphs 31 TAC §335.4 (1)-(3) (relating to General Prohibitions) with respect to all waste received.

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

Issued in Austin, Texas, on December 15, 1986.

TRD-8611585

Robert A MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of  
Health

Proposed date of adoption:

January 31, 1987

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

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**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION  
Part IX. Texas Water  
Commission  
Chapter 311. Watershed  
Protection  
Subchapter F. Lakes  
Lyndon B. Johnson and  
Marble Falls Water Quality  
★ 31 TAC §§311.51-311.55**

The Texas Water Commission proposes new §§311.51-311.55, Subchapter F, en- titled Lakes Lyndon B. Johnson and Mar- ble Falls Water Quality, concerning water quality management in the Lakes Lyndon B. Johnson and Marble Falls Watersheds.

These sections are being promulgated in response to a petition for rulemaking.

A great deal of concern over the water quality of Lakes Lyndon B. Johnson and Marble Falls and the potential impact on Lakes 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 proposed regulations are based on the water quality management regulations for Lakes Travis and Austin.

Section 311.51 defines the water quality areas and watersheds.

Section 311.52 prohibits the discharge of pollutants into the water quality areas.

Section 311.53 sets out two options for secondary treatment of any proposed sewage treatment facility in the water quality area. A treatment facility would have to provide secondary treatment in the form of discharge into on-channel ponds or storage ponds for land disposal.

Section 311.54 states that currently permitted facilities may continue to operate under their existing permits and may apply for renewal of the permits. Upon expiration of the permit, the facilities must comply with §311.53. Permit amendments which result in additional treatment capacity will require treatment in accordance with §311.53. Facilities which are noncompliant with their permits will be subject to amendment to impose the treatment limitations in §311.53.

Section 311.55 requires new permit applicants to provide for disposal without discharge under §311.53 or a demonstration that any alternative treatment will consistently protect and maintain the existing water quality in Lakes Lyndon B. Johnson and Marble Falls.

The purpose of these sections is to protect the water quality of the two lakes.

William Monroe, chief, Fiscal Services, has determined that for the first five-year period the sections will be in effect, there will be fiscal implications as a result of enforcing or administering the sections. The effect on local government will be an estimated additional cost of: \$1.02 million each year from 1987-1991 for the city of Marble Falls (Lake Marble Falls Permit 10654.02); \$114,000 each year from 1987-1991 for Lake LBJ MUD (Lake LBJ Permit 11217.01); \$4,800 each year from 1987-1991 for Lake LBJ MUD (Lake LBJ Permit 12045.01); and \$0 each year from 1987-1991 for Granite Shoals (Granite Shoals Permit 13320.01). There will be no fiscal implications for state government or small business.

Mr. Monroe has also determined that for each year of the first five years the section is in effect, the public benefit an-

icipated as a result of enforcing the sections will be to continue to maintain the existing high quality water in Lakes Lyndon B. Johnson and Marble Falls. There is no anticipated economic cost to individuals who are required to comply with the sections.

Comments on the proposal and requests for public hearing may be submitted to Duncan C. Norton, Hearings Examiner, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711. The deadline for submission of written comments and requests for a public hearing is 30 days after the date of this publication.

The new sections are being proposed pursuant to the Texas Water Code, §§5.103, 5.105, and 26.011, which provide 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.

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

**Lake Lyndon B. Johnson Water Quality Area**—Those portions of the Lake Lyndon B. Johnson Watershed within ten stream miles of the pool level of Lake Lyndon B. Johnson (825 feet, mean sea level).

**Lake Lyndon B. Johnson Watershed**—Lake Lyndon B. Johnson and its tributaries located between Alvin Wirtz Dam and Roy Inks Dam.

**Lake Marble Falls Water Quality Area**—Those portions of the Lake Marble Falls Watershed within 10 stream miles of the pool elevation of Lake Marble Falls (738 feet, mean sea level).

**Lake Marble Falls Watershed**—Lake Marble Falls and its tributaries located between Max Starcke Dam and Alvin Wirtz Dam.

**§311.52. No Discharge of Pollutants.** There shall be no discharge of pollutants into or adjacent to waters of the state within the Lake Lyndon B. Johnson Water Quality Area or the Lake Marble Falls Water Quality Area, except as provided in this subchapter.

**§311.53. Wastewater Disposal.** Any proposed sewage treatment facility in the Lake Lyndon B. Johnson or Lake Marble Falls Water Quality Area will be required to provide secondary treatment in accordance with one of the following options.

(1) The treatment facility will provide treatment as specified in Effluent Sets 2 and A in §309.4 of this title (relating to Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into on-channel ponds. Such ponds will be designed, constructed, and operated to meet standards established on a case-by-case basis that will assure that any overflows of treated effluent occur only when the volume of effluent to stormwater

in the pond is less than or equal to 1:10. For the purposes of this paragraph and calculation, effluent does not include any amount of stormwater runoff, but only the amount of wastewater discharge from the plant. Standards will include, but are not limited to, a minimum pond size requirement based on hydrological studies of the drainage area of the pond and allowable irrigation rates determined in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent); or

(2) The treatment facility will provide secondary treatment as specified in §309.1-309.4 of this title (relating to Introduction and Purpose; Rationale for Effluent Sets; Application of Effluent Sets; and Table 1, Effluent Standards for Domestic Wastewater Treatment Plants) prior to discharge into storage ponds for land disposal. Storage ponds and land disposal practices will be designed, constructed and operated in accordance with §317.10(c) of this title (relating to Appendix B—Land Disposal of Sewage Effluent).

**§311.54. Existing Facilities in Water Quality Areas.**

(a) Any currently permitted treatment facility in the Lake Lyndon B. Johnson or Lake Marble Falls 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 §311.53 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 §311.53 of this title (relating to Wastewater Disposal).

**§311.55. Lake Lyndon B. Johnson and Lake Marble Falls Watershed Management.** Any proposed new or expanded treatment facility in the Lake Lyndon B. Johnson or Lake Marble Falls Watersheds but outside the Lake Lyndon B. Johnson and Lake Marble Falls Water Quality Areas may be permitted only if it provides disposal without discharge in accordance with §311.53 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 Lake Lyndon B. Johnson and Lake Marble Falls.



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 December 12, 1986.

TRD-8611587      Duncan Norton  
Hearing Examiner  
Texas Water  
Commission

Earliest possible date of adoption:  
January 19, 1987

For further information, please call  
(512) 463-7875.

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## Chapter 335. Industrial Solid Waste and Municipal Hazardous Waste

### Subchapter N. Household Materials Which Could Be Classified as Hazardous Wastes

#### ★ 31 TAC §§335.401-335.412

The Texas Water Commission proposes new §§335.401-335.412, concerning household materials which could be classified as hazardous wastes. This new subchapter is being proposed in response to amendments to the Texas Solid Waste Disposal Act enacted by the 69th Legislature, 1985, as part of House Bill 2358. The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(k), stipulates that the Texas Department of Health and the Texas Water Commission shall provide by rule for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous wastes. The Act further requires that the rules specify any necessary requirements relating to the training of persons involved in the collection and disposal of such wastes.

In order to comply with the mandate of House Bill 2358, the Texas Water Commission (the commission) and the Texas Department of Health (the department) have proposed regulations that apply to persons who collect, transport, or dispose of household waste material, referred to in these regulations as hazardous household waste. By adopting consistent regulations, the agencies eliminate possible jurisdictional problems that might otherwise result and reduce the confusion that might exist for persons involved with such activities if separate, inconsistent regulations were adopted by each agency. The proposed regulations incorporate provisions to carry out the purpose of the Act, which is to safeguard the health, welfare, and physical property of the people, and to protect the environment, through controlling the management of solid wastes. The department's proposed rules will also appear in the December 19, 1986, issue of the *Texas Register*.

The proposed regulations do not require persons to engage in the separate collection or disposal of hazardous household wastes, but do specify requirements where such wastes are intentionally segregated, collected, or aggregated for the purpose of disposal or recycling. Both the department and the commission believe that in those cases where a local community chooses by means of an organized effort to separate household waste material which could be classified as hazardous waste from other household solid wastes, such household waste material should be transported and subsequently processed, stored, or disposed of at a fully regulated hazardous waste facility. The commission and the department agree to establish and maintain a cooperative effort with regard to providing direction and guidance for carrying out the requirements of these regulations.

When considering these proposed regulations, it is important to note that solid waste originating from households is by definition under state law and by special exclusion contained in 40 Code of Federal Regulations, Part 261, a solid waste that is not a hazardous waste and thus technically is a non-hazardous waste. Refer to the definition of the term hazardous household waste in §335.402 of this title (relating to Definitions) for further explanation. Furthermore, household solid waste clearly qualifies as municipal solid waste under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. The majority of persons affected by these proposed regulations will be subject to those portions of the regulations implemented and enforced by the Texas Department of Health. It is agreed that the Texas Water Commission will generally regulate those hazardous waste transporters who will be handling manifested hazardous household waste and those established hazardous waste processing, storage, or disposal facilities that accept or receive household waste at their respective facilities.

William Monroe, chief fiscal officer, has determined that for the first five-year period the sections will be in effect there will be fiscal implications for state and local government as a result of enforcing and administering the sections. The effect on state government will be an estimated additional cost of less than \$3,000 each year from 1987-1991. Because these sections do not mandate implementation of household waste collection programs, the fiscal impact on local governments (the sector most likely to be affected by this subchapter) will primarily result from their voluntary participation. For local governments desiring to participate, the costs will vary according to the amount and type of waste materials targeted for collection and to the degree resources are expended for promotional activities. Based on data reported for similar programs in other states, cities under 25,000 population would experience costs of about

\$5,000 per household waste collection campaign, while cities over 300,000 population would experience costs per campaign ranging from \$50,000 to \$100,000 with the major expenses being for waste classification, packaging, shipping, and disposal. There will be no effect on small businesses.

Mr. Monroe 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 establishing regulations concerning the collection and disposal of household materials which could be classified as hazardous wastes will be greater protection of human health and the environment through improved procedures for collecting, segregating, transporting, and disposing of potentially harmful household materials. Household waste collection programs serve a number of beneficial purposes, including increased public awareness of the dangers presented by materials found in homes; education of the public as to the best methods of waste disposal; reduced danger to sanitation workers that may be exposed to the waste in ordinary collection operations; and providing proper transportation and disposal methods for certain household waste materials. In addition, the Solid Waste Disposal Act encourages this activity by stating that no person shall be liable for damages as a result of actions taken or omitted in the course of advertising, promoting, or distributing educational materials relating to the collection or disposal of household materials in accordance with the agency rules, unless the person's actions constitute gross negligence or intentional misconduct. Since the voluntary waste collection programs which are envisioned would not place added waste collection fees on those individual householders who choose to participate, this subchapter will have no direct financial impact on individuals.

A public hearing on the proposed sections is scheduled for 10 a.m. on January 8, 1987, in the auditorium of the Texas Department of Health, 1100 West 49th Street, Austin, Texas. Comments, both oral and written, on the proposed sections are invited at the hearing. Comments not submitted at the hearing should be mailed to Cynthia C. Smiley, Staff Attorney, Legal Division, Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-3087. Written comments received by 5 p.m., January 19, 1987, will be included in the hearing record.

These sections are adopted under the Texas Water Code, §5.103 and §5.105, which provide the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policy of the commission. These sections are also adopted under the Solid Waste Disposal Act, Texas Civil Statutes,

Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities. The Solid Waste Disposal Act, §4(k), requires the commission and the Texas Department of Health to provide by rule for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous wastes.

§335.401. *Purpose.* The purpose of this subchapter is to provide requirements for interested persons to engage in activities which involve the collection, disposal, or recycling of household materials which could be classified as hazardous wastes (referred to in this subchapter as hazardous household wastes). The Texas Department of Health and the Texas Water Commission agree to establish and maintain a cooperative effort with regard to providing regulation and direction for household waste collection programs so as to insure that waste aggregated as a result of such programs is properly handled and disposed of in a safe manner.

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

**Aggregate**—The act of bringing together hazardous household waste that, after being separated from other household waste, is collected from two or more households and accumulated at a collection center or transporter's facility for the purpose of disposing of or recycling the waste.

**Collection center**—A designated site and areas within that site used or planned for use by an operator to aggregate hazardous household waste delivered to the site by individuals, households, or collectors.

**Collector**—Any person who accepts directly from two or more households any unmanifested waste materials that have been separated from other household waste and offered to the collector because the generator either knows or considers the materials to be hazardous household waste.

**Commission**—The Texas Water Commission.

**Department**—The Texas Department of Health.

**Division**—The Division of Solid Waste Management in the Texas Department of Health.

**Hazardous household waste**—Any solid waste generated in a household by a consumer which, except for the exclusion provided in 40 Code of Federal Regulations §261.4(b)(1), would be classified as a hazardous waste under 40 Code of Federal Regulations Part 261 or which, because it could pose a substantial present or potential hazard to human health or the environment when improperly processed, stored, transported, disposed of, justifies its being handled or managed as a hazardous waste.

**Hazardous waste processing, storage or disposal facility**—A hazardous waste processing, storage, or disposal facility that has received an Environmental Protection Agency (EPA) permit (or a facility with interim status) in accordance with the requirements of 40 Code of Federal Regulations Parts 270 and 124 or that has received a permit from a state authorized in accordance with 40 Code of Federal Regulations Part 271.

**Household**—Single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreational areas.

**Recurring collection program**—An organized effort to collect and/or aggregate hazardous household waste in a community at scheduled intervals, at least annually.

§335.403. *Authority.*

(a) Authority of the Texas Department of Health. The Texas Department of Health (the department) is the state agency having overall responsibility for regulation of non-hazardous municipal solid waste. The department and the commission agree that the department has regulatory authority over hazardous household waste; persons who provide point of generation pick-up of hazardous household waste; and persons who establish and operate hazardous household waste collection centers, other than those located at established hazardous waste processing, storage, or disposal facilities which are regulated by the Texas Water Commission (the commission). The following regulatory portions of this subchapter shall be implemented and enforced by the department:

(1) §335.406(a)-(c) of this title (relating to General Requirements for Collectors and Operators);

(2) §335.407(a)-(f) of this title (relating to Operation of Collection Centers);

(3) §335.408 of this title (relating to Household Pick-Up);

(4) §335.410 of this title (relating to Reuse of Collected Material), except in those cases where the material is collected and aggregated at a hazardous waste processing, storage, or disposal facility; and

(5) §335.411(b) of this title (relating to General Requirements for Transporters)

(b) Authority of the Texas Water Commission. The Texas Water Commission is the state agency having responsibility regulating hazardous waste as defined by United States Environmental Protection Agency in 40 Code of Federal Regulations Part 261. Except for collected materials being used or planned to be used or reused in accordance with §335.410 of this title (relating to Reuse of Collected Material), hazardous household waste once collected and aggregated at a collection center or a transporter's facility may be transported only by hazardous waste transporters and may be shipped only to authorized hazardous waste processing, storage, or disposal facilities. The department and the commission agree that the commission has regulatory authority over persons transporting hazardous household waste that is required when shipped to be accompanied by a manifest, and over all aspects of solid waste management conducted at a hazardous waste processing, storage, or disposal facility. Accordingly, the following regulatory portion of this subchapter shall be implemented and enforced by the commission:

(1) §335.406(d) of this title (relating to General Requirements for Collectors and Operators);

(2) §335.407(g) of this title (relating to Operation of Collection Centers);

(3) §335.410 of this title (relating to Reuse of Collected Material), except in those cases where the collector or operator determining the reuse suitability of the collected material is subject to the requirements of §335.406(a)-(c) of this title (relating to General Requirements for Collectors and Operators);

(4) §335.411 of this title (relating to General Requirements for Transporters) and

(5) §335.412 of this title (relating to General Requirements for Processing, Storage, or Disposal Facilities).

(c) Joint authority. The department and commission shall jointly implement, and each may enforce as appropriate, the requirements contained in §335.409 of this title (relating to General Shipping, Manifesting, Record-Keeping, and Reporting Requirements).

§335.404. *Interagency Coordination.*

(a) The department shall serve as the lead agency with regard to the regulation of organized hazardous household waste collection and point of generation pick-up programs in the state, and with regard to the assurance of proper handling of hazardous household wastes at collection centers or transporter facilities, other than at hazardous waste processing, storage, or disposal facilities regulated by the commission.

(b) The Division of Solid Waste Management in the Texas Department of Health shall be the point of contact between collec-

ers and operators subject to the requirements of §335.406(b) and (c) of this title (relating to General Requirements for Collectors and Operators) and the commission, will provide for such collectors and operators manifest forms, identification numbers, waste codes, and special instructions from the commission concerning transportation and ultimate disposition of aggregated hazardous household waste.

(c) The department, in adopting these actions, concurs in the processing, storage, disposal, or recycling of hazardous household waste at a hazardous waste facility that has written authorization by the commission to receive such waste.

§335.405. *Applicability.* This subchapter applies to persons who:

(1) collect and/or aggregate hazardous household waste for disposal or recycling;

(2) are involved in household pickup of hazardous household waste that has been separated by the generator from other solid wastes;

(3) operate hazardous household waste collection centers;

(4) transport any hazardous household waste required by this subchapter to be manifested; and

(5) own or manage a hazardous waste processing, storage, or disposal facility that receives manifested hazardous household waste.

§335.406. *General Requirements for Collectors and Operators.*

(a) Except as provided in subsection (d) of this section, no person may engage in any activity to collect or aggregate hazardous household waste that has been segregated from other solid waste without having first notified the Division of Solid Waste Management in the Texas Department of Health in accordance with subsection (b) of this section and without having submitted to the division an operational plan as provided for in subsection (c) of this section.

(b) The notification shall be submitted 90 days prior to the expected collection date, by letter or on a form provided by the department. It shall include the following information:

(1) name and address of the operator;

(2) name, address, and telephone number of an individual to be the contact person for the operator;

(3) date of planned collection;

(4) areas that are planned to be covered by the collection effort, i.e., city, county, precinct, neighborhood, district, region, etc.; and

(5) organization of the collection effort and names of persons or groups providing support.

(c) The collector or operator shall submit to the division a complete operational plan not less than 45 days prior to collection day. Collectors or operators conducting

recurring collection programs need not submit a plan for the second and subsequent operations provided the plan last submitted still appropriately describes the recurring collection program. The plan shall be prepared in the format and content, as applicable, as described in paragraphs (1)-(12) of this subsection or as otherwise specified by the division.

(1) The plan shall be in a typewritten report form (except for maps and drawings) on 8½ inches by 11 inches white paper. All materials in excess of 8½ inches by 11 inches shall be folded to that size. Undersized materials shall be mounted on 8½ inches by 11 inches paper, and the report stapled in the upper left-hand corner or bound along the left margin. All folded material shall be affixed so it can be unfolded without removing binders.

(2) The title page shall show the name of the project, the location by city and county, name of responsible person and date of plan.

(3) The table of contents shall list the main sections of the plan.

(4) The plan shall include a description of the nature, type, and quantity of waste proposed for collection and disposal and a brief description of the general sources and generation areas contributing wastes.

(5) If the waste is to be collected from households by a pick-up service, the plan shall describe in detail how this will be done.

(6) The plan will describe the approximate number of residences, institutions (identify types), and business establishments within 300 feet of the proposed collection center, including the distances and directions to the nearest residences, institution, or businesses.

(7) Information relating to adequacy of access to the collection center shall be submitted as part of the plan.

(8) The plan shall identify the type and location of fences or other means of access control to protect the public from exposure to potential health and safety hazards and to discourage unauthorized entry.

(9) The following operational concepts shall be discussed in detail:

(A) the storage of waste at the collection center;

(B) provisions for inclement weather operation, e.g., alternate collection site, or alternate collection day, etc.;

(C) provisions for wastes requiring special handling and for waste that is identified as nonhazardous;

(D) provisions for classifying and controlling the wastes;

(E) procedures to ensure that unauthorized waste, i.e., hazardous waste (or Class I industrial solid waste) from industries, businesses, or institutions subject to regulations of the commission, is not accepted as hazardous household waste;

(F) fire control measures, e.g., availability of local fire departments and on-site fire fighting equipment;

(G) spill control measures and cleanup procedures;

(H) the minimum required number of personnel, their functions and their qualifications;

(I) provisions for security, screening waste for acceptability, traffic control, and safety;

(J) measures to control unloading within the collection center; and

(K) the posting of signs at the collection center and enforcement of site rules.

(10) The operator shall provide information on the planned disposal of the waste collected, to include the transporter's name and the United States Environmental Protection Agency identification number, and the name, location, and the United States Environmental Protection Agency identification number of the hazardous waste facility which is to be used for the processing, storage, disposal, or recycling of the waste.

(11) The operator shall provide information on planned disposition of materials that are accepted at the collection center that are in usable condition.

(12) The plan shall include the following attachments:

(A) Attachment 1—general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the collection site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If the site is located within a city, a city map may be used for this purpose.

(B) Attachment 2—planimetric map. This will normally be a constructed map showing the features of the collection center. It need not be drawn to scale but the improvements and boundaries should fairly represent the collection center area. The map should be annotated to show flow of traffic, unloading points, location of emergency vehicles, and classification and storage areas.

(C) Attachment 3—evidence of financial responsibility. Collectors or operators other than governmental entities shall submit evidence of financial responsibility which assures the department that sufficient assets are available to properly operate the collection center, enable appropriate shipment and disposal of the waste, and to provide for proper closure of the collection center.

(D) Attachment 4—evidence of competency. Evidence of competency to operate the center shall be provided, to include experience and qualifications of key personnel.

(E) Attachment 5—responsible party's statement. The operator or the authorized representative empowered to make commitments for the operator, shall provide a statement that he or she is familiar with the operational plan and is aware of all commitments represented in the plan and that he or she is also familiar with all pertinent requirements in these regulations and agrees to develop and operate the site in accordance with the regulations and any special written instructions from the division.

(d) Owners or operators of hazardous waste processing, storage, or disposal facilities who accept or intend to accept unmanifested hazardous household waste directly from household waste generators or their representatives are not subject to the requirements of this section, provided that prior to first accepting such waste they notify the executive director of the Texas Water Commission in writing concerning their intention to accept such waste, and in the notification indicate:

(1) their Texas Water Commission registration number and Environmental Protection Agency identification number;

(2) the date they intend to start receiving such hazardous household waste;

(3) the kinds of hazardous household waste they intend to accept;

(4) the types or classes of waste that will not be accepted;

(5) the information to be required from each generator so as to enable proper classification and handling of waste;

(6) how they intend to handle on-site waste which may be accepted and what the ultimate disposition of the wastes will be;

(7) the methods and procedures to be utilized so as to assure that only household waste is accepted; and

(8) the identities of all organizations or groups involved together with the notifier in any advertising, public service campaigns, or other public information efforts concerning the dangers or risks associated with hazardous household waste, the need or desirability of separating such waste from other household solid waste, and the procedures by which the household waste generator may deliver his or her hazardous household waste to the notifier's facility.

#### §335.407. Operation of Collection Centers.

(a) Minimum requirements. Except as provided in subsection (g) of this section, collection centers established for the purpose of accepting and aggregating hazardous household waste must be operated so as to comply with the minimum requirements set forth in subsections (b)-(f) of this section.

(b) Location. Collection centers shall be located, organized, and operated so as to safeguard the health, welfare, and physical property of the people, and to protect the environment. At a minimum, collection centers shall:

(1) be located based on the types and quantities of waste to be collected and

suitability of the site for collecting such waste;

(2) provide parking for the public and for essential project vehicles so as not to interfere with the safe entry and exit of traffic;

(3) whenever possible, be structured in a way that allows incoming wastes to be sorted upon arrival and placed in a controlled area for packaging;

(4) keep incompatible wastes separated, including unidentified wastes, while they are waiting to be packaged for further storage or transport;

(5) provide an area, not accessible to the public, for sorting, packaging, and storing waste that is accepted;

(6) have designated eating, drinking, and smoking areas for personnel working at the center (such activities shall be prohibited at the collection center work area);

(7) be prepared for the possibility of inclement weather; and

(8) have materials and procedures to control spills.

(c) Personnel. Personnel who work at the collection center shall be familiar with the operational plan. Other requirements pertaining to personnel utilized at the collection center are included in paragraphs (1)-(8) of this subsection.

(1) Personnel who sort and package waste, or who supervise these activities, for transport to a hazardous waste facility must be trained and knowledgeable concerning the incompatibility of various classes of waste and be qualified to package waste for transport.

(2) At least one person trained to classify hazardous waste and who is competent to perform tests to identify characteristics of hazardous waste (e.g., pH, flammability, etc.) shall be utilized at the collection center to accept or supervise the acceptance of waste at the center.

(3) Personnel involved with handling waste must be instructed in accident prevention, the proper response to fires, explosions, and spills, and in the use of protective devices (such as respiratory gear and gloves) to minimize exposure to hazardous waste.

(4) Packaging and labeling of waste shall be supervised by a person familiar with the shipping requirements and hazardous waste manifest requirements of the United States Department of Transportation (DOT) for packaging, placarding, and labeling of hazardous materials.

(5) At least one person must be on-site who is trained to perform general first aid and who is knowledgeable concerning safety measures to be taken in the event of an accidental contact with a hazardous waste.

(6) An on-site supervisor must be available and responsible for initiating an emergency response plan that includes site evacuation procedures. The on-site super-

visor also assumes responsibility for acting all unidentified wastes and insuring proper handling and disposal.

(7) The on-site supervisor shall have the authority to remove anyone from the site and prohibit re-entry if it is determined that the person threatens site security or personnel safety.

(8) Manning of the collection center shall consist of an adequate number of persons who jointly possess the necessary skill and expertise needed to accept, sort, package, transport, and manifest the waste and be responsible for on-site supervision and public relations.

(d) Equipment and Materials. Equipment and materials shall be available at collection center to provide protection, safety, and first aid for persons operating the center; to contain and clean up spills; and to properly handle, classify, package, and label the waste. All disposable cleanup materials and protective clothing used during a spill cleanup shall be handled as a hazardous household waste. Nondisposable equipment and materials that are used in a contaminated area should be decontaminated before removal from the site. At a minimum the provision for equipment and materials shall include:

(1) a first aid kit available at each collection center and during door-to-door pick-up service;

(2) a method of communication in the event of a spill, personal injury, etc., at the site and in the door-to-door pick-up vehicle. Such method of communication may include a telephone or a citizen's band (CB) radio;

(3) an eyewash, shower station or hosing device, and fire extinguisher; and

(4) spill containment materials at the collection center and on each door-to-door waste collection vehicle, including enough absorbent materials to contain a spill of 10% of the anticipated volume of collected waste.

(e) Waste accepted and excluded. The collection center shall accept only those household wastes that are thought to be hazardous household wastes. The operator shall take necessary precautions to prohibit the receipt of waste defined as a hazardous waste or as a class I industrial solid waste by the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. Other requirements related to acceptance or exclusion of waste are as follows.

(1) Any unidentified waste accepted shall be identified by a chemist or trained individual knowledgeable in chemical characteristics and incompatibilities before being packaged for transport. Wastes that cannot be identified by physical assessment or conversation with the generator or his representative may not be packaged until the substance or waste has been analyzed and the appropriate chemical class has been identified.

(2) Announcements and promotional material shall state that compressed gas or explosives (including ammunition) shall not be brought to the collection center. However, if such materials are brought to the collection center the staff should accept the waste and immediately contact the appropriate authorities, e.g., explosives experts, etc. to properly dispose of the waste.

(3) Decisions to accept certain wastes shall depend on the capabilities of the personnel collecting, sorting, and packaging the waste. A generic list of proposed wastes to be accepted must be submitted to the division with the operational plan. The list should be developed with the intent of minimizing the need for chemical analysis of unidentifiable wastes. Acceptable wastes may include, but are not necessarily limited to, the following:

- (A) pesticides, (includes herbicides, disinfectants, wood preservatives, fungicides, rodenticides, and insecticides);
- (B) household cleaners, drain openers, and polishes;
- (C) paint and paint products;
- (D) automotive products;
- (E) thinners and solvents;
- (F) pharmaceuticals;
- (G) aerosol products;
- (H) pool chemicals;
- (I) waste oil;
- (J) fuels and starter fluids; and
- (K) hobby supplies (e.g., photographic chemicals, glazes, etc.).

(4) Empty hazardous material and pesticide containers from households, which do not drip when turned upside down, of five gallons or less in capacity, may be disposed of as a nonhazardous waste if they are rendered unusable before leaving the collection center.

(5) A container shall be provided at the collection center for collection and storage of received materials which do not qualify as hazardous household waste.

(f) Temporary storage. Storage at the collection center, or other site identified in the operational plan, shall be operated and maintained so as to provide safe handling and storage of waste awaiting final disposition. Operators shall comply with paragraphs (1)-(3) of this subsection when storing aggregated hazardous household waste.

(1) An operator shall not store aggregated hazardous household waste longer than 10 days except under one of the conditions described in subparagraphs (A)-(C) of this paragraph.

(A) The storage facility is an authorized hazardous waste processing, storage, or disposal facility.

(B) The operator requests in writing and obtains a storage-time extension from the division.

(C) The operator is conducting a recurring collection program and does not accumulate more than 3,000 kilograms of hazardous household waste and does not store the waste longer than 180 days.

(2) A label shall be maintained on all containers in which hazardous household waste is stored and shall include:

(A) composition and physical state of the waste;

(B) special safety recommendations and precautions for handling the waste;

(C) statement(s) which call attention to the particular hazardous properties of the waste; and

(D) date of acceptance at the collection center.

(3) Records for storage of all hazardous household wastes shall be maintained, to include all the information necessary to complete manifests for the wastes. (Copies of manifests may be used in lieu of a separate record).

(g) Requirements for hazardous waste facilities. Facilities which qualify as hazardous waste processing, storage or disposal facilities and whose owners and operators comply with the notification requirements of §335.406(d) of this title (relating to General Requirements for Collectors and Operators) are not subject to the requirements of this section, except for the requirements of subsection (c) of this section with respect to personnel; subsection (d) of this section with respect to disposal of cleanup materials and protective clothing used during a spill cleanup; and subsections (f)(2) and (3) of this section with respect to container labeling and recordkeeping.

§335.408. *Household Pick-up.* Collectors or operators offering pick-up service for hazardous household waste that has been segregated from other household waste shall:

(1) develop and implement a collection program that minimizes the potential for human and animal exposure to such waste (unless the pick-up procedures involve personal contact with the generator, the collector shall provide instructions to households on details of packaging, labeling, securing, and any other procedures to safeguard humans and animals and to protect the environment);

(2) have a person in each crew that has experience and training in handling hazardous waste, including waste classification, waste incompatibility, spill prevention, and clean-up safety; and

(3) deliver such waste to a collection center to be aggregated with other hazardous household waste, to a transporter's facility or to a hazardous waste processing, storage, or disposal facility that is authorized by the commission to accept hazardous household waste.

§335.409. *General Shipping, Manifesting, Recordkeeping, and Reporting Requirements.* Except for those collected reusable materials handled in accordance with the requirements of §335.410 of this title (relating to Reuse of Collected Material), persons who collect, receive, or aggregate hazardous household waste shall:

(1) when transporting or shipping such waste from a collection center or from a transporter's facility, utilize only hazardous waste transporters who have notified the commission with respect to transportation of hazardous waste, who have notified the United States Environmental Protection Agency of their involvement in transporting hazardous waste, and who have been issued an Environmental Protection Agency identification number;

(2) transport or ship such waste only to receivers who qualify as hazardous waste processing, storage or disposal facilities, that have agreed to accept the waste, and that have authorization to receive such wastes;

(3) assure, prior to offering such waste for shipment, that such waste is packaged and labeled so as to comply with applicable United States Department of Transportation (DOT) requirements and to comply with the requirements contained in §335.11 of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste);

(4) retain for at least one year from the date of shipment copies of all manifests utilized for the shipment of such waste; and

(5) provide, within 30 days of receiving the completed copy of such manifests showing the signature of the receiver and date of receipt, a copy of the completed manifest to the division, or in those cases where the person shipping the waste is the owner or operator of a hazardous waste processing, storage, or disposal facility, to the commission.

§335.410. *Reuse of Collected Material.* Any material collected or accepted at a collection center in its original container with a legible label and determined by the collector or operator to be in a usable condition may be removed from the aggregated hazardous household waste and provided to a governmental entity, institution, or other responsible party for use.

§335.411. *General Requirements for Transporters.*

(a) No person shall transport any hazardous household waste required by this subchapter to be accompanied by a uniform hazardous waste manifest obtained from the commission unless such person:

(1) has notified the Texas Water Commission with respect to such transportation activities in accordance with the requirements contained in §335.6(e) of this title (relating to Notification Requirements);

(2) has notified the United States Environmental Protection Agency as to his or her transporter status, and has been issued an Environmental Protection Agency identification number;

(3) complies with the requirements outlined in §335.11 of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I In-

dustrial Solid Waste) with respect to all manifested household waste;

(4) complies with the requirements outlined in §335.14 of this title (relating to Recordkeeping Requirements Applicable to Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste) with respect to all manifested household waste; and

(5) complies with the requirements of §335.4(1)-(3) of this title (relating to General Prohibitions) with respect to all waste accepted or handled.

(b) Transporters engaged in household pick-up of hazardous household waste, who operate or intend to operate hazardous household waste collection centers, or who otherwise handle or accept unmanifested hazardous household waste are subject to all the requirements of this subchapter set forth for collectors and shall comply with paragraphs (1)-(4) of this subsection.

(1) Prior to engaging in such activity, notify and submit a plan to the division in accordance with §335.406 of this title (relating to General Requirements for Collectors and Operators).

(2) All activities to collect and/or aggregate hazardous household waste shall be in accordance with rules of this subchapter applicable to collectors and operators and written instructions from the division.

(3) All hazardous household waste accumulated by the transporter shall be kept separate and apart from hazardous waste or Class I industrial solid waste as defined in the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, which may be accumulated at a transporter's facilities.

(4) Transporters performing service under this subsection shall comply with requirements specified for operators or collectors engaged in similar activities.

**§335.412. General Requirements for Processing, Storage, or Disposal Facilities.** Owners or operators of hazardous waste processing, storage, or disposal facilities may receive manifested shipments of hazardous household waste provided they:

(1) comply with the requirements of §335.12 of this title (relating to Shipping Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) with respect to all manifested wastes received;

(2) comply with the requirements of §335.15 of this title (relating to Recordkeeping and Reporting Requirements Applicable to Owners or Operators of Storage, Processing, or Disposal Facilities) with respect to all manifested wastes received;

(3) handle on-site all received or aggregated hazardous household waste in the same manner as if the waste were defined as a hazardous waste under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7;

(4) comply with the requirements of §335.4(1)-(3) of this title (relating to General Prohibitions) with respect to all waste received; and

(5) obtain written authorization from the commission to receive hazardous household waste.

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 December 15, 1986.

TRD-8611589 James K. Rourke, Jr.  
General Counsel  
Texas Water Commission

Earliest possible date of adoption:

January 19, 1987  
For further information, please call  
(512) 463-8087

★ ★ ★  
**TITLE 34. PUBLIC FINANCE**  
**Part I. Comptroller of Public Accounts**  
**Chapter 3. Tax Administration**  
**Subchapter E. Miscellaneous Taxes Based on Gross Receipts**  
**★34 TAC §3.55**

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Comptroller of Public Accounts, 111 East 17th Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §3.55, concerning interest on refunds. The legislature passed House Bill 78 repealing the payment of interest on refunds.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal. This repeal is promulgated under the Texas Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Mr. Moore also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be consistency with House Bill 78, passed during the Second Called Session, 69th Legislature, 1985. House Bill 78 prohibits the payment of interest earned on erroneous tax payments. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the repeal may be submitted to Burrell Lankford, Tax Administration, P.O. Box 13528, Austin, Texas 78711

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

**§3.55. Interest on Refunds.** (Texas Tax Code §111.106).

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 December 11, 1986.

TRD-8611533 Bob Bullock  
Comptroller of Public Accounts

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★ ★ ★  
**Subchapter G. Cigarette Tax**  
**★34 TAC §3.113**

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Comptroller of Public Accounts, 111 East 17th Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Comptroller of Public Accounts proposes the repeal of §3.113, concerning interest on refunds. The legislature passed House Bill 78 repealing the payment of interest on refunds.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal. This repeal is promulgated under the Texas Tax Code, Title 2, and no statement of the fiscal implications for small businesses is required.

Mr. Moore also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be consistency with House Bill 78, passed during the Second Called Session, 69th Legislature, 1985. House Bill 78 prohibits the payment of interest earned on erroneous tax payments. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the repeal may be submitted to Burrell Lankford, Tax Administration, P.O. Box 13528, Austin, Texas 78711.



**§3.295. Natural Gas and Electricity (Texas Tax Code §151.317).**

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

(1) Commercial use—Use by persons engaged in selling, warehousing, or distributing a commodity or use by persons engaged in selling a service, either professional or personal, including uses by the wholesale and retail trade, hotels, office buildings, nursing homes, and those persons providing taxable services.

(2) Fabrication—To make, build, create, produce, or assemble components of tangible personal property, or to make tangible personal property work in a new or different manner. [An operation or series of operations, the object of which is to substantially improve tangible personal property or to make the tangible personal property operate in a new or different manner.]

(3) Manufacturing—Every operation commencing with the first [production] stage of production of tangible personal property and ending with the completion of tangible personal property [production]. The "first production stage" means the first act of production and it does not include acts in preparation for production. For example, a manufacturer gathering, [or] arranging or sorting raw material or inventory is preparing for production. When production is completed, maintaining the life of tangible personal property or preventing its deterioration is not a part of the manufacturing process. Tangible personal property is complete when it has the physical properties, including packaging, if any, that it has when transferred by the manufacturer to another. For the purposes of this section, direct use of natural gas or electricity in manufacturing, which includes fabricating and processing, will be referred to as "noncommercial use." Also see §3.300 of this title (relating to Manufacturing; Custom Manufacturing; Fabricating; Processing).

(4) (No change.)

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

(5) Remodeling—to make tangible personal property belonging to another over again without causing a loss of its identity, or without causing the property to work in a new or different manner.

(6) [(5)] Processing—The physical application of the materials and labor necessary to [includes an operation or a series of operations, the object of which is to create, produce,] modify or to change the characteristics of [an article of] tangible personal property. The repair of tangible personal property by restoring it to its original condition is not considered processing of that property. The property being processed may belong either to the processor or the customer, the only tests being whether the property is "processed" and whether it will ultimately be sold. The mere packing, unpacking, or shelving of a product to be sold

will not be considered to be processing of that product. Direct use of natural gas or electricity in processing will be referred to as ["noncommercial use"]. Processing does not include remodeling or any action taken to prolong the life of tangible personal property or to prevent a deterioration of the tangible personal property being held for sale.

(7)[(6)] Residential use—Use in a family dwelling or in a multifamily apartment complex or housing complex or in a building or portion of a building occupied as a home or residence.

(b) Sales tax applicable. The furnishing of natural gas or electricity is a sale of tangible personal property. All the provisions in the Texas Tax Code, chapter 151, applying to the sale of tangible personal property, apply to the sale of natural gas or electricity.

(c) Commercial uses taxable; noncommercial uses exempt. The tax imposed by the Texas Tax Code, Chapter 151, must be collected on the sale of natural gas or electricity for commercial use. The sale of natural gas or electricity for residential use or for use directly in manufacturing, processing, or for other noncommercial uses is exempt.

(d) Predominant use; exemption certificates).

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

(3) The person claiming the exemption must make a determination that the predominant use of the natural gas or electricity is for an exempt use and must issue an exemption certificate to the utility company. Refer to §3.287 of this title (relating to Exemption Certificates) for further information on exemption certificates. The exemption is valid only as long as the person continues to operate in a manner which is for predominantly exempt purposes. At the time the uses of the utilities change so that the predominant use is commercial, it is the person's responsibility to immediately revoke the exemption certificate previously furnished the utility company.]

(3)[(4)] When determining the predominant use of natural gas or electricity, utilities used to operate production machinery and machinery or equipment which directly supports production may be considered to be exempt. Utilities used in an area open to the public for the purpose of marketing a product ready for sale are taxable. Utilities used to operate air conditioning for human comfort are taxable.

(4)[(5)] Persons whose use of natural gas or electricity is solely in family dwellings will not be required to furnish exemption certificates.

(5)[(6)] A person whose use is in multifamily apartment complexes, housing complexes, or other residential buildings may be required to issue an exemption certificate if one is necessary for the utility company to distinguish exempt residential use from taxable commercial use.

(7) Manufacturers, processors, and other noncommercial users must issue exemption certificates to the utility company to claim sales tax exemptions.]

(e) Determining predominant use utility studies.

(1) Persons claiming a sales tax exemption because the predominant use natural gas and electricity through a single meter is for processing, manufacturing, fabricating must have performed a utility study to establish this predominant exempt use. The study must list all uses of the utility, both exempt and nonexempt, the time of usage, the energy used, and whether the use was taxable or exempt. Twelve consecutive months of utility usage must be a part of the study.

(2) The study must be complete and on file at the location of the person claiming the exemption at the time an exemption certificate is submitted to the utility company. Without the study, the claim for exemption will be presumed to be invalid. Persons obtaining a sales tax refund without a valid study will be assessed tax, penalty, and interest by the comptroller on the full amount of the refund, if the exemption not proved.

(3) The comptroller may request a copy of the study for review, either before or after the sales tax exemption is granted. If the study is incomplete or inaccurate as to energy used, major nonexempt uses omitted or hours of exempt uses misstated, and results in the taxable percentage equaling or exceeding 50% of total uses by more than 5.0%, the findings of the study will be disallowed and exemption denied for a period of one year. After the lapse of one full year a complete study may be resubmitted for review. The new study is subject to the same rules as the first study. A study will not be rejected solely for mathematical mistakes.

(4) If a sales tax refund is being claimed retroactively, the study must take into account any changes in equipment or other items using utilities, any changes in business activities, and any changes in square footage being served by the meter.

(f) Exemption certificates.

(1) Noncommercial users must issue exemption certificates to the utility company to claim a sales tax exemption or to obtain a refund of sales tax. The exemption certificate must be specific as to the reason for the claimed exemption. For example, if person is claiming that the predominant use of the utility is for processing, the reason for the exemption must state, "a valid and complete study has been performed which shows that (insert the actual exempt percentage) of the natural gas or electricity is for processing tangible personal property for sale in the regular course of business."

(2) The exemption is valid only as long as the person continues to use natural gas and electricity in a manner which is for predominantly exempt purposes. At the time the uses of the utilities change so that the



predominant use is commercial, it is the person's responsibility to immediately notify the utility company in writing that the exemption is no longer valid.

(g)[(e)] Transportation of a material extracted from the earth.

(1) Sales or use tax is not due on natural gas or electricity used to transport a material or its component extracted from the earth. Examples of materials or components extracted from the earth would be oil, natural gas, coal, or coal slurry.

(2) Sales or use tax is due on natural gas or electricity used to transport a product which was manufactured from a material extracted from the earth. **Products which were manufactured from a material extracted from the earth** [These products] include substances which do not exist in nature or are not components of crude oil, natural gas, coal, or other minerals extracted from the earth.

(3) A material will not be considered to be manufactured when an additive is combined with a material for ancillary reasons, for example, odorant added to natural gas.

(h) **Exemptions limited.** Natural gas and electricity exemptions are limited to those noncommercial uses covered specifically in the Texas Tax Code, §151.317.

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

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Bob Bullock  
Comptroller of Public  
Accounts

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★ ★ ★

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I Texas Department of Human Services.

#### Chapter 47. Primary Home Care

##### Support Documents

###### ★ 40 TAC §47.5901

The Texas Department of Human Services (TDHS) proposes new §47.5901, concerning reimbursement methodology for primary home care, in its primary home care chapter.

New §47.5901 describes the department's methodology for setting a reimbursement rate, specifies unallowable costs, outlines cost report requirements, and describes the audit process.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the new section is 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. Packard has also determined that for each year of the first five years the new section is in effect the anticipated public benefit will be that providers will have a better understanding of unallowable costs in the Primary Home Care Program which will reduce the number of erroneous cost reports. 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 Cathy Rossberg, Administrator, Policy Development Support Division-740, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

##### §47.5901. *Reimbursement Methodology for Primary Home Care Services.*

(a) Cost reporting. Provider agencies must submit financial and statistical information at least annually on cost report forms provided by TDHS or on facsimiles which are formatted according to TDHS specifications and are preapproved by TDHS staff.

(1) Cost report due date. Provider agencies must submit cost reports to TDHS no later than 90 days following receipt of the cost report forms.

(2) Extension of due date. TDHS may grant extensions of due dates for good cause. A good cause is defined as one that the provider agency could not reasonably be expected to control. Provider agencies must submit requests for extensions in writing to TDHS before the cost report due date. Economic Analysis Division staff respond to requests within 10 workdays of receipt.

(3) Reporting period. The provider agency must prepare the cost report to reflect the activities of the provider agency during its previous fiscal year. Cost reports may be required for other periods at the discretion of the department.

(4) Failure to file an acceptable cost report. If a provider agency fails to file a cost report according to all applicable rules and instructions, the department may withhold all provider payments until the provider agency submits an acceptable cost report.

(5) Accounting requirements. The provider agency must ensure that financial and statistical information submitted in cost reports is based upon the accrual method of accounting, except for governmental institutions operated on the cash method of ac-

counting. The provider agency's treatment of any financial or statistical item must reflect the application of the generally accepted accounting principles (GAAP) approved by the American Institute of Certified Public Accountants.

(6) Allocation methods. If allocation of cost is necessary, provider agencies must use reasonable methods of allocation. TDHS adjusts allocated costs if the department considers the allocation method to be unreasonable. The provider agency must retain workpapers supporting allocations.

(7) Cost report certification. Provider agencies must certify the accuracy of cost reports submitted to TDHS in the format specified by TDHS. Provider agencies may be liable for civil and/or criminal penalties in the case of misrepresented or falsified information.

(8) Cost report supplements. The department may at times require additional financial and statistical information other than the information contained in the cost report.

(9) Review of cost reports. TDHS staff review each cost report to ensure that all financial and statistical information submitted conforms to all applicable rules and instructions. The review of the cost report includes a desk audit. If a provider agency fails to complete cost reports according to instructions or rules, the department returns the cost reports to the provider agency for proper completion. The department may require information other than that contained in the cost report to substantiate reported information.

(10) On-site audits. The department may perform on-site audits on all provider agencies that participate in the program. TDHS determines the frequency and nature of audits, but ensures that they are not less than that required by federal regulations relating to the administration of the program.

(11) Access to records. Each provider agency or its designated agent(s) must allow access to any and all records necessary to verify information submitted to TDHS on cost reports. This requirement includes records pertaining to related-party transactions and other business activities engaged in by the provider agency. If a provider agency does not allow inspection of pertinent records within 30 days following written notice from TDHS, a hold is placed on vendor payments until access to the records is allowed. If the provider agency continues to deny access to records, the department may cancel the provider agency's contract.

(12) Recordkeeping requirements. Provider agencies must maintain records according to the requirements stated in §51.50 of this title (relating to Record Retention Requirements). Provider agencies must ensure that records are accurate and sufficiently detailed to support the financial and statistical information contained in cost reports.

(13) Failure to maintain adequate records. If a provider agency fails to maintain adequate records to support the financial and statistical information reported in cost reports, the department allows 90 days for the provider agency to bring recordkeeping into compliance. If a provider agency fails to correct deficiencies within 90 days from the date of notification of the deficiency, the department may cancel the provider agency's contract for services.

(b) Reimbursement rate determination. The department determines rate reimbursement in the following manner.

(1) Cost determination by cost area. TDHS combines reported costs into four cost areas.

(A) Field supervisors cost area. This includes field supervisors' salaries, wages, training, and travel expenses.

(B) Primary home care attendants cost area. This includes primary home care attendants' salaries and wages, and travel expenses.

(C) Administration cost area. This includes administrative salaries and wages, and other administrative expenses.

(D) Facility cost area. This includes building and equipment expenses, and operation and maintenance expenses.

(2) Exclusion of certain reported expenses. Provider agencies must ensure that all unallowable costs are eliminated from the cost report. The department excludes any unallowable costs that are included in the cost report.

(3) Projected costs. The department projects allowable expenses per hour of service from each provider agency's reporting period to the next ensuing rate period. The department determines reasonable and appropriate economic adjusters to calculate the projected expenses.

(4) Projected cost arrays. To calculate the rate, the department rank orders from low to high all provider agencies' projected costs per hour of service in each cost area and all provider agencies' projected total costs.

(5) Rate setting methodology. The department determines the recommended reimbursement rate by taking the lesser of the following two computations.

(A) The hours of service for each provider agency that correspond with each projected cost array are summed until the 60th percentile hour of service is reached. The corresponding projected expense is the rate component. The sum of the components for each cost area is the recommended reimbursement rate.

(B) The hours of service for each provider agency that correspond with the projected total cost array are summed until the 60th percentile hour of service is reached. The corresponding projected expense is the recommended reimbursement rate.

(6) Rate setting authority. The Texas Board of Human Services establishes the reimbursement rate, which may differ

from the rate that is recommended by department staff.

(7) Reviews of cost report disallowances. A provider agency may request reconsideration of a disallowance of a reported cost from the cost report as a result of a desk or on-site audit by writing to the Economic Analysis Division within 30 days of notification of the disallowance.

(c) Factors affecting allowable costs. To be allowable under this program, costs must be:

(1) necessary and reasonable for the proper and efficient administration of the program to deliver services for which the department has contracted;

(2) authorized or not prohibited under state or local laws or regulations;

(3) consistent with any limitations or exclusions described in this section, federal or state laws, or other governing limitations as to types or amounts of cost items;

(4) consistent with policies, regulations, and procedures that apply uniformly to both the Primary Home Care Program and other activities of the organization of which the provider agency is a part;

(5) treated consistently using generally accepted accounting principles appropriate to the circumstances;

(6) not allocable to or included as a cost of any other program in either the current or a prior period; and

(7) the net of all applicable credits.

(d) Definition of reasonableness. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. In determining the reasonableness of a given cost, the department considers the following:

(1) whether the cost is of a type generally recognized as ordinary and necessary for the operation of the business or the performance under the contract;

(2) the restraints or requirements imposed by generally accepted sound business practices, arm's length bargaining, federal and state laws and regulations, and contract terms and specifications; and

(3) the action that a prudent person would take in the circumstances, considering his responsibilities to the public, the government, his employees, clients, shareholders, or members, and the fulfillment of the purpose for which the business was organized.

(e) Unallowable costs. Unallowable costs are expenses incurred by a provider agency which are not directly or indirectly related to the provision of contracted services according to applicable laws, rules, and standards. A provider agency may expend funds on unallowable cost items, but those costs must not be included in the cost report and are not used in calculating a rate recommendation. The following list is a general guide to the various unallowable costs frequently encountered in cost reports submitted by

provider agencies and is not intended to be inclusive of all possible unallowable costs:

(1) advertising expenses other than those for employee recruitment, yellow page listings no larger than one column width and one inch length, and advertising to meet statutory or regulatory requirements;

(2) allowances for bad debts or other similar accounts;

(3) business expenses not related to the provision of services for which the department has contracted;

(4) contributions to political activities or contributions to charity;

(5) corporate headquarters expense at a level that is not directly involved in providing services or supplies used by the home health agency staff in normal operations relating to primary home care;

(6) depreciation expenses other than those based on straight-line depreciation;

(7) discounts for administrative reasons; courtesy, cash, trade, and quantity discounts; rebates; or other discounts granted;

(8) dues and membership fees to organizations whose primary emphasis is not related to the services for which the department has contracted;

(9) entertainment expenses, except for entertainment which is reported as an employee benefit;

(10) expenses incurred for services not related to the provision of services for which the department has contracted;

(11) expenses for purchases of goods and services from revenues received from restricted or unrestricted gifts, donations, endowments, and trusts;

(12) expenses which are not the legal obligation of the provider agency;

(13) expenses of donated items, including depreciation and amortization of the value of the donations;

(14) fees and travel expenses for corporation or association board of directors; partnership or corporation filing fees;

(15) fines and other penalties for violation of statutes or ordinances; penalties for late payment of taxes, utilities, mortgages, loans, and other similar penalties;

(16) franchise fees;

(17) fund-raising and promotion expenses; public relations expenses;

(18) insurance expenses for life insurance premiums if the beneficiary is the provider organization, and for insurance on assets not related to the delivery of services for which the department has contracted;

(19) interest expense on loans for assets not related to the delivery of services for which the department has contracted; interest expenses must be reduced or offset by interest income except interest income from funded depreciation accounts or qualified pension funds;

(20) medical equipment and supplies;

(21) personal compensation not related to the delivery of services for which the department has contracted;

(22) personal expenses not related to the delivery of services for which the department has contracted;

(23) physicians' fees for completion of physician orders;

(24) expenses for the purchase of services, facilities, or supplies from related organizations or parties if the expenses exceed the lower of the cost to the related party or organization or the price of comparable services, facilities, or supplies purchased in an arm's length transaction;

(25) rental or lease expense on any item not related to the delivery of services for which the department has contracted;

(26) tax expense for federal, state, or local income tax; any tax levied on assets not related to the delivery of services for which the department has contracted; and

(27) transportation expenses for vehicles which are not generally suited to functions related to the provision of services for which the department has contracted.

Mileage expense may be included at a cost per mile not to exceed the current reimbursement rate set by the legislature for state employee travel. Mileage is allowable if there is adequate documentation of the mileage and if the expense was related to delivery of services for which the department has contracted.

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 December 11, 1986.

TRD-8611519

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Earliest possible date of adoption:  
January 19, 1987  
For further information, please call  
(512) 450-3766.



★ ★ ★

Name: Cristian Vasquez  
Grade: 7  
School: Baker Junior High, Corpus Christi

# 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 37. PUBLIC SAFETY AND CORRECTIONS Part IX. Texas Commission on Jail Standards Chapter 263. Life Safety Rules

#### ★ 37 TAC §263.53

The Texas Commission on Jail Standards has withdrawn from consideration amendment to §263.53, concerning smoke and fume removal. The text of the amendment appeared in the August 19, 1986, issue of the *Texas Register* (11 TexReg 3678). The effective date of the amendment is December 11, 1986.

Issued in Austin, Texas, on December 11, 1986

TRD-8611518      Robert O Viterna  
Executive Director  
Texas Commission on  
Jail Standards

Filed: December 11, 1986  
For further information, please call  
(512) 463-5505

### ★      ★      ★ TITLE 40. SOCIAL SERVICES AND ASSISTANCE Part I. Texas Department of Human Services

#### Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment Subchapter H. Eligibility

#### ★ 40 TAC §33.112

The Texas Department of Human Services has withdrawn from consideration the

emergency effectiveness of the amendment to §33.112 concerning eligibility for services. The text of the amended section appeared in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4667).

Issued in Austin, Texas, on December 11, 1986.

TRD-8611509      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Filed: December 11, 1986  
For further information, please call (512)  
450-3766.

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#### Subchapter I. Periodicity

#### ★ 40 TAC §33.122

The Texas Department of Human Services has withdrawn from consideration the emergency effectiveness of the amendment to §33.122 concerning periodicity. The text of the amended section appeared in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4667).

Issued in Austin, Texas, on December 11, 1986

TRD-8611510      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Filed: December 11, 1986  
For further information, please call (512)  
450-3766.

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#### Subchapter R. Dental Services

#### ★ 40 TAC §33.306, §33.317

The Texas Department of Human Services has withdrawn from consideration the emergency effectiveness of the amendments to §33.306 concerning who is eligible and §33.317 concerning claims-time limits, return, and denial. The text of the amended sections appeared in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4667).

Issued in Austin, Texas, on December 11, 1986

TRD-8611511      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Filed: December 11, 1986  
For further information, please call (512)  
450-3766.

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#### Subchapter T. EPSDT Eyeglass Program

#### ★ 40 TAC §33.402

The Texas Department of Human Services has withdrawn from consideration the emergency effectiveness of the amendment to §33.402 concerning benefits and limitations. The text of the amended section appeared in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4667).

Issued in Austin, Texas, on December 11, 1986.

TRD-8611512      Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Filed: December 11, 1986  
For further information, please call (512)  
450-3766.

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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 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

#### Chapter 5. Job Training

##### Subchapter I. Personnel Standards

#### ★ 10 TAC §5.903

The Texas Department of Community Affairs (TDCA) adopts new §5.903, without changes to the proposed text published in the October 24, 1986, issue of the *Texas Register* (11 TexReg 4397).

The section concerns the administration of the Texas Job Training Partnership Act (JTPA) by the adoption by reference of a remedy and sanction policy or violations of non-discrimination requirements of the State JTPA program. Section 167 of the JTPA provides requirements of non-discrimination applicable to State JTPA programs.

The section applies to TDCA contractors that receive funding under the JTPA. The section provides requirements of non-discrimination in the State JTPA programs, provides a timetable for compliance upon a finding of discrimination, and provides sanctions for continued contractor noncompliance.

No comments were received regarding adoption of the new section

The new section is adopted under the Public Law 97-300, §167, and Texas Civil Statutes, Article 4413(52), §8(c)(10), which provide the TDCA with the authority to develop and formally issue personnel standards, including equal opportunity compliance, necessary to comply with the requirements of the JTPA and to assure proper accounting for federal funds paid to the state under Titles I-III of the JTPA.

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 December 12, 1986.

TRD-8611554

Douglas C. Brown  
General Counsel  
Texas Department of  
Community Affairs

Effective date: January 2, 1987  
Proposal publication date: October 24, 1986  
For further information, please call  
(512) 834-8080.

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## TITLE 22. EXAMINING BOARDS

### Part IX. Texas State Board of Medical Examiners

#### Chapter 169. Authority of Physicians to Supply Drugs

#### ★ 22 TAC §§169.1-169.6

The Texas State Board of Medical Examiners adopts new §§169.1-169.6. New §169.3 is adopted with changes to the proposed text published in the September 9, 1986, issue of the *Texas Register* (11 TexReg 3897). The other new sections are adopted without changes and will not be republished.

The new sections are necessary to provide physicians with some guidelines for the supplying of drugs to their patients in compliance with various laws.

It is believed that the new sections clarify the issue for Texas physicians.

During the public comment period, concerns were expressed regarding possible inappropriate expansion of the law, delegation of dangerous drug provision, reimbursement for cost of supplying drugs, substitution of the word "supplying" with "providing" in certain instances, and clarification of exact procedures physicians must follow when providing drugs to patients.

The Texas State Board of Pharmacy and the Texas Medical Association commented against adoption of the new sections. These two organizations did not speak entirely against the sections, but rather offered comments to improve the language.

The agency agreed with the language regarding "providing" rather than "supplying" drugs. In other respects, the agency determined that the section are clear and within the law

The new sections are adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules,

regulations, and bylaws not inconsistent with the Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of the Act.

§169.3. *Authority.* A physician in the physician's office may personally provide, administer, or delegate to any qualified and properly trained person or persons, acting under the physician's supervision, the provision or administration of drugs to his or her patients which are, in the opinion of the physician, therapeutically beneficial or necessary to the patient, from the physician supply of drugs or remedies in the course of treating patients, and may be reimbursed for the cost of providing those drugs. The physician shall comply with all appropriate labeling sections applicable to the class of drugs under the Texas Pharmacy Act and oversee compliance with packaging and record keeping sections applicable to the class of drugs. The physician may be reimbursed for the cost of these drugs only in the following situations.

(1) A licensed physician who practices medicine in a rural area in which there is no pharmacy may maintain a supply of dangerous drugs in his or her office to be dispensed in the course of treating his or her patients and may be reimbursed for the cost of supplying those drugs without obtaining a license under the Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1.

(2) A physician may administer a drug and charge a separate fee for the administration of the drug. The separate fee shall allow the physician to recover the cost of administration, which shall include the cost of the drug so administered.

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 December 12, 1986.

TRD-8611568

G. W. Brindley, Jr.  
Executive Director  
Texas State Board of  
Medical Examiners

Effective date: January 2, 1987  
Proposal publication date: September 9, 1986  
For further information, please call  
(512) 452-1078.

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

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

**Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment**  
**Subchapter H. Eligibility**

**★ 40 TAC §33.112**

The Texas Department of Human Services adopts amendments to §§33.112, 33.122, 33.306, 33.317, and 33.402 without changes to the proposed text published in the July 15, 1986, issue of the *Texas Register* (11 TexReg 3255).

These sections are adopted as a result of funding limitations which have caused the department to end the optional coverage of Medicaid recipients ages 18-20 for early and periodic screening, diagnosis, and treatment (EPSDT) services. The optional coverage was allowed under Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and is included in federal regulations governing the EPSDT program.

The amended sections limit EPSDT coverage to Medicaid eligible recipients under the age of 18.

No comments were received regarding adoption of the amendments.

The amendment is adopted under the Human Resources Code, Title 2, Chapters



22 and 32, which authorizes the department to administer public assistance and medical programs.

This agency hereby certifies that the 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 December 11, 1986.

TRD-8611505

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: January 1, 1987  
Proposal publication date: July 15, 1986  
For further information, please call  
(512) 450-3766.

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**Subchapter I. Periodicity**

**★ 40 TAC §33.122**

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

This agency hereby certifies that the 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 December 11, 1986.

TRD-8611506

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: January 1, 1987  
Proposal publication date: July 15, 1986  
For further information, please call  
(512) 450-3766.

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**Subchapter R. Dental Services**

**★ 40 TAC §33.306, §33.317**

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

This agency hereby certifies that the 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 December 11, 1986.

TRD-8611507

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: January 1, 1987  
Proposal publication date: July 15, 1986  
For further information, please call  
(512) 450-3766.

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**Subchapter T. EPSDT Eyeglass Program**

**★ 40 TAC §33.402**

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

This agency hereby certifies that the 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 December 11, 1986.

TRD-8611508

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: January 1, 1987  
Proposal publication date: July 15, 1986  
For further information, please call  
(512) 450-3766.

# Open Meetings

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

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

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

## Texas Department of Community Affairs

**Friday, January 9, 1987, 1:30 p.m.** The Texas Weatherization Policy Advisory Council of the Texas Department of Community Affairs will meet at 8317 Cross Park Drive, Austin. According to the agenda the purpose of the meeting is to review proposed 1987 weatherization state plan and application, the weatherization program—national direction/funding outlook, and policy advisory council subcommittee report on new formula status.

**Contact:** Barbara Cigainero, TDCA-EOD State Weatherization Office, (512) 834-6224.

**Filed:** December 12, 1986, 1:13 p.m.  
TRD-8611559

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## Texas Conservation Foundation

**Tuesday, December 16, 1986, 9:00 a.m.** The Board of Directors of the Texas Conservation Foundation met via conference call in Room 611, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board considered action on the donation of stock certificates to the foundation. The emergency status was necessary because the donor wished to complete any transaction within the present calendar year.

**Contact:** Alicia M. Reban, 1700 North Congress Avenue, Room 611, Austin, Texas 78701, (512) 463-2196.

**Filed:** December 11, 1986, 2:15 p.m.  
TRD-8611523

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## Texas Commission for the Deaf

**Friday, December 19, 1986, 9:00 a.m.** The Texas Commission for the Deaf will meet in the Board Meeting Room, 510 South Con-

gress Avenue, Austin. Items on the agenda include the approval of previous minutes, a report from the Board of Evaluation of Interpreters, director and staff reports, public comments, election of officers, and chairman's report. The commission also will meet in executive session if necessary. The meeting is rescheduled from December 18, 1986.

**Contact:** Larry D. Evans, 510 South Congress Avenue, #300, Austin, Texas 78704, (512) 469-9891.

**Filed:** December 11, 1986, 3:42 p.m.  
TRD-8611527

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## Texas Economic Development Commission

**Friday, December 19, 1986, 1:00 p.m.** The Texas World Trade Council of the Texas Economic Development Committee will meet in Room 221, 410 East fifth Street, Austin. According to the agenda the council will review and adopt the Role and Purpose Section, the Export Promotion Section, the Foreign Direct Investment Section, and the Finance Section of the World Trade Plan, and consider new business.

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

**Filed:** December 11, 1986, 2:41 p.m.  
TRD-8611525

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## General Land Office

**Tuesday, December 16, 1986, 3:00 p.m.** The Veterans Land Board of the General Land Office met in emergency session in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the December 3, 1986, minutes; approval of loan applicants for the farm and ranch finance program; the resolu-

tion authorizing the issuance of State of Texas Farm and Ranch Bonds and other matters relating thereto; the resolution approving the official statement with respect to the issuance of State of Texas farm and ranch bonds; and consideration of designating a date for the sale of Veterans Land Board forfeited tracts and other matters relating thereto. The emergency status was necessary because of consideration of resolution authorizing the issuance of State of Texas farm and ranch bonds and other matters relating thereto.

**Contact:** Jack Giberson, Veterans Land Board, Room 836-A, (512) 463-5254.

**Filed:** December 12, 1986, 2:16 p.m.  
TRD-8611569

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## Office of the Governor

**Tuesday, December 16, 1986, 9 a.m.** The Texas Science and Technology Council of the Office of the Governor met in emergency session on the 34th Floor, One American Center, Sixth Street and Congress Avenue, Austin. Items on the agenda included a committee review of recommendations, briefing of key legislators, and a discussion of implementation of recommendations. The emergency status was necessary because member attendance could not be confirmed until December 11, 1986.

**Contact:** Meg Wilson, Suite 412, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 471-3695.

**Filed:** December 11, 1986, 10:37 a.m.  
TRD-8611504

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## State Department of Highways and Public Transportation

**Monday, December 22, 1986, 11:00 a.m.** The State Highway and Public Transportation Commission will meet in Room 101-A,

Dewitt C. Greer Building, 11th and Brazos Streets, Room 101-A, Austin. According to the agenda summary the commission will consider presentations from previous public hearing dockets as necessary; and review staff reports relative to planning and construction programs and projects.

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

**Filed:** December 12, 1986, 1:41 p.m.  
TRD-8611565

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### University of Houston System

**Tuesday and Wednesday, December 16 and 17, 1986, 8:00 a.m.** The Board of Regents of the University of Houston Systems met in the Zodiac Room, Conrad N. Hilton College Building, University of Houston. According to the agenda, the board discussed and/or approved the minutes, consent docket, banking resolution of the system, various contracts and leases, periodical subscription for the library-downtown, various reports, the management audit system, various concept approvals, various projects, appointment of consultants of the University of Houston, personnel recommendations, staff council of the University of Houston, student quality and enrollment of the University of Houston, dual employment compliance record and finding request at Clear Lake, and the name change for M.S. and Ph.D. of the University of Houston.

**Contact:** Michael T. Johnson, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

**Filed:** December 11, 1986, 1:12 p.m.  
TRD-8611520

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### Texas Industrial Accident Board

**Thursday, December 18, 1986, 1:30 p.m.** The Texas Industrial Accident Board met in Room 107, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board discussed the executive director's position.

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

**Filed:** December 15, 1986, 11:31 a.m.  
TRD-8611591

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### State Board of Insurance

**Friday, December 19, 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 consider the adoption of the amendment to 28 TAC §5.6104; final action on 28 TAC §1.404; proposed action on new 28 TAC §1.405, 7.55, 7.65, 7.1005, 19.801, 19.802, and 25.705; amendments to 28 TAC §§15.3, 19.302, 19.601, 19.703, 19.706, 27.16 27.205-27.207, and 27.414; consider board orders on several different matters; hear the fire marshal's report on personnel matters, research and information services report on legislative reports, the staff recommended legislative proposal on personnel matters, the commissioner's report on personnel matters; and consider pending and contemplated litigation.

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

**Filed:** December 11, 1986, 3:39 p.m.  
TRD-8611528

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, State Insurance Building, 1110 San Jacinto Street, Austin. Days, times, and dockets follow.

**Tuesday, December 23, 1986, 9 a.m.** The section will consider Docket 9428—application of Keith Kabacek to acquire control of Standard Financial Indemnity Corporation.

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

**Filed:** December 15, 1986, 2:36 p.m.  
TRD-8611605

**Tuesday, December 23, 1986, 9 a.m.** The section will consider Docket 9424—proposed plan of merger of Aztec Life Insurance Company of Texas, Houston, into Globe Life Insurance Company, Chicago, Illinois.

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

**Filed:** December 15, 1986, 2:36 p.m.  
TRD-8611606

**Tuesday, December 23, 1986, 1:30 p.m.** The section will consider Docket 9425—proposed plan of merger of Texas Eastern Life Insurance Company, Hye, into Eagle Life Insurance Company, Oklahoma City, Oklahoma.

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

**Filed:** December 15, 1986, 2:37 p.m.  
TRD-8611608

**Monday, December 29, 1986, 9 a.m.** The section will consider Docket 9426—application for original charter of Mid-Century Insurance Company of Texas, Austin.

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

**Filed:** December 15, 1986, 2:37 p.m.  
TRD-8611607

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### Texas Low-Level Radioactive Waste Disposal Authority

**Monday, December 29, 1986, 9:00 a.m.** The Budget Committee of the Texas Low-Level Radioactive Waste Disposal Authority will meet via conference call in Suite 300, 7703 North Lamar Boulevard, Austin. According to the agenda, the committee will consider the contract with the Bureau of Economic Geology for studies in the vicinity of Site HU1B in Hudspeth County.

**Contact:** L. R. Jacobi, Jr., 7703 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5295.

**Filed:** December 15, 1986, 1:41 p.m.  
TRD-8611604

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### Board of Pardons and Paroles

**Tuesday, December 16, 1986, 10 a.m.** The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board met in workshop session to discuss proposed legislation to be recommended during the 70th Legislative Session. The emergency status was necessary because board members cannot adjust their schedules to meet at any other time.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

**Filed:** December 12, 1986, 11:23 a.m.  
TRD-8611555

**Monday and Tuesday, December 22 and 23, 1986, 1:30 p.m. daily.** A board panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

**Contact:** Mike Roach, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

**Filed:** December 12, 1986, 11:23 a.m.  
TRD-8611556



**Wednesday, December 23, 1986, 1:30 p.m.** The Board of Pardons and Paroles will meet at 610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related action (other than out of county conditional pardons) including full pardons/restoration of civil rights of citizenship, emergency medical reprieves, commutations of sentence, and other reprieves, remissions, and executive clemency actions.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 59-2749.

**Filed:** December 12, 1986, 11:23 a.m.  
TRD-8611557

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### Texas Parks and Wildlife Department

**Monday, December 15, 1986, 3:00 p.m.** The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department, met in emergency session via conference call at 4200 Smith School Road, Austin. According to the agenda, the commission considered the land acquisition in Brazoria County. The emergency status was necessary in order that the contract of sale relating to Brazoria County property be considered during 1986 because it is a condition of the sale.

**Contact:** Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

**Filed:** December 11, 1986, 2:12 p.m.  
TRD-8611522

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### Texas Pork Producers Board

**Saturday, January 3, 1987, 10:00 a.m.** The Pork Producers Board of the Texas Department of Agriculture will meet in the Texas Electric Cooperatives Building, 8140 Burnet Road, Austin. According to the agenda, the board will consider the minutes of last meeting; hear the treasurer's report, Research Committee report, Education Committee report, Promotion Committee report, and Executive report; consider new business, and make announcements.

**Contact:** Ken Horton, P.O. Box 10168, Austin, Texas 78766, (512) 453-0615.

**Filed:** December 15, 1986, 2:16 p.m.  
TRD-8611609

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### Public Utility Commission of Texas

**Friday, December 12, 1986, 11 a.m.** The Hearings Division of the Public Utility Commission of Texas met in emergency session

in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division considered Docket 7195—Office of Public Utility Counsel's and Cities of Conroe, West Orange, Panorama Village's and general Council appeals of Order 2 regarding the procedural schedule. The emergency status was necessary because of procedural deadlines within the docket.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 12, 1986, 8:43 a.m.  
TRD-8611538

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

**Thursday, January 15, 1987, 9 a.m.** A hearing on the merits in Docket 7016—application of General Telephone Company of the Southwest for approval of emergency number service (911) tariff.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 15, 1986, 2:44 p.m.  
TRD-8611610

**Tuesday, January 20, 1987, 1:30 p.m.** A prehearing conference in Docket 7183—application of Houston Lighting and Power company for proposed transmission line and associated substation within Harris County.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 11, 1986, 2:34 p.m.  
TRD-8611524

**Tuesday, February 17, 1987, 9 a.m.** A hearing on the merits in Docket 6992—application of Texas-New Mexico Power Company for certification of a lignite fixed electric generation station in Robertson County.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** December 12, 1986, 2:27 p.m.  
TRD-8611570

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### Railroad Commission of Texas

**Monday, December 15, 1986, 9 a.m.** The Oil and Gas Division of the Railroad Commission of Texas made an emergency revision to the agenda for a meeting held in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The revision concerned whether to use state funds to clean up an oil spill and remove sludge resulting from the actions of Reid Vacuum, City of Alvin, Brazoria Coun-

ty. The emergency status was necessary because the pollution caused by the oil and oily sludge could cause harm to the public's health, safety, and welfare.

**Contact:** Willis Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6827.

**Filed:** December 12, 1986, 4:18 p.m.  
TRD-8611583

**Monday, December 22, 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:** December 12, 1986, 10:51 a.m.  
TRD-8611540

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:** December 12, 1986, 10:52 a.m.  
TRD-8611541

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:** December 12, 1986, 10:52 a.m.  
TRD-8611542

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:** December 12, 1986, 10:48 a.m.  
TRD-8611543

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:** December 12, 1986, 10:52 a.m.  
TRD-8611544

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:** December 12, 1986, 10:48 a.m.  
TRD-8611545

Various matters falling within the Oil and Gas Division's regulatory jurisdiction.

**Contact:** Timothy A. Poe, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6713.

**Filed:** December 12, 1986, 10:51 a.m.  
TRD-8611547

Addition 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:** December 12, 1986, 10:50 a.m.  
TRD-8611548

Consideration of Docket 1-89,302—application of E. G. Catlett, to consider temporary field rules for the Pruitt, South (Escondido) Field, Atascosa and Frio Counties.

**Contact:** Doug Johnson, P.O. Box 12967, Austin, Texas 78711, (512) 463-7291

**Filed:** December 12, 1986, 10:50 a.m.  
TRD 8611549

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:** December 12, 1986, 10:49 a.m.  
TRD-8611546

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:** December 12, 1986, 10:48 a.m.  
TRD-8611550

The Office of the Special Counsel director's report relating to proposed and pending litigation, including, but not limited to, discussion and/or decision in Missouri Pacific Railroad, *et al. v. Railroad Commission of Texas* (Cause A-86-CA-406); and discussion and/or decision in the Oil Field Haulers Association, Inc., *et al. v. Railroad Commission of Texas*, *et al.* (Cause 356,420); Gas Utilities Docket 500; state and federal legislation, and other budget, administrative, and personnel matters;

**Contact:** Walter Earl Lilie, P.O. Drawer 12967, Austin, Texas 78704, (512) 463-7149.

**Filed:** December 12, 1986, 10:49 a.m.  
TRD-8611551

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** J. Randel (Jerry) Hill, William B.

Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

**Filed:** December 12, 1986, 10:49 a.m.  
TRD-8611552

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:** December 12, 1986, 10:52 a.m.  
TRD-8611553

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### Texas Real Estate Research Center

**Saturday, January 10, 1987, 9:00 a.m.** The Advisory Committee of the Texas Real Estate Research Center will meet in Parlor C, Sheraton Crest Hotel, Austin. Items on the agenda include approval of minutes, progress reports, the current budget report, date of next meeting, and other business.

**Contact:** Richard L. Floyd, Texas Real Estate Research Center, Texas A and M University, (409) 845-9691.

**Filed:** December 12, 1986, 1:36 p.m.  
TRD-8611566

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### Texas Savings and Loan Department

**Tuesday, December 30, 1986, 9:00 a.m.** The Texas Savings and Loan Department will meet in Room 201, 2601 North Lamar Boulevard, Austin. According to the agenda, the department will accumulate a record of evidence in regard to the application of Multibanc Savings Association, Alice, Jim Wells County, for a branch office at 6003 West IH 20, Arlington, Tarrant County, from which record the commissioner will determine whether to grant or deny the application.

**Contact:** Russell R. Oliver, 2601 North Lamar Boulevard, Room 201, Austin, Texas 78701, (512) 479-1250.

**Filed:** December 11, 1986, 4:12 p.m.  
TRD-8611530

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### Secretary of State

**Tuesday, December 16, 1986, 10 a.m.** The State Board of Canvassers of the Secretary of State met in emergency session in Room 127, State Capitol, Austin. According to the agenda, the board canvassed returns of the November 4, 1986 general election for district judge, judicial District 133 in Harris County as a result of a withdrawal of a recount request. The emergency status was necessary because of a withdrawal of re-

count. The meeting was rescheduled from Monday, December 15, 1986, to allow the Secretary of State to attend.

**Contact:** Donnette Smith, P.O. Box 12887, Austin, Texas 78711, (512) 463-5650.

**Filed:** December 15, 1986, 10:23 a.m.  
TRD-8611588

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### Texas State Technical Institute

**Tuesday, December 16, 1986, 1:30 p.m.** The Executive Committee of Board of Regents of Texas State Technical Institute met in emergency session at the System Administration Building, Waco. According to the agenda, the committee considered the sale or exchange of motor generators. The emergency status was necessary because the sale or exchange of motor generators must be completed by December 22, 1986.

**Contact:** Theodore A. Talbot, Waco, Texas 76705, (817) 799-3611, ext. 3910.

**Filed:** December 12, 1986, 4:38 p.m.  
TRD-8611584

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### The University of Texas at Austin

**Wednesday, December 17, 1986, 4:00 p.m.** The Intercollegiate Athletics Council for Men of the University of Texas met in Belmont Hall 240, San Jacinto Street between 21st and 23rd Streets, Austin. Items on the agenda summary include approval of minutes of October 29, 1986, approve schedules and schedule changes, letter awards, tickets and ticket policies, the report on academic counseling, feasibility study for academic center, construction, the report on development, department marketing plan, new business, and old business.

**Contact:** Haila Kauffman, P.O. Box 7399, Austin, Texas 78713, (512) 471-1332.

**Filed:** December 11, 1986, 2:48 p.m.  
TRD-8611526

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### Texas Water Commission

**Tuesday, December 16, 1986, 10 a.m.** Texas Water Commission made an emergency addition to the agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned Docket 7059—application by Oak Creek Environmental Management, Inc., to transfer facilities and certificate of convenience and necessity to provide sewer ser-

vice in Bexar County, to Lackland City Water Company. The emergency status was necessary to ensure continuous and adequate sewer service to the affected customers.

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

**Filed:** December 15, 1986, 4:21 p.m.  
TRD-8611613

**Tuesday, December 16, 1986, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned the application of Double "B" Foods, Inc., for proposed Water Quality Permit 02868 to authorize the disposal of treated industrial wastewater effluent by irrigation at a volume not to exceed an average of 35,000 gallons per day from a planned wastewater treatment facility, Colorado County, Lavaca River Basin. The emergency status was necessary in order to avoid any possible economic loss to the applicant.

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

**Filed:** December 11, 1986, 4:09 p.m.  
TRD-8611532

**Tuesday, December 16, 1986, 10:00 a.m.** The Texas Water Commission made an emergency addition to the agenda for a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned the application by West Harris County Municipal Utility District No. 10 to use \$515,000 of surplus funds. The emergency status was necessary because the applicant requests emergency consideration by the commission to allow the district to proceed with timely reimbursement to the developer and to preclude economic hardship on the part of the developer.

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

**Filed:** December 12, 1986, 3:37 p.m.  
TRD-8611575

**Wednesday, December 17, 1986, 2:00 p.m.** The Texas Water Commission met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission considered a motion filed by Tarrant County WCID No. 1 for commission review of the jurisdiction of the commission concerning intervention of the Cities of Runaway Bay and Springtown in the complaint of Tarrant County WCID No. 1 against the City of Bridgeport and the commission use of interrogatories and requests for information in the proceedings. The emergency status was necessary because of certain deadlines that have been imposed.

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

**Filed:** December 12, 1986, 3:37 p.m.  
TRD-8611576

**Tuesday, January 20, 1987, 9:00 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 6468—application of amendment to a sewer certificate of convenience and necessity by the City of Kyle. The commission has remanded this docket to a hearings examiner for an additional hearing.

**Contact:** Joseph O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** December 12, 1986, 3:38 p.m.  
TRD-8611577

**Wednesday, January 21, 1987, 10:00 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 examine the feasibility of the Guadalupe River Channel to Victoria Channel improvements for navigation in the vicinity of Victoria, Calhoun and Victoria Counties.

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

**Filed:** December 12, 1986, 3:38 p.m.  
TRD-8611578

**Tuesday, January 27, 1987, 10 a.m.** The Office of Hearings Examiner will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider the application by Southern Water Corporation and Southern Sanitary Corporation for an increase in rates for water and sewer service to Hidden Valley Subdivision within the corporate limits of the City of Houston.

**Contact:** Stephen C. Dickman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** December 11, 1986, 4:09 p.m.  
TRD-8611531

**Tuesday, February 10, 1987, 10:00 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of the City of Rankin for approval of preliminary plans for construction of a levee around the proposed wastewater treatment plant located in the 100-year floodplain of Rankin Draw in Upton County.

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

**Filed:** December 12, 1986, 3:39 p.m.  
TRD-8611579

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## Regional Agencies Meetings Filed December 11

**The Jack County Appraisal District, Board of Directors,** met at Los Creek Office Building, 216-D South Main, Jacksboro, on December 16, 1986, at 7 p.m. Information may be obtained from Doris G. Ray or Linda Williams, 216-D South Main, Jacksboro, Texas 76056, (817) 567-6301.

**The San Antonio River Authority, Board of Directors,** submitted a revised agenda for a meeting held at 100 East Guenther Street, San Antonio, on December 17, 1986, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.  
TRD-8611521

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## Regional Agencies Meetings Filed December 12

**The Alamo Area Council of Governments, Executive Committee,** met at the Wyndham Hotel, 9821 Colonnade, IH-10 at Wurzbach, San Antonio, on December 17, 1986, at 11 a.m. Information may be obtained from Al J. Notzow, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

**The Atascosa County Appraisal District, Board of Directors,** met at 1010 Zanderson Avenue, Jourdanton, on December 18, 1986, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson Avenue, Jourdanton, Texas 78026, (512) 769-2730.

**The Dallas Area Rapid Transit (DART), Minority Affairs Committee,** met at the DART Office, 601 Pacific Avenue, Dallas, on December 16, 1986, at 3 p.m. The following committees also met at the same location on the same date: Legislative Committee at 4 p.m., Minority Affairs Committee and Legislative Committee at 5 p.m., and board meeting at 6:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 76202, (214) 658-6237.

**The Lee County Appraisal District, Appraisal Review Board,** met at 218 East Richmond Street, Giddings, on December 18, 1986, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Lower Colorado River Authority, Planning and Public Policy Committee, Audit and Budget Committee, Finance and Administration Committee, Energy Operations Committee, and the Natural Resources**

Committee, met at 3700 Lake Austin Boulevard, Austin, on December 17, 1986, at 9 a.m. The Board of Directors also met at the same location on December 18, 1986, at 9 a.m. Information may be obtained from John E. Bagalay, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3200

**The Lower Neches Valley Authority (LNVA), Board of Directors, met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, on December 16, 1986, at 10:30 a.m. Information may be obtained from the Lower Neches Valley Authority, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.**

**The Pecan Valley Mental Health Mental Retardation Region, Executive Committee and Board of Trustees, met at Pecan Valley MHMR Region Life Skills Center, 102 Charles Street, Granbury, on December 17, 1986, at 7:30 a.m. and 8 a.m., respectively. Information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.**

**The Plateau Region Outer Parkway Corporation, Board of Directors, met in Suite 1800, 515 Congress Avenue, Austin, on December 17, 1986, at 9 a.m. Information may be obtained from Thomas H. Hill, 515 Congress Avenue, Suite 1800, Austin, Texas 78701, (512) 499-8200.**

**The San Antonio River Authority, Board of Directors, have rescheduled a meeting to be held at 100 East Guenther, San Antonio, on December 17, 1986, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.**

**The West Texas Council of Governments, Board of Directors, will meet in the Section D-Grand Ballroom, Westin Paso Del Norte Hotel, 101 South El Paso Street, El Paso, on December 19, 1986, at 1 p.m. Information may be obtained from Cecile C. Gamez, 123 Pioneer Plaza, Suite 210, El Paso, Texas 79901, (915) 533-0998.**

**The Wood County Appraisal District, Board of Directors, met in the conference room, 217 North Main, Quitman, on December 18, 1986, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946. TRD-8611554**

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### **Regional Agencies Meetings Filed December 15**

**The East Texas Council of Governments, Private Industry Council, met at 2440 East Fifth Street, Suite 102, Tyler, on December 18, 1986, at 9:30 a.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.**

**The Heart of Texas Region Mental Health/Mental Retardation Center, Board of Trustees, met in emergency session at 110 South 12th Street, Waco, on December 16, 1986, at 11:45 a.m. Information may be obtained from Jan Baty, 110 South 12th Street, Waco, Texas 76701, (817) 752-3451 ext. 213.**

**The Hunt County Tax Appraisal District, Board of Directors, met in the boardroom, 4815-B King Street, Greenville, on December 18, 1986, at 6 p.m. Information may be obtained from Joe Pat Davis or Jeanette Jordan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.**

**The South Texas Development Council, Border Area Nutrition Council, met at the Zapata Community Center, Zapata, on December 18, 1986, at 10:30 a.m. Also meeting on the same date at the same location are the following committees; Sted Corporation Board of Trustees at 11 a.m. and the Board of Directors at 1 p.m. Information may be obtained from Juan Vargas, P.O. Box 2187, Laredo, Texas 78044-2909, (512) 722-3995.**

**The Tyler County Tax Appraisal District, Appraisal Review Board, met at 103 Pecan, Woodville, on December 18, 1986, at 2 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.**

**The Wood County Appraisal District, Board of Directors, met in the conference room, 217 North Main, Quitman, on December 18, 1986, at 1:30 p.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946. TRD-8611586**

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### **Regional Agencies Meetings Filed December 16**

**The Bexar Appraisal District, Appraisal Review Board, met in emergency session at 535 South Main, San Antonio, on December 18, 1986, at 4:30 p.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.**

**The Bosque County Appraisal District, Board of Directors, will meet in the Judges Chambers, Bosque County Courthouse, Meridian, on December 20, 1986, at 9 a.m. Information may be obtained from David G. Cooper, P.O. Box 393, Meridian, Texas 76665, (817) 435-2305. TRD-8611616**

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# In Addition

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

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

## Texas Air Control Board Notice of Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of December 1-5, 1986.

Information relative to the applications listed below, 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 TACB at the address stated above 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.

Maxwell House Division General Foods, Houston; coffee roasters; 3900 Harrisburg Boulevard; 17723; new source

Wishert-Thompson, Inc., Karnes City; fiberglass tanks and pipe fabric facility; 321 South Market; 17724; new source

Oasis Pipeline Company, Orla; gas sweetening plant; Lago Amine Plant; 17726; new source

Rescar, Inc., Longview; railcar cleaning and paint facility; 300 Service Drive; 17725; new source

Encogen One Partners, Ltd., Dallas; cogeneration facility; 13500 North Central Expressway; 17740; new source

Gulfcoast Waste Disposal Authority, Texas City; incinerator; 1600 Campbell Bay on Road; 17749; new source

Rhone Poulenc, Freeport; diisocyanates products unit; 6213 Highway 332 East; 17750; new source

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

TRD-8611513 Bill Ehret  
Hearings Examiner  
Texas Air Control Board

Filed: December 11, 1986  
For further information, please call (512) 451-5711, ext. 353.

## Notice of Public Hearing

Notice is hereby given pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §§3.12, 3.15-3.17 (hereinafter referred to as the Act), the Procedural Rules of the Texas Air Control Board, §103.31 (hereinafter referred to as the TACB), and the Federal Clean Air Act, §113(a)(1), 42 United States Code 7401, *et seq.*, that an examiner for the TACB will conduct a public hearing at 7 p.m., on January 12, 1987, at the Arlington Community Center located at 2800 South Center in Arlington, Tarrant County, Texas 76014.

The purpose of the hearing will be to consider a proposed order regarding the Arlington, Tarrant County operations of General Motors Corporation (hereinafter referred to as the company). The company's automobile and light duty truck coating operation will be unable to achieve the additional emission reductions required after December 31, 1986, by TACB §115.191(8)(B). The order is proposed to satisfy the requirements of the Federal Clean Air Act, §113, relating to delayed compliance orders and will require compliance with TACB §115.191(8)(B) by August 28, 1987. Until then, the company will be required to maintain its current level of emission control in compliance with the volatile organic compound emission limitations contained in §115.191(8)(A), which are in effect until December 31, 1986.

The order as proposed will require the company to install and begin operation of additional abatement equipment by August 28, 1987, and to subsequently submit performance testing documenting compliance. The record of this hearing, including written comments submitted pursuant to this notice, will be used to determine if the proposed order meets the applicable state and federal requirements.

Copies of the proposed order and background information are available for public inspection at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, and the regional office of the TACB located at 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116.

Comments on the proposed order, both oral and written, are invited at the public hearing.

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

TRD-8611514 Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: December 11, 1986  
For further information, please call (512) 451-5711, ext. 353.



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## Automated Information and Telecommunications Council Tentative Schedule of Council Meetings for Calendar Year 1987

At its last open meeting, the council tentatively decided to schedule its future meetings on the third Friday of each month, with the exception of holiday periods. Therefore, for the information and convenience of interested parties, the council has scheduled its 1987 meetings for the following dates: January 16, February 20, March 20, April 16, May 15, June 19, July 17, August 21, September 18, October 16, November 20, and December 18. The time and place of individual meetings will be promulgated in accordance with the provisions of the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

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

TRD-8611582 Robert B. Jordan  
Executive Director  
Automated Information and  
Telecommunications Council

Filed: December 12, 1986  
For further information, please call (512) 463-5530.



## Banking Department of Texas Notice of Application

Texas Civil Statutes, Article 342-410a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On August 19, 1986, the banking commissioner received an application to acquire control of the First State Bank, Chilton, by John H. Mackey, Benjamin J. Cuba, and Billy B. Soltow of Copperas Cove; and Michael L. Brock, of Temple.

On December 9, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

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

TRD-8611483 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: December 10, 1986  
For further information, please call (512) 479-1200.



Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On November 18, 1986, the banking commissioner received an application to acquire control of the Plano Bank and Trust of Plano; by Jeanne Fields Shelby, and Patrick B. Shelby, of Dallas.

On December 9, 1986, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

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

TRD-8611484 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: December 10, 1986  
For further information, please call (512) 479-1200.



## Texas Cancer Council Cancer Education Skills Development Labs

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Cancer Council (TCC) requests proposals for implementation of cancer education skills development in multiple institutions in Texas.

**Description of services.** The purpose of this request for proposal is to develop the capacity to train physicians in Texas in the latest and most useful cancer prevention and detection skills through the development of cancer skills development labs. The contractor(s) will plan, develop, organize, and implement a uniform educational module, including student evaluation, to train health professional students in cancer control skills. The primary emphasis of such a program is on initial exposure to requisite skills for prevention, screening, and early detection initiatives of the Texas Cancer Plan.

In its final report, the Legislative Task Force on Cancer in Texas (LTFCT) emphasized the crucial role of the physician in prevention, detection, and treatment of cancer. Implementation of this program will help to lower the risks for developing cancer through prevention; to detect, diagnose, and treat cancer earlier, when cure is more likely; and to improve the accessibility, availability, and quality of cancer resources, services, and programs in Texas.

The Physician Education Workgroup recommended that medical schools (allopathic and osteopathic) and family practice residency programs provide skills training to medical students, family practice, and primary care physicians in urban and rural areas.

These skills could include flexible sigmoidoscopy techniques, patient cancer family history taking, risk group assessment for various organ malignancies, etc.; they could be taught by using innovative approaches such as development of skills labs. The workgroup also recommended targeted funding to insure that all the training programs have the necessary equipment, materials, and faculty experience to provide training in the principles, techniques, and skills for cancer prevention, detection, and screening.

**Major tasks.** There are seven overall tasks to be accomplished.

- (1) Identify specific cancer control knowledge and skills which can be developed and enhanced through the resources of a cancer skills lab.
- (2) Identify how these cancer skills labs will be integrated into existing educational programs and resources.
- (3) Specify necessary equipment and complementary resources to implement the program.

- (4) Implement the program at the contractor's site.
- (5) Develop a strategy and the necessary instrumentation for the evaluating the (cost) effectiveness of the cancer skills lab.
- (6) Coordinate with other TCC initiatives.
- (7) An optional component can be offered that would support the replication of the proposed cancer skills lab.

This would include the development of a technical report that describes the procedures, operational costs, required space, personnel requirements, and evaluation instruments necessary for the proper implementation of a cancer skills lab. The intent of this optional component is to provide a resource guide that will facilitate the implementation of cancer skills labs in other physician training institutions.

**Eligible organizations.** This request for proposal is targeted to those medical institutions in the state of Texas responsible for the education and training of physicians at the undergraduate and graduate level, including the allopathic and osteopathic medical schools, family practice programs, and comprehensive cancer centers. Any organization interested in submitting a proposal in response to this request for proposal should request a copy of a survey instrument to be completed and returned with the organization's proposal.

**Proposal format.** Each proposal will contain two parts, a technical proposal and a business proposal. The technical proposal will specify the overall program priority area, the specific problem(s) to be addressed, the scope of work to be undertaken, including major tasks and activities, a timetable with major milestones and delivery schedule, an organizational plan with manpower estimates by major task, identification of key personnel, and an evaluation plan.

The business proposal will specify the estimated cost to the Texas Cancer Council if the proposal is funded and other terms and conditions related to the proposal. The estimated cost must be on a line item budget basis to fully identify the type of expense anticipated and, where appropriate, to estimate these costs for each major task identified in the technical proposal.

Other terms and conditions must include the time period during which the proposal is valid, and who is authorized to negotiate any matters related to the proposal on behalf of the submitting agency or organization.

**Timetable.** The Cancer Education Skills Development Labs initiative is intended to be at least a five-year program overall. During this period, all targeted institutions in the state will be encouraged to participate through a one-time contract not to exceed two years in duration. However, submitted cost proposals should cover only the first phase of the program in detail for a total of no longer than eight months, ending August 31, 1987, with more general budgeting for the balance of a two-year program.

**Evaluation procedures.** The criteria used to evaluate the offers include:

- (a) background, experience, and knowledge in physician education programs and how this initiative will fit in with the institutions' current education programs;
- (b) the offeror's ability to complete the project in a quality manner and within the time frame allowed;
- (c) the submission of a proposal addressing all of the required areas, with a reasonable budget to achieve the major tasks;
- (d) the offeror's plan for completing the project on or before the deadline to be stipulated in the contract;
- (e) the consistency of the offeror's plan with the Texas Cancer Plan; and

- (f) the description of the offeror's organization or agency.

The Texas Cancer Council reserves the right to accept or reject any or all proposals submitted. The Texas Cancer Council is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends that any materials provided be used only as a means of identifying qualified applicants. This request does not commit the Texas Cancer Council to pay any costs incurred prior to execution of a contract.

**Contact person.** The contact person is Richard Merkel, Executive Director, Texas Cancer Council, P. O. Box 12097, Austin, Texas 78711, (512) 463-3190.

**Due date.** All proposals must be submitted by the close of business on the 30th day after the first date of publication of this notice. Proposals must be mailed by certified mail or delivered directly to the contact person by the previously mentioned date.

**Cost.** The proposed contract shall be a cost reimbursement type contract. The Texas Cancer Council has adopted a policy to pay for the direct cost of program implementation, including fringe benefits, but excluding indirect or overhead costs. The Texas Cancer Council will assess the reasonableness of the total project cost and specific cost elements by major task. Although not necessarily the deciding factor, this criterion will be considered in the evaluation process. Some level of cost sharing by the contractor is expected. The degree of cost sharing proposed by the contractor will reflect the importance of this effort to ongoing programs of the contractor.

**Final selection.** Multiple awards are expected to be made through this initiative. Final selection will be made by the Texas Cancer Council using the previously identified evaluation criteria. Any awards will not necessarily be made to the lowest bidder, but rather to the lowest and best bidders, considering cost and the results of the Council's evaluation.

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

TRD-8611581      James D. Dannenbaum  
Chairman  
Texas Cancer Council

Filed: December 12, 1986

For further information, please call (512) 463-3190.



## Implement Texas Cancer Plan Marketing Support Services Program

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Cancer Council requests proposals for implementation of a program to provide information support services for the Texas Cancer Plan.

**Description of services.** The contractor will plan, develop, organize and implement an information support services program for the Texas Cancer Plan and the Texas Cancer Council. This program must serve as a catalyst for dissemination of information in order to increase the awareness of the plan's goals and objectives among appropriate audiences in the state.

In its final report, the Legislative Task Force on Cancer in Texas (LTFCT) emphasized the crucial role of public awareness in reducing the burden of cancer in Texas through prevention, detection, and treatment of cancer. Implementation of this program will help to lower the risks

for developing cancer through prevention; to detect, diagnose, and treat cancer earlier, when cure is more likely; and to improve the accessibility, availability, and quality of cancer resources, services, and programs in Texas.

**Major tasks.** There are five overall tasks to be accomplished:

- (1) Identify and prioritize target audiences for Texas Cancer Plan information efforts.
- (2) Develop information objectives for the Texas Cancer Plan and particular projects as appropriate.
- (3) Develop and implement strategies for achieving information objectives.
- (4) Develop promotional tools as appropriate to implement and support strategies; tools should include, but are not limited to, a Texas Cancer Council newsletter, a general brochure, fact sheets, news releases, and articles in selected media.
- (5) Conduct ongoing evaluation of the effectiveness of information and information support efforts.

**Eligible organizations.** Any agency or organization in Texas may submit a proposal to achieve this program. The submitting agency/organization should have expertise in development and implementation of information support programs in health care and/or health and human services.

**Proposal format.** Each proposal will contain two parts, a technical proposal and a business proposal. The technical proposal will specify the overall program priority area, the specific problem(s) to be addressed, the scope of work to be undertaken, including major tasks and activities, a timetable with major milestones and delivery schedule, an organizational plan with manpower estimates by major task, identification of key personnel, and an evaluation plan.

The business proposal will specify the estimated cost to the Texas Cancer Council if the proposal is funded and other terms and conditions related to the proposal. The estimated cost must be on a line-item budget basis to fully identify the type of expense anticipated and, where appropriate, to estimate these costs for each major task identified in the technical proposal.

Other terms and conditions must include the time period during which the proposal is valid, and who is authorized to negotiate any matters related to the proposal on behalf of the submitting agency or organization.

**Timetable.** The Texas Cancer Plan Marketing Support Services Program is intended to be at least a two year program. However, submitted proposals should cover only the first phase of the program in detail for a total of no longer than eight months, ending August 31, 1987, with some general discussion of the overall two year program.

**Evaluation procedures.** The criteria used to evaluate the offers include:

- (a) background, experience, and knowledge of information support services;
- (b) the offerer's ability to complete the project in a quality manner and within the time frame allowed;
- (c) the submission of a proposal addressing all of the required areas, with a reasonable budget to achieve the major tasks;
- (d) the offerer's plan for completing the project on or before the deadline to be stipulated in the contract; and
- (e) the description of the offerer's organization or agency.

The Texas Cancer Council reserves the right to accept or reject any or all proposals submitted. The Texas Cancer Council is under no legal requirement to execute a resulting

contract on the basis of this advertisement and intends that any materials provided be used only as a means of identifying qualified applicants. This request does not commit the Texas Cancer Council to pay any costs incurred prior to execution of a contract.

**Contact person.** The contact person is Richard Merkel, Executive Director, Texas Cancer Council, P. O. Box 12097, Austin, Texas 78711, (512) 463-3190.

**Due date.** All proposals must be submitted by the close of business on the 30th day after the first date of publication of this notice. Proposals must be mailed by certified mail or delivered directly to the contact person by the previously mentioned date.

**Cost.** The proposed contract shall be a cost reimbursement type contract. The Texas Cancer Council has adopted a policy to pay for the direct cost of program implementation, including fringe benefits, but excluding indirect or overhead costs. The Texas Cancer Council will assess the reasonableness of the total project cost and specific cost elements by major task. Although not necessarily the deciding factor, this criterion will be considered in the evaluation process. Some level of cost sharing by the contractor is expected. The degree of cost sharing proposed by the contractor will reflect the importance of this effort to ongoing programs of the contractor.

**Final selection.** Final selection will be made by the Texas Cancer Council using the previously identified evaluation criteria. The award will not necessarily be made to the lowest bidder, but rather to the lowest and best bidder, considering cost and the results of the council's evaluation.

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

TRD-8611562 James D Dannenbaum  
Chairman  
Texas Cancer Council

Filed: December 12, 1986  
For further information, please call (512) 463-3190

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## Public Information/Education Outreach Program

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Cancer Council requests proposals for implementation of a Public Information/Education Outreach Program.

**Description of services.** The contractor(s) will plan, develop, and implement a public information/education outreach program(s) containing the components recommended within the Texas Cancer Plan. This program or set of programs must address the following areas: 1) a public information campaign for the general populace on cancer risks; 2) community education targeted to rural audiences; 3) a hospital public education consortium; and 4) enhancement of cancer information resources for electronic media. The contractor(s) must be responsive to the public education recommendations of the Texas Cancer Plan; implementation of an innovative public information campaign, implementation of a cancer information campaign for special audiences, expansion of the role of hospitals in community cancer risk education, and expansion of the role of the media in community cancer education.

The Legislative Task Force on Cancer in Texas (LTFCT) emphasized the need for expanded community education



to lower the risks for developing cancer through prevention.

**Major tasks.** There are four overall categories of tasks to be accomplished:

(1) Development and implementation of a public information campaign on cancer risks for the general population. This campaign should include the design of a cancer prevention symbol/character for use in the cancer fight. The campaign must also develop and utilize effective delivery mechanisms.

(2) Development and implementation of a rural outreach community cancer education program. This program should include use of the print media among its actions and is encouraged to build upon previous efforts of the Agricultural Extension Service.

(3) Design and implementation of a community cancer education consortium among hospitals. This segment of the project should include development of a model community education program in cancer prevention and risk reduction for hospitals. The hospitals involved in the consortium will target their community education according to the demographics of their region, paying particular attention to any special audiences within their area.

(4) Enhancement of cancer information resources for television. This project should include development of a cancer video series/library for use by all TV stations in Texas. It should also design and implement a cancer information conference for electronic media reporters. The conference should feature cancer experts and provision of media cancer kits. This project should also encourage the networking of electronic health/medical reporters.

**Eligible organizations.** These projects can be discreet programs, each undertaken by a separate agency or organization. They can also form a unified public education outreach program, facilitated by one agency/organization with capability in each appropriate area or a consortium of organizations/agencies, including a single proposal with a series of subcontracts.

**Proposal format.** Each proposal will contain two parts, a technical proposal and a business proposal. The technical proposal will specify the overall program priority area, the specific problem(s) to be addressed, the scope of work to be undertaken, including major tasks and activities, a timetable with major milestones and delivery schedule, an organizational plan with manpower estimates by major task, identification of key personnel, and an evaluation plan.

The business proposal will specify the estimated cost to the Texas Cancer Council if the proposal is funded and other terms and conditions related to the proposal. The estimated cost must be on a line-item budget basis to fully identify the type of expense anticipated and, where appropriate, to estimate these costs for each major task identified in the technical proposal.

Other terms and conditions must include the time period during which the proposal is valid, and who is authorized to negotiate any matters related to the proposal on behalf of the submitting agency or organization.

**Timetable.** The Public Information/Education Outreach Program is intended to be a five-year program. However, submitted proposals should cover only the first phase of the program in detail, ending August 31, 1987, with some general discussion of a longer term program.

**Evaluation procedures.** The criteria used to evaluate the offers include:

(a) appropriate public information and/or cancer program background;

(b) the offeror's ability to complete the project in a quality manner and within the time frame allowed;

(c) the submission of a proposal addressing all of the required areas, with a reasonable budget to achieve the major tasks;

(d) the offeror's plan for completing the project on or before the deadline to be stipulated in the contract; and

(e) the description of the offeror's organization or agency.

The Texas Cancer Council reserves the right to accept or reject any or all proposals submitted. The Texas Cancer Council is under no legal requirement to execute a resulting contract on the basis of this advertisement and intends that any material provided be used only as a means of identifying qualified applicants. This request does not commit the Texas Cancer Council to pay any costs incurred prior to execution of a contract.

**Contact person.** The contact person is Richard Merkel, Executive Director, Texas Cancer Council, P. O. Box 12097, Austin, Texas 78711, (512) 463-3190.

**Due date.** All proposals must be submitted by the close of business on the 30th day after the first date of publication of this notice. Proposals must be mailed by certified mail or delivered directly to the contact person by the previously referred date.

**Cost.** The proposed contract shall be a cost reimbursement type contract. The Texas Cancer Council has adopted a policy to pay for the direct cost of program implementation, including fringe benefits, but excluding indirect or overhead costs. The Texas Cancer Council will assess the reasonableness of the total project cost and specific cost elements by major task. Although not necessarily the deciding factor, this criterion will be considered in the evaluation process. Some level of cost sharing by the contractor is expected. The degree of cost sharing proposed by the contractor will reflect the importance of this effort to ongoing programs of the contractor.

**Final selection.** Final selection will be made by the Texas Cancer Council using the previously identified evaluation criteria. The award will not necessarily be made to the lowest bidder, but rather to the lowest and best bidder, considering cost and the results of the council's evaluation. Multiple awards are possible.

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

TRD-8611563 James D. Dannebaum  
Chairman  
Texas Cancer Council

Filed: December 12, 1986

For further information, please call (512) 463-3190.

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## Texas Department of Community Affairs

### Notice of Public Hearing

The Texas Department of Community Affairs (TDCA) announces that a public hearing will be held pursuant to the Energy Conservation in Existing Buildings Act, Weatherization Assistance for Low-Income Persons, 42 United States Code 6861, *et seq.* The purpose of the public hearing is to receive comments on a proposed state plan for Weatherization Assistance for Low-Income Persons (WAFLIP) Program activities in the State of Texas for 1987.

This public hearing will be held at 10 a.m., January 9, 1987, in the conference room, first floor, 8317 Cross Park Drive (near the Highway 290 East and 183 intersection), Austin. At this hearing, state agency representatives will provide descriptions of the program and the proposed use of United States Department of Energy funds for its weatherization program year which begins April 1, 1987.

Local officials and citizens are encouraged to participate in the hearing process and express their views. Written or oral comments that are received will be used to prepare the final program state plan. Written comments from those who cannot attend the hearing in person may be provided by January 6, 1987, to Barbara Cigainero, Director, Economic Opportunity Division of the Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711.

Copies of the proposed plan will be available in late December 1986, and may be obtained from the Economic Opportunity Division at the previously mentioned mailing address or by calling (800) 252-9642, ext. EOD, or (512) 834-6224. The contact person is Ms. Cigainero.

Issued in Austin, Texas, on December 15, 1986.

TRD-8611558 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: December 12, 1986  
For further information, please call (512) 834-6060.

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## Texas Department of Health Intent to Revoke Radioactive Material Licenses

The Bureau of Radiation Control, Texas Department of Health, filed complaints against the following licensees for failure to pay fees pursuant to Texas Regulations for Control of Radiation (TRCR) 13.8:

- (1) Gear Tex Well Service, Inc., P.O. Box 9696, Corpus Christi, Texas 78469, Radioactive Material License 8-2152
- (2) B. W. Henderson, 1023 Mound Street, Suite A, Nacogdoches, Texas 75961, Radioactive Material License 10-3519
- (3) Chapparral Inspection Company, P.O. Box 9425, Odessa, Texas 79762, Radioactive Material License 12-3139
- (4) Federal Industrial X-Ray Company, P.O. Box 1163, Friendswood, Texas 77546, Radioactive Material License 11-3170
- (5) East Loop Medical Imaging Center, 7000 Fannin, Suite M110, Houston, Texas 77030, Radioactive Material License 11-2614
- (6) Malley, Bartos and Company, 2407 Sophora, Dallas, Texas 75249, Radioactive Material License 5-3552
- (7) Texas Wesleyan College, 3101 Rosedale, Fort Worth, Texas 76105, Radioactive Material License 5-1566
- (8) Lakeland Medical Center, 405 Lindsey Lane, Athens, Texas 75751, Radioactive Material License 7-2470
- (9) Luis S. Acosta, M.D., P.A., 17202 Red Oak, Suite 103, Houston Texas 77090, Radioactive Material License 11-3735
- (10) Alpha Wireline Services, Inc., P.O. Box 189, Converse, Texas 78107, Radioactive Material License 9-3775
- (11) State Perforating, P.O. Box 936, Gainesville, Texas 76240, Radioactive Material License 5-2134

(12) Fluor Engineers and Construction, Inc., 3333 Michelson Drive, Irvine, California 92730, Radioactive Material License 11-2643

The agency intends to revoke the radioactive material licenses, order the licensees to cease and desist use of such radioactive materials, and order the licensees to divest themselves of such radioactive material, presenting evidence satisfactory to the Bureau of Radiation Control that they have complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the fee is paid within 30 days of the date of each complaint, no order will be issued.

This notice affords the opportunity for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas from 8 a.m. to 5 p.m., Monday through Friday (except holidays).

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

TRD-8611560 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: December 12, 1986  
For further information, please call (512) 835-7000.

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## Texas Department of Human Services Amended Consultant Contract Award

In the February 11, 1986, issue of the *Texas Register* (11 TexReg 818), the Texas Department of Human Services announced the award of a consultant contract to Edward J. Doerhoefer, One American Plaza, Evanston, Illinois 60201. At this time, the amount of the contract is increased to a total of \$120,000.

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

TRD-8611564 Marlin W. Johnston  
Commissioner  
Texas Department of Human Services

Filed: December 12, 1986  
For further information, please call (512) 450-3766.

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## Nuclear Waste Programs Office, Texas Department of Public Safety Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the Nuclear Waste Programs Office (NWPO) announces the award of a consultant contract. The required consultant proposal request appeared in the October 24, 1986, issue of the *Texas Register* (11 TexReg 4455).

Under the terms of the contract the consultant will provide the following services: assist the NWPO in scoping activities and developmental activities for potential formal negotiations between the State of Texas and the United States Department of Energy (DOE) of a high-level radioactive waste consultation and cooperation agreement under the authority of the Nuclear Waste Policy Act of 1982 §117(c); assist the office in planning and carrying out socioeconomic and institutional studies regarding the plans for and potential impacts of the DOE repository program; assist the office in its planning for and participation in activities of federal and state agencies and organizations as they relate to implementation of the DOE repository program; and travel to Austin or other locations at the request of the office and meet with office and other state staff and officials to provide briefings, status reports, and other information regarding the work, and to seek information relevant to the work products.

The contract was awarded to David W. Stevens, Inc., 1621 South Eastside Street, Olympia, Washington 98501. The beginning date of the contract is December 1, 1986; the ending date is August 31, 1987; the total value of the contract is \$50,000.

The due dates for any written and verbal reports prepared in providing the services described will be established based on the availability of written reports and notification of plans and decisions of the United States Department of Energy.

Issued in Austin, Texas, on December 11, 1986.

TRD-8611539 James B Adams  
Director  
Texas Department of Public Safety

Filed: December 12, 1986  
For further information, please call (512) 465-2345.

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## Texas Savings and Loan Department Notice of Application for Change of Control of Preferred Savings Association, Houston

Texas Civil Statutes, Article 852a, §11.20, requires any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On December 11, 1986, the savings and loan commissioner received an application for approval of the acquisition of control of Preferred Savings Association, Houston, by Herbert L. Williams, Houston.

Any inquiries may be directed to the Texas Savings and Loan Department, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

Issued in Austin, Texas, on December 11, 1986

TRD-8611529 Russell R. Olliver  
General Counsel  
Texas Savings and Loan Department

Filed: December 11, 1986  
For further information, please call (512) 479-1250.

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## Texas Water Commission Application for Provisionally- Issued Temporary Permits

Notice is given by the Texas Water Commission of provisionally-issued temporary permits issued during the period of December 1-12, 1986.

These permits were issued without notice and hearing pursuant to the Texas Water Code, §11.138, and commission Rules 31 TAC §§303.91-303.93.

The executive director has reviewed each application and found that sufficient water was available at the proposed point of diversion to satisfy the requirements of the applications as well as all existing water rights. It is further noted that these diversions are for not more than 10 acre-feet of water and for a period of not more than one year. If a complaint is received before or after diversions are commenced, a preliminary investigation shall be made by the executive director to determine whether there is a reasonable basis for such complaint. Should the investigation indicate that there is a probability that diversions could result in injury to the complainant, the permit will be canceled, and the application will revert to the status of a pending application and no further diversions may be made until a public hearing is held. Notice of the hearing shall then be sent to the complaining person.

Information concerning any aspect of these permits may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8218.

Listed are the names of the permittees, diversion point, watercourse, amount of water authorized, period of time of the permit, permit number, and the date issued/administratively-complete.

Dyad Petroleum Company; from the stream crossing near U.S. Highway 277, approximately 10 miles east of Robert Lee, Coke County; Colorado River; three acre-feet; one-year period; TP-5603; December 1, 1986

Gregory and Cook/Associated Pipe Line, Joint Venture; from the stream crossing of a brine pipeline, approximately 28 miles south of Beaumont, Jefferson County; Gulf Intra-coastal Waterway, tributary East Bay, tributary Galveston Bay, tributary Gulf of Mexico; 10 acre-feet; four-month period; TP-5604; December 1, 1986

CCE, Inc.; from the stream crossing of State Highway 21, approximately 1½ miles north of Hemphill, Sabine County; Lobanealla Creek, tributary Palo Gaucho Bayou, tributary Sabine River; one acre-foot; three-month period; TP-5605; December 2, 1986

Granite Construction Company; from four stream crossings along IH 35E, approximately six and 4½ miles north two miles northwest and three miles south of Waxahachie, Ellis County; North Grove Creek, tributary Grove Creek, tributary Red Oak Creek, and South Grove Creek, tributary Grove Creek, and Waxahachie Creek, tributary Chambers Creek, tributary Richland Creek, and South Prong Creek, tributary Waxahachie Creek, all tributaries Trinity River; 10 acre-feet; one-year period; TP-5606; December 8, 1986

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

TRD-8611580 Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: December 12, 1986  
For further information, please call (512) 463-7898.

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