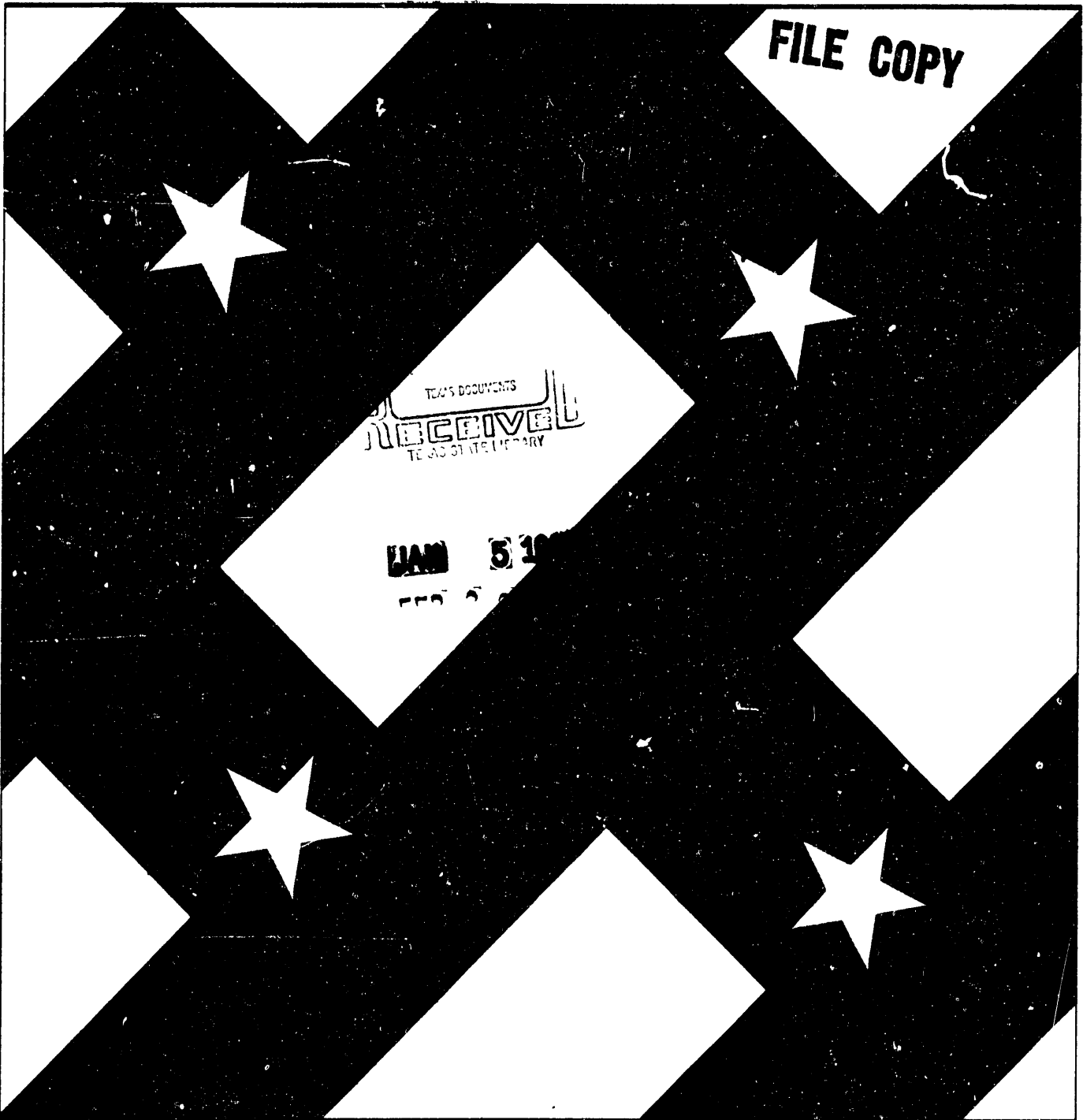


# Texas Register

Volume 11, Number 95, December 26, 1986

Pages 5107-5151



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## Highlights

The Texas Department of Community Affairs proposes an amendment concerning the allocation of community development block grant nonentitlement area funds under the Texas Community Development Program. Earliest possible date of adoption - January 26 ..... page 5116

The Railroad Commission of Texas proposes

a new section concerning operations of motor bus companies. Earliest date adoption - January 26 ..... page 5116

The Texas Department of Labor and Standards proposes an amendment concerning industrialized housing and building standards and codes. Earliest possible date of adoption - January 26 ..... page 5118

Office of  
the Secretary  
of State

## Texas Register

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

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Secretary of State

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

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# The Governor

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

## Appointment Made December 15

### 11th District Court of Appeals

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

William G. Arnot  
773 Rivercrest  
Abilene, Texas 79605

Mr. Arnot is replacing Raleigh Brown of Eastland, Eastland County, who resigned.



## Appointments Made December 16

### Judicial Council

For a term to expire February 1, 1989:

Robert A. Gammage  
Third Court of Appeals  
Supreme Court Building  
Austin, Texas 78701

Judge Gammage is replacing Robert Owen Smith of Austin, Travis County, whose term expired.



## Texas Employment Commission

For a term to expire November 21, 1988:

Nancy Barnes  
8501 Hickory Creek Drive  
Austin, Texas 78735

Ms. Barnes is replacing Eddie Grisham of Austin, Travis County, who resigned.

For a term to expire February 1, 1993:

Ronald E. Luna  
1383 Old Lockhart Road  
Buda, Texas 78610

Mr. Luna is being reappointed.

Issued in Austin, Texas, on December 17, 1986.

TRD-8611882

Mark White  
Governor of Texas

# Attorney General

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

## Requests for Opinions

**JM-583 (RQ-851).** Request from Kenneth H. Ashworth, commissioner, Coordinating Board, Texas College and University System, Austin, concerning whether a member of the board of trustees of a community college district must abstain from voting on particular matters under Texas Civil Statutes, Article 988b, where he is an officer in a bank affected by the vote and holds a substantial interest therein.

**Summary of Opinion.** Section 23.75 of the Texas Education Code constitutes an implied exception to the provisions of Texas Civil Statutes, Article 988b. Under §23.75 of the Texas Education Code, a trustee of a community college district who is also a stockholder, officer, director, or employee of the district's depository bank may vote on matters which would result in an expenditure and thereby decrease the funds on deposit in the depository bank. Attorney General Opinion M-331 (1969) is overruled.

TRD-8611672

★ ★ ★

**JM-585 (RQ-858).** Request from Erwin W. Barton, chairman, Human Services Committee, Texas House of Representatives, P.O. Box 2910, Austin, concerning whether the county auditor or the county treasurer is the county payroll disbursing officer for purposes of Title 110B, Texas Civil Statutes, governing public retirement systems.

**Summary of Opinion.** In counties with a population of 10,000 inhabitants or more, the proper county payroll disbursing officer for purposes of Title 110B, Texas Civil Statutes is the county treasurer rather than the county auditor.

TRD-8611674

★ ★ ★

**JM-584 (RQ-853).** Request from Karl E. Bishop, executive director, Texas Board of Licensure for Nursing Home Administrators, Austin, concerning whether the Texas Board of Licensure for Nursing Home Administrators may hold meetings by teleconference call.

**Summary of Opinion.** In the absence of specific legislative authorization, a governmental body that meets by telephone conference call will not comply with the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

TRD-8611673

## Open Records Decision

**ORD-451 (RQ-926).** Request from Bob E. Bradley, executive director, Texas State Board of Public Accountancy, Austin, concerning whether the Open Records Act, Texas Civil Statutes, Article 6252-17a, authorizes the Texas State Board of Public Accountancy to withhold information pertaining to a pending complaint against a licensee.

**Summary of Decision.** Whether or not information pertaining to a pending complaint against a licensee of the Texas State Board of Public Accountancy is within §3(a)(3) of the Open Records Act, Texas Civil Statutes, Article 6252-17a, §25 of Article 41a-1, requires the board to provide that information to the licensee's attorney.

TRD-8611671



# Emergency

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

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

## TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division

### Titling

#### ★ 16 TAC §69.202

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §69.202, which the department adopted on an emergency basis in the November 25, 1986, issue of the *Texas Register* (11 TexReg 4787), concerning a limitation of the number of quick titles which may be filed for processing with the department by a registered manufactured housing applicant to one per day.

The amendment prevents any bottleneck being created by processing quick titles. Adoption of the amendment on an emergency basis is necessary to put the system in place due to current request and excessive demand. Issuance of titles is vital to the manufactured housing industry.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 5221f, which provide the commissioner of the department with the authority to adopt and promulgate rules, regulations, and administrative orders.

#### §69.202 Fees for Title Documents

##### (a) Title Transaction Fees.

(1) (No change.)

(2) There shall be an additional fee of \$15 for the issuance of a quick title. A quick title shall be defined as the processing of the title transfer documents within 72 hours. Title transfer documents must be hand delivered in good transfer order to the department's titling section in Austin for the

issuance of a manufactured housing title on a quick title basis. No mail in's or express delivery or express mail service will be accepted for quick title transfer service. In order to assure the 72 hour service, no more than one application will be accepted per applicant per day.

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

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

TRD-8611706

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

Effective date: December 19, 1986

Expiration date: March 17, 1987

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

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## TITLE 34. PUBLIC FINANCE Part IV. Employees Retirement System of Texas

### Chapter 81. Insurance

#### ★ 34 TAC §81.3

The Employees Retirement System of Texas adopts on an emergency basis an amendment to §81.3, concerning health maintenance organizations (HMOs). This section is amended on an emergency basis, effective immediately, to allow HMOs additional time by postponing the due date for HMO applications for fiscal year 1988 until February 1, 1987. This will assure the adequacy of the rates submitted by HMOs. The new application deadline will also more closely coincide with the culmination of the Blue Cross rerate for fiscal year 1988.

The amendment is adopted on an emergency basis under the Texas Insurance Code, Article 3.50-2, §4 and §4A, which provides the Employees Retirement System of Texas with the authority to adopt rules necessary to implement the State Uniform Group Insurance Program, and the Texas Insurance Code, Article 3.50-2, §5(e), which authorizes the system to contract with HMOs for health insurance coverages.

#### §81.3. Administration.

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

(c) Health maintenance organizations.

(1) (No change.)

(2) An HMO seeking board approval must satisfy the following conditions.

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

(D) The HMO must submit an annual application, with rates, by February 1 (January 15) of each year to the board of trustees in the format prescribed by the Employees Retirement System. Once submitted, the rates may be modified effective November 1 of the contract year if the board of trustees approves the modification and the HMO gives notice of modification as required by the letter of agreement between the Employees Retirement System and the HMO under which the HMO is currently operating. A request for expansion of service area, as described in this section, shall require a separate application.

(E) (No change.)

(3)-(5) (No change.)

Issued in Austin, Texas, on December 19, 1986.

TRD-8611743

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: December 19, 1986

Expiration date: April 18, 1987

For further information, please call  
(512) 476-6431, Ext. 178.

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# Proposed

## Rules

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

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

### TITLE 10. COMMUNITY DEVELOPMENT

#### Part I. Texas Department of Community Affairs

#### Chapter 9. Texas Community Development Program

#### Subchapter A. Allocation of Program Funds

##### ★ 10 TAC §9.1

The Texas Department of Community Affairs (TDCA) proposes an amendment to §9.1, concerning the allocation of community development block grant (CDBG) nonentitlement area funds under the Texas Community Development Program. The amendment deletes the performance threshold requirements for contracts awarded under the Texas Community Development Program.

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

Mr. Brown 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 greater opportunity for eligible units of general local government to compete for funding under the Texas Community Development Program. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Douglas C. Brown, General Counsel, Texas Department of Community Affairs, 8317 Cross Park Drive, Box 13166, Austin, Texas 78871, within 30 days after the date of this publication.

The amendment is proposed under Texas Civil Statutes, Article 4413(201), which provide Texas Department of Community Affairs with the authority to allocate CDBG nonentitlement area funds to eligible counties and municipalities in accordance with rules and regulations adopted by the TDCA

§9.1. *General Provisions*  
(a)-(k) (No change.)

[(1) Performance threshold requirements.

[(1) Applicability. In addition to the requirements of subsection (g) of this section, this subsection applies to all contractors that have received financial assistance from the TDCA under any project fund and that are applying for additional Texas Community Development Program funds.

[(2) Planning/capacity building fund contracts. In order to be eligible to apply for additional planning/capacity building funding, an applicant must have completed all activities (with the exception of audit and closeout) under such contract.

[(3) Community development project fund, statewide area revitalization fund, and special impact fund contracts. In order to be eligible to apply for Texas Community Development Program funding, an applicant must have completed all activities under such contracts (with the exception of audit and closeout) which were funded utilizing money from at least two program years prior to the program year in which additional Texas Community Development Program funds are being requested. If the effective date of such a contract is one year or less before the date of the current application deadline, the applicant must have begun all construction activities under the contract in order to be eligible to apply for Texas Community Development Program funding.

[(4) Emergency fund, urgent need fund, discretionary funding, and interim financing contracts. In order to be eligible to apply for Texas Community Development Program funding, an applicant must have completed all activities under such contracts (with the exception of audit and closeout) within one year after the effective date of such contracts. This subsection takes effect beginning with federal fiscal year 1985 funded contracts.

[(5) Economic development project contracts. In order to be eligible to apply for economic development funding, an applicant must have completed all activities under such contracts (with the exception of audit and closeout) which were funded utilizing money from at least one program year prior to the program year in which economic development funds are being requested. This subsection takes effect May 1, 1987.]

[(m)] Unobligated and recaptured funds. Any additional funds resulting from the recapture of dollars from a prior year's

allocation, recapture of program income, unobligated funds from a program area specified in subsection (b) of this section, or reallocated funds which the United States Department of Housing and Urban Development has recaptured from small cities grants may be redistributed to eligible communities at the discretion of the executive director of the TDCA within such program areas.

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 18, 1986.

TRD-8611682

Douglas C. Brown  
Texas Department of  
Community Affairs

Earliest possible date of adoption:  
January 26, 1987  
For further information, please call  
(512) 834-6080.

### TITLE 16. ECONOMIC REGULATION

#### Part I. Railroad

#### Commission of Texas Chapter 5. Transportation Division

#### Subchapter M. Motor Bus Companies

##### ★ 16 TAC §5.249

The Railroad Commission of Texas proposes new §5.249, concerning operations wholly within certain cities and their suburbs. The new section clarifies the geographic scope of its jurisdiction under the Motor Bus Act, Texas Civil Statutes, Article 911a (Vernon 1970 and Supplement 1986). The new section defines the words, "operated wholly within any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise," as they are used in §5.248(a)(1)(A), for several major cities in Texas.

Persons who want to offer bus service in and around major cities now face a confusing situation about whether their operations would require a certificate from the Railroad Commission under the Motor Bus

Act. The Act exempts their operations if they are entirely within a city and its suburbs, but there are no generally applicable definitions of what areas constitute suburbs. As a result, each of these operators must apply for a certificate and undertake the expenses and delay involved, even if he believes that his operations are exempt under the city/suburbs provision, or risk being cited by the Railroad Commission or the Department of Public Safety for unlawful operations.

Because licensing proceedings are adjudicative in nature, only the facts adduced in evidence are available to the commission as a basis for deciding whether the operations in question are within its jurisdiction. This has led to the anomalous situation in which areas surrounding a city may be found to be suburbs in one case and not suburbs in another because the applicants' interests in obtaining a motor bus certificate were different and the cases they presented were different.

The commission believes that the suburbs issue is one of general applicability that should be dealt with through rule-making. New §5.249 sets out general boundaries of the commission's jurisdiction for motor bus operations involving four cities: Dallas, Fort Worth, Houston, and San Antonio. These are the cities where the suburbs issue has arisen most often. Any person whose bus operations fit within the areas defined would know, if this new section is adopted, that they do not need a certificate from the commission. The lines drawn by the commission would be a minimum for the suburbs issue; they would not bar someone from applying and offering to prove that a town or area outside the area designated is a suburb of the core city involved.

These proposals are based in part on cases decided by the commission or the courts. In *Yellow Cab Company of Houston, Inc., v. Railroad Commission of Texas*, for example, the court held that the following are within the City of Houston and its suburbs: "Nassau Bay, NASA, University of Houston—Clear Lake Campus, Metro Airlines Terminal, Houston Hobby Airport, Houston Intercontinental Airport, Webster, El Lago, Taylor Lake Village, League City, Kemah, and Seabrook." District Court of Travis County, 250th Judicial District of Texas, September 27, 1983. This was not an exclusive list, since other areas adjacent to Houston had not been covered by the application before the commission or the commission's order that the court was reviewing. Some of the town deemed suburbs lie outside the boundaries of Harris County.

In the application of Burstly Company dba The Link, Docket Number 02886BAIN, the commission dismissed the application May 6, 1985, on grounds that all the bus operations involved would be within Dallas and its suburbs. The territory applied for in that case included the Dallas/Fort Worth Regional Airport, Irving, Richard-

son, and Plano. The suburbs issue was fully briefed and argued to the commission and the agency concluded that even the more outlying areas of Plano and Dallas/Fort Worth Airports are suburbs of Dallas within the meaning of the Motor Bus Act.

There are apparently no commission or court decisions involving bus service in and around Fort Worth or San Antonio in which the jurisdiction of the commission has been contested and ruled upon. The commission's proposals for these cities are influenced by the broad approach taken in the two cases discussed previously. The proposals regarding Fort Worth are based on commission staff evaluation of official county maps and population data. The proposed inclusion of Dallas/Fort Worth Airport as a suburb mirrors the decision of the commission in The Link application discussed previously. Similarly, the proposal for the San Antonio area is based on staff analysis of population data and maps. Development in Bexar County appears to be more concentrated around the city, except for the northeastern Interstate 35 corridor, than is true of the other three cities. As a result, the proposal covers an area generally bounded by Loop 1604.

Michael A. James, acting 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. James 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 bus operators and public officials will have specific standards for determining applicability of the Motor Bus Act. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

The commission invites public comment on this proposal. Comments on whether an area should or should not be designated a suburb should be supported by factual information. In particular, information should address the criteria for determination set out in the court's opinion in the *Villalobos* case. *Villalobos v. Holguin*, 208 S.W.2d 871 (Texas 1948). One of the tests is whether there is substantial farming done between the core city and the area for which a determination is being made. The commission believes that changes in patterns of urban growth in Texas in the almost 40 years since *Villalobos* was decided may have diluted the validity of the farmland criterion. Growth patterns in recent decades reflect surging prices of real estate, zoning requirements, and dependency on the automobile and the creation of urban transportation systems designed for the personal car. Tax considerations have also provided a major influence on

how land is used while being held for development, since active farming of such lands has provided a basis for considerable property tax relief even for property closely bounded by intense development. Comments on this proposal must be submitted in writing within 45 days to Michael A. James, Acting Director, Transportation Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The new section is proposed under Texas Civil Statutes, Article 911a, §4, which provide the Railroad Commission of Texas with the authority to adopt rules for the regulation of motor bus companies.

#### §5.249. *Operations Wholly within Certain Cities and their Suburbs.*

(a) For the purpose of interpreting the phrase, "wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise," in §5.248(a)(1)(A) of this title (relating to Motor Bus Certificates, Rates, and Regulations):

(1) the following are suburbs of Dallas:

(A) all incorporated cities and towns lying wholly or partially within Dallas County;

(B) all unincorporated areas lying within Dallas County;

(C) Dallas/Fort Worth Regional Airport; and

(D) Plano;

(2) the following are suburbs of Fort Worth:

(A) all incorporated cities and towns lying wholly or partially within Tarrant County;

(B) all unincorporated areas lying within Tarrant County; and

(C) Dallas/Fort Worth Regional Airport;

(3) the following are suburbs of Houston:

(A) all incorporated cities and towns lying wholly or partially within Harris County;

(B) all unincorporated areas lying within Harris County; and

(C) Friendswood, Kemah, League City, Pearland, Sugarland, and the Woodlands;

(4) the following are suburbs of San Antonio:

(A) all incorporated cities and towns lying wholly or partially within Loop 1604;

(B) all unincorporated areas lying within Loop 1604; and

(C) Randolph Air Force Base, Selma, and Universal City.

(b) An applicant for a motor bus certificate who asserts that an area not defined by this section is a suburb shall have the burden of proving that assertion.

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-8611707 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Earliest possible date of adoption:  
January 26, 1987

For further information, please call  
(512) 463-7315.

★ ★ ★

## Subchapter U. General and Special Rules of Practice and Procedure

### ★ 16 TAC §5.459

*(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 Railroad Commission, 1701 North Congress Avenue, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Railroad Commission of Texas proposes the repeal of §5.459, concerning annual subscriptions, and new §5.459, concerning document subscriptions. The subscription rates in the section, which were set more than 10 years ago, are far below the commission's preparation and mailing costs, particularly for the tariffs. The provision for railroad freight circulars and orders is out-of-date, since the agency is no longer involved in economic regulation of railroads. The new section revises the list of agencies eligible to receive free subscriptions or individual copies, to comport with the provisions of the Administrative Procedure and Texas Register Act, §8(d), and states that the agency will not offer other free copies of these documents.

Upon adoption of the new section, the commission would set new subscription rates by publishing them in the *Texas Register* as a miscellaneous notice. Subscriptions in effect on the date of adoption of new rates would be honored; new rates would apply to new subscriptions and renewals.

The additional revenues derived from higher subscription rates would approximately defray the commission's preparation and mailing costs. Subscription rates charged for truck tariffs published by commission-approved associations would not be affected by the adoption of this new section.

Michael A. James, acting director, Transportation Division, has determined

that for the first five-year period the proposed section will be in effect there will be no fiscal implications for local government or small businesses as a result of enforcing or administering the section. There will be fiscal implications for state government of \$15,000 each year in 1987-1991, resulting from the estimated additional revenues from subscriptions to tariffs. The fiscal implications for small businesses are no different than those for larger businesses.

Mr. James also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the updating of the section to reflect changes in the law and agency procedures. The possible economic cost to carriers, shippers, brokers, and other interested persons who will be required to pay for documents they now receive free will be the individual tariff subscriber's cost, which ranges from \$5.00-\$50.00, each year in 1987-1991.

Interested persons may provide their views on the proposed rulemaking by submitting written comments, within 30 days of this publication, to Michael A. James, Acting Director, P.O. Drawer 12967, Austin, Texas 78711-2967.

This repeal is proposed under Texas Civil Statutes, Article 911b, §14, and Article 911a, §4, and Texas Civil Statutes, Article 6252-13a, §6, which provides the Railroad Commission with the authority to establish rules.

#### §5.459. Annual Subscriptions.

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-8611708 Walter Earl Lillie  
Special Counsel  
Railroad Commission

Earliest possible date of adoption:  
January 26, 1987

For further information, please call  
(512) 463-7315

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This new section is proposed under Texas Civil Statutes, Article 911b, §14, and Article 911a, §4, and Texas Civil Statutes, Article 6252-13a, §6, which provide the Railroad Commission with the authority to establish rules.

#### §5.459. Document Subscriptions.

(a) The following documents are available by subscription from the Rates Section of the Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967:

(1) transportation notice of hearing (bi-monthly notice);

(2) motor freight circulars and orders;

(3) all Railroad Commission-issued tariffs and supplements.

(b) Subscriptions to the documents listed in this section are available free of charge, upon request, for State of Texas agencies having statewide jurisdiction, the governor, the lieutenant governor, the attorney general, each member of the legislature, each county clerk, the Supreme Court, the courts of criminal appeals, the courts of civil appeals, and city offices. Individual copies are available free of charge, upon request, to any of these agencies and officials.

(c) All paid and free subscriptions to the transportation notice of hearing and the motor freight circulars and orders cover a 12-month period from the filing date of the application. Tariff subscriptions cover each issue of a tariff and its supplements. Renewal notices are mailed 30 days prior to each subscription's expiration date. If the subscriber does not return the renewal notice, with remittance of the fee (for paid subscriptions), before the expiration date, the subscription will be canceled.

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-8611709 Walter Earl Lillie  
Special Counsel  
Railroad Commission of  
Texas

Earliest possible date of adoption:  
January 26, 1987

For further information, please call  
(512) 463-7315.

★ ★ ★

## Part IV. Texas Department of Labor and Standards Chapter 70. Industrialized Housing and Building Subchapter C. Standards and Codes

### ★ 16 TAC §70.21

The Texas Department of Labor and Standards proposes an amendment to §70.21, concerning an amendment to the 1984 Edition of the National Electrical Code. The amendment sets out the use and non-use of aluminum wiring.

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

Mr. Martin also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a safe method of electrical wiring for industrialized housing and buildings in Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Jimmy G. Martin, Assistant Director, Industrialized Housing and Buildings Section, 920 Colorado, Austin, Texas 78711.

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

**§70.21. Amendments to Model Codes.**

(a) (b) (No change.)

(c) The 1984 Edition of the National Electrical Code shall be amended as follows:

(1) add to Article 310-1 the following statement: "Aluminum and copper-clad aluminum shall not be used for branch circuits in buildings classified as a residential occupancy; aluminum and copper-clad aluminum conductors, or size Number 4 AWG or larger, may be used in branch circuits in buildings classified as occupancies other than residential.";

(2) add to Article 110-14 the following statement: "Aluminum and copper-clad conductors shall be terminated using approved compression-type crimp lugs with approved inhibitors."

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-8611730

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

Earliest possible date of adoption:

January 26, 1987

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

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**Subchapter D. Administration  
and Enforcement**

★ 16 TAC §§70.33, 70.34, 70.35, and  
70.39

The Texas Department of Labor and Standards proposes amendments to §§70.33, 70.34, 70.35, and 70.39, concerning submission of organizational chart and evi-

dence of certification when applying for approval from the Industrialized Housing and Buildings Council; criteria for stamping drawings; and electrical or other systems are installed.

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

Mr. Martin also has determined that for each year of the first five years the sections are in effect. The public benefit anticipated as a result of enforcing the sections will be an easier means of complying with the rules and clarification in administering the rules. 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 Jimmy G. Martin, Assistant Director, Industrialized Housing and Buildings Section, 920 Colorado, Austin, Texas 78711.

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

**§70.33. Approval of Design Review Agencies and Third-Party Inspection Agencies and Inspectors.**

(a) Pursuant to the criteria established by the council as set forth in §70.43 and 70.44 of this Title (relating to Criteria for Approval of Design Review Agencies, and Criteria for Approval of Third-Party Inspection Agencies and Inspectors), the department will recommend design review agencies, Third-Party Inspection Agencies, and third-party inspectors to the council for approval. An application for approval shall be submitted in writing to the department for consideration and recommendation to the council. The application shall be on the form and contain such information as may be required by the council.

(b) If the application is approved by the council, it shall be filed with the department as the registration of the applicant as a design review agency, a third-party inspection agency, or a third-party inspector to perform specific functions. This registration shall be a continuous registration so long as the information required by this section is updated in accordance with subsection (c) and (e) of this section and the annual fee is paid. The department shall issue a certificate of registration which shall contain the specific functions which the registrant is approved to perform; it shall be valid for a 12

month period on receipt of the application and the registration fee by the department.

(c) Design review agencies, third-party inspection agencies, and third-party inspectors shall notify the department in writing within 10 days of any of the following occurrences:

(1) the name of the registrant is changed;

(2) the address of the registrant is changed;

(3) if a partnership or corporation is created or exists, there is a change in 25% or more of the ownership of the business entity within a 12 month period; or

(4) there are changes in principal officers or key supervisory personnel of the business entity.

(d) In the event a third-party inspector, third-party inspection agency, or design review agency is not approved, the department shall return one complete application to the applicant with a written explanation attached thereto setting forth the reasons of the council for such disapproval.

(e) Design review agencies, and third-party inspection agencies and inspectors shall submit with their registration renewal fees a copy of their agencies most recent organizational chart and evidence of certification of their technical staff in accordance with the criteria for approval of design review agencies and third-party inspection agencies established by the council as set forth in §§70.43 and 70.44 of this title (relating to Criteria for Approval of Design Review Agencies, and Criteria for approval of Third-Party Inspection Agencies and Inspectors).

**§70.34. Review and approval of Designs and Plans.**

(a)-(d) (No change.)

(e) The department or design review agency will signify approval of a drawing, specification, calculation, or other document by application of the stamp of the council to each page thereof. An alternate council stamp as approved by the council may be used on all designs, plans, specifications, calculations, and other documentation with the exception of the first or cover page and the table of contents pages of the design manual, compliance control manual, and installation manual. The original council stamp with original signature will be required on these pages. The original signature must be the signature of the manager or chief executive officer of the design review agency. The manager or chief executive officer of the design review agency must be registered in the state of Texas as a professional engineer or architect in accordance with the criteria for approval of design review agencies established by the council. When the department acts as a design review agency, the original signature must be the signature of the chief engineer. The stamp shall not be placed on any designs, plans, or specifications which do not meet the requirements of the applicable mandatory state codes [code] or the

requirements of these rules. The manufacturer and the design review agency (or department) must keep copies of the approved documents. The manufacturer must make a copy available to the person performing in-plant inspections. A design review agency will forward one approved copy of the design package, including additions and revisions, to the department within five days of approval and will return one approved copy to the manufacturer.

(f)-(h) (No change.)

**§70.35. Compliance Control Program.**

(a) (No change.)

(b) The compliance control manual shall include at least the following:

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

(9) step-by-step test procedures when electrical, gas supply, and/or plumbing systems are installed and a description of the station at which each production test will be performed including [where applicable]:

(A) Electrical tests as specified in the National Electrical Code, Article 550-10, [dielectric test, continuity test, polarity test, electrical operational test,] gas supply pressure tests, water supply pressure tests, and drain-waste-vent system tests;

(B)-(C) (No change.)

(10)-(14) (No change.)

(c) (No change.)

**§70.39. Building Site Inspections.**

(a)-(f) (No change.)

(g) The certificate of occupancy shall be posted by the owner in a conspicuous place on the premises of an industrialized building. The certificate of occupancy may be suspended or revoked, in writing, whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of the mandatory codes, the Act or any rule, regulation, or administrative order made or issued by the department in, or pursuant to this chapter, or any decisions, actions, or interpretations of the council.

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-9611669

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

Earliest possible date of adoption:

January 20, 1987

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

★ ★ ★



**★ 16 TAC §§70.43-70.45**

The Texas Department of Labor and Standards proposes new §§70.43-70.45, concerning the criteria to be used by design review agencies and the criteria to be used by third-party inspection agencies and inspectors.

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

Mr. Martin also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the criteria for compliance for design review agencies and third-party inspection agencies and inspectors desiring to be approved by the council in Industrialized Housing will be available for them. 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 Jimmy G. Martin, Assistant Director, Industrialized Housing and Buildings Section, 920 Colorado, Austin, Texas 78711.

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

**§70.43. Criteria for Approval of Design Review Agencies.** An agency seeking approval by the council as a design review agency (DRA) shall submit an application in writing to the department. The application will indicate the agency's name, address, and telephone number of each office in which design review services are to be performed. The application will include the following information.

(1) An organizational chart indicating the names of managerial and technical personnel responsible for design review functions within the agency. The chart must indicate the area or areas of review for which the technical personnel are responsible.

(2) A resume for each person listed in the organizational chart indicating academic and professional qualifications, experience in related areas, and specific duties within the agency. The minimum personnel requirements and qualifications shall be as follows.

(A) The manager or chief executive officer shall have a minimum of four years of plans examination, design, construction, or manufacturing experience in the

building industry, or any combination thereof, and registration as a professional engineer or architect in the State of Texas (Note: The applicant's registration number must be included on the resume.)

(B) Technical staff members may qualify for more than one discipline and, therefore, the agency need not have individual staff members for each discipline. Required certifications need not be from the same code agency for the different disciplines. For example, a DRA may have a structural reviewer, a mechanical reviewer, and an electrical reviewer with the required certifications through the International Conference of Building Officials, Inc.; while the plumbing reviewer, building planning reviewer, and fire safety reviewer have the required certifications through the Southern Building Code Congress International, Inc.

The DRA is not limited to one code group when filling the different disciplines. The technical staff shall consist of the following positions.

(i) The structural reviewer shall have a bachelor's degree with specialized course work in structures in engineering or architectural engineering, or service equivalent in accordance with paragraph (3) of this section; one year of structural engineering experience related to buildings; and certification as either a building plan examiner as granted by the Southern Building Code Congress International, Inc., or as a plans examiner as granted by the International Conference of Building Officials, Inc. Any expiration dates of certifications must also be submitted.

(ii) The mechanical reviewer shall have a bachelor's degree in engineering with specialized course work in HVAC Systems, or service equivalent in accordance with paragraph (3) of this section; one year of mechanical engineering experience related to buildings; and certification as either a mechanical plan examiner as granted by the Southern Building Code Congress International, Inc., or as a mechanical inspector as granted by the International Conference of Building Officials, Inc. Any expiration dates of certifications must also be submitted.

(iii) The electrical reviewer shall have a bachelor's degree in engineering with specialized course work in electrical engineering, or service equivalent in accordance with paragraph (3) of this section; one year of electrical engineering experience related to buildings; and certification as either an electrical plan examiner as granted by the Southern Building Code Congress International, Inc., or as an electrical inspector as granted by the International Conference of Building Officials, Inc. Any expiration dates of certifications must also be submitted.

(iv) The plumbing reviewer shall have a bachelor's degree in engineering with specialized course work in hydraulics, or service equivalent in accordance with paragraph (3) of this section; one year of

plumbing experience related to buildings; and certification as either a plumbing plan examiner as granted by the Southern Building Code Congress International, Inc. or as a plumbing inspector as granted by the International Conference of Building Officials, Inc. Any expiration dates of certifications must also be submitted.

(v) The building planning reviewer shall have a bachelor's degree in engineering or architecture, or service equivalent in accordance with paragraph (3) of this section; one year of experience related to building planning; and certification as either a building plan examiner as granted by the Southern Building Code Congress International, Inc., or as a plans examiner as granted by the International Conference of Building Officials, Inc. Any expiration dates of certifications must also be submitted;

(vi) The fire safety reviewer shall have a bachelor's degree in engineering or architecture, or service equivalent in accordance with subsection (3) of this section; one year of experience in fire protection engineering related to buildings; and certification either as a building plan examiner as granted by the Southern Building Code Congress International, Inc., or as a Plans Examiner as granted by the International Conference of Building Officials, Inc. Any expiration dates of certifications must also be submitted.

(C) A minimum of eight years of creditable experience in engineering or architectural practice indicative of growth in engineering or architectural competency and responsibility is an acceptable service equivalent for academic requirements. This experience may be counted concurrently for those wishing to show service equivalency in more than one field. To be considered creditable, experience must satisfy the requirements outlined in the Texas State Board of Registration for Professional Engineers board rules of practice and procedure or the Texas Board of Architectural Examiner rules and regulations of the board regulating the practice of architecture.

(D) In lieu of a registration number issued by the Texas State Board of Registration for Professional Engineers, an applicant currently registered in some other state and applying for registration in Texas under the provisions of board rules of practice and procedure, §20, may satisfy the requirement by providing a copy of an application for registration and a letter from the board acknowledging receipt and authorizing interim practice.

(3) Complete documentation, including examples of data sheets or other forms used to analyze construction and equipment; preliminary and final reports; and an agency compliance assurance manual; to substantiate the ability of the agency to evaluate building systems and compliance control manuals for compliance with standards. Evidence must be presented in the

areas of structural, mechanical, electrical, plumbing, building planning, and fire safety. The documentation should include an example of a building system or compliance control manual which the agency has evaluated for compliance with a code or set of standards.

(4) A properly notarized statement of certification signed by the agency manager or chief executive officer that:

(A) its board of directors, as a body, and its managerial and technical personnel, as individuals, are free to exercise independence of judgment in the performance of their duties within the agency;

(B) its activities pursuant to the discharge of responsibility as a design review agency will not result in financial benefit to the agency via stock ownership or other financial interest in any producer, supplier, or vendor of products involved, other than through standard fees for services rendered;

(C) the agency will consistently and uniformly implement the policies and determinations of the council with regard to interpretations of the standards and rules;

(D) the agency will not provide design services or prepare compliance control manuals for manufacturers for whom it acts as a design review agency;

(E) all information contained in the application for approval as a design review agency is true, timely, and correct; and

(F) all future changes will be immediately communicated to the department.

(5) A list of states in which the agency is currently approved to provide similar services.

#### §70.44. *Criteria for Approval of Third-Party Inspection Agencies and Inspectors.*

An agency seeking approval by the council as a third-party inspection agency shall submit an application in writing to the department. The application will indicate the agency name and the address and telephone number of each office through which third party inspections will be coordinated. The application will include all information required by the council and that provided in this section.

(1) An organizational chart showing the names of managerial and technical personnel responsible for in-plant and on-site construction inspections.

(2) The resume for each person listed in the organizational chart indicating academic and professional qualifications, experience in related areas, and specific duties within the agency. Certification expiration dates must also be submitted. The minimum personnel requirements and qualifications are as follows.

(A) The manager or chief executive officer shall have five years of experience in building code enforcement or compliance control of building systems, one year of experience in responsible technical project planning and management, and registration

as a professional engineer or architect in the State of Texas.

(B) The supervisor of inspection shall have a high school diploma or equivalent, five years of experience as an inspector in manufactured buildings or related compliance control or equivalent, and certification as:

(i) a combination inspector as granted by the International Conference of Building Officials, Inc.; or

(ii) a one and two family dwelling inspector as granted by either Southern Building Code Congress International, Inc. or the International Conference of Building Officials, Inc.;

(iii) a building inspector, mechanical inspector, electrical inspector, and plumbing inspector (the applicant must have certifications in all four areas) as granted by either the Southern Building Code Congress International, Inc., or the International Conference of Building Officials, Inc. The certifications in the four areas of inspection are not required to be from the same certification agency. For example, an applicant may be certified as a building inspector and a mechanical inspector by the Southern Building Code Congress International, Inc. and certified as an electrical inspector and a plumbing inspector by the International Conference of Building Officials, Inc.

(C) The inspector shall have a high-school diploma or equivalent, one year of experience in building code enforcement, compliance control inspection, or building experience, and certification as:

(i) a combination inspector as granted by the International Conference of Building Officials, Inc.; or

(ii) a one and two family dwelling inspector as granted by either the Southern Building Code Congress International, Inc., or the International Conference of Building Officials, Inc.; or

(iii) a building inspector, mechanical inspector, electrical inspector, and plumbing inspector as granted by either the Southern Building Code Congress International, Inc., or the International Conference of Building Officials, Inc. The certifications in each of the four areas of inspection are not required to be from the same certification agencies. Additionally, one inspector is not required to have certifications in all four areas of inspection. However, all four areas of certification must be represented unless the agency employs inspectors who are certified in accordance with subparagraphs (A) and (B) of this paragraph. For example, the agency may employ one inspector certified as a building inspector by the Southern Building Code Congress International, Inc., one certified as a mechanical inspector by the International Conference of Building Officials, Inc., one certified as an electrical inspector by the International Conference of Building Officials, Inc., and one

certified as a plumbing inspector by the Southern Building Code Congress International, Inc. However, each inspector may only inspect in the area for which they are certified, i.e., a mechanical inspector inspects mechanical, an electrical inspector inspects electrical, etc.

(D) In lieu of a registration number issued by the Texas State Board of Registration for Professional Engineers, an applicant currently registered in some other state and applying for registration in Texas under the provisions of board rules of practice and procedure, §20, may satisfy the requirement by providing a copy of an application for registration and a letter from the board acknowledging receipt and authorizing interim practice.

(3) Complete documentation to substantiate the agency's ability to perform in-plant and on-site construction inspections and follow-up inspections to determine the compliance of a building manufacturer with the standards and rules. The application will include a formal description of the agency's supervision and training program for inspectors, control records for council insignia, performance records of manufacturers, examples of inspection reports, agreements or contracts with manufacturers, and any other pertinent information.

(4) A properly notarized statement of certification signed by the agency manager or chief executive officer that:

(A) its board of directors, as a body, and its managerial and inspection personnel, as individuals, are free to exercise independence of judgment in the performance of their duties within the agency;

(B) its activities pursuant to the discharge of responsibilities as a third-party inspection agency will not result in financial benefit to the agency via stock ownership or other financial interests in any producer, supplier, or vendor of products involved, other than through standard fees for services rendered;

(C) the agency will consistently and uniformly implement the policies and determinations of the council with regard to interpretations of the standards and rules;

(D) the agency will not provide design services or prepare compliance control manuals for manufacturers for whom it acts as a third-party inspection agency;

(E) all information contained in the application for approval as a third-party inspection agency is true, timely, and correct; and

(F) all future changes will be immediately communicated to the department.

(5) A list of states in which the agency is currently approved to provide product certification or validation or third-party inspection services and a complete description of each system and program involved.

§70.45. *Criteria for Disapproval of Design Review Agencies, Third-Party Inspection Agencies, and Third Party Inspectors.* The

department shall monitor the performance of design review agencies, third-party inspection agencies (TPIA), and third-party inspectors (TPI), and recommend disapproval of any agency or inspector that violates any provision of the Act or any rule, regulation, or administrative order made or issued by the department in, or pursuant to this chapter, or any decisions, actions, or interpretations of the council. The following penalties shall apply if the council determines that the recommendation for disapproval is justified.

(1) First offense—the department shall issue a warning letter to the design review agency, third-party inspection agency, or third-party inspector outlining the required corrective action in accordance with the council's instructions.

(2) Second offense—the department shall issue a letter to the design review agency, third-party inspection agency, or third-party inspector on behalf of the council imposing a suspension of the design review agency's, third-party inspection agency's, or third-party inspector's approval to provide design review or inspection services for a period of time to be determined by the council.

(3) Third offense—the department shall issue a letter to the DRA, TPIA, or TPI on behalf of the council cancelling the agency's or inspector's registration. Each manufacturer serviced by the design review agency, third-party inspection agency, or third-party inspector shall be notified to make alternate arrangements for design review or inspection services. The design review agency, third-party inspection agency, or third-party inspector shall not be eligible to reapply for approval for a period of time to be determined by the council.

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, 1988

TRD-8611870

Allen Parker, Jr  
Commissioner  
Texas Department of  
Labor and Standards

Earliest possible date of adoption:

January 26, 1987

For further information, please call

(512) 463-3127.

## TITLE 22. EXAMINING BOARDS Part XI. Board of Nurse Examiners Chapter 217. Licensure and Practice

### ★22 TAC §217.5

The Board of Nurse Examiners proposes an amendment to §217.5, concerning re-

quirements for licensure of nurses not eligible for endorsement under §217.4. 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 rate following remedial work.

Louise Sanders, R.N., 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 a remedial course for those candidates who have been unsuccessful in passing the licensure examination after five years from their date of eligibility. This proposed change will keep the exam requirements consistent (submitted December 11, 1988). 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, R.N., Ph.D., Acting Executive Secretary, Board of Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 255, 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.

§217.5. *Requirements for Licensure of Nurses Not Eligible for Endorsement Under §217.4.*

(a)-(c) (No change.)

[(d) 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 17, 1986.

TRD-8611877

Louise Sanders  
Acting Executive  
Secretary  
Board of Nurse  
Examiners

Earliest possible date of adoption:  
January 26, 1987

For further information, please call  
(512) 835-4880.

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part III. Texas Air Control Board

#### Chapter 115. Volatile Organic Compounds

Surface Coating Processes in  
Brazoria, Dallas, El Paso,  
Galveston, Gregg, Harris,  
Jefferson, Nueces, Orange,  
Tarrant, and Victoria Counties

#### ★31 TAC §115.191

The Texas Air Control Board (TACB) an amendment to §115.191, concerning emission limitations. The amendment revises the compliance deadline for automobile and light-duty truck coating from December 31, 1986, to December 31, 1987. The amendment is proposed in response to a petition for a rule change from General Motors Corporation (GM).

In October of 1985, GM received a permit to build a paint shop using new technology at the Arlington plant to comply with the new volatile organic compound (VOC)

limits that were to go into effect December 31, 1986. The company proceeded with the construction of a building in which the new paint shop was to be located. However, in January, 1986, adverse marketing projections led to a corporate decision to cancel the project.

A declining market for the vehicle models produced at the Arlington plant made expansion economically infeasible. Therefore, the company will have to use add-on controls to meet the VOC limits for topcoat and final repair which are scheduled to be in compliance by December 31, 1986. Since this provides insufficient time to design and construct an add-on system and in view of GM's apparent good faith effort to achieve timely compliance, the TACB has determined that the request for a revision of the compliance date from December 31, 1986, to December 31, 1987, is justified.

Bennie Engelke, director, Management and Staff Services, 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. Montgomery, P.E., director of technical support and regulation development, 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 provision of short-term relief from a compliance deadline to a major Tarrant County employer at no long-term cost in air quality for county residents. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

A public hearing on this proposal is scheduled for 7:00 p.m. on January 27,

1987. Copies of the proposed amendment are available from Russell Baler at the TACB central office and all TACB regional offices. Public comments, both oral and written, on the proposal are invited at the hearing. The TACB would appreciate receiving five copies of any written testimony prior to or at the hearing. Written testimony received by 4 p.m. on January 28, 1987, at the TACB central office will be included in the hearing record and should be sent to the Control Strategy Division, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

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

#### §115.191. Emission Limitations.

No person may cause, suffer, allow, or permit volatile organic compound emissions from the surface coating processes (defined in §101.1 of this title (relating to Definitions)) affected by paragraphs (1) - (10) of this section to exceed the specified emission limits, which are based on a daily weighted average, except for those in paragraph (8) of this section, as detailed, and for those in paragraph (10) of this section which are based on paneling surface area.

(1)-(7) (No change.)

(8) Automobile and light-duty truck coating.

(A) (No change.)

(B) The following volatile organic compound emission limits shall be achieved, on the basis of solvent content per gallon of coating (minus water) applied, as soon as practicable, but no later than December 31, 1986:

| Operation (including applica-<br>tion, flashoff, and oven areas)   | VOC Emission Limitation |                    |
|--|-------------------------|--------------------|
|  | pounds per gallon       | kg per liter       |
| prime application <sup>1</sup> (body<br>and front-end sheet metal) | 1.2                     | 0.15               |
| primer surfacer application  | 2.8                     | 0.34               |
| topcoat application <sup>2,3</sup>                                 | <u>5.2</u> [2.8]        | <u>0.62</u> [0.34] |
| final repair application <sup>2</sup>                              | <u>6.5</u> [4.8]        | <u>0.78</u> [0.58] |

#### (C) THE FOLLOWING VOLATILE ORGANIC COMPOUND

EMISSION LIMITS SHALL BE ACHIEVED, ON THE BASIS OF SOLVENT  
CONTENT PER GALLON OF COATING (MINUS WATER) APPLIED, AS SOON  
AS PRACTICABLE BUT NO LATER THAN DECEMBER 31, 1987:

OPERATION (INCLUDING APPLICA-  
TION, FLASHOFF, AND OVEN AREAS)

VOC EMISSION LIMITATION  
POUNDS PER GALLON      KG PER LITER

|  |            |             |
|--|------------|-------------|
| PRIME APPLICATION <sup>1</sup> (BODY<br>AND FRONT-END SHEET METAL) | <u>1.2</u> | <u>0.15</u> |
| PRIMER SURFACER APPLICATION  | <u>2.8</u> | <u>0.34</u> |
| TOPCOAT APPLICATION <sup>2</sup>                                   | <u>2.8</u> | <u>0.34</u> |
| FINAL REPAIR APPLICATION <sup>2</sup>                              | <u>4.8</u> | <u>0.58</u> |

**1** Weighted average over a calendar month.

**2** Arithmetic average of all coatings in stock for use in the process.

**3** To be applied using electrostatic spray equipment in at least 75% of the automatic spray stations in the first topcoat application area.

(9)-(10) (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 19, 1986

TRD-8611728

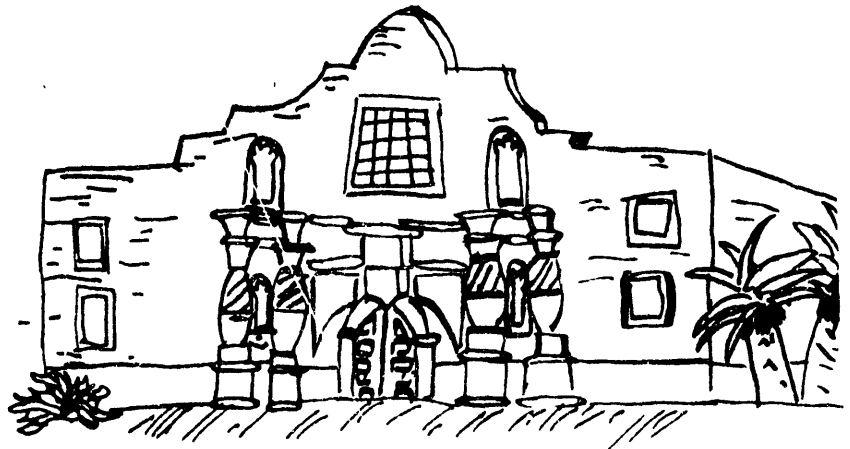
Allen Eli Bell  
Executive Director  
Texas Air Control Board

Proposed date of adoption:

April 30, 1987

For further information, please call  
(512) 451-5711 Ext 353.

★      ★      ★



Name: Roberto Bustos

Grade: 5

School: Westcliff Elementary, Ft. Worth

# Withdrawn

## Rules

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

### TITLE 22. EXAMING BOARDS

#### Part XXXII. State Committee of Examiners for Speech- Language Pathology and Audiology

##### Chapter 741. Speech-Language Pathologists and Audiologists Subchapter A. Introduction

###### ★22 TAC §741.2

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendment to §741.2, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The amendment as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2790).

TRD-8611753  
Filed: December 18, 1986

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##### Subchapter B. The Committee

###### ★22 TAC §741.15, §741.25

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §741.15 and §741.25, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The amendment as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2791).

TRD-8611754  
Filed: December 18, 1986

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##### Subchapter C. The Practice of Speech-Language Pathology and Audiology

###### ★22 TAC §741.41

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendment to §741.41, submitted by the State Committee of Examin-

ers for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The amendment as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2791).

TRD-8611755  
Filed: December 18, 1986

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##### Subchapter D. Academic Requirements for Examination and Licensure for Speech- Language Pathologists

###### ★22 TAC §§741.61-741.63

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §§741.61-741.63, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The amendments as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2792).

TRD-8611756  
Filed: December 18, 1986

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##### Subchapter E. Academic Requirements for Examination and Licensure for Audiologists

###### ★22 TAC §741.81, §741.83

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §741.81 and §741.83, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The amendments as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2792).

TRD-8611757  
Filed: December 18, 1986

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###### ★22 TAC §741.82

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal of §741.82, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The repeal as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2793).

TRD-8611758  
Filed: December 18, 1986

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##### Subchapter H. Licensing

###### ★22 TAC §741.143

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendment to §741.143, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The amendment as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2793).

TRD-8611759  
Filed: December 18, 1986

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###### ★22 TAC §741.144

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal of §741.144, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The repeal as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2793).

TRD-8611760  
Filed: December 18, 1986

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###### ★22 TAC §741.144, §741.145

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new sections to §741.144 and §741.145, submitted by the State Commit-

tee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The new sections as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2793).

TRD-8611761  
Filed: December 18, 1986

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### Subchapter I. License Renewal

#### ★ 22 TAC §741.162, §741.163

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §741.162 and §741.163, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The amendments as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2793).

TRD-8611762  
Filed: December 18, 1986

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#### ★ 22 TAC §741.164, §741.165

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeals to §741.164 and §741.165, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The repeals as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2794).

TRD-8611763  
Filed: December 18, 1986

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### Subchapter J. Fees and Late Renewal Penalties

#### ★ 22 TAC §741.181

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendment to §741.181, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The amendment as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2794).

TRD-8611764  
Filed: December 18, 1986

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### Subchapter K. Denial, Suspension, and Revocation of Licensure

#### ★ 22 TAC §§741.192, 741.194, 741.195, 741.197

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §§741.192, 741.194, 741.195, and 741.197, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology have been automatically withdrawn, effective December 18, 1986. The amendments as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2794).

TRD-8611765  
Filed: December 18, 1986

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#### ★ 22 TAC §741.193

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed repeal to §741.193, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The repeal as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2795).

TRD-8611766  
Filed: December 18, 1986

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Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new section to §741.193, submitted by the State Committee of Examiners for Speech-Language Pathology and Audiology has been automatically withdrawn, effective December 18, 1986. The new section as proposed appeared in the June 17, 1986, issue of the *Texas Register* (11 TexReg 2795).

TRD-8611767  
Filed: December 18, 1986

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## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IX. Texas Water Commission

#### Chapter 305. Consolidated Permits

##### Subchapter D. Amendments, Renewals, Transfers, Corrections, Revocation, and Suspension of Permits

#### ★ 31 TAC §305.64

The Texas Water Commission has withdrawn from consideration an amendment concerning amendments, renewals, transfers, corrections, revocation, and suspension. The text of the amendment appeared in the October 17, 1986, issue of the *Texas Register* (11 TexReg 4297). The effective date of the amendment was December 19, 1986.

Issued in Austin, Texas, on December 19, 1986  
TRD-8611723 James k. Rourke  
General Counsel  
Texas Water Commission

Filed: December 19, 1986  
For further information, please call  
(512) 458-7631.

★ ★ ★

# Adopted

## Rules

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

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

### TITLE 16. ECONOMIC REGULATION

#### Part II. Public Utility

#### Commission of Texas

#### Chapter 23. Substantive Rules Records and Reports

##### ★ 16 TAC §23.11

The Public Utility Commission of Texas (PUC) adopts an amendment to §23.11, without changes to the proposed text published in the September 9, 1986, issue of the *Texas Register* (11 TexReg 3997).

The amendment removes references to water and sewer because this agency no longer has jurisdiction over these utilities.

The amendment eliminates confusion as to what the PUC regulates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

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

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

TRD-8611685 Phillip A. Holder  
Secretary  
Public Utility  
Commission of Texas

Effective date: January 7, 1987  
Proposal publication date: September 9, 1986  
For further information, please call  
(512) 458-0100.

★ ★ ★

##### ★ 16 TAC §23.12

The Public Utility Commission of Texas (PUC) adopts an amendment to §23.12, without changes to the proposed text published in the July 8, 1986, issue of the *Texas Register* (11 TexReg 3143).

The amendment removes references to water and sewer because this agency no

longer has jurisdiction over water and sewer utilities.

The amendment eliminates confusion as to what the PUC regulates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

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

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

TRD-8611686 Phillip A. Holder  
Secretary  
Public Utility  
Commission of Texas

Effective date: January 7, 1987  
Proposal publication date: July 8, 1986  
For further information, please call  
(512) 458-0100.

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##### ★ 16 TAC §23.13

The Public Utility Commission of Texas (PUC) adopts an amendment to §23.13 without changes to the proposed text published in the July 8, 1986, issue of the *Texas Register* (11 TexReg 3144).

The amendment removes references to water and sewer because this agency no longer has jurisdiction over those types of utilities.

The amendment eliminates confusion as to what the PUC regulates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

This agency hereby certifies that the rule as adopted has been reviewed by legal

counsel and found to be a valid exercise of the agency's legal authority.

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

TRD-8611687 Phillip A. Holder  
Secretary  
Public Utility  
Commission of Texas

Effective date: January 7, 1987  
Proposal publication date: July 8, 1986  
For further information, please call  
(512) 458-0100

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#### Certification

##### ★ 16 TAC §23.31

The Public Utility Commission of Texas (PUC) adopts an amendment to §23.31 without changes to the proposed text published in the July 8, 1986, issue of the *Texas Register* (11 TexReg 3144).

The amendment removes water and sewer references in that this agency no longer has jurisdiction over water and sewer utilities.

The amendment eliminates confusion as to what the PUC regulates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

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

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

TRD-8611688 Phillip A. Holder  
Secretary  
Public Utility  
Commission of Texas

Effective date: January 7, 1987  
Proposal publication date: July 8, 1986  
For further information, please call  
(512) 458-0100.

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## Customer Service and Protection

### ★ 16 TAC §23.44

The Public Utility Commission of Texas (PUC) adopts an amendment to §23.44, without changes to the proposed text published in the July 8, 1986, issue of the *Texas Register* (11 TexReg 3145).

The amendment removes references to water and sewer because this agency no longer has any jurisdiction over water and sewer utilities.

The amendment eliminates confusion as to what the PUC regulates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

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

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

TRD-8611690

Phillip A. Holder  
Secretary  
Public Utility  
Commission of Texas

Effective date: January 7, 1987

Proposal publication date: July 8, 1986

For further information, please call  
(512) 458-0100.

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### ★ 16 TAC §23.46

The Public Utility Commission of Texas (PUC) adopts an amendment to §23.46 without changes to the proposed text published in the October 31, 1986, issue of the *Texas Register* (11 TexReg 4513).

The amendment removes references to water and sewer because this agency no longer has jurisdiction over water and sewer utilities.

The amendment eliminates confusion as to what the PUC regulates.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction, and in administering the provisions of this Act.

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

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

TRD-8611690

Phillip A. Holder  
Secretary  
Public Utility  
Commission of Texas

Effective date: January 7, 1987

Proposal publication date: October 31, 1986

For further information, please call  
(512) 458-0100.

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## TITLE 22. EXAMINING BOARDS

### Part XV. Texas State Board of Pharmacy

#### Chapter 291. Pharmacies Clinic Pharmacy (Class D)

### ★ 22 TAC §§291.91-291.94

The Texas State Board of Pharmacy adopts new §§291.91-291.94. New §291.93 is adopted with changes to proposed text published in the September 23, 1986, issue of the *Texas Register* (11 TexReg 4026). New §§291.91, 291.92, and 291.94 are adopted without changes and will not be republished.

Additional language added to §291.93(h)(2) allows clinics are operated by state or local governments and clinics who are funded by public money, to petition the board for an alternative visitation schedule under certain conditions.

The new sections further ensure the regulation and control of clinic pharmacies to protect the public health, safety, and welfare.

These new sections establish the operational standards each clinic pharmacy and its employees must meet to qualify for licensing and relicensing as a clinic pharmacy.

During the public comment period, the following comments were received. The requirement of quarterly visits by a pharmacist is too stringent. Quarterly visits by a pharmacist is not frequent. The definition of "indigent" should be redefined to be 150% or 200% of federal poverty income guidelines. Nurses should be required to provide drugs in clinics with expanded formularies. Pharmacists should not be required to directly supervise the packaging and labeling of drugs. The rules create a dual standard of care for private patients and indigent patients. The percent of indigent patients is too stringent. The formulary is too restrictive. The rules are not cost effective. The rules represent a creative solution.

The Texas Pharmaceutical Association commented in favor of adoption of the new sections. The following organizations commented against adoption of the new sections: Corpus Christi-Nueces County Department of Health; Life Planning Health Services; Dallas County Health De-

partment; University of Texas Health Science Center at Dallas; South Plains Public Health District; Texas Family Planning Association; Planned Parenthood of Houston and South East Texas; State Representative, District 36; Texas Society of Hospital Pharmacists; Diabetes Supplies; Galveston County Health District; Texas Department of Health; Planned Parenthood of San Angelo, Inc.; Capital Area Pharmaceutical Association; and Community Action Inc. of Hays, Caldwell, and Blanco Counties. Comments received against the new sections may not have been against an entire section but only portions of a section.

The board did not increase the frequency of pharmacist visits because they believed that change would create a greater financial burden on Class D (clinic) pharmacies. The definition of indigent was based on federal poverty income guidelines, and the board believes the federal guidelines serve as an adequate definition of poverty.

The board believed a licensed nurse would be more properly trained and qualified to provide drugs in clinics with expanded formularies. Pharmacists are required to directly supervise the packaging and labeling of drugs in Class A, B, and C pharmacies; the board believed this standard should be consistent in all pharmacies.

The board will hold the pharmacist-in-charge of the Class D pharmacy responsible for the quality of care of the patients of the clinic. The percentage of indigent patient was based on what the board believes to be a true need standard. Formulary restrictions are in concert with the definition of a Class D pharmacy, which is a pharmacy dispensing a limited type of drug.

The board believes that the rules provide minimum standards for the pharmaceutical services of the clinics, in line with the board's responsibilities to safeguard the public health. To relax the standards any further could cause a serious threat to the health of Texas citizens.

The new sections are adopted under Texas Civil Statutes, Article 4542a-1, §§5, 17, 29, and 30, which provide the Texas State Board of Pharmacy with the authority to govern the practice of clinic pharmacies and the standards that each clinic pharmacy and its employees or personnel involved in the practice of clinic pharmacy must meet to qualify for licensing or relicensing as a clinic pharmacy.

#### §291.93. Operational Standards.

##### (a) Registration.

(1) All clinic pharmacies shall register annually with the board on a form provided by the board.

(2) All clinic pharmacies shall provide a copy of their policy and procedure manual, which includes the formulary, to the

board with the initial license application.

(3) All clinic pharmacy licenses expire on May 31 of each year.

(4) The registration form shall be signed by the pharmacist-in-charge of the clinic pharmacy.

(5) The owner or managing officer of the clinic shall sign the registration form and shall agree to comply with the rules adopted by the board governing clinic pharmacies.

(6) The registration form shall be certified and state whether the clinic pharmacy is a sole ownership and give the name of the owner, or if a partnership, name all the managing partners, or if a corporation, name all the managing officers.

(7) The following fees will be charged.

(A) A fee of \$100 will be charged for the issuance of a new license and for each renewal.

(B) A pharmacy operated by the state or a local government that qualifies for a Class D license is not required to pay a fee to obtain a license

(8) When a clinic pharmacy changes ownership, a new and separate license application must be filed with the board and the old license returned to the board's office.

(9) A Class D (clinic) pharmacy shall notify the board in writing of any change in name or location within 10 days.

(10) A separate license is required for each principle place of business and only one pharmacy license may be issued to a specific location.

(11) A clinic pharmacy shall notify the board in writing within 10 days of a change of the pharmacist-in-charge or staff pharmacist or consultant pharmacist.

(12) A clinic pharmacy shall notify the board in writing within 10 days of permanent closing.

(b) Environment.

(1) General requirements.

(A) The clinic pharmacy shall have a designated area(s) for the storage of dangerous drugs and/or devices.

(B) No person may operate a pharmacy which is unclean, unsanitary, or under any condition which endangers the health, safety, or welfare of the public.

(C) The pharmacy shall comply with all federal, state, and local health laws and ordinances.

(D) A sink with hot and cold running water shall be available to all pharmacy personnel and shall be maintained in a sanitary condition at all times.

(2) Security.

(A) Only authorized personnel may have access to storage areas for dangerous drugs and/or devices.

(B) All storage areas for dangerous drugs and/or devices shall be locked by key or combination, so as to prevent access by unauthorized personnel.

(C) The pharmacist-in-charge shall be responsible for the security of all storage

areas for dangerous drugs and/or devices, including provisions for adequate safeguards against theft or diversion of dangerous drugs and devices, and records for such drugs and devices.

(D) The pharmacist-in-charge shall consult with clinic personnel with respect to security of the pharmacy, including provisions for adequate safeguards against theft or diversion of dangerous drugs and/or devices, and records for such drugs and/or devices.

(E) Housekeeping and maintenance duties shall be carried out in the pharmacy, while the pharmacist-in-charge, consultant pharmacist, staff pharmacist, or supportive personnel is on the premises.

(c) Equipment. Each clinic pharmacy shall maintain the following equipment and supplies:

(1) if the clinic pharmacy prepackages drugs for provision:

(A) a typewriter or comparable equipment; and

(B) an adequate supply of child-resistant, moisture-proof, and light-proof containers and prescription, poison, and other applicable identification labels used in dispensing and providing of drugs;

(2) if the clinic pharmacy maintains dangerous drugs requiring refrigeration and/or freezing, a refrigerator and/or freezer;

(3) if the clinic pharmacy compounds prescriptions, a properly maintained Class A prescription balance (with weights) or equivalent analytical balance. It is the responsibility of the pharmacist-in-charge to have such balance inspected at least every three years by the appropriate authority as prescribed by local, state, or federal law or regulations.

(d) Library. A reference library shall be maintained which includes the following:

(1) current copies of the following laws:

(A) Texas Pharmacy Act and Rules; and

(B) Texas Dangerous Drug Law;

(2) current copies of at least two of the following references:

(A) *Facts and Comparisons* with current supplements;

(B) *American Hospital Formulary Service* with current supplements;

(C) *United States Pharmacopeia Dispensing Information* (USPDI);

(D) *Physician's Desk Reference* (PDR);

(E) *American Drug Index*;

(F) Phillip D. Hansten's *Drug Interactions*;

(G) reference texts in any of the following subjects: toxicology, pharmacology, or drug interactions; or

(H) reference texts pertinent to the major function(s) of the clinic.

(e) Drugs and devices.

(1) Formulary.

(A) Each Class D pharmacy shall

have a formulary which lists all drugs and devices that are administered, dispensed, or provided by the Class D pharmacy.

(B) The formulary shall be limited to the following types of drugs and/or devices, exclusive of injectable drugs or administration in the clinic and nonprescription drugs, except as provided in subparagraph (D) of the paragraph:

(i) anti-infective drugs;

(ii) musculoskeletal drugs;

(iii) vitamins;

(iv) obstetrical and gynecological drugs and devices;

(v) topical drugs; and

(vi) serums, toxoids, and vaccines.

(C) The formulary shall not contain the following drugs or types of drugs:

(i) Nalbuphine (Nubain);

(ii) Butorphanol (Stadol);

(iii) Propranolol or other beta adrenergic receptor blocking agents;

(iv) antipsychotics; and

(v) Schedule I-V controlled substances.

(D) Clinics with a patient population which consists of at least 85% indigent patients may petition the board to operate with a formulary which includes types of drugs and/or devices, other than those listed in paragraph (1)(B) of this subsection, based upon documented objectives of the clinic, under the following conditions.

(i) Such petition shall contain an affidavit signed by the medical director, the pharmacist-in-charge, and the owner/ chief executive officer of the clinic, and include the following documentation:

(I) the objectives of the clinic;

(II) the total number of patients served by the clinic during the previous fiscal year or calendar year;

(III) the total number of indigent patients served by the clinic during the previous fiscal year or calendar year;

(IV) the percentage of clinic patients who are indigent, based upon the patient population during the previous fiscal year or calendar year; and

(V) the proposed formulary and the need for additional types of drugs based upon objectives of the clinic.

(ii) Such petition shall be re-submitted annually in conjunction with the application for renewal of the pharmacy license.

(I) Such renewal petition shall contain the documentation required in paragraph (1)(D)(i) of this subsection.

(II) If at the time of renewal of the pharmacy license, the patient population for the previous fiscal year or calendar year is below 85% indigent patients, the clinic shall be required to submit an application for a Class A pharmacy license or shall limit the clinic formulary to those types of drugs and/or devices listed in paragraph (1)

**(B) and (C) of this subsection.**

(iii) The following additional requirements shall be satisfied.

(I) Supportive personnel who are providing drugs shall be licensed nurses.

(II) The pharmacist-in-charge, consultant pharmacist, or staff pharmacist shall make on-site visits to the clinic at least monthly.

**(2) Storage.**

(A) Drugs and/or devices which bear the words "Caution, Federal Law Prohibits Dispensing without prescription" shall be stored in secured storage area..

(B) All drugs shall be stored at the proper temperatures, as defined by the following terms.

(i) Cold—Any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which the temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

(ii) Cool—Any temperature between 8° and 15°C (46° and 59°F). An article for which storage in a cool place is directed may, alternatively, be stored in a refrigerator, unless otherwise specified in the individual monograph.

(iii) Room temperature—The temperature prevailing in a working area. Controlled room temperature is a temperature maintained thermostatically between 15° and 30°C (59° and 86°F).

(iv) Warm—Any temperature between 30° and 40°C (86° and 104°F).

(v) Excessive heat—Temperature above 40°C (104°F).

(vi) Protection from freezing—Where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to destructive alteration of the dosage form, the container label bears an appropriate instruction to protect the product from freezing.

(C) Any drug and/or device bearing an expiration date may not be provided, dispensed, or administered beyond the expiration date of the drug and/or device.

(D) Outdated drugs and/or devices shall be removed from stock and shall be quarantined together until such drugs and/or devices are disposed.

(E) Controlled substances may not be stored at the clinic pharmacy.

**(3) Drug samples.**

(A) Drug samples supplied by manufacturers shall be properly stored, labeled, provided, or dispensed in the same manner as prescribed by these sections for dangerous drugs.

(B) Samples of controlled substances may not be stored, provided, or dispensed.

(4) Prepackaging and labeling for provision.

(A) Drugs may be prepackaged

and labeled for provision in a pharmacy licensed by the board by a pharmacist or supportive personnel under the direct supervision of a pharmacist.

(B) Drugs must be prepackaged in suitable containers.

(C) The label of the prepackaged unit shall bear:

(i) the name and address of the clinic;

(ii) directions for use;

(iii) name and strength of the drug—if generic name, the name of the manufacturer or distributor of the drug;

(iv) quantity;

(v) lot number and expiration date; and

(vi) appropriate ancillary label(s).

(D) Records of prepackaging shall be maintained according to §291.94(b) of this title (relating to Records).

(5) Labeling for provision of drugs and/or devices in an original manufacturer's container.

(A) Drugs and/or devices in an original manufacturer's container shall be labeled prior to provision with the information set out in paragraph (4)(C) of this subsection.

(B) Drugs and/or devices in an original manufacturer's container may be labeled by:

(i) a pharmacist in a pharmacy licensed by the board; or

(ii) supportive personnel in a Class D pharmacy, provided the drugs and/or devices and control records required by §291.94(c) of this title (relating to Records) are quarantined together until checked and released by a pharmacist.

(C) Records of labeling for provision of drugs and/or devices in an original manufacturer's container shall be maintained according to §291.94(c) of this title (relating to Records).

**(6) Provision.**

(A) Drugs and/or devices may only be provided to patients of the clinic.

(B) At the time of provision, the patient shall be provided verbal and/or written information on side effects, interactions, and precautions concerning the drug and/or device provided.

(C) Drugs and/or devices may only be provided in accordance with the system of control and accountability for drugs and/or devices provided by the clinic; such system shall be developed and supervised by the pharmacist-in-charge.

(D) Only drugs and/or devices listed in the clinic formulary may be provided.

(E) Drugs and/or devices may only be provided in prepackaged quantities in suitable containers and/or original manufacturer's containers which are appropriately labeled as set out in subsection (e)(4) and (5) of this section.

(F) Such drugs and/or devices shall be labeled by a pharmacist licensed by the board; however, when drugs and/or devices are provided under the supervision of a physician according to standing delegation orders or standing medical orders, supportive personnel may at the time of provision print on the label the following information:

(i) patient's name;

(ii) date of provision; and

(iii) practitioner's name.

(G) Records of provision shall be maintained according to §291.94(d) of this title (relating to Records).

(H) Controlled substances may not be provided or dispensed.

(7) Dispensing. Dangerous drugs may only be dispensed by a pharmacist pursuant to a prescription order in accordance with §§291.31-291.36 of this title (relating to Community Class D Pharmacy).

(f) Pharmacy and therapeutics committee.

(1) The pharmacy and therapeutics committee shall be composed of at least three persons and shall include the pharmacist-in-charge, the medical director of the clinic, and a person who is responsible for provision of drugs and/or devices.

(2) The pharmacy and therapeutics committee shall develop the policy and procedure manual.

(3) The pharmacy and therapeutics committee shall meet at least annually to review and update the policy and procedure manual.

(g) Policies and procedures.

(1) Written policies and procedures shall be developed by the pharmacy and therapeutics committee and implemented by the pharmacist-in-charge.

(2) The policy and procedure manual shall include, but not be limited to, the following:

(A) a current list of the names and addresses of the pharmacist-in-charge, consultant-pharmacist, staff pharmacist(s), supportive personnel designated to provide drugs and/or devices, and the supportive personnel designated to supervise the day-to-day pharmacy-related operations of the clinic in the absence of the pharmacist;

(B) functions of the pharmacist-in-charge, consultant pharmacist, staff pharmacist(s) and supportive personnel;

(C) objectives of the clinic;

(D) formulary;

(E) a copy of written agreement between the pharmacist-in-charge and the clinic;

(F) date of last review/revision of policy and procedure manual; and

(G) policies and procedures for:

(i) security;

(ii) equipment;

(iii) sanitation;

(iv) licensing;

(v) reference materials;

(vi) storage;



- (vii) packaging-repackaging;
- (viii) dispensing;
- (ix) provision;
- (x) supervision;
- (xi) labeling-relabeling;
- (xii) samples;
- (xiii) drug destruction and returns;
- (xiv) drug and/or device procuring;
- (xv) receiving of drugs and/or devices;
- (xvi) delivery of drugs and/or devices;
- (xvii) record keeping; and
- (xviii) inspection.

(h) Supervision.

(1) The pharmacist-in-charge, consultant pharmacist, or staff pharmacist shall be in contact with the clinic on at least a monthly basis, either through written memos, documented telephonic conferences, or on-site visits;

(2) The pharmacist-in-charge, consultant pharmacist, or staff pharmacist shall personally visit the clinic every three months to ensure that the clinic is following set policies and procedures, provided however, that clinics who are operated by state or local governments and clinics who are funded by public money, may petition the board for an alternative visitation schedule under the following conditions.

(A) Such petition shall contain an affidavit signed by the medical director, the pharmacist-in-charge, and the owner/chief executive officer of the clinic, which states that the clinic has a current policy and procedure manual on file, has adequate security to prevent diversion of dangerous drugs, and is in compliance with all rules governing Class D pharmacies.

(B) The board may consider the following items in determining an alternative schedule:

- (i) the degree of compliance on past compliance inspections;
- (ii) the size of the patient population of the clinic;
- (iii) the number and types of drugs contained in the formulary; and
- (iv) the objectives of the clinic.

(C) Such petition shall be resubmitted annually in conjunction with the application for renewal of the pharmacy license.

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 16, 1986.

TRD-8611664 Fred S. Brinkley, Jr.  
Executive Director  
Texas State Board of  
Pharmacy

Effective date: January 7, 1987  
Proposal publication date: September 23, 1986  
For further information, please call  
(512) 832-0861.

★ ★ ★

★ 22 TAC §§291.91-291.93, 291.95, 295.96

The Texas State Board of Pharmacy adopts the repeal of §§291.91-93 and 291.95-98, without changes to the proposed text published in the September 23, 1986, issue of the *Texas Register* (11 *TaxReg* 4025).

The repeal provides regulation and control of clinic pharmacies to protect the public health, safety, and welfare.

This repeal is adopted simultaneously with new §§291.91-291.94, concerning Class D (clinic) pharmacies.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4542a-1, §§5, 17, 29, and 30, which provide the Texas State Board of Pharmacy with the authority to govern the practice of clinic pharmacies and the standards that each clinic pharmacy and its employees or personnel involved in the practice of clinic pharmacy must meet to qualify for licensing or relicensing as a clinic pharmacy.

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 16, 1986.

TRD-8611663 Fred S. Brinkley  
Executive Director  
Texas State Board of  
Pharmacy

Effective date: January 7, 1987  
Proposal publication date: September 23, 1986  
For further information, please call  
(512) 832-0861.

★ ★ ★

Records

★ 22 TAC §501.32

The Texas State Board of Public Accountancy adopts the repeal of §501.32, without changes to the proposed text published in the September 30, 1986 issue of the *Texas Register* (11 *TaxReg* 4105).

The repeal of the section is necessary to allow for the adoption of a new section with proper wording.

The repeal is required to allow for the adoption of a new section which clearly defines which type of records must be provided a client, and when.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §9(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to return of records.

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 16, 1986.

TRD-8611724 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: January 9, 1987  
Proposal publication date: September 30, 1986  
For further information, please call  
(512) 450-7041.

★ ★ ★

★ 22 TAC §501.32

The Texas State Board of Public Accountancy adopts new §501.32, without changes to the proposed text published in the September 30, 1986, issue of the *Texas Register* (11 *TaxReg* 4105).

The new section is required to prevent misinterpretation of the requirements to return client records and certain records produced by the accountant.

The new section clearly states the requirements of records return and identifies such records.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 41a-1, §9(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating the return of records.

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 16, 1986.

TRD-8611725 Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: January 9, 1987  
Proposal publication date: September 30, 1986  
For further information, please call  
(512) 450-7041.

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# TITLE 31. NATURAL RESOURCES AND CONSERVATION

## Part IX. Texas Water Commission

### Chapter 291. Water Rates Subchapter C. Notice

#### ★31 TAC §291.41

The Texas Water Commission adopts an amendment to §291.41, with changes to the proposed text published in the October 14, 1986, issue of the *Texas Register* (11 TexReg 4273).

The amendment clarifies the procedure used by the commission to suspend the operation of rates schedules. The change to the proposed amendment is a nonsubstantive change which simply tracks the statutory language.

The purpose of this amendment is to make clear that the commission, the executive director, or a designated representative of the executive director may suspend the operation of rate schedules, as necessary, to a maximum of 150 days beyond the date on which the proposed schedule of rates would otherwise go into effect.

With the consent of the utility applying for the rate change, the operation of the proposed rate schedule may be suspended for more than 150 days. The operation of the proposed rule schedule may also be suspended to continue a hearing in progress.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Water Code, §§5.103, 5.106, and 13.041, which provides the Texas Water Commission with the authority to do all things necessary and convenient to the exercise of its power and jurisdiction to regulate and supervise the business of every water and sewer utility within its jurisdiction.

**§291.41. Administrative Completeness.** Applications for rate/tariff change and certificates of convenience and necessity shall be reviewed by the staff for administrative completeness within 10 working days of receipt of the application by the executive director. An application for rate/tariff change shall not be deemed to have been filed until a determination of administrative completeness is made. Upon determination that the application is administratively complete, the executive director will notify the applicant by mail of that determination. The filing date of the application shall be the date of such letter of notification. If the executive director determines that material deficiencies exist in any pleadings, petitions for relief, applications, or other requests for commission action addressed by this chapter, the party so notified shall have 10 days to amend and

thereby correct the deficiency. In cases involving proposed rate changes, the effective date of the proposed change is 35 days after the filing date of the application or other proposed effective date, if later. Statutory processing deadlines will be initiated on the same day. The commission, executive director, or a designated representative of the executive director may suspend the operation of rate schedules as necessary to a maximum of 150 days beyond the date on which the proposed schedule of rates would otherwise go into effect. With the consent of the utility applying for the rate change or to continue a hearing in progress, the operation of the proposed rate schedule may be suspended for more than 150 days.

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 18, 1986.

TRD-8611703

James K. Rourke  
General Counsel  
Texas Water Commission

Effective date: January 8, 1987  
Proposal publication date: October 14, 1986  
For further information, please call  
(512) 463-8087.

# TITLE 34. PUBLIC FINANCE

## Part II. State Treasury

### Chapter 13. Unclaimed Property Reporting and Compliance

#### ★34 TAC §13.15

The Texas State Treasury adopts new §13.15, without changes to the proposed text published in the September 28, 1986, issue of the *Texas Register* (11 TexReg 4064).

The new section clarifies the responsibilities of unclaimed property holders who file reports in a computer readable format.

One comment was received from Texas Oil and Gas Company (TXO) regarding the new section. The comment was generally favorable, characterizing the new section as probably in everyone's best interest. TXO's comment went on to challenge the agency's legal authority to issue this beneficial rule. The Texas Property Code, §74.101, allows the Treasury to prescribe reporting forms. Section 74.101, coupled with the Treasury's general unclaimed property rule-making authority, found in the Texas Property Code, §74.701, provides ample statutory authority for the adoption of the new section.

The new section is adopted under the Texas Property Code, §74.101, which authorizes the state treasurer to adopt any rules necessary to carry out the Texas unclaimed property statute.

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 16, 1986.

TRD-8611675

J. Stephen Ravel  
General Counsel  
State Treasury  
Department

Effective date: January 7, 1987  
Proposal publication date: September 28, 1986  
For further information, please call  
(512) 463-5971.

## Part IV. Employees Retirement System of Texas

### Chapter 73. Benefits

#### ★34 TAC §73.15

The Employees Retirement System of Texas adopts an amendment to §73.15, without changes to the proposed text published in the November 4, 1986, issue of the *Texas Register* (11 TexReg 4564).

Adoption of this amendment will provide up-to-date information concerning the method the Employees Retirement System uses in computing retirement benefits under the state's proportionate retirement program.

Section 73.15(d) refers to and incorporates by reference into the section an amended document entitled, "Computation of Proportional Retirement Benefits." The Membership and Retirement Benefits Division of the Employees Retirement System of Texas has revised the document by expanding it to cover the computation of proportionate retirement benefits for appointed officers and employees who retire between November 30, 1986, and May 31, 1987, under the retirement incentive provisions of House Bill 40, Acts of the 60th Legislature, 2nd Called Session, 1986.

No comments were received regarding adoption of the amendment.

The amendment is proposed under Texas Civil Statutes, Title 110B, §13.401(a), which provide the board of trustees of the Employees Retirement System of Texas with the authority to adopt rules it finds necessary to implement the proportionate retirement program.

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

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

TRD-8611744

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: January 9, 1987  
Proposal publication date: November 4, 1986  
For further information, please call  
(512) 478-6431, ext. 178.

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## Chapter 81. Insurance

### ★34 TAC §81.3

The Employees Retirement System of Texas adopts an amendment to §81.3.

The amendment is made to incorporate federally mandated technical corrections to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), as amended. This amendment accommodates the technical corrections that prescribe a 30-day grace period for nonpayment of premiums. The effective date of these technical corrections is retroactive to September 1, 1986.

The amendment sets the time period from the due date to the date beyond which coverage may be canceled at 30 days for COBRA participants. This same 30-day grace period will also apply to all other participants who pay premiums directly to the Employees Retirement System of Texas.

The amendment is adopted under the Insurance Code, Article 3.50-2, §4, which provides the board of trustees of the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and to carry out the purposes and provisions of the Texas Employees Uniform Group Insurance Benefits Act in all its particulars and pursuant to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), §10002, which requires the Texas Employees Uniform Group Insurance Plan administered by this system to provide continuation coverage for certain eligible individuals.

#### §81.3. Administration.

(a)-(c) (No change.)

(d) Funding.

(1) (No change.)

(2) Payment of premiums. Deductions from monthly compensation or annuities and direct payment of premiums are two methods of payments used for the employee's share of premiums.

(A) (No change.)

(B) Direct payment of premiums.

Persons who are not eligible participants in the program and who are not on a payroll or who are not receiving an annuity from a state retirement system from which the appropriate premiums may be deducted or whose salary or annuity are insufficient to allow for a full required deduction must pay premiums directly as indicated in the following.

(i) A person whose retirement annuity is temporarily suspended, a person in a leave of absence without pay status, a

person in an extended sick leave without pay status, and a terminated employee whose application for disability retirement benefits is pending must pay premiums monthly in advance. A person whose retirement annuity is temporarily suspended and a terminated employee whose application for disability retirement benefits is pending must submit premiums directly to the Employees Retirement System. A person in leave of absence without pay status and a person in extended sick leave without pay status shall submit premiums through the employee's employing agency. Premium payments are due on the first day of the month covered and must be postmarked or received by the Employees Retirement System or the employing agency, whichever is appropriate, within 30 days of the due date to avoid cancellation of coverage.

(ii) A person who continues group health benefits as provided in §81.5(j) of this title (relating to Eligibility) must pay premiums in advance on a monthly basis. Health coverage premiums for such a person will be 102% of the rates charged for other participants in the same coverage category and with the same health insurance coverage. All premiums due for the election/enrollment period must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation of coverage enrollment form. Subsequent premiums are due on the first day of the month covered and must be postmarked or received by the Employees Retirement System within 30 days of the due date to avoid cancellation of coverage.

(iii) A person, other than those described in subsection (d)(2)(B)(i) of this section or subsection (d)(2)(B)(ii) of this section must pay premiums in advance and may elect to pay either monthly, every three months, every six months, or annually. The full premium for the payment period option chosen must be paid directly to the Employees Retirement System and is due on the first day of the first month covered by the payment period. The premium payment must be postmarked or received by the Employees Retirement System within 30 days of the due date to avoid cancellation of coverage. A person who fails to complete a payment period option election prior to the first premium due date will be required to pay premiums in advance every month until an election is filed with the Employees Retirement System.

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 19, 1986.

TRD-8611745

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: December 19, 1986  
For further information, please call  
(512) 478-6431, ext. 178.

## Chapter 81. Insurance

### ★34 TAC §81.5

The Employees Retirement System of Texas adopts an amendment to §81.5, with changes to the proposed text published in the November 4, 1986, issue of the *Texas Register* (11 TexReg 4564).

The amendment to subsection (d) of this section protects the right of a disability retiree whose life insurance premium has been waived to continue dependent term life insurance. Section 81.5 has been further changed to include subsection (j), which contains language originally included in this section but that was inadvertently omitted in the proposed amendment. Additionally, changes have been made to incorporate federally mandated technical corrections to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), as amended. This amendment accommodates the technical corrections that allow individual elections by all qualified beneficiaries to continue health coverage, allow a second qualifying event subsequent to termination, and direct that COBRA continuants be given the same opportunities for coverage changes (such as open enrollment) that non-COBRA participants have. The technical corrections amendment has been filed separately with the Office of the Secretary of State, and has an effective date retroactive to September 1, 1986.

The amendment to subsection (d) of this section allows disability retirees to continue dependent life insurance coverage provided the premiums for such coverage are paid when due. Changes to incorporate technical corrections to COBRA clarify that all qualified beneficiaries are potential electors for continuation coverage with respect to eligibility requirements; establish an eligibility criteria by which a person, during a period of continuation as the result of termination, may qualify for a total of 36 months of continuation coverage; and specify that COBRA participants have the opportunity to change health coverage levels or plans on the same basis as non-COBRA participants.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Article 3.50-2, §4, which provides the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and provisions of the Texas Employees Uniform Group Insurance Benefits Act in all its particulars. The amendment is also made pursuant to Public Law 99-272 Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), §10002, which requires the Texas Employees Uniform Group Insurance Plan administered by

this system to provide continuation coverage for certain eligible individuals.

**§81.5. Eligibility.**

(a)-(c) (No change.)

(d) Dependents of employees and retirees. The dependents of an employee or retiree are eligible for coverage on the same day that the employee or retiree becomes eligible. A newly acquired dependent is eligible for coverage on the date he or she becomes a dependent of a covered employee or retiree. The employee or retiree must be enrolled for a particular coverage before his or her dependents are eligible for that type of coverage. Newborn dependents are covered automatically on date of birth. A retiree's dependents are eligible for dependent life insurance coverage only if that coverage was in effect the day before the retiree became eligible for retiree life insurance; however, where the retiree was precluded from adding dependent life coverage because eligible dependents were either active state employees or covered as dependents of an active state employee, the retiree may add dependent life coverage upon an eligible dependent's termination of state employment other than by retirement. The request to add this coverage must be submitted within 30 days following the date the dependent terminates state employment other than by retirement. A dependent may not be simultaneously covered for basic term life and dependent term life. A family member who is covered as an employee or retiree is not eligible to be covered as a dependent in the program. A dependent may not be covered by more than one employee or retiree. Double coverage is not permitted for a participant in the Uniform Group Insurance Program.

(e)-(i) (No change.)

(j) Continuation of health coverage only for certain spouses and dependent children of employees/retirees, and for certain terminating employees, their spouses, and dependent children (as provided by the Public Health Service Act, Title XXII).

(1) The surviving spouse and/or dependent child/children of a deceased employee or retiree who are not eligible to continue health coverage under the provisions of the Act or subsection (e) of this section, who are not entitled to benefits under the Social Security Act, Title XVIII, and who are not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date of death of the employee/retiree. A formal election must be made to continue the health coverage by the surviving spouse and/or the dependent child/children. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(2) An employee whose employment has been terminated voluntarily or involuntarily (other than for gross miscon-

duct), except for those persons not eligible pursuant to §81.11(c) of this title (relating to Eligibility and Effective Dates of Coverages for Dependents), and/or his or her spouse and/or dependent child/children who are not eligible to continue health coverage under the provisions of the Act or subsection (g) or (h) of this section, who are not entitled to benefits under the Social Security Act, Title XVIII, and who are not covered under any other group health plan may continue for up to 18 months the health coverage only without basic term life that was in effect immediately prior to the date of the termination of employment. A formal election must be made to continue the health coverage by the former employee and/or his or her spouse and/or dependent child/children. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(3) A spouse who is divorced from an employee/retiree and/or the spouse's dependent child/children who are not otherwise eligible to continue health coverage under the provisions of the Act or subsection (d) of this section, who are not entitled to benefits under the Social Security Act, Title XVIII, and who are not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date the divorce decree is signed. The employee/retiree or the divorced spouse or the divorced spouse's dependent child/children must notify the Employees Retirement System through the employing agency or retiree insurance coordinator of the divorce within 60 days from the date the divorce decree is signed. A formal election must be made to continue the health coverage by the divorced spouse and/or the dependent child/children. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(4) A dependent child under 25 years of age who marries, who is not entitled to benefits under the Social Security Act, Title XVIII, and who is not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date of the marriage. The married child or the employee/retiree must notify the Employees Retirement System through the employing agency or retiree insurance coordinator of the marriage within 60 days from the date of the marriage. A formal election must be made by the married child to continue health coverage. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(5) A dependent child who has attained 25 years of age, who is not otherwise eligible to continue health coverage indefinitely under the provisions of the Act or subsection (d) of this section, who is not entitled to benefits under the Social Security Act, Title XVIII, and who is not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date of the child's 25th birthday. The child or employee/retiree must notify the Employees Retirement System through the employing agency or retiree insurance coordinator within 60 days of the child's 25th birthday. A formal election must be made by the 25-year-old child to continue health coverage. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(6) Extension of continuation of health coverage for certain spouses and/or dependent child/children of former employees who are continuing health coverage under the provisions of paragraph (2) of this subsection is governed by the following provisions.

(A) The surviving spouse and/or dependent child/children of a deceased former employee whose death occurred during the period of continuation coverage, who satisfy the provisions of paragraph (1) of this subsection, and who notify the Employees Retirement System within 60 days of the date of death of the former employee are entitled to a total of 36 months of continuation health coverage.

(B) A spouse who is divorced from a former employee during the period of continuation coverage and/or the divorced spouse's dependent child/children who satisfy the provisions of paragraph (3) of this subsection are entitled to a total of 36 months of continuation health coverage.

(C) A dependent child under 25 years of age who marries during the period of continuation coverage and who satisfies the provisions of paragraph (4) of this subsection is entitled to a total of 36 months of continuation health coverage.

(D) A dependent child who attains the age of 25 years during the period of continuation coverage and who satisfies the provisions of paragraph (5) of this subsection is entitled to a total of 36 months of continuation health coverage.

(E) No person shall be allowed to continue health coverage under the provisions of this subsection for more than 36 months.

(7) A person who continues group health benefits under the provisions of paragraphs (1)-(6) of this subsection may change health coverage levels or plans during the continuation period on the same basis as an employee/retiree participant, provided,

however, that health coverage which is canceled during the continuation period may not be reestablished.

(8) (No change.)

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

Issued in Austin, Texas, on December 19, 1986.

TRD-8611746 Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: January 9, 1987  
Proposal publication date: November 4, 1986  
For further information, please call  
(512) 476-6431, ext. 178.

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The Employees Retirement System of Texas adopts an amendment to §81.5.

The amendment is made to incorporate federally mandated technical corrections to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), as amended. This amendment accommodates the technical corrections that allow individual elections by all qualified beneficiaries to continue health coverage, allow a second qualifying event subsequent to termination, and direct that COBRA continuants be given the same opportunities for coverage changes (such as open enrollment) that non-COBRA participants have. The effective date of these technical corrections is retroactive to September 1, 1986.

The amendment clarifies that all qualified beneficiaries are potential electors for continuation coverage with respect to eligibility requirements; establishes an eligibility criteria by which a person, during a period of continuation coverage as a result of termination, may qualify for a total of 36 months of continuation coverage; and specifies that COBRA participants have the opportunity to change health coverage levels or plans on the same basis as non-COBRA participants.

The amendment is adopted under the Insurance Code, Article 3.50-2, §4, which provides the board of trustees of the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and to carry out the purposes and provisions of the Texas Employees Uniform Group Insurance Benefits Act in all its particulars and pursuant to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), §10002, which requires the Texas Employees Uniform Group Insurance Plan administered by this system to provide continuation coverage for certain eligible individuals.

#### §81.5. Eligibility.

(a)-(i) (No change.)

(j) Continuation of health coverage only for certain spouses and dependent children of employees/retirees, and for certain terminating employees, their spouses, and dependent children (as provided by the Public Health Service Act, Title XXII).

(1) The surviving spouse and/or dependent child/children of a deceased employee or retiree who are not eligible to continue health coverage under the provisions of the Act or subsection (e) of this section, who are not entitled to benefits under the Social Security Act, Title XVIII, and who are not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date of death of the employee/retiree. A formal election must be made to continue the health coverage by the surviving spouse and/or the dependent child/children. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(2) An employee whose employment has been terminated voluntarily or involuntarily (other than for gross misconduct), except for those persons not eligible pursuant to §81.11(c) of this title (relating to Termination of Coverage), and/or his/her spouse and/or dependent child/children who are not eligible to continue health coverage under the provisions of the Act or subsection (g) or (h) of this section, who are not entitled to benefits under the Social Security Act, Title XVIII, and who are not covered under any other group health plan may continue for up to 18 months the health coverage only without the basic term life that was in effect immediately prior to the date of the termination of employment. A formal election must be made to continue the health coverage by the former employee and/or his or her spouse and/or dependent child/children. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(3) A spouse who is divorced from an employee/retiree and/or the spouse's dependent child/children who are not otherwise eligible to continue health coverage under the provisions of the Act or subsection (d) of this section, who are not entitled to benefits under the Social Security Act, Title XVIII, and who are not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date the divorce decree is signed. The employee/retiree or the divorced spouse or the divorced spouse's dependent child/children must notify the Employees Retirement System through the employing agency or retiree insurance coordinator of the divorce within 60 days from the date the divorce decree is

signed. A formal election must be made to continue the health coverage by the divorced spouse and/or the dependent child/children. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(4) A dependent child under 25 years of age who marries, who is not entitled to benefits under the Social Security Act, Title XVIII, and who is not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date of the marriage. The married child or the employee/retiree must notify the Employees Retirement System through the employing agency or retiree insurance coordinator of the marriage within 60 days from the date of the marriage. A formal election must be made by the married child to continue health coverage. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(5) A dependent child who has attained 25 years of age, who is not otherwise eligible to continue health coverage indefinitely under the provisions of the Act or subsection (d) of this section, who is not entitled to benefits under the Social Security Act, Title XVIII, and who is not covered under any other group health plan may continue for up to 36 months the health coverage only that was in effect immediately prior to the date of the child's 25th birthday. The child or employee/retiree must notify the Employees Retirement System through the employing agency or retiree insurance coordinator within 60 days of the child's 25th birthday. A formal election must be made by the 25-year-old child to continue health coverage. The formal election must be postmarked or received by the Employees Retirement System within 60 days of the date of notice contained in the notice of right to continue health coverage form.

(6) Extension of continuation of health coverage for certain spouses and/or dependent child/children of former employees who are continuing health coverage under the provisions of paragraph (2) of this subsection.

(A) The surviving spouse and/or dependent child/children of a deceased former employee whose death occurred during the period of continuation coverage, who satisfy the provisions of paragraph (1) of this subsection and who notify the Employees Retirement System within 60 days of the date of death of the former employee are entitled to a total of 36 months of continuation health coverage.

(B) A spouse who is divorced from a former employee during the period of continuation coverage and/or the divorced spouse's dependent child/children who satisfy the provisions of paragraph (3)

of this subsection are entitled to a total of 36 months of continuation health coverage.

(C) A dependent child under 25 years of age who marries during the period of continuation coverage and who satisfies the provisions of paragraph (4) of this subsection is entitled to a total of 36 months of continuation health coverage.

(D) A dependent child who attains the age of 25 years during the period of continuation coverage and who satisfies the provisions of paragraph (5) of this subsection is entitled to a total of 36 months of continuation health coverage.

(E) No person shall be allowed to continue health coverage under the provisions of this subsection for more than 36 months.

(7) A person who continues group health benefits under the provisions of paragraphs (1)-(6) of this subsection may change health coverage levels or plans during the continuation period on the same basis as an employee/retiree participant, provided, however, that health coverage which is canceled during the continuation period may not be reestablished.

(8) (No change.)

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

Issued in Austin, Texas, on December 19, 1986.

TRD-8611747

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Effective date: December 19, 1986  
For further information, please call  
(512) 478-8431, ext. 178.

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### ★34 TAC §81.7

The Employees Retirement System of Texas adopts an amendment to §81.7, with changes to the proposed text published in the November 4, 1986, issue of the *Texas Register* (11 TexReg 4565).

The amendment to subsection (g)-(i) provides clearer, more consistent rules concerning eligibility, coverages, and requirements for participation in the Texas Employees Uniform Group Insurance Program. Section 81.7 has been further changed to reflect redesignated subsections within this section resulting from a correction to adopted federally mandated changes to this section. This correction was published in the November 4, 1986, issue of the *Texas Register* (11 TexReg 4576). Additionally, changes have been made to incorporate federally mandated technical corrections to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), as amended. This amendment accommodates the technical corrections that allow individual elections by all qualified beneficiaries

to continue health coverage and allow a second qualifying event subsequent to termination. The technical corrections amendment has been filed separately with the Office of the Secretary of State, and has an effective date retroactive to September 1, 1986.

The amendment clarifies the pre-existing condition clause applying to employees transferring to Blue Cross/Blue Shield due to a move out of an HMO service area; establishes the effective date of disability coverage by Blue Cross/Blue Shield upon evidence of insurability as the first day of the month following the month in which approval was received by the Employees Retirement System of Texas; and suspends disability income coverage while an employee is on disability leave and allows automatic reinstatement when the employee returns to active duty. Changes to incorporate technical corrections to COBRA clarify that all qualified beneficiaries are potential electors for continuation coverage with respect to enrollment requirements and the establishment of enrollment criteria by which persons, during a period of continuation coverage as the result of termination, may enroll for a total of 36 months of continuation coverage.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Insurance Code, Article 3.50-2, §4, which provides the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and to carry out the purposes and provisions of the Texas Employees Uniform Group Insurance Benefits Act in all its particulars. The amendment is also made pursuant to Public Law, §10002, 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), which requires the Texas Employees Uniform Group Insurance Plan administered by this system to provide continuation coverage for certain eligible individuals.

#### §81.7. Enrollment and Participation.

(a) Full-time employees and the dependents.

(1) (No change.)

(2) Applications for coverages to be effective on the day the employee begins active duty must be submitted to the agency insurance coordinator on or before that day. Coverages for which the application is submitted after the first day of active duty and within 30 days after that day will be effective on the first day of the month following the date of application; however, applications completed by the employee and postmarked or received by the employing agency on the first day of the month will become effective on the first day on the month. Applications submitted after the first 31 days will be governed by subsection (f) of this section.

(3) Coverages for dependents of an employee will be effective on the same day the employee's coverage becomes effective if an application is submitted on or before the effective date of the employee's coverage. If the application is submitted within 30 days after the employee's effective date, the dependent's coverage will be effective on the first day of the month following the date of application; however, applications completed by the employee and postmarked or received by the employing agency on the first day of the month will become effective on the first day of the month. New dependents' coverage will be effective on the date the person becomes a dependent if the application is submitted on or within 30 days after the date the dependent first becomes eligible. If the application is submitted more than 30 days after the employee's effective date or the date the dependent is first eligible, as the case may be, the application will be governed by the rules in subsection (f) of this section.

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

(b) (No change.)

(c) Retirees and their dependents.

(1) (No change.)

(2) If a retiree was not covered as an active employee immediately prior to becoming an annuitant, the retiree will be automatically enrolled in the basic retiree plan. Coverage for an eligible dependent of a retiree will be effective on the same day the retiree's coverage becomes effective if an application is received on or before the retiree's effective date of coverage. Applications received after the first 31 days will be governed by subsection (f) of this section. Retiree coverage for a terminated employee will be made effective as provided in Subsection (i)(3) of this section.

(3) An application to delete optional life coverages or to change health coverage will be effective on the day the retiree becomes an annuitant if the application is postmarked or received by the Employees Retirement System on or before the effective date of retirement, but subject to the provisions of subsection (i)(3) of this section. If the application is received after the date the retiree becomes an annuitant, but within 30 days after the date the retiree becomes an annuitant, the deletion or change of coverage will become effective the first day of the month following the date the application for deletion or change is received. All other enrollment rules stated in subsections (a), (e)-(g), and (i) of this section apply to retirees.

(d) Surviving dependents. A surviving spouse and dependents of a deceased employee who met the age and service requirements to qualify for a retirement benefit or survivor's annuity at the time of death and a surviving spouse and dependents of a retiree may continue coverage as provided in §81.5(e) of this title (relating to Eligibility). A surviving spouse, who is receiving an annuity as provided in §81.3(d)(2)(A) of this title (relating to Administration). A surviving spouse who is not receiving an annuity

may make quarterly payments as provided in §81.3(d)(2)(B) of this title (relating to Administration). The surviving spouse must apply to continue coverage for himself or herself and dependents within 30 days after notification in writing of eligibility to make application.

(e) Special rules for additional or alternative coverages.

(1) An employee/retiree must be insured in a health insurance plan provided by the program or enrolled in an approved HMO before the employee/retiree is eligible to apply for any of the optional coverages provided by the program. Only an employee or retiree or a former office or employee specifically authorized to join the program may apply for optional coverages.

(2) An employee/retiree may participate in an approved HMO if he or she resides in the approved service area of the HMO and is otherwise eligible under the terms of the letter of agreement with the HMO.

(3) A participant electing optional additional coverage and/or HMO coverage in lieu of the basic plan of insurance is obligated for the full payment of premiums. If the premiums are not paid, all coverages will be canceled.

(f) Changes in coverages beyond the first 31 days of eligibility.

(1) An employee or retiree who wishes to add or increase coverage, add eligible dependents to the insured plan, or change coverage from an HMO to the insured plan more than 30 days after the initial date of eligibility may submit an application at any time to the Employees Retirement System. The application shall consist of the general purpose form provided by the Employees Retirement System and the insurance carrier's application. Upon review of the application, the carrier may require additional information or medical examination provided at the employee's or retiree's expense. Approval of the application is contingent upon the employee or retiree providing evidence of insurability acceptable to the Employees Retirement System and the carrier. When the application has been approved by the carrier, a notice shall be sent to the Employees Retirement System. Coverage will become effective on the first day of the month following the date approval is received by the Employees Retirement System, unless the applicant is an employee then in a leave without pay status, in which case, it will become effective on the date the employee returns to active duty. An employee or retiree may withdraw the application at any time prior to the effective date of coverage by submitting a notice of withdrawal in writing to the Employees Retirement System.

(2) The evidence of insurability provision applies only to those employees, retirees, or eligible dependents who:

(A) did not elect all available coverages on or within 30 days after the initial date of eligibility;

(B) declined or failed to enroll in the health insurance plan on or within 30 days after the initial date of eligibility; or

(C) enrolled in any coverage under the insured plan and later dropped or were canceled from such coverage.

(3) An employee or retiree who wishes to add eligible dependents to his or her HMO coverage may do so only during the annual enrollment period, except as provided in paragraph (8) of this subsection.

(4) An employee or retiree who moves his or her place of residence into an HMO service area is eligible to apply for coverage on or within the first 30 days after the date of residence in the HMO service area. Coverage will become effective on the first of the month following the date of application; however, applications completed by the employee or the retiree and postmarked or received by the employing agency (Employees Retirement System for retirees) on the first day of the month will become effective on the first day of the month.

(5) An employee or retiree (and his or her covered dependents) who is enrolled in an approved HMO and who permanently moves his or her place of residence out of an approved HMO service area will be allowed to enroll in the health insurance plan and other optional coverages held immediately prior to the date of change in residence. Coverage in the HMO will be canceled on the last day of the month in which the employee or retiree moved from the service area, and the coverages in the insured health benefits plan will become effective on the day following the day HMO coverage is canceled. The evidence of insurability rule shall not apply in these cases.

(6) Persons wishing to change from one HMO to another HMO in the same service area or change from the insured plan to an HMO will be allowed an annual opportunity to do so. Such opportunity will be scheduled prior to September 1 of each year at times announced by the Employees Retirement System. The preexisting conditions clause and evidence of insurability provision will not apply in these cases. Coverages in the new HMO will be effective September 1. Persons in a declined or canceled status may apply for coverages in an HMO for which they are eligible during the annual limited enrollment period. Coverage in the HMO will be effective September 1. An employee in a leave without pay status or extended sick leave without pay status on the first of September may continue the types and amounts of coverage for which the employee was eligible and enrolled on the preceding day. When such employee returns to active duty, the employee may apply for coverages for which the employee would have been eligible during the annual limited enrollment period. An application must be completed by the employee and postmarked or received by the employing agency on or before the first day of the month following the employee's return to active duty for a 30-day

period. Coverages applied for under this provision become effective on the first day of the month following the date of application if the employee is on active duty on that date.

(7) An employee or retiree who wishes to decrease or cancel coverage may do so at any time. An application completed by the employee or the retiree and postmarked or received by the employing agency (Employees Retirement System for the retiree) on the first day of the month will become effective on the first day of the month. An application submitted after the first day of the month will be effective on the first day of the month following the date of application.

(8) An eligible dependent spouse or child who is insured as an employee for health coverage under the Uniform Group Insurance Program becomes eligible for coverage as a dependent on the day following termination of state employment. Eligible dependent children who are insured as dependents for health coverage under the Uniform Group Insurance Program by an employee who terminates state employment also become eligible for coverage on the day following termination of employment. In order to be eligible for coverage, dependents must meet the definition of dependent contained in §81.1 of this title (relating to Definitions) and be enrolled for coverage by the state employee of whom they are the eligible dependent and who is enrolled for health coverage under the program. The effective date of coverage will be the first day of the month following termination of employment if an application is submitted on or within 30 days following the date the dependent(s) become eligible under this rule.

(g) Pre-existing condition limitation. For initial health insurance coverage on or after September 1, 1985, or health insurance coverage changes effective on or after September 1, 1985, the pre-existing condition exclusion shall apply to employees, retirees, and eligible dependents (including newly acquired dependents, but excluding newborns) who are enrolled in the insured health benefits plan. The exclusion limits benefit payments to \$500 for a full 12 months from the effective date of coverage for a pre-existing condition, as defined in §81.1(q) of this title (relating to Definitions). The pre-existing condition exclusion will not apply to:

(1) an eligible newborn;

(2) a medical condition resulting from congenital or birth defects;

(3) an individual allowed to return to the insured health plan because he or she moves permanently out of an HMO service area except that, if the return to the insured plan occurs within 12 months of the initial date of coverage under the current term of employment, the exclusion will apply for the remainder of the 12-month period for any condition for which the participant was seen or treated by a physician during the 90-day

period immediately prior to the initial date of coverage under the current term of employment.

(4) an individual who enrolls in an HMO.

(h) Reinstatement in the program. Unless specifically prohibited by these sections or contractual provisions, an employee who terminates employment and returns to active duty within the same contract year may reinstate coverage for himself and his dependents no greater than those that were in effect when the employee terminated by submitting an application for the coverages. The application must be submitted on the first day the employee returns to active duty, and the coverage will be effective on the day the employee returns to active duty. The pre-existing condition clause will apply. A returning employee who has selected coverages less than those in effect when terminating employment may reinstate any waived coverages by submitting the appropriate application during the 30 days following the date the employee returns to active service. The change in coverage will become effective on the first day of the month following the date of application. An application to reinstate disability insurance coverage for a returning employee must contain evidence of insurability acceptable to the insurance carrier. Disability coverage will become effective on the first day of the month following the date approval is received by the Employees Retirement System of Texas, unless the employee is then in a leave without pay status, in which case it will become effective on the date the employee returns to active duty.

(i) (No change.)

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

Issued in Austin, Texas, on December 19, 1986.

TRD-8611748

Clayton T. Garreton  
Executive Director  
Employees Retirement  
System of Texas

Effective date: January 1, 1987

Proposal publication date: November 4, 1986

For further information, please call

(512) 476-6431.

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The Employees Retirement System of Texas adopts an amendment to §81.7.

The amendment is made to incorporate federally mandated technical corrections to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), as amended. This amendment accommodates the technical corrections that allow individual elections by all qualified beneficiaries to continue health coverage and allow a second qualifying event subsequent to termination. The effective date of these technical corrections is retroactive to September 1, 1986.

This amendment clarifies that all qualified beneficiaries are potential electors for continuation coverage with respect to enrollment requirements and the establishment of enrollment criteria by which persons, during a period of continuation coverage as the result of termination, may enroll for a total of 36 months of continuation coverage.

The amendment is adopted under the Insurance Code, Article 3.50-2, §4, which provides the board of trustees of the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and to carry out the purposes and provisions of the Texas Employees Uniform Group Insurance Benefits Act in all its particulars and pursuant to Public Law 99-272, Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), §10002, which requires the Texas Employees Uniform Group Insurance Plan administered by this system to provide continuation coverage for certain eligible individuals.

#### §81.7. Enrollment and Participation.

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

(i) Continuing coverage in special circumstances.

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

(6) Continuation of health coverage benefits for a covered employee whose employment has been terminated voluntarily or involuntarily. A terminated employee, his or her spouse and/or dependent child/children, who in accordance with §81.5(j)(2) of this title (relating to Eligibility), elects to continue health coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement system on or before the date indicated on the continuation of coverage enrollment form. Continuing health coverage will begin on the first day of the month following the month in which the covered employee terminates employment, provided all group insurance premiums due for the month in which the employee terminates and for the election/enrollment period have been paid in full.

(7) Continuation of health coverage benefits for a spouse who is divorced from an employee/retiree and/or the spouse's dependent child/children. The divorced spouse and/or the spouse's dependant child/children (not provided for by §81.5(a) of this title (relating to Eligibility)) of an employee/retiree who, in accordance with §81.5(j)(3) of this title (relating to Eligibility), elects to continue health coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation enrollment form. The election/enrollment period begins on the first day of the month following the month in which the dependent child marries.

ment System on or before the date indicated on the continuation of coverage enrollment form. Continuing health coverage will begin on the first day of the month following the month in which the divorce decree is signed, provided all group insurance premiums due for the month in which the divorce decree is signed and for the election/enrollment period have been paid in full.

(8)-(9) (No change.)

(10) Extension of continuation of health coverage for certain spouses and/or dependent child/children of former employees who are continuing health coverage under the provisions of paragraph (6) of this subsection.

(A) The surviving spouse and/or dependent child/children of a deceased former employee, who, in accordance with §81.5(j)(6)(A) of this title (relating to Eligibility), elects to extend continuation coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation enrollment form. The election/enrollment period begins on the first day of the month following the month in which the former employee died.

(B) A spouse who is divorced from a former employee and/or the divorced spouse's dependent child/children, who, in accordance with §81.5(j)(6)(B) of this title (relating to Eligibility), elects to extend continuation coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation enrollment form. The election/enrollment period begins on the first day of the month following the month in which the divorce decree was signed.

(C) A dependent child under 25 years of age who marries, who, in accordance with §81.5(j)(6)(C) of this title (relating to Eligibility), elects to extend continuation coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation enrollment form. The election/enrollment period begins on the first day of the month following the month in which the dependent child marries.

(D) A dependent child who has attained 25 years of age, who, in accordance with §81.5(j)(6)(D) of this title (relating to Eligibility), elects to extend continuation coverage may do so by submitting the required election notification and enrollment forms



to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation enrollment form. The election/enrollment period begins on the first day of the month following the month in which the dependent child attained age 25.

(11) Continuation coverage defined. Continuation coverage as provided for in paragraphs (5)-(10) of this subsection means the continuation of only health coverage benefits which meets the following requirements.

(A) Type of benefit coverage. The coverage shall consist of only the health coverage, which, as of the time the coverage is being provided, is identical to the health coverage provided for a similarly situated person for whom a cessation of coverage event has not occurred.

(B) Period of coverage. The coverage shall extend for at least the period beginning on the first day of the month following the date of the cessation of coverage event and ending not earlier than the earliest of the following:

(i) in the case of termination of an employee's employment, the last day of the 18th calendar month of the continuation period;

(ii) in any case other than termination of an employee's employment, the last day of the 36th calendar month of the continuation period;

(iii) the date on which the employer ceases to provide any group health plan to any employee/retiree;

(iv) the date on which coverage ceases under the plan due to failure to make timely payment of any premium required as provided in §81.3(d)(2)(B)(ii) of this title (relating to Administration);

(v) the date on which the participant, after the date of election, becomes covered under any other group health plan;

(vi) the date on which the participant, after the date of election, becomes entitled to benefits under the Social Security Act, Title XVIII; or

(vii) in the case of a participant who is continuing by reason of being a spouse of a covered employee/retiree, the date on which the participant remarries and becomes covered under any other group health plan.

(C) Premium requirements. The premium for a participant during the continuation of health coverage period will be 102% of the employee's/retiree's health coverage only rate and is payable as provided in §81.3(d)(2)(B)(ii) of this title (relating to Administration).

(D) No requirement of insurability. No evidence of insurability is required for a participant who elects to continue health coverage under the provisions of §81.5(j)(1)-(5) of this title (relating to Eligibility).

(E) Conversion option. An option to enroll under the conversion plan available

to employees/retirees is also available to a participant who continues health coverage for the maximum period as provided in subsection (i)(10)(B)(i) of this section and subsection (i)(10)(B)(ii) of this section. The conversion notice will be provided to a participant during the 180-day period immediately preceding the end of the continuation period.

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 19, 1986.

TRD-8611749 Clayton T. Garrison  
Executive Director  
Employees Retirement  
System

Effective date: December 19, 1986  
For further information, please call  
(512) 476-6431, ext. 178.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 15. Medicaid Eligibility

##### Subchapter GG. Resources for Individuals Related to the SSI Program

###### ★ 40 TAC §15.3203

The Texas Department of Human Services (TDHS) adopts an amendment to §15.3203, concerning general principles concerning resources, in its chapter governing Medicaid eligibility. TDHS adopts this section to comply with changes resulting from the Deficit Reduction Act of 1984 (DEFRA). The amendment reflects annual increases in individual/couple countable resource limits.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs. The amendment is adopted effective January 1, 1987, to comply with federal requirements.

###### §15.3203. General Principles Concerning Resources.

(a) Resource limitations.

(1) An individual or couple meets SSI resource criteria if the value of all countable resources does not exceed the following limitations:

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

(C) January 1, 1986, to December 31, 1986: \$1700 for an individual and \$2550 for a couple;

(D) January 1, 1987, to December 31, 1987: \$1800 for an individual and \$2700 for a couple;

(E) January 1, 1988, to December 31, 1988: \$1900 for an individual and \$2850 for a couple;

(F) January 1, 1989, to December 31, 1989: \$2000 for an individual and \$3000 for a couple;

(G) for an individual with an ineligible spouse living in the same household, the caseworker uses the couple limit (combined resources of the individual and spouse);

(H) for an individual with an ineligible spouse not living in the same household, the caseworker uses the individual limit;

(I) for a child, the caseworker uses the individual limit (child's own resources plus certain deemed resources of the parents with whom the child lives).

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

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

Issued in Austin, Texas, on December 17, 1986.

TRD-8611686 Martin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: January 1, 1987  
For further information, please call  
(512) 450-3766.

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## Chapter 29. Purchased Health Services

### Subchapter L. General Administration

#### ★ 40 TAC §29.1124

The Texas Department of Human Services (DHS) adopts new §29.1124, without changes to the proposed text published in the October 24, 1986, issue of the *Texas Register* (11 *TaxReg* 4411).

The department is adopting the new section to stipulate that for providers to participate in the Texas Medical Assistance Program, they must be approved for and participating in Medicare, as specified by the department or its designee.

The new section will function by ensuring that benefits that are available to a recipient under Medicare are used before payment by Medicaid. The department or its designee may waive the requirement for providers whose types of practice or services are not covered by Medicare.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on December 19, 1986.

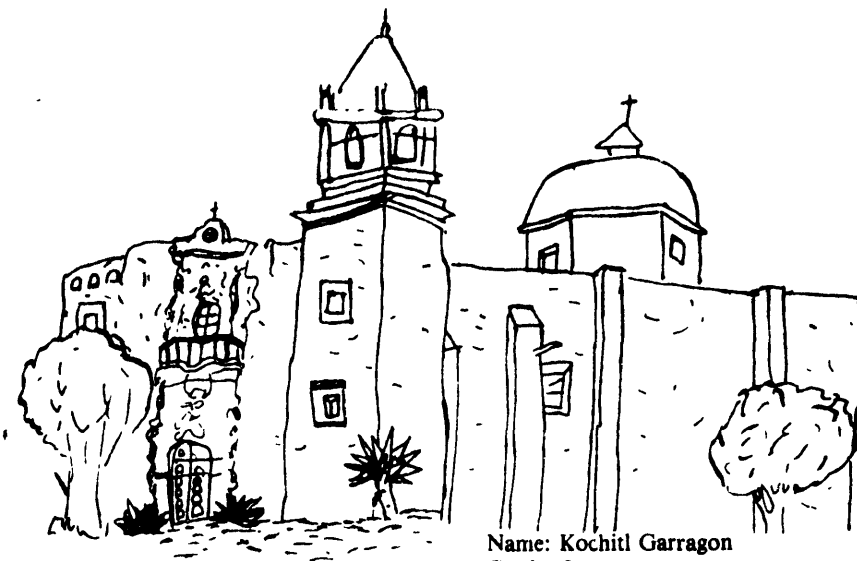
TRD-8811710

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date: January 9, 1987

Proposal publication date: October 24, 1986

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



Name: Kochitl Garragon  
Grade: 5  
School: Westcliff Elementary, Ft. Worth

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# Open Meetings

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

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

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

## Texas Board of Architectural Examiners

**Friday, January 9 and 10, 1987, 10 a.m. and 8 a.m. respectively.** The Texas Board of Architectural Examiners will meet in Suite 107, 8213 Shoal Creek Boulevard, Austin. According to the agenda, the board will approve minutes, reinstatements, reciprocal licensing, hearings, examinations, expenditure voucher signatures, rules and regulations, the Intern Development Program, legislation, alleged violations, election of officers, and future board meetings.

**Contact:** Robert H. Norris, 8213 Shoal Creek Boulevard, Suite 107, Austin, Texas 78758, (512) 458-1363.

**Filed:** December 19, 1986, 2:46 p.m.  
TRD-8611727

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## Texas Commission for the Deaf

**Saturday, January 10, 1987, 9 a.m.** The Board for Evaluation of Interpreters of the Texas Commission for the Deaf will meet at the Houston Association for the Deaf, 606 Boundry, Houston. According to the agenda, the board will approve previous meeting minutes; hear the report on the Sunset Commission Decision; consider final adoption of BEI rules of operation; discuss the "Handbook"; approve and review certificates to be recommended; and hear the chairperson's report.

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

**Filed:** December 22, 1986, 2:37 p.m.  
TRD-8611780

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## Texas Employment Commission

**Friday, December 19, 1986, 8:30 a.m.** The Texas Employment Commission met in emergency session in Room 644, TEC Building,

101 East 15th Street, Austin. The commission met to discuss prior meeting notes; internal procedures of commission appeals; consideration and action on higher level appeals in unemployment compensation cases on Commission Docket 51/52; and set the date of the next meeting. The emergency status was necessary due to the need to meet federal time requirements.

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

**Filed:** December 18, 1986, 1:54 p.m.  
TRD-8611692

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## University of Houston System

**Tuesday, December 23, 1986, 9 a.m.** The Board of Regents of the University of Houston met in emergency session on the second floor, Community Room, Enterprise Bank Building, 4600 Gulf Freeway, Houston. According to the agenda, the board met in executive session to consider personnel issues relating to the appointment of a chancellor and possible action. The emergency status was necessary because the next possible meeting date is after the holiday season, and to wait that long would risk loss of candidate and endanger the selection process.

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

**Filed:** December 22, 1986, 1:09 p.m.  
TRD-8611779

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## Texas Commission on Human Rights

**Saturday, January 3, 1987, 10:30 a.m.** The Texas Commission on Human Rights will meet in the Lieutenant Governor's Room 220, State Capitol, Austin. According to the agenda, the commission will welcome guests;

approve minutes; hear administrative reports; discuss 1988-89 biennium budget; hear committee reports; attorney general's opinion on handicapped provisions under the TCHR Act; EEO Compliance Training; hear a report on 1987 charge resolution contract with EEOC; the report on Governor's emergency funds; FEP/EEOC conference; annual report; annual financial report; consider commissioners' issues; and consider unfinished business.

**Contact:** William M. Hale, 7215 Cameron Road, Suite B, Austin, Texas 78752, (512) 459-0944.

**Filed:** December 18, 1986, 1:42 p.m.  
TRD-8611693

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## Texas Industrial Accident Board

**Monday, December 22, 1986, 9:30 p.m.** The Texas Industrial Accident Board met in Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board considered medical evaluation proposal (carried over from December 1, 1986, meeting); Mr. Koriath's letter of December 1, 1986, pertaining to Texas Civil Statutes, Article 8306, §28(d); reviewed policy regarding acquisition of workers' compensation manuals for staff; posted unfilled positions: Programmer Analyst, Pre-hearing Examiner-Trainer, Micrographics, Crime Victims Auditor, and Ad Tech IV; and reviewed board files (this portion closed pursuant to workers' compensation statute).

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

**Filed:** December 18, 1986, 3:27 p.m.  
TRD-8611700

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## State Board of Insurance

**Monday, December 29, 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, the board will consider emergency amendments to 28 TAC §5.4001(d)(1)(C); 28 TAC §5.4001(a)(2)(I); 28 TAC §5.4001(c)(2)(B), proposed amendments to 28 TAC §5.4001(d)(1)(C); 28 TAC §5.4001(a)(2)(I); 28 TAC §5.4001(c)(2)(B); servicing company between the Medical Protective Company and the Texas Medical Liability Insurance Underwriting Association; decision on the Attorney General of Texas, and Texas Association of Compensation Consumers' Motions for rehearing on the Workers' Compensation Hearing, Docket 1505.

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

**Filed:** December 19, 1986, 3:50 p.m.  
TRD-8611732

The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. Times, days, and agendas follow.

**Tuesday, December 30, 1986, 9 a.m.** According to the agenda, the board will consider Docket 9431—application for original charter of USAA Life Insurance Company of Texas, San Antonio.

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

**Filed:** December 22, 1986, 11:48 a.m.  
TRD-8611776

**Tuesday, December 30, 1986, 1:30 p.m.** According to the agenda, the board will consider Docket 9432—reinsurance agreement whereby Lifetime Underwriters Life Insurance Company, Tyler, will be reinsured by American Union Life Insurance Company, Dallas.

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

**Filed:** December 22, 1986, 11:48 a.m.  
TRD-8611777

**Monday, January 5, 1987, 1:30 p.m.** According to the agenda, the board will consider Docket 9419—whether disciplinary action should be taken against Charles Ray Thornhill, Haskell, who holds a Group I, legal reserve life insurance agent's license, Group II insurance agent's license, and local recording agent's license issued by the State Board of Insurance.

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

**Filed:** December 22, 1986, 11:48 a.m.  
TRD-8611778

**Monday, January 6, 1987, 9 a.m.** The State Board of Insurance will meet in Room 414, State Insurance Building, Austin. According to the agenda, the board will hold a public

hearing to consider the appeal of Preferred Employers Insurance Company from action of Texas workers' compensation assigned risk pool.

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

**Filed:** December 18, 1986, 1:42 p.m.  
TRD-8611694

**Wednesday, January 14, 1987, 9 a.m.** The State Board of Insurance will meet in Room 414, State Board of Insurance, 1110 San Jacinto Street, Austin. According to the agenda, the board will hold a public hearing to consider the appeal of Dan Raymond Hart from Commissioner's Order 86-0842.

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

**Filed:** December 18, 1986, 1:42 p.m.  
TRD-8611695

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## Texas Board of Land Surveying

**Thursday-Friday, January 8-9, 1987, 8 a.m.** The first regular meeting of the Texas Board of Land Surveying will meet in Suite 304, 7703 North Lamar, Austin. According to the agenda the board will meet to approve the minutes of previous meetings; conduct interviews; review applications; discuss correspondence; prepare the February 1987 examination and any other business to come before the board.

**Contact:** Betty J. Pope, 7703 North Lamar, Suite 304, Austin, Texas 78752, (512) 452-9427.

**Filed:** December 18, 1986, 1:42 p.m.  
TRD-8611696

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## State Board of Morticians

**Tuesday, January 6, 1987, 10 a.m.** The State Board of Morticians will meet at the Viscount Hotel, 2828 Southwest Freeway, Houston. According to the agenda summary, the board will conduct a formal hearing on actions of licensees, and review requests to take written and oral examinations.

**Contact:** Larry A. Farrow, 8100 Cameron Road, Building B, Suite 550, Austin, Texas 78753, (512) 834-9992.

**Filed:** December 22, 1986, 2:34 p.m.  
TRD-8611781

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## Board of Pardons and Paroles

**Monday-Friday, December 29-31, 1986, and January 2, 1987, 1:30 p.m. daily, and 11:00 a.m. Friday.** The Board Panel (3 Board Members) of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda

summary the panel 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, P.O. Box 13401, Austin, Texas 78711, (512) 459-2713.

**Filed:** December 19, 1986, 11:08 a.m.  
TRD-8611719

**Tuesday, December 30, 1986, 1:30 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda the board will meet to consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; other reprieves, remissions, and executive clemency actions.

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

**Filed:** December 19, 1986, 11:08 a.m.  
TRD-8611720

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## Public Utility Commission of Texas

**Monday, January 5, 1987, 10 a.m.** The Hearings Division of the PUC will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda a prehearing conference has been scheduled in Docket 7020—application of Southwestern Bell Telephone Company for authority to implement rates for intraLata service provided over multi-jurisdictional WATS access lines.

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

**Filed:** December 18, 1986, 1:45 p.m.  
TRD-8611697

**Monday, January 5, 1987, 1 p.m.** The Hearings Division of the PUC will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda a prehearing conference will be held in Docket 7027—application of AT&T Communications of the Southwest, Inc. to reduce the rates of its 1.544 MBPS digital services tariff.

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

**Filed:** December 19, 1986, 2:40 p.m.  
TRD-8611726

**Monday, June 22, 1987, 10 a.m.** The Hearings Division of the PUC will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda a hearing on the merits has been scheduled in Docket 6963 regarding the reasonableness of the Spring Creek and Kerr McGee coal contract costs.

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

**Filed:** December 18, 1986, 1:45 p.m.  
TRD-8611698

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### **State Purchasing and General Services Commission**

**Friday, December 19, 1986, 9 a.m.** The Commission for State Purchasing and General Services met in Room 916, LBJ State Office Building, Austin. According to the agenda the commission considered protest on requisition 322-7-70473-V for a computer system for the Texas Employment Commission (TEC). The emergency status was necessary because delay of consideration and determination of the protest will delay the acquisition of a computer system by TEC which must be installed for that agency to provide necessary employment services to the public.

**Contact:** Judith M. Porras, Room 912, 111 East 17th Street, Austin, Texas 78774, (512) 463-3427.

**Filed:** December 18, 1986, 11:15 a.m.  
TRD-8611679

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### **Railroad Commission of Texas**

**Monday, December 22, 1986, 9 a.m.** The Railroad Commission of Texas met in emergency session in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission considered and acted on division agendas as follows

Various matters falling within the Gas Utilities Division's regulatory jurisdiction. The emergency status was necessary because these dockets were properly noticed for conference on December 15, 1986, were passed and are now being considered on less than seven days notice as a matter of urgent public necessity and because the rates proposed in these dockets will be potentially approved by operation of law and potentially result in the general public being assessed rates detrimental to the public's general welfare.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7003.

**Filed:** December 19, 1986, 10:16 a.m.  
TRD-8611711-8611750

The Oil and Gas Division considered the application of Union Exploration Partners, Ltd.; Rule 37/38, R. V. White 502 (01212) Lease, Well 6, Van Field, Van Zandt County; Rule 37 Case 102,017; and considered Union Exploration Partners, Ltd., Rule 317/38, J. A. Bracken 35 (01139) Lease, Well 11, Van Zandt County; and Rule 37

Case 102,018. The emergency status was necessary because these items must be taken on less than seven days notice as a matter of urgent public necessity. These items were properly noticed for the meeting of December 15, 1986, and were passed.

**Contact:** Glenn Jordan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6920.

**Filed:** December 19, 1986, 9:40 a.m.  
TRD-8611712

Additions to the previous agenda.

Consideration of application of TXO Production Corporation, exception to SWR 69, University 22 lease, Block 4 (Devonian) and (Wolfcamp) Fields, Upton County, Docket 7C-89,313. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgent public necessity. This item was properly noticed for the meeting of December 15, 1986, and was passed.

**Contact:** Kim Kiplin, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7291.

**Filed:** December 19, 1986, 9:41 a.m.  
TRD-8611713

Consideration of whether to adopt proposed amendments to Statewide Rules 30 and 34 (16 TAC 3.30 and 3.34), for the State of Texas. Docket 20-88,701 and compensation of whether to adopt on an emergency basis to Statewide Rule 34 (16 TAC 3.34) for the State of Texas. Docket 20-89,058. The emergency status was necessary because this must be taken on less than seven days notice as a matter of urgent public necessity. These items were properly noticed for the meeting of December 15, 1986, and were passed.

**Contact:** Lisa C. Anderson, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6921.

**Filed:** December 19, 1986, 9:41 a.m.  
TRD-8611714

Consideration of Railroad Commission District 3 default PFD and final order in the consideration of whether to enter a commission order assessing administrative penalties and/or requiring compliance with commission regulations on the Wiler Reiter Corporation, Texas fee lease, Wells 1, 2, and 4, Hull Field, Liberty County; Docket 3-80, 140, and the consideration of the Railroad Commission District 7B Administrative Penalty, default PFD and final order in the consideration of whether to enter a commission order assessing administrative penalties and/or requiring compliance with commission regulations on the Carpus Oil and Gas Co., Inc., Thornton Lease, Well 1, Permit 234708, V.L.C. (McMillian, Upper) Field, Taylor County, Docket 7B-85,885. The emergency status was necessary because these items must be taken on less than seven days notice as a matter of urgent public necessity. These items were properly noticed

for the meeting of December 15, 1986, and were passed.

**Contact:** Mike Borkland, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6768.

**Filed:** December 19, 1986, 9:41 a.m.  
TRD-8611715

The Transportation Division considered Dockets 027369ZZT, 027546ZZT, 027649ZZT, for Interim Order amending S & GMCA Tariff 2-1. The emergency status was necessary as the commission must take action on this matter by December 22, 1986, as a matter of urgent public necessity. The carriers will be left without rates if no action is taken on this date, and will not be able to serve the public of Texas. A lack of certificated carriers available to transport sand and gravel constitutes a threat to the public welfare.

**Contact:** Mike James, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-7315.

**Filed:** December 19, 1986, 9:41 a.m.  
TRD-8611716

Additions to the previous agenda.

Consideration of a recommendation that the commission approve a grant agreement with the Federal Railroad Administration for funding rail planning activities during federal fiscal year 1987. The emergency status was necessary because failure to submit grant agreement may result in a total loss of funding needed to preserve transportation services essential to health, safety, and welfare of Texas citizens. These services include assistance to communities threatened with sudden and permanent loss of railroad transportation.

**Contact:** Mike James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7315.

**Filed:** December 19, 1986, 3:48 p.m.  
TRD-8611731

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### **State Rural Medical Education Board**

**Friday, December 19, 1986, 10 a.m.** The Board of the State Rural Medical Education Board met in emergency session in Room 408, Southwest Tower Building, 211 East Seventh Street, Austin. Items on the agenda included emergency requests for supplemental loans and requests for enhancement of staff capabilities. The emergency status was necessary due to an emergency need for funds and the deadline for enrolling in the training course.

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

**Filed:** December 18, 1986, 10:38 a.m.  
TRD-8611678

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## Texas Savings and Loan Department

**Tuesday, January 6, 1987, 9 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 Heart O' Texas Savings Association, San Saba, San Saba County, to relocate a branch office from the southeast corner of Brodie Lane and Plantation Road, Austin, to the intersection of Eighth and Colorado Streets, Austin, Travis 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 78705, (512) 479-1250.

**Filed:** December 22, 1986, 9:15 p.m.  
TRD-8611769

**Thursday, January 8, 1987, 9 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 amended application of University Savings Association, Houston, Harris County, to relocate a branch office from 2331 Northwest Military Drive, San Antonio, Bexar County, to 12355 Fondren, Houston, Harris 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 78705, (512) 479-1250.

**Filed:** December 22, 1986, 9:15 a.m.  
TRD-8611770

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## State Securities Board

**Tuesday, January 6, 1987, 9 a.m.** The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda, the commissioner will hold a hearing to determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Rainbow Mining Investments, Inc. and sold by Mr. Jerry E. Griffin.

**Contact:** Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701.

**Filed:** December 22, 1986, 4:27 p.m.  
TRD-8611793

**Wednesday, January 7, 1987, 9 a.m.** The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda, the commissioner will hold a hearing to determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Havilah Mining & Exploration, Inc. and offered for sale and sold by Wayne E. Whitson and Robert I. Dixon.

**Contact:** Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701.

**Filed:** December 22, 1986, 4:28 p.m.  
TRD-8611794

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## Texas State Soil and Water Conservation Board

**Wednesday, January 21, 1986, 10 a.m.** The Texas State Soil and Water Conservation Board will meet in the Conference Room, 311 North Fifth Street, Temple. According to the agenda, the board will hold a public hearing on State Brush Control Plan, pursuant to Senate Bill 1083.

**Contact:** Harvey Davis, P.O. Box 658, Temple, Texas, (817) 773-2250.

**Filed:** December 22, 1986, 8:40 a.m.  
TRD-8611751

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## Texas Surplus Property Agency

**Friday, January 9, 1987, 8:30 a.m.** The Governing Board will meet at the Texas Department of Public Safety Headquarters Emergency Operations Center, (EOC), Austin. According to the agenda the board will meet to approve minutes of last board meeting, to discuss budget adjustments, and to hear the Executive Director's report. The board will also meet in Executive Session to discuss real estate purchases of warehouse facilities and personnel matters.

**Contact:** Marvin J. Titzman, P.O. Box 8120, San Antonio, Texas 78208, (512) 661-2381.

**Filed:** December 18, 1986, 1:43 p.m.  
TRD-8611699

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## Texas State Technical Institute

**Sunday-Monday, January 18-19, 1987, 1:00 p.m. and 10 a.m.** The Board of Regents of TSTI will meet in the Short Course Center, TSTI, Harlingen. According to the agenda the board will meet to consider approval of minutes, requests for budget change, designation of Liberty National Bank as depository for the J.B. and Mary Lou Sandlin Endowment Fund at TSTI-Waco, lease agreement between TSTI-Waco and Electrospac Systems, Inc. for building 6-3 to be used as office space, adoption of an official comprehensive energy management plan for TSTI-Harlingen, appointment of campus president at TSTI-Sweetwater, resolution of appreciation to Dr. Herbert C. Robbins, classes meeting with less than 10 students, delegation of authority to submit new program application, and ratification of executive committee action.

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

**Filed:** December 19, 1986, 11:02 a.m.  
TRD-8611721

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## Texas Tourist Development Agency

**Friday, January 16, 1987, 9 a.m.** The Board of the Texas Tourist Development Agency will meet in Room 201, 611 South Congress Avenue, Austin. According to the agenda the board will welcome visitors and attendees; hear the Texas Research League study of agency; Highway Department in-state travel activity report; advertising status report; Texas Tourist Development agency staff reports; annual meeting report; and comments from the public. The board will also meet in Executive Session if necessary.

**Contact:** Margaret Younger, P.O. Box 12008, Austin, Texas 78711, (512) 462-9191.

**Filed:** December 19, 1986, 11:01 a.m.  
TRD-8611722

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## Texas Water Commission

The Office of Hearings Examiner of the Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Room numbers, dates, and agendas follow.

**Wednesday, January 7, 1987, 10 a.m.** In Room 512, the commission will hold a notice of hearing on the motion of Aqua Water Supply Corporation for a cease and desist order against Bastrop West Water Systems.

**Contact:** Duncan Norton, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** December 18, 1986, 3:59 p.m.  
TRD-8611701

**Tuesday, February 3, 1987, 9 a.m.** In Room 512, the commission will consider the application of the City of Bastrop, P.O. Box 427, Bastrop, Texas 78602, for an amendment to Permit 11076-01 to authorize an increase in the discharge of treated domestic wastewater effluent at its Jasper Street Wastewater Treatment Plant from a volume not to exceed 650,000 gallons per day, with parameters of 20 mg/l for biochemical oxygen demand and total suspended solids, to an interim phase of 1,060,000 gallons per day average and a final capacity of 1,400,000 gallons per day average. Parameters of 10 mg/l biochemical oxygen demand, 15 mg/l total suspended solids, 2 mg/l ammonia nitrogen and a minimum dissolved oxygen concentration of 5 mg/l would be required beginning upon completion of the 1,060,000 facility.

**Contact:** Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** December 19, 1986, 3:58 p.m.  
TRD-8611738

**Tuesday, February 3, 1987, 2 p.m.** In Room 118, the commission will reset the petition for creation of North Travis County Municipal Utility District 3, containing 728.06 acres of land.

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

**Filed:** December 19, 1986, 3:59 p.m.  
TRD-8611733

**Tuesday, February 4, 1987, 9 a.m.** In Room 512, the commission will consider application by Phillips Coal Company, Calvert Lignite Mine, 2929 North Central Expressway, Richardson, Texas 75080, for Proposed Permit 02881 to authorize an intermittent, flow variable discharge of lignite mine pit water and groundwater, commingled with treated sewage effluent and treated oily waste from seven outfalls at its Calvert Lignite Mine. The applicant proposes to begin operation of this surface lignite mine in 1987.

**Contact:** Charmaine Rhodes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** December 19, 1986, 3:58 p.m.  
TRD-8611734

**Wednesday, February 4, 1987, 10 a.m.** The Office of the Hearings Examiner of the Texas Water Commission will meet in Room 4100A, City Hall Annex, 900 Bagby Street, Houston. According to the agenda, the commission will consider the application of Pioneer Concrete of Texas, Inc., 2537 South Gessner, Suite 102, Houston, Texas 77063, for renewal of Permit 02502 which authorizes a discharge of washwater at a volume not to exceed an average flow of 350,000 gallons per day from a sand and gravel plant. The plant is located four miles east of IH 45 adjacent to Sleepy Hollow Road in Montgomery County. The washwater is discharged into an unnamed tributary of the West Fork San Jacinto River; thence into the West Fork San Jacinto River, in Segment 1004 of the San Jacinto River Basin.

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

**Filed:** December 19, 1986, 3:58 p.m.  
TRD-8611735

**Thursday, February 5, 1987, 9 a.m.** The Office of Hearings Examiner of the Texas Water Commission will meet in the Commissioner's Courtroom, Brazoria County Courthouse, Angleton. According to the agenda, the commission will consider the application of Texas Department of Corrections, Darrington Unit, P.O. Box 99 N/C, Huntsville, Texas 77340, for renewal of Permit 10743-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 500,000 gallons per day from the Darrington Unit STP which is located within the Darrington Prison Farm Unit, approximately 3.5 miles north-northwest of the intersection of FM Roads 1462 and 521 in Brazoria County. The

effluent is discharged into Oyster Creek in Segment 1110 of the San Jacinto-Brazos Coastal Basin.

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

**Filed:** December 19, 1986, 3:58 p.m.  
TRD-8611736

**Tuesday, February 17, 1987, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Agendas follow.

Public hearing on Application 5112—Fern Lake Hunting and Fishing Club, Inc. seeks a permit to maintain an existing dam and reservoir on Picnitt Creek, tributary of Deboldin Creek, tributary of Haggerty Creek, tributary of Big Cypress Bayou, Cypress Basin, for in place recreational use Harrison County.

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

**Filed:** December 22, 1986, 4:07 p.m.  
TRD-8611783

Public hearing on Application 5109—Baptist Missionary Association of Texas seeks a permit to build and maintain a dam creating a reservoir on an unnamed tributary of the Neches River, Neches River Basin, and to divert from the reservoir 1.25 acre-feet of water per annum, to be used for recreation purposes, and irrigation, in Smith County.

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

**Filed:** December 22, 1986, 4:07 p.m.  
TRD-8611784

Public hearing on Application 22-4514A—Alice Water Authority seeks to amend Certificate of Adjudication 22-4514 to eliminate the requirements for gages on San Fernando Creek, and San Diego Creek, and to change the requirements for the reservoir from continuous water-stage monitoring to daily recordings to be reported annually to the commission, Nueces Rio Grande Coastal Basin, Jim Wells County.

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

**Filed:** December 22, 1986, 4:07 p.m.  
TRD-8611785

Public hearing on Application A-3696—Tahitian Village Property Owners Association, Inc. seeks to extend the time to commence and complete modifications of a dam required by Permit 3448 (A-3696), requesting that the time to begin and complete construction modifications on the dam be extended to November 1, 1987, and November 1, 1988, respectively, Colorado River Basin, Bastrop County.

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

**Filed:** December 22, 1986, 4:06 p.m.  
TRD-8611786

Public hearing on Application 5111—New Horizons Ranch and Center, Inc. seeks a permit to maintain an existing dam on an unnamed tributary of Pecan Bayou, Colorado River Basin, and to divert from Pecan Bayou into the reservoir five acre feet of water per annum to be used for recreational purposes, Mills County.

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

**Filed:** December 22, 1986, 4:06 p.m.  
TRD-8611787

Public hearing on Application 5113—Grayson County Junior College District seeks a permit to maintain an existing dam and 3.6 acre-foot capacity reservoir on an unnamed tributary of the Big Mineral Creek Arm of Lake Texoma, Red River Basin, for in place recreational purposes, and for irrigation in Grayson County.

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

**Filed:** December 22, 1986, 4:06 p.m.  
TRD-8611788

Public hearing on Application 5110—River-Brook Associates, seek a permit to build and maintain two on channel reservoirs on Middle Bayou, tributary of the Brazos River, Brazos River Basin, and to divert around the reservoirs the flow of Middle Bayou via a diversion channel that will be connected to the reservoirs, Fort Bend County.

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

**Filed:** December 22, 1986, 4:06 p.m.  
TRD-8611789

**Thursday, February 19, 1987, 1 p.m.** The Office of the Hearings Examiner of the Texas Water Commission will meet in Room 119, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will hold a public hearing on Application 5097—L. Kenneth Evans, San Antonio.

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

**Filed:** December 18, 1986, 3:56 p.m.  
TRD-8611702

**Thursday, December 26, 1986, 10 a.m.** The Office of the 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 commission will hold public hearing on an application by Woodland Acres for a rate increase, Docket 7127-R.

**Contact:** Duncan Norton, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** December 19, 1986, 3:56 p.m.  
TRD-8611737

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**Regional Agencies**  
**Meetings Filed December 18**

**The Alamo Area Council of Governments,** Board of Managers Bexar Metro 9-1-1 Network, met in Room 420, Atlee B. Ayres Building, San Antonio, on December 22, 1986, at 10 a.m. and will meet at the same location on January 5, 1987, at 10 a.m. Information may be obtained from Al J. Notzon, III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

**The Gillespie County Appraisal District,** Board of Directors, will meet in City Hall Assembly Room, Fredericksburg, on January 7, 1986, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9809.

TRD-8611691

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**Meetings Filed December 19**

**The Gillespie County Appraisal District,** Board of Review, will meet in Room 101-B, Gillespie County Courthouse, Fredericksburg, on January 8, 1986, at 9 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9809.

**The Jasper County Appraisal District,** Board of Directors, met at the County Courthouse Annex, 121 North Austin, Jasper, on December 22, 1986, at 6:30 p.m. The Appraisal Review Board will meet at the same location, on December 30, 1986, at 9 a.m. Information may be obtained from David W. Luther, Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

**The Lamb County Appraisal District,** Board of Directors, met at Steak 'n More Restaurant, Littlefield, on December 19, 1986, at 1:30 p.m. Information may be obtained from Murlene J. Bilbrey, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474.

**The Liberty County Central Appraisal District,** Appraisal Review Board, will meet at 1820 Sam Houston, Liberty, on January 9, 1986, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 712, Liberty, Texas 77575, (409) 336-6771.

**The San Patricio County Appraisal District,** Board of Directors, will meet in the Courthouse Annex, Sinton, on December 8, 1986, at 9:30 p.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

TRD-8611718

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**Meetings Filed December 22**

**The Brazos River Authority,** Audit Committee, will meet at 4400 Cobbs Drive, Waco, on January 5, 1987, at 11 a.m. The Water Utilization Committee will meet at the same location, on January 12, 1987, at 10 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555.

**The Education Service Center Region XV,** Board of Directors, will meet at 612 South Irene Street, San Angelo, on January 8,

1987, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571.

**The Edwards County Appraisal District,** Board of Directors, will meet at New County Office Building, Rocksprings, on January 6, 1987, at 10 a.m. Information may be obtained from Sondra Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-7490.

**The Grayson Appraisal District,** Appraisal Review Board, met in emergency session at 205 North Travis, Sherman, on December 24, 1986, at 9 a.m. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

**The Hockley County Appraisal District,** Appraisal Review Board, will meet at 1103-C Houston Street, Levelland, on December 30, 1986, at 10 a.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654.

**The Lee County Appraisal District,** Board of Directors, will meet at 218 East Richmond Street, Giddings, on December 30, 1986, at 9 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Martin County Appraisal District,** Board of Directors, will meet at 708 West St. Anna Street, Stanton, on January 5, 1987, at 7 p.m. Information may be obtained from Elaine Stanley, P.O. Box 1349, Stanton, Texas 79782, (915) 756-2823.

TRD-8611752

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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 Public Hearing

Notice is given that pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.09; 40 Code of Federal Regulations 51.4 of the Environmental Protection Agency (EPA) Regulations concerning State Implementation Plans (SIP); the Administrative Procedure and *Texas Register Act*, Texas Civil Statutes, Article 6252-13a, §5; and the Texas Air Control Board (TACB) Procedural Rules, Rule 103.11(4), the TACB will conduct a public hearing to receive testimony concerning proposed revisions to the Tarrant County Ozone SIP and to TACB Regulation V.

Specifically, the TACB is proposing to amend §115.191, concerning emission limitations, to revise the compliance deadline for automobile and light-duty truck coating from December 31, 1986, to December 31, 1987. The revision is being proposed in response to a petition for a rule change from General Motors Corporation (GM). The revised deadline will allow GM the time necessary to design and construct an alternate control system for topcoat and final repair. The control system originally planned was part of a major project which was cancelled by GM when a declining market projection for new vehicle models to be produced at the Arlington plant made construction economically infeasible. As a result, a different approach using add-on controls must be utilized to meet topcoat and final repair volatile organic compound (VOC) limits. The company has petitioned for the rule change because insufficient time currently exists to design and construct an add-on system.

In addition, the TACB is proposing to revise the SIP by submitting to EPA two alternate means of VOC control by GM which outline the specific methods GM will use to achieve emissions equivalent to those required under §115.191. GM would be allowed alternate methods for the control of emissions from a primer surfacer operation and a top coating operation at the Arlington, Texas plant. The proposed alternate emission control methods allow a higher VOC content in specific materials used in these processes since the resulting increase in emissions will be offset by a greater transfer efficiency for the primer surfacer operation and the addition of thermal incineration to the top coat operation.

The hearing will be held at 7 p.m. on January 27, 1987, at the Community Hall of the Arlington Public Library located at 101 East Abram, Arlington, Texas. Public comments, both oral and written, on the proposal are invited at the public hearing.

The hearing is structured for the receipt of narrative comments. Interrogation or cross-examination is not permitted, although a TACB staff member will be available immediately before and after the hearing to answer questions informally. Accordingly, persons desiring to testify

at the hearing should examine the materials on file beforehand and prepare their responses for presentation at the hearing.

Written comments not submitted at the hearing may be submitted to the TACB Central Office in Austin up to and including January 28, 1987. Comments received by 4 p.m. on that date at the TACB Central Office in Austin will be considered by the board prior to any final decision on the proposed revisions. Five copies of all written comments are requested.

Copies of the proposal are available for inspection at the Central Office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, and at the TACB Fort Worth regional office located at 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116. For further information, call Lane Hartsock at (512) 451-5711.

Issued in Austin, Texas, on December 19, 1986.

TRD-8611729      Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: December 19, 1986  
For further information, please call (512) 451-5711, Ext. 353.



## Texas Cancer Council Implement Nurse Oncology Education Network

In the December 12, 1986, issue of the *Texas Register* (11 TexReg 4967), the Cancer Council requested proposals for implementation of a Statewide Nurse Oncology Education Network.

The due date for all proposals was the 20th day after December 12, 1986. The Council now extends the due date to the 40th day after December 12, 1986.

Issued in Austin, Texas, on December 17, 1986.

TRD-8611667      James D. Dannenbaum  
Chairman  
Texas Cancer Council

Filed: December 17, 1986  
For further information, please call (512) 463-3190.



## Texas Department of Community Affairs Announcement of Contract Awards

The Texas Department of Community Affairs announces that the units of general local government listed below have

each been selected as contract recipients for marginal projects under the Community Development Project Fund or the Area Revitalization Fund, established pursuant to Texas Civil Statutes, Article 4413 (201), §4A. Although the proposed amount of funding for each contract is indicated, a contract is not effective until executed by the unit of general local government and the executive director of the Texas Department of Community Affairs.

The cities and counties selected as contract recipients under the Community Development Project Fund include Bonham, \$94,348; Fairfield, \$241,276; Friona, \$83,423; Gatesville, \$255,129; Melissa, \$274,342; San Patricio County, \$178,902; Santa Rosa, \$205,915; and Trinidad, \$64,393.

The city selected as contract recipient for the Area Revitalization Fund is Navasota. The amount of funding is \$266,606.

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

TRD-8611683 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: December 18, 1986  
For further information, please call (512) 834-6060.

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## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

| Type of Rate Ceilings<br>Effective Period<br>(Dates are Inclusive)                            | Consumer <sup>(3)</sup> Agricul-<br>tural/Commercial <sup>(4)</sup><br>thru \$250,000 | Commercial <sup>(4)</sup><br>over<br>\$250,000 |
|---|---|--|
| Indicated (Weekly)<br>Rate—Article 1.04(a)(1)<br>12/22/86-12/28/86                            | 18.00%  | 18.00%   |
| Monthly Rate—<br>Article 1.04(c)(1)<br>12/01/86-12/31/86                                      | 18.00%  | 18.00%   |
| Standard Quarterly<br>Rate—Article 1.04(a)(2)<br>01/01/87-03/31/87                            | 18.00%  | 18.00%   |
| Retail Credit Card<br>Quarterly Rate—<br>Article 1.11 <sup>(3)</sup><br>01/01/87-03/31/87     | 18.00%  | N/A  |
| Lender Credit Card<br>Quarterly Rate—<br>Article 15.02(d) <sup>(3)</sup><br>01/01/87-03/31/87 | 14.00%  | N/A  |
| Standard Annual<br>Rate—Article 1.04(a)(2) <sup>(2)</sup><br>01/01/87-03/31/87                | 18.00%  | 18.00%   |
| Retail Credit Card<br>Annual Rate—<br>Article 1.11 <sup>(3)</sup><br>01/01/87-03/31/87        | 18.00%  | N/A  |

Annual Rate Applicable  
to Pre-July 1, 1983,  
Retail Credit Card and  
Lender Credit Card  
Balances with Annual  
Implementation Dates  
from

01/01/87-03/31/87 18.00% N/A

Judgment Rate—Article  
1.05, §2

01/01/87-01/31/87 10.00% 10.00%

- (1) For variable rate commercial transactions only
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment, or other similar purpose.

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

TRD-8611665 Al Endsley  
Consumer Credit  
Commissioner

Filed: December 17, 1986  
For further information, please call (512) 479-1280.

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## Texas Department of Health Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

### NEW LICENSES ISSUED:

| Location            | Name   | License # | City              | Amend-<br>ment # | Date of<br>Action |
|---------------------|--|-----------|-------------------|------------------|-------------------|
| Austin              | Central Texas<br>Radiation<br>Therapy Center | 6-3995    | Austin            | 0                | 12/09/86          |
| Corpus<br>Christi   | G L. Capps<br>Company                        | 8-3999    | Corpus<br>Christi | 0                | 12/04/86          |
| Denton              | Denton Com-<br>munity Hospital               | 5-4003    | Denton            | 0                | 12/08/86          |
| San Antonio         | Diagnostic<br>Medicine Incor-<br>porated     | 9-3993    | San<br>Antonio    | 0                | 11/20/86          |
| Throughout<br>Texas | Fina Oil and<br>Chemical<br>Company          | 12-4002   | Big Spring        | 0                | 12/04/86          |

### AMENDMENTS TO EXISTING LICENSES ISSUED:

| Location  | Name                                       | License # | City      | Amend-<br>ment # | Date of<br>Action |
|-----------|--|-----------|-----------|------------------|-------------------|
| Ablene    | Radiology Associates                       | 4-339     | Ablene    | 49               | 11/26/86          |
| Arlington | The University of<br>Texas at Arlington    | 5-248     | Arlington | 20               | 11/24/86          |
| Arlington | HCA South Arl-<br>ington Medical<br>Center | 5-2228    | Arlington | 17               | 12/08/86          |
| Austin    | St David's Com-<br>munity Hospital         | 6-740     | Austin    | 38               | 11/12/86          |
| Beaumont  | Outpatient<br>Diagnostic Center,<br>Ltd.   | 10-3888   | Beaumont  | 2                | 11/24/86          |
| Beaumont  | Mobil Oil Cor-<br>poration                 | 10-867    | Beaumont  | 18               | 12/01/86          |
| Burnet    | Sheppard Memorial<br>Hospital              | 6-3515    | Burnet    | 5                | 11/12/86          |
| Cameron   | Saunt Edward<br>Hospital                   | 6-3523    | Cameron   | 3                | 12/04/86          |

|                   |  |         |                 |    |          |
|-------------------|--|---------|-----------------|----|----------|
| Channelview       | Lyondell Petrochemical Company               | 11-64   | Channelview     | 21 | 11/26/86 |
| College Station   | Texas A & M University                       | 6-448   | College Station | 58 | 12/09/86 |
| Columbus          | Columbus Eye Associates                      | 11-915  | Columbus        | 9  | 11/14/86 |
| Commerce          | Hunt Memorial Hospital District              | 5-3328  | Commerce        | 4  | 11/26/86 |
| East of Koesse    | Texas Industrial Minerals Company            | 6-3150  | Koesse          | 1  | 12/05/86 |
| El Paso           | Melvin Fox, M D                              | 3-3764  | El Paso         | 2  | 11/24/86 |
| El Paso           | Hotel Dieu Hospital and Medical Center       | 3-2185  | El Paso         | 20 | 11/26/86 |
| Fort Worth        | Mineral Logging Systems, Inc                 | 5-2994  | Fort Worth      | 3  | 12/03/86 |
| Fort Worth        | All Saints Episcopal Hospital                | 5-2212  | Fort Worth      | 14 | 12/08/86 |
| Fort Worth        | Fort Worth Osteopathic Medical Center        | 5-730   | Fort Worth      | 26 | 12/08/86 |
| Granbury          | Geo-Log, Inc                                 | 5-1944  | Granbury        | 32 | 12/01/86 |
| Harlingen         | Valley Baptist Medical Center                | 8-1909  | Harlingen       | 27 | 11/24/86 |
| Harlingen         | Texas State Technical Institute              | 8-2156  | Harlingen       | 5  | 12/09/86 |
| Houston           | Medical Clinic of Houston                    | 11-1315 | Houston         | 14 | 11/20/86 |
| Houston           | Geoservices Incorporated                     | 11-2803 | Houston         | 5  | 12/04/86 |
| Houston           | Syncoor International Corporation            | 11-1911 | Houston         | 63 | 12/09/86 |
| Hurst             | Allied Clinical Laboratories, Inc            | 5-3759  | Hurst           | 2  | 12/01/86 |
| Killeen           | Metroplex Hospital                           | 6-3185  | Killeen         | 4  | 11/26/86 |
| Lubbock           | West Texas Hospital                          | 2-1288  | Lubbock         | 17 | 11/24/86 |
| Nassau Bay        | St John Hospital                             | 11-3291 | Nassau Bay      | 4  | 12/10/86 |
| New Braunfels     | The McKenna Memorial Hospital, Inc           | 9-2429  | New Braunfels   | 9  | 11/26/86 |
| Paris             | James L Clifford, M D & Associates           | 7-458   | Paris           | 37 | 11/26/86 |
| Port Arthur       | Fina Oil and Chemical Company                | 10-3498 | Port Arthur     | 4  | 11/26/86 |
| Richardson        | Rockwell International Corporation           | 5-2508  | Dallas          | 5  | 12/04/86 |
| San Antonio       | Southwest Foundation for Biomedical Research | 9-468   | San Antonio     | 27 | 12/03/86 |
| San Antonio       | Diagnostic Medicine, Incorporated            | 9-3973  | San Antonio     | 1  | 12/11/86 |
| Sealy             | Brazos Valley Hospital                       | 11-3661 | Sealy           | 2  | 11/24/86 |
| Shiner            | Shiner Hospital Foundation                   | 8-3394  | Shiner          | 2  | 12/09/86 |
| South of Bay City | Celanese Chemical Company                    | 11-246  | Bay City        | 25 | 11/25/86 |
| Three Rivers      | Intercontinental Energy Corporation          | 8-2538  | Three Rivers    | 26 | 12/05/86 |
| Throughout Texas  | Shell Development Company                    | 11-2116 | Houston         | 20 | 10/29/86 |
| Throughout Texas  | Texas State Technical Institute              | 6-1926  | Waco            | 15 | 11/18/86 |
| Throughout Texas  | Brown and Root U.S.A., Inc                   | 11-3371 | Houston         | 5  | 11/18/86 |
| Throughout Texas  | City of Garland, Street Department           | 5-3675  | Garland         | 1  | 11/20/86 |
| Throughout Texas  | Geahart Industries, Inc                      | 5-2113  | Fort Worth      | 46 | 11/24/86 |
| Throughout Texas  | Tracer Service, Inc                          | 7-3526  | Kilgore         | 9  | 11/25/86 |
| Throughout Texas  | Pickett-Jacobs Consultants, Inc              | 7-3690  | Tyler           | 4  | 11/26/86 |
| Throughout Texas  | HVJ Associates                               | 11-3813 | Houston         | 4  | 11/26/86 |
| Throughout Texas  | Hunter Wireline, Inc                         | 6-3821  | Gause           | 2  | 12/01/86 |
| Throughout Texas  | Amarillo Testing and Engineering, Inc        | 1-2658  | Amarillo        | 8  | 12/01/86 |
| Throughout Texas  | Five Star Perforator's, Inc                  | 1-2100  | Borger          | 8  | 12/04/86 |
| Throughout Texas  | City of San Angelo                           | 4-2727  | San Angelo      | 6  | 12/05/86 |

|                  |                             |         |            |    |          |
|------------------|-----------------------------|---------|------------|----|----------|
| Throughout Texas | SIE, Inc                    | 5-747   | Fort Worth | 39 | 11/25/86 |
| Throughout Texas | Welex                       | 11-387  | Houston    | 70 | 12/05/86 |
| Tyler            | Community Hospital of Tyler | 7-2057  | Tyler      | 14 | 11/26/86 |
| West of Beaumont | Mobil Chemical Company      | 10-2316 | Beaumont   | 12 | 11/25/86 |
| Wharton          | Gulf Coast Medical Center   | 11-1388 | Wharton    | 22 | 11/24/86 |

#### RENEWALS OF EXISTING LICENSES ISSUED:

| Location         | Name  | License # | City      | Amend-ment # | Date of Action |
|------------------|---|-----------|-----------|--------------|----------------|
| Austin           | St David's Community Hospital                         | 6-1086    | Austin    | 17           | 11/19/86       |
| Austin           | Radian Corporation                                    | 6-1692    | Austin    | 19           | 12/04/86       |
| Cleveland        | Charter Community Hospital                            | 11-2055   | Cleveland | 10           | 12/10/86       |
| Marshall         | Memorial Hospital                                     | 7-2572    | Marshall  | 5            | 11/26/86       |
| Shamrock         | Shamrock General Hospital                             | 1-3251    | Shamrock  | 3            | 11/26/86       |
| Throughout Texas | R & R X-Ray   | 11-3091   | Willis    | 4            | 12/04/86       |
| Throughout Texas | Dowell Schumberger Incorporated                       | 99-764    | Tulsa, OK | 47           | 11/18/86       |
| Throughout Texas | Tennessee Gas Pipeline Company                        | 11-1487   | Houston   | 17           | 11/18/86       |
| Throughout Texas | High Plains Underground Water Conservation District 1 | 2-2598    | Lubbock   | 9            | 12/04/86       |
| Webster          | Diagnostic Systems Laboratories, Inc                  | 11-3084   | Webster   | 6            | 12/04/86       |
| Weslaco          | Mid-Valley Eye Clinic                                 | 8-685     | Weslaco   | 9            | 11/18/86       |

#### TERMINATIONS OF LICENSES:

| Location         | Name                               | License # | City         | Amend-ment # | Date of Action |
|------------------|------------------------------------|-----------|--------------|--------------|----------------|
| Madisonville     | Madison County Hospital            | 6-2070    | Madisonville | 9            | 11/18/86       |
| Throughout Texas | Hensel Phelps Construction Company | 1-3654    | Amarillo     | 4            | 12/03/86       |

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment, the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment, and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county, and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by Agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 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 22, 1986.

TRD-8611774 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: December 22, 1986  
For further information, please call (512) 458-7236.

## Public Hearing

This notice affords an opportunity for public hearing on the following two applications for solid waste sites filed with the Texas Department of Health.

The City of Marfa has filed Application 1872 with the Texas Department of Health for a permit to operate a proposed Type II municipal solid waste disposal site to be located two miles northeast of the city limits of Marfa, approximately 1,100 feet beyond the end of FM Road 1112, adjacent to the east side of the city's existing solid waste disposal site, in Presidio County. The site consists of approximately 9.87 acres of land, and is to daily receive approximately 6.2 tons of solid waste under the regulatory jurisdiction of the Texas Department of Health.

Marion County has filed Application 1723 with the Texas Department of Health for a permit to operate a proposed Type II municipal solid waste disposal site to be located approximately 13 miles northwest of Jefferson, two miles north-northeast of the junction of an unnamed county road with FM Highway 729, 1.2 miles south-southwest of Johnson Creek Reservoir Dam, approximately 3,000 feet southeast Adams Chapel, and on the north side of a dirt road in Marion County. The site consists of approximately 9.8541 acres of land, and is to daily receive approximately 6.29 tons of solid waste under the regulatory jurisdiction of the Texas Department of Health.

The Division of Solid Waste Management, Texas Department of Health, has evaluated the application in coordination with other state and local agencies. The application adequately addresses land use, ground and surface water protection, site development and operation, and other regulatory requirements. The Division of Solid Waste Management is of the opinion that, based on the information provided in the application and comments received from other review agencies, the solid waste site will not pose a reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners.

No public hearing will be held on this application unless a person affected has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, has suffered or will suffer actual injury or economic damage by the granting of the application.

If a hearing is requested by a person affected, notice of such hearing will be provided to the requester and will also be published in a newspaper of general circulation in the area where the site is located at least 30 days prior to the date of such hearing. If no request for a hearing is received within 30 days of the date of publication of the said notice in a newspaper of general circulation, the department will make a decision. If a hearing is requested, it will be conducted, and the final decision will be rendered, in accordance with the applicable rules contained in the department's municipal solid waste management regulations, including all changes in effect as of October 10, 1986, for the City of Marfa and all changes in effect as of August 20, 1985, for Marion County.

Requests for a public hearing and/or requests for a copy of the technical summary of the applications prepared by the Bureau of Solid Waste Management shall be submitted in writing to the Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street,

Austin, Texas 78756. A copy of the complete applications may be reviewed at the Bureau of Solid Waste Management or at the Department's Public Health Region 3/12 for the City of Marfa headquarters located at 6090 Surety Drive, Suite 115, El Paso, Texas 79905, (915) 779-7783; and Region 7 for Marion County headquarters located at Cotton Belt Office, 1517 West Front Street, Tyler, Texas 75702, (214) 595-3585.

Issued in Austin, Texas, on December 22, 1986

TRD-8611772      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: December 22, 1986  
For further information, please call (512) 458-7271.

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## Reorganization of Public Health Regions

The Texas Department of Health will reduce its public health regions from 12 to seven. The reorganization will be fully accomplished by September 1, 1987.

Under the new organization, administrative headquarters will include: Region 1, Temple; Region 2, Lubbock; Region 3, Midland/Odessa; Region 4, Harlingen; Region 5, Arlington; Region 6, Rosenberg; and Region 7, Tyler. Suboffices will be located in Abilene, Canyon, Corpus Christi, El Paso, San Antonio, and Uvalde.

The reasons for the reorganization are to strengthen the span of control and communications effort between the central office and the regions and to lower administrative costs further.

There will be a reduction and transfer of positions as a result of the consolidation of administrative offices. Where appropriate program operations will cross regional boundaries, the effect of the reorganization, while reducing some administrative functions, will be to maintain the services delivered to clients at the current level.

Public hearings will be held on the proposed reorganization as follows.

(1) Public Health Region Four Office, 1290 South Willis, Suite 100, Abilene, Texas, Tuesday, January 6, 1987, noon-3 p.m.; contact person: Tom Sanders, chief of staff services, (915) 695-7170.

(2) Public Health Region Nine Office, Old Memorial Hospital, Garner Field Road, Uvalde, Texas, Thursday, January 8, 1987, 9:30 a.m.—1:00 p.m.; contact person: Elvira Gonzalez, acting chief, (512) 278-7173.

(3) West Texas State University, Activity Center, Room 206, Canyon, Texas, Monday, January 12, 1987, noon-3:00 p.m.; contact person: Tommy Nesbitt, chief of staff services, (806) 655-7151.

(4) Public Health Region Three Office, Alexander Building, 6090 Surety Drive, El Paso, Texas, Monday, January 12, 1987, 10:00 a.m.—1:00 p.m.; contact person: Bob Dodson, chief of staff services, (915) 779-7783.

Additional information concerning the proposed reorganization may be obtained from the contact person designated for each region in the preceding paragraph.

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

TRD-8611771      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: December 22, 1986  
For further information, please call (512) 458-7236.

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## Revocation of Certificate of Registration

The Texas Department of Health, having duly filed complaints pursuant to *Texas Regulations for Control of Radiation* Part 13.8, has revoked the following certificates of registration.

Listed are the registrant, registration number, location, and date of action: *Mayflower Podiatry Supply Company*, 99-09217, Los Angeles, California, 12/5/86; *American Medical Systems*, 99-09048, Fort Smith, Arkansas, 12/5/86; *Howe X-Ray Service, Inc.*, 09-07973, San Antonio, Texas, 12/5/86; *Industrial Manufacturing Company of Texas*, 04-06337, Sweetwater, Texas, 12/16/86.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas, Monday through Friday 8 a.m. to 5 p.m. (except holidays).

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

TRD-8611773      Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: December 22, 1986  
For further information, please call (512) 836-7000.

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## Houston-Galveston Area Council Consultant Contract Award

The following consultant contract award is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The request for proposals was published in the August 5, 1986, issue of the *Texas Register* 11 TexReg 3507).

The Houston-Galveston Area Council entered into a consultant contract with Rice Center, located at Nine Greenway Plaza, Houston, Texas 77046, to analyze ways of involving the private sector in the planning of transit services and the development of transit facilities in the metropolitan area.

The terms of the contract are from December 8, 1986, to December 7, 1987, for a maximum amount of \$70,000.

The end product of the contract will be a report identifying potential joint development and alternative funding alternatives. The final report will be due by December 8, 1987.

Issued in Austin, Texas, on December 12, 1986.

TRD-8611705      Jack Steele  
Executive Director  
Houston-Galveston Area Council

Filed: December 19, 1986  
For further information, please call (713) 627-3200

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## Railroad Commission of Texas LP-Gas Advisory Committee Meeting

The LP-Gas Division of the Railroad Commission of Texas announces a meeting of the LP-Gas Advisory Committee to be held on Tuesday, January 6, 1987, at 9 a.m. in Room 7-144, Seventh Floor, William B. Travis Building, 1701 North Congress Avenue, Austin.

Issued in Austin, Texas, on December 19, 1986.

TRD-8611717      Walter Earl Lillie  
Special Counsel  
Railroad Commission of Texas

Filed: December 19, 1986  
For further information, please call (512) 463-7149.

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## Texas Water Commission Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to *Texaco Refining and Marketing, Inc.*, on December 16, 1986, assessing \$20,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Ann Bjork, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

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

TRD-8611740      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: December 19, 1986  
For further information, please call (512) 463-7898.

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to *Tyler Pipe Industries*, on December 16, 1986, assessing \$3,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mike Woodward, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

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

TRD-8611739      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: December 19, 1986  
For further information, please call (512) 463-7898.

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