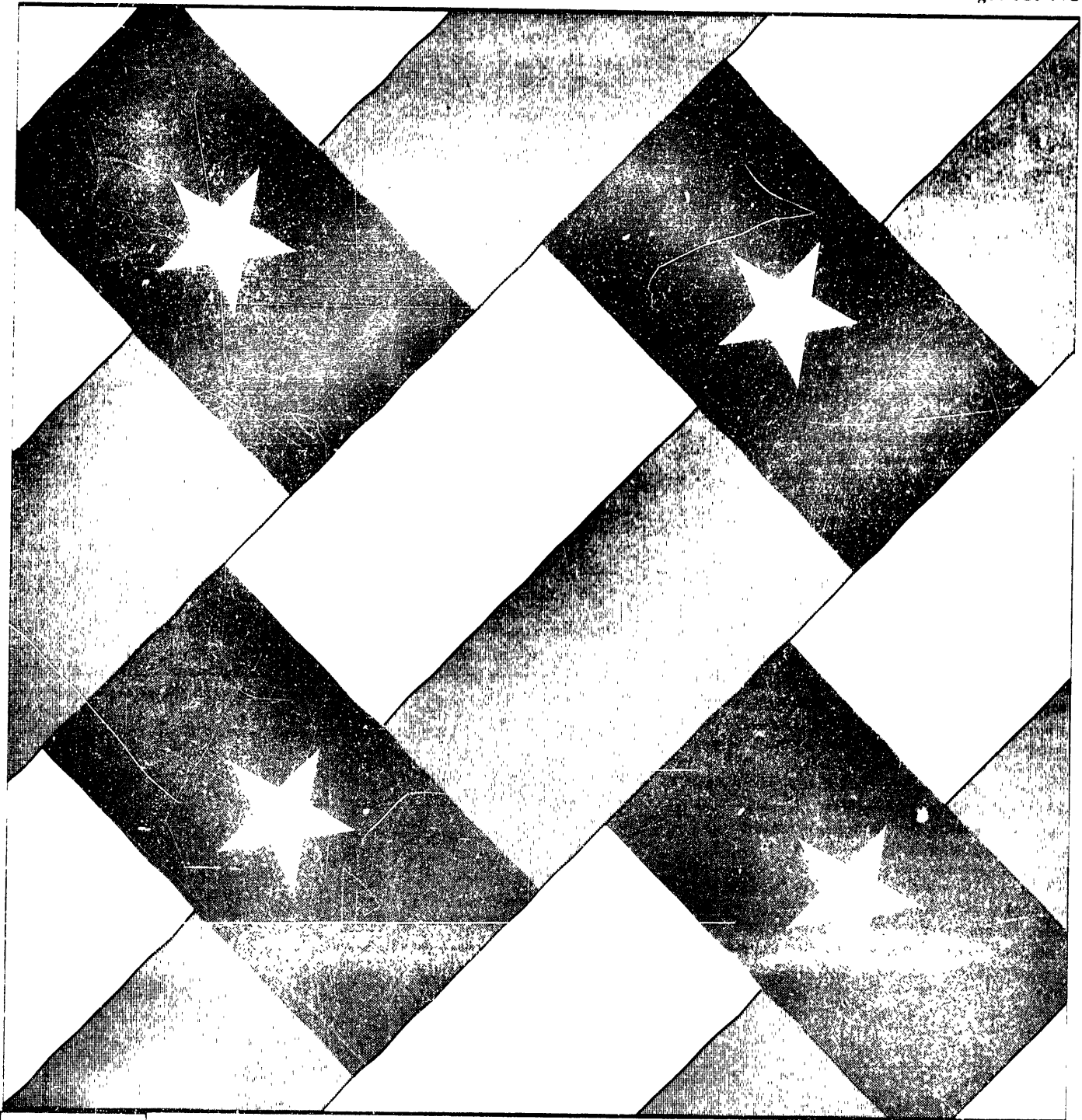


Texas Register

Volume 12, Number 8, January 30, 1987

Pages 323-372



Highlights

The **Texas Board of Chiropractic Examiners** proposes new sections concerning licensing and disciplinary proceedings, and publicity. Earliest possible date of adoption - March 2 **page 330**

The **Water Commission** proposes a new sections concerning livestock and poultry production operations. Earliest possible date of

adoption - March 2 **page 338**

The **General Land Office** adopts an amendment providing a means for enforcing cleaner oil and gas operations and establishes guidelines to prevent pollution. Effective date - February 12 **page 346**

**Office of
the Secretary
of State**

Texas Register

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- Governor--appointments, executive orders, and proclamations
- Secretary of State-- summaries of opinions based on election laws
- State Ethics Advisory Commission-- summaries of requests for opinions and opinions
- Attorney General-- summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules-- rules adopted by state agencies on an emergency basis
- Proposed Rules-- rules proposed for adoption
- Withdrawn Rules-- rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules-- rules adopted following a 30-day public comment period
- Open Meetings-- notices of open meetings
- In Addition-- miscellaneous information required to be published by statute or provided as a public service

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In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2, in the lower left-hand corner of the page, would be written "12 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 11 TexReg 3."

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*,

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



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Name: Kurt Calvary
Grade: 5
School: Mary Louise Phillips Elementary,
Fort Worth

in preference to restating them. The citation involves no policy or procedural change.

Brian Packard, associate commissioner for budget, planning, and economic analysis, 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. Packard 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 elimination of duplication that occurs in restating the federal regulations. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-007, Texas Department of Human Services, 222-E, PO Box 2960, Austin, Texas 78769, within 30 days of publication in this *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 31, which provides the department with the authority to administer public and medical assistance programs.

§3 902 Types.

(a) (No change.)

(b) Aid to families with dependent children. Exclusions from income for AFDC are:

(1)-(3) (No change.)

(4) energy assistance. **DHS [DHR] exempts home energy assistance as stipulated in 45 Code of Federal Regulations §233.53 (a)-(c)** [financial assistance from federally funded state administered programs (Home Energy Assistance Program, Weatherization, Energy Crisis Intervention). DHR exempts utility supplement payments from Department of Housing and Urban Development (HUD) or local housing authorities, whether they are in the form of vendor payments, in-kind, or cash payments. DHR exempts energy assistance from private, nonprofit, or governmental agencies that make payments based on need and that are certified by DHR].

(5)-(13) (No change.)

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

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

Issued in Austin, Texas, on January 26, 1987.

TRD-8700733

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption

April 1, 1987

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

Chapter 15 Medicaid Eligibility

Subchapter CCC. Vendor Payments in Title XIX Long-Term Care Facilities

★ 40 TAC §15.5403

The Texas Department of Human Services proposes an amendment to §15.5403, concerning level of care. The purpose of this amendment is to delete material that is duplicated elsewhere in department rules.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the section.

Mr. Packard has also determined that for each year of the first five years the section is in effect the public benefit will be enhanced clarity and conciseness in department rules. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-758, Texas Department of Human Services, 222-E, PO Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

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

§15.5403 Level of Care

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

(d) [The local long-term care unit is responsible for determining the level of care for patients in Title XIX nursing facilities and for ICI-MR patients in State schools.]

[(e)] The LTCU level of care decision in Title XIX nursing facilities is based on receipt of a medical-nursing care evaluation plus a home care assessment or a social evaluation of need for nursing facility care. The worker **receives** [will receive] a letter from the LTCU stating the level of care. If the level of care is approved, the worker **also receives** [will also receive] a copy of the patient status and payment plan notice.

(e) [(f)] In state schools, the LTCU decision is based on receipt of a medical-nursing care evaluation and an alternate care considerations, social and rehabilitative assessment. The state school is responsible for completing the medical-nursing care evaluation for all patients for whom payment is being requested. In cases of disability determination, only one medical-nursing care evaluation is necessary. The LTCU **sends** [will send] the worker a memorandum assigning a level of care.

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 January 26, 1987.

TRD-8700735

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption

March 2, 1987

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

★ ★ ★

Chapter 85. General Licensing Procedures

Subchapter O. Exemptions from Licensing

★ 40 TAC §85.1404

The Texas Department of Human Services (DHS) proposes an amendment to §85.1404, concerning nonregulated activities, in its General Licensing Procedures rule chapter. The amendment clarifies the specific types of facilities and activities that are not regulated by residential child care licensing.

Brian Packard, associate commissioner for budget, planning, and economic analysis, 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 governments or small businesses as a result of enforcing or administering the section.

Mr. Packard has also determined that for each year of the first five years the section will be in effect the public benefit anticipated as a result of enforcing the section will be greater time available to workers for more effective activities with regulated facilities. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-824, Texas Department of Human Services, 222 E, PO Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

§85.1404 Nonregulated Activities.

(a) The following types of facilities or activities are not regulated by the department:

(1)-(3) (No change.)

(b) The following types of facilities or activities are not regulated by residential child care licensing:

(1) day homes/day care centers that occasionally provide overnight care for a child in the day care program. (The day care program may be subject to regulation).

(2) foreign exchange programs;

(3) arrangements between friends for temporary care of a child or sibling group for less than 40 continuous days and fewer than 150 days per calendar year;

(4) care provided by step-parents regardless of whether the biological parent is in the home;

(5) homes in which the adult caretaker has possessory conservatorship of a child according to the 1985 Texas Family Code, Section 15.03;

(6) respite care facilities providing weekend or short-term planned 24-hour care, not to exceed 40 calendar days per year per child.

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 January 23, 1987

TRD-8700679

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption
March 2, 1987

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

★ ☆ ★

Subchapter NNN. Abuse/Neglect Investigations in Child Care Facilities

★ 40 TAC §§85.7001-85.7005

The Texas Department of Human Services (TDHS) proposes new §§85.7001-85.7005, concerning the use of single investigators for investigations of abuse or neglect in child care and child-placing facilities, in its general licensing procedures chapter. The new sections address the facility's responsibility in these investigations, notification requirements, the release of information about the investigation findings and responsible parties if noncompliance with minimum standards contributed to the abuse or neglect. New Subchapter NNN, concerning abuse/neglect investigations in child care facilities, has been established for the new sections.

Brian Packard, associate commissioner for budget, planning, and economic analysis, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

Mr. Packard has also determined that for each year of the first five years the proposed sections are in effect the public benefit will be greater protection for children in out of home care because using a single investigator will help resolve investigations more quickly. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-604, Texas Department of Human Services, 222-E, PO Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

The new sections are proposed under the Human Resources Code, Title 2, Chapters 22, which provides the department with the authority to administer public assistance programs.

§85.7001 Facility Responsibility

(a) The child care facility or child placing agency must allow the investigator access to all children in care, staff, records, physical plant, and any other information needed to conduct the investigation.

(b) A regulated facility has the right to request an administrative review of any request for access or information that the facility believes is outside the department's authority or that the facility believes constitutes harassment. The facility may not use a request for administrative review to delay an investigation.

§85.7002 Required Notifications—Licensing. At the beginning of the first investigation visit, the investigator must tell the administrator or director the purpose of the investigation and the nature of the allegations. The applicant or licensee (if the appropriate person is someone other than the administrator or director) must be informed, in writing, by the workday following the oral report to the administrator or director.

§85.7003 Required Notifications—Facility.

(a) Licensing staff give the facility written or oral notification of the need to inform parents or managing conservators that a child is an alleged victim of abuse or neglect. The facility must inform the parents or managing conservators within 24 hours after receiving the notification. A managing conservator that is an agency must be notified by the end of the next workday. If, however, there is an indication that abuse or neglect may have occurred in the child's own home, the facility is not required to notify the parents or managing conservator. In this case, staff investigating possible abuse or neglect in the home must inform the parents or managing conservators.

(b) A day care facility must notify the parents or the managing conservators of a child interviewed during an abuse/neglect investigation by the end of the workday

following the interview. The notification must include a statement that the interview took place and the reason for the interview. Residential child care facilities are not required to notify the parents or managing conservators when children are interviewed during an investigation.

(c) Notification must be documented. If the facility notifies parents or managing conservators in person or by telephone, the conversation must be documented. The person notifying the parents must sign and date the notes of the conversation. If parents are notified in writing, the facility must document the date and time the letter was sent.

(d) If an investigator determines that abuse or neglect occurred, the licensing investigator decides whether, and to what extent, the facility must inform parents or the managing conservators.

(e) Notification, when required, may be in person, by telephone, or in writing.

(f) Notification, when required, must be documented. If the notification is in writing, the facility must note the date and time the letter was mailed. If the facility notifies parents or managing conservators in person or by telephone, the person notifying the parents must sign and date the notes of the conversation.

§85.7004 Confidentiality in Releasing Investigation Findings. When releasing abuse/neglect findings, the department does not identify alleged victims, their families, or the complainant.

§85.7005 Noncompliance with Minimum Standards. If a preponderance of evidence indicates that noncompliance with the minimum standards caused or contributed to abuse or neglect, the facility or child-placing agency is responsible. This is the case whether or not an individual is identified as the perpetrator. The department may then identify the administrator, director, and/or other responsible party as the perpetrator.

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 January 26, 1987.

TRD-8700732

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Earliest possible date of adoption.
March 2, 1987

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

★ ☆ ★



Withdrawn

Rules

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

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

★ 22 TAC §571.9

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), proposed new §571.9, submitted by the State Board of Veterinary Medical Examiners has been automatically withdrawn, effective January 26, 1987. The new section as proposed appeared in the July 25, 1986, issue of the *Texas Register* (11 TexReg 3390).

TRD 8700750
Filed January 26, 1987

★ ★ ★

Name: Stacy Clements
Grade: 12
School: Coronado High School, Lubbock



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 22. EXAMINING BOARDS

Part XIV. Texas Optometry Board

Chapter 275. Continuing Education

★ 22 TAC §275.2

The Texas Optometry Board adopts an amendment to §275.2, without changes to the proposed text published in the November 11, 1986, issue of the *Texas Register* (11 TexReg 4620).

This amendment fully informs the licensee in regard to the total/maximum amount of continuing education hours which will be accepted through correspondence courses sponsored and graded by accredited optometry colleges. Continuing education is mandatory for license renewal.

The amendment places a limit on the number of continuing education hours through correspondence courses, i.e., four hours per calendar year; thus, a licensee must obtain the remainder (eight hours) via personal attendance at approved continuing education courses.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4552, §2.14 which authorize the Texas Optometry Board to promulgate procedural and substantive rules.

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 January 20, 1987

TRD-8700590 Lois Ewald
Executive Director
Texas Optometry Board

Effective date February 11, 1987
Proposal publication date November 11, 1986
For further information, please call
(512) 835-1938

★ ★ ★

Chapter 279. Interpretations

★ 22 TAC §279.7

The Texas Optometry Board adopts new §279.7, with changes to the proposed text published in the November 11, 1986, issue of the *Texas Register* (11 TexReg 4620).

This new section informs the licensees regarding what the board feels is basic competence and professional responsibility in the prescribing of contact lenses.

The new section informs those licenses in regard to the basic competence routine and conditions to be observed.

One response was received in favor of the new section.

Texas Optometric Association commented in favor of the new section.

The agency did not disagree and no comments were offered in opposition to the new section.

The new section is adopted under Texas Civil Statutes, Article 4552, §2.14 which authorize the Texas Optometry Board to promulgate procedural and substantive rules.

§279.7. Board Interpretation Number Seven.

(a) In order to insure an adequate examination of a patient for whom an optometrist prescribes contact lenses, in the initial examination of the patient, the optometrist shall make and record, if possible, the following findings of the condition of the patient:

(1) case history (ocular, physical, occupational, and other pertinent information);

(2) far point acuity, O.D., O.S., O.U., unaided; with old glasses or contact lenses, if available, and with new contact lenses, if any;

(3) external examination (lids, cornea, sclera, etc.);

(4) internal ophthalmoscopic examination (media, fundus, etc.);

(5) static retinoscopy, O.D., O.S.;

(6) subjective findings, far point and near point;

(7) phorias or fusions, far and near, lateral and vertical;

(8) amplitude or range of accommodation;

(9) amplitude or range of convergence;

(10) angle of vision, to right and to left.

(b) In addition to the steps required under the Act, §5.12, the optometrist shall perform and record keratometry testing and slit lamp examination.

(c) At a minimum, the optometrist must schedule one follow-up visit for examination within 30 days of the contact lens fitting, and must inform the patient on the initial visit regarding the requirement of the follow-up care.

(d) The optometrist must observe proper hygiene in the handling and dispensing of the contact lenses and in the conduct of the examination. Proper hygiene includes sanitary office conditions, running water in the office where contact lenses are dispensed, and proper sterilization of diagnostic lenses and instruments.

(e) The optometrist, or members of his/her staff, must instruct the patient in the proper care of lenses, including proper hygiene.

(f) If a fully written contact lens prescription is issued to a patient, the prescription should contain an expiration date and must be a fully-written contact lens prescription as required under the Act, §1.02, and §279.1 of this title (relating to Board Interpretation Number One).

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 January 20, 1987

TRD-8700591 Lois Ewald
Executive Director
Texas Optometry Board

Effective date February 11, 1987
Proposal publication date November 11, 1986
For further information, please call
(512) 835-1938

★ ★ ★

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Attorney General

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

Requests for Opinions

RQ-981. Request from Bob E. Bradley, executive director, Texas State Board of Public Accountancy, Austin, concerning whether a member of the State Board of Public Accountancy is eligible for reappointment.

TRD-8700592

★ ★ ★

RQ-982. Request from Benjamin Euresti, Jr., Cameron County attorney, Brownsville, concerning whether certain non-residents may operate a Moped in Texas.

TRD-8700593

★ ★ ★

RQ-983. Request from Jo King McCrorey, executive director, State Board of Barber Examiners, Austin, concerning whether the Board of Barber Examiners is authorized and/or required to regulate haircutting facilities located within the Department of Corrections.

TRD-8700594

★ ★ ★

RQ-984. Request from Gary Garrison, county attorney, Ector County Courthouse, Odessa, concerning whether a tax assessor/collector is entitled to retain a portion of the fees collected on delinquent taxes under the Tax Code, §33.07

TRD-8700595

★ ★ ★

RQ-985. Request from Andrew F. Payer, Ph.D, secretary/treasurer, Anatomical Board of the State of Texas, concerning whether the Texas Anatomical Board may transport bodies out of the United States.

TRD-8700596

★ ★ ★

RQ-986. Request from Rayford A. Ratliff, Moore County attorney, Dumas, concerning whether a person who is licensed under the plumbing license law, Texas Civil Statutes, Article 6252-101 is exempt from the provisions of Texas Civil Statutes, Article 8861

TRD-8700597

★ ★ ★

RQ-987. Request from J. F. Flack, county auditor, Houston, concerning the compensation for criminal district judges while sitting as magistrates.

TRD-8700598

★ ★ ★

RQ-988. Request from David W. Reagan, Midland city attorney, Midland, concerning whether letter requesting decision under the Open Records Act, Texas Civil Statutes, Article 6252-17a, is subject to required disclosure under the Act.

TRD-8700599

★ ★ ★

RQ-989. Request from G. V. Brindley, Jr., M.D., executive director, Texas State Board of Medical Examiners, Austin, concerning whether Texas Civil Statutes, Article 4495b, §4.05(d) and §5.06(e)(1) applied through the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(1), authorizes the Texas Board of Medical Examiners to withhold certain information relating to complaints against licensees

TRD-8700600

★ ★ ★

RQ-990. Request from Sam Sparks, Grambling and Mounce, El Paso, concerning whether Open Records Act, Texas Civil Statutes, Article 6252-17a, requires disclosure of tape recording of meeting of El Paso Consultation Association, the body for employee consultations for the El Paso Independent School District

TRD-8700601

★ ★ ★

RQ-991. Request from John A. Traeger, Texas State Senate, Austin, concerning whether an individual may avoid application of the nepotism law to a relative by resigning from a position on a board of trustees of a school district and subsequently standing for re-election

TRD-8700602

★ ★ ★

RQ-992. Request from James S. McGrath, criminal district attorney, Jefferson County,

★ ★ ★

Beaumont, concerning whether a county may abandon a county road without replacing it with a new road.

TRD-8700603

★ ★ ★



Opinions

JM-622 (RQ-766). Request from Carlos Valdez, Nueces County attorney, Corpus Christi, concerning the abolition of Nueces County Water Control District Number 4.

Summary of Opinion. At present, annexation by the City of Corpus Christi of the unannexed portion of Nueces Water Control and Improvement District Number 4 will not make applicable the automatic abolition features of Texas Civil Statutes, Article 1182c-5, §2A(1). Abolition of the district will be controlled by §2(a) of the statute.

TRD-8700628

★ ★ ★

JM-623 (RQ-611). Request from Allen Parker, Sr., commissioner, Texas Department of Labor and Standards, Austin, concerning the constitutionality of Texas Civil Statutes, Article 5196, requiring corporations to give a written statement of cause for discharge of employees

Summary of Opinion. Texas Civil Statutes, Article 5196, §3, does not violate the due process clause nor the equal protection clause of the Fourteenth Amendment to the United States Constitution. However, the statute does violate the Texas Constitution, Article 1, §8, which has been interpreted to grant a corporation the right not to write letters stating the true cause of discharging employees.

TRD-8600629

★ ★ ★

Proposed Rules

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

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

TITLE 22. EXAMINING BOARDS

Part III. Texas Board of Chiropractic Examiners Chapter 71. Application and Applicants

★ 22 TAC §71.13

The Texas Board of Chiropractic Examiners proposes new §71.13, concerning licensing/disciplinary proceedings. The new section covers a party or parties appealing the board's final decision to pay the cost of the transcript of record of the agency proceedings.

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

Ms. Ferris also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. The anticipated economic cost to individuals who are required to comply with the proposed section is not known because the agency has no way of knowing how many cases will be appealed.

Comments on the proposal may be submitted to Bobbye Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C, Suite 245, Austin, Texas 78752.

The new section is proposed under Texas Civil Statutes, Article 4512b, which provide Texas Board of Chiropractic Examiners with the authority to promulgate procedural rules and regulations as deemed necessary.

§71.13 Licensing Disciplinary Proceedings. The board shall have all licensing proceedings recorded. The party or parties appealing the board's final decision, upon written request that the proceeding be transcribed, shall be required to pay the entire cost of preparation of the original transcript of the record of the agency proceeding.

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 January 22, 1987.

TRD-8700673

Bobbye Ferris
Executive Director
Texas Board of
Chiropractic
Examiners

Earliest possible date of adoption

March 2, 1987

For further information, please call
(512) 835-2006

★ ★ ★

Chapter 77. Advertising and Public Communications

★ 22 TAC §77.2

The Texas Board of Chiropractic Examiners proposes an amendment to §77.2, concerning publicity. The amendment covers advertising under an assumed name.

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

Ms. Ferris 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 elimination of deceptive, fraudulent, and superior advertising. The anticipated economic cost to individuals who are required to comply with the proposed section is not known because the agency has no way of knowing how many chiropractors are practicing under an assumed name. The cost involved would be in the first year and dependent upon how much advertising is done by the individual.

Comments on the proposal may be submitted to Bobbye Ferris, Executive Director, Texas Board of Chiropractic Examiners, 1300 East Anderson Lane, Building C, Suite 245, Austin, Texas 78752.

The amendment is proposed under Texas Civil Statutes, Article 4512b, which provide the Texas Board of Chiropractic Examiners with the authority to promulgate procedu-

ral rules and regulations as deemed necessary.

§77.2. Publicity. A licensee shall not, on behalf of himself, his partner, associate, or any other licensee affiliated with him, use or participate in the use of any form of public communication which

(1)-(10) (No change)

(11) contains the use of an assumed name which could mislead the public concerning the identity, responsibility, and status of those practicing thereunder. Accordingly, a chiropractor should practice only under his own name, the name of a chiropractor employing him, a partnership name composed of the name of one or more of the chiropractors practicing in a partnership. The name of a chiropractor who withdraws from an association but continues to practice should be omitted from the name in order to avoid misleading the public.

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 January 22, 1987.

TRD-8700674

Bobbye Ferris
Executive Director
Texas Board of
Chiropractic
Examiners

Earliest possible date of adoption

March 2, 1987

For further information, please call
(512) 835-2006

★ ★ ★

Part V. State Board of Dental Examiners Chapter 107. Dental Board Procedures

★ 22 TAC §107.38

The Texas State Board of Dental Examiners proposes an amendment to §107.38, concerning reporters and transcripts. The amendment requires a party who appeals a final decision in a contested case to pay all of the cost of

the preparation of any original or certified copies of the record of the agency proceedings that is required to be transmitted to the reviewing court

William S. Nail, executive director, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect is an estimated reduction of cost of \$1,000-\$4,000 each year from 1987-1991. There will be no fiscal implications for local government or small businesses.

Mr. Nail also has determined that for each year of the first five years the section is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be the establishment of procedures for the proper institution, conduct, and determination of all matters within the jurisdiction of the board. The possible economic cost to individuals who are required to comply with the section as proposed will be the fee charged by the court reporter to prepare the transcript.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754.

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

§107.38 *Reporters and Transcript.*

(a) (No change.)

(b) **A party who appeals a final decision in a contested case shall pay all of the cost of preparation of any original or certified copy of the record of the agency proceedings that is required to be transmitted to the reviewing court.** [In the event it shall be necessary to order a transcript of a disciplinary proceeding for appeal purposes, the Texas State Board of Dental Examiners will order an original and two copies, with one copy to be furnished to the respondent. The cost of ordering such original and two copies shall be assessed one-half to the Texas State Board of Dental Examiners and one-half to the respondent.]

(c) (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 January 22, 1987.

TRD-8700667

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

Earliest possible date of adoption
March 2, 1987
For further information, please call
(512) 834-6021

★ ★ ★

TITLE 28. INSURANCE

Part I. State Board of Insurance

Chapter 7. Corporate and Financial

Subchapter A. Examination and Corporate Custodian and Tax

★28 TAC §7.27

The State Board of Insurance proposes new §7.27, concerning regulation of accounting for reinsurance agreements by life, accident and health, and annuity insurers. This new section is necessary to restrict utilization of reinsurance agreements to arrangements which provide real indemnification of policy benefits and do not merely produce increased surplus for the ceding insurer. The new section establishes requirements under which an insurer may account for reinsurance by establishing an asset or by reducing a liability.

R. B. Ashworth, deputy insurance commissioner for corporate and financial affairs, 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. Ashworth also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an improvement in the accuracy and clarity of the financial statements and accounting records of insurance companies concerning reinsurance agreements. 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 R. B. Ashworth, Deputy Insurance Commissioner for Corporate and Financial Affairs, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1996.

The new section is proposed under the Insurance Code, Articles 104, 132, 355-1, 2121, and 2128-A. Article 104 authorizes the State Board of Insurance to determine policy and rules. Articles 132 and 355-1 authorize the board, by rule and regulations, to fix standards for evaluating the financial condition of an insurer. Article 2121 authorizes the board to promulgate and enforce reasonable rules and regulations as is necessary in the accomplishment of determinations concerning unfair methods of competition or unfair or decep-

tive acts or practices by insureds. Article 2128-A empowers the board to adopt and promulgate reasonable rules and regulations as may be necessary to provide facility and direction for evaluating the financial condition of an insurer and for evaluating the appropriateness of any possible remedy for an impaired financial condition.

§7.27. *Regulation of Accounting for Reinsurance Agreements by Life, Accident and Health, and Annuity Insurers.*

(a) Preamble.

(1) The Texas State Board of Insurance recognizes that licensed life, accident and health, and annuity insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

(2) The State Board of Insurance, however, has become aware that some life, accident and health, and annuity insurers, in the capacity of ceding insurer, have at times entered into reinsurance agreements primarily as financing arrangements which have the principal purpose of producing increased surplus for the ceding insurer, typically on a temporary basis, and which provide little or no indemnification of policy benefits by the reinsurer. In addition, the State Board of Insurance is concerned with reserve credits taken under reinsurance agreements, hereinafter referred to as contracts, which provide some indemnification of policy benefits where those policy benefits are not included in the gross reserves established by the ceding insurer, such as catastrophic mortality or extraordinary survival. The terms of such contracts do not comply in substance with the requirements of subsection (c) of this section and violate one or more of the following:

(A) the Insurance Code, Articles 132, 355-1, 360, 1433, 2121, and 2212, relating to financial condition of insurers, thus, resulting in distorted financial statements which do not properly reflect the financial condition of the ceding insurers,

(B) the Insurance Code, Article 310A, relating to reinsurance reserve credits, thus, resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded, and

(C) the Insurance Code, Articles 132, 355-1, and 2128-A, relating to creating a situation that may be hazardous to policyholders of this state.

(b) Scope. This regulation shall apply to all domestic insurers licensed and operating under the Insurance Code, Chapters 3, 10, 11, 12, 13, 14, 20, and 22, and to all licensed foreign insurers who are not subject to a substantially similar regulation in their domiciliary state and who are operating in this state under such chapters.

(c) Accounting Requirements.

(1) No insurer subject to this section shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the State Board of

Insurance if the contract includes, in substance or effect, any of the following conditions.

(A) the primary effect of the contract is to transfer deficiency reserves or excess interest reserves to the books of the reinsurer for a risk charge and the contract does not provide for significant participation by the reinsurer in one or more of the following risks: mortality, morbidity, investment, or surrender benefit;

(B) the reserve credit taken by the ceding insurer is not in compliance with the Texas Insurance Code, or with rules or regulations, including actuarial interpretations or standards, adopted by the State Board of Insurance;

(C) the reserve credit taken by the ceding insurer is greater than the underlying reserve of the ceding insurer supporting the policy obligations transferred under the contract;

(D) the ceding insurer is required to reimburse the reinsurer for negative experience under the contract, except that neither offsetting experience refunds against prior years' losses nor payment by the ceding insurer of an amount equal to prior years' losses upon voluntary termination of in-force reinsurance by that ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience, provided, further, that any offsetting provisions shall be limited to such contract and are specifically between the ceding insurer and the reinsurer and are provided for in such contract;

(E) the ceding insurer can be deprived of surplus at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer; except that termination of the contract by the reinsurer for non-payment of reinsurance premiums shall not be considered to be such a deprivation of surplus;

(F) the ceding insurer must, at specific points in time scheduled in the contract, terminate or automatically recapture all or part of the reinsurance ceded in a manner which deprives the ceding insurer of surplus;

(G) no cash payment is due from the reinsurer, throughout the lifetime of the contract with all settlements prior to the termination date of the agreement made only in a reinsurance account, and no funds in such account are available for the payment of benefits; or

(H) the contract involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income reasonably expected from the reinsured policies.

(2) Notwithstanding paragraph (1) of this subsection, an insurer subject to this section may, with the prior approval of the commissioner of insurance, reduce its liability or establish an asset in an amount as the commissioner may allow. All its statements shall thereafter identify such reduced liability or increased asset established on the finan-

cial statement

(d) Written Contracts.

(1) No contract or amendment to any such contract may be used to reduce liability or to establish any asset in any financial statement filed with the State Board of Insurance, unless the contract or amendment thereto or a letter of intent has been duly executed by both parties no later than the as of date of the financial statement.

(2) In the case of a letter of intent, a contract or an amendment to an amendment to a contract must be executed within a reasonable period of time, not exceeding 90 days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

(e) Existing Contracts. Insurers subject to this section may continue to reduce liabilities or establish assets in financial statements filed with the State Board of Insurance for reinsurance ceded under types of contracts described in paragraph (2) of subsection (a) of this section and subsection (c) of this section, provided

(1) the contracts were executed and in force prior to the date of the initial notice and publication of this proposed rule in the *Texas Register*, which date is January 30, 1987,

(2) no new business is ceded under the contracts after the effective date of this section;

(3) the reduction of the liability or the asset established for the reinsurance ceded is reduced to zero by December 31, 1989, or such later date approved by the commissioner of insurance as a result of an application made by the ceding insurer within 120 days of the adoption date of this section;

(4) the reduction of the liability or the establishment of the asset is otherwise permissible under all other applicable provisions of the Insurance Code or rules or regulation, including actuarial interpretations or standards, adopted by the State Board of Insurance, and

(5) the Corporate Activities Division of the State Board of Insurance is notified, within 90 days following the effective date of this section, of the existence of such contracts and all corresponding credits taken in the ceding insurer's 1986 annual statement and all subsequent financial statements.

(f) Effective Date. This section becomes effective April 30, 1987.

(g) Severability. If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions or any other application of the provisions of this section which can be given effect without the invalid provisions or application. To this end, all provisions of these sections are declared to be severable.

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

thority to adopt.

Issued in Austin, Texas, on January 26, 1987.

TRD-8700753

Nicholas Murphy
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:

March 2, 1987

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

★ ★ ★

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 321. Control of Certain Activities by Rule

Subchapter B. Commercial Swine Production Operations

★ 31 TAC §§321.31-321.38

The Texas Water Commission proposes the repeal of §§321.31-321.38 concerning commercial swine production operations.

William Monroe, chief fiscal officer, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals. Any impact will result from adoption of proposed new §§321.31-321.41, as discussed under the preamble proposing these new repeals.

Mr. Monroe also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be that the repeals allow for the proposal of new §§321.31-321.41. There is anticipated no economic cost to individuals who are required to comply with the repeal. Comments on the proposal may be submitted to Andrew N. Barrett, Staff Attorney, Legal Division, Texas Water Commission, P. O. Box 13087, Austin, Texas, 78711, (512) 463-8069. The deadline for submitting written comments is 30 days from the date of this publication.

The repeals are proposed under the Texas Water Code, §5 103 and §5 105 which provides the Texas Water Commission with the authority to adopt, amend or repeal any regulations, as necessary, to carry out its powers and duties under the Texas Water Code and other laws of this state and to establish and approve all general policy of the commission.

§321.31. Definitions.

§321.32. Application of Subchapter.

§321.33. Permit Alternative.

§321.34. *Surface Water Protection*

§321.35. *Groundwater Protection*

§321.36. *Waste Disposal by Land Spreading.*

§321.37. *Other Waste Disposal Methods.*

§321.38. *Pesticide Use.*

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 January 22, 1987

TRD-8700676 James K. Rourke, Jr.
General Counsel
Texas Water Commission

Earliest possible date of adoption
March 2, 1987

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

★ ★ ★

★31 TAC §§321.31-321.41

The Texas Water Commission proposes new §§321.31-321.41, concerning livestock and poultry production operations. The new sections are intended to supersede and replace the existing sections regulating swine operations, 31 TAC §§321.31-321.38

Proposed §321.31 sets forth the policy that there shall be no discharge of waste, process generated wastewater, and/or other wastewater from feedlot operations in the waters in the state. Rather, these materials shall be retained, utilized and/or disposed of on agricultural land. Proposed §321.32 contains definitions of terms relevant to these sections.

Under proposed §321.33 the executive director is empowered to regulate feedlot operations by rule, but may require the owner or operator of any feedlot operation to apply for and obtain a permit. Instances in which a permit may be required by the executive director include situations where the operation is located near surface and/or groundwater compliance with standards in addition to those listed in the proposed new sections is necessary to maintain the quality of water, and/or the operation is not in compliance with the proposed standards. For an owner or operator with more than a specified number of animals (e.g., beef cattle-greater than 1,000 head capacity), the proposed new sections require regulation by a permit issued by the commission. Proposed §321.34 sets forth procedures and technical requirements for applications for wastewater permits regulating livestock and poultry production operations.

Owners and operators regulated by rule

rather than permit are required to locate, construct and manage control facilities to protect surface and groundwater in accordance with the technical requirements of the proposed new sections. To ensure surface water protection, proposed §321.35 requires feedlot operators to provide waste retention and dewatering capabilities. To ensure protection of groundwater quality, feedlot operations are required to maintain seepage control from their waste retention facilities under proposed §321.36. In addition, waste management techniques, utilization and disposal methods, and application rates are addressed by proposed §321.37. Waste disposal methods other than land application may be utilized only upon prior written approval of the executive director under proposed §321.38.

Proposed §321.39 restricts the use of pesticides so as to prevent the discharge of pesticides or pesticide-contaminated wastewater to the waters in the state.

Proposed §321.40 contains a series of exhibits setting forth technical requirements pertaining to operation and construction of wastewater management facilities. Proposed §321.41, Appendix A, is a collection of exhibits which describe certain design requirements for waste control systems.

William Monroe, chief fiscal officer, has determined that for the first five-year period the sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections, generated by an initial application fee and subsequent annual inspection fee. The effect on state government for the first five-year period the section will be in effect estimated additional cost of \$7,000 in 1987, \$28,000 in 1988, \$14,000 in 1989, \$0 in 1990, and \$0 in 1991, and an estimated increase in revenue generated by an initial application fee and subsequent annual inspection fee of \$6,700 in 1987, \$26,650 in 1988, \$13,000 in 1989, \$13,000 in 1990, and \$13,000 in 1991. There will be no fiscal implications for local government. These new sections are designed to eliminate formal permit requirements under the Texas Water Code, Chapter 26, for most small producers and are only applicable at specified levels of operation. The cost of compliance with the sections for all businesses will be an estimated additional cost of \$450,000 in 1987, \$975,000 in 1988, \$450,000 in 1989, \$0 in 1990, and \$0 in 1991. Of all producers required by Texas Water Code, Chapter 26, and these new sections to obtain and operate under a formal permit, the cost to larger producers is estimated to be the same as smaller producers with a variance of plus or minus 10%, based on the cost per \$100 of sales.

Mr. Monroe has determined that for each year of the first five years the rules as sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the cost estimates to producers will be off-set by benefits to

local contractors in areas of earthwork and technical engineering to make improvements and obtain permits, and that there will be enhanced protection of the quality of surface and groundwater from wastewater generated by livestock and poultry production operations. There is no anticipated new economic cost to individuals who are required to comply with the proposed sections.

The proposed new sections clearly establish which livestock and poultry production operations will be regulated by permit and which by rule, while reserving to the commission the option to regulate any operation by permit if justified by site specific factors. As such, the new sections assure both consistency and flexibility in regulatory approach. Because current design standards can be identified only through a review of issued permits, the adoption of specific rules would have the advantage of establishing design criteria as well as simplifying the permitting of these types of facilities.

Furthermore, the proposed new sections would clarify commission enforcement activities and identify the state's regulatory program for purposes of National Pollutant Discharge Elimination System (NPDES) delegation and the Texas Right-To-Farm Act which limits the circumstances under which agricultural operations may be regulated or considered to be a nuisance.

Comments on the proposal may be submitted to Andrew N. Barrett, Staff Attorney, Legal Division, Texas Water Commission, Stephen F. Austin State Office Building, P. O. Box 13087, Austin, Texas, 78711 (512) 463-8069. The deadline for submitting written comments is 30 days from the date of this publication.

The new sections are proposed under the Texas Water Code, §§5103, 5105, and 26.040, which provides that the commission, by rule may regulate and set requirements and conditions for the control of certain waste discharges whenever it is determined that the quality of water in the state is adversely affected or threatened and that requiring individual permits to protect water quality is unduly burdensome to both the commission and regulated entities.

321.31. Statement of No Discharge Policy. It is the policy of the Texas Water Commission that there shall be no discharge of waste and/or wastewater from feedlot concentrated animal feeding operations into the waters in the state, but rather that these materials shall be retained and utilized or disposed of on agricultural land.

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

Auction market.--Any person engaged in the business of buying or selling livestock on a commission basis; or fur-

nishing stockyard services for livestock producers, feeders, market agencies, and buyers. Stockyard services include pens or other enclosures and their appurtenances, in which live cattle, sheep, goats, swine, horses, or mules are received, held, or kept for sale or shipment. For the purposes of this subchapter, the term auction market is synonymous with the terms sale ring, auction barn, livestock commission companies, and live stock sale barn, as these terms are commonly used in the agricultural industry.

Average daily basis - The arithmetic mean for the number of animals in a feedlot operation during any period of 90 consecutive days.

Edwards Aquifer - That portion of an arcuate belt of porous, water-bearing limestones composed of the Comanche Peak, Edwards, and Georgetown formations trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Comal, Hays, and Williamson Counties.

Feedlot concentrated animal feeding operation - A concentrated, confined livestock or poultry facility operated for meat, milk or egg production, growing, stabling, or housing, in pens or houses wherein livestock or poultry are fed at the place of confinement and crop or forage growth or production of feed is not sustained in the area of confinement.

Flushwater waste handling system - A system in which clarified wastewater is recycled for use in transporting waste.

Free stall barn - Specialized buildings wherein producing livestock are permitted free movement between resting and feeding areas.

Housed lot - Totally roofed buildings with open or enclosed sides wherein livestock or poultry are housed over solid concrete or dirt floors, slotted (partially open) floors over pits or waste collection areas in pens, stalls, or cages, with or without bedding materials and mechanical ventilation. For the purposes of this subchapter, the term housed lot is synonymous with the terms slotted floor building, barn, stable, or house, for livestock or poultry, as these terms are commonly used in the agricultural industry.

Lagoon - An earth structure for the biological treatment for liquid organic wastes. Lagoons can be aerobic, anaerobic, or facultative depending on their design and can be used in series to produce a higher quality effluent.

Milking center - A separate milking area with milk storage and cooling facility adjacent to a free stall barn or cow-dairy operation.

Milkroom - Milk storage and cooling rooms normally used for stall barn dairies.

No discharge - The absence of flow of waste, process generated wastewater, contaminated rainfall runoff or other wastewater from the premises of the feedlot, except for overflows which result from rainfall events greater than the 25-year, 24-hour maximum rainfall event.

Open lot - Pens or similar confinement areas with dirt, concrete, or other paved or hard surfaces wherein animals or poultry are substantially or entirely exposed to the outside environment except for small portions of the total confinement area affording protection by windbreaks or small shed-type shade areas. For the purposes of this subchapter, the term open lot is synonymous with the terms yard, pasture lot, dirt lot, and dry lot, for livestock or poultry, as these terms are commonly used in the agricultural industry.

Operator - The owner of a feedlot operation.

Permittee - Any person whose feedlot operation is subject to the permit requirements of this subchapter.

Pesticide - A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

Process generated wastewater - Water directly or indirectly used in a feedlot operation for any or all of the following:

(A) spillage or overflow from animal or poultry watering systems,

(B) washing, cleaning, or flushing pens, barns, manure pits, or other feedlot facilities;

(C) direct contact swimming, washing, or spray cooling of animals,

(D) dust control, and

(E) any other use in which water may contact animals, or wastes produced from feedlot operations or facilities.

Recharge zone - Generally, that area where the Edwards and associated limestones crop out in Kinney, Uvalde, Medina, Bexar, Comal, Hays, and Williamson Counties and the outcrops of other formations in proximity to the Edwards limestone, where faulting and fracturing may allow recharge of the surface waters to the Edwards Aquifer, and the area in Uvalde County within 500 feet of the Nueces, Dry Frio, Frio, and Sabinal Rivers downstream from the northern Uvalde County line to the recharge zone as otherwise defined. The recharge zone is specifically that geological area delineated on official maps located in the offices of the commission and the Edwards Underground Water District.

Stall barn - Specialized buildings wherein producing cows and replacement cows are milked and fed in a fixed location.

25-Year rainfall event - The maximum rainfall event with a probable recurrence interval of once in 25 years, with a duration of 24 hours, as defined by the National Weather Service in Technical Paper Number 40, Rainfall Frequency Atlas of the United States, May 1961, and subsequent amendments, or equivalent information developed therefrom. (Note. Refer to Exhibit I of §321.41 of this title (relating to Appendix A) to obtain an appropriate value for the 25-year rainfall event.)

Waste - Manure (feces and urine), lit-

ter, bedding, or feedwaste from feedlot operations.

Wastewater - Water containing waste or contaminated by waste contact, including process-generated and contaminated rainfall runoff.

§321.33 Applicability.

(a) All feedlot operations may be regulated by rule, subject to subsections (b)-(d) of this section, provided such operations comply with §321.35 of this title (relating to Surface Water Protection), §321.36 of this title (relating to Groundwater Protection), §321.37 of this title (relating to Waste Utilization or Disposal By Land Spreading), §321.38 of this title (relating to Other Waste Disposal Methods) and §321.39 of this title (relating to Pesticide Use). The provisions of this subsection are applicable to all feedlot operations, either housed or open lots, including beef cattle, dairy cattle or milk production areas, swine, sheep, goats, horses; chickens, including broilers, layers and/or breeders; turkeys, including breeders and/or feeders, and auction markets.

(b) The executive director may require any feedlot operation to comply with the requirements of this subchapter in order to achieve the policy and purposes enumerated in the Texas Water Code, §§5.120 and 26.003, the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §1; and §321.31 of this title (relating to Statement of No Discharge Policy). The executive director may require the operator of any feedlot operation to apply for and obtain a permit. Cases for which a permit may be required include, but are not limited to, situations where:

(1) the operation is located near surface and/or groundwater resources;

(2) compliance with standards in addition to those listed in this subchapter is necessary in order to protect fresh water from pollution; or

(3) the operation is not in compliance with the standards of this subchapter.

(c) Notwithstanding the provisions of subsections (b) and (d) of this section, feedlots which are regulated by permit on the effective date of these rules shall continue to be regulated by permit.

(d) Operators of feedlot operations with more than the specified numbers of animals on an average daily basis in housed or open lots shall be regulated by permit issued by the commission:

(1) dairy - 250 milking head;

(2) beef - 1,000 head;

(3) swine - 1,500 head;

(4) sheep and goats - 6,000 head;

(5) horses - 600 head;

(6) chickens, including broilers, breeders and layers - 30,000 birds with liquid waste handling system, or 100,000 birds with continuous overflow watering system and dry waste handling system,

(7) turkeys, including breeders and feeders - 9,000 birds with liquid waste handling systems, or 32,000 birds with continuous

overflow watering systems, or 35,000 birds in open lots.

(e) Operators of feedlot operations not required to obtain a permit under subsections (b) or (d) of this section must locate, construct, and manage waste control facilities to protect surface and groundwaters in accordance with the technical requirements of §321.35 of this title (relating to Surface Water Protection), §321.36 of this title (relating to Groundwater Protection), §321.37 of this title (relating to Waste Utilization or Disposal By Land Spreading), §321.38 of this title (relating to Other Waste Disposal Methods) and §321.39 of this title (relating to Pesticide Use).

§321.34. Procedure for Making Application for a Permit. Any person whose feedlot operation does not conform to the criteria for regulation by rule set forth under §321.33 of this title (relating to Applicability) shall apply for a permit. Application for a permit shall be made on forms provided by the executive director. The applicant shall provide such additional information in support of the application as may be necessary for an adequate technical review of the application. At a minimum, the application shall demonstrate compliance with the technical requirements set forth in §321.35 of this title (relating to Surface Water Protection), §321.36 of this title (relating to Groundwater Protection), §321.37 of this title (relating to Waste Utilization or Disposal By Land Spreading), §321.38 of this title (relating to Other Waste Disposal Methods) and §321.39 of this title (relating to Pesticide Use), or other equivalent technical requirements. Applicants shall comply with §§305.41-305.45 of this title (relating to Applicability; Application Required, Who Applies, Signatories to Applications, and Contents of Application for Permit). Each applicant shall pay an application fee as required by §305.53 of this title (relating to Fee Assessment). Each permittee shall comply with §§305.61-305.68 of this title (relating to Applicability, Amendments, Renewals, Transfer of Permits, Correction of Permits, Revocation and Suspension, Revocation and Suspension upon Request or Consent, and Action and Notice on Petition for Revocation or Suspension). Each permittee shall comply with §305.125 of this title (relating to Standard Permit Conditions). Permits authorized under this subchapter may be effective for the life of the project as determined by §305.127(1)(C) of this title (relating to Conditions to be Determined for Individual Permits).

§321.35. Surface Water Protection.

(a) Waste control facilities shall be managed so as to retain all feedlot rainfall runoff from open lots and associated areas resulting from the 25 year rainfall event, process generated wastewater, and waste, as provided in this subchapter.

(1) Off-site drainage diversion. When feedlot wastes must be isolated from

outside surface drainage by ditches, dikes, berms, terraces or other such structures, these diversion structures shall be designed to carry peak flows expected at times when the 25 year rainfall event occurs.

(2) Waste and wastewater retention facilities. Dikes, pits, ponds, lagoons, or other structures relied on to hold waste materials and rainfall runoff shall have capacity sufficient to retain

(A) all runoff from open lots and associated areas resulting from the 25 year rainfall event; and

(B) all waste and process generated wastewater produced during a period of time not less than the minimum storage period value obtained from Exhibit 2 of §321.41 of this title (relating to Appendix A).

(b) Adequate equipment shall be available for removal of such waste and wastewater as required for compliance with the provisions of subsection (a) of this section or the provisions of the operator's permit. Prescribed capabilities of diversion and containment structures shall be maintained at all times.

(c) Runoff volume from the feedlot surface shall be determined from soil cover complex curve number 90 for unpaved lots, or soil cover complex curve number 95 for paved lots, as defined by the United States Department of Agriculture (U.S.D.A.) Soil Conservation Service and as depicted in Exhibit 3 of §321.41 of this title (relating to Appendix A). The executive director may approve the use of a different soil cover complex curve number with regard to unpaved lots on a case-by-case basis.

(d) Retention facilities as required in paragraph (a) of this section shall be equipped with either irrigation or evaporation systems capable of dewatering the retention facilities.

(1) For irrigation disposal systems, except as provided in paragraph (3) of this subsection, whenever 50% of the design runoff storage capacity is exceeded by accumulated runoff, sediment, manure, and or process generated wastewater, the retention facility shall be dewatered to a level that restores the full runoff storage capacity and the dewatering process shall be completed within a 21-day period. If the irrigation system is not capable of dewatering the retention facilities as required herein, sufficient additional storage capacity shall be provided in lieu of dewatering capabilities upon written approval of the executive director, and under such terms and conditions as the executive director may specify.

(2) Evaporation systems shall be designed to withstand a 10-year period of maximum recorded rainfall, as determined by a water budget analysis, and freeboard shall be maintained to dispose of rainfall and rainfall runoff from the 25 year rainfall event without overflow.

(3) Operators using pits, ponds, or lagoons for storage and treatment of manure and process generated wastewater, including

flushwater waste handling systems, shall maintain in their wastewater retention facility sufficient freeboard to contain rainfall and rainfall runoff from a 25 year rainfall event. The operator shall restore normal freeboard within 21 days of any rainfall event or accumulation of manure or process generated wastewater which reduces such freeboard.

(4) Retention facilities shall not be located within the 100-year floodplain unless protective measures are designed and constructed.

§321.36. Groundwater Protection.

(a) All wastewater retention facilities shall be constructed of compacted or in-situ earthen materials which meet the following particle size gradation and Atterberg limits:

(1) 30% or more passing a number 200 mesh sieve;

(2) a liquid limit of 30% or greater; and

(3) a plasticity index of 15 or greater.

(b) If the wastewater retention facilities are not constructed in suitable materials as described in subsection (a) of this section, then an alternate lining shall be required. Suitable linings include earthen blankets and impervious materials.

(1) Earthen blankets shall consist of suitable materials as described in subsection (a) of this section and shall have a minimum compacted thickness of 12 inches.

(2) Impervious materials include flexible membrane linings, asphalt-sealed fabric liners, and bentonite sealants. Installation of impervious materials shall be in accordance with a detailed plan which meets the USDA Soil Conservation Service conservation practice standard and specification code 521 'Pond Sealing or Lining'.

(3) The permittee shall furnish suitable evidence that a completed lining, as described in paragraphs (1) and (2) of this subsection, meets the appropriate criteria.

(c) Alternative methods of lining, other than those described in subsections (a) and (b) of this section, require prior written approval of the executive director.

(d) Earthen retention facilities in existence on the date this subchapter becomes effective shall be exempt from the requirements of subsection (a) of this section provided the owner or operator prevents the discharge of wastes into surface and groundwaters. This exemption does not affect previously issued permits having permit terms and conditions which specifically require the lining of retention facilities. Whenever the discharge of waste or wastewater into surface and groundwater occurs, or threatens to occur, the executive director may require compliance with the provisions of subsections (a) and (b) of this section.

§321.37. Feedlot Waste Utilization or Disposal By Land Application.

(a) If land application is utilized for disposal of waste and or wastewater the

following requirements shall apply

(1) Utilization and disposal methods

(A) Liquid and solid feedlot waste shall be distributed on agricultural lands so that neither the waste nor rainfall runoff will adversely affect the quality of receiving waters.

(B) When irrigation disposal of wastewater is used, tailwater facilities shall be provided so as to prevent the release of applied wastewater

(C) Disposal of waste and wastewater shall be done in such a manner as to prevent nuisance conditions such as odor and flies.

(D) Wastewater shall not be irrigated when the ground is frozen or saturated or during rainfall events.

(2) Application rates. Except as may be required by permit, liquid and solid

waste, and/or wastewater, shall be applied in such concentrations, and application shall be made at such intervals, as to not inhibit the growth of crops or forage or result in wastewater runoff

(3) Management of wastes. Collection, storage, and disposal of liquid and solid waste shall be managed in accordance with recognized practices of good agricultural management.

(b) The following requirements apply in regard to on-site waste storage

(1) All solid waste materials stockpiled or retained onsite shall be isolated from all run-on storm waters by dikes, terraces, berms, ditches, or other similar structures and shall be maintained so as to retain all rainfall which comes in contact with the stockpiled solid waste material

(2) Storage sites shall be lined in accordance with the requirements of §321.36

of this title (relating to Waste Disposal by Land Spreading)

§321.38 *Other Waste Disposal Methods* If the operator proposes to use methods of disposal other than land application, he must first obtain prior written approval from the executive director.

§321.39 *Pesticide Use* The operator shall prevent the discharge of waters which have been contaminated by pesticides and shall notify the executive director immediately if such discharge occurs

§321.40. *Edwards Aquifer*. New feedlot, concentrated animal feeding operations are prohibited on the recharge zone.

§321.41. *Appendix A* Appendix A is a collection of exhibits which describe certain design requirements for waste control systems. Exhibits are photosticks.

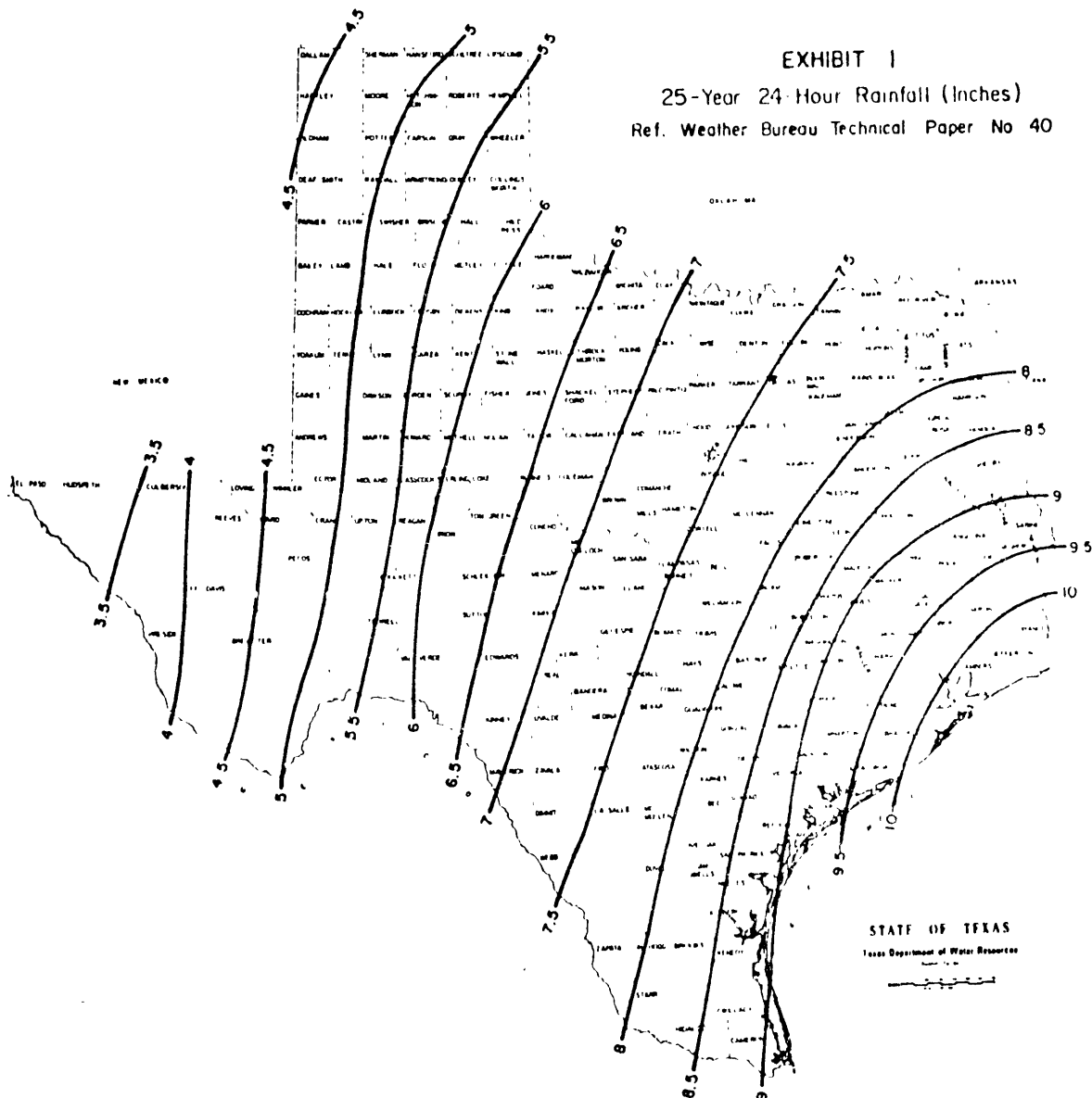
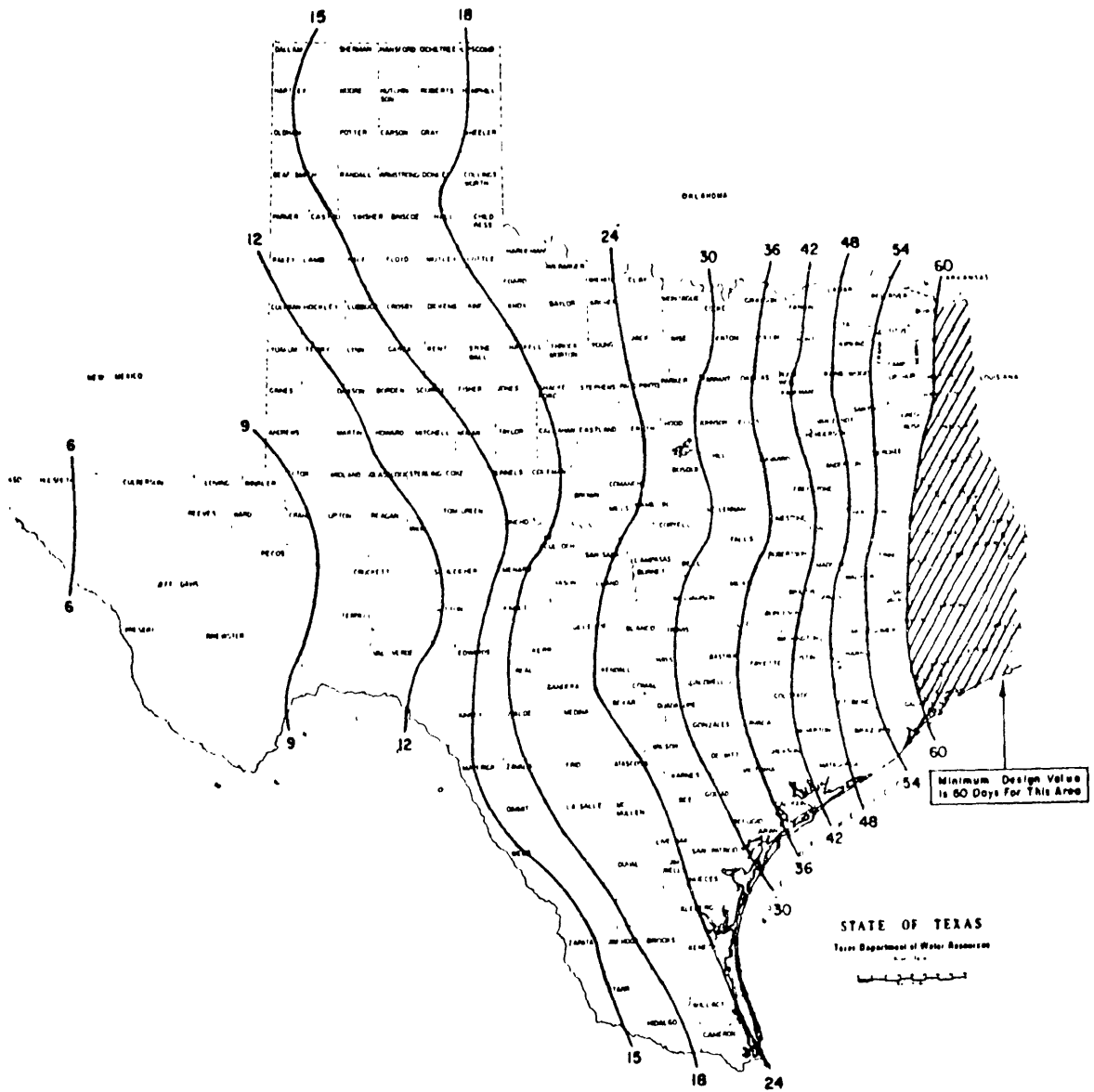


EXHIBIT 2
 Minimum Storage Period in Days
 Ref: TWDB Report 64

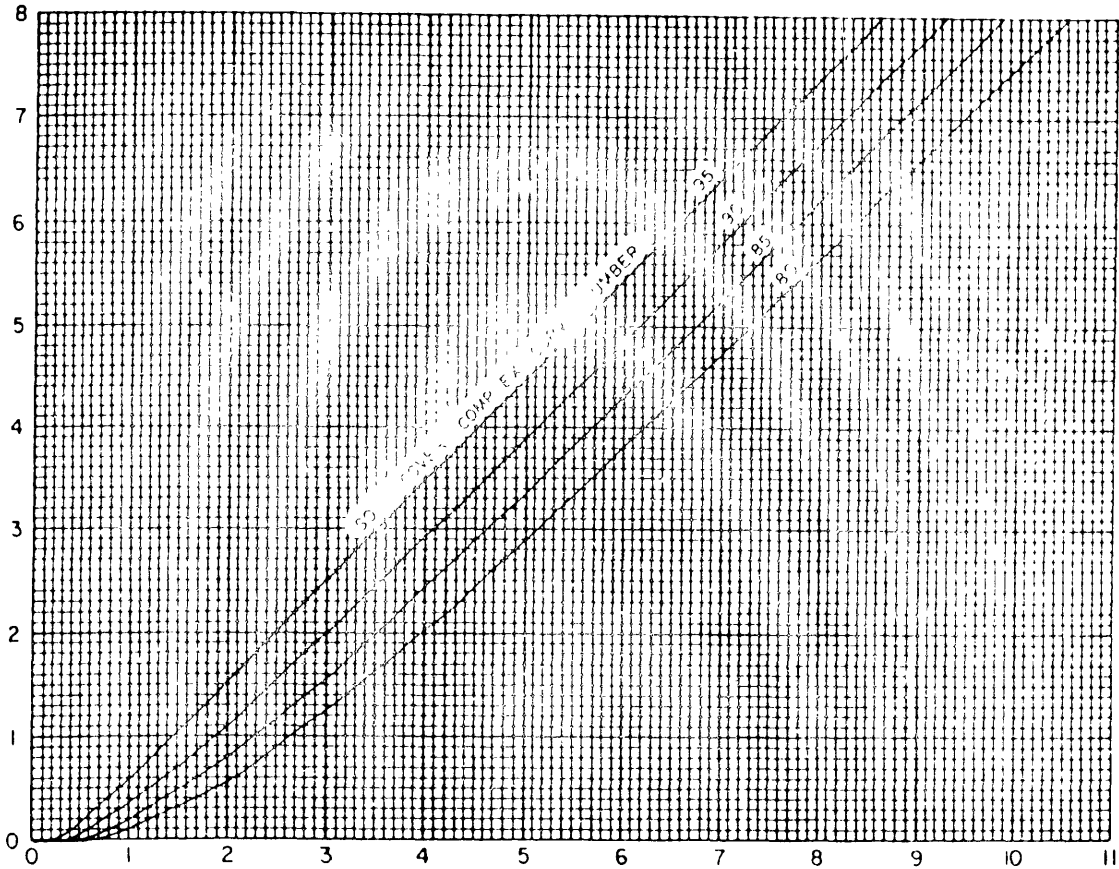


This is the minimum storage period for net storage volumes (excludes freeboard and inherent storage losses).

EXHIBIT 3

Prediction of runoff from feedlots using the soil cover complex procedure

Ref USDA, SCS National Engineering Handbook, Section 4



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 January 22, 1987
 TRD-8700675 James K. Rourke, Jr.
 General Counsel
 Texas Water Commission

Earliest possible date of adoption
 March 2, 1987
 For further information, please call
 (512) 463-8069

★ ★ ★

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VII. Texas Commission on Law Enforcement Officer Standards and Education

Chapter 211. Administrative Division Substantive Rules

★ 37 TAC §§211.74, 211.80, 211.82, 211.96, 211.99

The Texas Commission on Law Enforcement Officer Standards and Education proposes amendments to §§211.74, 211.80, 211.82, 211.96, and 211.99, concerning licensing examinations, minimum standards for licensing, issuance of license, reactivation of a peace officer license, and provisional licenses. The amendment to §211.74 allows the executive director to designate exam proctors for the state licensing exam in addition to the members of the commission staff already authorized. The amendment to

§211.80 adds to the minimum standards for licensing the requirements that the minimum standards for training be met, the state licensing exam be passed, and an application be received from a law enforcement agency. The amendment to §211.82 adds two exceptions to the permanent validity of a license: voluntary surrender, and lapse into an inactive status after a two-year break in service as an officer. The revocation and suspension exceptions are unchanged. The amendment to §211.96 reorganizes an existing section to clarify its effective date, January 1, 1987, adds reserve law enforcement service as acceptable to keep active a peace officer license, authorizes one challenge to the reactivation exam, and provides for three attempts to pass that test after each completed training course. The amendment to §211.99 clarifies that the provisional license is issued to an agency in the name of the officer, is to be retained by that agency, and is not transferable by either the agency or the officer.

David M. Boatright, legal counsel for the commission, 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. Boatright 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 a more efficient administration of the sections involving, testing, license standards and issuance, reactivation, and provisional licenses. These amendments clarify ambiguous provisions in the existing sections. 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 David M. Boatright, Legal Counsel, 1606 Hcadway Circle, Suite 100, Austin, Texas 78754.

These amendments are proposed under the following respective sections of Texas Civil Statutes, Article 4413(29aa): §211.74 under §6B(a), which authorizes a licensing examination, §211.80 under §2(a)(2), which authorizes minimum licensing standards, §211.82 under §2(a)(2), which authorizes minimum licensing standards, §2(a)(3), which authorizes the issuance of licenses, and which authorizes rules to reactivate a license after a break in employment, §6(k), §211.96 under §6(k), which authorizes rules to reactivate a license after a break in employment; §211.99 under §6(b)(2), which authorizes provisional licenses if the agency can substantiate a manpower shortage.

§211.74. Licensing Examination.

- (a) (No change.)
- (b) Members of the commission staff or any person designated by the executive

director [(hereinafter referred to as examination proctors)] shall monitor all examinations in the capacity of proctor.

(c) The commission staff shall set the date, [and] time, and location of any [all] examination [examinations and all examinations shall be conducted at a location designated by the commission].

(d)-(m) (No change.)

(n) A member of the commission staff or any person designated by the executive director shall at all times monitor the examination while [the examination is] in progress. A member of a law enforcement academy may be present in the examination room as an observer or to assist the examination proctor, provided such assistance or admittance is requested in advance. Only the persons required to administer the exam, an observer, and the persons taking the exam will be permitted in the examination room.

(o)-(q) (No change.)

§211.80. Minimum Standards for Licensing.

(a) A person who is an applicant for a peace officer, reserve law enforcement officer, jailer, or guard of county jail license shall:

(1)-(16) (No change.)

(17) meet the minimum training standards required by the rules of this agency each license sought;

(18) pass the commission licensing examination required by the rules of this agency for each license sought.

(b) The commission may only [not] issue a license to an applicant if: [who fails to comply]

(1) a signed application for such license is received from a law enforcement agency; and

(2) the applicant complies with the standards set forth in subsection (a) of this section.

§211.82. Issuance of License.

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

(c) A permanent license is [licenses are] issued for an indefinite term and shall be valid permanently unless it:

(1) is revoked; [or]

(2) is suspended, [by the commission]

(3) is voluntarily surrendered; or

(4) becomes inactive because of a two-year break in service as a peace officer or reserve law enforcement officer.

§211.96. Reactivation of a Peace Officer License.

(a) The commission shall place a peace officer license in an inactive status [After January 1, 1987.] when:

(1) the license [a] holder has been [of a peace officer license is] reported to the commission as terminated and is then not reported as employed or appointed as either a peace officer or reserve law enforcement officer for more than two years, [,] or

(2) [when] the license holder has

never been employed as either a peace officer or reserve law enforcement officer within [for more than] two years after licensing [, the commission shall automatically place the license in an inactive status]

(b) (No change.)

(c) The holder of an inactive license who seeks to reactivate it shall:

(1) complete, including the reactivation [an] examination, a reentry training course; or

(2) complete a basic peace officer course, and then pass the reactivation examination; or

(3)[2] in lieu of completing either [the reentry] training course, pass [take] the [a] reactivation examination based upon the same subject matter as the reentry training course.

(d) The reentry training course shall:

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

(3) consist of at least 40 hours including [in] the following subjects: Penal Code, Code of Criminal Procedure, Family Code, and recent significant court decisions.

(e) The commission will not reactivate a peace officer license for a previously licensed peace officer who does not successfully complete the reactivation examination. The reactivation [Whether before or after the reentry training course, the] examination may [shall] only be challenged once [given a total of three times, including any combination of challenges and retests]. After failure [three failures], the applicant may not be retested until successful completion of either the reentry training course or a basic peace officer course [for one year]. After each completion of either training course, the reactivation examination may be taken only three times.

(f) The effective date of this section shall be January 1, 1987.

§211.99. Provisional License

(a) The commission shall [have the authority to] issue to a law enforcement agency a provisional license for [to] a person seeking appointment as a peace officer or as a reserve law enforcement officer if that person:

(1) is the subject of a favorable order signed by a hearing examiner under this section; and

(2) meets the minimum standards for the license sought, but is not eligible for a permanent license because of lack of training or testing.

(b) A provisional license is issued in the name of the applicant officer, however, it is issued to and shall remain in the possession of the agency. Such a license may neither be transferred by the applicant to another agency nor by the agency to another applicant [The commission may issue a provisional license to a person who complies with the standards for licensing as required by §211.80 of this title (relating to Minimum Standards for Licensing), but is not eligible for issuance of a permanent license]

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

(f) Provisional license petition hearing

(1)-(3) (No change.)

(4) A finding that a provisional license shall be issued shall be made in writing by the hearing examiner

(A) (No change.)

(B) The expiration date of a provisional license shall be the date set by the hearing examiner [except that the expiration date of the provisional license shall not be set for a date later than the beginning date of the next available basic training course as determined by the hearing examiner]

[(C) The provisional license period shall terminate at the expiration date of the provisional license, except that if the holder of a provisional license is enrolled and attending a basic training course on or before the expiration date, the provisional license period is automatically extended until the holder of the provisional license completes or ceases to attend the basic training course.]

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 January 23, 1987

TRD 8700751

David M Boatright
Legal Counsel
Texas Commission on
Law Enforcement Of-
ficer Standards and
Education

Proposed date of adoption

March 11, 1987

For further information, please call
(512) 834 9222

★ ★ ★

★ 37 TAC §211.100

The Texas Commission on Law Enforcement Officer Standards and Education proposes new §211.100, concerning in-service training for peace officers. The new section requires peace officers to get at least 40 hours of in-service training each two years. The training must be provided by the employing agency and by the chief administrator of that agency. The content of any course is up to each agency, with commission approval, and personnel assignments to attend any particular course are solely within the discretion of each agency.

David M Boatright, legal counsel, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for local government as a result of enforcing or administering the section. The effect on local government is an estimated additional cost of \$400,000 each year from 1987-1991. There will be no fiscal implications for state government or small businesses

Mr Boatright also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the public may reasonably anticipate the delivery of a higher standard of law enforcement services, because each holder of a peace officer license must receive substantial in-service training on a regular basis. The new section will require training and the training will, predictably, consist of an update on current law, procedure, and techniques. The anticipated economic cost to individuals who are required to comply with the proposed section will be the cost of in-service training.

Comments on the proposal may be submitted to David M Boatright, Legal Counsel, 1606 Headway Circle, Suite 100, Austin, Texas 78754

The new section is proposed under Texas Civil Statutes, Article 4413 (29aa), §2(i), which provide the commission with the authority to require law enforcement agencies to provide each peace officer with a commission-approved training course during a 24-month period.

§211.100 In-Service Training

(a) Any law enforcement agency which employs peace officers shall provide to those officers an in-service training program as required by this section.

(b) An agency may voluntarily require or provide any training in addition to this section.

(c) The in-service training program shall consist of one or more separate courses.

(d) Each individual in-service course within the program shall

(1) be approved by the commission;

(2) have a final examination or skills test, as appropriate, which must be passed before course completion credit will be awarded; and

(3) not include any reserve or basic peace officer training.

(e) At least one such course provided by each agency and attended by each officer shall include instruction in the recognition of cases involving abuse or neglect of children as required by law.

(f) Except as provided in subsections (d) and (e) of this section, the agency may:

(1) control the length, number, and content of any course, and

(2) assign any or all officers to attend any particular course.

(g) In-service training credit may be given:

(1) for a law enforcement related course taken for college credit,

(2) for a correspondence course; or

(3) for actual presentation time to instruct a commission-approved in-service training course, with prior approval of a written request.

(h) The chief administrator of each agency shall provide the in-service program to and require the attendance of each peace officer employed or appointed by his agen-

cy as of the first day of a calendar year. The program shall consist of one or more in-service courses that total at least 40 hours for that year and the next. This section does not apply to an officer who leaves before the end of the second year unless he is re-employed before that date.

(i) A peace officer who is licensed and employed or appointed on the first day of a calendar year must complete one or more in-service training courses that also total at least 40 hours for that year and the next.

(j) If an officer was employed or appointed after the first day of a calendar year, any training course actually completed by that officer during the partial year may be carried over one year to count toward the 40-hour requirement in subsections (h) and (i) of this section.

(k) If sufficient in-service courses have been provided to the officer and attendance has been required of the officer by the chief administrator and a license holder still fails to complete the in-service program provided in subsection (i) of this section, the officer's license may be suspended until the required training has been complete, provided the officer was employed on the last day of the second year.

(l) This section shall be effective May 1, 1987.

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 January 23, 1987

TRD-8700752

David M Boatright
Legal Counsel
Texas Commission on
Law Enforcement
Officer Standards and
Education

Proposed date of adoption

March 11, 1987

For further information, please call
(512) 834-9222

★ ★ ★

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part 1. Texas Department of Human Services

Chapter 3. Income Assistance Services

Subchapter 1. Income

★ 40 TAC §3.902

The Texas Department of Human Services (DHS) proposes an amendment to §3.902, concerning exclusions from income in determining eligibility for aid to families with dependent children (AFDC). The purpose of this amendment is to cite the federal regulations concerning energy assistance

Part XIX. Polygraph
Examiners Board
Chapter 391. Polygraph
Examiner Internship

★ 22 TAC §391.3

The Polygraph Examiners Board adopts an amendment to §391.3 without changes to the proposed text published in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4675)

The amendment indicates those polygraph schools that meet the minimum standards required for accreditation by the Polygraph Examiners Board

The amendment allows the Polygraph Examiners Board to continue an effective program of insuring the citizenry of this state of competent polygraph services in compliance with the intent of the 1965 State Legislature

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 4413, §29cc, which provide the Polygraph Examiners Board with the authority to regulate persons who purport to be able to detect deception or verify truth of statements through the use of instrumentation, and to approve polygraph examiner schools for accreditation in this state

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 January 23, 1987

TRD-8700672 Bryan M. Perot
Executive Officer
Polygraph Examiners
Board

Effective date February 12, 1987
Proposal publication date November 14, 1986
For further information, please call
(512) 465-2058

★ ★ ★

Part XXIII. Texas Real
Estate Commission
Chapter 535. Provisions of the
Real Estate License Act
Registration and Certification:
Fees

★ 22 TAC §535.202

The Texas Real Estate Commission adopts an amendment to §535.202, with changes to the proposed text published in the August 26, 1986, issue of the *Texas Register* (11 TexReg 3779)

In response to public comment on the proposed amendment, language was added to

clarify an inspector's authority to inspect items in addition to those items the buyer has indicated for inspection in TREC 2-2, the property condition addendum form promulgated by the commission

In response to a concern voiced by several inspectors who either provided written comments or testified before the commission, language was also added to indicate that the section was not intended to limit the scope of services provided by the inspector to his client nor to require the inspector to inspect items which he is not qualified to inspect

The amendment requires licensed real estate inspectors to determine whether the property condition addendum is being used in a real estate transaction prior to performing an inspection of the property. Unless instructed differently by his client, the buyer, the inspector must obtain a copy of the completed addendum, inspect at a minimum the items marked for inspection in the addendum and indicate in a written report to the buyer whether or not the inspector has inspected each item designated in the addendum. For each item inspected, the inspector would also be required to specifically identify in the report any item found to be in need of immediate repair or which is not performing the function for which intended

The amendment is adopted under Texas Civil Statutes, Article 6573a, §5(e), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties

§535.202. *Licensed Real Estate Inspectors.*

(a) - (c) (No change)

(d) Prior to performing an inspection of improvements to real property for the buyer, an inspector shall determine whether a property condition addendum, Form TREC 2-2, as presently promulgated or hereafter amended, is being used in connection with the proposed sale of the property. If the addendum is being used, the inspector shall, unless instructed otherwise by the buyer, obtain a copy of the completed addendum, include at a minimum in the inspection the items designated for inspection in Paragraph B of the addendum for which the inspector has been employed, clearly indicate in a written report to the buyer whether or not each item designated for inspection in the addendum has been inspected by the inspector, and specifically identify in the written report each item so inspected which has been found to be in need of immediate repair or which is not performing the function for which intended. This section shall not be interpreted to limit the scope of services provided by the inspector to his client nor to require the inspector to inspect the items which he is not qualified to inspect

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 January 21, 1987

TRD-8700668 Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Effective date February 12, 1987
Proposal publication date August 26, 1986
For further information, please call
(512) 465-3960

★ ★ ★

★ 22 TAC §535.203

The Texas Real Estate Commission adopts new §535.203, without changes to the proposed text published in the November 18, 1986, issue of the *Texas Register* (11 TexReg 4706)

The new section establishes four grounds to suspend or revoke the license of an inspector procuring licenses by fraud, misrepresentation or deceit or by making material misstatements in an application, failing to make good a check issued to the commission, failing to produce records for inspection by the commission, and failing to provide information to the commission requested as a result of a complaint against the inspector

No comments were received regarding adoption of the new section

The new section is adopted under Texas Civil Statutes, Article 6573a, §5(e), which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties

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 January 21, 1987

TRD-8700669 Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Effective date February 12, 1987
Proposal publication date November 18, 1986
For further information, please call
(512) 465-3960

★ ★ ★

★ 22 TAC §535.204

The Texas Real Estate Commission adopts new §535.204, without changes to the proposed text published in the November 18, 1986, issue of the *Texas Register* (11 TexReg 4707)

The new section provides authority to void applications for real estate inspector licensure when required examinations have not been completed, required fees have not been paid or the applicant has failed to provide requested information or documentation.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 6573a, §5(e), which authorizes the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

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 January 21, 1987

TRD-8700670 Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Effective date February 12, 1987
Proposal publication date November 18, 1986
For further information, please call
(512) 465-3960

★ ★ ★

Chapter 537. Professional Agreements and Standard Contracts

Standard Contract Forms

★ 22 TAC §537.11

The Texas Real Estate Commission adopts an amendment to §537.11, without changes to the proposed text published in the November 18, 1986 issue of the *Texas Register* (11 TexReg 4707).

The amendment specifies how promulgated contract forms may be reproduced by real estate licensees and prohibits the reproduction of the forms by means of word processors, computers, optical scanners, and other similar machines.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6573a, §16(e), which authorizes the Texas Real Estate Commission to adopt rules and regulations requiring real estate brokers and salesmen to use forms promulgated by the commission.

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

Issued in Austin, Texas, on January 21, 1987

TRD-8700671 Mark A. Moseley
Legal Counsel
Texas Real Estate
Commission

Effective date February 12, 1987
Proposal publication date November 18, 1986
For further information, please call
(512) 465-3960

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part 1. General Land Office

Chapter 2. Oil, Gas, and Mineral Lease Sales

★ 31 TAC §2.2

The General Land Office adopts an amendment to §2.2 with changes to the proposed text published in the October 17, 1986, issue of the *Texas Register* (11 TexReg 4296).

The amendment is adopted to provide a means for enforcing cleaner oil and gas operations.

This amendment establishes guidelines a lessee must follow in fulfilling its responsibility to prevent pollution and to prohibit waste from oil and gas operations.

Comments were received from ARCO Oil & Gas Company. On the whole, ARCO supported the proposed amendment. They did, however, note that they believed the term "highest degree of care" in subsection (b) was an uncertain non-measurable standard and could result in an operator's being fined for the inadvertent loss of minerals which pose no threat to the beach. In addition, ARCO contends that the required signs would be a hindrance and possibly a safety hazard to employees. They suggested that postings on company bulletin boards and/or at posted points would be less of a hindrance to operating procedures. ARCO also objected to subsection (c) which stipulates the results of failing to comply with this section. ARCO asserts that these statements could allow a coastal municipality to clean up its beach litter and charge back all the costs to a single operator if a single piece of litter could be attributed to that operator. ARCO believes that no one should be required to pay more than his proportional share of any cleanup costs. Texaco also commented on this proposed amendment. They recommended that the compliance language be changed to avoid the possible forfeiture of a lease as a result of non-compliance with subsection (b); they contend the current language is inappropriate.

ARCO Oil and Gas Company and Texaco were in favor of the amendment but made some comments against certain provisions of the amended section.

The General Land Office contends that

the procedures and guidelines of this proposed section are necessary and appropriate to further pollution prevention. The section clarifies the expectations of the General Land Office for the lessees. The required posting of signs is part of the educational process for all parties concerned, to insure cleaner oil and gas operations. However, one change has been made to stipulate that the sign posting requirement be limited to vessels and manned platforms. In addition, the liability imposed for non-compliance is appropriate and will be fully enforced to effectuate this section.

The amendment is adopted under the Natural Resources Code, §31.051, which provides the commissioner of the General Land Office with the authority to adopt rules consistent with law.

§2.2. Lessee Responsibility

(a) All wells shall be drilled, reworked, cleaned, tested, and produced in a manner to prevent pollution, and in the event of pollution lessee shall use all reasonable means to recapture all hydrocarbons or other pollutants which have escaped and shall be responsible for all damage to public and private property.

(b) All operations shall be conducted using the highest degree of care. No discharge of solid waste or garbage shall be allowed into state waters from any drilling or support vessel, production platform, crew or supply boat, barge, jack-up rig, or other equipment located on the leased area. Solid waste shall include, but shall not be limited to, containers, equipment, rubbish, plastic, glass, and any other man-made nonbiodegradable items. A sign must be displayed in a high traffic area on each vessel and manned platform stating, "Discharge of any solid waste or garbage into state waters from vessels or platforms is strictly prohibited and may subject a State of Texas lease to forfeiture." Such statement shall be in lettering of at least one inch in size.

(c) Failure to comply with the requirements of this section may result in the maximum penalty allowed by law including forfeiture of the lease. Lessee shall be liable for the damages caused by such failure and any costs and expenses incurred in cleaning areas affected by the discharged waste.

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 January 23, 1987

TRD 8700693 Garry Mauro
Commissioner
General Land Office

Effective date February 13, 1987
Proposal publication date October 17, 1986
For further information, please call
(512) 463-5019

★ ★ ★

Chapter 9. Exploration and Development
Geophysical Rules and Regulations for Submerged Lands

★31 TAC §9.7

The General Land Office adopts an amendment to §9.7 without changes to the proposed text published in the October 17, 1986, issue of the *Texas Register* (11 TexReg 4297)

The amendment is adopted to provide a means of enforcing cleaner seismic operations.

This amendment establishes further guidelines to be followed by operators in the furtherance of pollution prevention and safety in State waters. In addition, it stipulates the liability imposed for any violation of this section.

The comments received addressed liability for noncompliance with the section as stated in subsection (c). ARCO was concerned with the possibility that some persons could be required to pay more than their proportional share of cleanup costs. In addition, Texaco recommended that the compliance language be changed to avoid the possible revocation of a seismic operation permit. Also Texaco suggests to deletion of the "no dumping" sign requirement on vessels and platforms which it considered a maintenance burden on the operator.

ARCO Oil and Gas Company and Texaco USA were in favor of the amendment but made some comments against some provisions of the amended section.

The General Land Office contends that the guidelines proposed in the amended section are appropriate and necessary to insure continued pollution prevention. The requirement to post and maintain signs is intended to increase awareness of the section and to further education of all parties concerned.

The amendment is adopted under the Natural Resources Code, §31.051, which provides the commissioner of the General Land Office with the authority to adopt rules consistent with law.

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 January 23, 1987

TRD-8700694 Garry Mauro
Commissioner
General Land Office

Effective date, February 13, 1987
Proposal publication date October 17, 1986
For further information, please call
(512) 463-5009

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Part IV. School Land Board
Chapter 153. Exploration and Development
Utilization of State Lands

★31 TAC §153.15

The School Land Board adopts an amendment to §153.15, without changes to the proposed text published in the October 14, 1986, issue of the *Texas Register* (11 TexReg 4273)

The amendment prevents imminent drainage of state owned minerals and promotes unitization of free royalty land.

The amendment gives the General Land Office more flexibility in processing pooling and unit agreements in which the state's only interest is a free royalty.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Natural Resources Code, §32.062, which provides the School Land Board with the authority to adopt rules which are not inconsistent with the law.

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 January 22, 1987

TRD-8700626 Garry Mauro
Commissioner of the
General Land Office
and Chairman of the
School Land Board

Effective date: February 12, 1987
Proposal publication date October 14, 1986
For further information, please call
(512) 463-5009

★ ★ ★

Operations on Permanent School Fund Lands

★31 TAC §153.24

The School Land Board adopts an amendment to §153.24, with changes to the proposed text published in the November 4, 1986, issue of the *Texas Register* (11 TexReg 4563)

The amendment provides a means for enforcing cleaner oil and gas operations.

The amendment establishes guidelines a lessee must follow in fulfilling its responsibility to prevent pollution and to prohibit waste from oil and gas operations.

Comments were received from the Corpus Christi Oil and Gas Company. On the whole, Corpus Christi Oil and Gas Company supported the proposed amendments. They did, however, request that the section be limited to manned platforms. They also requested that the wording of

the amendment state that the signs will be posted in high traffic areas of the platforms and vessels.

Three comments were received from ARCO Oil and Gas Company. On the whole, they too agreed with the amendments. They objected, however, to §153.24(b) because they believe "using the highest degree of care" is an uncertain non-measurable standard and could result in an operator's being fined for the inadvertent loss of materials, which pose no threat to the beach. In addition, ARCO contends that the required signs would be a hindrance and possibly a safety hazard to employees. They suggested that postings on company bulletin boards and/or at posted points would be less of a hindrance to operating procedures. ARCO also objected to §153.24(c) which stipulates the results of failing to comply with this amendment. ARCO asserts that these statements could allow a coastal municipality to clean up its beach litter and charge back all the costs to a single operator if a single piece of litter could be attributed to that operator. ARCO believes that no one should be required to pay more than his proportional share of any cleanup costs.

Corpus Christi Oil and Gas Company and ARCO Oil and Gas Company commented in favor of the amendment.

The School Land Board contends that the requirements proposed in the amendment are necessary to insure compliance by all parties concerned. It is part of the educational process needed to maintain constant awareness of pollution prevention. However, one change has been made to stipulate that the sign posting requirement be limited to vessels and manned platforms.

The amendment is adopted under the Natural Resources Code, §32.061, which provides the School Land Board with the authority to adopt rules which are not inconsistent with the law.

§153.24. Lessee Responsibility

(a) All wells shall be drilled, reworked, cleaned, tested, and produced in a manner to prevent pollution and in the event of pollution, lessee shall use all reasonable means to recapture all hydrocarbons or other pollutants which have escaped and shall be responsible for all damage to public and private property.

(b) All operations shall be conducted using the highest degree of care. No discharge of solid waste or garbage shall be allowed into state waters from any drilling or support vessel, production platform, crew or supply boat, barge, jack-up rig, or other equipment located on the leased area. Solid waste shall include, but shall not be limited to, containers, equipment, rubbish, plastic, glass, and any other manmade non-biodegradable items. A sign must be displayed in a high traffic area on each vessel

and named platform steamer. Discharge of any solid waste or garbage into state waters from vessels or platforms is strictly prohibited and may subject a State of Texas lease to forfeiture. Such statement shall be in lettering of at least one inch in size.

(c) Failure to comply with the requirements of this section may result in the maximum penalty allowed by law, including forfeiture of the lease. Lessee shall be liable for the damages caused by such failure and any costs and expenses incurred in cleaning areas affected by the discharged waste.

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 January 23, 1987

TRD-8700695 Garry Mauro
Commissioner
General Land Office

Effective date February 13, 1987
Proposal publication date November 4, 1986
For further information, please call
(512) 463-5009

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part X. Texas Adult Probation Commission

Chapter 321. Standards

★ 37 TAC §321.1

The Texas Adult Probation Commission adopts an amendment to §321.1 without changes to the proposed text published in the November 11, 1986, issue of the *Texas Register* (11 TexReg 4620).

The Texas Adult Probation Commission has a statutory responsibility to audit the expenditures of probation departments that receive state aid.

The amendment provides audits of probation departments by the Texas Adult Probation Commission at least every two years, without the necessity of outside audits.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

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 January 20, 1987

TRD-8700608 David Spencer
General Counsel
Texas Adult Probation
Commission

Effective date February 11, 1987
Proposal publication date November 11, 1986
For further information, please call
(512) 834-8188

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Services

Subchapter T. Social Security Numbers

★ 40 TAC §3.2001

The Texas Department of Human Services (DHS) adopts an amendment to §3.2001, concerning the requirement that applicants for aid to families with dependent children (AFDC) must furnish DHS with a social security number (SSN). The purpose for the amendment changes the federal regulation citation that describes the SSN requirement. The citation involves no policy or procedural change.

The justification for the amendment is to conform with final regulations issued February 28, 1986, by the United States Department of Health and Human Services.

The section functions as DHS' policy for determining compliance with SSN requirements as a condition of AFDC eligibility.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 21 and 31, which provides the department with the authority to administer public assistance programs. The amendment is adopted under federal requirements to be effective October 1, 1986.

§3.2001. Eligibility Requirements.

(a) Aid to families with dependent children clients must meet requirements for social security numbers as stipulated in 45 Code of Federal Regulations §205.52.

(b) (No change.)

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

Issued in Austin, Texas, on January 26, 1987

TRD-8700734 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

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

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Chapter 27. ICF-MR

Subchapter S. Utilization Review

★ 40 TAC §27.1806

The Texas Department of Human Services adopts the repeal of §27.1806, without changes to the proposed text published in the September 19, 1986, issue of the *Texas Register* (11 TexReg 3992).

The repeal ensures that the department's rules are consistent with the new prepayment edit procedures for level-of-care reviews in ICF-MR facilities.

The repeal functions by eliminating obsolete policies.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority 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 January 22, 1987

TRD-8700621 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: February 12, 1987
Proposal publication date: September 19, 1986
For further information, please call
(512) 450-3766

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Chapter 29. Purchased Health Services

Subchapter G. Hospital Services

★ 40 TAC §29.609

The Texas Department of Human Services adopts new §29.609, without changes to the proposed text published in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4676).

The Indigent Health Care and Treatment Act passed by the First Called Session, 69th Legislature, 1985, appropriated funds to the department to provide assistance to hospitals delivering a disproportionate share of indigent health care. Federal law also requires Medicare and Medicaid hospital reimbursement systems to consider

the situation of hospitals serving a disproportionate number of low income patients. Section 29.609 describes the methodology that the department will use to identify and provide additional reimbursement to disproportionate share hospitals.

Section 29.609 is the basis for distribution of funds to relieve part of the financial burden of hospitals that serve a disproportionately high percentage of indigents.

The department will make a one-time payment to each disproportionate share hospital during state fiscal year 1987. The level of future payments will depend upon the availability of appropriated funds.

The department received six written comments. In addition, representatives of three hospitals testified at a public hearing held on December 10, 1986. Comments were received from individual hospitals, a hospital group, and a hospital district. Three of the commenters clearly supported the department's proposed methodology. The other commenters supported additional reimbursement to disproportionate share hospitals but expressed concerns and recommendations about specific portions of the proposed new section. The following is a summary of the comments received and the department's response to each comment.

One commenter suggested that the department restrict its methodology to inpatient care provided to individuals eligible for Medicaid and individuals eligible for assistance through the Indigent Health Care and Treatment Act. The department disagrees with this comment. Assistance to individuals through the Indigent Health Care and Treatment Act was implemented on September 1, 1986. Therefore, data are not available at this time to support an equitable allocation based upon inpatient care provided to individuals eligible through the Indigent Health Care and Treatment Act.

One commenter stated that the department should not consider additional indigent days in its allocation of funds. The commenter stated that the disproportionate share methodology should be made a part of the Title XIX Program and therefore any allocation should be based on inpatient care provided to Medicaid recipients. The department disagrees. The disproportionate share methodology is considered a part of the department's Medicaid hospital reimbursement system. Federal law requires Medicaid hospital reimbursement systems to consider the situation of hospitals serving a disproportionate number of low income patients. The law does not restrict consideration to only care provided to Medicaid recipients.

One commenter requested the department to clarify if the definition of Title XIX days includes days beyond the department's 30-day spell-of-illness limitation.

Another commenter stated that it is unfair to include only the 30 days because Medicaid-eligible neonates often exceed the limit. As stated in the definition of Title XIX days, the department will consider reported Title XIX patient days. This includes inpatient care provided to Title XIX recipients beyond the spell-of-illness limit.

Two commenters stated that the department should add a percentage for disproportionate share to each Medicaid claim payment instead of making a one-time payment to each disproportionate share hospital this fiscal year. The department disagrees because of the limited funding available. It would be difficult to implement this suggestion and, at the same time, ensure that total payments added to Medicaid claim payments do not exceed available funds. The suggested method would also increase the administrative complexity and expense of distributing funds.

One commenter urged the department to attempt to obtain federal matching funds on the \$6 million appropriated by the Texas Legislature. The department agrees and is in the process of securing federal financial participation.

Two commenters stated that the department should include uncompensated care in the methodology. One of these commenters also suggested that state and local revenue be excluded because the commenter felt that the department will be treating non-tax supported institutions unfairly. The department understands these concerns, but believes that using state and local revenue to determine additional indigent days is valid. The department determined that other factors, such as charity care, cannot be used at this time because there are no commonly accepted definitions and no uniform data reporting.

One commenter stated that state and local revenue should include revenue received by a hospital for inpatient care through the County Indigent Health Care Program. The definition of state and local revenue does permit inclusion of revenue received by a hospital through the County Indigent Health Care Program.

One commenter stated that Hill-Burton funds are funded by state and local revenue sources and, therefore, the department's definition of additional indigent days violates federal statute. The department disagrees. Funds provided through the Hill-Burton Act were federal funds. In 1975, the National Health Planning and Resources Development Act (Public Law 93-641) replaced the Title VI Hill-Burton Program.

One commenter requested the department to specify when the funds will be distributed and the utilization percentage required for additional reimbursement. The department anticipates payments to qualifying hospitals in March or April 1987. The department cannot specify the utilization percentage required for reim-

bursement until each hospital's additional indigent days are determined. The department has sent a survey to each hospital to gather data to determine the hospital's additional indigent days.

One commenter suggested placing additional restrictions on the factors used in the department's methodology. The suggestion is not feasible as data to support these restrictions are not available.

Finally, one commenter urged expansion of the methodology in future years to consider the percentage of total indigent care provided within a market or community and the possibility of block grants to major disproportionate share hospitals. These suggestions have been noted.

The new section is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority 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 January 23, 1987.

TRD-8700678

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: March 1, 1987.

Proposal publication date: November 14, 1986.

For further information, please call

(512) 450-3766.

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Subchapter L. General Administration

★ 40 TAC §29.1109

The Texas Department of Human Services (DHS) adopts an amendment to §29.1109, with changes to the proposed text published in the October 24, 1986, issue of the *Texas Register* (11 TexReg 4411).

The amendment helps ensure that Medicaid recipients who are eligible for Medicare can avail themselves of Part B services available under Medicare.

The amendment specifies that the department or its designee pays the Medicare Part B deductible on valid, assigned Medicare claims for Part B services. Payment of Part B coinsurance liabilities continues to be restricted to claims for services that are within the amount, duration, and scope of the Texas Medical Assistance Program.

Twenty-three comments, including comments from the Texas Association of Medical Equipment Dealers, were received regarding the adoption of the amendment. Most of the comments received were from durable medical equipment dealers.

All commenters supported the department's proposal to pay the Part B deductible. Most commenters also requested that the department reconsider its position and again pay the 20% coinsurance liability on all Part B services. The following is a summary of comments received and the department's response to each comment.

One commenter requested that the department implement payment of the deductible on January 1, 1987, because deductibles are due on January 1 of each year. The department agrees with this comment and has revised the text of subsection (b) to specify that payment of the deductible will begin in calendar year 1987.

One commenter questioned the legality of limiting payment of Part B coinsurance in light of the department's buy-in agreement. The department's buy-in agreement does not obligate the department to pay the Part B coinsurance on the full range of Part B services. A federal district court judge ruled that the secretary of the Department of Health and Human Services (DHHS) had no statutory or regulatory basis for requiring that state Medicaid programs pay the deductible and coinsurance liabilities on Medicare claims for all Part B services. After this ruling, DHHS published proposed rules permitting states to limit payment to only medical services covered by the state Medicaid program. Although these rules were never published in final form, states were permitted to make choices.

Several commenters stated that current department policy causes a hardship for many Medicaid recipients because they cannot afford to pay the 20% coinsurance liability to receive needed services. Providers of Part B services, such as durable medical equipment dealers, are not permitted by Medicare to waive coinsurance liabilities. Several commenters also stated that the department's policy causes an adverse effect on their businesses. Some commenters suggested that the department pay the Part B coinsurance but reduce the amount of payment in response to the state funding crisis. The department is concerned about the availability of needed services for Medicaid recipients. The department cannot, however, pay the Part B coinsurance on services that are not within the amount, duration, and scope of the Texas Medical Assistance Program because of the state funding crisis. As stated earlier, payment of the Part B deductible helps ensure that Medicaid recipients who are eligible for Medicare can avail themselves of all Part B services. By paying the deductible but not the coinsurance, the department can continue to respond to the current fiscal situation.

Finally, one commenter made several predictions about the long-term effects of the department's policy. Because these comments were predictions, the depart-

ment cannot respond appropriately.

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

§29.1109 Coordination of Title XIX with Parts A and B of Title XVIII

(a) (No change.)

(b) If a Medicaid recipient is eligible for Medicare coverage, the department or its designee pays the recipient's deductible and coinsurance liabilities on valid, assigned Medicare claims as specified in this section. Payment of deductible and coinsurance liabilities is subject to the conditions, limitations, and exclusions of the Texas Medical Assistance Program. Beginning calendar year 1987, the department or its designee pays the recipient's Part B deductible liability on Part B services. Payment for the recipient's Part B coinsurance liability and Part A deductible and coinsurance liabilities is limited to claims for services that:

(1) (2) (No change.)

(c) (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 January 26, 1987.

IRD 8700736

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date: February 16, 1987.

Proposal publication date: October 24, 1986.

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

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Chapter 69. Purchased Social Services

The Texas Department of Human Services adopts the repeal of §§69.1-69.3, 69.21-69.26, 69.41, 69.51-69.55, 69.71-69.80, 69.91-69.94, 69.114, 69.161-69.178, and 69.221 and adopts new §§69.201-69.207, 69.209-69.262, and 69.265-69.277. New §§69.201, 69.203, 69.209, 69.214, 69.225, 69.226, 69.228-69.230, 69.237, 69.239-69.241, 69.246, 69.247, 69.249, and 69.260 are adopted with changes to the proposed text published in the August 8, 1986, issue of the *Texas Register* (11 Tex Reg 3531). The repeals and other new sections are adopted without changes and will not be republished.

The changes are made to improve the clarity of the material and thus eliminate the possibility of ambiguous interpretation. In §69.201, Title XIX contracts is changed to Title XIX funds to distinguish between contracts with Title XIX funds only and contracts with mixed Title XIX

and XX funds. In §69.203(e), the parenthetical material is moved after the sentence explaining that the contract includes the specific amount to be paid for a unit of service.

Section 69.209 is divided into paragraphs (a) and (b). The information in (a)(3) that some programs require prior federal approval is moved to paragraph (b). Section 69.225 adds that the department must have evaluation mechanisms established beforehand to clarify that it must do more than simply provide these mechanisms.

Section 69.226(b) adds that entities held in abeyance may not contract with the department. The change is made to correspond with the provisions of the department's abeyance and debarment rules.

In §69.228, selection team is changed to department to broaden the applicability of the requirements. Each procurement has its own selection team, which may authorize another department staff to be responsible for validation. In §69.229, the word "ranked" is added to clarify that the scores do not necessarily have to be numerically high for the offers to rank high. In some cases, the lowest score has the highest ranking.

Section 69.230 adds that one or more offers may be selected. In §69.237(b) the word "expended" is deleted because local resources are not always expendable items. Section 69.239 adds that shifts between line items in cost reimbursement contracts may be allowed. Section 69.240(b) adds the word "or" because not all reported costs are ones for which the contractor expects payment.

Section 69.241 clarifies that allowable costs are those explained in §§69.242, 69.256. Section 69.246(g) adds that for equipment purchased through a cost reimbursement contract, the contractor must return the value of the claim on the equipment to the department. Paragraph (h) includes that the contractor must notify the department of any loss or damage to equipment purchased through a cost reimbursement contract.

Section 69.247(e) is clarified to read that fully depreciated property has a book value of zero when traded in. Section 69.249(3) explains that if the contractor is not insured, rather than elects not to be insured, the contract agency must pay for any losses. Paragraph (4) explains that the contractor must pay the deductible amount before he may budget and bill it. The word consultant is added to the title of §69.260 to underscore that the amendments apply only to consultant contracts.

The adoption of the repeals and the new sections is justified to consolidate all the department's contracting requirements under a single subchapter, L, Contract Administration.

The adoption of the repeals and the new sections will function to consolidate the department's contracting requirements.

eliminate the duplication of requirements in other chapters, eliminate obsolete procedures, and clarify and update contract policy

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

Subchapter A. Provider Application Process

★ 40 TAC §§69.1-69.3

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

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

Issued in Austin, Texas, on January 26, 1987

TRD-8700737 Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Effective date May 1, 1987
Proposal publication date August 8, 1986
For further information, please call
(512) 450-3766

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Subchapter B. Advance Payment Procedures

★ 40 TAC §§69.21-69.26

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

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

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

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Subchapter C. General Information

★ 40 TAC §69.41

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

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

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

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Subchapter D. Purchase of Service Contracts

★ 40 TAC §§69.51-69.55

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

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

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

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Subchapter E. Purchase of Training

★ 40 TAC §§69.71-69.80

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

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

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Texas Department of
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For further information, please call
(512) 450-3766

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Subchapter F. Regional Monitoring and Management

★ 40 TAC §§69.91-69.94

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

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

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

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Subchapter G. Donor Funds

★ 40 TAC §69.114

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

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

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Texas Department of
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For further information, please call
(512) 450-3766

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Subchapter I. Termination of Contracts

★ 40 TAC §§69.161-69.178

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

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

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For further information, please call

(512) 450-3766

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Subchapter K. Equipment

★ 40 TAC §69.221

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

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

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For further information, please call

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Chapter 69. Contracted Services

Subchapter L. Contract Administration

★ 40 TAC §§69.201-69.207, 69.209-69.262, 69.265-69.277

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

§69.201. Scope and Limitations. Contract administration deals with the purchase and administration of services based on federal regulations and state law. The department may implement additional requirements to meet the particular needs of certain program areas if those requirements do not conflict with the provisions of this subchapter. The contract administration requirements in this subchapter do not apply to the purchased health services contract. Sections 69.271-69.273 and 69.275-69.277 of this title (relating to Settlement of Subcon-

tract Claims, Notice to Contractor of Determination, Submission of Evidence, Abeyance and Removal of Current or Potential Contractual Rights, Causes and Conditions for Removal of Contractual Rights and for Abeyance, and Notice Requirements for Removal of Contractual Rights and for Abeyance) do not apply to Title XIX funds.

§69.203. Methods of Purchase

(a) Small purchase procedures. Small purchase procedures are appropriate for purchasing services, supplies, or other property, which cost in the aggregate \$10,000 or less. If small purchase procedures are used for procurement under a grant, the department must obtain price or rate quotations from an adequate number of qualified sources.

(b) Competitive sealed bids. In competitive sealed bids, the department publicly solicits sealed bids from interested bidders through an invitation for bids (IFB). The department awards a firm fixed-price contract (lump sum or unit price) to the lowest bidder whose bid conforms with all terms and conditions of the invitation for bids.

(c) Competitive negotiation. In competitive negotiation, the department requests proposals from a number of sources by soliciting responses to a request for proposal (RFP). Negotiations are conducted with one or more of the sources submitting offers. The department awards either a unit rate or cost-reimbursement contract, as appropriate. In exceptional cases, the department may negotiate an assurance contract consistent with program-specified policies.

(d) Noncompetitive negotiation. In noncompetitive negotiation, the department solicits a proposal from only one source. Noncompetitive negotiation may be used only when the award of a contract is not feasible under small purchase, competitive sealed bids, or competitive negotiation procedures.

(e) Provider enrollment. In provider enrollment, a potential provider applies to contract with the department. The provider establishes through acceptable means (such as licensure and/or certification) that he meets all provider service standards and agrees to all terms of a DHS-prescribed contract, including the established rates. The contract contains a specific amount to be paid for a unit of service (exceptions are food services enrollment contracts, which may allow other methods for establishing rates). The provider agrees to deliver specified services of a certain quality to eligible clients who require the service. In return, the department pays the provider a specified amount for each unit of service appropriately provided.

§69.209. Noncompetitive Negotiation

(a) Staff may use noncompetitive negotiation if one of the following is applicable:

(1) Noncompetitive negotiation is authorized by law, rule, or regulation.

(2) In an emergency, it is necessary

to proceed without formal advertising because of the delay it causes.

(3) The material or service to be procured is available from only one source.

(4) No acceptable bids using a competitive procurement method are received.

(5) The purchases are for highly perishable material or medical supplies, for services for which the prices are established by law; or for experimental, developmental, or research work.

(b) Some programs may require prior federal approval for sole source contracts.

§69.214. Advertisement of Solicitation. The department formally advertises procurements by publishing a notice of the intent to contract when the contract is to be awarded by competitive sealed bid or competitive negotiation.

(1) Information for release. Department staff must ensure that all solicitations (notice of intent to contract) contain the following minimum information:

(A) the service to be purchased,
(B) the geographic area to be served;

(C) funding limitations,
(D) method of payment,
(E) contract period,
(F) any limitations on who may submit an offer.

(G) the place and method of obtaining a procurement package and the deadlines for obtaining and submitting it.

(2) Use of media. Staff must attempt to reach as many potential contractors as possible, depending on available staff time and funding. The department publicizes a solicitation in one or more of the following ways:

(A) advertisement in local newspapers;

(B) publication in the *Texas Register*;

(C) announcements by direct mail to all known potential contractors;

(D) announcements published in professional association newsletters.

§69.225. Evaluation of Offers. The department must establish mechanisms beforehand for evaluating the offers, including ways of determining responsible offers, providing information for debriefings, and selecting successful offeror(s) for contract award(s).

§69.226. Elements of Evaluation

(a) If a procurement package or enrollment application is to be considered by the department, the offeror must meet the department's requirements, demonstrate his ability to perform successfully and responsibly under the terms of the prospective contract, and submit the completed offer according to the time frames, procedures, and format stipulated by the department in the solicitation.

(b) Entries currently ineligible for, held in abeyance from, or barred from the award of a federal or state contract may not

contract or subcontract with the Texas Department of Human Services

§69.228 Validation. The department may validate any information in an offer by using outside sources or materials. The validation process is optional; however, if the department validates the information in one offer, it must apply the process without providing unfair advantage to any offer or range of offers.

§69.229 Determining the Competitive Range. Competitive offer(s) are those that

- (1) receive scores significantly higher ranked than the other offers, and also
- (2) rank high enough to indicate sufficient capacity ability to carry out the terms of the contract.

§69.230 Negotiation. Negotiation may be conducted either to complete the procurement process or to complete an evaluation. When the evaluation indicates that only one offer has a reasonable chance of being selected for the contract award, contract staff and the potential contractor negotiate to complete the contract requirements. If more than one offer is in the competitive range, negotiation is used to further evaluate offers and to select one or more for contract award. In this situation, no potential contractor is given information that will give him a competitive advantage over the other potential contractors.

§69.237 Certified Local Resources.

(a) All service contracts requiring local resources for funding must state the amount directly supporting the service being purchased. Local resources recognized by the department are limited to the following:

- (1) allowable cash expenditures by the contractor directly related to providing service to eligible clients under the terms of the contract,
- (2) noncash expenditures limited to depreciation and use charges subject to the terms of the contract;
- (3) the difference between the contracted unit rate and the rate paid by the department.

(b) On each request for payment that contractors submit to the department for reimbursement, the contractors must certify the amount of local resources for the period covered by the payment request.

§69.239 Budget Changes. Shifts between budgets and between line items in a cost reimbursement contract's budget may be allowed with the contract manager's prior written approval if such transfers:

- (1) do not result in a significant change in the character or scope of the plan(s) of operation, and/or
- (2) are not gratuitous.

§69.240 Allowable Costs.

(a) Only those items that represent an actual cash outlay or that reflect a use charge or depreciation charge on a contractor-owned building or fixed equipment are

allowable. The value of donated goods or services (in-kind) are not allowable. However, a contractor may budget a use charge or depreciation charge on a donated building or on donated equipment subject to ownership requirements and/or donor-imposed conditions.

(b) Costs reported by a contractor and/or paid by the department must be reasonable, allowable, properly allocated, and consistent with generally accepted accounting principles as published by the Account Principles Board, American Institute of Certified Public Accountants. The accounting system must include an accurate and consistent method for gathering statistical information that properly relates the costs incurred to the units of service rendered.

(c) The contractor is responsible for designing and implementing fiscal policies and ensuring that financial data is collected, recorded, and analyzed as part of the delivery of service under a contract with the department.

§69.241 Allowable Costs for Cost Reimbursement Contracts and For Developing Unit Rates. Generally, contractors must prepare a separate budget for each service. Allowable costs must meet the requirements in §§69.242-69.256 of this title (relating to Start-up Costs, Employee Compensation, Consumable Supplies, Food Expenses, Equipment; Depreciation and Use Allowances, Transportation of Clients, Insurance; Rental Costs, Space Rental, Renovations and Remodeling, Janitorial Services, Telephone; Professional Fees, and Unallowable Costs).

§69.246. Equipment.

(a) Equipment is defined as an article of tangible personal property costing \$50 or more and having a useful life expectancy of more than one year. Tangible personal property not meeting the cost standard is considered equipment if the life expectancy warrants the cost of the control. Tangible personal property is any kind of property that has a physical existence except real property. Real property is land, including land improvements, structures, and associated property rights, but not movable machinery and equipment.

(b) The contract manager with program budget consultants decides whether an object is equipment.

(c) Equipment included in a budget should be of adequate quality and of reasonable cost in relation to the service to be purchased. Reasonable cost should be a joint agreement between the contractor and the contract manager.

(d) Contractors are prohibited from billing equipment costing \$1,000 or more per unit as a direct charge to the contract. In cost reimbursement contracts, contractors must use depreciation or use charges to budget equipment costing \$1,000 or more.

(e) If equipment (tangible personal

property) has been paid for through a cost reimbursement contract or through other federal or state funding sources, the contractor may not bill additional depreciation or use charge to the contract.

(f) Equipment purchased through the contract is subject to an equitable claim by the state and the federal government. Contractors are accountable for that equipment purchased through the contract. The disposition of equipment is made according to appropriate regulations and departmental policies.

(g) For equipment purchased through a cost reimbursement contract, the contractor must return to the department at the end of the contract the value of the equitable claim on the equipment vested in the state and the federal government. The department's share of the equipment may be returned to the department or (if the sale of equipment option is used), the department's share of the sale proceeds after deducting the cost of the sale must be submitted to the department.

(h) If equipment purchased through a cost reimbursement contract is stolen, lost, vandalized, or misused, the contractor must immediately notify the department in writing. The department may require the contractor to repair or replace the equipment at his expense or to reimburse the department for the state and federal share of the residual value of the equipment.

(i) A contractor may include equipment rental or lease if:

- (1) the principle of agreed-upon reasonable costs is applied,
- (2) the cost of leasing (over the life of the contract) does not equal or exceed the purchase price,
- (3) costs are consistent with the parameters in §69.250 of this title (relating to Rental Costs).

§69.247 Depreciation and Use Allowances.

(a) Contractors may be compensated for certain costs related to the use of buildings, capital improvements, and usable equipment through depreciation or use allowance. Contractors may not use allowance or depreciation for the cost of land. Depreciation or use allowance on assets donated by third parties is allowable, subject to ownership requirements and donor conditions. However, any limitations on the amount of depreciation that would be applicable to the donor also apply to the recipient organization.

(b) A contractor must not combine or change depreciation and use allowance methodologies unless the department approves in advance. The contract manager decides on the appropriateness of the combination of a use allowance and depreciation applicable to a single asset. The decision considers the amount of depreciation previously charged, the estimated useful life remaining, the effect of any increased

maintenance charges or decreased efficiency due to age, and any other factors pertinent to the use of the asset.

(c) A contractor electing to depreciate a particular class of assets is not allowed depreciation, rental, or a use charge on any assets that have been fully depreciated.

(d) A contractor must exclude from the computation of use allowance and/or depreciation the cost or any portion of the cost of buildings and equipment borne by or donated by the federal government, no matter where the title was originally vested or where it presently resides.

(e) Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation, must be included in or excluded from the acquisition cost according to the contractor's regular written accounting practices. If the property is acquired with a trade-in, the acquisition cost of the new property is the amount expended for the property plus the acquisition cost of the property traded in less the amount of depreciation-to-date of trade-in for the property. Fully depreciated property has a book value of zero when traded in.

(f) Charges for use allowances or depreciation must be supported by adequate contractor property records, and physical inventories must be taken at least once every two years (a statistical sampling basis is acceptable) to ensure that assets exist and are usable and needed. When the depreciation method is followed, adequate depreciation records indicating the amount of depreciation taken each period must also be maintained. Records must be kept in the contractor's books of account.

(g) The following methods are used to compute use allowances:

(1) For buildings and improvements, an annual rate of no more than 2.0% of acquisition cost is computed. The entire building must be treated as a single asset; the building's components (plumbing, heating, air conditioning, and so on) cannot be segregated from the building's shell.

(2) In those cases where the institution maintains current records on usable equipment on hand, an annual rate of not more than 6-2.3% of acquisition cost is computed.

(3) When no equipment records are maintained, the contractor must justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate of no more than 6-2.3% of the estimate.

(4) The method of depreciation a contractor uses to assign the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. Depreciation ex-

pense for any time period is the portion of the acquisition/depreciable basis of the property assigned to that time period. The acquisition cost depreciable basis of the property is divided by the number of years of estimated useful-service-life of the property to compute the depreciation expense per year (straight line method with no salvage value). The number of years of estimated useful life of property is based on the Department of Treasury, Internal Revenue Services, policies on depreciation for tax purposes.

(i) The contractor must maintain adequate property records. The straight line (with no salvage value) method of computing depreciation must be used and it must be consistently applied for any specific asset or class of assets and result in equitable charges.

§69.249. Insurance. The contractor must adhere to the following:

(1) the budget must identify who or what is covered and what type of coverage is included, such as bonding, fire and theft, building and contents, and liability on clients at a specific amount per client, or

(2) if the contractor elects not to budget insurance, a plan for self-insurance must be submitted. If insurance is not available, documentation of rejection must be included in the contract package,

(3) if the contractor is not insured, the contract agency must bear the cost of any loss. The loss cannot be charged to the contract,

(4) if the insurance coverage has a deductible clause, the deductible amount may be budgeted and billed after the contractor has paid that amount,

(5) if the contractor expects to receive advance payments, a bond must be obtained and shown in the budget.

§69.260. Consultant Contract Amendments

(a) Existing contracts for \$10,000 or less

(1) the contract may be extended if both DHS and the contractor agree and the department does not incur additional costs from the contractor, or

(2) the contract may be amended if the cost (including any additional contract costs the contractor may have with the department) does not exceed \$10,000.

(b) Existing contracts for more than \$10,000. The contract may be extended or otherwise amended without rebidding if both DHS and the contractor agree and the department does not incur additional costs from the contractor.

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.

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Marlin W Johnston
Commissioner
Texas Department of
Human Services

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

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Chapter 79. Legal Services

The Texas Department of Human Services adopts the repeal of §§79.401-79.406 and §§79.501-79.505, without changes to the proposed text published in the August 8, 1986, issue of the *Texas Register* (11 Tex Reg 3543).

The adoption is justified because updated contracting requirements are now in Chapter 69, Contracted Services. New Subchapter L, Contract Administration, consolidates all departmental contracting requirements.

The repeals function to increase the efficiency of the department's contracting process and increase public understanding of department contract administration because the sections have been consolidated into one rule chapter and subchapter.

No comments were received regarding the adoption of the repeals.

Subchapter E. Consultant Contracts

★ 40 TAC §§79.401-79.406

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

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

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Marlin W Johnston
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Subchapter F. Contract
Administration

★ 40 IAC §§79.501-79.505

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

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

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Grade: 12
School: Coronado High School, Lubbock

State Board of Insurance Exempt Filings

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

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

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

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)

The State Board of Insurance has adopted a filing by the Insurance Services Office, Inc., for a revision in rates for Glass Insurance, Division Seven of the Commercial Lines Manual

The rate level changes presented in this filing were determined from a review of the latest available five years of experience through calendar-accident year 1984 for all companies reporting data to Insurance Services Office, Inc. The rate

level change indicated by Insurance Services Office, Inc., procedures would be +56.8%. The final overall selected rate level change of +41.9% reflects the board's profit loading of +2.31% as well as adjustments to trending based on straight line (line of best fit)

The territorial multipliers for Austin and Waco were capped at 75% and the off-balance was distributed to the remaining territories. The effect on the rate level did not change, however, the new territorial multipliers were changed to reflect the adjustments to those two territories

This revision becomes effective March 1, 1987, under the following rule of application. These changes are applicable to all policies effective on or after March 1, 1987. No policy effective prior to March 1, 1987, shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured using the cancellation procedures applying on the date of such request

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas, on January 22, 1987

TRD-8700701 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date March 1, 1987
For further information, please call
(512) 463-6327

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The State Board of Insurance has approved rate revisions to the currently approved Life Agents' Professional Liability Coverage Program

The board finds that the revised rates are reasonable to the public and adequate to the insurance carriers writing this coverage in the State of Texas

The rate revisions applicable to the Life Agents' Professional Liability Coverage Program are effective March 1, 1987

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas on January 22, 1987

TRD-8700700 Nicholas Murphy
Chief Clerk
State Board of Insurance

Effective date March 1, 1987
For further information, please call
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Open Meetings

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

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

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

Texas Department on Aging

Thursday, February 12, 1987, 10 a.m. The State Citizens Advisory Council of the Texas Department on Aging will meet on the third floor, Conference Room, 1949 South IH 35, Austin. According to the agenda, the department will approve minutes to the joint meeting of December 11, 1986, hear the fiscal report; introduce new staff members, consider the study on AAA staffing, hear a report from the Minority Elderly Task Force, discuss 1986 service levels, hear a report on the State Finance Committee budget; consider legislative update; feedback on citizens advisory council report, and discuss the Omnibus Hunger Act Program.

Contact: Linda Heath, P.O. Box 12786, Capitol Building, Austin, Texas 78711, (512) 444-2727.

Filed: January 26, 1987, 10:12 a.m.
TRD-8700754

Friday, February 13, 1987, 10 a.m. The Area Agency on Aging Staffing Committee of the Texas Board on Aging of the Texas Department on Aging will meet in the Third Floor Conference Room, 1949 IH 35 South, Austin. According to the agenda, the committee will consider staffing of area agencies on aging.

Contact: Daniel N. Stewart, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: January 26, 1987, 3:20 p.m.
TRD-8700762

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Texas Cancer Council

Tuesday, February 3, 1987, 9:30 a.m. The Texas Cancer Council will meet in Room 1-100, William B. Travis Building, 17th Street and Congress Avenue, Austin. Accord-

ing to the agenda, the council will review minutes from December 1, 1986, meeting, hear legislative appropriations request; the Texas Cancer Council financial report; Clean Indoor Legislation - progress report; consider advisory committees. Texas cancer plan; fiscal year 1987 contract modification requests, discuss Physician Oncology Education Program contract, hear presentation by the Children's Cancer Center - request for support; receive letters of support for grant proposals, discuss the Valley Health promotion contract Petra Revina report on Phase I and proposed Phase II, consider proposed new contracts - results of request for proposal process. Nurse Oncology Education Program, Texas Breast Screening Project, Regional Cancer Networks Program, Cancer Study Communication network, Community Hospital Planning Grants, Cancer Education Skills Development Labs, Texas Cancer Plan information and support services, and public education outreach coordination project. The next meeting date will be May 5, 1987.

Contact: Owen McCorty, M.D. Anderson Hospital, Houston, Texas, (512) 792-2203.

Filed: January 23, 1987, 4:08 p.m.
TRD-8700720

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Texas Cosmetology Commission

Sunday-Tuesday, February 8-10, 1987, 2 p.m. on Sunday, and 9 a.m., Monday-Tuesday. The Texas Cosmetology Commission will meet at the Beaumont Plaza Holiday Inn, 3950 IH 10 South, Beaumont. According to the agenda, the commission will consider proposed rule changes, hear committee reports, staff reports, approve minutes, consider Texas Cosmetology Commission vs. Mary Nell Franks and Texas Cosmetology Commission vs. Johnnie Moreno, Jr., and consider agreed orders. The commission also will meet in executive session.

Contact: Jo Ann Reeves, 1111 Rio Grande, Austin, Texas 78701, (512) 463-5542.

Filed: January 22, 1987, 2:04 p.m.
TRD-8700631

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Texas School for the Deaf

Friday, February 6, 1987, 1 p.m. The Governing Board of the Texas School for the Deaf will meet in the boardroom, 1102 South Congress Avenue, Austin. According to the agenda, the board will approve minutes of the November 15, 1986, meeting; hear from individuals of the audience wishing to make a report or comment; consider business requiring board action and business for information purposes; and hear comments by board members.

Contact: Susan R. Nixon, 1102 South Congress Avenue, Austin, Texas 78764, (512) 440-5335.

Filed: January 23, 1987, 3:18 p.m.
TRD-8700706

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Interagency Council on Early Childhood Intervention

Friday, January 23, 1987, 1:30 p.m. The Interagency Council on Early Childhood Intervention met in emergency session at the Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin. According to the agenda, the council heard public comment, and discussed the contract status of Brazoria County Center for the Retarded. The emergency status was necessary due to council deadlines on negotiation of a settlement on the proposed contract.

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

Filed: January 22, 1987, 1:05 p.m.
TRD-8700630

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Texas Economic Development Commission

Tuesday, January 27, 1987, 1:30 p.m. The Texas World Trade Development Authority of the Texas Economic Development Commission met in emergency session in Room 221 Anson Jones Building, 410 East Fifth Street, Austin. According to the agenda, the commission approved minutes of the December 3, 1986, board meeting, discussed Underwriter selection, with presentations by Bear Stearns, Dean Witter, Merrill Lynch, and Chemical Bank, and discussed legislative concerns and the financing plan for first bond issue. The emergency status was necessary as the vice chair called the meeting after establishing a quorum.

Contact: Sandy Harris, 410 East Fifth Street, Austin, Texas 78705, (512) 472-5059.

Filed: January 23, 1987, 4:52 p.m.
TRD-8700728

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Texas Commission on Economy and Efficiency in State Government

Tuesday, February 3, 1987, 2 p.m. The Texas Commission on Economy and Efficiency in State Government will meet in Room 103, John H. Reagan Building, 15th Street and Congress Avenue, Austin. According to the agenda, the commission will consider legislation to carry out recommendations of recommendations previously adopted by the commission, recommendations of Committee on Administration, and other matters pertaining to commission responsibilities under House Bill 460, 69th Legislature.

Contact: Les M. Irwin, Jr., P.O. Box 12128, Austin, Texas 78711, (512) 463-1159.

Filed: January 26, 1987, 3:34 p.m.
TRD-8700769

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Texas Education Agency

Friday, February 13, 1987, 8:30 a.m. The Committee of the Whole of the State Board of Education of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the committee will consider Textbook Proclamation 64 of the State Board of Education

Testimony accepted from residents of Texas and from nonresidents who are official representatives of a publishing company. The final date for requests to appear at the public hearing is January 30, 1987. Persons who wish to present testimony before the board must file a written request prior to 5 p.m. on January 30, 1987. Such requests should be sent to Dr. Ira Nell Furman, Textbook Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701. If there are questions regarding Proclamation 64 or the public hearing, please contact the Textbook Division at (512) 463-9601.

Contact: W. N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985

Filed: January 27, 1987, 9:40 a.m.
TRD-8700790

Monday, February 16, 1987, 9 a.m. The Advisory Committee for Budgeting, Accounting and Auditing of the Texas Education Agency will meet in Suite 415, 1701 Directors Boulevard, Austin. According to the agenda, the committee will hear the Long-Range Planning Committee report; discuss Change 20 to Bulletin 679, the Financial Accounting Manual, and discuss the future of Bulletin 679 changes.

Contact: Ed Randall, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9095

Filed: January 27, 1987, 9:40 a.m.
TRD-8700791

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Texas Department of Health

Saturday, January 31, 1987, 8:30 a.m. The Alternate Care Committee of the Texas Board of Health will meet in the Fourth Floor Capitol Room, La Mansion Hotel, 6505 IH 35 North, Austin. According to the agenda, the committee will discuss the proposed rules concerning the licensure of speech-language pathologists and audiologists.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484

Filed: January 23, 1987, 4:05 p.m.
TRD-8700708

Saturday, January 31, 1987, 9:30 a.m. The Nursing Homes Committee of the Texas Board of Health of the Texas Department of Health will meet in the Fourth Floor Capitol Room, La Mansion Hotel, 6505 IH 35 North, Austin. According to the agenda, the committee will discuss the final adoption of the rules concerning revision of minimum licensing standards for nursing homes.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 23, 1987, 4:06 p.m.
TRD-8700719

Saturday, January 31, 1987, 11 a.m. The Environmental Health Committee of the Texas Board of Health of the Texas Department of Health will meet in Room 464, La Mansion Hotel, 6505 IH 35 North, Austin. According to the agenda summary, the committee will discuss the update of Mt. Lucas in situ uranium operations, Live Oak County, discuss the adoption by reference of federal regulations concerning good manufacturing practice in manufacturing, packing, or holding human food; and conduct the final adoption of rules concerning Texas hazardous substances and organized collection and disposal of hazardous household waste.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 23, 1987, 4:06 p.m.
TRD-8700710

Saturday, January 31, 1987, 11:30 a.m. The Emergency and Disaster Committee of the Texas Board of Health of the Texas Department of Health will meet in Room T-604, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will make amendments to the Emergency Medical Services (EMS) rules concerning certification and recertification of EMS personnel, propose amendments to the EMS rules and discuss emergency medical technical defibrillator and EMS system guidelines.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 23, 1987, 4:06 p.m.
TRD-8700711

Saturday, January 31, 1987, 12:30 p.m. The Crippled Children's Services and Maternal and Child Health Committee of the Texas Board of Health of the Texas Department of Health will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the committee will propose amendments to the Crippled Children's Services Program rules; approve criteria concerning the approval of cardiac specialty centers; make recommendations of Cardiovascular Advisory Committee for approval, denial of physicians; and recommend that the Cardiovascular Advisory Committee appoint new members to the Crippled Children's Cardiovascular Advisory Committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 23, 1987, 4:06 p.m.
TRD-8700712

Saturday, January 31, 1987, 12:30 p.m. The Personnel Committee of the Texas Board of Health of the Texas Department of Health

will meet in Room 462, La Mansion Hotel, 6505 IH 35 North, Austin. According to the agenda summary, the committee will consider the equal employment opportunity report for 1986, appointments to the Kidney Health Care Advisory Committee, and appointments to the Lay Midwifery Advisory Committee.

Contact: Kris Floyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484

Filed: January 23, 1987, 4:07 p.m.
TRD-8700713

Saturday, January 31, 1987, 1 p.m. The Strategic Planning Committee of the Texas Board of Health of the Texas Department of Health will meet in Room G-107, 1100 West 49th Street, Austin. According to the agenda summary, the committee will consider final adoption of the amendment to the rule concerning public health regions and discussion concerning the south Texas hospital.

Contact: Kris Floyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484

Filed: January 23, 1987, 4:07 p.m.
TRD-8700714

Saturday, January 31, 1987, 2 p.m. The Texas Board of Health of the Texas Department of Health will meet in Room F-610, 1100 West 49th Street, Austin. According to the agenda summary, the board will approve minutes of the December 13, 1986, Board of Health meeting; hear the commissioner's report; approve Board of Health resolutions; consider final rules concerning public health regions, formal hearing procedures, and minimum licensing standards for nursing homes, proposed rules concerning emergency medical services, primary health care, and crippled children's services; and emergency rules concerning emergency medical services; Texas Emergency Medical Services Advisory Council update; hear committee reports from emergency and disaster, nursing homes, crippled children's services and maternal and child health, approval of criteria concerning the approval of cardiac specialty centers; election of secretary of the Texas Board of Health, announcements and comments, and setting of next meeting date for February 1987. The board will also meet in executive session.

Contact: Kris Floyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484

Filed: January 23, 1987, 4:07 p.m.
TRD-8700715

Sunday, February 1, 1987, 8 a.m. The Hospitals Committee of the Texas Board of Health of the Texas Department of Health will meet in Room F-604, 1100 West 49th Street, Austin. According to the agenda summary, the committee will hear report concerning the Hospital Licensing Advisory Council meeting and discussion of proposed legislation concerning hospitals.

Contact: Kris Floyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484

Filed: January 23, 1987, 4:07 p.m.
TRD-8700716

Sunday, February 1, 1987, 9 a.m. The Legislative Committee of the Texas Board of Health of the Texas Department of Health will meet in Room G-107, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve the minutes of the January 13, 1987, meeting and consider legislation relating to the licensing of state hospital.

Contact: Kris Floyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484.

Filed: January 23, 1987, 4:08 p.m.
TRD-8700717

Sunday, February 1, 1987, 9:30 a.m. The Texas Board of Health of the Texas Department of Health will meet in Room I-610, 1100 West 49th Street, Austin. According to the agenda summary, the board will hear committee reports from Budget, Environmental Health, Personnel, Legislative, Alternate Care, Hospitals, Public Relations, and Strategic Planning Committees, discuss prioritized budget for fiscal year 1988-1989, consider adoption by reference of federal regulations concerning good manufacturing practice in manufacturing, packing, or holding human food, final rules concerning Texas hazardous substances and concerning hazardous household, proposed rules concerning licensure of speech language pathologists and audiologists, appointments to Kidney Health Care Advisory and Lay Midwifery Advisory, approval of resolution supporting legislation relating to insurance coverage for mammography screening; draft legislation for the 70th legislative session, announcements and comments, and the setting of meeting date for March 1987. The board will also meet in executive session.

Contact: Kris Floyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484

Filed: January 23, 1987, 4:08 p.m.
TRD-8700718

Sunday, February 15, 1987, 9 a.m. The Texas Radiation Advisory Board of the Texas Department of Health will meet in the El Paso Marriot Hotel, 1600 Airway Boulevard, El Paso. According to the agenda summary, the board will consider election of officers, general business (biomedical waste amendment), hear Bureau of Radiation Control Activity report, report on status of proposed low-level radioactive waste disposal site, and consider site and date of next quarter meeting.

Contact: David Cochran, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7538

Filed: January 23, 1987, 4:08 p.m.
TRD-8700709

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Texas Historical Commission

Friday-Saturday, February 6-7, 1987, 1 p.m. and 9 a.m., respectively. The State Board of Review of the Texas Historical Commission will meet in Conference Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider announcements, approve minutes of the last meeting, and review the National Register nominations.

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

Filed: January 22, 1987, 3:49 p.m.
TRD-8700665

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Texas Industrial Accident Board

Monday, January 26, 1987, 9:30 a.m. The Texas Industrial Accident Board met on the first floor, Room 107, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board held an open meeting to discuss acquisition of the workers' compensation manual for staff; crime victims letterhead, and review board files (this portion closed pursuant to workers' compensation statute).

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

Filed: January 22, 1987, 9:56 a.m.
TRD-8700661

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State Board of Insurance

Tuesday, February 3, 1987, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda summary, the board will consider the filing by the Insurance Services Office of a jewelry agreed-value loss settlement endorsement, board orders on several different matters; hear the fire marshal's report on personnel matters, the Research and Information Services report on personnel matters, the commissioner's report on personnel matters, consider litigation, the adoption of 28 TAC 1.405, and the request for dismissal of the appeal of Commissioner's Order 84-1305.

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

Filed: January 26, 1987, 3:26 p.m.
TRD-8700763

Wednesday, February 4, 1987, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1100 San Jacinto Street, Austin. According to the agenda, the section will consider Docket 9458—whether disciplinary action should be taken against William George Delis, Spring, who holds Group I and Group II insurance agent's licenses.

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

Filed: January 26, 1987, 3:19 p.m.
TRD-8700764

Thursday, February 5, 1987, 1:30 p.m. The Fire Marshal's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will consider Docket FM-041 - whether disciplinary action should be taken against Best Automatic Fire Protection, Inc., who holds a certificate of registration to install fire protection sprinkler systems.

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

Filed: January 26, 1987, 3:19 p.m.
TRD-8700765

Monday, February 9, 1987, 9 a.m. The State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board's designate will consider the appeal of Trinity Delta Old Duck Hunters Club from action of the Texas Catastrophe Property Insurance Association.

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

Filed: January 23, 1987, 11:10 a.m.
TRD-8700698

Monday, February 9, 1987, 9 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider pre-paid legal rate filings by The Prudential Insurance Company of America and PruCo Life Insurance Company of Texas.

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

Filed: January 26, 1987, 1:53 p.m.
TRD-8700759

Thursday, February 12, 1987, 9 a.m. The State Board of Insurance will meet in Room 1-111, William B. Travis Building, 17th Street and Congress Avenue, Austin. According to the agenda, the board will consider the revision of the commercial fire and allied lines rates and manual rules, classification plans, forms, clauses, permits, warranties, classes, rating plans, amendments to the general basis schedules, and all other matters pertaining to the rating of commercial fire and allied lines insurance.

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

Filed: January 26, 1987, 1:54 p.m.
TRD-8700760

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School Land Board

Tuesday, February 3, 1987, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve bids received for the February 3, 1987 land sale, consider pooling applications, correct pooling provision to lease M-92082, consider applications to lease high-way right-of-way for oil and gas, direct land sales, good faith claimant applications, excess acreage applications, use of escrow account for acquisition of East Matagorda Peninsula, acquisition by State Department of Highways and Public Transportation for rights of way, coastal public lands - commercial lease applications.

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

Filed: January 26, 1987, 4:01 p.m.
TRD-8700770

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Texas Board of Land Surveying

Thursday-Saturday, February 12-14, 1987, 8 a.m., daily. The Second Regular Meeting of the Texas Board of Land Surveying will meet at the Marriott Hotel, 701 East 11th Street, Austin, on Thursday and Friday, and in Suite 304, 7703 North Lamar Boulevard, Austin, on Saturday. According to the agenda, the board will meet to conduct the February 1987 examination and any other business to come before the board.

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

Filed: January 22, 1987, 3:48 p.m.
TRD-8700666

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Texas State Board of Medical Examiners

Saturday, January 31, 1987, 11:30 a.m. The Examination Committee for the Texas State Board of Medical Examiners will meet at 1101 Camino La Costa, Austin. According to the agenda, the committee will review applicant(s). The committee also will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(e)(1), and Attorney General Opinion 1974, Number H-484.

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

Filed: January 23, 1987, 3:46 p.m.
TRD-8700707

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Pan American University

Sunday and Monday, February 1 and 2, 1987, 1 p.m. and 9 a.m., respectively. The Board of Regents of Pan American University will meet at the Pan American University Coastal Studies Lab, South Padre Island, Texas. According to the agenda, the board will conduct a workshop.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100.

Filed: January 22, 1987, 1:53 p.m.
TRD-8700632

Tuesday, February 3, 1987. Committees of the Board of Regents of Pan American University will meet in the Benito Longoria Room, Arnulfo I. Oliveira Library, Texas Southmost College, Brownsville. Times, committees, and agendas follow.

10:30 a.m. The Buildings and Grounds Committee will be presented with informational items.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100.

Filed: January 22, 1987, 1:51 p.m.
TRD-8700633

10:45 a.m. The Finance Committee will consider requested budget changes, the approval of the request for higher education assistance fund, and informational items.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100.

Filed: January 22, 1987, 1:51 p.m.
TRD-8700634

11 a.m. The Development Committee will consider the approval of gifts and donations of AT&T, Neuhaus, Wilcox, the Meadows Foundation, IBM, and Robert J. Cochran Estate, and informational items.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100.

Filed: January 22, 1987, 1:52 p.m.
TRD-8700635

11:15 a.m. The Academic Affairs Committee will consider policies concerning amendments to the academic committees and councils (P.P.M. 6.2.4), amendments to the faculty classroom responsibilities (P.P.M. 8.4.3); and consider information items. The committee also will meet in executive session to consider faculty hires, the employment of faculty and administrators for academic year 1987-1988, the request for adjunct professor status, the request for leave of absence, and the request for professor emeritus status.

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100

Filed: January 22, 1987, 1:52 p.m.
TRD-8700636

11:30 a.m. The Brownsville Committee will be presented with president's informational items

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100

Filed: January 22, 1987, 1:52 p.m.
TRD-8700637

11:45 a.m. The Board of Regents will hear reports from the Buildings and Grounds Committee, the Finance Committee, the Development Committee, the Academic Affairs Committee, Brownsville Committee and Committee of the Whole, consider the affiliation of the Reynaldo Garza School of Law with Pan American University, executive session matters, the president's informational items, and the date of the next meeting

Contact: Miguel A. Nevarez, Pan American University, Edinburg, Texas 78539, (512) 381-2100

Filed: January 22, 1987, 1:53 p.m.
TRD-8700638

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Board of Pardons and Paroles

Tuesday, February 3, 1987, 9:30 a.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider and act on the minutes for the meeting of January 6, 1987; consider and act on Sunset legislation, the electronic monitoring pilot project proposal, the alternative sanctions pilot project proposal, and the budget, consider re-reviews procedures, executive clemency application forms, the progress report on rules, proposed conciliation agreement, and the executive director's report

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78756, (512) 459-2749

Filed: January 26, 1987, 4:56 p.m.
TRD-8700779

Monday-Friday, February 2-6, 1986, 1:30 p.m. daily, Monday-Thursday and 11 a.m. Friday.

A three member panel 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 and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action

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

Filed: January 23, 1987, 11:21 a.m.
TRD-8700696

Tuesday, February 3, 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 consider executive clemency recommendations and related actions, other than out-of-country conditional pardons including full pardons and restoration of civil rights of citizenship; emergency medical reprieves, commutations of sentence, and other reprieves, remissions, and executive clemency actions

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2704

Filed: January 23, 1986, 11:21 a.m.
TRD-8700697

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State Pension Review Board

Wednesday, February 4, 1987, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet in Room 501 Employee Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the committee will discuss upcoming legislation

Contact: Ginger P. Smith, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736

Filed: January 27, 1987, 9:21 a.m.
TRD-8700786

Wednesday, February 11, 1987, 8:30 a.m. The Legislative Advisory Committee of the State Pension Review Board will meet in Room 501, Employees Retirement System Building, 18th and Brazos Streets, Austin. According to the agenda, the committee will discuss upcoming legislation

Contact: Ginger P. Smith, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736

Filed: January 27, 1987, 9:22 a.m.
TRD-8700787

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Structural Pest Control Board

Thursday, February 19, 1987, 10 a.m. The Structural Pest Control Board will meet in Building C, #250, 1300 East Anderson Lane, Austin. According to the agenda, the board will approve minutes of the January 9, 1987, board meeting and public hearing, consider proposed rule changes for adoption, written comments will be received until the board meeting, and consider miscellaneous items. The board also will meet in executive session with the attorney to discuss pending litigation

Contact: David A. Irie, 1300 East Anderson Lane, Building C, #250, Austin, Texas 78752, (512) 835-4066

Filed: January 23, 1987, 11:09 a.m.
TRD-8700699

Texas Public Building Authority

Thursday, February 5, 1987, 9:30 a.m. The Texas Public Building Authority will meet in Room 503-G, Sam Houston Building, 201 East 14th Street, Austin. According to the agenda, the board will approve minutes of the December 12, 1986, meeting, hear reports on budget and finance, status of building projects, status of briefing legislators, the Executive Development Task Force report, and the Texas Research League Study. Consider reinvestment of securities portfolio in surance on building projects, and set the time and place for the next meeting

Contact: Gayle Colby, Sam Houston Building, Room 907, 201 East 14th Street, Austin, Texas 78711, (512) 463-5544

Filed: January 23, 1987, 3 p.m.
TRD-8700705

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Public Utility Commission of Texas

Thursday, January 29, 1987, 9 a.m. The Administrative Division of the Public Utility Commission of Texas made an emergency addition to the agenda for a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The addition concerned the executive session discussion and action regarding potential conflicting obligations of a commission consultant in the City of Houston vs. Houston Lighting and Power Company lawsuit. The emergency status was necessary because problems from potential conflicts must be addressed immediately to assure effective performance of consultant's obligations to the commission

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

Filed: January 26, 1987, 3:27 p.m.
TRD-8700766

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

Monday, February 2, 1987, 10 a.m. A prehearing conference in Docket #899, application of Gulf State Utilities Company for approval of an experimental rule to schedule IPS and LIS for industrial service to qualifying energy users

Contact: Phillip A. Holder, 800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: January 22, 1987, 3 p.m.
TRD-8700688

Monday, February 2, 1987, 10 a.m. A prehearing conference in Docket #198 and #6755, application of Gulf State Utilities Company for authority to change jurisdiction of the Public Utility Commission of Texas into the prudence and efficiency of

planning and management of the River Bend Nuclear Generating Station

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

Filed: January 22, 1987, 3 p.m.
TRD-8700659

Monday, February 2, 1987, 1 p.m. A posthearing conference in Docket 7008—application of Texas-New Mexico Power Company for approval of a small wholesale power for resale service rate

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

Filed: January 22, 1987, 3 p.m.
TRD-8700660

Wednesday, February 4, 1987, 10 a.m. A telephone conference in Docket 7325—application of Texas-New Mexico Power Company for variance in tariff with regard to Amoco production

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

Filed: January 26, 1987, 3:25 p.m.
TRD-8700767

Thursday, February 5, 1987, 2 p.m. A prehearing conference in Docket 7358—complaint of Omniphone, Inc., Ultraphone, Inc., Spectrum, Inc., and HLD, Inc., against Southwestern Bell Telephone Company and petition for stay of threatened disconnection of telephone service.

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

Filed: January 26, 1987, 3:25 p.m.
TRD-8700768

Thursday, April 9, 1987, 10 a.m. A hearing on the merits in Docket 7280—application of El Paso Electric Company to declare Palo Verde Nuclear Generating Station Unit II in service

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

Filed: January 23, 1987, 2:34 p.m.
TRD-8700704

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State Purchasing and General Services Commission

Friday, January 30, 1987, 9 a.m. The Texas School Bus Committee of the State Purchasing and General Services Commission will meet in emergency session in Room 916, IBI Building, 111 East 17th Street, Austin. According to the agenda, the committee will finalize and approve the Approved Products List for school bus body, chassis, and other accessory and option specifications. The

emergency status is necessary in order to get the list printed and distributed to the vendors in time for the next monthly issuance of the invitations for bid for school buses from the school districts so that they can obtain buses required to provide for the needs of the school children of Texas in a timely manner

Contact: Troy Martin, P.O. Box 13047, Austin, Texas 78711, (512) 463-3415

Filed: January 27, 1987, 8:42 a.m.
TRD-8700788

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Railroad Commission of Texas

Monday, February 2, 1987, 9 a.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows:

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7257

Filed: January 23, 1987, 10:46 a.m.
TRD-8700680

The Automatic Data Processing Division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7251

Filed: January 23, 1987, 10:47 a.m.
TRD-8700681

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

Contact: Ken Fossler, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-6787

Filed: January 23, 1987, 10:46 a.m.
TRD-8700682

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

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

Filed: January 23, 1987, 10:47 a.m.
TRD-8700683

The Office of Information Services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6710

Filed: January 23, 1987, 10:53 a.m.
TRD-8700684

The LP Gas Division director's report on division administration, budget, procedures,

and personnel matters; and consider the signing of final orders on LP-Gas Dockets 572 -- Frank I. Williams, 574 -- R. B. Heating and Air Conditioning Company, Inc., and 581 -- Lakeland Plumbing Company.

Contact: Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931

Filed: January 23, 1987, 10:47 a.m.
TRD-8700685

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

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

Filed: January 23, 1987, 10:48 a.m.
TRD-8700687

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Margie I. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: January 23, 1987, 10:49 a.m.
TRD-8700686

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

Contact: Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

Filed: January 23, 1987, 10:47 a.m.
TRD-8700688

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

Contact: Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976

Filed: January 23, 1987, 10:48 a.m.
TRD-8700689

The Office of the Special Counsel director's report relating to pending litigation, including but not limited to, discussion and/or decision in *Oil Field Haulers Association, Inc. et al v. Railroad Commission of Texas, et al* (Cause 356,420), Gas Utilities Docket 50, state and federal legislation, and other budget, administrative, and personnel matters.

Contact: Walter Earl Fike, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149

Filed: January 23, 1987, 10:46 a.m.
TRD-8700690

The Surface Mining and Reclamation Division director's report on division administration, budget, procedures, and personnel matters, the acceptance of an increased bond for the mining operation of San Miguel Electric Cooperatives, Inc., under Permit II, and

released bond for the mining operation of Texas Utilities Mining Company's Big Brown Mine under Permit 3

Contact: J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

Filed: January 23, 1987, 10:46 a.m.
TRD-8700691

Various matters falling within the Transportation Division's regulatory jurisdiction

Contact: Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122

Filed: January 23, 1987, 10:48 a.m.
TRD-8700692

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Texas Rehabilitation Commission

Friday, January 30, 1987, 9:30 a.m. The Planning and Evaluation Committee of the Texas Rehabilitation Commission will meet in Room 302, 118 East Riverside Drive, Austin. According to the agenda, the committee will approve minutes, select committee vice-chairman, hear project summary reports and the Advocacy and Public Information report, consider request for proposal funding priorities for fiscal year 1988, and hear committee recommendations for fiscal year 1987 funding activities.

Contact: Roger Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8004

Filed: January 22, 1987, 2:36 p.m.
TRD-8700657

Friday, February 6, 1987, 9:30 a.m. The Executive Committee of the Texas Rehabilitation Commission will meet in Room 302, 118 East Riverside Drive, Austin. According to the agenda, the committee will discuss committee meeting procedures, hear the chairman's report and the executive director's report, consider fiscal year 1987 funding recommendations, including the MSS project update information, the advocacy and public information recommendation, the planning and evaluation recommendations, prioritization of funding recommendations, and discuss the attorney general's opinion prohibiting teleconference meetings.

Contact: Roger Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8004

Filed: January 27, 1987, 9:22 a.m.
TRD-8700789

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Texas Savings and Loan Department

Thursday, February 5, 1987. The Texas Savings and Loan Department will meet at 2601 North Lamar Boulevard, #201, Austin. Minutes and agendas follow.

9 a.m. The department will accumulate a record of evidence in regard to the application of Metropolitan Financial Savings and Loan Association, Dallas, Dallas County for a branch office at 603 Munger #110, Dallas, Dallas County, from which record the commission will determine whether to grant or deny the application.

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

Filed: January 22, 1987, 3:58 p.m.
TRD-8700662

9:10 a.m. The department will accumulate a record of evidence in regard to the application of Metropolitan Financial Savings and Loan Association, Dallas, Dallas County, for a branch office at 5401 Hulen Street, (Remington Park), Fort Worth, Tarrant County, from which record the commissioner will determine whether to grant or deny the application.

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

Filed: January 22, 1987, 3:59 p.m.
TRD-8700663

9:20 a.m. The department will accumulate a record of evidence in regard to the application of Metropolitan Financial Savings and Loan Association, Dallas, Dallas County, to relocate a branch office from 104 Richardson Heights Village, Richardson, to 2850 Promenade Center, Richardson, Dallas County, from which record the commissioner will determine whether to grant or deny the application.

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

Filed: January 22, 1987, 3:59 p.m.
TRD-8700664

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State Securities Board

Friday, January 30, 1987, 9:30 a.m. The State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the board will consider the minutes of the December 19, 1986, board meeting, consider the published proposals to amend §109.13(k), concerning the Form D notice filing requirements and §115.1 to eliminate (3)(1)(C), consider rule proposals to amend §113.3, concerning the review criteria for certain common stock offerings, §105.2(c), concerning notices of hearings, and §133.29 to require users to provide their name and telephone number, consider new business items for subsequent board meetings, discuss possible legislative proposals, and the update on agency operations with reports from the division directors and securities commissioner. The board also will

meet in executive session to discuss personnel matters pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

Contact: Richard D. Latham, 1800 San Jacinto Street, Austin, Texas 78711, (512) 474-2233.

Filed: January 22, 1987, 2:20 p.m.
TRD-8700650

Friday, February 13, 1987, 10 a.m. The Securities Commissioner of the State Securities Board will meet at 1800 San Jacinto Street, Austin. According to the agenda summary, the commissioner will determine whether the application of Maurice Russell Karkowski as an individual securities dealer should be granted or denied.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas 78701, (512) 474-2233.

Filed: January 26, 1987, 3:16 p.m.
TRD-8700761

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Sunset Advisory Commission

Monday, January 26, 1987, 1 p.m. The Sunset Advisory Commission met in emergency session rescheduled from January 26, 1987, at 10 a.m. in the Senate Chamber, Capitol Building, Austin. According to the agenda, the commission reviewed and approved legislation on Texas Department of Corrections, Texas Department of Human Services, and the Board of Private Investigators and Private Security Agencies, and reviewed and approved final votes on agencies reviewed for 1987. The emergency status was necessary to change the meeting time to accommodate the session time.

Contact: Jeri Kramer, 105 West 15th Street, Reagan Building, Room 305, Austin, Texas 78701, (512) 463-1300

Filed: January 22, 1987, 2:28 p.m.
TRD-8700654

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Texas Tech University

Thursday, January 29, 1987. Committees of Texas Tech University and Texas Tech University Health Sciences Center met in the board suite, Administration Building, Texas Tech campus, Lubbock. Minutes, committees, and agendas follow.

1 p.m. The Finance and Administration Committees considered budget adjustments, traffic and parking regulations, the awarding of the fire, lightning, and extended coverage insurance policy, the long distance phone service contract, the revision of policies regarding faculty sick leave and retirement of em-

ployees, the natural gas contract, an update on the co-generation project, and reports.

Texas Tech University considered the contract to provide video game machines and service to residence halls, and the increase of student services fee assessed and collected from Junction Center students.

Texas Tech University Health Sciences Center considered ratification of the agreement with El Paso Del Norte Health Education Center and West Texas Rural Health Education Center, the amendment of the agreement with Lubbock County Hospital District, the establishment of positions of vice president for administration and operations and vice president for fiscal affairs, the restructuring of the financial organization, the agreement for emergency room physicians with Lubbock General Hospital, the conveyance of land to Lubbock County Hospital District for future construction, the ratification of the delegation of authority, and report of cost per medical student.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: January 22, 1987, 1:55 p.m.
TRD-8700639, 8700640

2:30 p.m. The Development Committees considered the enterprise campaign update, faculty gift matching program, the review of proposal of gift of the north Dallas property, the Search Committee report, and other reports.

Texas Tech University considered the acceptance of the gift to endow the Bucy Undergraduate Scholarship and Guest Lecturer Fund in Physics and the review of an endowment for the Physics Department.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: January 22, 1987, 1:56 p.m.
TRD-8700641, 8700642

3 p.m. The Research Activities Committees reviewed the 1986 research grants by source and the projected grants to be received in 1987; and considered the charter for the Research Activities Committee and reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: January 22, 1987, 1:56 p.m.
TRD-8700643, 8700644

3:45 p.m. The Academic and Student Affairs Committee of Texas Tech University considered the granting of academic tenure with appointment and the granting of emeritus status, the ratification of leaves of absence, and centers and institutes, and reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: January 22, 1987, 1:57 p.m.
TRD-8700645

4:15 p.m. The Academic, Clinical, and Student Affairs Committee of the Texas Tech University Health Sciences Center considered reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: January 22, 1987, 1:57 p.m.
TRD-8700646

Friday, January 30, 1987. Committees of Texas Tech University and Texas Tech Health Sciences Center will meet in the board suite, Administration Building, Texas Tech campus, Lubbock Times, committees, and agendas follow.

8:15 a.m. The Campus and Building Committees will consider the policy for ex-presidents plaques; ratify acceptance dates; and hear reports.

Texas Tech University will award construction contracts for the bid Package 2 of Campus Secondary Electrical Service, the renovation of the second floor of the Home Economics Building, renovation of bathrooms in Wells Hall, renovation of the animal facilities in the Biology Building; award the demolition contract to renovate the Electrical Engineering Building; receive bids to remodel Gordon Hall for apartments; and hear the report on library columns.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: January 22, 1987, 1:57 p.m.
TRD-8700647, 8700648

8:45 a.m. The Public Affairs and University Relations Committees will hear reports.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: January 22, 1987, 1:58 p.m.
TRD-8700649, 8700651

9:15 a.m. The Committee of the Whole will meet in executive session to hear reports and discuss the status of pending and contemplated litigation pursuant to Texas Civil Statutes, Article 6252-17, §2.

Texas Tech University will meet in executive session to discuss involving the proposed exchange, lease, or conveyance of property by Texas Tech University.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: January 22, 1987, 2 p.m.
TRD-8700652, 8700653

11 a.m. The Board of Regents will hear the minutes, hear and act on the reports of the Academic and Student Affairs Committee, Finance and Administration Committee, Campus and Building Committee, and Development Committee.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161

Filed: January 22, 1987, 1:54 p.m.
TRD-8700655, 8700656

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Texas Water Commission

The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

Tuesday, February 3, 1987, 10 a.m. Consideration of water district bond issues, release of escrow funds, the use of surplus funds, rate increase, water quality permits, renewals, the amendment to the certificate of adjudication, and the dismissal of certificate of convenience and necessity application.

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

Filed: January 23, 1987, 4:09 p.m.
TRD-8700721

Tuesday, February 10, 1987, 2 p.m. Consideration of the application of Glen C. Anderson for renewal of water quality Permit 11488-01, Colorado River Basin, Travis County.

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

Filed: January 26, 1987, 4:08 p.m.
TRD-8700771

Wednesday, February 11, 1987, 10 a.m. Consideration of Docket 7055-R—application by Conann Development, Inc., doing business as Anderson Mill Estates for a rate increase, and Docket 6274—application of Anderson Mill Estates for a certificate of convenience and necessity.

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

Filed: January 26, 1987, 4:08 p.m.
TRD-8700772

Wednesday, February 11, 1987, 2 p.m. Consideration of the application by Double R Plating for a Proposed Permit 02849, Cypress Creek Basin, Cass County.

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

Filed: January 26, 1987, 4:09 p.m.
TRD-8700773

Thursday, February 12, 1987, 10 a.m. Consideration of Docket 7143-M—complaint of City of Springtown and City of Runaway Bay againstarrant County Water Control and Improvement District 1.

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

Filed: January 26, 1987, 4:09 p.m.
TRD-8700774

Wednesday, February 18, 1987, 2 p.m. Consideration of the application of Harold E. Lawson, Rex E. Lawson, and James E. McIntire, doing business as E. M. I. Properties for Proposed Permit 13204-01, Dallas County, Trinity River Basin; application by MacCarey Properties, Inc., for Proposed Permit 13300-01, Harris County, San Jacinto River Basin.

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

Filed: January 26, 1987, 4:09 p.m.
TRD-8700775

Thursday, March 5, 1987, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 1149A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider the application of Orange Service Corporation and California-Texas Properties, Inc., 777 Mercantile Parkway, Suite 580, Arlington, Texas 76011, for a Proposed Permit 13281-01 which was previously applied for under the name of Orange Service Corporation. In addition to the name change on the amended application, there has been a change in the location of the treatment plant which is underscored in the description given as follows: The proposed permit would authorize the disposal of treated domestic wastewater effluent by irrigation at a volume not to exceed an average of 350,000 gallons per day. The meeting was rescheduled from October 30, 1986.

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

Filed: January 23, 1987, 4:09 p.m.
TRD-8700722

Thursday, March 5, 1987, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 1149A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider the application of Parkman, Inc., 1209 Vapor, Pflugerville, Texas 78660, for a Proposed Permit 13335-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 100,000 gallons per day from the Mesquite Grove Mobile Home Subdivision STP. The proposed plant will service the proposed Mesquite Grove Mobile Home Subdivision located immediately east of the City of Waco.

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

Filed: January 23, 1987, 4:09 p.m.
TRD-8700723

Tuesday, March 10, 1987, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the Hunt County Criminal Justice Center, 2700 Johnson Street, Greenville. According to the

agenda summary, the office will consider the application of Hunt County Oil Company, P.O. Box 1298, Greenville, Texas 75401, for renewal of Permit 11721-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 7,000 gallons per day from the Truck Stop and restaurant sewage treatment plant which is located approximately 500 feet southeast of the intersection of IH 30 and FM Road 1903 and five miles southwest of Greenville in Hunt County. The effluent is discharged via pipeline to an unnamed tributary of Elm Creek, thence to Elm Creek, thence to West Caddo Creek; thence into Lake Lawakom in Segment 0507 of the Sabine River Basin.

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

Filed: January 23, 1987, 4:09 p.m.
TRD-8700724

Wednesday, March 11, 1987, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 512, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider the application of Rowe D. Caldwell, Jr., Route 2, Box 139, Del Valle, Texas 78617, for a Proposed Permit 13289-01 to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 240,000 gallons per day from the proposed Div Creek Wastewater Treatment Plant, which is to provide service for a proposed mobile home park.

Contact: De O'Neil, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 23, 1987, 4:09 p.m.
TRD-8700725

Monday, April 6, 1987, 10 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in Room 215, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the office will consider Docket 7148-R, application by Ronald May, doing business as Oak South Palo Alto, *et al.*, for a rate increase in Atascosa and Bexar Counties.

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

Filed: January 23, 1987, 4:10 p.m.
TRD-8700726

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Regional Agencies Meetings Filed January 22

The Cass County Appraisal District, Board of Review and Board of Directors, met at 208 West Houston Street, Linden, on January 26, 1987, at 10 a.m. and 6:30 p.m., respectively. Information may be obtained

from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (214) 756-7545.

The MHMR Authority of Brazos Valley, Board of Trustees, will meet in the Aggeland Hotel, 4411 Texas Avenue, College Station, on January 30, 1987, at 9 a.m. Information may be obtained from Ann Pye-Shively, 302 East 24th Street, Bryan, Texas 77803, (409) 776-2277.

TRD-8700627

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Meetings Filed January 23

The Dallas Area Rapid Transit, Minority Affairs Committee and Board, met at 601 Pacific Avenue, Dallas, on January 27, 1987, at 2 p.m. and 4 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Middle Rio Grande Development Council, Area Advisory Council on Aging, met in the McNelly Room, Uvalde First State Bank, Uvalde, on January 27, 1987, at 10 a.m. Information may be obtained from Estella Hernandez, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533.

The MoPac South Transportation Corporation, Board of Directors, met in the Scarborough Room, 1300 One American Center, 600 Congress Avenue, Austin, on January 28, 1987, at noon. Information may be obtained from John C. Boehm Jr., 600 Congress Avenue, 2400 One American Center, Austin, Texas 78701, (512) 474-5201.

The Wheeler County Appraisal District, Board of Directors, will meet in the district office, County Courthouse Square, Wheeler, on February 2, 1987, at 2 p.m. Information may be obtained from Marilyn Cope-land, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-8700677

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Meetings Filed January 26

The Central Plains MHMR Center, Board of Trustees, met at 715 Houston, Plainview, on January 29, 1987, at 7 p.m. Information may be obtained from Rick Van Hersh, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636.

The Education Service, Region II, Board of Directors, will meet at 209 North Water, Corpus Christi, on February 10, 1987, 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288.

The Education Service Center, Region IV, Board of Directors, will meet at 7145 West Tidwell, Houston, on February 10, 1987, at

6 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, (713) 868-1051.

The Education Service Center, Region 18, Board of Directors, will meet at 2811 La Force Boulevard, Midland, on February 5, 1987, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79711, (915) 563-2380.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the boardroom, Hunt County Tax Appraisal District, 4815 B King Street, Greenville, on February 10, 1987, at 7:30 p.m. Information may be obtained from Joe Pat Davis, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.

The Jasper County Appraisal District, Board of Directors, will meet in the boardroom, Brookeland Independent School District, Loop 149, Brookeland, on February 2, 1987, at 7 p.m. Information may be obtained from David W. Luther, County Courthouse Annex, Jasper, Texas 75951, (409) 384-2544.

The Leon County Central Appraisal District, Board of Directors, met in the Leon County Central Appraisal District Office, Centerville, on January 26, 1987, at 7 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Lower Rio Grande Valley Development Council, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on January 29, 1987, at 1:30 p.m. Information may be obtained from Robert A. Chandler, Suite 707, 1701 Highway 83, McAllen, Texas 78501, (512) 682-3481.

The North Plains Water District, Board of Directors, will meet in the district office, 702 East First Street, Dumas, on February 2, 1987, at 10 a.m. Information may be obtained from Orval E. Allen, Box 795, Dumas, Texas 79029, (806) 935-6401.

The Sabine River Authority of Texas, Board of Directors, will meet at the Radisson Plaza Hotel, 700 San Jacinto, Austin, on February 4, 1987, at 2:30 p.m. Information may be obtained from Sam E. Collins, P.O. Box 579, Orange, Texas 77630, (409) 746-2192.

The Tarrant Appraisal District, Appraisal Review Board, will meet in Suite 505, 1701 River Run, Fort Worth, on February 18, 1987, at 8:30 a.m. Information may be obtained from Linda Freeman, Suite 505, 1701 River Run, Fort Worth, Texas 76107, (817) 332-3151, ext. 2542.

The West Central Texas Council of Governments, Private Industry Council, met in the administrative offices, 1025 E. N. 10th Street, Abilene, on January 29, 1987, at

11:15 a.m. Information may be obtained from Tom K. Smith, 1025 E. N. 10th Street, Abilene, Texas 79604, (915) 672-8544.

The West Central Texas Municipal Water District, met in Suite 300, First National West Building, 401 Cypress Street, Abilene, on January 29, 1987, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-8700749

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Meetings Filed January 27

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One, Board of Directors, will meet in the district office, Highway 81, Natalia, on January 2, 1987, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Education Service Center, Region One, Board of Directors, will meet at 1900 West Schumier, Edinburg, on February 12, 1987, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schumier, Edinburg, Texas 78539, (512) 383-5611.

TRD-8700782

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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.

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽¹⁾ Agricul- tural Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate— Article 1.04(a)(1) 01/26/87-02/01/87	18.00%	18.00%
Monthly Rate - Article 1.04(c) ⁽¹⁾ 01/01/87-01/31/87	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 01/01/87-03/31/87	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 01/01/87-03/31/87	18.00%	N/A
Lender Credit Card Quarterly Rate - Article 15.02(d) ⁽³⁾ 01/01/87-03/31/87	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2) ⁽²⁾ 01/01/87-03/31/87	18.00%	18.00%
Retail Credit Card Annual Rate - Article 1.11 ⁽³⁾ 01/01/87-03/31/87	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1987, 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 02/01/87-02/28/87	10.00%	10.00%

(1) For variable rate commercial transactions only.

(2) Only for open-end credit defined in Texas Civil Statutes, Article 5069-1.01(d) V.C.S.

(3) Credit for personal, family, or household use.

(4) Credit to finance commercial investment or other similar purpose.

Issued in Austin, Texas, on January 20, 1987.

TRD-8700625
Al Endsley
Consumer Credit
Commissioner

Filed: January 22, 1987

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- ment #	Date of Action
Throughout Texas	El Paso Sand Prod- ucts Inc.	34021	El Paso	0	12/22/86
Throughout Texas	Southwest Texas Services, Inc.	83956	Laredo	0	12/22/86
Throughout Texas	Team Consultants, Inc.	54012	Arlington	0	12/29/86

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Beaumont	St. Elizabeth Hospital	10269	Beaumont	35	12/29/86
DFW Airport	American Airlines	53974	Tulsa, Oklahoma	1	01/08/87
Dallas	Wadley Institutes of Molecular Medicine	5630	Dallas	23	12/22/86
Dallas	Dallas Water Utilities	51685	Dallas	6	12/29/86
Denison	Conway Oil Company	53553	Denison	4	12/22/86

El Paso	Diagnostic Radiology, P.A.	3-3395	El Paso	4	01/12/87	Throughout Texas	City of Houston	11-149	Houston	33	12/19/86
El Paso	El Paso Water Utilities	3-2272	El Paso	3	12/31/86	Throughout Texas	Petrospect, Inc.	8-3088	Corpus Christi	5	12/22/86
Hillsboro	Grant-Bue Hospital	6-1949	Hillsboro	15	12/22/86	Throughout Texas	Texas West Wireline	12-3992	Midland	1	12/22/86
Houston	City of Houston	11-2175	Houston	5	12/31/86	Throughout Texas	Permian Non Destructive Testing	12-3683	Odessa	5	12/22/86
Houston	Westbury Hospital	11-2471	Houston	6	12/29/86	Throughout Texas	D-Arrow Inspection, Inc.	11-3816	Houston	9	12/22/86
Irving	Synco International Corporation	5-2048	Irving	49	01/12/87	Throughout Texas	Bastown Industrial X-Ray, Inc.	11-2143	Texas City	25	12/22/86
Irving	Pioneer Park Medical Center	5-3004	Irving	8	01/02/87	Throughout Texas	R. A. Services, Inc.	12-3010	Odessa	18	12/22/86
Jordanton	Tri-City Community Hospital	9-3510	Jordanton	2	01/12/87	Throughout Texas	Maxim Engineers	5-2653	Dallas	7	12/22/86
LaPorte	Aristech Chemical Corporation	11-2778	LaPorte	8	01/06/87	Throughout Texas	Troxler Electronic Laboratories, Inc.	99-1296	North Carolina	20	12/22/86
Lancaster	Midway Park General Hospital	5-3342	Lancaster	6	12/29/86	Throughout Texas	Coastal Inspection Company	11-3716	Alvin	14	12/22/86
Lubbock	Paymaster Oil Mill Company	2-2367	Lubbock	3	12/19/86	Throughout Texas	Bryant McClelland Consultants	6-3875	Austin	2	12/29/86
Near Vernon	West Texas Utilities Company	4-3481	Abilene	5	12/29/86	Throughout Texas	PRO-TAG Services, Inc.	12-3561	Midland	7	12/31/86
Richardson	Honeywell Optoelectronics, Inc.	5-3576	Richardson	3	12/19/86	Throughout Texas	C. E. Verco Services, Inc.	11-1958	Houston	17	12/31/86
Richmond	Polly Ryan Memorial Hospital	11-2406	Richmond	6	12/22/86	Throughout Texas	Raba-Kistner Consultants, Inc.	9-1571	San Antonio	18	12/31/86
San Antonio	Southwest Immunodiagnosics Inc.	9-3796	San Antonio	5	12/22/86	Throughout Texas	City of Waco	6-1453	Waco	9	12/31/86
San Antonio	Incarnate Word College	9-2168	San Antonio	8	12/22/86	Throughout Texas	Trinity Engineering Testing Corporation	12-645	Odessa	30	01/06/87
San Antonio	Sheldon P. Braverman, M.D.	9-1226	San Antonio	8	12/29/86	Throughout Texas	S. H. Tolliver Company	9-2394	San Antonio	6	01/06/87
Sherman	Texas Instruments, Inc.	5-2682	Sherman	9	12/29/86	Throughout Texas	Scientific Measurement Systems, Inc.	6-2696	Austin	16	01/06/87
Texas City	Amoco Oil Company	11-253	Texas City	24	12/22/86	Throughout Texas	Pro-Technics II, Inc.	11-3835	Houston	3	01/06/87
The Woodlands	The Woodlands Community Hospital	11-3772	The Woodlands	4	01/03/87	Throughout Texas	U. S. Leak Detection, Inc.	11-3268	South Houston	3	01/06/87
						Throughout Texas	Consolidated X-Ray Service Corporation	5-62	Dallas	45	01/12/87
						Throughout Texas	Mid Valley Electric	8-686	Weslaco	9	11/18/86

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Throughout Texas	SE, Inc.	5-747	Fort Worth	39	11/25/86

Wichita Falls	Wichita General Hospital	4-350	Wichita Falls	29	12-22-86
Wichita Falls	Bethania Regional Health Care Center	4-1844	Wichita Falls	27	01-09-87

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Fort Worth	Bell Helicopter Textron	8-923	Fort Worth	1	12-19-86
Houston	Medical Center Del Oro Hospital	11-2673	Houston	12	12-22-86
Throughout Texas	Dyess Testing Laboratory, Inc.	1-1123	Amarillo	31	12-22-86
Throughout Texas	Applied Standards Inspection, Inc.	10-3072	Beaumont	9	12-22-86
Throughout Texas	Coastal Inspection Service Company	10-810	Orange	31	12-22-86

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Cameron Iron Works, Inc.	11-1865	Houston	11	12-22-86
Houston	East Loop Medical Imaging Center	11-2614	Houston	6	12-23-86
San Angelo	San Angelo Veterinary Hospital	4-961	San Angelo	4	01-12-87
Throughout Texas	Otis Engineering Corporation	11-3362	Houston	3	12-31-86
Throughout Texas	Armadillo Wireline Service, Inc.	12-3186	Andrews	8	01-06-87
Throughout Texas	G.O. Viking International	6-300	Houston	6	01-06-87

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 resi-

dent 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. Tacker, 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 January 26, 1987

TRD-8700730 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed January 26, 1987

For further information please call (512) 458-7245*



**State Board of Insurance
Company Licensing**

The following applications have been filed with the State Board of Insurance and are under consideration:

(1) Application for admission to do business in Texas of Mansfield Insurance Company, Inc., a foreign casualty insurance company. The home office is in Dover, Delaware.

(2) Application for admission to do business in Texas of Wheaton Insurance Company, Inc., a foreign casualty insurance company. The home office is in Dover, Delaware.

(3) Application for admission to do business in Texas of Seneca Insurance Company, Inc., a foreign casualty insurance company. The home office is in Dover, Delaware.

(4) Application for admission to do business in Texas of Delphic Insurance Company, a foreign casualty insurance company. The home office is in Dover, Delaware.

(5) Application for admission to do business in Texas of Heracles Insurance Company, a foreign casualty insurance company. The home office is in Dover, Delaware.

(6) Application for admission to do business in Texas of Arrowhead Insurance Company, Inc., a foreign casualty insurance company. The home office is in Dover, Delaware.

(7) Application for a name change by Mid-America Preferred Insurance Company, a foreign casualty insurance company. The home office is in Kansas City, Missouri. The proposed new name is Country Preferred Insurance Company.

(8) Application for a name change by Bankers Mutual Insurance Company, a foreign fire and casualty insurance company. The home office is in Gaithersburg, Maryland.

The proposed new name is Bankers Independent Insurance Company

Issued in Austin, Texas, on January 22, 1987

TRD-8700702 Nicholas Murphy
Chief Clerk
State Board of Insurance

Filed, January 23, 1987

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

Correction of Error

An emergency amendment submitted by the State Board of Insurance contained an error as published in the January 16, 1987, issue of the *Texas Register* (12 TexReg 166).

In §11.603(a), the following language should have been designated as omitted language: "[An HMO that wishes to obtain acceptance of advertisements or sales material prior to use must file such advertisements and sales material with the commissioner no less than 60 days prior to the intended date of use.]"

Texas Department of Public Safety Consultant Contract Award

Contractor. The Texas Department of Public Safety (DPS) announces that Texas State Technical Institute/Waco Campus, has been awarded a contract, under the provi-

sions of Texas Civil Statutes, Article 6252-11c, for a period of January 1, 1987-September 30, 1987. The contract provides for the offering of the department's motorcycle operator training course through a mobile instructional training program at selected locations and times determined by the department. The consultant proposal request was published in the August 12, 1986, issue of the *Texas Register* (11 TexReg 3605).

Description of Services. Texas State Technical Institute/Waco Campus shall furnish all necessary qualified personnel, facilities, materials, supplies, and equipment to implement a mobile motorcycle operator training program at selected locations and times determined by the department.

Contract Amount. The total cost of services to be performed under the contract with Texas State Technical Institute/Waco Campus is presently estimated to be \$113,094.

Project Reports. Reports to be generated under this contract shall be submitted to DPS upon completion.

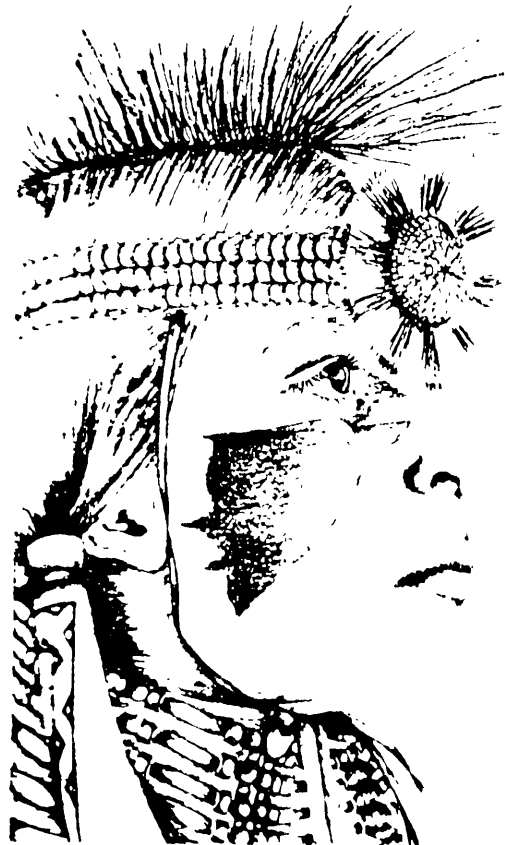
Issued in Austin, Texas, on January 13, 1987

TRD-8700703 James B. Adams
Director
Texas Department of Public Safety

Filed, January 23, 1987

For further information, please call (512) 465-2000

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Name: Tiffany Matthews
Grade: 12
School: Coronado High School, Lubbock

Office of the Secretary of State
Texas Register Publication Schedule

Following are the deadline dates of the February, March, and April 1987 issues of the *Texas Register*. Unless noted by a ★, deadline for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. For further information, please call (512) 463-5561.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
Tuesday, February 3 Friday, February 6 Tuesday, February 10 Friday, February 13 Tuesday, February 17 ★ Friday, February 20 Tuesday, February 24 Friday, February 27	Monday, February 2 Wednesday, February 4 Monday, February 9 Wednesday, February 11 Friday, February 13 Wednesday, February 18 Monday, February 23	1986 CUMULATIVE INDEX Tuesday, February 3 Thursday, February 5 Tuesday, February 10 Thursday, February 12 Tuesday, February 17 Thursday, February 18 Tuesday, February 24
★ Tuesday, March 3 Friday, March 6 Tuesday, March 10 Friday, March 13 Tuesday, March 17 Friday, March 20 Tuesday, March 24 Friday, March 27 Tuesday, March 31	Wednesday, February 25 Friday, February 27 Wednesday, March 4 Monday, March 9 Wednesday, March 11 Monday, March 16 Wednesday, March 18 Monday, March 23 Wednesday, March 25	Thursday, February 26 Tuesday, March 3 Thursday, March 5 Tuesday, March 10 Thursday, March 12 Tuesday, March 17 Thursday, March 19 Tuesday, March 24 Thursday, March 26
Friday, April 3 Tuesday, April 7 Friday, April 10 Tuesday, April 14 Friday, April 17 Tuesday, April 21 ★ Friday, April 24 Tuesday, April 28	Monday, March 30 Wednesday, April 1 Monday, April 6 Wednesday, April 8 Monday, April 13 Wednesday, April 15 Friday, April 17 Wednesday, April 22	Tuesday, March 31 Thursday, April 2 Tuesday, April 7 Thursday, April 9 Tuesday, April 14 Thursday, April 16 Tuesday, April 21 Thursday, April 23

State Securities Board
Correction of Error

A proposed amendment submitted by the State Securities Board contained an error as published in the January 13, 1987, issue of the *Texas Register* (12 TexReg 114). In §109.134, line 6 should read "Act, §7, any offer or sale of securities offered."

Texas Water Commission
Enforcement Order

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted:

An enforcement order was issued to Rohm and Haas, Texas Inc., on January 20, 1987, assessing \$6,300 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 January 22, 1987.

TRD 8700727 Mary Ann Hofner
 Chief Clerk
 Texas Water Commission

Filed January 23, 1987
 For further information please call (512) 463-7898

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