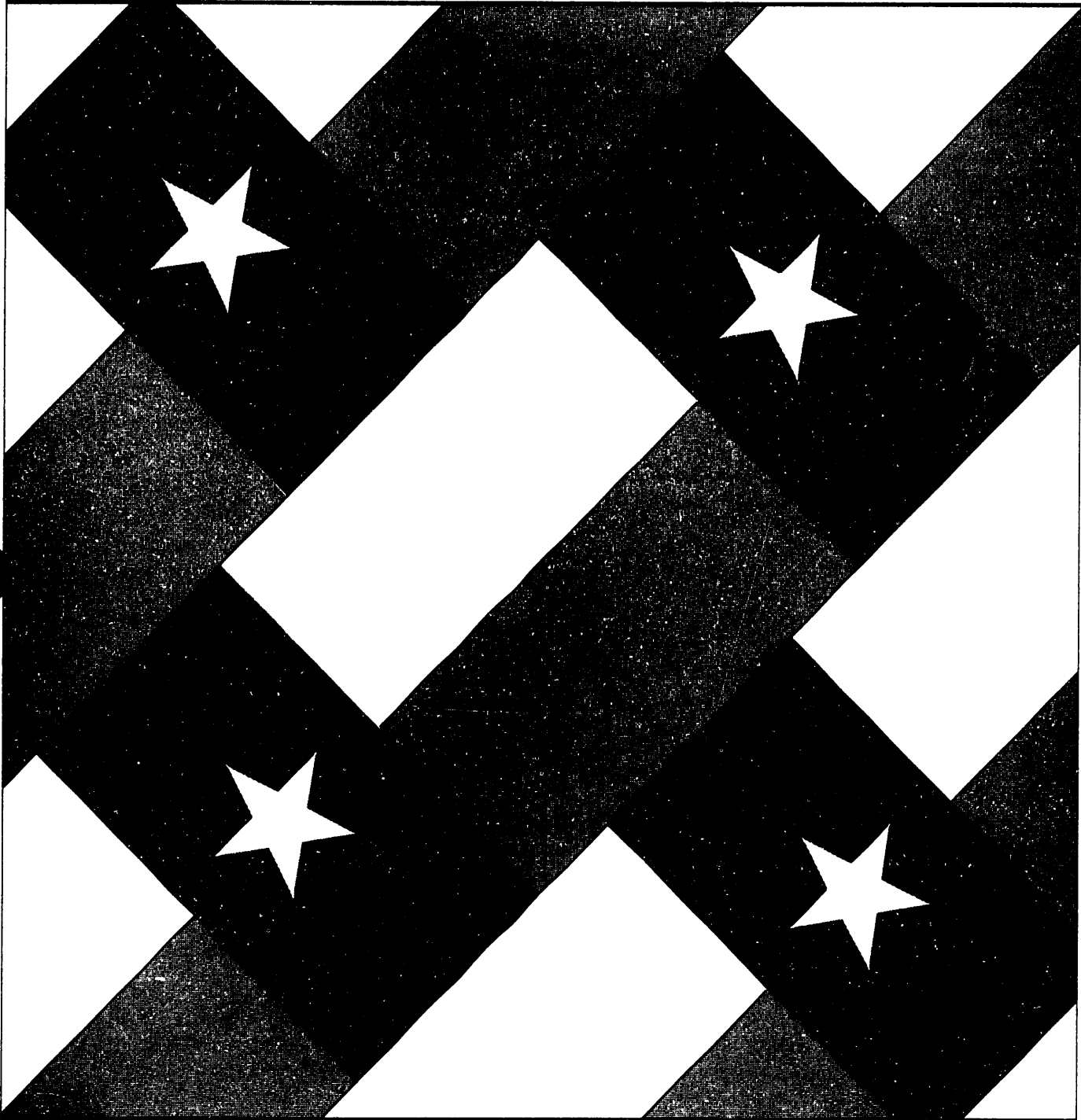


# Texas Register

Volume 12, Number 15, February 27, 1987

Pages 617-691



## Highlights

The **Texas Department of Labor and Standards** adopts an emergency amendment concerning increases to certificate of operation fees for boilers in Texas. Effective date - March 1..... **page 624**  
The **Coordinating Board, Texas College and University System** proposes new rules concerning implementation of the Congress-

sional Teacher Scholarship Program. Proposed date of adoption - April 24 **page 639**

The **Texas Department of Health** adopts new rules concerning the disposal of household materials classified as household wastes. Effective Date - March 11 ..... **page 659**

**Office of  
the Secretary  
of State**

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice each week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1987 with the exception of January 6, September 1, December 1, and December 29 by the Office of the Secretary of State.

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- State Ethics Advisory Commission—summaries of requests for opinions and opinions
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
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- 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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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## Texas Register Publications

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# The Governor

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

## Appointments Made February 17

To be judge of the **181st Judicial District**, Potter and Randall Counties, until the next general election and until his successor shall be duly elected and qualified:

Samuel Curtis Kiser, 1512 South Austin, Amarillo. Mr. Kiser will be replacing Judge George E. Dowlen of Amarillo who resigned.

To be district attorney of the **271st Judicial District**, Jack and Wise Counties, until the next general election and until his successor shall be duly elected and qualified:

Patrick Michael Morris, 405 West Collon, Decatur. Mr. Morris will be replacing Brock Smith of Decatur, Wise County, who resigned.

To be a member of the **State Aircraft Pooling Board** for a term to expire January 31, 1989:

James J. Kaster, Office of the Governor, State Capitol, Austin. Mr. Kaster will be filling the unexpired term of James L. Nelson of Austin, Travis County, who resigned.

To be a member of the **Texas Board of Health**, Nursing Home Administrator position, for a term to expire February 1, 1993:

Don L. Brewer, 5300 Houston School Road, Dallas. Mr. Brewer will be replacing Mrs. Johnnie M. Benson of Fort Worth, Tarrant County, whose term expired.

To be a member of the **Texas Board of Health**, Chiropractic position, for a term to expire February 1, 1993:

Dr. Oliver Roy Smith, 416 North Stanton, Suite 300, El Paso. Dr. Smith will be replacing Dr. Bob D. Glaze of Gilmer, Upshur County, whose term expired.

To be a member of the **Texas Board of Human Services** for a term to expire February 1, 1993:

Robert A. Mosbacher, Jr., 712 Main Street, Suite 2200, Houston. Mr. Mosbacher will be replacing Sid Stahl of Dallas, Dallas County, whose term expired.

To be commissioner of the **Texas Department of Labor and Standards** for a term to expire February 1, 1989:

Richard Lee Morgan, 3635 Stables Lane, Dallas. Mr. Morgan will be replacing Allen Ross Parker, Sr., of Houston, Harris County, whose term expired.

To be a member of the **Texas Parks and Wildlife Commission** for a term to expire February 1, 1993:

Henry C. Beck III, 4600 InterFirst One Building, Dallas. Mr. Beck will be replacing William O. Bracklein of Dallas, Dallas County, whose term expired.

To be a member of the **Texas Turnpike Authority**, Board of Directors for a term to expire February 15, 1993:

Clive Runnells, 3900 Essex Lane, Suite 1100, Houston. Mr. Runnells will be replacing John P. Thompson, of Dallas, Dallas County, whose term expired.

Issued in Austin, Texas, on February 18, 1987.

TRD-8601495

William P. Clements, Jr.  
Governor of Texas

★ ★ ★

# Emergency

## Rules

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

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

### TITLE 16. ECONOMIC REGULATION

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

##### ★ 16 TAC §65.20

The Texas Department of Labor and Standards adopts on an emergency basis an amendment to §65.20, concerning increases to the fee for certificates of operation for boilers in Texas from \$10 to \$15. The amendment is adopted on an emergency basis to protect the health, safety and welfare of the boiler user in Texas.

The emergency amendment is adopted on an emergency basis under Texas Civil Statutes, Article 5221c which provide the Texas Department of Labor and Standards with the authority to promulgate rules and regulations under the Act.

##### §65.20. Fees.

###### (a) Certificate of Operation.

(1) Inspection by authorized inspector. The owner or user or his/her agent shall make a **\$15** [\$10] payment for the certificate of operation fee to the Boiler Division, Texas Department of Labor and Standards, as required in the Act, \$5.

(2) (No change.)

(b) (No change.)

Issued in Austin, Texas, on February 20, 1987

TRD-8701555

Larry E. Kosta  
Assistant Commissioner  
Texas Department of  
Labor and Standards

Effective date: March 1, 1987

Expiration date: June 29, 1987

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

★ ★ ★

##### ★ 16 TAC §65.33

The Boiler Division of the Texas Department of Labor and Standards adopts on an emergency basis an amendment to §65.33(a) and (b) which increase the inspection fees for all boilers other than heating boilers in Texas. The amendment is adopted on an emergency basis to pro-

tect the health, safety, and welfare of the boiler user in Texas.

The amendment is adopted under Texas Civil Statutes, Article 5221c which provide the Texas Department of Labor and Standards with the authority to promulgate rules and regulations under the Act.

##### §65.33. Fees for Inspection of Boilers.

[The fees for inspection of boilers shall be as follows:]

(a) **The inspection fees** for all boilers other than heating boilers shall be:

(1) **those** [Boilers] with a heating surface of fifty (5) square feet (4.65 square meters) or less—**\$60** [\$30];

(2) **those** [Boilers] with a heating surface greater than fifty (5) square feet (4.65 square meters) but not greater than one hundred (100) square feet (9.29 square meters)—**\$70** [\$50];

(3) **those** [Boilers] with a heating surface greater than one hundred (100) square feet (9.29 square meters) but not greater than five hundred (500) square feet (46.45 square meters)—**\$85** [\$60];

(4) **those** [Boilers] with a heating surface greater than five hundred (500) square feet (46.45 square meters) but not greater than one thousand five hundred (1,500) square feet (139.35 square meters)—**\$100** [\$70]; **and**

(5) **those** [Boilers] with a heating surface greater than one thousand five hundred (1,500) square feet (139.35 square meters)—**\$140** [\$99].

(b) **The inspection fees** for heating boilers shall be:

(1) **those** [Boilers] without a man-hole—**\$60** [\$40]; **and**

(2) **those** [Boilers] with a man-hole—**\$90** [\$65].

(c) (No change.)

Issued in Austin, Texas, on February 20, 1987

TRD-8701554

Larry Kosta  
Assistant Commissioner  
Texas Department of  
Labor and Standards

Effective date: March 1, 1987

Expiration date: June 29, 1987

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

★ ★ ★

### TITLE 19. EDUCATION Part II. Texas Education Agency

#### Chapter 77. Comprehensive Instruction

##### Subchapter B. General Education Program

##### ★ 19 TAC §77.26

The Texas Education Agency adopts on an emergency basis new §77.26, concerning pilot and demonstration projects in concurrent enrollment in institutions of higher education.

The new section allows school districts to apply to the commissioner of education for approval to establish a program in which students could earn college credit while meeting high school graduation requirements. Section 75.167, High School Credit for College Courses, permits students to earn high school credit for college courses and this new section would make no change in that section. The new section is designed to permit programs which are more innovative than those currently operating, which may be for at risk students as well as for the gifted and talented, and which may require more regulatory flexibility than do current programs.

The new section is adopted on an emergency basis to allow districts interested in such programs to begin planning at once for their implementation.

This new section is adopted on an emergency basis under the Texas Education Code, §21.101(e), which directs the State Board of Education to provide for curriculum options to allow districts to address local needs.

##### §77.26. *Pilot and Demonstration Projects in Concurrent Enrollment in Institutions of Higher Education.*

(a) In order to implement increased educational opportunities for high school students, the commissioner of education may authorize the establishment of pilot and demonstration programs for concurrent enrollment of high school students in institutions of higher education.

(b) Programs shall be approved upon application by a school district and shall be



based on a comprehensive plan prepared by the school district and the institution of higher education

(c) When necessary to facilitate the implementation of a pilot or demonstration project, the commissioner of education may, when justified by the district, waive rules of the State Board of Education.

Issued in Austin, Texas, on February 18, 1987.

TRD-8701570 W. N. Kirby  
Commissioner of  
Education

Effective date: February 20, 1987  
Expiration date: June 22, 1987  
For further information, please call  
(512) 463-9212.

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## Chapter 133. Pupil-School Relations

### Subchapter B. Discipline Management

#### ★ 19 TAC §§133.22, 133-26-133.28

The Texas Education Agency is renewing the effectiveness of the emergency adoption of amended §§133.22, 133.26-133.28 for a 60-day period effective February 18, 1987. The text of the amended §133.22, 133.26-133.28 was originally published in the October 31, 1986, issue of the *Texas Register* (11 TexReg 4511).

Issued in Austin, Texas, on February 18, 1987.

TRD-8701508 Beverly J. Bardsley  
Director for Policy  
Development  
Texas Education Agency

Effective date: February 18, 1987  
Expiration date: March 13, 1987  
For further information, please call  
(512) 463-9212.

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## Chapter 149. Education Personnel Development

### Subchapter C. Appraisal of Certified Personnel

#### ★ 19 TAC §149.43

The Texas Education Agency adopts on an emergency basis an amendment to §149.43, concerning teacher appraisal procedures. The amendment deletes the requirement for professional growth plans to be developed for any domain judged satisfactory at the end of the second appraisal period. Under the amendment, a professional growth plan must be developed for any domain judged less than satisfactory at the end of the first appraisal period. A professional growth plan

must be developed or modified for any teacher whose overall summary performance score is less than satisfactory. At the teacher's request, a plan must be developed or modified if the teacher's overall summary performance score is satisfactory.

This amendment is adopted on an emergency basis to provide immediate relief from the excessive burden of professional growth plan requirements at the end of the second appraisal period for teachers who are satisfactory in one or more domains.

This amendment is adopted under the Texas Education Code, §13.302, which directs the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder level assignments purposes.

#### §149.43. *Teacher Appraisal Procedures.*

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

(e) Professional growth plan.

(1) For any domain judged less than satisfactory at the end of the first [an] appraisal period, a professional growth plan must be developed or modified.

(2) **A professional growth plan must be developed or modified for any teacher whose overall summary performance score is less than satisfactory. At teacher request, a professional growth plan must be developed or modified for any teacher whose overall summary performance score is satisfactory.** [For any domain judged satisfactory at the end of the first appraisal period, a professional growth plan must be developed or modified at the request of the teacher. For any domain judged satisfactory at the end of the second appraisal period, a professional growth plan must be developed or modified.]

(3) (No change.)

(f)-(g) (No change.)

Issued in Austin, Texas, on February 18, 1987.

TRD-8701571 W. N. Kirby  
Commissioner of  
Education

Effective date: February 20, 1987  
Expiration date: June 20, 1987  
For further information, please call  
(512) 463-9212

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 157. Emergency Medical Care

##### Emergency Medical Services Systems

#### ★ 25 TAC §157.63, §157.64

The Texas Department of Health adopts on an emergency basis amendments to §157.63 and §157.64, concerning certification and recertification of EMS personnel. The amendments also are being proposed for permanent adoption in this same issue of the *Texas Register*. The basis for the emergency adoption is that existing requirements in §157.63 and §157.64 require that EMS personnel who apply for certification or recertification shall take a complete training course upon failure of any subscale (subpart) in the examination process. Such requirements prevent these EMS personnel from providing emergency prehospital care for a period of up to six months, thereby creating an imminent threat to public health and safety because certified EMS personnel may not be available in cases involving emergency prehospital care. The amendments will clarify and update the certification and recertification process. The addition of §157.63(g)-(h), concerning certification is significant. New subsection (g) will make it possible for an individual to complete a refresher course, after a failure on a retest and then reapply for certification. New subsection (h) will enable an individual to complete a refresher course and reapply for certification should he or she fail the examination after initial course. To qualify under this subsection the applicant must apply no later than four years after completion of the initial course.

The Department adopts the amendment on an emergency basis under Texas Civil Statutes, Article 6252-13a, §5, which authorizes the Texas Board of Health to adopt emergency rules, and Article 4447c, §§3.02, 3.03, and 3.04, which authorize the board to adopt rules to implement the Texas Emergency Medical Services Act.

#### §157.63. *Certification.*

(a) A candidate shall:

(1) (No change).

(2) successfully complete a department-approved course or submit proof of current EMS personnel certification from another state [or National Registry of EMT's];

(3)-(6) (No change).

(b) After verification by the department of the information submitted by the candidate, a candidate who meets the requirements in this section [subsection (a) of this section] shall be certified for four years commencing on the date of issuance of a certificate and wallet-sized card signed by department officials.

(c) **A candidate must take the examination for certification no later than 90 days after the course completion date; however, a [A] candidate who fails either the skills examination or the written examination may retest on each examination one time, provided that all retests must be completed no later than 90 days after the course completion date [within 90 days of the initial examination date].**

(d)-(e) (No change).

(f) The department shall administer examinations at regularly scheduled times, and it is the responsibility of the candidate to make arrangements that are necessary to complete the examination requirements. The department is not required to set special examination schedules for those who request reexamination.

(g) No course shall be considered as satisfying the requirements for examination under this section if the candidate completed the course more than four years prior to the examination date. For the purposes of this section, a course shall include completion of the continuing education requirements under §157.76 of this title (relating to Continuing Education).

(h) A candidate who does not complete the requirements for certification 90 days after the initial course completion date may apply for examination by submitting to the department a new application and fee. The candidate must satisfy the following requirements.

(1) If the candidate applies no later than four years after the initial course completion date, the candidate must complete a department-approved refresher course to qualify for examination.

(2) A candidate must take the examination for certification no later than 90 days after the refresher course completion date.

(3) A candidate who fails either the skills examination or the written examination may retest on each examination one time, except that all retests must be completed no later than 90 days after the refresher course completion date.

(i) The completion of a course at a higher level of certification shall satisfy the course requirement for a lower level of certification.

(j) A candidate for P-EMT who fails the P-EMT written examination or the P-EMT skills examination may elect to be certified as an SS-EMT if the candidate achieved a passing grade on all components of the written examination and all skills required at the SS-EMT level of certification.

§157.64. *Recertification.*

(a)-(e) (No change).

(f) Retests.

(1) A certificant who fails the skills examination or the written examination may retest on each examination one time [within the 90-day period described in subsection (d) of this section]. [A request for retest of the written examination shall be made to the department at least 30 days in advance of the expiration of the 90-day period.] A certificant shall complete all retests within 90 days of the expiration date. The department shall administer examinations at regularly scheduled times, and the department is not required to set special examination schedules for those who request re-examination.

(2) A P-EMT who fails the P-EMT written examination or the P-EMT skills ex-

amination for recertification may elect to be certified as an SS-EMT if the candidate achieved a passing grade on all components of the written examination and all skills required at the SS-EMT level of certification.

(g) (No change).

Issued in Austin, Texas, on February 17, 1987.

TRD-8701493

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

Effective date: February 18, 1987

Expiration date: June 22, 1987

For further information, please call  
(512) 465-2601

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

##### ★34 TAC §3.336

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.336, concerning gold, silver, coins, and currency. The emergency amendment is necessary because some retailers of United States coins are collecting sales tax on the entire selling price of the coins. The Tax Code, Chapter 151, requires that the face value of United States coins and currency be excluded from the tax base and sales tax collected only on the difference between the face value and the sales price. As currently written, the section seems to allow sellers of United States coins discretion to collect sales tax on the face value of the coins if they wish to do so. The amendment would make it clear that the face value of the United States coins must be excluded from the tax base.

This amendment is adopted on an emergency basis under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

##### §3.336. *Sales of Gold, Silver, Coins, and Currency.*

(a) Sales tax is due on the sale in Texas of gold, silver, or numismatic coins or gold, silver, or platinum bullion unless sold to a purchaser in a single transaction of \$10,000 or more. Sellers of gold, silver, platinum, or numismatic coins are required to hold a Texas sales or use tax permit and to collect sales tax on all taxable sales within the state. See §3.286 of this title (relating to Seller's Re-

sponsibilities).

(b) Texas sales tax is due on a sale made by a seller in Texas when the purchaser takes possession of the item in this state even though the item may be taken outside the state by the purchaser. Texas sales tax is due if the Texas seller retains possession of the item in Texas as a service to the purchaser. The sale of gold or silver bullion within the State of Texas but which is being held in repositories outside the State of Texas at the time of sale is not subject to the sales tax.

(c) Texas use tax is due on any item brought into Texas from outside the state. The use tax is based upon the original purchase price regardless of the item's value at the time of entry. See §3.346 of this title (relating to Use Tax) and §3.340 of this title (relating to Multistate Tax Credits).

(d) Unless exempted as provided by subsection (a) of this section, sales or use tax is due on the sale of coins and currency when sold above face value or without a face value. The face value of United States coins and currency must [may] be subtracted from the sales price before the tax is computed. Tax must be collected on the total sales price of foreign coins and currency. The face value of foreign coins and currency may not be subtracted from the sales price. The exchange of foreign currency at face value is not a taxable transaction.

(e) The sales tax exemption on the sale of gold, silver, or numismatic coins or gold, silver, or platinum bullion in a single transaction of \$10,000 or more does not include jewelry or other items of adornment.

(f) At the time an item exempted by subsection (a) of this section is transferred to a different owner, use tax is due from the original purchaser on the original purchase price.

(g) The purchase of commodity contracts of gold or silver will not be taxable.

(h) Persons who use gold, silver, or other precious metals or diamonds or other precious stones in lieu of currency in acquiring taxable items for use will be considered to be bartering. Persons who use gold, etc., for bartering owe tax based upon the sales price of the taxable item.

Issued in Austin, Texas, on February 18, 1987.

TRD-8701529

Bob Bullock  
Comptroller of Public  
Accounts

Effective date: February 19, 1987

Expiration date: June 19, 1987

For further information, please call  
(512) 463-4004.

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## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

## Chapter 103. Student Remedies Complaints Regarding Abuse or Neglect

### ★ 37 TAC §103.41

The Texas Youth Commission adopts on an emergency basis the repeal of rule §103.41, concerning complaints regarding abuse or neglect. The welfare of TYC wards is in peril due to the limited scope and procedural direction for reporting, investigating and remedying harm to youth due to abuse, neglect, or improper child care.

The repeal is adopted on an emergency basis under the Human Resources Code, §61.034, which provides the Texas Youth Commission with authority to make rules appropriate to the accomplishment of its function.

#### §103.41. Procedure.

Issued in Austin, Texas, on February 20, 1987.

TRD-8701564 Ron Jackson  
Executive Director  
Texas Youth Commission

Effective date: March 1, 1987  
Expiration date: June 29, 1987  
For further information, please call  
(512) 452-8111, ext. 390.

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The Texas Youth Commission adopts on an emergency basis new §103.41, concerning suspected mistreatment. Emergency adoption is justified to implement adequate procedural direction for reporting, investigating, and remedying abuse, neglect, and improper child care for the welfare of TYC wards.

The new section is adopted on an emergency basis under the Human Resources Code, §61.034, which provides the Texas Youth Commission with authority to make rules appropriate to the accomplishment of its function.

#### §103.41. Suspected Mistreatment.

(a) Policy. The Texas Youth Commission (TYC) is committed to the protection of TYC youth from abuse, neglect, and improper child care practices by TYC employees and contract program staff. Any volunteer, intern, TYC, or contract program employee who has reason to believe a TYC youth has been or will be mistreated must report the incident. Any person who fails to do so without sufficient justification is subject to disciplinary action and possible criminal prosecution. Retaliation against any person who in good faith files a mistreatment report is strictly prohibited. Any employee found guilty of retaliation may be subject to disciplinary action. The reports, records, and working papers used or developed in an investigation made under this policy are confidential and may only be disclosed for purposes consistent with existing interagency agreements and the Texas Family Code,

Chapter 34. All mistreatment allegations are investigated. A confirmation of abuse, neglect, or improper child care practice is grounds for disciplinary action, termination of contract, or criminal prosecution.

(b) Explanation of terms used. Suspected mistreatment allegations are divided into two categories for reporting purposes: abuse/neglect; and improper child care practices. Abuse/neglect allegations are reported to local law enforcement and the Texas Department of Human Services in compliance with the Texas Family Code, Chapter 34.02; improper child care practice allegations are only reported within the TYC administrative system, unless in the process of investigation there is evidence that abuse or neglect has occurred. The specific examples provided in the following paragraphs may not be all-inclusive and are not intended to limit or prohibit the reporting of any other incident reasonably believed to constitute mistreatment of a TYC youth.

#### (1) Abuse/neglect.

(A) Abuse occurs when staff commits or encourages the commission of the following:

(i) striking i.e., to intentionally cause forceful physical contact which inflicts pain or injury for example, any sharp blow no matter how it is delivered, including slapping and paddling;

(ii) unjustified or excessive force where serious physical injury occurs such as dislocation of any joint, internal injury, or laceration requiring sutures;

(iii) sexual contact or sexual exploitation for example, involving the youth in prostitution/obscene acts;

(iv) the sale or delivery of illicit drugs, alcohol, or mind altering substances; or

(v) exploitation i.e., violating child labor laws, involving the youth in illegal activities, using the youth's resources for benefit or profit.

(B) Neglect occurs when staff knowingly fails to:

(i) intervene to prevent physical or emotional harm of a TYC youth;

(ii) provide medical care for a condition which caused or might have caused severe emotional distress or significant or continuing pain or serious threat to health; or

(iii) provide appropriate educational services in violation of state education laws.

(2) Improper child care. The following are examples of improper child care practices:

(A) negligent supervision, which is the failure to provide the quality of supervision that a prudent and careful child care worker would have provided under similar circumstances, which threatens or causes physical or emotional harm to a TYC youth, for example, physical or sexual assault by others, attempted suicide, self-abuse, or

death;

(B) use of profanity, threats, racial slurs or inappropriate sexual language or behavior which offends, degrades, or threatens a TYC youth with physical or emotional harm; (C) unjustified force or excessive force which occurs without causing serious physical injury;

(D) failure or refusal to provide food, clothing, medical or, dental care which violates TYC child care policy;

(E) deprivation of food, sleep, or the use of repetitive, purposeless, or degrading make-work or exercise in the interest of control or discipline;

(F) forced administration of medication, tranquilizers, or psychotropic drugs under nonlife threatening situations or in interest of control or discipline; or

(G) unwarranted restriction of access to the grievance or appeals system, including threats of retaliation.

(c) Procedure for reporting suspected mistreatment. All references to program administrator in this policy refer to both TYC and contract program administrators, or their designee, unless otherwise specified.

(1) A TYC youth is encouraged to immediately inform any staff member or to file an emergency grievance when he feels he has been mistreated.

(2) A staff member receiving a report of mistreatment from a youth, or who has reason to believe a TYC youth has been or will be mistreated, informs the program administrator immediately or within a reasonable time period, not to exceed 24 hours.

(3) If the allegation is abuse/neglect, the program administrator is responsible for reporting incidents.

(A) The TYC program administrator takes the following steps within 48 hours of receiving the report.

(i) The administrator notifies the TYC student rights administrator and the director of institutions or community services, using the structure of TYC Form 320 on electronic mail.

(ii) A special provision for striking is made for TYC programs only. Where reasonable cause exists to believe the allegation occurred, the administrator complies with the provision in clause (i) of this subparagraph immediately or within 24 hours, and suspends the employee without pay.

(iii) The administrator orally notifies the local law enforcement and the Texas Department of Human Services.

(iv) The administrator notifies the parents/guardian orally and by letter, omitting names of all persons involved in the allegation, if the allegation involves assault, serious physical injury, or sexual contact.

(v) The administrator submits Notification of Suspected Mistreatment (TYC Form 320), to local law enforcement and the Texas Department of Human Services (one copy each).

(B) The contract program

administrator takes the following steps within 48 hours of receiving the report.

(i) The administrator orally notifies the TYC regional director immediately or within 24 hours.

(ii) The administrator orally notifies local law enforcement and the Texas Department of Human Services.

(iii) The administrator notifies the parents/guardian orally and by letter, omitting names of all persons involved in the allegation, if the allegation involves assault, serious physical injury, or sexual contact.

(iv) The administrator submits Notification of Suspected Mistreatment (TYC Form 320), to the TYC student rights administrator (original and one copy); director of community services, TYC regional director, local law enforcement, and the Texas Department of Human Services (one copy each).

(C) The TYC student rights administrator forwards Form 320 to the Office of Youth Care Investigation within 48 hours of receipt.

(D) If the allegation is one of improper child care practice, the program administrator takes the following steps within 48 hours of receiving the report.

(i) He/she submits the Notification of Suspected Mistreatment (TYC Form 320), (electronic or postal mail) to the TYC student rights administrator (original and one copy), director of institutions or community services (one copy), and the TYC regional director, if the report originates in a contract program.

(ii) If the allegation is one of attempted suicide, death, or sexual assault, the program administrator orally notifies the parents/guardians immediately or within 24 hours and sends a follow-up letter describing the allegation, omitting names of all persons involved in the allegation.

(iii) If the allegation occurs in a contract program and requires notification to parents/guardians, the program administrator orally notifies the TYC regional director immediately or within 24 hours.

(E) If the allegation is that a person(s) not employed by TYC or an affiliated contract program has abused or neglected a TYC youth, it is reported to the appropriate authority having jurisdiction over the accused person(s) (schools, detention center, police department, administrator of interstate compact), to local law enforcement, and the Texas Department of Human Services (DHS). The TYC student rights administrator and appropriate central office program director are informed of the circumstances surrounding the alleged incident via electronic mail.

(d) Procedure for investigating. Instructions for investigating are organized according to the effective time limits.

(1) Within 24 hours after the program administrator receives the suspected mistreatment report, he appoints an investigator who begins the investigation immediately. If the incident involves TYC staff

striking a student, the program administrator appoints an investigator immediately and the investigator begins the investigation immediately. Unless it would jeopardize the investigation, the program administrator also notifies the employee(s) accused of mistreatment, in writing, that an investigation has been initiated, and the nature of the allegation.

(2) Within seven working days from the date he is appointed, the investigator conducts a thorough investigation. The special provision for striking students, in TYC staffed programs requires that within 72 hours of his appointment, the investigator conducts and completes the investigation. The investigation is conducted by interviewing all persons having information concerning the allegation of mistreatment in order to reconstruct events at the time and place of the incident. The report is compiled to include all interviews, documents, and the investigator's factual determination of what occurred. The report is submitted to the program administrator.

(3) If the investigation cannot be completed within the prescribed time period, the program administrator informs TYC's student rights administrator of the reasons for the delay, and the expected completion date. Notification of the delay may be oral or via electronic mail. If the incident is one of striking a student by a TYC staff, the program administrator may request a time extension by contacting TYC's executive director.

(4) TYC's student rights administrator or a central office program director may aid or assume an investigation at any stage of the investigation process in either TYC or contract programs by notifying the program administrator orally or in writing of the intent to do so.

(e) Procedure for administrative action. Within three working days following the investigation the program administrator takes all actions in this subsection with exceptions explained in paragraph (1).

(1) If the incident is one of striking a student by a TYC staff, the program administrator immediately complies with paragraphs (2) and (3) of this subsection and forwards the factual determinations and conclusions to TYC's student rights administrator and director of institutions or community services, by electronic mail. Documentation shall be forwarded as soon as possible in compliance with paragraph (7) of this subsection.

(2) The program administrator reviews the report for thoroughness and approves the report or requests additional information.

(3) The program administrator determines whether the factual determinations made by the investigator constitutes abuse, neglect or an improper child care practice within the definitions of this policy.

(4) The program administrator informs the accused staff member(s) of the in-

vestigation findings and conclusion in writing, and if required, takes disciplinary and/or corrective action.

(5) The program administrator informs the student of the investigation findings and conclusions and the right to appeal the results to TYC's executive director and to the Office of Youth Care Investigation. If an appeal is desired, the program administrator assists the student to file, in compliance with the General Operating Procedures Manual (GOP) 90.45.030, 'Appeal To The Executive Director'.

(6) The program administrator documents and attaches to TYC Form 322, Final Report Of Suspected Mistreatment, information regarding any disciplinary or corrective action taken.

(7) The program administrator forwards the completed final report of suspected mistreatment, with attachments, to TYC's student rights administrator (original and one copy), TYC's director of institutions or community services, and the TYC regional director, if the report originates in a contract program (one copy each with attachments).

(8) The program administrator informs in writing a person who has reported the suspected mistreatment on a student's behalf whether the allegation has been confirmed or unconfirmed.

(9) In cases of abuse/neglect, the program administrator also forwards a copy of the Final Report Of Suspected Mistreatment, (TYC Form 322) without attachments, to the local Texas Department of Human Services and local law enforcement agency. This information is included in the central registry of reported cases of child abuse and neglect in compliance with the Texas Family Code, Chapter 34.

(10) Upon receiving notice of closure from the TYC student rights administrator, the program administrator forwards a written summary of the investigation findings and conclusions to the parents/guardian if the report concerns an investigation of abuse/neglect or possible negligent supervision (improper child care practice) where attempted suicide, death, or sexual assault is involved.

(f) Procedure for closure of suspected mistreatment reports. Closure of each case entails review of thoroughness and proper documentation.

(1) The TYC student rights administrator reviews the investigation report for thoroughness and compliance with TYC policy, and officially closes the report unless further investigation, additional information, or policy interpretation is required prior to closure. If further investigation or additional information is required, the TYC student rights administrator submits a written request to the program administrator or regional director (if the report originates in the contract program) and the appropriate central office program director, specifying deficiencies in the report and information requested. The program administrator re-

sponds to the request within five working days of receipt of the request.

(2) The TYC student rights administrator promptly submits the closed abuse/neglect investigation report to the Office of Youth Care Investigation and the program administrator.

(3) The TYC student rights administrator maintains both a master log of all pending and closed suspected mistreatment investigations and a master file of all closed investigation reports by designated case numbers. No information on suspected mistreatment is filed in the student's master file.

Issued in Austin, Texas, on February 20, 1987

TRD-8701563

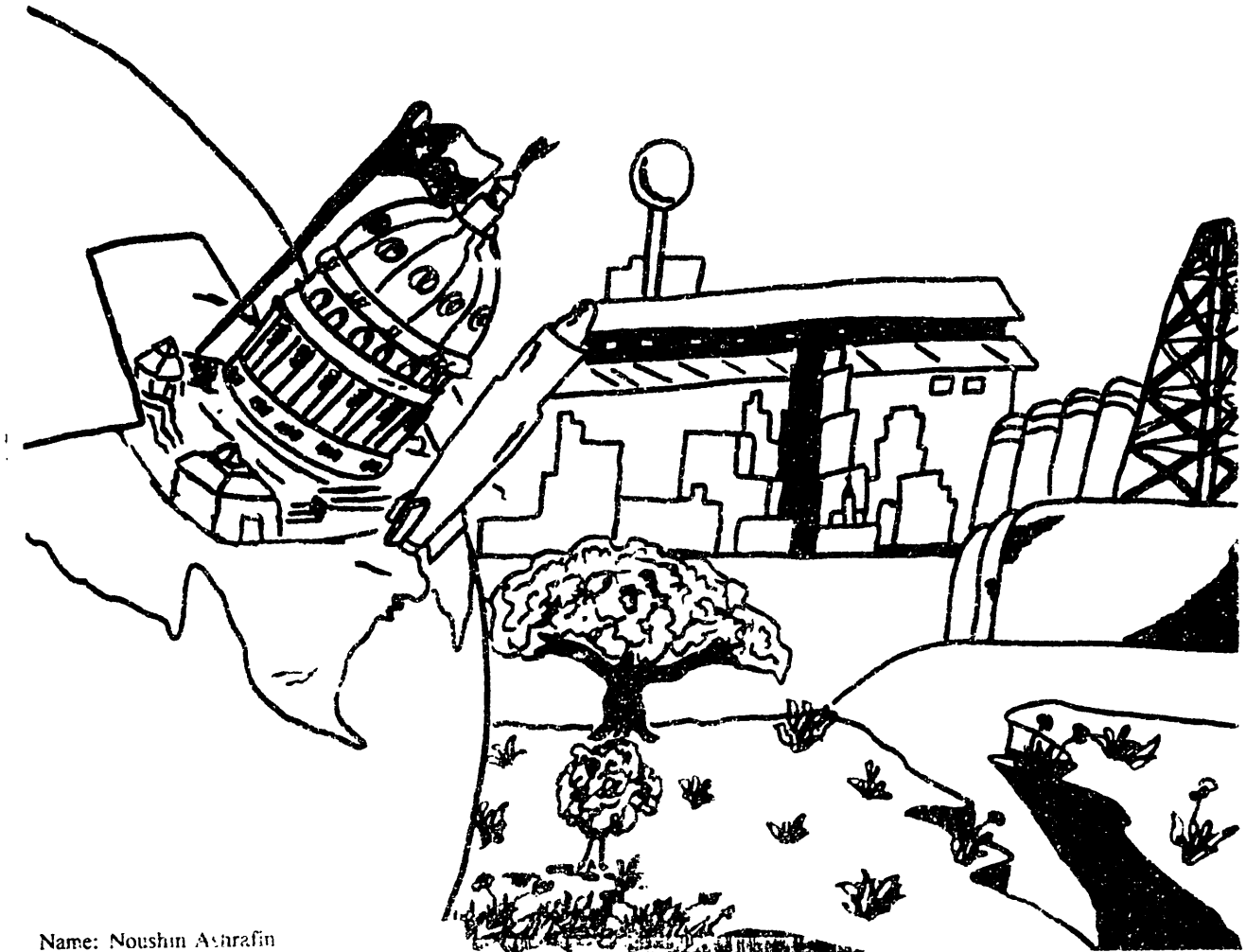
Ron Jackson  
Executive Director  
Texas Youth Commission

Effective date: March 1, 1987

Expiration date: June 29, 1987

For further information, please call  
(512) 452-8111, ext. 390.

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Name: Noushin Ashrafin  
Grade: 9  
School: Carter Jr. High, Arlington

# Proposed Rules

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

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

## TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 81. Elections Voter Registration ★ 1 TAC §81.8

The Office of the Secretary of State proposes an amendment to §81.8, concerning submission of voter registration lists by voter registrar to the secretary of state.

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

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

Comments on the proposal may be submitted to Sharon Hanko, Elections Division, Office of the Secretary of State, P.O. Box 12060, Austin, Texas 78711.

The amendment is proposed under the Texas Election Code, §18.061, which provides the Office of the Secretary of State with the authority to obtain registration information from voter registrars for maintenance of the registration service program.

**§81.8. Submission of Lists to the Secretary of State.** In addition to the lists required by the Texas Election Code, §18.063, to be delivered by the registrar to the secretary of state showing each new registration, cancelled registration, and change in registration information in the county since the delivery of the previous corresponding list, the registrar shall submit lists of such updated information on or after June 1, but before June 16 of each even-numbered year, and on or after December 1, but before December 16 of each even-numbered year. **Each odd-numbered year such information shall be submitted on or after March 1, but before March 16, on or after June 1 but before June 16, on or**

**after September 1, but before September 16, and on or after December 1, but before December 16.**

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 February 19, 1987.

TRD-8701518 Randy Erben  
Assistant Secretary of  
State

Earliest possible date of adoption:  
March 30, 1987  
For further information, please call  
(512) 463 5701.

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## TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Labor and Standards Chapter 65. Boiler Division Administration ★ 16 TAC §65.20

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

The Texas Department of Labor and Standards proposes an amendment to §65.20, concerning the fee for a boiler certificate of operation. The change in fees is necessary to make the boiler certification process self supporting. The effect of the amendment will be to balance expenditures necessary to process certified inspection and meet legislative mandates with total revenue generated by these certifications.

Steven M. Matthews, Boiler Division director, has determined that for the first five-year period the proposed section will be in effect 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 additional cost of \$4,500 in 1987, and \$0 for

each year from 1988-1991; and an estimated increase in revenue of \$43,853 in 1987, \$93,335 in 1988, \$85,995 in 1989, \$87,100 in 1990, and \$93,335 in 1991. There will be no fiscal implications for local government of small businesses.

Mr. Matthews 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 will be an increase in the fee for a certificate of operation of \$5 for each year from 1987-1991.

Comments on the proposal may be submitted to Steven M. Matthews, Boiler Division Director, P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221c, which provide the Texas Department of Labor and Standards with the authority to promulgate rules and regulations under the Act.

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 February 20, 1987.

TRD-8701556 Larry Kosta  
Assistant Commissioner  
Texas Department of  
Labor and Standards

Earliest possible date of adoption:  
March 30, 1987  
For further information, please call  
(512) 463-3127.

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## ★ 16 TAC §65.33

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

The Texas Department of Labor and Standards proposes an amendment to §65.33, concerning fees for inspection of boilers. The change in fees is necessary to make the boiler inspection service self supporting. The effect of the amendment will be

to balance expenditures necessary to provide the service and meet legislative mandates with the total revenue generated by these inspections.

Steven M. Matthews, Boiler Division Director, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications for state or local government or small businesses 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 additional cost of \$2,500 in 1987, and \$0 for each year from 1988-1991; and an estimated increase in revenue of \$84,240 in 1987, \$154,340 in 1988, 174,840 in 1989, \$168,480 in 1990, and \$154,340 in 1991. There are no fiscal implications for local government or small businesses.

Mr. Matthews, 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 proposed section. The anticipated economic cost to individuals who are required to comply with the section will be an average increase of \$20 for each year from 1987-1991 for an inspection/certificate of operation.

Comments on the proposal may be submitted to Steven M. Matthews, Boiler Division Director, at P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221c, which provide the Texas Department of Labor and Standards with the authority to promulgate rules and regulations under the Act.

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 February 20, 1987

TRD-8701557

Larry E. Kosta  
Assistant Commissioner  
Texas Department of  
Labor and Standards

Earliest possible date of adoption:

March 30, 1987

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

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## General Requirements

### ★ 16 TAC §65.52

The Texas Department of Labor and Standards proposes an amendment to §65.52, concerning unfired steam boilers. The amendment will structure the construction and stamping requirements of unfired steam boilers to be in line with nationally accepted standards. The effect of the amendment will be to bring about standardization and uniform acceptance of common construction practices.

Steven M. Matthews, Boiler Division Director, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Matthews also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more clearly defined construction criteria. 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 Steven M. Matthews, Boiler Division Director, P.O. Box 12157, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 5221c, which provide the Texas Department of Labor and Standards with the authority to promulgate rules and regulations under the Act.

### §65.52. Unfired Steam Boilers.

(a) Some examples of the unfired steam boilers referred to in §65.1 of this title (relating to Definitions), are shown in Exhibits 1A and 1B of the rules and regulations of the Texas Department of Labor and Standards, Boiler [Inspection] Division. The limits are defined as the first blinding point, circumferential welded joint, threaded joint, or flanged joint in the piping connected to the vessel in which the water is converted into steam. The safety devices, gages, gage glasses, and similar devices attached to the vessel shall also be included within these limits.

(b) Unfired steam boilers as shown on Exhibits 1A and 1B of the rules and regulations of the Texas Department of Labor and Standards, Boiler [Inspection] Division, shall be constructed in accordance with ASME Section I or Section VIII, Division 1 [and shall be stamped with the "U" symbol. The vessels are not required to meet the special requirements of ASME Section VII for unfired steam boilers and do not require stamping "UB".]

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

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Larry Kosta  
Assistant Commissioner  
Texas Department of  
Labor and Standards

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(512) 463-3127.

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## Chapter 70. Industrialized Housing and Building Standards

### ★ 16 TAC §70.21

The Texas Department of Labor and Standards proposes an amendment to §70.21, concerning adoption of the 1986 supplement to the uniform codes and the 1986 revisions to the standard codes. The amendment assures safety in the construction of industrialized housing and buildings. The effect of the amendment will be to assure that the construction of industrialized housing and buildings is in accordance with the latest standards for safe construction.

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

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

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

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

### §70.21. Amendments to Model Codes.

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

(d) **The Uniform Building Code, the Uniform Mechanical Code, and the Uniform Building Code Standards, 1985 editions, are hereby amended by adopting the 1986 supplement to the uniform codes, as promulgated by the International Conference of Building Officials, Inc.**

(e) **The Standard Building Code, the Standard Plumbing Code, the Standard Mechanical Code, and the Standard Gas Code, 1985 editions, are hereby amended by adopting the 1986 revisions to the standard codes, as promulgated by the Southern Building Code Congress International, Inc.**

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 February 20, 1987

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Larry E. Kosta  
Assistant Commissioner  
Texas Department of  
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For further information, please call  
(512) 463-3127.

## TITLE 19. EDUCATION

### Part I. Coordinating Board, Texas College and University System

#### Chapter 5. Program Development

##### Subchapter A. General Provisions

★ 19 TAC §5.6

The Coordinating Board, Texas College  
and University System proposes new §5.6,

concerning common calendar. When the  
common calendar was adopted in 1972,  
it was placed in Chapter 17, concerning  
campus planning. This action transfers it  
to a more appropriate section. It also up-  
dates certain language.

Bill Sanford, assistant commissioner for  
universities and research, has determined  
that for the first five-year period the pro-  
posed section will be in effect there will  
be no fiscal implications for state or lo-  
cal government or small businesses as a  
result of enforcing or administering the  
section.

Mr. Sanford also has determined that for  
each year of the first five years the sec-  
tion is in effect the public benefit anti-  
cipated as a result of enforcing the section  
will be that the section is more accessi-  
ble. There is no anticipated economic  
cost to individuals who are required to  
comply with the proposed section.

Comments on the proposal may be sub-  
mitted to Kenneth H. Ashworth, Coordi-  
nating Board, Texas College and University  
System, P.O. Box 12788, Austin, Texas  
78711.

The new section is proposed under House  
Concurrent Resolution 16, 65th Legisla-  
ture, 1981, which provides the Coordinat-  
ing Board with the authority to adopt  
rules regarding the common calendar.

##### §5.6. Common Calendar.

(a) Through fiscal year 1996-1997, the  
common calendar for public junior and  
senior colleges and universities shall be as  
follows:

Year	Fall Semester First class day Not later than the week of	Spring Semester First class day Not later than the week of	Summer Session Registration Begins Not later than
1986-87	Sept. 2	Jan. 19	June 1
1987-88	Aug. 31	Jan. 18	May 30
1988-89	Sept. 5	Jan. 16	June 5
1989-90	Sept. 4	Jan. 15	June 4
1990-91	Sept. 3	Jan. 14	June 3
1991-92	Sept. 2	Jan. 20	June 1
1992-93	Aug. 31	Jan. 18	May 31
1993-94	Aug. 30	Jan. 17	May 30
1994-95	Sept. 5	Jan. 16	June 5
1995-96	Sept. 4	Jan. 15	June 3
1996-97	Sept. 2	Jan. 13	June 2

(b) A semester normally shall include  
at least 15 weeks for instruction and one  
week for final examinations or a total of 16  
weeks instruction and examinations combined.  
Every fall semester will end before Christ-  
mas, but not later than December 23.

(c) The summer session shall be consid-  
ered an integral part of the college year and  
maximum use should be made of the sum-  
mer session. Each of the two summer terms  
shall include no less than 5½ calendar weeks,  
including registration, instructions, and final  
examinations. Colleges may register students  
for a normal load for each 5½ week sum-  
mer term. Colleges and universities may  
schedule summer enrollment periods longer  
or shorter than 5½ weeks, but the amount  
of credit given must be proportional.

(d) Each college and university shall  
establish its own dates for orientation, reg-  
istration, holidays, final examinations, and  
the end of each semester and summer term  
consistent with subsections (b) and (c) of this  
section.

(e) Continuing and substantial efforts  
shall be made to encourage public schools

to start their first activities of a school year  
on the third Monday in August and to com-  
plete all activities in a period of 41 weeks.

(f) The Texas Education Agency shall  
be notified of the calendar adopted and be  
encouraged to study the possible further co-  
ordination of school and college calendars.

(g) Nothing in this section shall be  
interpreted to preclude experimentation and  
innovation by any institution looking toward  
full utilization of facilities on a year-round  
basis.

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

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James McWhorter  
Assistant Commission-  
er for Administration  
Coordinating Board,  
Texas College and  
University System

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April 24, 1987

For further information, please call  
(512) 462-6420.

## Chapter 11. Texas State Technical Institute

### Subchapter A. Purpose and Authority

#### ★ 19 TAC §§11.01-11.06

The Coordinating Board, Texas College  
and University System proposes new  
§§11.01-11.06, concerning purpose and  
authority. Senate Bill 911 transferred  
powers and duties regarding Texas State  
Technical Institute (TSTI) from the Texas  
Education Agency to the Coordinating  
Board. There were no existing rules and  
regulations for TSTI at the Texas Educa-  
tion Agency (TEA) or at the Coordinating  
Board. In creating these new sections, the  
Coordinating Board is affirming its com-  
mitment to its mission as defined in leg-  
islation and will also be assuming its  
responsibilities as required in Senate Bill  
911. The new sections provide for the mis-  
sion and purpose of Texas State Techni-  
cal Institute (TSTI), for basic standards, and  
for operational procedures necessary for  
effective coordination of Texas State Tech-



nical Institute (TSTI) by the Coordinating Board.

Nellie Thorogood, assistant commissioner for community colleges and technical institutes, 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.

Ms. Thorogood 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 more effective coordination of vocational technical education at TSTI and within the state as a whole. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §135.03 and §135.04, which provides the Coordinating Board with the authority to adopt rules regarding purpose and authority.

**§11.01. Governance.** The Texas State Technical Institute is an institution of higher learning, controlled by a board of regents appointed by the governor and operated under statutory provisions as stated in the Texas Education Code, Chapter 135.

**§11.02. Role and Scope.** The role and scope of Texas State Technical Institute is to:

(1) provide occupationally oriented programs in highly technical and vocational areas;

(2) provide training programs for technical teachers, counsels, and supervisors;

(3) conduct manpower development and utilization research programs; and

(4) conduct these activities under the general control of the Coordinating Board, Texas College and University System, who shall provide prior approval of programs and courses.

**§11.03. Campuses.** The Texas State Technical Institute is a multi-campus system with system offices in Waco, Texas.

(1) Existing campuses are located in Cameron, McLennan, Nolan, and Potter Counties.

(2) New campuses may be created by legislative action.

(3) Any proposed statute establishing a new TSTI campus shall be submitted to the Coordinating Board prior to legislative approval. The board shall consider the state's need for an additional TSTI campus and report its findings to the governor and the legislature. A recommendation that an additional campus is needed requires the favorable vote of at least two-thirds of the board.

**§11.04. Extension Centers.**

(a) An extension center is an off-campus facility at which technical-vocational programs are conducted to provide accessibility to students in a designated geographic area.

(b) The Texas State Technical Institute may operate extension centers to provide technical-vocational programs as authorized in the Texas Education Code, Chapter 135.

(c) Criteria for the establishment and operation of extension centers are as follows.

(1) An extension center may be established as the means of delivering extension programs approved by the Coordinating Board when in the opinion of the Board of Regents it is essential and meets institutional policy and criteria for an extension center.

(2) The institute may operate the extension center by use of federal grants, state funds, or contracts with existing political subdivisions, state agencies, state institutions, federal agencies, private enterprises, or nonprofit corporations.

(3) Extension centers may be established and operated in any Texas county where the need exists as long as the need continues and funds are available to provide the training.

(4) The programs and services provided must be in accordance with the TSTI authorization for extension programs as specified in the Texas Education Code, Chapter 135.

(5) The programs and services offered must be of such extent as to require a full-time administrative supervisor and facilities for classrooms, shop, and laboratory instruction.

**§11.05. Other Instructional Activities.**

(a) The Texas State Technical Institute may operate apprenticeship training programs to include:

(1) journeymen upgrade training—a training program to upgrade skills of journeyman where new technology or equipment is being adopted for a craft;

(2) pre-apprenticeship training—a training program to enable persons not qualified to become apprentices to correct these deficiencies.

(b) The Texas State Technical Institute may operate new plant start-up and plant expansion training programs to provide specific job training and related instruction in the individual job categories required for a company to start operations in a new plant or expand its operations.

**§11.06. Funding.** State support for programs at Texas State Technical Institute is provided by biennial appropriations from the Texas Legislature. The Coordinating Board is responsible for the development of formulas by which technical and vocational programs, related academic programs, and facilities are supported.

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 February 17, 1987.

TRD-8701475

James McWhorter  
Assistant Commissioner  
Coordinating Board,  
Texas College and  
University System

Earliest possible date of adoption:

April 24, 1987

For further information, please call  
(512) 462-6420.

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**Subchapter B. Basic Standards**

**★ 19 TAC §§11.21-11.27.**

The Coordinating Board, Texas College and University System proposes new §§11.21-11.27, concerning basic standards. Senate Bill 911 transferred powers and duties regarding Texas State Technical Institute, (TSTI) from the Texas Education Agency (TEA) to the Coordinating Board. There were no existing rules and regulations for TSTI at TEA or at the Coordinating Board. In creating these new sections, the Coordinating Board is affirming its commitment to its mission as defined in legislation and will also be assuming its responsibilities as required in Senate Bill 911. The new sections provide for the mission and purpose of TSTI, for basic standards, and for operational procedures necessary for effective coordination of TSTI by the Coordinating Board.

Nellie Thorogood, assistant commissioner for community colleges and technical institutes, 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.

Ms. Thorogood 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 more effective coordination of vocational technical education at TSTI and within the state as a whole. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §135.03 and §135.04, which provide the Coordinating Board with the authority to adopt rules regarding basic standards

**§11.21. General Provisions.** The Texas State Technical Institute shall comply with the basic standards prescribed in this subchapter.

§11.22. *Approval of Courses and Programs.* Courses and programs wholly or partially financed from state funds are subject to the prior approval and continuing review of the Coordinating Board, Texas College and University System.

§11.23. *Admission.* A student may be admitted to the Texas State Technical Institute according to any one of the following conditions.

(1) A student may be admitted upon high school graduation.

(2) A student may be admitted upon successful completion of the General Educational Development Testing Program.

(3) A person who is 18 years of age or over may be admitted on "individual approval" to certificate programs, provided the admitting officer certifies that the applicant's record indicates ability to satisfactorily complete the required course work. Students admitted on this condition shall be subject to the same policies and regulations as all other students.

(4) A student who has completed the junior year of high school may, upon the recommendation of the high school principal, be permitted to enroll concurrently in the institute. The class load of such student shall not exceed the equivalent of 20 quarter hours, counting each high school course as the equivalent of one four-quarter hour course.

§11.24. *Qualification and Professional Growth of Faculty.*

(a) Faculty in the Texas State Technical Institute shall meet or exceed the current criteria of the College Delegate Assembly of the Commission on Colleges of the Southern Association of Colleges and Schools.

(b) It shall be the responsibility of the institute to maintain an inservice program to encourage professional growth and development.

(c) Part-time faculty shall meet the requirements and qualifications as required of regular full-time faculty. Part-time faculty shall be listed as bona fide members of the faculty and shall be subject to the same policies and regulations of the institute as the regular faculty or to such special policies and regulations as may be adopted by the Texas State Technical Institute board of regents.

§11.25. *Plant and General Facilities.*

(a) The location and construction of the buildings, the lighting, heating, ventilation, corridors, closets, water supply, furniture, apparatus, and the methods of cleaning and campus maintenance shall be such as to insure comfort, hygienic conditions and safety for students, faculty, other employees, and the general public.

(b) Classroom and laboratory space, equipment, lighting and ventilation shall be adequate for effective instruction in each of the courses offered by the institution. A plan of safety precaution shall be developed and observed.

(c) The library collections, including books, copies of bound and current periodicals, and audiovisual materials shall be sufficient in size and quality to insure effectiveness in the instructional program of the institute. Provisions must be made in the annual budget to keep the collection in good repair and to provide for continual improvement to meet current educational needs and trends. The inventory should be checked periodically with appropriate recognized library lists.

(d) The physical environment of the library shall be attractive and have adequate lighting, standard library furniture, fixtures and equipment, adequate seating capacity, and sufficient work space for the library staff.

(e) Residential facilities shall comply with the general provisions of plant and general facilities. Texas State Technical Institute shall provide housing, food service, and recreational facilities appropriate to the fulfillment of its role as a residential institution.

§11.26. *Student Activities and Services.*

(a) The entire program of student activities shall be under the supervision of the institution. The participation of students in such activities should be based upon interests, abilities, and maintenance of satisfactory standing in an instructional program. The general objectives of student activities should be to provide social and recreational activities appropriate to a residential institution. The finances of all activities shall be under the supervision of, and periodically audited by, the administration and reported to the governing board.

(b) The Texas State Technical Institute shall provide a program of counseling and guidance with services available to all the students for the purpose of aiding them in adjustment to attending the institute, appropriate placement in the curriculum, and general social adjustment.

(c) A testing program, which as a minimum makes use of the best known and more reliable instruments, shall be made available to students.

(d) Job placement and follow up services shall be provided.

§11.27. *General Character of the Institution.* The nature of the curriculum, efficiency of instruction, atmosphere for learning, standards for scholarship, requirements for graduation and general tone of the institution shall be factors in determining the efficiency and effectiveness of the institution.

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

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James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

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April 24, 1987

For further information, please call  
(512) 462-6420.

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## Subchapter C. Operational Provisions

### ★ 19 TAC §11.41-11.55

The Coordinating Board, Texas College and University System, proposes new §§11.41—11.55, concerning operational provisions. Senate Bill 911 transferred powers and duties regarding TSTI from the Texas Education Agency to the Coordinating Board. There were no existing rules and regulations for TSTI at TEA or at the Coordinating Board. In creating these new sections, the Coordinating Board is affirming its commitment to its mission as defined in legislation and will also be assuming its responsibilities as required in Senate Bill 911. The new sections provide for the mission and purpose of TSTI, for basic standards, and for operational procedures necessary for effective coordination of TSTI by the Coordinating Board.

Nellie Thorogood, assistant commissioner for community colleges and technical institutes, 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. Thorogood 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 more effective coordination of vocational technical education at TSTI and within the state as a whole. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §135.03 and §135.04, which provides the Coordinating Board with the authority to adopt rules regarding operational provisions.

§11.41. *General Provisions.* The Texas State Technical Institute shall comply with the operational provisions provided in this subchapter.

§11.42. *Organization*

(a) Texas State Technical Institute is a multi-campus system designed to serve the State of Texas. System offices are maintained in Waco, Texas, to provide such support services as are required to assure unified operations by autonomous campuses.

(b) Each campus operates with a maximum of autonomy within the management guidelines developed by the system and policy statements approved by the board of regents.

**§11.43. Eligibility of Students.** Students admitted to the institute in credit courses under §11.23 of this title (relating to Admission) and who are enrolled in courses formally approved may be counted in determining the student contact hours for appropriation purposes.

**§11.44. Instruction.**

(a) The Texas State Technical Institute is authorized to offer the following degrees and certificates.

(1) The Associate in Applied Science and the Associate in Applied Arts degrees are issued to students who complete occupational curriculums of collegiate level and character. The term "Applied" in an associate degree name is the distinguishing characteristic of the technical degree of collegiate rank.

(2) The certificate of completion is a technical or vocational certificate awarded to students who complete an occupational curriculum at less than the degree level.

(b) The transfer of credit for courses from Texas State Technical Institute to other public higher education institutions in Texas shall be in accordance with criteria established by the Coordinating Board or as determined by the receiving institution.

**§11.45. Curriculum Design.** Program curriculum will be designed by establishing a regional or statewide need for the technical-vocational program using standardized needs assessment and task inventory methodology. Guidance will be obtained from industry to ensure that programs meet the needs of the industry being served and that the program meets entry-level job requirements from the technical aspect and contain a component of general education to ensure the development of basic skills in the area of written and oral communications, mathematical computing and human relations. State funding will be provided for compensatory (developmental) education courses designed to fulfill the commitment of an admissions policy allowing the enrollment of disadvantaged students.

**§11.46. Counselor and Teacher Training.** The Texas State Technical Institute shall provide training programs for technical teachers and counselors. This may include inservice training or entry level training offered in cooperation with senior colleges having related bachelor degree programs for technical-vocation personnel. Such joint programs shall maximize student articulation through credit transfer.

**§11.47. Military Bases.** Texas State Technical Institute may offer programs or courses under the provisions of the Texas Education Code, §61.075 and §135.06, military bases to satisfy the request made by military officials. The institute shall follow

the procedures established for obtaining program/course approval. On-base programs and resident credit courses shall be administered by the same office or person administering these offerings on campus. All students enrolled in military base programs must meet the same standards applicable to students enrolling on the campus, and facilities and equipment for on-base courses and programs must be comparable to the facilities and equipment available for corresponding on-campus programs/courses.

**§11.48. Research and Studies.** The institute shall conduct manpower development and utilization research programs for identification of training and retraining needs and projected needs and for curriculum development, either individually or in cooperation with other public and private institutions.

**§11.49. Enrollment Reporting.** Class enrollments will be reported according to Coordinating Board regulations for all students enrolled at the Texas State Technical Institute in coordinating board-approved courses as of the official census date prescribed by the Coordinating Board. On or before the official census date, each student eligible for inclusion shall have paid in full the amount set as registration and student services fees by the institution's board of regents or, where applicable, have a valid accounts receivable on record.

**§11.50. Postsecondary Technical-Vocational Program Approval.** Technical and vocational programs of the Texas State Technical Institute shall be reviewed and approved or disapproved in accordance with the policies and procedures of Chapter 9, Subchapter G of this title (relating to Approval of Postsecondary Technical and Vocational Programs for State Appropriations to Community and Junior Colleges and Texas State Technical Institute).

**§11.51. Postsecondary Technical-Vocational Adult Course Approval.** Technical and vocational adult courses of the Texas State Technical Institute shall be reviewed and approved or disapproved in accordance with the policies and procedures of Chapter 9, Subchapter J of this title (relating to Approval of Postsecondary Technical and Vocational Courses for State Appropriations to Public Community Colleges and Texas State Technical Institute).

**§11.52. Apprenticeship Programs.** Apprenticeship training programs of the Texas State Technical Institute shall be reviewed and approved or disapproved in accordance with the policies and procedures of Chapter 9, Subchapter H of this title (relating to Postsecondary Apprenticeship Training Programs).

**§11.53. Contractual Agreements.** Contractual agreements for instruction by the Texas State Technical Institute shall conform

to the policies and procedures of Chapter 9, Subchapter I of this title (relating to Contractual Agreements).

**§11.54. Off-Campus Instructional Activities.** Technical-vocational programs may be offered at off-campus locations in accordance with Coordinating Board procedures.

**§11.55. New Plant Start-up and Plant Expansion Training.**

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

(1) New Plant Start-Up Training Program—A training program that provides specific job training and related instruction in the individual job categories required for a company to start operations in a new plant.

(2) Plant Expansion Training Program—A training program that provides specific job training and related instruction in the individual job categories required of a company which is expanding its operation.

(b) Policies.

(1) A new plant start-up or plant expansion training program may be associated with a TSTI campus pursuant to a written contract between the TSTI campus and a company which is either opening a new plant or expanding its operation and which will result in new jobs.

(2) The courses in a new plant start-up or plant expansion training program associated with TSTI and meeting the requirements established by the Coordinating Board may be approved as adult vocational courses.

(3) Instruction in new plant start-up and plant expansion programs may be approved under the following conditions.

(A) Related instruction must be supplemental to the on-the-job and technical training experience of the employee.

(B) The job training must involve development of manual skills and/or acquisition of technical knowledge.

(c) Procedures.

(1) A TSTI campus seeking approval for new courses required of a new plant start-up or plant expansion program must follow the procedures and meet the requirements established by the Coordinating Board for the approval of new adult vocational courses as outlined in Chapter 9, Subchapter J of this title (relating to Approval of Postsecondary Technical and Vocational Courses for State Appropriations to Public Community Colleges and Texas State Technical Institute).

(2) The TSTI campus must show evidence that the new plant start-up or plant expansion program is supported with an appropriately executed contract.

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

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James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

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April 24, 1987  
For further information, please call  
(512) 462-6420.

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## Chapter 17. Campus Planning Subchapter A. General Provisions

### ★ 19 TAC §17.1

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Coordinating Board, Texas College and University System, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Coordinating Board, Texas College and University System, proposes the repeal of §17.1, concerning common calendar. This section is repealed so that a new section can be written. The new section is transferred to Chapter 5, concerning program development. This action transfers it to a more appropriate section.

Gordon Flack, assistant commissioner for campus planning, 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. Flack also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more accessible new section. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The repeal is proposed under House Concurrent Resolution 16, 65th Legislature, 1981, which provides the Coordinating Board with the authority to adopt rules regarding the common calendar

#### §17.1. Common Calendar.

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 February 17, 1987

TRD-8701478

James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Proposed date of adoption.  
April 24, 1987  
For further information, please call  
(512) 462-6420

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## Subchapter B. Criteria for Approval of New Construction and Major Repair and Rehabilitation

### ★ 19 TAC §17.30

The Coordinating Board, Texas College and University System, proposes an amendment to §17.30, concerning provisions for emergency approval. The amendment reflects changes for requesting emergency approval of construction and major repair and rehabilitation projects costing more than \$300,000. If the total cost of a project approved by the Coordinating Board exceeds cost estimates by more than 10%, or if gross square footage is changed by more than 10% then the proposed project is subject to another review by the board or a special committee of the board as provided in subsection (a). During the past six years, the board has operated with guidelines that provide for projects with previous board approval to be resubmitted for review when final costs exceeded estimates by more than 20%. The amendment provides that total project costs not exceed the original estimate by more than 10%. The change is needed at this time since institutions are better able to estimate construction costs without inflationary pressures.

Gordon Flack, assistant commissioner for campus planning, 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. Flack 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 lower construction costs of proposed new or rehabilitation 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §61.05<sup>2</sup> which provides the Coordinating Board with the

authority to adopt rules regarding provisions for emergency approval.

### §17.30. Provisions for Emergency Approval.

(a) (No change.)

(b) Guidelines for requesting emergency approval of construction and major repair and rehabilitation projects costing more than \$500,000, and previously approved by the board are as follows.

(1) If the total cost of [bids on] a project approved by the Coordinating Board exceeds [exceeds] cost estimates by more than 10% [20%] or if gross square footage is changed by more than 10%, then the proposed project is subject to another review by the board or a special committee of the board as provided in subsection (a) of this section.

(2)-(6) (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.

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James McWhorter  
Assistant Commissioner  
for Administration  
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(512) 462-6420.

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## Chapter 21. Student Services Subchapter C. Hinson-Hazlewood College Student Loan Program for all Loans Made for or After Fall Semester, 1971 and Which are subject to the Provisions of the Guaranteed Student Loan Program and the Health Education Assistance Loan Program

### ★ 19 TAC §§21.54, 21.57, 21.59-21.62, 21.64

The Coordinating Board, Texas College and University System proposes amendments to §§21.54, 21.57, 21.59-21.62, and 21.64, concerning Hinson-Hazlewood College Student Loan Program for all loans made for or after fall semester, 1971 and which are subject to the provisions of the Guaranteed Student Loan Program and the Health Education Assistance Loan Program. The federal higher education amendments of 1986 increased the maximum loan limits in the Guaranteed Student Loan Program. Increased tuition and fees at Texas colleges and universities and the relationship between Hinson-Hazlewood college student loans guaran-

teed through the Guarantee Student Loan Program and through the Health Education Assistance Loan Program make the changes necessary. The effect of the change is to increase loan amounts to needy students at Texas colleges and universities to meet increased costs of higher education. The changes also will enable a student borrower pursuing a professional degree in certain health related fields to avoid the need for two lenders and two minimum repayments by fully using the increased loan amounts through the Hinson-Hazlewood College Student Loan Program.

Mack Adams, assistant commissioner for student services, 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. Adams 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 maintenance of opportunity for needy Texas students to pursue higher education and in some cases, retention of needy students in the higher education system. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, Chapter 52, which provides the Coordinating Board with the authority to adopt rules regarding the Hinson-Hazlewood College Student Loan Program for all loans made for or after fall semester, 1971, and which are subject to the provisions of the Guaranteed Student Loan Program and the Health Education Assistance Loan Program.

**§21.54. Loans.** All loans made under the Hinson-Hazlewood College Student Loan Act as amended, pursuant to Texas Constitution, Article II, §50b, shall be subject to the provisions of Title IV, Part B of the Higher Education Act of 1965, as amended, and the regulations thereof (34 [45] Code of Federal Regulations Parts 682 and 683 [Part 177]) except that supplemental loans guaranteed through the Health Education Assistance Loan Program shall be subject to Title VII, Part C, Subpart 1, of the Public Health Service Act, as amended, and the regulations thereof (42 [45] Code of Federal Regulations Part 60 [126]). Copies of these federal rules and statutes are on file in the offices of the Coordinating Board, P.O. Box 12788, Capitol Station, Austin, Texas 78711.

**§21.57. Amount of Loan.**

(a) Limit on reasonable expenses. The maximum amount of loan to any qualified

applicant in a fiscal year is dependent upon the applicant's level of study. Qualified undergraduate applicants and applicants described in §21.55(b) of this title (relating to Eligible Institution) and §21.56(c) of this title (relating to Qualifications for Loans) may borrow up to \$2,625 [\$2,500] of subsidized loan in a fiscal year for the first two years of undergraduate study and \$4,000 of subsidized loan in a fiscal year for subsequent undergraduate study. The minimum loan amount to applicants described in §21.55(b) of this title (relating to Eligible Institution) and §21.56(c) of this title (relating to Qualifications for Loans) is \$200. Qualified applicants enrolled in graduate or post-baccalaureate professional school may borrow a subsidized maximum of \$7,500 [\$5,000] in a fiscal year. Qualified students who have exhausted the maximum amount for subsidized loans are eligible for a supplemental loan to students (SLS) [an auxiliary loan to assist students (ALAS)] at an unsubsidized maximum of \$4,000 [\$3,000] in a fiscal year. Qualified students in pharmacy, medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, and public health, who have exhausted the maximum amount for subsidized loans, are eligible for a [supplemental] loan through the Health Education Assistance Loan Program (Heal). Qualified students in pharmacy are eligible for a Heal loan with a maximum principal amount of \$7,500 in a fiscal year; qualified students in medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, and public health are eligible for a HEAL loan with a maximum principal amount of \$20,000 [\$10,000] in a fiscal year. The amount of loan shall not exceed the amount that the student needs in order to meet reasonable expenses as a student. A change in either financial resources or reasonable expenses of the student which results in an increase in the financial need of the student may make the student eligible for additional loans. A change in either financial resources or reasonable expenses of the student which results in a decrease in the financial need of the student shall make the student responsible for the immediate repayment of any overcommitment of loan funds. Repayment may be restored to the fund by a cash payment or by the reduction of any pending loan disbursement to the student. Prior to certifying the loan, the authorized student financial aid official at the postsecondary institution shall make certain that the student is properly utilizing his or her eligibility for the PELL grant and all other forms of student assistance.

(b) Aggregate maximum of loan. The total outstanding principal balance for an undergraduate student and students described in §21.55(b) of this title (relating to Eligible Institution) and §21.56(c) of this title (relating to Qualifications for Loans) may not exceed \$17,250 [\$12,500]. Students enrolled in graduate or post-baccalaureate professional school may not have a subsidiz-

ed principal balance of more than \$54,750 [\$25,000] (including amounts borrowed at the undergraduate level). Graduate or post-baccalaureate professional students may not have an aggregate principal balance of more than \$20,000 [\$15,000] through the SLS [ALAS] Program. Aggregate principal amounts for [supplemental] loans guaranteed through the Heal Program may not exceed \$37,500 for qualified pharmacy students nor more than \$80,000 [\$50,000] for other qualified students.

**§21.59. Borrower Information.**

(a) (No Change.)

(b) The borrower shall notify the board immediately when he or she ceases to be enrolled at least half time, except that borrowers through the HEAL [supplemental loan] Program [(HEAL)] shall notify the board immediately when he or she ceases to be enrolled full time.

(c) The institution shall notify the board immediately when a borrower ceases to be enrolled at least half time except for borrowers through the HEAL [supplemental loan Program [(HEAL)]], in which case the institution shall notify the board immediately when a borrower ceases to be enrolled full time. A roster of student borrowers will be forwarded to each eligible institution by the board prior to the end of each enrollment period. Information on each student borrower shall be obtained in a form prescribed by the commissioner.

**§21.60. Payments to Student.** No payment shall be made to any student until he or she has executed a promissory note payable to the Texas opportunity plan fund for the full amount of any authorized loan plus interest, applicable insurance charges, and other fees as set forth in the Higher Education Act of 1965, Title IV, Part B, as amended, and the regulations thereof (34 [45] Code of Federal Regulations Parts 682 and 683 [Part 177]), or in the case of the Health Education Assistance Loan Program, Title VII, Part C, Subpart 1 of the Public Health Service Act, as amended, and the regulations thereof (42 [45] Code of Federal Regulations Part 60 [126]). The original of such executed promissory note shall be forwarded to the commissioner immediately. For the purposes of any contract executed by him or her, the defense that he or she was a minor at the time he or she executed a note shall not be available to him or her in any action arising on said note. No funds shall be distributed to an institution except to make payments to a student under a loan authorized by the Act.

**§21.61. Period of Loans**

Except as provided in §21.63 of this title (relating to Repayment by United States Secretary of Education and United States Secretary of Health and Human Services of Loans of Deceased or Disabled Borrowers) the principal amounts of all authorized loans shall be repaid in installments over a period

of not less than five years (unless sooner repaid) nor more than 10 years beginning not earlier than six months nor later than one year from [after] the date on which the student ceases to carry at an eligible institution at least 1/2 the normal full-time academic workload as determined by the institution for guaranteed student loans (GSL) and SLS [ALAS] and at least a full-time academic workload as determined by the institution for loans guaranteed through the Health Education Assistance Loan Program. Except as provided in §21.63 of this title (relating to Repayment by United States Secretary of Education and United States Secretary of Health and Human Services of Loans of Deceased or Disabled Borrowers), the period of the loan may not exceed 10 [15] years from the date the borrower enters repayment [execution of the note or written agreement evidencing it].

#### §21.62. Loan Interest.

(a) The interest rate to be charged for loans shall be set from time to time by the commissioner, and such interest shall accrue from the date of disbursement. Loans made pursuant to these rules are eligible for interest subsidy to be paid in accordance with Public Law 89-329, the Higher Education Act of 1965, as amended, and 34 [45] Code of Federal Regulations Parts 682 and 683 [Part 177].

(b) The interest rate for supplemental loans to students [auxiliary loans to assist students] shall be set from time to time by the commissioner, and such interest shall accrue from the date of disbursement. Interest becomes due and payable 60 days after the date of loan disbursement but may be forborne and accrued to the principal during in-school periods.

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

#### §21.64. Repayment of Loans.

(a)-(b) No Change

(c) The commissioner shall postpone required periodic installments of principal during any period authorized by applicable federal law. For loans guaranteed through the Guaranteed Student Loan Program, postponement periods are those described in the Higher Education Act of 1965, Title IV, Part B, as amended, and the regulations thereof (34 [45] Code of Federal Regulations Parts 682 and 683 [Part 177]) and, for loans guaranteed through the Health Education Assistance Loan Program, postponement periods are those described in the Public Health Service Act, Title VIII, Part C, Subpart 1, as amended, and the regulations thereof (42 [45] Code of Federal Regulations Part 60 [126]). Any such period shall not be included in determining the 10-year period [or the 15-year period] provided in §21.61 of this title (relating to Period of Loans). Interest on loans guaranteed through the Guaranteed Student Loan Program shall accrue during periods of postponement and be paid by the Federal Interest Subsidy Program; interest on loans guaranteed through the

Health Education Assistance Loan Program shall accrue during such periods and be paid by the borrower

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

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TRD-8701480 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

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April 24, 1987

For further information, please call  
(512) 463-6420

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### Subchapter E. Tuition Equalization Grants Program

#### ★ 19 TAC §21.126

The Coordinating Board, Texas College and University System, proposes an amendment to §21.126, concerning certification and disbursement procedure. The amendment modifies the method of allocating the tuition equalization grant funds to institutions from a method based on eligible enrollment to a method based on financial need of eligible students. Preliminary fund reservations to institutions will be based upon the financial need of eligible students rather than on total eligible enrollment. The change will be phased in during a period of four years.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Adams also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more equitable distribution of TEG awards among institutions. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, Chapter 61, Subchapter F, which provides the Coordinating Board with the authority to adopt rules regarding certification and disbursement procedure.

§21.126. Certification and Disbursement Procedure.

(a) (No change.)

(b) Disbursement of funds.

(1) To provide accessibility of funds to eligible students and to provide an orderly and timely method by which applicants may be notified of awards, the commissioner shall annually establish a preliminary fund reservation which each tuition equalization grants officer may certify to eligible students. Each preliminary fund reservation shall be based upon the amount of tuition equalization grant funds the school's full-time eligible student population could have qualified for in the previous school year, had the program been fully funded. The uniform methodology shall be used in assessing the need of students for use in determining preliminary funds reservations [number of full-time Texas resident students of appropriate classification enrolled in a program other than a theological or religion degree program in each approved institution in the preceding fall term]. Should any tuition equalization grants officer not certify grants totaling the amount of the preliminary fund reservation by December 1 of the fiscal year, then any uncertified funds shall be reallocated to meet the needs of eligible students applying for grants to other tuition equalization grants officers. Effective December 1 of each year, any uncommitted funds will be applied to individual applications on a first come/first serve basis. This processing will continue until all appropriated funds have been granted or until all eligible applicants have received grants. Funds freed due to warrant cancellations and refunds will be available for reuse by the involved institution until March 15, at which time remaining funds will revert to processing on a first come/first serve basis as described in this subsection.

(2) In 1987-1988, 75% of each preliminary fund reservation will be based upon the number of eligible full-time students enrolled in each approved institution in the preceding fall term, and 25% of the preliminary fund reservations will be based on the amount of tuition equalization grant funds the school's full-time eligible student population could have qualified for in the previous school year, had the program been fully funded. In 1988-1989, 50% of the preliminary fund reservations will be based upon the number of eligible full-time students enrolled in each approved institution in the preceding fall term, and 50% of the preliminary fund reservations will be based on the amount of tuition equalization grant funds the school's full-time eligible student population could have qualified for in the previous school year, had the program been fully funded. In 1989-1990, 25% of the preliminary fund reservations will be based upon the number of eligible full-time students enrolled in each approved institution in the preceding fall term, and 75% of the preliminary fund reservations will be based on the amount of tuition equalization grant funds the school's full-time eligible student population could have qualified for in the

previous school year, had the program been fully funded. Data used for determining preliminary funds reservations for the 1987-1988 school year were gathered in fall 1986, and include needs assessed on uniform methodology basis when available but need assessed on eligible students for whom no uniform methodology analysis was available. Data used for determining preliminary fund reservations for school years 1988-1989 and beyond will be based upon the uniform methodology needs analysis only. This temporary provision will be dropped from the rules after it becomes obsolete.

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

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TRD-8701481 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

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April 24, 1987

For further information, please call  
(512) 462-6420

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## Subchapter J. The Physician Student Loan Repayment Program

### ★ 19 TAC §21.259

The Coordinating Board, Texas College and University System, proposes an amendment to §21.259, concerning qualifications for student loan repayment. The amendment encourages a greater number of participants in the program and prohibit participation in other similar programs simultaneously. The effects of the amendment will be to open the program up to a broader spectrum of physicians, to prevent physicians from profiting by receiving repayments from this program and similar programs simultaneously, and to more fairly distribute funds that become available for repayment of student loans through other similar programs.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Adams 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 increased numbers of physicians entering medical practice and remaining in medical practice in four state

agencies or in economically depressed or medically underserved areas of Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711

The amendment is proposed under the Texas Education Code, Chapter 61, Subchapter J, which provides the Coordinating Board with the authority to adopt rules regarding qualifications for student loan repayment.

§21.259. *Qualifications for Student Loan Repayment.* The commissioner may authorize, or cause to be authorized, repayment of student loans made to an eligible physician who shows evidence of a strong service commitment and who:

(1) (No change.)

(2) **has not applied for nor is receiving repayments for service through another student loan repayment program** [has completed postgraduate medical education not earlier than June, 1984];

(3) (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

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TRD-8701482 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board  
Texas College and  
University System

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April 24, 1987

For further information, please call  
(512) 462-6420.

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## Subchapter K. The Good Neighbor Scholarship Program

### ★ 19 TAC §21.288

The Coordinating Board, Texas College and University System, proposes an amendment to §21.288, concerning selection procedures. This amendment gives an opportunity for applicants for the good neighbor scholarship to know earlier if they received an award. The amendment was recommended by the Texas Association of International Student Advisors. Institutions will now submit recommendations for the awards earlier: by March 15 for fall/spring awards and by March 1 for summer awards.

Mack Adams, assistant commissioner for student services, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government

or small businesses as a result of enforcing or administering the section

Mr. Adams 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 students will now have an opportunity to know earlier if they received an award. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §54.207, which provides the Coordinating Board with the authority to adopt rules regarding selection procedures.

§21.288. *Selection Procedures.* Each year eligible institutions may submit scholarship recommendations to the board. Applications for fall-spring awards must be submitted to the board no later than **March** [April] 15; summer awards, no later than **March** [April] 1.

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

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Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

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April 24 1987

For further information, please call  
(512) 462-6420

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## Subchapter L. Congressional Teacher Scholarship Program

### ★ 19 TAC §21.301—§21.324

The Coordinating Board, Texas College and University System, proposes new §§21.301—21.324, concerning Congressional Teacher Scholarship Program. The new sections provide administrative guidelines of the new federal program specifically for Texas. The new sections enable implementation of the program in Texas by defining responsibilities of scholars, high schools, colleges, and the Coordinating Board.

Mack Adams, assistant commissioner for student services, 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. Adams 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 increased numbers of certified teachers entering the teaching field, especially in shortage areas, and increased numbers of high school graduates choosing to become teachers. 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 Kenneth H. Ashworth, Coordinating Board, Texas College and University System, P.O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §61.068, which provides the Coordinating Board with the authority to adopt rules regarding Congressional Teacher Scholarship Program.

**§21.301. Purpose.** The purpose of the Congressional Teacher Scholarship Program is to provide scholarships to enable and encourage outstanding high school graduates who demonstrate an interest in teaching to pursue teaching careers at the pre-school, elementary, or secondary level.

**§21.302. Administration.** The Coordinating Board, Texas College and University System, or its successor or successors, shall administer the Congressional Teacher Scholarship Program

**§21.303. Delegation of Powers and Duties.** The board delegates to the commissioner of higher education the powers, duties, and functions of the Act, as provided in this subchapter.

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

**Academic year**—The period of time during which a full-time student is expected to complete the equivalent of one of the following:

- (A) two semesters;
- (B) two trimesters;
- (C) three quarters.

**Act**—The Higher Education Act of 1965, as amended.

**Approved Teacher Education Program**—A teacher education program whose graduates are eligible for certification as a teacher by the Texas State Board of Education.

**Award year**—The period of time from July 1 of one year through June 30 of the following year.

**Board**—The Coordinating Board, Texas College and University System.

**Capitalized interest**—Unpaid accrued interest added to the principal amount.

**Commissioner**—The commissioner of higher education, the chief executive officer of the board.

**Cosigner**—A cosigner of a promissory note executed under the authority of the Congressional Teacher Scholarship Program shall be a person signing a note, other than the loan recipient, who is over 21 years of age and who is gainfully employed or otherwise demonstrates financial responsibility. Such a person may be a relative, except a spouse, and may not be a student. A cosigner is jointly and severally responsible for all promissory notes issued through the program and signed by the maker and him or herself.

**Full-time student**—A student enrolled in an institution of higher education, other than a correspondence school, who is carrying a fulltime academic workload as determined by the institution under standards applicable to all students enrolled in that student's program.

**Fund**—The congressional teacher scholarship fund.

**Resident of Texas**—A bona fide resident of Texas as defined in the Texas Education Code, §§54.052, 54.054, and 54.055. Non-residents classified as Texas residents for purposes of paying Texas resident tuition and fees are excluded.

**Scholar**—A scholarship recipient.

**Scholarship**—An award made to an individual under this subchapter for one academic year.

**Scholarship period**—The period of time for which the scholarship is intended.

**Teacher shortage area**—As defined by the Texas State Board of Education.

**The Governor's Committee**—A seven member statewide panel appointed by the governor for the purpose of selecting scholarship recipients.

**§21.305. Scholarship.** All scholarships awarded through the Congressional Teacher Scholarship Program are subject to the provisions of the Higher Education Act of 1965, Title V, Part E, as amended, and the regulations thereof (34 Code of Federal Regulations Part 653). Copies of these federal rules and statutes are on file in the offices of the board.

**§21.306. Eligible Institutions of Higher Education.**

(a) **Criteria.** An eligible institution shall be any Texas institution of higher education within the State of Texas which:

- (1) admits as regular students only those persons having a certificate of graduation from a school providing secondary education or the recognized equivalent of such certificate;
- (2) is legally authorized within the state to provide a program of education beyond secondary level;
- (3) provides an educational program for which it awards at least an associate degree;
- (4) is a public or other nonprofit institution;

(5) is accredited by the Southern Association of Colleges and Schools; and

(6) is an institution which has its parent campus within the State of Texas.

(b) Evidence of institution's accreditation status. If the institution is placed on public probation by the appropriate accrediting agency, scholars applying for scholarships shall provide evidence of knowledge of the school's accreditation status as a condition to receiving the scholarship.

(c) Students attending other institutions. Any student attending an institution other than an eligible institution, as set forth in subsection (a) of this section, shall not be eligible for a scholarship from the congressional teacher scholarship fund. Scholars who continue to seek certification through an ineligible institution are responsible for repaying the scholarship.

(d) Designation of institutional representative. Unless otherwise specified by the chief executive officer of the institution, the Hinson-Hazlewood College Student Loan Program officer shall serve as the Congressional Teacher Scholarship Program officer, shall be the board's on-campus agent to certify all institutional transactions and activities with respect to the fund, and shall be responsible for all records and reports reflecting the transactions with respect to the fund.

(e) Discrimination by an eligible institution prohibited. Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

**§21.307. Qualifications for Scholarships.**

(a) **Criteria.** The commissioner may authorize, or cause to be authorized, scholarships to qualified students at any eligible institution, provided the applicant:

- (1) is a United States citizen or national as defined in 34 Code of Federal Regulations 653.30;
- (2) is a resident of Texas as defined in these regulations;
- (3) has graduated from high school or is scheduled to graduate within three months of the award; or has received a certificate of high school equivalency for successfully completing the test of general educational development (GED);
- (4) ranks in the top 10% of his or her graduating class; or has GED test scores recognized by the state as being equivalent to ranking in the top 10% of high school graduates in Texas, or nationally, in the academic year for which the eligibility determination is being made;
- (5) is enrolled full-time in an eligible institution and is pursuing a course of study leading to certification as a classroom teacher; graduate study that is not required for initial certification is not included;
- (6) has not defaulted on or owe a refund on any state or federal aid; and
- (7) has been counseled by the program officer regarding responsibilities to the



scholarship program and has signed a statement acknowledging such.

(b) Duplication of aid prohibited. Under no circumstances is a person to be considered for a congressional teacher scholarship if he or she receives either a teacher education loan or a future teacher loan during the same period.

**§21.308. Criteria for Selecting Scholars.** From among the qualified applicants, the scholars will be selected using the following criteria:

- (1) high school grade point average (GPA) or GED score as applicable;
- (2) SAT or ACT score;
- (3) subject area:

(A) highest priority to those pursuing a field of study in which there is a shortage of teachers as identified by the Texas State Board of Education;

(B) next priority to those pursuing a field of study other than those mentioned in subparagraph (A) of this paragraph;

(4) financial need as determined by the financial aid administrator at the institution of higher education to be attended by the scholar;

(5) enrollment in an approved teacher education program; and

(6) rank given by the governor's committee based on an essay, extracurricular activities, and a teacher recommendation. In evaluating the essays, first priority will be given to applicants who express a willingness or a desire to teach in schools having less than average academic results or having large numbers of economically disadvantaged students.

**§21.309. Award Amounts.** The maximum award to each scholar may be \$5,000 for each academic year, not to exceed four years. The amount of the award will be reduced by the financial aid director at the eligible institution to a level that will not create an overaward condition. If a scholarship, when added to the amount the scholar is to receive for the same academic year under Title IV of the Act, would otherwise exceed the scholar's cost of attendance as defined for the National Direct Student Loan Program in 34 Code of Federal Regulations 674.11, the program officer shall reduce the scholarship by the amount in which the combined awards would be in excess of the scholar's cost of attendance. Subsequent scholarships will also require certification of the award amount by the financial aid office.

**§21.310. Criteria for Subsequent Scholarships.** In order to be considered for subsequent scholarships qualified applicants:

(1) must maintain an overall 3.0 grade point average on a 4.0 scale in all college course work;

(2) must maintain an overall 3.0 grade point average on a 4.0 scale in the scholar's major subject area;

(3) must receive certification by the program officer that the subsequent scholar-

ship will not result in an overaward;

(4) must be re-ranked if the major is switched to a major with a lower weight in the ranking; and

(5) will not be re-ranked by the governor's committee.

**§21.311. Application Priority Deadlines.** A system of priority deadlines will be administered by the board to process applications.

(1) Initial applications arriving at the board on or before April 1 of each year will be given equal priority. Applications received after that date will be processed on a first come-first served basis until funds are depleted.

(2) Subsequent scholarship applications must be received by the board on or before April 1 to ensure the qualified applicant of receiving the full scholarship for which he or she is eligible, provided funds are available.

(3) Eligible applications received after April 1 will be honored as long as funds are available and applications for subsequent scholarships will receive priority. If available funds are insufficient to honor all applications for subsequent scholarships, scholarships will be awarded on the basis of each scholar's ranking.

**§21.312. Notification of Availability of Congressional Teacher Scholarship.** The financial aid director at each participating institution shall annually inform the dean of the school of education at that institution of the availability of the congressional teacher scholarship funds.

**§21.313. Expenditure of Funds.** In each award year, the board, if possible, will expend all program funds received from the federal government for that award year and all funds received prior to that award year from principal or interest payments, except that the board may reserve for expenditures in the following award year an amount less than \$5,000 as well as any funds awarded but returned or not expended.

**§21.314. Payments to Students.**

(a) No payment shall be made to any scholar until he or she has executed a promissory note payable to the fund for the full amount of any authorized scholarship plus interest and other fees. The scholar also must obtain the signature of a cosigner and execute a commitment to teach in a public or private nonprofit pre-school, elementary, or secondary school in any state or in a public pre-school, elementary, or secondary education program in any state. The original of such executed promissory note and commitment to teach shall be forwarded immediately to the commissioner.

(b) For the purpose of any contract executed by the scholar, the defense that he or she was a minor at the time he or she executed a promissory note shall not be available to him or her in any action arising on said note.

**§21.315. Student Status.**

(a) If, during a scholar's enrollment, the scholar ceases to pursue teacher certification, the program officer must notify the board promptly. Further, the program officer must notify the board when a scholar ceases to be enrolled and provide the board with information on how to locate the borrower.

(b) A roster of scholars will be forwarded to each eligible institution by the board prior to the end of each enrollment period. Information on each scholar shall be obtained in a form prescribed by the commissioner.

**§21.316. Scholarship Conditions.** To receive a scholarship, a scholar shall enter into an agreement with the board under which he or she agrees to the following:

(1) teach on a full-time basis as determined by the institution or agency for which the scholar is teaching, for a period of not less than two years for each year in which scholarship assistance was received or in an area designated by the U.S. secretary of education as provided by the Higher Education Act, §428(b) (4), as amended, one year for each year of scholarship assistance was received in one of the following:

(A) a public or private nonprofit pre-school, elementary, or secondary school in any state;

(B) a public pre-school, elementary, or secondary education program in any state;

(2) fulfill the teaching obligation described in paragraph (1) of this section within 10 years after completing the post-secondary education degree program for which the scholarship was awarded;

(3) pursue a course of study leading to certification at the preschool, elementary, or secondary level as determined by the Texas State Board of Education, but not including graduate study that is not required for initial teacher certification;

(4) provide the board evidence of compliance with paragraphs (1)—(3) of this section;

(5) repay the amount of the scholarship received, prorated according to the fraction of the teaching obligation not completed, as determined by the board, and pay interest and reasonable collection fees if the condition of paragraphs (1)—(4) of this section are not met.

(6) maintain eligibility for this scholarship the scholar through the following:

(A) enroll as a full-time student in an eligible institution;

(B) pursue a course of study leading to certification at the pre-school, elementary, or secondary level as determined by the Texas State Board of Education, but not including graduate study that is not required for initial teacher certification; and

(C) maintain satisfactory progress as determined by the institution of

higher education that the scholar is attending.

**§21.317. Noncompliance With the Scholarship Conditions.** If the board determines that the scholar is not complying with the scholarship conditions in §21.316 of this title (relating to Scholarship Conditions), then the board will treat the scholarship as a loan as stated in the signed promissory note.

**§21.318. Period of Loan.** The principal amounts of loans shall be repaid in installments over a period of not more than 10 years. (See §21.320 (of this title relating to Repayment of Loans).)

**§21.319. Loan Interest.**

(a) Loan interest for scholars who fail to teach or who do not comply with scholarship conditions. Simple interest shall begin to accrue on the loan evidenced by the promissory note on the day which the funds are disbursed.

(b) Loan interest for scholars who fulfill a portion of the teaching obligation. Simple interest will begin to accrue on the loan evidenced by the promissory note on the day after that portion of the scholarship period for which the teaching obligation has been fulfilled.

(c) Interest rate. The interest rate shall be at an annually adjusted rate which is the greater of 14% or 5.0% above the 91-day United States Treasury bill rate for the most recent quarter ending March 31. The interest rate charged during the repayment period is the greater of these rates determined when the repayment schedule is established.

(d) Capitalized interest. The board shall capitalize any accrued unpaid interest at the time it establishes the scholar's repayment schedule.

**§21.320. Repayment of Loans.** A scholar shall begin repayment on the first day of the first calendar month after:

(1) the board determines that the scholar has ceased to pursue a course of study leading to certification as a teacher at the pre-school, elementary, or secondary level, but not before six months have elapsed after the cessation of the scholar's full-time enrollment in such a course of study;

(2) the date the scholar informs the board that he or she does not plan to fulfill the teaching obligation;

(3) the latest date, as determined by the board, on which the scholar must begin teaching in order to have completed the teaching obligation within 10 years after completing the postsecondary education for which the scholarship was awarded.

**§21.321. Minimum Repayment Amounts.**

(a) Although loans may be prepaid at any time without penalty, repayment shall begin as provided in §21.320 of this title (relating to Repayment of Loans) and shall extend over such period authorized in §21.318 of this title (relating to Period of Loan).

(b) The board will provide a repayment schedule calling for the minimum payment amount sufficient to repay all loans made under this subchapter over the maximum authorized period. Annual repayments will amount to no less than \$1,200 or the unpaid balance, whichever is less, unless the scholar's inability to pay this amount because of his or her financial condition has been established to the satisfaction of the board. The board shall not require repayments amounting to more than \$1,200 annually, unless higher payments are needed to complete the entire repayment within the 10-year period referred to in §21.318 of this title (relating to Period of Loan).

**§21.322. Deferments.**

(a) To qualify for any deferments, the scholar must notify the board of his or her claim to a deferment and submit written proof acceptable to the board that he or she is:

(1) engaged in a full-time course of study at an institution of higher education;

(2) serving, not in excess of three years, on active duty as a member of the armed services of the United States;

(3) temporarily totally disabled, for a period not to exceed three years, as established by a sworn affidavit of a qualified physician;

(4) unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) seeking and unable to find full-time employment as a teacher in a public or private nonprofit pre-school, elementary, or secondary school or in a public or private nonprofit pre-school, elementary, or secondary education program and unable to satisfy the terms of the repayment schedule.

(b) The board shall extend the 10 year loan repayment period by a period equal to the length of any deferment granted by the board. If the scholar proves his or her financial hardship to the board's satisfaction then the board may extend the 10 year loan repayment period for a period as determined by the board.

(c) During the time a scholar qualifies for any of the deferments in subsection (a) of this section, he or she need not make scholarship payments.

**§21.323. Enforcement of Collection.**

(a) When a scholar who has received a loan authorized by this law shall have failed or refused to make as many as six monthly payments due in accordance with a promissory note(s), then the full amount of remaining principal, interest, and/or late charges shall immediately become due and payable. The scholar's name and last known address and other information as requested by the commissioner shall be reported to the attorney general. Suit for the remaining sum shall be instituted by the attorney general or any

county or district attorney acting for him in the county of the scholar's residence or in Travis County, unless the attorney general shall find reasonable justification for delaying suit and shall so advise the commissioner in writing.

(b) Upon notification by the commissioner of default on this loan, the educational institution shall cause the records, including transcripts of the scholar, to become unavailable to him or her or any other person outside the institution until the participating institution has been notified by the commissioner that such default has been corrected. Should the default continue beyond at least 60 days from the date suit service was obtained, the commissioner will cause a judgment to be entered which may be filed in the county records where the service was obtained and will release such judgment once the scholar has completed the repayment of the debt as stipulated in the judgment.

(c) In all cases of default, the scholar will be responsible for the payment of principal and all accrued charges, including interest, late charges, skiptracing fees, court costs, and attorney fees.

**§21.324. Provisions for Disability and Death.** The board shall cancel a scholar's repayment obligations if it determines:

(1) on the basis of a sworn affidavit of a qualified physician, that the scholar is unable to teach on a full-time basis because of an impairment that is expected to continue indefinitely or result in death; or

(2) on the basis of a death certificate, or other evidence of death that is conclusive under state law, that the scholar has died.

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 February 17, 1987.

TRD-8701484

James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas University  
System

Proposed date of adoption.

April 24, 1987

For further information, please call  
(512) 462-6420

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## Part II. Texas Education Agency

### Chapter 77. Comprehensive Instruction

#### Subchapter B. General Education Program

##### ★ 19 TAC §77.26

(Editor's note: The Texas Education Agency proposes for permanent adoption the new

section it adopts on an emergency basis in this issue. The text of the section is published in the Emergency Rules section of this issue.)

The Texas Education Agency proposes new §77.26, concerning pilot and demonstration projects in concurrent enrollment in institutions of higher education.

The proposed new section allows school districts to apply to the commissioner of education for approval to establish a program in which students could earn college credit while meeting high school graduation requirements. Section 75.167, High School Credit for College Courses, permits students to earn high school credit for college courses and this proposal would make no change in that section. The new section is designed to permit programs which are more innovative than those currently operating, which may be for at risk students as well as for the gifted and talented, and which may require more regulatory flexibility than do current programs.

Lynn M. Moak, deputy commissioner for research and information, 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. Moak and Dr. Beverly Bardsley, director for policy development, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to enable school districts to establish concurrent enrollment programs to meet the needs of their students more effectively. 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 Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

This new section is proposed under the Texas Education Code, §21.101(e), which directs the State Board of Education to provide for curriculum options to allow districts to address local needs.

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 February 18, 1987.

TRD-8701572

W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption.

April 11, 1987

For further information, please call  
(512) 463-9212

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## Chapter 81. Instructional Resources

### Subchapter D. State Textbook Program

#### State Adoption, Acquisition, and Custody of Textbooks

##### ★ 19 TAC §81.137

The Texas Education Agency proposes new §81.137, concerning availability of textbooks.

The school districts have experienced some difficulty in getting prompt responses to their orders for textbooks, especially when books are in the last one or two years of the contract period.

The proposed new rule would require each publisher to keep all adopted textbooks in stock and available for distribution to local school districts for the entire term of the textbook contract. Violations of the new section may be just cause for the State Board of Education to refuse to allow a publisher to participate in the current adoption period.

Lynn M. Moak, deputy commissioner for research and information, 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. Moak and Dr. Beverly, director for policy development, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that textbooks will be available for the use of Texas students throughout the contract period. 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 Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

This new section is proposed under the authority of the Texas Education Code,

§12.24, which authorizes the State Board of Education to make rules for the adoption and use of textbooks in Texas public schools.

##### §81.137. Availability of Textbooks.

(a) Each publisher is required to have adopted textbooks in stock and available for distribution to local school districts throughout the entire adoption period. The commissioner of education shall report the number of back ordered textbooks by publisher to the State Board of Education at the meeting when textbooks are adopted by the board. A back order is a textbook that is not in stock in the depository when ordered and is not available for distribution to the local school districts.

(b) Violation of this section may be just cause for the State Board of Education to refuse to allow a publisher to participate in the adoption process.

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 February 18, 1987.

TRD-8701573

W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption.

April 11, 1987

For further information, please call  
(512) 463-9212.

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## Chapter 149. Education Personnel Development

### Subchapter C. Appraisal of Certified Personnel

##### ★ 19 TAC §149.43

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

The Texas Education Agency proposes an amendment to §149.43, concerning teacher appraisal procedures. The amendment deletes the requirement for professional growth plans to be developed for any domain judged satisfactory at the end of the second appraisal period. Instead, it is proposed that a professional growth plan must be developed for any domain judged less than satisfactory at the end of the first appraisal period. A professional growth plan must be developed or modified for any teacher whose overall summary performance score is less than satisfactory. At the teacher's request, a plan must be developed or modified if the teacher's overall summary performance score is satisfactory.

Lynn M. Moak, deputy commissioner for research and information, 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. Moak and Dr. Beverly Bardsley, director for policy development, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to reduce the burden of preparation of growth plans. 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 Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

This amendment is proposed under the Texas Education Code, §13.302, which directs the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder level assignments purposes.

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 February 18, 1987

TRD-8701574 W. N. Kirby  
Commissioner of  
Education

Proposed date of adoption  
April 11, 1987  
For further information, please call  
(512) 463-9212.

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## TITLE 22. EXAMINING BOARDS

### Part XVII. Texas State Board of Plumbing Examiners

#### Chapter 365. Licensing

##### ★22 TAC §365.1

The Texas State Board of Plumbing Examiners proposes an amendment to §365.1, concerning the licensing of master plumbers. The amendment prohibits master plumber licensees from using anyone to perform plumbing work except those holding a plumbing license. A violation of

the amendment would subject the master plumber to board disciplinary measures.

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

Mr. Brown also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a decrease in the amount of plumbing work performed by unlicensed individuals; an increase in the overall quality of plumbing work; and a higher level of public confidence in the work of master plumbers. In addition, mandating the use of only licensed plumbers would tend to provide more equity in bidding competitively for plumbing work. 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 Lynn Brown, Administrator, Texas State Board of Plumbing Examiners, 929 East 41st Street, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, §5(a), which provides the Texas State Board of Plumbing Examiners with the authority to prescribe, amend, and enforce all rules and regulations necessary to carry out the Act.

§365.1 *License Categories; Description; Scope of Work Permitted.* The board shall establish three separate license categories, described as follows.

(1) Master plumber—a license which entitles the individual to enter into contracts or agreements to perform plumbing work and which assigns the individual responsibility for plumbing which occurs under such contracts or agreements, or under his supervision. **A master plumber's use of unlicensed individuals to perform plumbing work is an abuse of this license and will subject the licensee to disciplinary action by the board.**

(2) (No change.)

(3) (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 February 18, 1987.

TRD-8701491 Lynn Brown  
Administrator  
Texas State Board of  
Plumbing Examiners

Earliest possible date of adoption:  
March 30, 1987  
For further information, please call  
(512) 458-2145.

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## Chapter 367. Enforcement

### ★22 TAC §367.3

The Texas State Board of Plumbing Examiners proposes an amendment to §367.3, concerning the display of license. The amendment requires each licensee to maintain and display the license on his person while engaged in work.

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

Mr. Brown also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be more efficient on-site checking of plumbing licenses, resulting in less work interruption and some saving of time. This would allow more on-site checks to be made, ensuring that plumbing work is being performed by properly licensed individuals. 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 Lynn Brown, Administrator, Texas State Board of Plumbing Examiners, 929 East 41st Street, Austin, Texas 78765.

The amendment is proposed under Texas Civil Statutes, Article 6243-101, §5(a), which provides the Texas State Board of Plumbing Examiners with the authority to prescribe, amend and enforce all rules and regulations necessary to carry out the Act.

§367.3. *Display of License.* Each licensee shall display his license in his place of business but [or] shall maintain and display the license on his person while engaged in work.

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 February 18, 1987.

TRD-8701492 Lynn Brown  
Administrator  
Texas State Board of  
Plumbing Examiners

Earliest possible date of adoption:  
March 30, 1987  
For further information, please call  
(512) 458-2145.

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## Chapter 573. Rules of Professional Conduct

### ★22 TAC §573.31

The Texas Board of Veterinary Medical Examiners proposes an amendment to

§573.31, concerning rabies control. The amendment provides for information to be included on rabies tags.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to make information concerning an animal's rabies vaccinations readily available to consumers. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Donald B. Wilson, Executive Secretary, Texas Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756. (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §8(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to adopt, alter, or amend rules of professional conduct appropriate to establish and maintain a high standard of integrity.

§573.31. *Rabies Control.*

(a) Each Texas licensed veterinarian shall keep a record of each rabies vaccination administered by him for at least three years. The record of said vaccination shall include the date administered, animal's breed, age, approximate weight, name, color, owner, the vaccine expiration date, together with its serial number. The name, address, and telephone number of the administering veterinarian, along with his signature and license number, shall be included. **The tag shall include serial number, clinic name, or veterinarian's name, telephone number, address, and the title "Rabies."**

(b) (No change.)

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

Issued in Austin, Texas, on February 19, 1987.

TRD-8701580 Donald B. Wilson  
Executive Secretary  
Texas Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
March 30, 1987

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

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## Chapter 575. Practice and Procedure

### ★ 22 TAC §575.13

The Texas Board of Veterinary Medical Examiners proposes an amendment to §575.13, concerning reporters and transcript. The amendment provides for payment of court transcripts in contested cases.

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

Mr. Wilson also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to require respondents in contested cases to pay for a copy of the transcript of the agency's proceedings when appealing. The anticipated economic cost to individuals who are required to comply with the proposed section will be \$3.00 to \$5.00 per page of transcript, depending on length of hearing, court report utilized, and other factors.

Comments on the proposal may be submitted to Donald B. Wilson, Executive Secretary, Texas Board of Veterinary Medical Examiners, 3810 Medical Parkway, Suite 119, Austin, Texas 78756, (512) 458-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act.

#### §575.13 *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.** [The original transcript shall be delivered to the executive secretary not more than 14 working days after the close of the hearing. A stenographic reporter may sell a copy of a transcript if the stenographic reporter first submits a written request to the executive secretary containing:

[(1) the full name and address of the party requesting the copy;  
(2) the number of pages in the transcript; and  
(3) the cost of the copy to the party.]

(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 February 19, 1987.

TRD-8701581 Donald B. Wilson  
Executive Secretary  
Texas Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
March 30, 1987

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

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 157. Emergency Medical Care

##### Denial and Revocation of Emergency Medical Service Certificates and Certifications

### ★ 25 TAC §157.22, §157.24

The Texas Department of Health proposes to repeal §157.23, concerning criteria for revocation of coordinator, instructor, and/or examiner certification, §157.25 concerning criteria for denial of certification and recertification, and §157.65, concerning procedure for denial of certification or recertification; to amend §157.22, concerning procedures for revocation/suspension of certificate, §157.24, concerning procedures for revocation of coordinator, instructor, and/or examiner certification, §157.63, concerning certification, §157.64, concerning recertification, §157.66, concerning general requirements for vehicle permits, §157.67, concerning basic life support vehicle requirements for a permit, §157.68, concerning advanced life support vehicle requirements for a permit, §157.69, concerning mobile intensive care unit requirements for a permit, §157.70, concerning delegation of vehicle inspection, §157.71, concerning emergency suspension, suspension, and revocation of a permit, §157.74, concerning certifying of persons with criminal backgrounds to be emergency medical services personnel, §157.76, concerning continuing education, §157.77, concerning EMS training program and course approval, and §157.78, concerning certification of course coordinator, program instructor, and examiner; and to adopt new §157.23, concerning criteria for revocation, suspension, and probation of course coordinator, program instructor, and/or examiner certification.

The various amendments will clarify and update the subjects covered by the titles to the sections being amended. In addition, the amendments will standardize procedures concerning emergency medical care services in both the department's

central office in Austin, and in the department's public health region offices throughout the state. The proposed addition of §157.63(g)-(h) concerning certification is significant. Proposed new subsection (g) will make it possible for an individual to complete a refresher course, after a failure on a retest and then reapply for certification. Proposed new subsection (h) will enable an individual to complete a refresher course and reapply for certification should he or she fail the examination after the initial course. To qualify under this subsection the applicant must apply no later than four years after completion of the initial course. The proposed repeal of §157.23 and the adoption of a new §157.23 will update and clarify the provisions concerning the criteria for revocation, suspension, and probation of course coordinator, program instructor, and/or examiner certification. The proposed repeal of §157.65 will remove provisions concerning criteria and procedures relating to denial of certification and recertification which are no longer applicable.

Stephen Seale, chief accountant III, has determined that there will be fiscal implications for the first five years as a result of enforcing or administering the sections. The effect on local government will be limited to §157.66 of the proposed amendments, as follows:

Estimated reduction in cost of \$21,550 in 1988; \$21,550 in 1989; \$21,550 in 1990; \$21,550 in 1991; and \$21,550 in 1992. The enforcing or administering of the remaining proposed amendments will have no fiscal implication for local government for the first five year period the sections will be in effect. There will be no adverse economic effect on state government or small businesses.

Mr. Seale also has determined that for each year of the first five years the sections as proposed is in effect the public benefits anticipated as a result of enforcing the sections as proposed will be the clarification of department requirements for the training, certification, recertification, and decertification of EMS personnel, and a clarification of department requirements for the issuance of ambulance permits. These clarifications will answer many inquiries from the public regarding these amendments since their adoption. These amendments also will assist the department in standardizing procedures both in the department and the public health regional offices. 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 Eugene L. Weatherall, Jr., Chief, Bureau of Emergency Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756-3199. Comments will be accepted for 90 days after publication of these amendments in the *Texas Register*. In addition, a public hear-

ing will be held on the proposed amendments at 10 a.m., Friday, April 3, 1987, conference room, La Mansion Hotel, 6505 North IH 35, Austin, Texas.

The new sections are proposed under Texas Civil Statutes, Article 4447o, §§3.02, 3.03, and 3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Service Act. The amendments are proposed under Texas Civil Statutes, Article 4447o, §§3.02, 3.03, and 3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Services Act.

*§157.22. Procedure for Decertification and [Revocation] Suspension of Certificate.*

(a) If the bureau proposes to decertify, suspend, and/or place on probation a certificant, the bureau shall notify the certificant by **registered or certified mail at his or her last known address as shown in the bureau's records. The notice must state the alleged facts or conduct to warrant the action and state that the certificant has an opportunity to request a hearing.**

(b) The certificant may request a hearing within 15 days after the date of the notice. This request **shall be in writing and [should be] submitted to the bureau chief. If a hearing is requested, the [A] hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §1.21-1.32 of this title (relating to Formal Hearing Procedures).**

(c) If the certificant does not request a hearing[,] in writing[,] after receiving the notice of the proposed decertification, suspension, and/or probation, the certificant is deemed to have waived the opportunity for a hearing, **and the proposed action will be taken.**

*§157.24. Procedure for Revocation/Suspension of Coordinator, Program Instructor, and/or Examiner Certification.*

(a) **If the bureau proposes to revoke, suspend, and/or place on probation a course coordinator, program instructor, or examiner, the bureau shall notify the coordinator, program instructor, or examiner by registered or certified mail at his or her last known address as shown in the bureau's records. The notice must state the alleged facts or conduct to warrant the action and state that the coordinator, program instructor, or examiner has an opportunity to request a hearing.** [The coordinator, instructor, or examiner shall be notified by registered or certified mail at his or her last known address as shown in the Bureau of Emergency Management's records of the facts of conduct alleged to warrant revocation.]

(b) The coordinator, program instructor, or examiner may request a hearing within 5 [20] days after notice. This request **shall be in writing and [should be] submitted to the chief of the Bureau of Emergen-**

cy Management. **A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §1.21—1.32 of this title (relating to Formal Hearing Procedures.)**

(c) **If the coordinator, program instructor, or examiner does not request a hearing in writing after receiving the notice of the proposed action, the coordinator, program instructor, or examiner is deemed to have waived the opportunity for a hearing, and the proposed action will be taken.**

[(c) A hearing shall be scheduled no later than 30 days after a request is received, and the coordinator, instructor, or examiner shall be given 10 working days notice of the date, time, and place of the hearing.

[(d) A hearing examiner from the Texas Department of Health shall preside. A record of the hearing shall be made by tape recording.

[(e) At the hearing, all parties may respond and present evidence and argument on all relevant issues.

[(f) The hearing examiner shall make a recommendation to the commissioner of health who shall render the final decision within 30 days of the hearing.]

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 February 17, 1987

TRD-8701436

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

Proposed date of adoption:

June 27, 1987

For further information, please call  
(512) 465-2601.

★ ★ ★

★ 25 TAC §157.23

The new section is proposed under Texas Civil Statutes, Article 4447o, §§3.02, 3.03, and 3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Service Act.

*§157.23. Criteria for Revocation, Suspension, and Probation of Course Coordinator, Program Instructor, and/or Examiner Certification.*

(a) Course coordinator.

(1) Revocation. The department may revoke a course coordinator certificate for, but not limited to, the following reasons, if it finds that the course coordinator:

(A) fails to maintain EMS personnel certification at the appropriate level;

(B) fails to maintain recertification requirements as in §157.78(a)(4) of this title (relating to Certification of Course

Coordinator, Program Instructor, and Examiner);

(C) falsifies the application for course coordinator certification;

(D) falsifies the course coordinator completion documents;

(E) repeats an offense which resulted in suspension and/or probation of the certificate as in paragraphs (2) and (3) of this subsection;

(F) cheats on the department's course coordinator examination;

(G) compromises the course examination process;

(H) fails to maintain the integrity of the course;

(I) falsifies the course approval application.

(2) Suspension. The department may suspend a course coordinator certificate for, but not limited to, the following reasons, if it finds that the course coordinator:

(A) allows the use of inadequate equipment and/or inadequate class presentations;

(B) demonstrates lack of supervision of program instructors and/or guest instructors;

(C) fails to process the course application and student documents within the time frames established in §157.77 of this title (relating to EMS Training Program and Course Approval) and §157.63 of this title (relating to Certification);

(D) fails to maintain professionalism in the course.

(3) Probation. For just and sufficient reasons presented by the certificant, the department may probate the suspension. Examples of just and sufficient cause may include:

(A) history of previous outstanding courses;

(B) extenuating circumstances which affected the action of the certificant; and

(C) consideration of the needs of local service and/or area with regard to EMS personnel training.

(b) Program instructor.

(1) Revocation. The department may revoke a program instructor certificate for, but not limited to, the following reasons, if it finds that the program instructor:

(A) fails to maintain EMS personnel certification at the appropriate level;

(B) fails to maintain recertification requirements as in §157.78(b)(4) of this title (relating to Certification of Course Coordinator, Program Instructor, and Examiner);

(C) falsifies the application for certification;

(D) compromises the course examination process;

(E) repeats an offense which resulted in suspension and/or probation of the certificate as described in paragraphs (2) and (3) of this subsection.

(2) Suspension. The department

may suspend a program instructor certification for, but not limited to, the following reasons, if it finds that the program instructor:

(A) fails to maintain professionalism in the course;

(B) fails to attend scheduled classes;

(C) fails to adhere to the knowledge objectives of the curricula required in §157.77 of this title (relating to EMS Training Program and Course Approval).

(3) Probation. For just and sufficient reasons presented by the certificant, the department may probate the suspension. Examples of just and sufficient cause may include:

(A) history of previous outstanding course conduct;

(B) extenuating circumstances which affected the action of the certificant; and

(C) consideration of the needs of local service and/or area with regard to EMS personnel training.

(c) Examiner.

(1) Revocation. The department may revoke an examiner certification for, but not limited to, the following reasons, if it finds that the examiner:

(A) fails to maintain EMS personnel certification at the appropriate level;

(B) compromises the department's skill examination standards;

(C) fails to conduct the skills examinations in an objective manner;

(D) fails to complete the department's skills examination forms;

(E) fails to maintain recertification as required in §157.78(c)(5) of this title (relating to Certification of Course Coordinator, Program Instructor, and Examiner);

(F) repeats an offense which resulted in suspension and/or probation of the certificate as described in paragraphs (2) and (3) of this subsection.

(2) Suspension. The department may suspend an examiners certification for, but not limited to, the following reasons, if it finds that the examiner:

(A) fails to attend assigned examination sessions;

(B) fails to maintain professionalism in the examination process.

(3) Probation. For just and sufficient reasons presented by the certificant, the department may probate the suspension. Examples of just and sufficient cause may include:

(A) history of previous outstanding examinations;

(B) extenuating circumstances which affected the action of the certificant; and

(C) consideration of the needs of local service and/or area with regard to EMS personnel certification or recertification examinations.

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 February 17, 1987.

TRD-8701433

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

Proposed date of adoption:

June 27, 1987

For further information, please call  
(512) 465-2601.

★ ★ ★  
★ 25 TAC §157.23, §157.25

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 4447c, §§3.02, 3.03, and 3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Service Act.

§157.23. *Criteria for Revocation of Coordinator, Instructor, and/or Examiner Certification.*

§157.25. *Criteria for Denial of Certification and Recertification.*

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 February 17, 1987.

TRD-8701435

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

Proposed date of adoption:

June 27, 1987

For further information, please call  
(512) 465-2601.

★ ★ ★  
Emergency Medical Services

★ 25 TAC §§157.63, 157.64,  
157.66-157.71, 157.74, 157.76-  
157.78

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

The amendments are proposed under Texas Civil Statutes, Article 4447c, §§3.02, 3.03, and 3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Service Act.

**§157.66. General Requirements for Vehicle Permits.**

[(a) A vehicle holding a valid permit prior to January 1, 1984, issued under the authority of Texas Civil Statutes, Article 4590b, shall be deemed permitted under the requirements of this title until either the original expiration date of the permit or until December 31, 1985, whichever is earlier.]

(a)[(b)] Permit application.

(1) (No change.)

(2) Permit renewal.

(A) The bureau shall notify the EMS provider 60 days prior to the expiration date of a vehicle permit. **If a provider does not receive notice of expiration from the bureau, it is the duty of the provider to notify the bureau and request a permit renewal application. Failure to apply for renewal shall result in expiration of the permit.**

(B) (No change.)

(b)[(c)] Fees.

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

(c)[(d)] Inspections.

(No change.)

(2) The inspection shall include:

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

(D) Visual inspection of vehicle design, as follows:

(i) patient compartment shall have two door openings in working condition; one door in the rear shall have a minimum opening of 44 inches wide and one door shall be curb side;

(ii)-(iv) (No change.)

(v) all windows in the patient compartment shall be intact, in working condition, and free from substantial defects.

(E) visual and mechanical inspection of vehicle physical dimensions, in addition to the vehicle type specifications in §§157.67-157.69 of this title (relating to Basic Life Support Vehicle Requirements for a Permit, Advanced Life Support Vehicle Requirements for a Permit, and Mobile Intensive Care Unit Requirements for a Permit), as follows:

(i) overall length of the vehicle shall not exceed 22 feet [including bumper, but] excluding rear step and bumpers;

(ii)-(iii) (No change.)

(iv) lowest part of the vehicle when loaded to the gross vehicle weight (GVW) shall have a minimum of six inches of ground clearance. The vehicle's body components shall provide a minimum of eight inches of running clearance.]

(F) **The exhaust system shall be free of any defects and leaks from any component in the exhaust system.** [Confirmation of yearly carbon monoxide monitoring records maintained by the EMS provider, indicating no more than 50 parts/million; and in addition the exhaust system shall:

[(i) be free of any defects and leaks from any component in the exhaust system; and

[(ii) discharge at the side(s) of the vehicle away from fuel tank filler pipe(s) and patient compartment door openings.]

(G) visual inspection of safety equipment as follows:

(i) one five pound ABC or one 2.5 pound halogen fire extinguisher with current inspection tag attached; accessible and securely mounted in the patient compartment and location clearly marked;

(ii)-(iv) (No change.)

(H) (No change.)

(3)-(4) (No change.)

(d)[(e)] Permits shall be issued for the following types of vehicles:

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

(e)[(f)] A permit is not transferable from one vehicle to another.

(f)[(g)] A reserve vehicle which is not routinely used as an EMS vehicle shall apply for a permit under this section. The application shall include a request for a variance in §157.72 of this title (relating to Request for Variances from Minimum Standards).

(g) **If a permitted vehicle is unable to be operated by a provider because of a mechanical failure or damage to the vehicle caused by an accident, the provider may request the use of a vehicle that is currently permitted to another provider upon the consent of the providers and with the approval of the bureau. The bureau may approve the use of the vehicle upon finding that the loss of the inoperable or damaged vehicle would limit the availability of emergency medical services and endanger the public health.**

(1) A provider may request the bureau to approve the use of another provider's vehicle for a period not to exceed 120 days. The provider shall relinquish the permit on the inoperable vehicle and submit to the bureau an application for a temporary use permit and a \$25 fee.

(2) The vehicle shall be equipped and staffed in accordance with the terms of the temporary use permit while such temporary use permit is in effect. The temporary use permit shall expire at the end of the term as specified in the temporary use permit or when the vehicle is returned to the primary permittee, whichever is sooner.

(3) The bureau may authorize operation of the vehicle before receipt of the application and fee if the bureau finds that there is an urgent need to have the vehicle available for services.

**§157.67. Basic Life Support Vehicle Requirements for a Permit.**

(a) Staffing requirements. **A basic life support (BLS) vehicle, when in service, shall be staffed with at least two emergency care attendants.** [The staffing requirements for a BLS vehicle, when in service shall be:

[(1) from January 1, 1984, through December 31, 1984, with at least two individuals, one of whom shall be trained to the emergency care attendant level and the other shall be the vehicle driver; and

[(2) on and after January 1, 1985, with at least two emergency care attendants.]

(b) Provision of advanced care. **In order to encourage the availability of advanced life support, a BLS vehicle may be used to**

**provide advanced life support (ALS) level of care when staffed at the advanced life support level on an intermittent basis. A BLS vehicle must elect to provide intermittent ALS services at the time of its application for a permit under §157.66 of this title (relating to General Requirements for Vehicle Permits) and meet all requirements for an ALS vehicle permit under §157.68 of this title (relating to Advanced Life Support Vehicle Requirements for a Permit) except that the EMS provider shall not be required to provide ALS level of care 24 hours a day, seven days per week.** [Advanced life support level of care may be provided on a BLS vehicle when the vehicle:

[(1) is staffed by an SS-EMT or P-EMT acting under medical supervision; and

[(2) has proper advanced life support equipment.]

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

**§157.68. Advanced Life Support Vehicle Requirements for a Permit.**

(a) Staffing requirements. The requirements for staffing on an advanced life support (ALS) [ALS] vehicle shall be:

(1) the EMS provider shall be capable of providing this level of care 24 hours per day, seven days per week **and the provider shall make available such records or information as requested by the department to confirm the availability of certified EMS personnel to provide this level of care;**

(2)-(3) (No change.)

(b) (No change.)

(c) Required equipment. ALS required equipment shall include all BLS equipment as provided in §157.67(c) of this title (relating to Basic Life Support Requirements for a Permit) **except, however, the poison kit may contain those items required by the EMS provider's medical director and shall be listed and signed by the EMS provider's medical director and [plus] the following which shall be clean and in working order:**

(1)-(6) (No change.)

[(7) pneumatic anti-shock trousers in adult and pediatric sizes (waiver may be granted for medical director restrictions.)]

(d) Recommended equipment. The following equipment is recommended for ALS:

(1)-(9) (No change.)

(10) **pneumatic anti-shock trousers in adult and pediatric sizes.**

**§157.69. Mobile Intensive Care Unit Requirements for a Permit.**

(a) Staffing requirements. The requirements for staffing a mobile intensive care unit (MICU) shall be:

(1) The EMS provider shall be capable of providing this level of care 24 hours per day, seven days per week **and the provider shall make available such records or information as requested by the department to confirm the availability of certified EMS personnel to provide this level of care;**

(2)-(3) (No change.)

(b) (No change.)

(c) Required equipment. Mobile inten-



sive care unit required equipment shall include all ALS equipment as provided in §157.68 (c) of this title (relating to Advanced Life Support Vehicle Requirements for a Permit), plus the following which shall be clean and in working order:

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

(3) telemetry for medical control-waiver may be granted for geographical, technical, or medical director restrictions.]

(d) Recommended equipment. The following equipment is recommended for a MICU:

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

(9) paper bags; and

(10) telemetry for medical control.

§157.70. *Delegation of Vehicle Inspections.*

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

(c) Nothing in this section shall limit the authority of the department to conduct an EMS vehicle inspection of any vehicle that has an application for a permit pending.

§157.71. *Emergency Suspension, Suspension, and Revocation of a Permit.*

(a) (No change.)

(b) Nonemergency suspension.

(1) Reasons for suspension. An EMS vehicle permit may be suspended for the following reasons:

(A) the vehicle is not or has not been staffed in compliance with the Act and these rules;

(B) (No change.)

(C) the vehicle is not or has not been equipped in compliance with these rules; and

(D) (No change.)

(2) Notification. If the bureau proposes to suspend a permit, the bureau shall notify the permittee by registered or certified mail at his or her last known address as shown in the bureau's records. The notice must state the alleged facts or conduct to warrant the action and state that the permittee has an opportunity to request a hearing. [The permittee shall be notified in writing of the proposed suspension or revocation and be given an opportunity to request a hearing in accordance with §§1.21-1.32 of this title (relating to Formal Hearing Procedures).]

(3) Hearing request.

(A) The permittee may request a hearing within 15 days after the date of the notice. This request shall be in writing and submitted to the bureau chief. If a hearing is requested, the hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §1.31 of this title (relating to Formal Hearing Procedures). [If the permittee does not request a hearing, in writing within 10 days, after receiving the notice of opportunity, the permittee is deemed to have waived the opportunity for a hearing and the permit shall be suspended for at least 10 days.]

(B) If the permittee does not request[s] a hearing, the permittee is deemed to have waived the opportunity for hearing

and [the findings are upheld,] the permit shall be suspended for at least 10 days.

(C) If the permittee requests a hearing and the findings are upheld, the permit shall be suspended at least 10 days.

(c) Revocation.

(1) (No change.)

(2) Notification. If the bureau proposes to revoke a permit, the bureau shall notify the permittee by registered or certified mail at his or her last known address as shown in the bureau's records. The notice must state the alleged facts or conduct to warrant the action and state that the permittee has [The permittee shall be notified in writing of the proposed revocation and be given] an opportunity to request a hearing in accordance with §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(3) (No change.)

§157.74. *Certifying of Persons with Criminal Backgrounds to be Emergency Medical Services Personnel.*

(a) (No change.)

(b) Criminal convictions which directly relate to the profession of EMS personnel.

(1) The department may decertify or suspend [or revoke] existing certification, disqualify a person from receiving a certificate, or deny to a person the opportunity to be examined for a certificate because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of EMS personnel.

(2) (No change.)

(c) Procedures for decertifying [revoking], suspending, or denying a certificate to persons with criminal backgrounds.

(1) If the bureau proposes to decertify [revoke], suspend, or deny a certificate based on the criteria in subsection (b) of this section, the bureau shall notify the individual by mail sent registered or certified to his or her last known address as shown in the bureau's records of the facts or conduct alleged to warrant the intended action. If the proposed action is to decertify or suspend a certificate, the procedural requirements of §157.22 of this title (relating to the Procedures for Decertification and Suspension of Certificate) shall be applicable.

(2) The individual may request a hearing within 5 [30] days after the date of the notice. This request shall be submitted to the bureau chief. A hearing shall be conducted pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.32 of this title (relating to Formal Hearing Procedures).

(3) If the individual does not request a hearing in writing after receiving the notice of proposed denial, the individual is deemed to have waived the opportunity for a hearing, and the proposed action will be taken.

(4) If the department decertifies [revokes], suspends, or denies a certificate under these rules after hearing, the bureau chief will give the person written notice:

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

§157.76. *Continuing Education.*

(a) Continuing education is required for recertification. There are three options available for each level of certification. The certificant shall complete one of the three options to meet the requirements in §157.64 of this title (relating to Recertification). [If a certificant chooses to complete the requirements of §157.64 of this title (relating to Recertification) and this section prior to 180 days of the certificant's expiration date, a certificant shall be recertified for four years commencing on the date of issuance of a new certificate and wallet-sized card.] The requirements are as follows:

(1) Emergency care attendant (ECA) level of certification.

(A) Option I. The accumulation of 40 [48] contact hours, approved by the department, Categories I-IV as in subsection (b) of this section, over the certification period.

(B) Option II. The successful completion of a department approved 20 [24] hour refresher course, once every two years.

(C) Option III. Any combination of Options I and II which totals 40 [48] contact hours or more per certification period.

(2)-(4) (No change.)

(b) (No change.)

§157.77. *EMS Training Program and Course Approval.*

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

(d) Course curricula.

(1) ECA training course.

(A) (No change.)

(B) The course shall include [The student shall be required to complete] a minimum of 40 hours of formalized instruction on the approved curricula.

(2) B-EMT training course.

(A) (No change.)

(B) The course shall include [The student shall be required to complete] a minimum of 100 hours of formalized instruction on the approved curricula.

(C)-(D) (No change.)

(3) SS-EMT training course.

(A) (No change.)

(B) The course shall include [The student shall be required to complete] a minimum of 60 hours of formalized instruction on the approved curricula.

(C)-(E) (No change.)

(4) P-EMT training course.

(A) The minimum curriculum for the P-EMT training course shall be the DOT national training course emergency medical technician-paramedic, as adopted by reference, in subsection (b)(1)(C) of this section except, however, those objectives pertaining to the use of rotating tourniquets shall be included as an optional skill and the optional skills may be included or excluded at the discretion of the course medical director.

(B) The course shall include [The student shall be required to complete] a minimum of 160 hours of formalized instruction

on the approved curricula.

(C)-(E) (No change.)

(5) P-EMT completion training course.

(A) The minimum curriculum for the P-EMT completion training course shall be the DOT national training course emergency medical technician-paramedic, as adopted by reference in subsection (b)(1)(C) of this section except, however, those units contained in the SS-EMT training course as in subsection (d)(3)(A) of this section, and those objectives pertaining to the use of rotating tourniquets shall be included as an optional skill and the optional skills may be included or excluded at the discretion of the course medical director.

(B) The course shall include [The student shall be required to complete] a minimum of 100 hours of formalized instruction on the approved curricula.

(C)-(E) (No change.)

(e) (No change.)

§157.78. *Certification of Course Coordinator, Program Instructor, and Examiner.*

(a) Course coordinator. A course coordinator is an individual who has the overall responsibility for conducting an emergency medical services (EMS) training course. A course coordinator may be certified as a basic course coordinator, as an intermediate course coordinator or as an advanced course coordinator. A basic course coordinator shall coordinate an emergency care attendant (ECA) or basic emergency medical technician (B-EMT) training course. An intermediate course coordinator shall coordinate a special skills emergency medical technician (SS-EMT) training course, but may coordinate an ECA or B-EMT training course. An advanced course coordinator shall coordinate a [special skills emergency medical technician (SS-EMT) or] paramedic-emergency medical technician training course, but may coordinate an ECA, a B-EMT, or a SS-EMT training course.

(1) A course coordinator candidate shall:

(A) have the following qualifications:

(i) be currently certified as at least a B-EMT to be a basic coordinator except, however, in areas of need with approval of the bureau, an ECA may qualify as a coordinator candidate and after completion of the requirements of this section may coordinate an ECA course; [or]

(ii) be currently certified as an SS-EMT to be an intermediate course coordinator; or

(iii)[ii] be currently certified as at least a P-EMT to be an advanced course coordinator; or

(iv)[iii] be a licensed physician or licensed registered nurse (R.N.); or

(v)[iv] be either a department certified program instructor and/or examiner;

(B)-(D) (No change.)

(E) complete one course after which the candidate shall be evaluated on his

ability to conduct a course.

(2)-(4) (No change.)

(b) Program instructor. A program instructor is an individual who is responsible to the course coordinator and shall conduct the skills and/or didactic portion of an EMS training course. A program instructor may be certified as a basic program instructor, as an intermediate program instructor or as advanced program instructor. A basic program instructor shall teach the skills and/or didactic content required in the ECA and B-EMT training course and may teach the basic skills required in the SS-EMT and P-EMT training course. An intermediate program instructor shall teach the skills and/or didactic content required in the SS-EMT training course. An advanced program instructor shall teach the skills and/or didactic content required in the [SS-EMT or] P-EMT training course and may teach the skills and/or didactic content required in the SS-EMT training course.

(1) A program instructor candidate shall:

(A) have the following qualifications:

(i) be currently certified as at least a B-EMT to be a basic program instructor except, however, in areas of need with approval of the bureau, an ECA may qualify as a program instructor candidate and after completion of the requirements of this section may instruct in an ECA course; [or]

(ii) be currently certified as at least a SS-EMT to be an intermediate program instructor; or

(iii)[ii] be currently certified as a P-EMT to be an advanced program instructor; or

(iv)[iii] be a currently licensed physician or R.N.;

(B)-(D) (No change.)

(2)-(4) (No change.)

(c) Examiner. An examiner is an individual who conducts the skills examination, required for EMS personnel certification, under the direction of the department. An examiner may be certified as a basic examiner, as an intermediate examiner or as an advanced examiner. A basic examiner shall conduct the basic skills examinations for ECA and B-EMT level of certification and may conduct the basic skills examination for SS-EMT and P-EMT level of certification. An intermediate examiner shall conduct the advanced skills examinations required for SS-EMT level of certification. An advanced examiner shall conduct the advanced skills examinations required for [SS-EMT and] P-EMT level of certification and may conduct the advanced skills examinations required for SS-EMT level of certification.

(1) an examiner candidate shall:

(A) have the following qualifications:

(i) (No change.)

(ii) be currently certified as a SS-EMT to be an intermediate examiner;

(iii)[ii] be currently certified as a P-EMT to be an advanced examiner; or

(iv)[iii] be a currently licensed physician or R.N.;

(B)-(D) (No change.)

(2)-(5) (No change.)

(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 February 17, 1987.

TRD-8701434

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

Proposed date of adoption:

June 27, 1987

For further information, please call  
(512) 465-2601.

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★ 25 TAC §157.65

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 4447o, §§3.02, 3.03, and 3.04, which provide the Texas Board of Health with the authority to adopt rules to implement the Emergency Medical Service Act.

§157.65. *Procedure for Denial of Certification or Recertification.*

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 February 17, 1987.

TRD-8701432

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

Proposed date of adoption:

June 27, 1987

For further information, please call  
(512) 465-2601.

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**TITLE 34. PUBLIC FINANCE**  
**Part I. Comptroller of Public Accounts**  
**Chapter 3. Tax Administration**  
**Subchapter V. Bingo Regulation and Tax**

**★34 TAC §3.561**

The Comptroller of Public Accounts proposes new §3.561, concerning interview requirements regarding personal interviews with all license applicants by the Comptroller of Public Accounts. The interviews are intended to assist the comptroller in determining that the applicant understands fully its responsibilities under the Bingo Enabling Act and the rules and regulations promulgated thereunder.

This new section is proposed so interviews may be extended to license applications now pending.

John Moore, director of revenue estimating for the comptroller, 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. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to lessen the cost of administration of the bingo tax to both taxpayers and the state and to make the administration of the tax more efficient. There is negligible anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Johnnie B. Rogers, Jr., Manager, Bingo Regulation, P.O. Box 13528, Austin, Texas 78711.

This new section is proposed under Texas Civil Statutes, Article 179d, which provide that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

**§3.561. Interview Requirements.** Each applicant for a bingo license, whether as a conducting organization, lessor, manufacturer, distributor, or representative, and whether such application be for an original license or renewal of an existing license, may be required to appear for an interview with a representative or representatives of the Comptroller of Public Accounts. The comptroller will designate those persons required to be present and will designate the location of the interview. The purpose of this interview is to make sure the applicant is aware of and understands fully its duties and responsibilities under the Bingo Enabling Act

and the rules and regulations promulgated thereunder, and for the comptroller to be assured by the applicant that all operations of the applicant relating to bingo will be conducted in accordance with the Act. The comptroller may refuse to issue or renew an annual license based on the conclusions resulting from this interview.

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 February 20, 1987.

TRD-8701584      Bob Bullock  
 Comptroller of Public  
 Accounts

Earliest possible date of adoption:  
 March 30, 1987

For further information, please call  
 (512) 463-4004.

★      ★      ★

**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**  
**Part III. Texas Youth Commission**  
**Chapter 103. Student Remedies**  
**Complaints Regarding Abuse or Neglect**

**★37 TAC §103.41**

*(Editor's note: The Texas Youth Commission proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the repeal is published in the Emergency Rules section of this issue.)*

The Texas Youth Commission proposes the repeal of §103.41 concerning complaints regarding abuse or neglect. This section proposed for repeal states procedures for submitting and investigating abuse or neglect complaints. The new §103.41, entitled Suspect Mistreatment, is concurrently proposed to replace this section.

Neil Nichols, assistant executive director for professional services, has determined that for the first five-year period the proposed repeal 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 repeal.

Mr. Nichols also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be improved services to TYC wards. 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 Neil Nichols, assistant executive director for professional services, Texas Youth Commission, P.O. Box 9999, Austin, Texas 78766.

The repeal is proposed under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to accomplishment of its function.

**§103.41. Procedure.**

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 February 20, 1987.

TRD-8701562      Ron Jackson  
 Executive Director  
 Texas Youth Commission

Earliest possible date of adoption:  
 March 30, 1987

For further information, please call  
 (512) 452-8111, ext. 390.

★      ★      ★

**★37 TAC §103.41**

*(Editor's note: The Texas Youth Commission proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is published in the Emergency Rules section of this issue.)*

The Texas Youth Commission proposes new §103.41, concerning suspected mistreatment. This new section replaces old §103.41 repealed simultaneously entitled. This proposed new section expands the scope of the former rule to include Texas Youth Commission responsibility and procedure for reporting, investigating, and remedying complaints of abuse, neglect, and improper child care practices resulting in harm to a TYC ward. The new section includes new information on prohibition of retaliatory action; confidentiality; and notification of parental authority, law enforcement, and the Office of Youth Care Investigation.

Neil Nichols, assistant executive director for professional services has determined that there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Nichols also has determined that for each year of the first five years the rule as proposed section is in effect the public benefit anticipated as a result of enforcing the section will be decreased incidents of abuse, neglect, and improper child care of TYC wards through a more efficient investigation procedure. There is no anticipated economic cost to individuals who are required to comply with the section.

Comments on the proposal may be submitted to Neil Nichols, Assistant Executive Director for Professional Services, Texas Youth Commission, Post Office Box 9999, Austin, Texas 78766.

The new section is proposed under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to accomplish its functions by providing a safe environment for TYC wards.

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

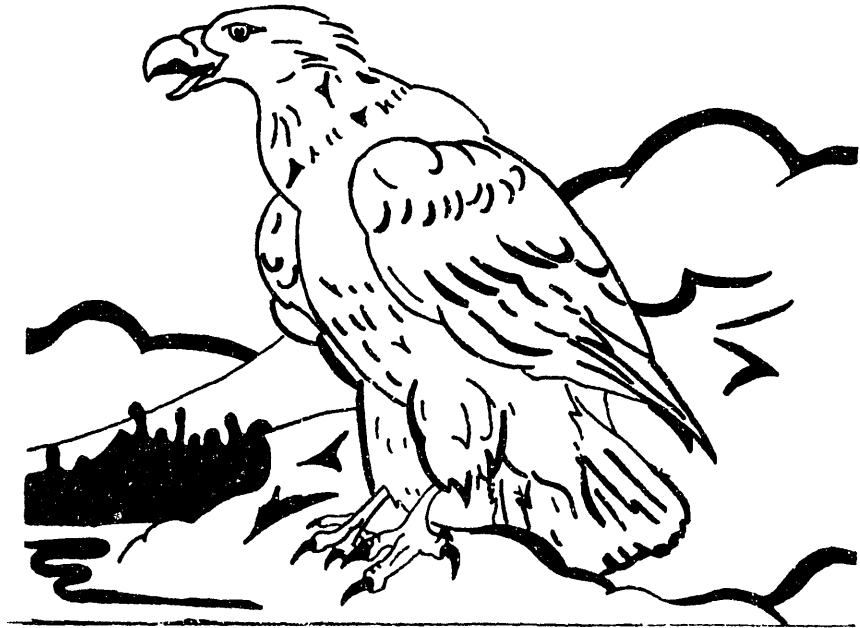
Issued in Austin, Texas, on February 20, 1987.

TRD-8701561      Ron Jackson  
Executive Director  
Texas Youth Commission

Earliest possible date of adoption:  
March 30, 1987

For further information, please call  
(512) 452-8111, ext. 390.

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Name: Ashley Marburger  
Grade: 7  
School: Carter Jr. High, Arlington

# 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 or 20 days after 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 19. EDUCATION**  
**Part II. Texas Education**  
**Agency**  
**Chapter 145. Professional**  
**Environment**  
**Subchapter A. Professional**  
**Environment in General**

**★ 19 TAC §145.2**

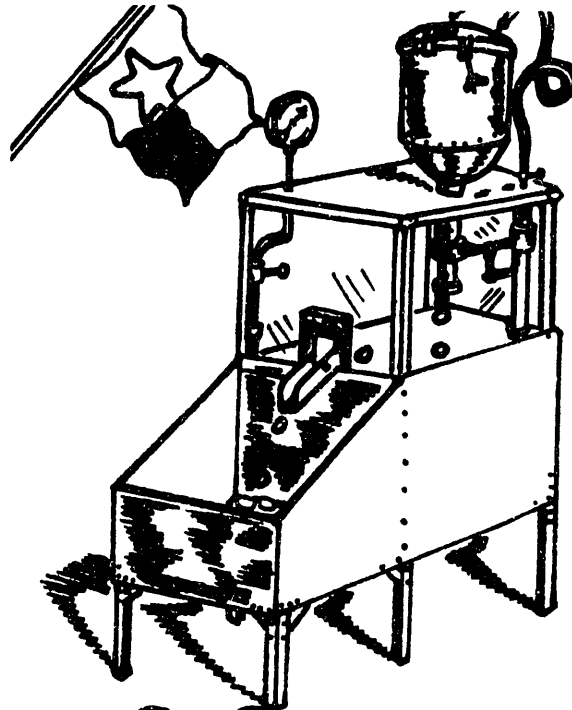
The Texas Education Agency has withdrawn from emergency amendment for permanent adoption emergency to §145.2, concerning the professional environment in general. The text of the emergency effectiveness of amended as proposed appeared in the November 21, 1986, issue of the *Texas Register* (11 Tex-Reg 4739). The effective date of the withdrawal is March 11, 1987.

Issued in Austin, Texas, on , 1986.

TRD-8701511      Beverly J. Bardsley  
Director for Policy  
Development

Filed: February 18, 1987  
For further information, please call  
(512) 463-9212.

★      ★      ★



Texas

Name: Dao Nguyen  
Grade: 7  
School: Carter Jr. High, Arlington

# 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 7. BANKING AND SECURITIES

### Part I. Finance Commission of Texas

#### Chapter 3. Banking Section Subchapter E. Banking House and Other Facilities

##### ★ 7 TAC §3.91

*(Editor's note: A notice of withdrawal of §3.91 was erroneously published in the February 13, 1987, issue of the Register (12 TexReg 500). This section has not been withdrawn. Following is the adopted version of §3.91. An emergency §3.91, published in the December 12, 1986, issue of the Register (11 TexReg 4962) is currently effective.)*

The Finance Commission of Texas, Banking Section, adopts new §3.91, with changes to the proposed text published in the November 14, 1986, issue of the *Texas Register* (11 TexReg 4668).

This new section is needed to provide regulatory guidance and control in the banking industry as a result of the 1986 amendments to the Texas Constitution (Proposition 4) and Texas Civil Statutes, Article 342-903, which permits the establishment of branch bank facilities.

The new section provides for state chartered banks to file applications for branch bank or drive-in facilities with the banking commissioner on forms he prescribes. The new section further provides that said application will be approved if in compliance with Texas Civil Statutes, Article 342-903, and the applicant bank has no significant supervisory problems.

The Banking Department received four comments on the proposed section: three in favor of the section and one opposed. In summary, those in favor of the section emphasized that the section was in harmony with the constitutional mandate that state banks be treated on a parity basis with national banks as to their authority to establish and operate bank branches in this state. Any limitations, on the authority of state banks to establish and operate branches, they asserted, must be imposed by the legislature, as provided in the Texas Constitution. Commentor Sam Kimberlin of the Texas Bankers Association further stated that the Bank-

ing Section rule is consistent with both the practice and the statutory provisions affecting branching by national banks. "Any further imposition of conditions or requirements on state banks seeking branches will not and cannot be made to apply to the Comptroller of the Currency in approving national bank branches," he stated. Thus, national banks would enjoy an undue and unconstitutional competitive advantage in establishing branches.

Two state representatives also commented in favor of the proposed section: the Honorable Representatives Bruce Gibson and Richard Williamson. The issue of parity between state banks and national banks, as well as parity between state banks and other entities delivering financial services to the public, were strong concerns expressed by Representative Williamson. Representative Gibson, chairman of the House Committee on Financial Institutions, stated there was no legislative intent to impose any standards for an applicant to meet before a state chartered bank could establish and operate a branch. This is the very reason, he stated, that the legislative amendment to Texas Civil Statutes, Article 342-903, allowing limited branching, restricts the number of branches that may be established in excess of 5,000 feet from the main banking house, to only three branches. Otherwise, if some standard, such as public need, was required to be proven, there would have been no statutory limitation placed on the number of branches that could be established by any one bank.

The comment received in opposition to the proposed section asserted that the section: represented an unlawful delegation of authority to the commissioner because the Banking Section is not vested with any authority over the branching process; failed to establish adequate branching standards; failed to require notification of filing on an application; and failed to provide for an adjudicative hearing.

Representative Bruce Gibson, Representative Richard Williamson, and Sam Kimberlin, Executive Vice President, Texas Bankers Association, made comments for the section. James W. Hackney, attorney for McGinnis, Lochridge & Kilgore, made comments against the section.

The agency agrees with the comments made by those commenting in favor of the

proposed section. In addition to those reasons as set forth by proponents of the proposed section, the agency disagrees with the comments in opposition to the section for the following reasons.

Banking Section, pursuant to Texas Civil Statutes, Article 342-113, is possessed with authority to regulate the branching process. Neither the constitutional amendment nor the legislative amendment to Article 342-903 imposed any branching standards, notification, or hearings requirements. The new section implements the constitutionality permitted right in view of the Banking Section's and commissioner's regulatory responsibilities.

The new section is adopted under Texas Civil Statutes, Article 342-113, which provide that the Banking Section of the Finance Commission of Texas may promulgate rules and regulations not inconsistent with the constitution and statutes of this state, and to permit state banks to transact their affairs in any manner as could a national bank.

##### §3.91. Establishment of Branch Bank and Drive-In Facilities.

(a) Applications by state chartered banks for branch bank and drive-in facilities at locations authorized by Texas Civil Statutes, Article 342-903, shall be filed with the banking commissioner (hereinafter commissioner) on forms prescribed by the commissioner.

(b) The commissioner, as the primary regulator of state-chartered banks, shall approve applications for branch bank or drive-in facilities if:

(1) in the opinion of the commissioner, there are no significant supervisory problems with respect to the applicant which would affect its ability to properly operate such branch bank or drive-in facility; and

(2) the application for a proposed branch bank or drive-in facility complies with the provisions of Article 342-903.

(c) The branch bank or drive-in facility shall commence operation within a period of 12 months after the date of approval unless an extension is granted in writing by the commissioner. No more than one 12-month extension will be approved by the commissioner. The branch bank or drive-in facility approval will automatically expire if no extension is granted prior to the end of the first 12-month period.

(d) All facilities established, under construction, applied for, or notice of proposed establishment filed, on or before July 15, 1986, shall register such facility with the commissioner. If these facilities have been previously registered, no additional registration is necessary. Registration forms will be provided by the commissioner.

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 February 19, 1987.

TRD-8701527      Jorge A. Gutierrez  
                            General Counsel  
                            Finance Commission of  
                            Texas

Effective date: March 12, 1987  
Proposal publication date: November 14, 1986  
For further information, please call  
(512) 479-1200.

★            ★            ★

## TITLE 16. ECONOMIC REGULATION

### Part IV. Texas Department of Labor and Standards

#### Chapter 79. Vehicle Storage Facilities Act

##### ★ 16 TAC §§79.1, 79.9, 79.13, 79.29

The Texas Department of Labor and Standards adopts amendments to §§79.1, 79.9, 79.13, and 79.29, without changes to the proposed text published in the December 16, 1986, issue of the *Texas Register* (11 TexReg 5000).

These amendments will clarify who is subject to the provisions of the Vehicle Storage Facility Act.

These amendments will function to inform the public of who is subject to the Vehicle Storage Facility Act by defining terms pertinent to the Act.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6687-9a, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt rules establishing requirements for the licensing of persons to operate Vehicle Storage Facilities to ensure that licensed storage facilities maintain adequate standards for the care of stored vehicles.

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 February 20, 1987.

TRD-8701560

Larry E. Kosta  
Assistant Commissioner  
Texas Department of  
Labor and Standards

Effective date: March 13, 1987  
Proposal publication date: December 16, 1986  
For further information, please call  
(512) 463-3127.

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## TITLE 19. EDUCATION

### Part I. Coordinating Board, Texas College and University System

#### Chapter 5. Program Development

##### Subchapter A. General Provisions

##### ★ 19 TAC §5.5

The Coordinating Board, Texas College and University System, adopts new §5.5, without changes to the proposed text published in the November 28, 1986, issue of the *Texas Register* (11 TexReg 4824).

Students will be offered the opportunity to be absent from classes for the observance of a religious holy day.

The new section establishes statewide policies and procedures regarding student absences on religious holy days.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Education Code, §51.911, which provides the Coordinating Board with the authority to adopt rules regarding student absences on religious holy days.

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

Issued in Austin, Texas, on February 17, 1987.

TRD-8701485      James McWhorter  
                            Assistant Commissioner  
                            for Administration  
                            Coordinating Board,  
                            Texas College and  
                            University System

Effective date: March 11, 1987  
Proposal publication date: November 28, 1986  
For further information, please call  
(512) 462-6420.

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## Chapter 9. Public Junior Colleges

### Subchapter E. Operational Provisions

##### ★ 19 TAC §9.103

The Coordinating Board, Texas College and University System, adopts an amend-

ment to §9.103, without changes to the proposed text published in the November 28, 1986, issue of the *Texas Register* (11 TexReg 4824).

The amendment provides for uniform reporting.

The amendment extends the reporting requirements to postsecondary technical and vocational enrollments and to enrollments in the Texas State Technical Institute.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §61.065, which provides the Coordinating Board with the authority to adopt rules regarding operational provisions.

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 February 17, 1987.

TRD-8701486      James McWhorter  
                            Assistant Commissioner  
                            for Administration  
                            Coordinating Board,  
                            Texas College and  
                            University System

Effective date: March 11, 1987  
Proposal publication date: November 28, 1986  
For further information, please call  
(512) 462-6420.

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## Subchapter G. Approval of Postsecondary Technical and Vocational Programs for State Appropriations to Community and Junior Colleges and Texas State Technical Institutes

##### ★ 19 TAC §§9.151, 9.153-9.155

The Coordinating Board, Texas College and University System adopts amendments to §§9.151 and 9.153-9.155. The amendment to §9.153 is adopted with changes to the proposed text published in the November 28, 1986, issue of the *Texas Register* (11 TexReg 4825). The other sections are adopted without changes and will not be republished.

The amendments clarify procedures, which will result in program requests which have been developed with clear objectives, proper articulation with other training sources, needs assessment, and other required information. Changes are made to the definition of postsecondary technical and vocational education.

Postsecondary institutions will utilize the amended sections in the application for new technical and vocational programs, or in request for revisions to existing programs. Such amendments clarify and standardize these processes.

Comments received as a result of the first reading focused primarily on the definition of postsecondary technical and vocational education. Changes are made from the first to second reading to accommodate the comments.

Presidents and deans of public community colleges through Dr. Stanton Calvert, executive director, Texas Association of Public Junior and Community Colleges, commented for the amendments.

The Coordinating Board agreed with the comments and changes are made.

The amendments are adopted under the Texas Education Code, §§31.40, 61.051(e) and (f), and 135.04, which provides the Coordinating Board with the authority to adopt rules regarding approval of postsecondary technical and vocational programs for state appropriations to community and junior colleges and Texas state technical institutes.

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

**Postsecondary institution**—A community college, technical institute, or lower division of a university offering technical and vocational degree and certificate programs, adult vocational courses, compensatory courses, and lower division general academic courses.

**Postsecondary technical and vocational education**—Any organized educational program or course which is directly related to the acquisition, updating, or refinement of career occupational skills, and which requires other than a baccalaureate or advanced degree.

**Postsecondary Technical and Vocational Program**—Organized units of postsecondary technical and vocational instruction and training for which a certificate or an associate degree is awarded.

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 February 17, 1987.

TRD-8701487 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: March 11, 1987  
Proposal publication date: November 28, 1986  
For further information, please call  
(512) 462-6420.



### Subchapter K. Guidelines to be Followed in Seeking Authorization to Hold a Public Community/Junior College Branch Campus Maintenance Tax Election

#### ★ 19 TAC §§9.231-9.238

The Coordinating Board, Texas College and University System adopts new §§9.231-9.238, without changes to the proposed text published in the November 28, 1986, issue of the *Texas Register* (11 TexReg 4826).

These new sections allow the Coordinating Board to respond effectively and consistently to requests from communities wishing to support a branch campus of an existing junior college.

The new sections establish basic criteria and procedures for a school district or a county to hold a junior college branch campus maintenance tax election.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Texas Education Code, §100.087, which provides the Coordinating Board with the authority to adopt rules regarding guidelines to be followed in seeking authorization to hold a public community/junior college branch campus maintenance tax election.

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 February 71, 1987.

TRD-8701488 James McWhorter  
Assistant Commissioner  
for Administration  
Coordinating Board,  
Texas College and  
University System

Effective date: March 12, 1987  
Proposal publication date: November 28, 1986  
For further information, please call  
(512) 462-6420.



### Chapter 133. Pupil-School Relations Subchapter B. Discipline Management

#### ★ 19 TAC §§133.22, 133.26-133.28

The Texas Education Agency adopts amendments to §133.22 and §§133.26-133.28, with changes to the proposed text published in the October 31, 1986, issue of the *Texas Register* (11 TexReg 4513).

Section 133.22(1)(F), concerning parent training workshops, which was proposed for deletion, has been restored and relet-

tered (E) and proposed paragraph (1)(E) has become (1)(F), with no change in text.

In §133.26(a)(5), concerning home-based instruction, a reference to §133.27(b)(3) has been added.

In §133.26(a)(10), concerning suspension, the words "for a period" have been added for clarification and a sentence has been added to specify that in all cases suspended students must be given an opportunity to complete assignments.

In §133.27(a), the title of the referenced section should include the phrase "removal to alternative" rather than "of." A paragraph (3) has been added to §133.27(b) to provide for placement on home-based instruction for up to seven school days pending an expulsion hearing.

In §133.28(3)(A), the comma between the words "nondisciplinary" and "health" should be deleted. The paragraph proposed as (3)(D), concerning removals totaling 16 school days, has been renumbered as paragraph (4) and the catchline has been restored. Subsequent paragraphs have been renumbered. An inappropriate cross-reference has been deleted from paragraph (5).

The amendments bring the sections into agreement with the Texas Education Code, §§21.301, 21.3011, and 21.702, which were amended by House Bill 13, 69th Legislature, 1985, Second Called Session.

Each school district must adopt a discipline management program, including a code of student conduct. Various discipline management techniques are defined in the amendment, including suspension for a period not to exceed six school days per semester. Students may be expelled in accordance with and for the reasons stated in the Texas Education Code, §21.3011.

The Texas Association of School Boards expressed a concern about the proposed six-day limit on home-based instruction since the six-day limit might not allow attorneys an adequate amount of time to prepare for an expulsion hearing. In response to this concern, paragraph (3) was added to §133.27(b).

The amendments are adopted under the Texas Education Code, §21.701, which directs the Central Education Agency to review and approve or reject discipline management programs developed by school districts and requires the agency to monitor, through the accreditation process, the development, implementation, and enforcement of discipline management programs.

#### §133.22. Discipline Management Programs.

- (a) (No change.)
- (b) Content of approved programs.
  - (1) The board of trustees shall provide in the contents of the plan for the following:



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

(C) The development of a code of student conduct that, at a minimum, includes rules, procedures, and expectations related to conduct and specifies the consequences of violating the code. The school district shall explain what it will consider to be serious and persistent misbehavior in its discipline management program and student code of conduct. The code of student conduct shall initially be published and distributed to all administrators, teachers, parents, and students. Thereafter the code of student conduct shall be provided for each newly employed administrator and teacher and newly enrolled student, parent, or guardian and to others upon request. The discipline management plan of each district shall provide for procedures to communicate the provisions of the code of student conduct to parents and all interested parties. Changes during the year in the code of student conduct shall be published and distributed to students in a timely manner.

(D) (No change.)

(E) Parent training workshops for home reinforcement of study skills and specific curriculum objectives shall be included in the district's plan.

(F) The district shall provide annually for signed statements by each student's parent that the parent understands and consents to the responsibilities outlined in the district's student code of conduct.

(2)-(3) (No change.)

**§133.26. Suspension of Students; Removal to Alternative Education Programs.**

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

(1) Class disruption—Any behavior which violates the rules of a particular classroom and interferes with the teacher's opportunity to present material or the other students' opportunity to concentrate on the material or their assignments.

(2) Community-based alternative school—A program for students who have been removed from the students' assigned campus and placed in an alternative education program operated by a school district in cooperation with other school districts, juvenile agencies, or other governmental entities.

(3) Discipline management technique—Any action which is intended to promote proper behavior and/or discourage misconduct other than suspension or expulsion including, but not limited to, student-teacher conferences, suspension of extracurricular activities, detention, etc.

(4) Expulsion—Suspension of a student from school for more than six school days within a semester.

(5) Home-based instruction—An unsupervised alternative education program in which students are provided assignments to be completed at home. Except for stu-

dents who are provided home-based instruction pursuant to the Texas Education Code, §21.3011(h), and §133.27(b)(3) of this title (relating to Expulsion), students may not be assigned to home-based instruction or be suspended for more than a combined total of six school days in a semester.

(6)-(7) (No change.)

(8) School-community guidance center—A program that meets the requirements for school-community guidance centers as specified under the Texas Education Code, §§21.601—21.606.

(9) School property—Any property owned by the school district or over which the school district or its personnel exert lawful authority, including property visited by students in connection with a school sponsored activity such as a field trip or extracurricular activity.

(10) Suspension—A deprivation of educational services for disciplinary reasons for a period not to exceed six school days in a semester. A district may adopt a policy to provide students with assignments during the period of suspension. Such a policy shall not interfere with a teacher's ability to instruct the remaining students in that class. In all cases, students must be given an opportunity to complete assignments pursuant to the Texas Education Code, §21.301(h).

(11) Transfer to a different school campus. The removal of a student from his or her assigned campus to another campus within the same school district.

(b) Grade adjustment—A district that imposes a grade adjustment for work made up by a student who has been suspended shall adopt a policy that ensures consistent application.

(c) Emergency removal.

(1) The board of trustees or its design may remove a student from his or her regular classes or from school district premises for nondisciplinary health, safety, or welfare reasons whenever the board or its designee determines that an emergency exists for doing so. Reasons which may be considered an emergency include, but are not limited to, the fact that the student is under the influence of alcohol or drugs, highly agitated, or suffering from any other condition which temporarily threatens his or her welfare, other individuals' welfare, or the efficient operation of the school. Any student who is removed from school premises pursuant to this subsection and who is in a condition that threatens his own welfare or the welfare of others must be released to the student's parent, a representative of the parent, or other proper authority, including, but not limited to, law enforcement officers and medical personnel. Such removal must be for as short a time as is reasonable under the circumstances.

(2) The district shall make reasonable efforts to notify the parent prior to removing a student from school premises under this subsection. If the parent cannot be notified prior to removal, the parent must

be notified as soon as possible after the removal and the reasons for it.

**§133.27. Expulsion.**

(a) Definition. The definitions set forth in §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) are applicable to this section.

(b) Expulsion procedure.

(1) (No change.)

(2) Before the expulsion, the board or its designee must provide the student a hearing at which the student is afforded requisite due process which shall include the following:

(A) (No change.)

(B) right to a full and fair hearing before the board or its designee;

(C)-(E) (No change.)

(3) Pending the expulsion hearing, a student may be placed in home-based instruction provided that the hearing shall be held within seven school days from the date of the offense. The date of the hearing may be deferred beyond the seven days only by the mutual consent of the student's parent or guardian and the district's representative.

**§133.28. Discipline of Handicapped Students.** Disciplinary actions regarding handicapped students shall be in accordance with §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and §133.27 of this title (relating to Expulsion) except as noted in this section.

(1) (No change.)

(2) Suspension or removal to an alternative education program.

(A) Suspension for a period not to exceed six school days or removal to an alternative education program for a period not to exceed 10 consecutive school days may be effected if a qualified group of professionals first determines that the alleged behavior in question was not related to the handicapping condition or an inappropriate placement. The qualified group of professionals must consist of at least the following members:

(i)-(ii) (No change.)

(B) (No change.)

(C) The terms of a handicapped student's removal to an alternative education program shall be assessed in accordance with the requirements of the Texas Education Code, §21.301(d). However, removal for more than 10 consecutive school days may be effected only through ARD committee action.

(3) Emergency removal.

(A) Emergency removal of a handicapped student from a class or school for nondisciplinary health, safety, or welfare reasons may only be done for compelling reasons as noted in §133.26(c) of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and shall not exceed five consecutive school days.

Any student who is removed from school premises pursuant to this subsection and who is in a condition that threatens his own welfare or the welfare of others must be released to the student's parent, a representative of the parent, or other proper authority, including, but not limited to, law enforcement officers and medical personnel.

(B) (No change.)

(C) The district shall make reasonable efforts to notify the parent prior to removing a student from school premises under this subsection. If the parent cannot be notified prior to removal, the parent must be notified as soon as possible after the removal and the reasons for it.

(4) Removals totaling 16 school days. When the total number of days a handicapped student is removed to an alternative education program, suspended, or removed for emergency reasons totals 16 school days in any one school year, an ARD committee review of the student's IEP shall be conducted unless such removal is warranted in the student's discipline management plan specified in the student's IEP.

(5) Sanctions specified in students' IEP. The requirements of §133.26 of this title (relating to Suspension of Students; Removal to Alternative Education Programs) and paragraph (2) and paragraph (3) of this subsection shall not apply to disciplinary sanctions implemented in accordance with specifications in the student's IEP.

(6) Expulsion of handicapped students.

(A)-(D) (No change.)

(7) Parent participation in ARD committee meetings. The provisions of §89.222(d) of this title (relating to Parent Participation in ARD Committee Meetings) are applicable in circumstances arising under this section

(8) Referral for assessment. Local officials should be aware that persistent discipline problems or disruptive conduct exhibited by a student who has not previously been a discipline problem might warrant referral for assessment. However, a regular education student is not entitled to avoid disciplinary action pending any assessment.

(9) Exclusion from home campus. The exclusion of a handicapped student from his or her home campus, pending appeal of an expulsion may not exceed 10 days without ARD committee action to determine appropriate services in the interim.

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 February 18, 1987.

TRD-8701509 W. N. Kirby  
Commissioner of  
Education

Effective date: March 11, 1987  
Proposal publication date: October 31, 1986  
For further information, please call  
(512) 463-9212.

## Chapter 145. Professional Environment

### Subchapter A. Professional Environment in General

#### ★ 19 TAC §145.2

The Texas Education Agency adopts an amendment to §145.2, with changes to the proposed text published in the November 21, 1986, issue of the *Texas Register* (11 TexReg 4744).

The amendment implements House Bill 50, 69th Legislature, 1985, Second Called Session, and clarifies what kinds of reporting may be required of teachers. The amendment requires each local district board of trustees to adopt policies to limit the number and length of written reports that teachers must prepare. Districts must review current paperwork requirements placed on classroom teachers and transfer reporting tasks which can reasonably be accomplished by existing non-instructional staff. Provision for collection of information on a voluntary basis is also included.

Subsection (e) of the section has been revised to clarify provisions concerning collection of information on a voluntary basis and to make provision for the commissioner of education to investigate allegations of misuse of the voluntary information gathering procedures.

The Texas Classroom Teachers Association and the Texas State Teachers Association expressed concern that subsection (e) of the section, concerning voluntary collection of information, might be abused and recommended that the subsection be deleted. Subsection (e) was revised to address the concerns raised by these two organizations.

The Texas Association of Secondary School Principals recommended the addition of language to permit school administrators to require reports from teachers if the teacher's expertise, training, and knowledge contribute to the quality of information requested. The organization also requested that the interpretation of the statute be more specific. The proposed addition would have gone beyond the law. The amendment is specific enough to give guidance to school districts concerning paperwork reduction while at the same time allowing districts flexibility to make appropriate local decisions.

The amendment is adopted under the Texas Education Code, §21.925, which directs the State Board of Education to adopt rules that provide for simplifying and reducing the number and length of required written reports.

#### §145.2. Paperwork Reduction.

(a) The board of trustees of each school district shall adopt policies to limit the number and length of written reports that teachers must prepare. It is the intent of the State Board of Education that implementation of this sec-

tion by school districts will enable classroom teachers to experience a significant reduction in paperwork.

(b) Classroom teachers may not be required to prepare written reports other than those described in the Texas Education Code, §21.925(e).

(c) With respect to those reports described in the Texas Education Code, §21.925(e), districts shall review current paperwork requirements placed on classroom teachers and shall transfer reporting tasks which can reasonably be accomplished by existing noninstructional staff. Where information is needed to comply with federal or state requirements and where there is no reasonable way to collect it without the direct involvement of the classroom teacher, teachers may be required to provide this information.

(d) Redundant requests for information shall be avoided.

(e) Nothing in this section shall preclude a school district from collecting other essential information from classroom teachers on a voluntary basis, provided that:

(1) participation shall be entirely at the discretion of each individual teacher and no coercion—either direct or indirect—shall be applied to pressure teachers to participate;

(2) the decision not to participate shall in no way be held against the teacher; and

(3) the commissioner shall promptly investigate allegations of the misuse of voluntary information gathering procedures that burden teachers and circumvent compliance with the statutory intent for paperwork reduction.

(f) The commissioner of education shall direct and work with the staff of the Central Education Agency to ensure that every effort is made to reduce the amount of paperwork required of local school districts and, in particular, of teachers. Such efforts shall include, but need not be limited to, the following:

(1) a comprehensive review of existing paperwork requirements in state and federal law and state and federal regulations, with recommendations for simplification and reduction of such requirements to the extent possible;

(2) attention to the paperwork implications of new rules and procedures;

(3) provision of technical assistance to school districts to help them comply with necessary procedural and reporting requirements in ways which do not require extensive paperwork on the part of teachers; and

(4) development of sample curriculum guides, lesson plans, and related reports.

(g) As part of each regular accreditation monitoring visit, the Central Education Agency shall review school district paperwork reduction efforts.

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 February 18, 1987.

TRD-8701510

W. N. Kirby  
Commissioner of  
Education

Effective date: March 11, 1987

Proposal publication date: November 21, 1986

For further information, please call  
(512) 463-9212.

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## TITLE 22. EXAMINING BOARDS

### Part XXIV. State Board of Veterinary Medical Examiners

#### Chapter 573. Rules of Professional Conduct

##### ★ 22 TAC §573.8

The Texas Board of Veterinary Medical Examiners adopts an amendment to §573.8, without changes to the proposed text published in the January 9, 1987, issue of the *Texas Register* (12 TexReg 63).

The revisions to this section ensure consumers will receive quality veterinary care without being influenced by individuals not qualified to determine treatment.

The amendment requires licensees only to enter into partnerships, corporations, etc., where it is specifically agreed that the veterinarian will be the only person making treatment decisions.

No comments were received regarding adoption of the amendment.

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

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 February 19, 1987.

TRD-8701582

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

Effective date: March 13, 1987

Proposal publication date: January 9, 1987

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

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##### ★ 22 TAC §573.9

The Texas Board of Veterinary Medical Examiners adopts the repeal of §573.9 without changes to the proposed text

published in the January 9, 1987, issue of the *Texas Register* (12 TexReg 63).

The repeal is necessary for compliance with the Federal Trade Commission (FTC) regulations.

The repeal allows licensed veterinarians to accept employment by a non-licensed individual, corporation, or firm, thereby not restricting his means of providing self-support.

No comments were received regarding adoption of the repeal.

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

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 February 19, 1987.

TRD-8701583

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

Effective date: March 13, 1987

Proposal publication date: January 9, 1987

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

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## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 325. Solid Waste Management

##### Subchapter L. Hazardous Household Waste

##### ★ 25 TAC §§325.271-325.282

The Texas Department of Health adopts new §§325.271-325.282, with changes to proposed text published in the December 19, 1986, issue of the *Texas Register* (11 TexReg 5038-5043).

House Bill 2358, 69th Legislature, Regular Session, 1985, which amended the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, mandates the Texas Department of Health (the department) and the Texas Water Commission (the commission) to provide by rule for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous wastes. The bill further stipulates that such rules shall specify any necessary requirements relating to training of persons involved in the collection and disposal of such household materials.

The new sections adopt and define the term "hazardous household waste" consistent with the law provision of "household materials which could be classified as hazardous wastes." The new sections do not mandate the establishment of programs for the collection or disposal of hazardous household waste. However, they do establish required procedures for persons who engage in the collection and disposal of such waste. They also establish requirements for a collection center and the training and experience of personnel engaged in collecting and disposal of hazardous household waste.

The new sections provide that persons who engage in activities to collect and dispose of hazardous household waste must notify the department, submit to the department an operating plan for the collection, handling and disposal of such waste, and assure that aggregated hazardous household waste being disposed of is manifested, transported and disposed of in accordance with the commission rules for hazardous waste.

In addition to having the proposed new sections published in the *Texas Register*, the department sent copies of the proposed rules to the city managers of cities over 50,000 population, to the directors of public health regions, to the executive directors of the regional planning councils (COG's), and to civic and environmental groups. Also, a public hearing was held in Austin on January 11, 1987. As a result, the department received numerous verbal and written comments concerning the proposed new sections. Following is a summary of comments received on the proposed new section as published and the department's response to them.

Generally, those making comments agree with the new section establishing provisions for a program to collect and dispose of hazardous household waste and to the requirement that accumulated hazardous household waste be recycled or shipped to a hazardous waste facility.

The department and the commission are encouraged to make rules identical. It is not possible to make the rules identical because of the different jurisdictional roles of the agencies and because of the different organization of their existing rules. However, each agency has reviewed and revised the proposed new sections to assure that they are consistent with the other agency. The department has revised the wording under §325.271, concerning the purpose of the rule; has modified the definition of the terms "hazardous household waste" and "hazardous waste treatment, storage, or disposal facility" under §325.272; has revised §325.273, concerning agencies' authority; and has added §325.282(5) to be in accordance with commission rules. Other minor clarifications and changes have been made throughout the department's rules to make them consistent with the commission's rules and where feasible to have the rules read alike.

The department should require the collection program provide for management of waste according to the hierarchy of waste management practices for hazardous waste established in the Solid Waste Disposal Act. The department agrees in principle, but because this is a volunteer program, hesitates to make this a requirement. A statement has been added to §325.276(c)(10) requiring the operator to determine the feasibility of managing the waste in accordance with the preferences established by state policy for hazardous waste.

The meaning of the term "operator" needs clarification. The department agrees and has expanded the definition of that term in §325.272.

The notification requirement under §325.276(b)(5) should include the organizations and planned activities similar to §325.276(d)(8). The department agrees and has modified §325.276(b)(5) accordingly and has added a new paragraph, §325.276(b)(6).

Persons operating recurring programs should be required to submit amended plans where operational changes are made. The department agrees and has revised §325.276(c) accordingly.

The department clarifies the term "adequacy of access" as used in §325.276(c)(7). The department has revised the proposed new section by adding the words "roads or streets used to enter and exit" the collection center.

One person questioned whether hotels, motels, etc., should be included in the term "household." The Administrator, United States Environmental Protection Agency (EPA) has defined the term "household" to include hotels and motels in determining the exclusion of waste from control under federal law and regulations. State law adopts the federal definition of hazardous waste. The department believes its rules should be consistent with EPA regulations in this regard. However, to assure that waste generated by organizations servicing hotels and motels (such as pesticide applicators, paint contractors, etc.) is not included in hazardous household waste the definition of this term has been modified to include only waste generated by a consumer.

One commentater asked how the term "person" is used in defining the term "operator." The department's §325.5 defines the term "person" to mean, "individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity." This definition is applicable to this rule when the term "person" is used.

The new section should allow amendments to the operational plan, required by §325.276, to be submitted to the division when changes are necessary. The department agrees and has modified §325.276(c) accordingly.

The new section should provide for a six-month phase-in before rules become fully operational. The department agrees in part and has provided for a waiver under §325.276(a) on plan requirements for collection programs scheduled for the first six months that the new section is effective. The department believes other provisions in the new section should apply to programs that are implemented after the new section becomes effective.

One commenter asked if the "on-site supervisor" (§325.277(c)(6)) is the same as the "operator." The on-site supervisor may be the operator; however, the department believes the on-site supervisor would normally be an employee of the operator or a person under contract to the operator. The rule defining the term "operator" under §325.272 has been modified in response to another comment. The new definition clarifies the use of the term.

The requirement for absorbent material of 10% of the total volume, under §325.277(d)(4), seems excessive. The department agrees that the amount of absorbent material should apply only to the amount of liquid waste received. The department has modified §325.277(d)(4) accordingly.

The rule under §325.277(e)(4), identifying when a container is empty and limiting the size of containers to five gallons, is confusing and does not provide adequate guidance.

The department agrees and has modified the section so that the term "empty" is not quantified and the requirement limiting the size of containers to five gallons or less has been removed.

The rule on waste accepted or excluded under §325.277 requires clarification. The department agrees with the comment. Accordingly, the purpose under §325.271 is modified to broaden the types of waste covered under the rule, the statement "that are thought to be hazardous household waste" has been removed from §325.277(e), the list of example waste under §325.277(e)(3) (some of which were not hazardous household waste according to the definition of that term) has been deleted, and the statement relating to containers for non-hazardous materials under §325.277(e)(5) has been modified.

The rule under §325.280 limits the material to that which is in original containers. This limits the use of other materials such as motor oil. The department agrees that its rule on reuse may be too restrictive and has modified it to allow reuse of materials if it can be readily identified.

One commenter asked if the plan which is required from the transporter under §325.281(b)(1) is the same plan as required from operators under §325.276. Yes, when the transporter assumes the role of an operator. The rule under §325.281(b) has been revised to further clarify when a transporter is required to submit a plan.

The rule under §325.281(b)(3), requiring transporters to keep hazardous household waste separate from non-household hazardous waste at the transport facility, does not specify a separation distance. One commenter asked if the two ultimately can be hauled on the same truck. The intent of the rule is that transporters who handle hazardous waste from industrial, commercial, or institutional operations, which require more stringent controls than hazardous household waste, not intermingle the wastes. The department feels it is not feasible to establish a separation distance by rule. Even if a distance were specified it would still be possible to intermingle the waste if the transporter wished to violate state and federal laws and regulations. On the issue of transporting the two waste on the same vehicle, the department would not object to such arrangement provided there are separate manifests covering the shipment.

The proposed new sections do not contain a penalty clause. The Solid Waste Disposal Act contains penalty provisions for violation of the Act or rules of the department promulgated in compliance with provisions of the Act. The department has a general enforcement policy applicable to violation of its Municipal Solid Waste Management Regulations. Sections 325.221-325.223 establish this policy.

The operator or a person designated by the operator would sign the manifest in the generator block clarifying who signs as generators. However, this does not make the operator a generator in the sense the term is understood when it relates to hazardous waste. The EPA and the state have excluded all household waste from the definition of hazardous waste. Although this section establishes provisions for and defines a category of waste as hazardous household waste, such waste is excluded from being hazardous waste as defined by state and federal laws and regulations even when manifested on a hazardous waste manifest and is disposed of at a hazardous waste facility. The operator has the overall responsibility for the operation of the program to collect hazardous household waste. It is the department's opinion that the operator would not incur any liability as a hazardous waste generator. However, some liability usually remains with the operator. This is often associated with liability for the actions of its employees or members and liability associated with the collection site.

Service stations which accept used motor oil should not be brought under the rule. It is not the intent of the department to make the rule applicable to businesses that receive used motor oil or lead acid batteries (two common household waste items). The department has inserted language under §325.275(b) that specifically excludes application of the rule to businesses which receive used motor oil or

lead acid batteries for recycling or reclamation and do not operate a collection center for other household waste under the purview of these rules.

Acceptable forms of evidence of financial responsibility should be specified. The department has modified its rule under §325.277(c)(12)(C) to state that the division will establish the amount and type of financial assurance after discussing the scope of the operation with the operator.

Operators should provide persons bringing waste to the collection center informational material on proper management of hazardous household wastes with emphasis on ways to reduce the generation of such wastes. The department believes it would be an excellent public service by the operator to provide informational material. However, the department does not feel that the rule should require the distribution of such information, especially since these are volunteer programs.

The rule should provide a simple and straight forward procedure which will assure protection of the public. The requirement for detailed plans, extensive paperwork, and over regulation may discourage rather than encourage individuals or organizations from considering such programs. The requirements of the rule may be burdensome to some, but the department feels that planning, using trained personnel, organizing the collection center, classifying the waste, and having a preplanned organized procedure are essential elements to a safe and well run program.

It is confusing for two agencies to share jurisdiction over the hazardous household waste program. Involvement of both the Texas Department of Health and the Texas Water Commission is unavoidable. The Solid Waste Disposal Act divides jurisdiction of the state's solid waste. The department is assigned jurisdiction of municipal (non-hazardous) solid waste while the commission is responsible for regulating all hazardous waste and industrial solid waste. The agencies' rules for hazardous household waste have been developed to be consistent with agency jurisdiction under the law. The agencies have also attempted to make it easier for persons subject to the rules by having the department act as the lead agency and the point of contact with the commission.

The department received both verbal and written comments. Those who commented on the proposed new sections are listed as follows. Persons submitting comments generally supported the rule, but each had specific objections, questions, or suggestions. Sierra Club, Lone Star Chapter; G. Marlies Goode; Dow Chemical U.S.A.; Maureen McReynolds; City of Austin; Michael C. Quinn; Exxon Company, U.S.A.; Evelyn Bonavita; League of Women Voters of Texas Education Fund.

The new sections are proposed under the Solid Waste Disposal Act, Texas Civil Sta-

tutes, Article 4477-7, §4, as amended by House Bill 2358, §7, 69th Legislature, 1985, which require the Texas Department of Health and the Texas Water Commission to provide rules for the collection and disposal of household materials that could be classified as hazardous wastes.

§325.271. *Purpose.* The purpose of this subchapter is to provide requirements for interested persons to engage in activities which involve the collection and disposal, to include recycling and reclamation, of hazardous household waste and other types of household waste that may, due to their quantity and characteristics, pose a potential endangerment to human health or environment if improperly handled. These rules have been adopted in conjunction with the rules (31 TAC §§335.401-335.412) of the Texas Water Commission. The Texas Department of Health and the Texas Water Commission agree to establish and maintain a cooperative effort with regard to providing regulation and direction for hazardous household waste collection programs so as to insure that waste aggregated as a result of such programs is properly handled and disposed of in a safe manner.

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

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

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

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

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

*Commission*—The Texas Water Commission.

*Department*—The Texas Department of Health.

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

*EPA*—The United States Environmental Protection Agency.

*Hazardous household waste*—Any solid waste generated in a household by a consumer, which except for the exclusion provided in 40 Code of Federal Regulations, §261.4(b)(1), would be classified as a hazar-

dous waste under 40 Code of Federal Regulations, Part 261.

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

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

*Manifest*—A uniform hazardous waste manifest.

*Operator*—Any person who implements and has overall responsibility for a program to collect and/or aggregate hazardous household waste in accordance with rules of this subchapter (§§325.721-325.282 of this title (relating to Hazardous Household Waste.))

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

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

§325.273. *Authority.*

(a) Authority of the Texas Department of Health. The department is the state agency having responsibility for regulation of nonhazardous municipal solid waste. Solid waste originating from households is by definition under state law and by special exclusion contained in 40 Code of Federal Regulations Part 261, exempt from the definition of hazardous waste and, thus, technically is a "nonhazardous" waste. The department and the commission agree that the department has primary regulatory authority over hazardous household waste; persons who provide point of generation pick-up of hazardous household waste; and persons who establish and operate hazardous household waste collection centers, other than those located at established hazardous waste processing, storage, or disposal facilities. The following regulatory portions of this subchapter shall be primarily implemented and enforced by the department:

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

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

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

(4) §325.280 of this title (relating to Reuse of Collected Material), except in those cases where the collector or operator determining the reuse suitability of the collected material is the owner/operator of a hazar-

dous waste processing, storage, or disposal facility; and

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

(b) Authority of the Texas Water Commission. The commission is the state agency having responsibility for regulating hazardous waste as defined in 40 Code of Federal Regulations Part 261. Except for collected materials being used or planned to be used or reused in accordance with §325.280 of this title (relating to Reuse of Collected Material), all hazardous household waste once collected and aggregated at a collection center or at a transporter's facility shall be transported only by hazardous waste transporters and shall be shipped only to authorized hazardous waste processing, storage, or disposal facilities. The department and the commission agree that the commission has regulatory authority over persons transporting hazardous household waste that is required when shipped to be accompanied by a manifest, and over all aspects of solid waste management conducted at a hazardous waste processing, storage, or disposal facility. Accordingly, the following regulatory portions of this subchapter shall be primarily implemented and enforced by the commission:

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

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

(3) §325.280 of this title (relating to Reuse of Collected Material), except in those cases where the collector or operator determining the reuse suitability of the collected material is subject to the requirements of §335.276(a)-(c) of this title (relating to General Requirements for Collectors and Operators) or is subject to §325.281(b) of this title (relating to General Requirements for Transporters);

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

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

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

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

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

at hazardous waste processing, storage, or disposal facilities regulated by the commission.

(b) The division shall be the point of contact between collectors or operators subject to the requirements of §325.276 (b)-(c) of this title (relating to General Requirements for Collectors and Operators) and the commission. The division also shall provide to the collectors and operators the necessary forms, ID numbers, waste codes, and special instructions from the commission concerning transportation and ultimate disposition of aggregated hazardous household waste.

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

#### §325.275. *Applicability.*

(a) The rules of this subchapter (§§325.271—325.282 of this title (relating to Hazardous Household Waste)) are applicable to persons who:

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

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

(3) operate hazardous household waste collection centers;

(4) transport any hazardous household waste required by the rules of this subchapter (§§325.271—325.282 of this title (relating to Hazardous Household Waste)) to be manifested; and

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

(b) The rules of this subchapter (§§325.271—325.282 of this title (relating to Hazardous Household Waste)) do not apply to individuals who receive from households, for purpose of recycling or reclamation, used oil or lead acid batteries, provided such individuals do not operate a collection center for other hazardous household waste or other household wastes that fall under the purview of this subchapter.

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

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

months of the date these rules become effective, provided the collector or operator requests such waiver in writing.

(b) The notification shall be submitted 90 days prior to the expected collection date by letter or on a form provided by the department. It shall include the following information insofar as is known at the time.

(1) name and address of the operator;

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

(3) date of planned collection;

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

(5) a conceptual organization of the collection effort and names of persons or groups providing support and identities of all organizations or groups involved together with the operator in any advertising, public service campaigns, or other public information efforts; and

(6) planned public information efforts concerning the dangers or risks associated with hazardous household waste, the need or desirability of separating such waste from other household waste, and the procedures for delivery of hazardous household waste to the collection center.

(c) The collector or operator shall submit to the division a complete operational plan not less than 45 days prior to collection day. Collectors or operators conducting recurring collection programs need not submit a plan for the second and subsequent operations provided the original or a revised plan has been previously submitted and remains in effect. The plan shall be prepared in format and content, according to the requirements in the following paragraphs, as applicable, or as otherwise specified by the division. Changes to the plan may be made after consultation and coordination with the division.

(1) The plan shall be in a typewritten report form (except for maps and drawings) on 8 1/2 inches x 11 inches white paper, all materials in excess of 8 1/2 inches x 11 inches shall be folded to that size. Undersized materials shall be mounted on 8 1/2 inches x 11 inches paper, and the report stapled in the upper left-hand corner or bound along the left margin. All folded material shall be affixed so it can be unfolded without removing binders.

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

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

(4) The plan shall identify the nature, type, and quantity of hazardous household waste and other household waste proposed for collection and disposal, in-

cluding a brief description of the general sources and generation areas contributing wastes.

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

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

(7) Information relating to adequacy of roads or streets to be used to enter and exit the collection center shall be submitted as part of the plan.

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

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

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

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

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

(D) provisions for classifying and controlling the wastes;

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

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

(G) spill control measures and cleanup procedures;

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

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

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

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

(10) The operator shall provide information on the planned disposal of the waste collected, to include the transporter's name and ID number, and the name, location, and ID number of the hazardous waste facility which is to be used for the processing, storage, disposal or recycling of the waste. The operator in developing the plan for disposal of waste to be received at the collection center should determine the feasibility of managing collected hazardous household waste in order of preference established by state policy for managing

hazardous waste, i.e., reuse and/or recycling of waste; treatment to destroy hazardous characteristics; treatment to reduce hazardous characteristics; underground injection; and land disposal.

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

(12) The plan shall have the following attachments:

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

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

(C) Attachment 3—evidence of financial responsibility. Collectors or operators other than governmental entities shall submit evidence of financial responsibility which assures the department that sufficient assets are available to properly operate the collection center, enable appropriate shipment and disposal of the waste, and to provide for proper closure of the collection center. The amount and type of financial assurance shall be determined by the division after discussing the scope of the collection effort with the operator.

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

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

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

concerning their intention to accept such waste. The notification shall contain the following:

(1) TWC registration number and EPA ID number;

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

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

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

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

(6) how they intend to handle at their facility waste which may be accepted and what the ultimate disposition of the wastes will be;

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

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

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

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

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

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

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

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

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

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

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

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

(8) have materials and procedures to control spills.

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

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

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

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

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

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

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

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

(8) Manning of the collection center shall consist of an adequate number of persons who jointly possess the necessary skills and expertise needed to accept, sort, package, transport, and manifest the waste

and be responsible for on-site supervision and public relations.

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

(1) a first aid kit at each collection center and available during point of generation pick-up service;

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

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

(4) sufficient spill containment and absorbent materials at the collection center and in each point of generation pick-up vehicle to contain a spill of 10% of the anticipated volume of liquid waste.

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

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

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

(3) Decisions to accept certain wastes shall depend on the capabilities of the personnel collecting, sorting, and packaging the waste. A generic list of proposed wastes to be accepted must be submitted to the division with the operational plan. The list should be developed with the intent of min-

imizing the need for chemical analysis of unidentifiable wastes.

(4) Empty hazardous material and pesticide containers from households may be disposed of as a nonhazardous waste if they are rendered unusable before leaving the collection center.

(5) A container shall be provided at the collection center for collection and storage of waste received at the center, that because of quantity and characteristics, does not pose a potential endangerment to human health or environment if disposed of in a municipal solid waste facility.

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

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

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

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

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

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

(A) composition and physical state of the waste;

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

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

(D) date of acceptance at the collection center.

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

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



subsection (f)(2)-(3) of this section with respect to container labeling and record keeping.

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

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

(2) have a person in each crew that has experience and/or training in handling hazardous waste to include classifying, determining waste incompatibility, spill prevention, clean-up, and safety procedures; and

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

§325.279. *General Shipping, Manifesting, Record-Keeping, and Reporting Requirements.* Except for those collected reusable materials handled in accordance with the requirements of §325.280 of this title (relating to Reuse of Collected Materials) and waste received at the center, which can be disposed of at a municipal solid waste facility as provided for in §325.277(e)(5) of this title (relating to Operation of Collection Centers), persons who collect, receive, and/or aggregate hazardous household waste shall:

(1) when transporting or shipping such waste from a collection center or from a transport or transfer facility, utilize only hazardous waste transporters who have notified the commission with respect to transportation of hazardous waste, who have notified EPA of their involvement in transporting hazardous waste, and who have been issued an EPA ID number;

(2) transport or ship such waste only to receivers who qualify as hazardous waste processing, storage, or disposal facilities or to an authorized recycler or reclaimer and who have agreed to accept the waste;

(3) assure, prior to offering such waste for shipment, that the waste is packaged and labeled and is described on a manifest so as to comply with applicable United States Department of Transportation (DOT) requirements and to comply with the requirements contained in 31 TAC §335.10 (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste);

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

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

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

§325.281. *General Requirements for Transporters.*

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

(1) has notified the commission with respect to such transportation activities in accordance with the requirements contained in 31 TAC §335.6(e) (relating to Notification Requirements);

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

(3) complies with the requirements outlined in 31 TAC §335.11 (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I Industrial Waste) with respect to all manifested household waste;

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

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

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

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

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

(3) Insure that all hazardous household waste accumulated by the transporter is kept separate and apart from nonhazardous household waste which may be accumulated at transport or transfer facilities.

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

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

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

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

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

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

(5) obtain written authorization from the commission to receive hazardous household waste or other household 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 February 18, 1987.

TRD-8701524

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Deputy Commissioner  
Professional Services  
Texas Department of  
Health

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

★ ★ ★



**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION  
Part IX. Texas Water  
Commission**

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

**Subchapter N. Household  
Materials Which Could be  
Classified as Hazardous Waste**

**★ 31 TAC §§335.401-335.412**

The Texas Water Commission adopts new §§335.401-335.412, with changes to the proposed text published in the December 19, 1986, issue of the Texas Register (11 TexReg 5045).

These new sections comprise a new Subchapter N, concerning household materials which could be classified as hazardous wastes, to Chapter 335.

The new sections are adopted in response to House Bill 2358, 69th Legislature, 1985, which amended the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. These amendments require that the Texas Department of Health and the Texas Water Commission provide by rule for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous wastes. The Act further requires that the rules specify any necessary requirements relating to the training of persons involved in the collection and disposal of such wastes. The Texas Department of Health on February 1, 1987, also adopted final rules concerning hazardous household waste under 25 TAC §§325.271-325.282.

The new sections are consistent with the new sections adopted by the Texas Department of Health. New §335.401 clarifies that it is the intent of the subchapter that persons engaged in the collection and disposal of hazardous household waste as defined also be authorized to accept and handle various other household waste materials, even though such materials do not technically qualify as hazardous household waste, if it is determined that such other wastes, due to their quantities and characteristics, pose a potential endangerment to human health or the environment if improperly handled.

New §335.402 contains a revised definition of hazardous household waste that is slightly narrower than that originally proposed. Under the new definition, only household waste materials that, except for the exclusion provided in 40 Code of Federal Regulations §261.4(b)(1), would be classified as hazardous wastes by the federal Environmental Protection Agency (EPA) are considered to be hazardous household waste. This narrower definition

does not preclude other household wastes from being handled at hazardous household waste collection centers.

New §335.403 contains several wording changes and clarifications. Subsection (a) (4) provides the opportunity for collection center operators to determine the reuse suitability of various collected materials. Subsection (b)(4) is changed so as to refer in its language only to §335.411(a), as opposed to the entire section.

New §335.404 contains minor wording changes that serve to clarify the section's meaning.

New §335.405 contains an exclusion from the regulatory requirements of the subchapter for individuals who receive from households, for the purpose of recycling or reclamation, used oil or lead acid batteries, provided such individuals do not operate a collection center for other household wastes.

New §335.406 contains the opportunity for a waiver from the requirement to submit an operational plan for collection programs scheduled to begin within six months of the effective date of the sections. Subsection (b) contains additional clarification concerning information required to be contained in the operational plan with respect to public awareness/information campaigns conducted in connection with an organized hazardous household waste collection program. Finally, subsection (c), in addition to a number of minor clarifications and wording changes, identifies how changes to operational plans are to be implemented, requires that operators, when developing a plan, determine the feasibility of managing the wastes to be collected in order of the various management preferences established as state policy for the handling of hazardous waste, and clarifies the method by which the amount and type of financial assurance shall be determined.

New §335.407 contains numerous clarifications and wording changes. Primary among these is the substitution of the word "shall" for the word "should" in several points, and substitution of the phrase "point of generation" for the phrase "door-to-door." Subsection (d)(4) clarifies the amount of absorbant material that must be maintained on site as that needed to contain a spill of 10% of collected liquid materials as opposed to 10% of all collected waste. In subsection (e)(3), the listing of acceptable wastes is deleted. The list as proposed was determined not to be necessary and to be somewhat misleading. Persons developing operational plans will still need to provide a list of wastes that will be accepted and wastes the collection center will be unable to handle. In subsection (e)(4) the stipulation defining empty containers is deleted as impractical.

New §335.408 contains added clarification about the point of generation of wastes

covered by the section. New §335.409 contains further clarification as to which wastes are exempt from the requirements of the section.

New §335.410 allows collection center operators to arrange for responsible parties to use an identifiable material even if such material is no longer in its original container, provided that the material is otherwise readily identifiable.

The new §335.411, concerning general requirements for transporters, contains a wording change in subsection (b) that clarifies that pick-up occurs at the point of generation, instead of the reference to pick-up at a household.

The new §335.412, concerning general requirements for processing, storage or disposal facilities, contains an added phrase that serves to clarify which wastes are covered by the subsection's requirements.

Prior to the close of the comment period, a total of five comments were entered into the hearing record.

Comments were received from Michael C. Quinn, Manager, Consumer & Regulatory Affairs, Exxon Company, U.S.A.; G. Marlies Goode, Environmental Services Department, Dow Chemical, U.S.A.; Evelyn Bonavita, Legislative Director, League of Women Voters of Texas Education Fund; Maureen McReynolds, Ph.D., Manager of Environmental Water Quality Assessment, Water and Wastewater Utility, City of Austin; and Ken Kramer, Lone Star Chapter, Sierra Club.

Exxon was concerned that the proposed rules would discourage the acceptance of used motor oil from the public by service stations and thereby lead to improper disposal of used oil that would otherwise be recycled. Furthermore, the commenter pointed out that although the EPA had announced its decision not to list as a hazardous waste used motor oil that is recycled, EPA was still considering regulating used oil that is not recycled. The commenter was concerned that since EPA has indicated that it is preparing nationwide standards for the management of used motor oil, Texas businesses that accept used oil could find themselves faced with two, possibly conflicting, sets of regulations. As a result of the comment, the commission modified §335.405, concerning applicability, so as to specifically exclude from the regulatory requirements of the subchapter individuals who receive from households, for the purpose of recycling or reclamation, used oil or lead acid batteries, provided such individuals do not operate a collection center for other household wastes.

In addition to this exclusion concerning used oil and lead acid batteries that are being reclaimed, the commission, in §335.402 narrowed the definition of the term hazardous household waste such that it is unlikely to include household generated used motor oils.

One commenter indicated that it would be more reasonable for one agency to assume responsibility for all aspects of the program and suggested that the Texas Water Commission should be responsible for the planning and collection site operations as well as the transportation and disposal of the accumulated wastes.

Involvement of both the Texas Department of Health and the Texas Water Commission is necessary to carry out the requirements of the Texas Solid Waste Disposal Act, §4(k), as amended in 1985 by House Bill 2358. The Solid Waste Disposal Act continues to divide the jurisdiction of the state's solid wastes. The agencies have attempted, in the adoption of these sections, to ease the confusion concerning jurisdiction by having the Texas Department of Health named the lead agency and the agency which serves as a point of contact between collection center operators and the Texas Water Commission.

One commenter recommended that a more comprehensive release from liability than that which is currently specified in the Solid Waste Disposal Act be provided by the new sections so as to encourage participation in household waste collection programs.

The Solid Waste Disposal Act, §4(k), already provides that no person shall be liable for damages as a result of actions taken or omitted in the course of advertising, promoting, or distributing educational materials relating to the collection or disposal of such household materials in accordance with the rules of the state agency. The commission does not believe that it can or should set forth in rules any further limitations to personal liability.

One commenter expressed the concern that the new sections required a collection plan that was too detailed and that because of its complexity would actually serve to discourage individuals or organizations from implementing collection programs.

The commission is convinced that many factors and potential occurrences must be taken into consideration if a hazardous household waste program is to run smoothly and not create difficulties. Requiring a written plan to address those many required items is an excellent way to insure that the collection program planners and implementers have thought out how to deal with potentially serious problems.

Two commenters recommended that the two agencies make their sections identical so that persons involved in hazardous household waste programs would need to refer to only one set of rules.

The final sections of the Texas Department of Health and the Texas Water Commission are more nearly identical than were the proposed sections of the two agencies. The main remaining differences are in the citations to various sections in

the Texas Administrative Code which simply cannot be avoided due to the way the sections of the various state agencies are set-up. The definitions that do appear in both sets of sections have been made identical although the commission's final sections contain fewer definitions in the hazardous household waste subchapter than do the department's sections since many of the terms appearing in Subchapter N were already defined in Subchapter A. The rules of the two agencies are now believed to be totally consistent and should not create further confusion.

One commenter suggested that collection programs be encouraged to manage received wastes according to the state waste management hierarchy established by the legislature for regulated hazardous waste.

Section 335.406(c)(10) contains new language that urges persons, when devising collection program plans, to determine the feasibility of managing collected hazardous household waste according to the established hierarchy.

One commenter suggested that §335.406(b) contain some of the same requirements outlined in §335.406(d)(8) with respect to providing information regarding planned public information efforts, the need or desirability of separating hazardous household waste from other household wastes, and procedures for delivering hazardous household waste to the collection center.

§335.406(b) is expanded through the addition of a new paragraph (6), so as to make these additional requirements applicable to all hazardous household waste collection projects.

One commenter recommended that in cases where an operator uses the same operational plan for recurring programs, there should be no need to resubmit a plan each time.

Section 335.406(c) is modified to clearly state that collectors or operators conducting recurring collection programs need not submit a plan for the second and subsequent operations provided the original or a revised plan has been previously submitted and remains in effect. Other added language in §335.406(c) states that changes to the plan may be made after consultation and coordination with the division.

One commenter suggested that the meaning of the term "adequacy of access," which appeared in §335.406(c)(7), was unclear. Section 335.406(c)(7) is rewritten to be more clear. The modified section states that the need for adequate roads and streets for travel into and out of the collection site is for the benefit of both the public and emergency vehicles.

Two commenters indicated that §335.407(e)(5) was unclear as to what wastes could be placed in the storage container referred to in that paragraph. It appeared to

the commenter that use of the phrase "materials which do not qualify as hazardous household waste" might confuse some readers.

Section 335.407(e)(5) is modified to clearly allow the collection center operator to make certain decisions about what materials might be appropriately, and without endangering human health or the environment, disposed of in a municipal solid waste facility.

One commenter questioned the wisdom of including as households various businesses such as hotels, motels, and campgrounds. The definition of the term "household" contained in the new sections is the same definition adopted by the EPA in 40 Code of Federal Regulations §260.10. Because state law adopts the federal definition of hazardous waste together with its various exclusions and exceptions, the commission believes it is important to keep the definition of this term identical to EPA's definition. The commission, however, did in the definition of the term "hazardous household waste," stipulate that hazardous household waste, to qualify under the definition, was required to be generated by a consumer as opposed, for example, to a construction contractor.

One commenter requested that a six-month phase-in of the new sections be allowed so as not to hamper plans that may be underway for collection programs scheduled in the very near future.

Section 335.406(a) is modified to enable the operators of collection programs, scheduled to be implemented within six months of the date these new sections become effective, to request a waiver from the requirement to submit a formal written operational plan.

One commenter recommended that in §335.407(d)(4), the amount of absorbent material required to be provided should be related to the total volume of liquid waste anticipated as opposed to the volume of all waste materials received.

Section 335.407(d)(4) is modified in response to this suggestion so as to require that the quantity of absorbent be that amount needed to contain a spill of up to as much as 10% of the anticipated total volume of collected liquid wastes.

One commenter had questions concerning the terms "empty," "do not drip," and "five gallons or less" that appeared in §335.407(e)(4) and suggested that the first two needed to be defined and that the third might not be relevant, particularly if the container were empty.

Section 335.407(e)(4) is modified to remove any reference to size of the container. Also, the phrase "do not drip when turned upside down" is deleted, thus simplifying, by making more general, the determination of which containers may be handled under the paragraph.

One commenter suggested that the requirement that materials to be re-used must be in their original containers was overly strict. The commission agrees with the commenter. Section 335.410 is modified to allow any received material that is readily identifiable by the collector to be provided to responsible parties for use or reuse even if the material is no longer in its original container.

One commenter questioned whether the plan required in §335.411(b)(1) to be submitted from transporters was the same plan as required from collectors in §335.406. Section 335.411(b) is revised to further clarify when a transporter must submit an operational plan. The transporters referred to in subsection (b) are those who engage in point of generation (door-to-door) pick up of hazardous household waste and not to those registered hazardous waste transporters who carry manifested hazardous household waste from the collection center to point of final disposal. Even the point of generator transporters are not required to submit a separate operational plan if their activities have been fully covered in the operational plan submitted by the collection center operator.

One commenter questioned whether the requirements in §335.411(b)(3) might prevent a transporter involved in storing or hauling hazardous household waste from handling and transporting hazardous waste from small quantity generators. The intent of the section is that transporters who handle hazardous waste from industrial, commercial, or institutional operations, which require more stringent controls than hazardous household waste, not intermingle the wastes. The commission does not believe it is necessary or feasible to establish a separation distance by rule or to preclude the wastes from being handled if these other wastes are contained in separate containers and accompanied by appropriate manifest documents.

One commenter expressed concern over the lack of a special penalty clause in the regulations. The Solid Waste Disposal Act contains penalty provisions for violations of the Act and rules of the commission. The commission does not believe it is necessary to incorporate a separate section on penalties into the sections of this subchapter.

One commenter requested clarification as to who should sign the manifest as generator and what that person's (who signs as generator) responsibilities are. The operator or a person designated by the operator would sign the manifest in the generator block. However, this does not make the operator a generator in the sense the term is understood when it relates to hazardous waste. The EPA and the state have excluded all household waste from the definition of hazardous waste. Although this section establishes

provisions for and defines a category of waste as hazardous household waste, such waste is excluded from being hazardous waste by state and federal laws and regulations even when manifested on a hazardous waste manifest. The operator has the overall responsibility for the operation of the program to collect hazardous household waste. This includes the requirement to carry out the program in conformance with this subchapter and to exercise the necessary precautions to protect human health and the environment. The Act exempts the operator from some liability claims in connection with promotion of the program.

One commenter suggested that if non-household waste is delivered to a collection center, the on-site supervisor should be able to assist the bearer by either accepting the waste, arranging for the Texas Department of Health or the Texas Water Commission to accept the waste, or notifying the Texas Water Commission and assisting the bearer in obtaining the necessary authorization for disposal.

The commission is not opposed to the collection site operator assisting non-household generators of solid waste, particularly small quantity hazardous waste generators. The preferred way to assist such generators would be to have them identify and acknowledge their waste on a separate manifest, to sign as the generator on the manifest, and to turn the waste directly over to the regulated hazardous waste transporter involved in transporting other aggregated hazardous household wastes from the collection center. Assistance for various nonhazardous waste generators, such as assigning generator identification numbers and TWC waste codes, is available from the commission.

Two commenters questioned whether the operator was the same person as the site supervisor, and whether they had similar responsibilities. Also questioned was whether the new sections should define the term "person."

The on-site supervisor may be the operator, however, the commission believes the on-site supervisor would normally be an employee of the operator or a person under contract to the operator. The operator is the person who implements and submits the notification and operational plan for a hazardous household waste collection program. The operator has the overall responsibility for the program and is the person responsible for any required financial assurance. The term "person" is defined both in the Solid Waste Disposal Act and in §335.1.

One commenter was concerned that the operational plan should be required to list both the kinds of material that would be accepted and the kinds that would be rejected. Section 335.406(d)(3) and (4) requires that facility operators notifying the commission as to proposed hazardous

household waste collection activities include in their written notification information as to the kinds of wastes that will be accepted and the types or classes of waste that will not be accepted.

Exxon, Dow, League of Women Voters, City of Austin, and Sierra Club expressed general support of the objectives of the proposed new sections which are to protect human health and the environment, and expressed a belief that hazardous household waste programs provide a valuable function in our society. No commenters were opposed to the adoption by the commission of hazardous household waste regulations.

These new sections are adopted under the Texas Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to adopt any rules necessary to carry out its powers and duties under the Code and other laws of this state and to establish and approve all general policy of the commission. These new sections are also adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which authorizes the commission to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the control of municipal hazardous waste and industrial solid waste, including rules relating to the siting of hazardous waste facilities. Under the Solid Waste Disposal Act, §3(b), the Texas Water Commission is designated the state solid waste agency with respect to the management of all industrial solid waste and hazardous municipal waste and is required to seek the accomplishment of the purposes of the Act through the control of all aspects of industrial solid waste and municipal hazardous waste management by all practical and economically feasible methods consistent with the powers and duties prescribed under the Act and other existing legislation. Section 3(b) also grants to the commission the powers and duties specifically prescribed in the Act and all other powers necessary or convenient to carry out its responsibilities. The Solid Waste Disposal Act, §4(k), requires the commission and the Texas Department of Health to provide by rule for interested persons to engage in activities which involve the collection and disposal of household materials which could be classified as hazardous wastes.

**§335.401. Purpose.** The purpose of this subchapter is to provide requirements for interested persons to engage in activities which involve the collection, disposal, or recycling of hazardous household wastes and other types of household waste materials that may, due to their quantity and characteristics, pose a potential endangerment to human health or the environment if improperly handled. The Texas Department of Health and the Texas Water Commission agree to establish and maintain a cooperative effort with

regard to providing regulation and direction for hazardous household waste collection programs so as to insure that waste aggregated as a result of such programs is properly handled and disposed of in a safe manner.

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

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

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

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

**Commission**—The Texas Water Commission.

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

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

**Hazardous household waste**—Any solid waste generated in a household by a consumer which, except for the exclusion provided in 40 Code of Federal Regulations §261.4(b)(1), would be classified as a hazardous waste under 40 Code of Federal Regulations Part 261.

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

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

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

**§335.403. Authority.**

(a) Authority of the Texas Department of Health. The Texas Department of Health (the department) is the state agency having responsibility for regulation of nonhazardous municipal solid waste. The department and the commission agree that the department has

primary regulatory authority over hazardous household waste; persons who provide point of generation pick-up of hazardous household waste; and persons who establish and operate hazardous household waste collection centers, other than those located at established hazardous waste processing, storage, or disposal facilities which are regulated by the Texas Water Commission (the commission). The following regulatory portions of this subchapter shall be primarily implemented and enforced by the department:

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

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

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

(4) §335.410 of this title (relating to Reuse of Collected Material), except in those cases where the collector or operator determining the reuse suitability of the collected material is the owner/operator of a hazardous waste processing, storage, or disposal facility; and

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

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

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

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

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

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

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

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

**§335.404. Interagency Coordination.**

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

(b) The division shall be the point of contact between collectors or operators subject to the requirements of §335.406(b) and (c) of this title (relating to General Requirements for Collectors and Operators) and the commission. The division also shall provide the collectors and operators the necessary forms, identification numbers, waste codes, and special instructions from the commission concerning transportation and ultimate disposition of aggregated hazardous household waste.

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

**§335.405. Applicability.**

(a) This subchapter applies to persons who:

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

(2) are involved in the point of generation pick-up of hazardous household waste that has been separated by the generator from other solid wastes;

(3) operate hazardous household waste collection centers;

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

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

(b) The sections of this subchapter do not apply to individuals who receive from households, for the purpose of recycling or reclamation, used oil or lead acid batteries, provided such individuals do not operate a collection center for other hazardous household waste or other household wastes that fall under the purview of this subchapter.

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

(a) Except as provided in subsection (d) of this section, no person may engage in any activity to collect or aggregate hazardous household waste that has been segregated from other solid waste without having first notified the Division of Solid Waste Management, Texas Department of Health (division), in accordance with subsection (b) of this section and without having submitted to the division an operational plan as provided for in subsection (c) of this section. The department may waive the requirements of this section for programs scheduled to be implemented within six months of the date these sections become effective, provided the collector or operator requests such waiver in writing.

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

(1) name and address of the operator;

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

(3) date of planned collection;

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

(5) a conceptual organization of the collection effort with names of persons or groups providing support and identities of all organizations or groups involved together with the operator in any advertising, public service campaigns, or other public information efforts; and

(6) details regarding any planned public information efforts concerning the dangers or risks associated with hazardous household waste, the need or desirability of separating such waste from other household waste, and the procedures for delivery of hazardous household waste to the collection center.

(c) The collector or operator shall submit to the division a complete operational plan not less than 45 days prior to collection day. Collectors or operators conducting recurring collection programs need not submit a plan for the second and subsequent operations, provided the original or a revised plan has been previously submitted and remains in effect. The plan shall be prepared in format and content as described in paragraphs (1)-(12) of this subsection or as otherwise specified by the division. Changes to the plan may be made after consultation and coordination with the division.

(1) The plan shall be in a typewritten report form (except for maps and drawings) on 8 1/2 inches by 11 inches white paper. All materials in excess of 8 1/2 inches by 11 inches shall be folded to that size. Undersized materials shall be mounted on 8 1/2 inches by 11 inches paper, and the report stapled in the upper left-hand corner or

bound along the left margin. All folded material shall be affixed so it can be unfolded without removing binders.

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

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

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

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

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

(7) Information relating to adequacy of roads or streets to be used to enter or exit the collection center shall be submitted as part of the plan.

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

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

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

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

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

(D) provisions for classifying and controlling the wastes;

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

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

(G) spill control measures and cleanup procedures;

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

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

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

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

(10) The operator shall provide information on the planned disposal of the waste collected, to include the transporter's name and the United States Environmental Protection Agency identification number, and the name, location, and the United States Environmental Protection Agency identification number of the hazardous waste facility which is to be used for the processing, storage, disposal, or recycling of the waste. The operator, in developing the plan for disposal of waste to be received at the collection center, should determine the feasibility of managing collected hazardous household waste in the following order of preference:

(A) reuse and/or recycling of waste;

(B) treatment to destroy hazardous characteristics;

(C) treatment to reduce hazardous characteristics;

(D) underground injection; and

(E) land disposal.

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

(12) The plan shall include the following attachments:

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

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

(C) Attachment 3—evidence of financial responsibility. Collectors or operators other than governmental entities shall submit evidence of financial responsibility which assures the department that sufficient assets are available to properly operate the collection center, enable appropriate shipment and disposal of the waste, and to provide for proper closure of the collection center. The amount and type of financial assurance shall be determined by the division after discussing the scope of the collection effort with the operator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) have materials and procedures to control spills.

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

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

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

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

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

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

(6) An on-site supervisor must be available and responsible for initiating an

emergency response plan that includes site evacuation procedures. The on-site supervisor also assumes responsibility for accepting any unidentified wastes and insuring proper handling and disposal.

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

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

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

(1) a first aid kit available at each collection center and on each point of generation pick-up service vehicle;

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

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

(4) sufficient spill containment and absorbent materials at the collection center and on each point of generation waste collection vehicle to contain a spill of 10% of the anticipated volume of collected liquid waste.

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

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

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

(3) Decisions to accept certain wastes shall depend on the capabilities of the personnel collecting, sorting, and packaging the waste. A generic list of proposed wastes to be accepted must be submitted to the division with the operational plan. The list should be developed with the intent of minimizing the need for chemical analysis of unidentifiable wastes.

(4) Empty hazardous material and pesticide containers from households may be disposed of as a nonhazardous waste if they are rendered unusable before leaving the collection center.

(5) A container shall be provided at the collection center for collection and storage of waste received at the center, that because of quantity and characteristics, does not pose a potential endangerment to human health on the environment if disposed of in a municipal solid waste facility.

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

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

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

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

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

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

(A) composition and physical state of the waste;

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

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

(D) date of acceptance at the collection center.

(3) Records for storage of all hazardous household wastes shall be maintained

to include all the information necessary to complete manifests for the wastes. (Copies of manifests may be used in lieu of a separate record).

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

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

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

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

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

§335.409. *General Shipping, Manifesting, Recordkeeping, and Reporting Requirements.*

Except for those collected reusable materials handled in accordance with the requirements of §335.410 of this title (relating to Reuse of Collected Material) and waste received at the center, which can be disposed of at a municipal solid waste facility in accordance with the requirements of §335.407 of this title (relating to Operation of Collection Centers), persons who collect, receive, or aggregate hazardous household waste shall:

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

an Environmental Protection Agency identification number;

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

(3) assure, prior to offering such waste for shipment, that such waste is packaged and labeled so as to comply with applicable United States Department of Transportation (DOT) requirements and to comply with the requirements contained in §335.10 of this title (relating to Shipping and Reporting Procedures Applicable to Generators of Municipal Hazardous Waste or Class I Industrial Solid Waste);

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

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

§335.410. *Reuse of Collected Material.*

Any material collected or accepted at a collection center in its original container with a legible label or that is otherwise readily identifiable and which has been determined by the collector or operator to be in a usable condition may be removed from the aggregated hazardous household waste and provided to a governmental entity, institution, or other responsible party for use.

§335.411. *General Requirements for Transporters.*

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

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

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

(3) complies with the requirements outlined in §335.11 of this title (relating to Shipping Requirements for Transporters of Municipal Hazardous Waste or Class I Industrial Solid Waste) with respect to all manifested household waste;

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



respect to all manifested household waste; and

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

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

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

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

(3) All hazardous household waste accumulated by the transporter shall be kept separate and apart from hazardous waste or Class 1 industrial solid waste as defined in the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, which may be accumulated at a transporter's facilities.

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

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

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

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

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

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

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

This agency hereby certifies that the 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 February 19, 1987.

TRD-8701526 James K. Rourke, Jr.  
General Counsel  
Texas Waste Commission

Effective date: March 12, 1987  
Proposal publication date: December 19, 1986  
For further information, please call  
(512) 463-8087.

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## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration Subchapter O. Franchise Tax

##### ★34 TAC §3.391

The Comptroller of Public Accounts adopts an amendment to §3.391, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 225).

One amendment changes the title of the section from Franchise Tax Reports and Payments to Franchise Tax—General Information. The major change is the moving of information concerning reports, due dates, penalties, interest, and audits to new §3.413, concerning Franchise Tax Reports and Payments, which is being adopted simultaneously with the amendments to this section. There are also two minor word changes due to statutory changes.

No comments were received regarding adoption of the amendment.

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

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 February 20, 1987.

TRD-8701585 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: March 13, 1987  
Proposal publication date: January 26, 1987  
For further information, please call  
(512) 463-4004.

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## Subchapter Q. Franchise Tax

### ★34 TAC §3.403

The Comptroller of Public Accounts adopts the repeal of §3.403, without changes to the proposed text published in the January 13, 1987, issue of the *Texas Register* (12 TexReg 138).

The repeal deletes existing language to prepare for a new section.

This section is being repealed in order that a substantial revised section dealing with the same subject matter can be adopted.

No comments were received regarding adoption of the repeal.

This repeal is adopted under the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the franchise tax.

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 February 20, 1987.

TRD-8701586 Bob Bullock  
Comptroller of Public  
Accounts

Effective date: March 13, 1987  
Proposal publication date: January 13, 1987  
For further information, please call  
(512) 463-4004.

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### ★34 TAC §3.403

The Comptroller of Public Accounts adopts a new §3.403, without changes to the proposed text published in the January 13, 1987, issue of the *Texas Register* (12 TexReg 138).

This new section contains significant changes concerning partnership receipts, exchanges of property, and dividends. There is a subparagraph explaining the throwback rule and some other minor word changes for clarification purposes.

The following comments were received concerning clarification of the new section. Sander W. Shapiro of the law firm of Shapiro, Edens & Cook suggested that subsection (c)(16) should contain language clarifying that reimbursement for obligations of another should not be considered receipts. The comptroller's response is that reimbursements to one corporation for the obligations of another should not be considered receipts to the corporation being reimbursed. However, the new section is not incorrect as written and the only changes being made at this time reflect either statutory or policy changes which could have a major impact on many corporations.

Chris F. Collis of the accounting firm of Coopers and Lybrand asked for clarification.

tion of the methods of determining partnership receipts. He asked if a method previously allowed would still be allowed. The comptroller's response is that taxpayers will no longer be allowed to use their share of the partnership's gross receipts allocated to the principal place of business of the partnership.

The following comments were received against the new section.

Texas Mid-Continent Oil and Gas Association requested a public hearing pursuant to Texas Civil Statutes, Article 6252-13a, §5(c), which was held February 18, 1987. At the hearing, the following people spoke against the adoption of (c)(14) on the grounds that long-standing policy should not be changed and Attorney General Opinion JM—478, 1986, is incorrect: Bill Abington, Texas Mid-Continent Oil and Gas Association; Hak K. Dickenson, Marathon Oil Company; Gerald S. Wassum, Marathon Petroleum Company; Dean Plott, Fina Oil and Chemical; Frederic J. Attermeier, Texaco, Inc.; and Karl B. Schmalz, Exxon Company, U.S.A. The comptroller's response is that Attorney General Opinion JM—478, 1986, states that our long-standing policy is incorrect and the opinion will be followed.

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

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 February 20, 1987.

TRD-8701587      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: March 13, 1987  
Proposal publication date: January 13, 1987  
For further information, please call  
(512) 463-4004.

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### ★ 34 TAC §3.413

The Comptroller of Public Accounts adopts new §3.413, without changes to the proposed text published in the January 20, 1987, issue of the *Texas Register* (12 TexReg 227). The new section contains information previously in §3.391, concerning Franchise Tax Reports and Payments, which is being amended simultaneously. The new section reflects recent statutory changes. The interest rate on delinquent taxes changed from 7.0% to 10% effective April 1, 1982. The due date for the annual franchise tax report changed to March 15 in accordance with the Texas Tax Code, §171.152 and §171.202, as amended during the 1984 special legislative session. Corporations

chartered obtaining a certificate of authority or beginning to do business in Texas during the period from October 4 through April 30 will compute and pay in advance an additional year's tax with their initial reports, in accordance with the Texas Tax Code, §171.152 and §171.153, as amended during the 1984 special and 1985 regular legislative sessions. As a result of changes made to the Franchise Tax Act by the legislature during the 1985 regular session, all foreign corporations must file and pay their initial report within 89 days after the first anniversary date of the certificate of authority or beginning of business in Texas, whichever is earlier. The legislature also made changes to the general provisions of the Tax Code during the 1985 regular session, which allow the comptroller to assess penalty if a deficiency determination is not paid within 10 days after it becomes final, or within 20 days after a comptroller's decision becomes final.

No comments were received regarding adoption of the new section.

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

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 February 20, 1987.

TRD-8701588      Bob Bullock  
Comptroller of Public  
Accounts

Effective date: March 13, 1987  
Proposal publication date: January 20, 1987  
For further information, please call  
(512) 463-4004.

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## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part IX. Texas Department on Aging

#### Chapter 271. Multipurpose Senior Center Standards Statutes and Regulations

##### ★ 40 TAC §271.1

The Texas Department on Aging adopts an amendment to §271.1, without changes to the proposed text published in the January 2, 1987, issue of the *Texas Register* (12 TexReg 31).

This amendment establishes policies and procedures for control of smoking in fa-

cilities funded under the Older Americans Act, Title III, as amended.

This amendment provides a standard for the establishment of rules governing the use of smoking materials in senior center facilities and transportation resources throughout the State of Texas.

Commenters stated implementation of the amendment would result in additional cost did not contribute to quality of service, could not be applied, would not result in a change of attitude of smokers, should be left to the decision of local advisory councils or individual centers, or that blanket laws do more harm than good. Another commenter recommended prohibiting smoking in corridors, lobbies, and restrooms.

Texas Association of Regional Councils and Central Texas Council of Governments commented in favor of the amendment. Martin County Senior Citizens and the Balmorhea Senior Center commented against the amendment.

The Texas Department on Aging believes that the amendment is sufficiently flexible to permit establishment of policies which will require little, if any, cost or disruption of routine senior center activities.

The amendment is proposed under the Human Resources Code Chapter 101, which provides the Texas Department on Aging with the authority to promulgate rules governing the operation of the department.

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

Issued in Austin, Texas, on February 23, 1987.

TRD-8701593      O. P. Bobbitt  
Executive Director  
Texas Department on  
Aging

Effective date: March 16, 1987  
Proposal publication date: January 2, 1987  
For further information, please call  
(512) 444-2727.

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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 Aeronautics Commission

**Wednesday, March 18, 1987, 10 a.m.** The Air Carrier Division of the Texas Aeronautics Commission will meet in Room 221, Anson Jones State Office Building, 410 East Fifth Street, Austin. According to the agenda, the division will hold a public hearing on the application of Conquest Airlines Corporation for a Texas Air carrier certificate of operating authority to provide scheduled passenger service between and among the points of Austin, Beaumont, and Dallas Love Field. The hearing is conducted pursuant to Texas Civil Statutes, Article 46c-6,(3) and 43 TAC §§63.1, 63.3, and 63.11.

**Contact:** Lydia Scarborough, 410 East Fifth Street, Austin, Texas 78701, (512) 476-9262.

**Filed:** February 20, 1987, 1:10 p.m.  
TRD-8701569

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## Criminal Justice Task Force

**Monday, February 23, 1987, 1:30 p.m.** The Criminal Justice Task Force met in emergency session in Room 1-100, Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the task force heard testimony from criminal justice agencies on the reorganization of the criminal justice system and called for written testimony. The emergency status was necessary because emergency funding of criminal justice agencies and the current crisis in the prison system make this meeting necessary.

**Contact:** Ronald Champion, Sam Houston Building, Austin, Texas 78701, (512) 463-1810.

**Filed:** February 19, 1987, 10:13 a.m.  
TRD-8701525

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## State Depository Board

**Tuesday, February 24, 1987, 11 a.m.** The State Depository Board, met for an emergency meeting in the Office of the Treasurer, 111 East 17th Street, Austin. According to the agenda, the board discussed the receivership of the First National Bank of Weslaco, authorized the custodian bank to release the collateral securities to the state treasurer, and sell these securities and terminate the bank's designation as a state depository. The emergency status was necessary to avoid or mitigate loss caused by the receivership of the First National Bank of Weslaco.

**Contact:** J. Stephen Ravel, P.O. Box 12608, Austin, Texas 78711, (512) 463-5971.

**Filed:** February 24, 1987, 8:20 a.m.  
TRD-8701620

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## Texas Employment Commission

**Wednesday, March 4, 1987, 8:30 a.m.** The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will consider internal procedures of commission appeals and action on tax liability cases and higher level appeals in unemployment cases listed on commission docket nine.

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

**Filed:** February 23, 1987, 3:54 p.m.  
TRD-8701513

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## State Board of Insurance

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

**Tuesday, March 3, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in

Room 342, to consider Docket 9452—whether disciplinary action should be taken against Sterling Olin Frymire, Jr., San Antonio, who holds a Group I legal reserve life insurance agent's license and Group II accident and health insurance agent's license issued by the State Board of Insurance.

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

**Filed:** February 23, 1987, 12:58 p.m.  
TRD-8701605

**Tuesday, March 3, 1987, 10 a.m.** The State Board of Insurance will meet in Room 414, to consider board orders on several different matters, personnel matters concerning the Fire Marshal and Research and Information Services, and personnel and litigation matters concerning the Commissioner.

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

**Filed:** February 23, 1987, 4:03 p.m.  
TRD-8701617

**Wednesday, March 4, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9466—whether disciplinary action should be taken against Robert Nolan Skinner, Jr., Grandbury, who holds a Group II, life, health, and accident insurance agent's license and local recording agent's license issued by the State Board of Insurance.

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

**Filed:** February 23, 1987, 12:58 p.m.  
TRD-8701606

**Thursday, March 5, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9481—denial of the application for admission by Old World Society of Health and Finance, Houston.

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

**Filed:** February 23, 1987, 12:58 p.m.  
TRD-8701607

**Thursday, March 5, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9494—application of Scotsmen Life Insurance Company, Austin, for a charter amendment to convert a stipulated premium company to a legal reserve life, accident, and health insurance company.

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

**Filed:** February 23, 1987, 12:58 p.m.  
TRD-8701608

**Friday, March 6, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9490—application of Lee Wayne Stepp, Waco, for a Group I, legal reserve life insurance agent's license.

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

**Filed:** February 23, 1987, 12:59 p.m.  
TRD-8701609

**Wednesday, March 11, 1987, 10 a.m.** The State Board of Insurance will meet in Room 414, to consider the request of Medical Protective Company for review of denial of increase in rates for medical professional liability insurance for physicians and surgeons under board order 50073.

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

**Filed:** February 23, 1987, 4:04 p.m.  
TRD-8701622

**Wednesday, March 11, 1987, 10 a.m.** The State Board of Insurance will meet in Room 414, to consider the request of Medical Protective Company for review of denial of increase in rates for medical professional liability insurance for dentists under board order 50072.

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

**Filed:** February 23, 1987, 4:03 p.m.  
TRD-8701623

**Friday, March 13, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342 to consider Docket 9491—application of Titan Indemnity Company, San Antonio, to acquire control of Valley Bancshares Insurance Company, McAllen.

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

**Filed:** February 23, 1987, 12:59 p.m.  
TRD-8701610

**Thursday, March 26, 1987, 9 a.m.** The State Board of Insurance will meet in Room 414, to consider the appeal of Savers Annuity Insurance Company from commissioner's order 86-1267.

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

**Filed:** February 23, 1987, 4:01 p.m.  
TRD-8701624

**Monday, March 30, 1987, 9 a.m.** The board will meet in Room 342 to consider the appeal of Mrs. A. M. Bowen from action of the Texas Catastroph Property Insurance Association.

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

**Filed:** February 20, 1987, 1:54 p.m.  
TRD-8701579

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### Texas Department of Labor and Standards

**Thursday, March 5, 1987, 11 a.m.** The Texas Industrialized Building Code Council of the Texas Department of Labor and Standards will meet in Room 101-A, DeWitt C. Greer Building, 125 East 11th Street, Austin. Items on the agenda include the review of the minutes from the last meeting; and new business, including the review of the third party inspector application and public comments. The meeting is rescheduled from March 5, 1987, at 10 a.m.

**Contact:** Jimmy G. Martin, P.O. Box 12157, Austin, Texas 78711, (512) 463-7352.

**Filed:** February 24, 1987, 9:29 a.m.  
TRD-8701644

**Tuesday, March 24, 1987, 10 a.m.** The Labor, Licensing, and Enforcement Division of the Texas Department of Labor and Standards, will meet in the E.O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division will consider suspension or revocation of auctioneer license for Asher Wainer and Ronald Hill Mudd for violations of the department's rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711, (512) 463-3130.

**Filed:** February 20, 1987, 9:57 a.m.  
TRD-8701553

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### School Land Board

**Tuesday, March 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 summary, the board approved minutes of the previous board meeting, consider special oil and gas lease sale of March 3, 1987, pooling applications, final approval of Smith School tract condemnation, coastal public lands, commercial lease applications, easement applications, and lease applications.

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

**Filed:** February 23, 1987, 4:05 p.m.  
TRD-8701616

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### Texas Commission on Law Enforcement Officer Standards and Education

**Wednesday, March 11, 1987, 10 a.m.** The Texas Commission on Law Enforcement Officer Standards and Education will meet in Room 3.102, Joe C. Thompson Conference Center, 2405 East Campus Drive (University of Texas campus), Austin. According to the agenda summary, the commission will recognize visitors, read minutes of the previous meeting, consider final amendments to commission rules, final adoption of new commission rules, proposed amendments to commission rules, proposal to certify San Antonio College separate from the Alamo Area Council of Governments, final order's of suspensions and revocations, voluntary surrenders, and staff activities.

**Contact:** David Boatright, 1606 Headway Circle, Suite 100, Austin, Texas 78754, (512) 834-9222.

**Filed:** February 23, 1987, 3:58 p.m.  
TRD-8701615

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### Legislative Education Board

**Monday, March 9, 1987, 3 p.m.** The Legislative Education Board will meet in the Lieutenant Governor's Committee Room 220, State Capitol, Austin. According to the agenda, the board will consider alternative teacher certification, vocational education, and other business.

**Contact:** Nancy Frank, P.O. Box 12068, Austin, Texas 78711, (512) 463-0010.

**Filed:** February 23, 1987, 3:57 p.m.  
TRD-8701614

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## Texas Department of Mental Health and Mental Retardation

**Friday, February 27, 1987, 9 a.m.** The Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation made an emergency addition to the agenda of a meeting to be held in the Auditorium, Central Office, 909 West 45th Street, Austin. According to the agenda summary, the board will approve minutes of the January 5, 1987, meeting, consider citizen's comments, commissioner's calendar, recommendations for board consideration from the Executive Committee, Business Committee, Rule Review Committee, and Personnel Committee, and RAJ, Leisz, and Griffith v. Bynum litigation. The emergency status is necessary because the need exists for immediate consideration of issues in negotiation.

**Contact:** Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

**Filed:** February 23, 1987, 2:53 p.m.  
TRD-8701612

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## State Board of Morticians

**Tuesday-Wednesday, March 3-4, 1987, 9 a.m. daily.** The State Board of Morticians will meet in Conference Room B, Building B, 8100 Cameron Road, Austin, on March 3, and at the Wyndham Southpark, 4140 Governor's Row, Austin. According to the agenda summary, the board, on March 3, will consider formal hearing on action of licensees, request for waiver of educational requirements and discussion on giving of exams by the national conference, embalmer practical guides certification, requests for extensions of period to register as an apprentice, request to take oral exam and request to register as an apprentice, request for reinstatement of apprenticeships, review of reciprocal applications, review complaints, and hear committee, investigators and executive secretary reports, on March 4, to consider funeral director and embalmer written examinations, certification of written exam grades, and any items not considered on March 3.

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

**Filed:** February 20, 1987, 9:16 a.m.  
TRD-8701549

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## North Texas State University

The following Committees of the North Texas State University Texas College of Osteopathic Medicine will meet at North Texas State University, Denton. Dates, times, rooms, committees, and agendas follow.

**Thursday, February 26, 1987, noon.** The Role and Scope Committee and the Board of Regents will meet in the Diamond Eagle Suite, North Texas State University, Denton. According to the agenda, the committee and board will consider end of semester enrollment, PDI board of trustees, NTSU Foundation Board of Directors, personnel, distinguished research professorships, regents professorships, Texas Academy of Mathematics and Science, and name change for the university. The committee and board will also meet in executive session to consider pending lawsuits, private development of university land, NTSU Athletic Director search, TCOM Academic VP search, and title change for VP for Development.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

**Filed:** February 20, 1987, 1:53 p.m.  
TRD-8701577

**Friday, February 27, 1987, 9 a.m.** The Board of Regents will meet in the boardroom, Administration Building, to approve minutes of previous meeting, consider enrollment report, PDI Board of Trustees, NTSU Foundation Board of Directors, personnel, distinguished research professorships, regents professorships, proposal concerning Texas Academy of Mathematics and Science, name change for university, university centers and research, gift report, signature authority, university investments, pending appropriation bills, parking lot improvements, telephone conference call meetings, TCOM personnel, admissions briefing, gift report, signature authority, pending appropriation bills, option to purchase land, and telephone conference call meetings. The board will also meet in executive session to consider pending lawsuits, private development on university lands, NTSU athletic search, TCOM Academic VP search, title change for VP for Development.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2198.

**Filed:** February 20, 1987, 1:53 p.m.  
TRD-8701578

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## Board of Pardons and Paroles

**Wednesday, February 25, 1987, 9:30 a.m.** The Board of Pardons and Paroles met in emergency session at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board considered Senate Bill 215 and related legislation. The emergency status was necessary because board members cannot adjust their schedules to meet any other reasonable time.

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

**Filed:** February 23, 1987, 4:26 p.m.  
TRD-8701619

**Tuesday, March 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 legislation, electronic monitoring proposals, alternative sanctions proposal, budget, adoption of rules, promotional procedures, review of set-off procedures, administrative review of technical violators, and the executive director's report.

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

**Filed:** February 23, 1987, 4:27 p.m.  
TRD-8701618

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**Monday-Friday, March 2-6, 1987, 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 releasees 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:** February 20, 1987, 10:36 a.m.  
TRD-8601565

**Tuesday, March 3, 1987, 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:** February 20, 1986, 10:36 a.m.  
TRD-8601566

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## State Pension Review Board

**Tuesday, March 10, 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:** February 24, 1987, 9:18 a.m.  
TRD-8701642

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### Texas Public Building Authority

**Thursday, March 5, 1987, 10 a.m.** The Texas Public Building Authority, will meet in Room 118, Stephen F. Austin Building, Austin. According to the agenda, the authority will approve minutes of the February 5, 1987, meeting; hear reports concerning Budget and Finance, the status of building projects, reorganization at SPGSC, and status of new legislation; and consider the status of funds/investment portfolio. The authority will also meet in executive session to discuss personnel matters and reconvene to announce decisions made in executive session.

**Contact:** Ann Moriarty, 201 East 14th Street, Austin, Texas 78711, (512) 463-5544.

**Filed:** February 23, 1987, 11:38 a.m.  
TRD-8701600

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### Public Utility Commission of Texas

**Friday, March 6, 1987, 10:00 a.m.** The Hearings Division will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division has scheduled an in Docket No. 7383 to hear the complaint of Harvey Hudspeth against Southwestern Bell Telephone Company.

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

**Filed:** February 19, 1987, 2:49 p.m.  
TRD-8701535

**Friday, May 1, 1987, 10:00 a.m.** The Hearings Division will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the prehearing conference has been rescheduled in Docket Nos. 7122, 7123, 7124 and 7152: complaint of Intellicall, Inc. against private coin phone rates and practices of Southwestern Bell Telephone Company; complaint of Advanced Telecom Systems Inc. against private coin phone rates and practices of Southwestern Bell Telephone Company; complaint of Intellicall Et Al. against private coin phone rates and practices of Southwestern Bell Telephone Company; and application of Southwestern Bell Telephone Company to revise its private coin service tariff at the above time and date.

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

**Filed:** February 19, 1987, 2:49 p.m.  
TRD-8701536

**Monday, June 29, 1987, 10:00 a.m.** The Hearings Division will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the hearing on the merits has been rescheduled in Docket Nos. 7122, 7123, 7124 and 7152: complaint of Intellicall, Inc. against private coin phone rates and practices of Southwestern Bell Telephone Company; complaint of Advanced Telecom

Systems Inc. against private coin phone rates and practices of Southwestern Bell Telephone Company; complaint of Intellicall et al. against private coin phone rates and practices of Southwestern Bell Telephone Company; and application of Southwestern Bell Telephone Company to revise its private coin service tariff.

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

**Filed:** February 19, 1987, 2:49 p.m.  
TRD-8701537

**Friday, February 27, 1987, 10:00 a.m.** The Hearings Division will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, a hearing on the merits has been rescheduled in Docket 7184 to discuss the application of the Fort Bend Telephone Company for detariffing and deregulation of inside wire.

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

**Filed:** February 19, 1987, 2:49 p.m.  
TRD-8701538

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### State Purchasing and General Services Commission

**Tuesday, March 3, 1987, 1:30 p.m.** The Texas School Bus Committee of the State Purchasing and General Services Commission will meet in Room 1103, L.B.J. Office Building, 111 East 17th Street, Austin. According to the agenda, the committee will discuss specifications for school bus bodies, school bus chassis, school bus optional equipment, approved products list, and addendum to the school bus specification.

**Contact:** Troy Martin, 111 East 17th Street, Austin, Texas 78711, (512) 463-3415.

**Filed:** February 20, 1987, 1:29 p.m.  
TRD-8701576

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### Railroad Commission of Texas

The following divisions of the Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. Divisions, dates, times, and agendas follow.

**Monday, February 23, 1987, 9 a.m.** The Oil and Gas Division made an emergency addition to the agenda of a meeting. The addition concerned whether to use state funds to plug a leaking well from unidentified operator, R. A. Brown lease, leaking corehole, Throchmorton County. The emergency status was necessary because this item must be taken on less than seven days notice as a matter of urgency public necessity. The well is leak-

ing approximately 450 barrrels of saltwater er day, causing pollution and could be a .hreat to the public's health, safety, and welfare.

**Contact:** Willis Steed, P.O. Box 12967, Austin, Texas 78711, (512) 463-6830.

**Filed:** February 20, 1987, 3:55 p.m.  
TRD-870158

**Tuesday, March 10, 1987, 9 a.m.** The Oil and Gas Division will consider oral argument in Docket 1-10-88,360—application of Tenn-gasco Marketing Corporation for authority to sell any gas it buys from the General Land Office or the board for lease of university lands in the State of Texas, pursuant to §52.293 of the Texas Natural Resources Code, or in the alternative, pursuant to §52.296 of the Texas Natural Resources Code, and as an exception to the Railroad Commission's Statewide Rule 69.

**Contact:** Walter Davis, P.O. Box 12967, Austin, Texas 78711, (512) 463-6918.

**Filed:** February 20, 1987, 3:55 p.m.  
TRD-8701590

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### Texas Rehabilitation Commission

The Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet in the La Mansion Hotel, 6505 IH-35 North, Austin. Dates, times, and agendas follow.

**Thursday, March 5, 1987, 4:30 p.m.** The council will introduce council members, staff, and guests and hear the medicaid reform seminar.

**Contact:** Roger A. Webb, 118 East Riverside, Austin, Texas 78704, (512) 445-8867.

**Filed:** February 19, 1987, 1:47 p.m.  
TRD-8701532

**Friday, March 6, 1987, 8 a.m.** The council will meet in the Rio Brazos Lounge to consider state and federal legislation.

**Contact:** Roger A. Webb, 118 East Riverside, Austin, Texas 78704, (512) 445-8867.

**Filed:** February 19, 1987, 1:48 p.m.  
TRD-8701533

**Friday, March 6, 1987, 9:30 a.m.** The council will introduce council members, staff, and guests; hear comments by Commissioner Arrell; hear reports from the Advocacy and Public Information Committee, Planning and Evaluation Committee, and Executive Committee; consider election of council vice-chair; and hear reports from the chairman, executive director, and public comments.

**Contact:** Roger A. Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8004.

**Filed:** February 19, 1987, 1:48 p.m.  
TRD-8701534

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## Texas Savings and Loan Department

**Tuesday, March 3, 1987, 9 a.m.** The Texas Savings and Loan Department will meet in Room 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will consider accumulation of a record of evidence in regard to the application of Gibraltar Savings Association, Houston, Harris County, Texas, for a branch office relocation from 424 Schatzel, Corpus Christi, Nueces County, to 4635 Everhart Road, Corpus Christi, Nueces County, Texas, 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 78705, (512) 479-1250.

**Filed:** February 19, 1987, 4:11 p.m.  
TRD-8701540

**Tuesday, March 3, 1987, 9 a.m.** The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. Items on the agenda summary include accumulation of a record of evidence in regard to the application of Gibraltar Savings Association, Houston, Harris County, Texas, for a savings agency at 14951 Dallas Parkway, Dallas, Dallas County, Texas, from which record the commissioner will determine whether to grant or deny the application.

**Contact:** Russell R. Oliver, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

**Filed:** February 19, 1987, 4:12 p.m.  
TRD-8701541

**Tuesday, March 3, 1987, 9 a.m.** The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will consider accumulation of a record of evidence in regard to the application of Gibraltar Savings Association, Houston, Harris County, Texas, to relocate a branch office from 5324 Wedgwood Circle North, Fort Worth, Tarrant County, to 3100 Alta Mesa Boulevard, Fort Worth, Tarrant County, Texas, from which record the commissioner will determine whether to grant or deny the application.

**Contact:** Russell R. Oliver, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

**Filed:** February 19, 1987, 4:13 p.m.  
TRD-8701542

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## Texas State Technical Institute

**Sunday and Monday, March 15 and 16, 1987, 12:45 p.m. and 9 a.m., respectively.** The Board of Regents of the Texas State Technical Institute will meet in the Central

Administration Building, Waco. Items on the agenda include the approval of minutes; requests for budget change; tuition and fees for fiscal year 1988; tuition and fees refund policy; the board plan rates for the fiscal year beginning September 1, 1987; emoluments for the fiscal year 1988; the family and single student housing rental rates; service charges and deposits schedule for the fiscal year beginning September 1, 1987; the bond issue; an amendment to the requirements for leasing noninstructional facilities; policies for fiscal affairs including the refund and budget change policies; the agreement with Deborah Ludwig, doing business as Haircrafters, for furnishing and operating a style shop in the student center at TSTI-Waco; the lease agreement with Coast Filters, Inc., for Building 6200 at TSTI-Amarillo; the lease agreement with Superior Pallet Company for Buildings 9530, 9531, and 9532 at TSTI-Amarillo; the sale of excess property from TSTI-Sweetwater; the bid specifications for Group Insurance Program; and other business.

**Contact:** Theodore A. Talbot, Texas State Technical Institute, Waco, Texas 76705, (817) 799-6611, ext. 385.

**Filed:** February 24, 1987, 9:18 a.m.  
TRD-8701643

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## The University of Texas at Austin

**Friday, February 27, 1987, 3 p.m.** The Intercollegiate Athletics for Women of the University of Texas at Austin, will meet in Conference Room 606, Belmont Hall, U.T. Campus, 21st and San Jacinto Streets, Austin. According to the agenda summary, the committee will approve minutes of the January 23, 1987, meeting, make announcements, and consider old and new business. The committee will also meet in executive session to discuss annual personnel evaluation related to multiyear employment agreements for current head coaches.

**Contact:** Donna A. Lopiano, IAW, Belmont Hall 606, 21st and San Jacinto Streets, Austin, Texas 78712, (512) 471-7693.

**Filed:** February 23, 1987, 8:47 a.m.  
TRD-8701592

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## University Interscholastic League

**Tuesday, February 24, 1987, 1 p.m.** The State Executive Committee of the University Interscholastic League met in emergency session in the Austin Room, La Mansion Hotel, I-35, Austin. According to the agenda summary, the committee held an open hearing on alleged violations of UIL rules in San Benito, Brownsville, Wichita Falls, Mansfield, Bartlett, and Presidio. The emergency status was necessary because allegation against Presidio involves basketball bi-district play.

**Contact:** Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

**Filed:** February 23, 1987, 9:29 a.m.  
TRD-8701595

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**Tuesday, February 24, 1987, 1 p.m.** The State Executive Committee of the University Interscholastic League, met in the Austin Room, La Mansion Hotel, I-35 North, Austin. According to the agenda summary, the committee held open hearings on alleged violation of UIL rules concerning San Benito, Brownsville, Wichita Falls, Mansfield, and Bartlett.

**Contact:** Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

**Filed:** February 19, 1987, 10:44 a.m.  
TRD-8701528

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## Texas Water Commission

**Tuesday, March 3, 1987, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider water district bonds, use of surplus funds, water rate matters, proposed water quality permits, amendments and renewals, water use applications, extension of time matter, and contract matters.

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

**Filed:** February 19, 1987, 4:08 p.m.  
TRD-8701544

**Wednesday, April 1, 1987, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will hear petition for creation of Brazoria County Municipal Utility District Six, containing 528.322 acres of land.

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

**Filed:** February 23, 1987, 11:33 a.m.  
TRD-8701601

**Wednesday, April 8, 1987, 9 a.m.** The Office of Hearing Examiner of the Texas Water Commission will meet at the Emergency Medical Service Training Building, 7411 Park Place, one mile south of Loop 610 at the intersection of Telephone Road, Houston. According to the agenda summary, the examiner will consider application by Cargill, Incorporated, Steel and Wire Division, 2002 Brittmoore Road, Houston, Texas 77043, to the Texas Water Commission for a permit (proposed permit 02895) to authorize a discharge of process wastewater effluent at a volume

not to exceed an average flow of 36,000 gallons per day. The applicant operates the Houston plant which produces steel wire, nail stick, chain link fencing, mesh, galvanized products, and other steel materials.

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

**Filed:** February 19, 1987, 4:08 p.m.  
TRD-8701545

**Thursday, April 9, 1987, 9 a.m.** The Office of Hearings Examiner of the Texas Water Commission will meet in the Emergency Medical Services Training Building, 7411 Park Place, one mile south of Loop 610 at the intersection of Telephone Road, Houston. According to the agenda summary, the hearings examiner will consider application of Timbercrest Village Utility Company, Inc., P.O. Box 177, Springs, Texas 77383 to the Texas Water Commission for renewal of permit 12366-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 150,000 gallons per day from Timbercrest Village Sewage Treatment Plant which is located approximately 150 feet north of Huffsmith Road and approximately 600 feet east of Kuykendahl Road in Harris County. The effluent is discharged through a six inch diameter pipe to Metzler Creek (Harris County Flood Control Ditch M109-01-00); thence to Cannon Gully; thence to Willow Creek; thence to Spring Creek in segment 1008 of the San Jacinto River Basin.

**Contact:** Steve Dickman, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** February 20, 1987, 11:53 a.m.  
TRD-8701567

**Wednesday, April 22, 1987, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider application 5119—City of Paris seeks a permit to authorize the secondary use of treated sewage effluent at a rate not to exceed 300 acre-feet per annum, from the city's wastewater treatment plant which is located near Hicks Creek, tributary of Pine Creek, tributary of the Red River, Red River Basin, for irrigation in Lamar County.

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

**Filed:** February 19, 1987, 4:08 p.m.  
TRD-8701546

**Tuesday, April 28, 1987, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider petition for creation of Willow Point Municipal Utility District, containing 177.504 acres of land.

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

**Filed:** February 23, 1987, 11:34 a.m.  
TRD-8701602

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### Regional Agencies Meetings Filed February 19

**The Edwards Underground Water District,** Board of Directors, met at 1615 North St. Mary's Street, San Antonio, on February 25, 1987, at 9 a.m. Information may be obtained from Thomas P. Fox, 1615 North St. Mary's Street, San Antonio, Texas 78215, (512) 292-1047.

**The Leon County Central Appraisal District,** Board of Directors, met in the Leon County Central Appraisal District Office, Centerville, on February 23, 1987, at 7 p.m. Information may be obtained from Tom G. Holmes, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

**The North Central Texas Council of Governments,** Executive Board, met on the Second Floor, Centerpoint Two, 616 Six Flags Drive, Arlington, on February 26, 1987, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 640-3300.

**The Texas Panhandle Mental Health Authority,** Board of Trustees, met in the boardroom, 1901 Medi-Park, Amarillo, on February 26, 1987, at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

**The Sabine Valley Regional MHRM Center,** Board of Trustees, met at the Marshall Family Services, 1500 West Grande Avenue, Marshall, on February 24, 1987, at 7 p.m. Information may be obtained from Ronald R. Cookston, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

**The Trinity River Authority of Texas,** Board of Directors, met at 5300 South Collins, Arlington, on February 25, 1987, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.  
TRD-8701531

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### Meetings Filed February 20

**The Austin-Travis County Mental Health and Mental Retardation Center,** Finance and Control Committee and Board of Trustees, met in Suite 501, 611 South Congress Avenue and in the Classroom, Shoal Creek Hospital, 3501 Mills Avenue, Austin, on February 25,

1987, at noon, and February 26, at 7 a.m., respectively. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Suite 501, Austin, Texas 78704, (512) 447-4141.

**The Brown County Appraisal District,** Board of Directors, will meet at 403 Fisk Avenue, Brownwood, on March 2, 1987, at 7 p.m. Information may be obtained from Alvis Sewalt, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 463-5676.

**The Coastal Bend Council of Governments,** will meet at 901 Leopard, Corpus Christi, on February 27, 1987, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743.

**The Comal Appraisal District,** Appraisal Review Board, will meet in the Comal Appraisal Office, 644 North Loop 337, New Braunfels, on March 25, 1987, at 8:30 a.m. Information may be obtained from Richard Rhodes, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597.

**The Dallas Area Rapid Transis,** Minority Affairs Committee, Mobility Impaired Task Force, and board, met in the DART Office, 601 Pacific Avenue, Dallas, on February 23, 1987, at 4 p.m., and February 24, 1987, at 3 p.m. and 4 p.m. respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Gray Appraisal District,** Board of Directors, met in Suite 196-A, Hughes Building, 400 West Kingsmill, Pampa, on February 24, 1987, at 5 p.m. Information may be obtained from Charles Buzzard, P.O. Box 836, Pampa, Texas 79066, (806) 665-0991.

**The Gulf Bend Mental Health and Mental Retardation Center,** Board of Trustees, met at 1404 Village Drive, Victoria, on February 26, 1987, at noon. Information may be obtained from Gulf Bend Mental Health and Mental Retardation Center, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611.

**The Lower Rio Grande Valley Development Council,** Board of Directors, met in the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on February 26, 1987, at 1:30 p.m. Information may be obtained from Robert A. Chandler, 1707 West Highway 83, Suite 707, McAllen, Texas 78501, (512) 682-3481.

**The Mental Health and Mental Retardation Center of East Texas,** Board of Trustees, met in the boardroom, 2323 West Front, Tyler, on February 26, 1987, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.



**The MoPac South Transportation Corporation**, Board of Directors, met in the boardroom, Headliner's Club, 2100 MBank Tower, 221 West Sixth Street, Austin, on February 24, 1987, at 5 p.m. Information may be obtained from John C. Boehm, Jr., 600 Congress Avenue, Suite 2400, Austin, Texas 78701, (512) 474-5201.

**The Panhandle Regional Planning Commission**, Board of Directors, met in the PRPC Conference Room, 2736 West Tenth Street, Amarillo, on February 26, 1987, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381.

**The San Antonio River Industrial Development Authority**, Board of Directors, met at 100 East Guenther Street, San Antonio, on February 25, 1987, at 9 a.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.

**The West Central Texas Council of Governments**, Executive Committee, met at 1025 East North 10th Street, Abilene, on February 25, 1987, at 12:45 p.m. Information may be obtained from Brad Helbert, 1025 East North 10th Street, Abilene, Texas 79601, (915) 672-8544.

TRD-8701548

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### Meetings Filed February 23

**The Denton Central Appraisal District**, Appraisal Review Board, will meet at 9311 Morse, Denton, on March 2, 1987, at 9 a.m. Information may be obtained from John D. Brown, 3911 Morse, Denton, Texas 76205, (817) 566-0904.

**The Lampasas County Appraisal District**, Board of Directors, met at 109 East Fifth Street, Lampasas, on February 26, 1987, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

**The Tyler County Tax Appraisal District**, Board of Directors and Appraisal Review Board, will meet at 103 North Pecan, Woodville, on March 3, 1987, at 5 p.m. and March 5, 1987, at 2 p.m., respectively. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

**The South Texas Development Council**, Board of Directors and STED Corporation Board of Trustees, met in the Zapata Civic Center, Zapata, on February 26, 1987, at 11 a.m. and noon, respectively. Information may be obtained from Julie Saldana and Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (512) 722-3995.

**The Swisher County Appraisal District**, Appraisal Review Board, will meet at 130 North Armstrong, Tulia, on March 5, 1987, at 11:30 a.m. Information may be obtained from Rose Lee Powell, P.O. Box 8, Tulia, Texas 79088, (806) 995-4118.

**The Wood County Appraisal District**, Appraisal Review Board, met in the Conference Room of the Wood County Appraisal District, 217 North Main, Quitman, on February 26, 1987, at 10 a.m. Information may be obtained from W. Carson Wages or Teresa Poston, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946.

TRD-8701594

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### Meeting Filed February 24

**The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1**, Board of Directors, will meet in the district office, Highway 81, Natalia, on March 2, 1987, at 8 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

TRD-8701621

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# In Addition

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

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

## Texas Air Control Board Notice of Contested Case Hearing

Pursuant to the authority provided in the Texas Clean Air Act (the Act), Texas Civil Statutes, Article 4477-5, §§3.15, 3.16, 3.17, 3.27 and 3.271; and the Procedural Rules of the Texas Air Control Board (TACB), Rules 103.31 and 103.41, an examiner for the TACB will conduct a hearing on the qualification by Contractor's Supplies, Inc. (the company) under TACB Standard Exemption 71 of Rule 116.6 to construct a concrete batch plant to be located on FM Road 343, approximately 100 yards west of Highway 69 in Rusk, Cherokee County.

Said company is directed to appear at the time and place shown below and demonstrate by a preponderance of evidence that the facility will comply with all requirements of TACB Regulation VI, Rule 116.6 and Standard Exemption Number 71.

The record of this hearing will be used by the TACB in determining whether or not the company qualifies for Standard Exemption Number 71.

Information regarding the application for the exemption and copies of the board's rules and regulations are available for public inspection at the Central Office of this agency located at 6330 Highway 290 East, Austin, Texas 78723; the Regional Office of this agency located at 1304 South Vine Avenue, Tyler, Texas 75701; and the Rusk City Hall, City Manager's Office, 408 North Main, Rusk, Texas 75786.

The examiner has set the hearing to begin at 1 p.m., April 6, 1987, at the central office of this agency located at 6330 Highway 290 East, Room 209, Austin. Prospective parties to the hearing will be the TACB staff and the company. Any other persons desiring to be made a party to the hearing must specifically apply in writing for party status to Examiner Bill Ehret, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at the previously mentioned address by 5 p.m., March 10, 1987. Previous correspondence with the TACB is not effective for this purpose. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing but who does not desire to be a party, may call the Legal Division of the TACB at (512) 451-5711, extension 350, to determine the names and addresses of all admitted parties. The parties may then be contacted about the possibility of presenting testimony.

Pursuant to the Procedural Rules of the TACB, Rule 103.46, the examiner has scheduled a prehearing conference on March 17, 1987, at 1 p.m. at the central office of this agency located at 6330 Highway 290 East, Room 209, Austin. All persons wishing to be admitted as parties must at-

tend the conference. Proposed written disputed issues for consideration at the hearing on the merits and written requests for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference a specific date prior to the hearing on the merits will be established for the exchange of written direct testimony and copies of written and documentary evidence pursuant to Board Rule 103.46(2). Prehearing orders setting out discovery periods and other prehearing requirements may also be issued following this prehearing conference.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin, Texas at (512) 451-5711, extension 350, a day or two prior to the hearing date in order to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on February 20, 1987.

TRD-8701596      Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: February 23, 1987

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

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## Revised Notice of Contested Case

Pursuant to the authority provided in the Texas Clean Air Act, (the Act) Texas Civil Statutes, Article 4477-5,; and of the Procedural Rules of the Texas Air Control Board (TACB), 103.31 and 103.41, an examiner for the Texas Air Control Board (TACB) will conduct a hearing to consider whether the natural gas dehydrator and production tank battery operated by TXO Production Corporation (hereinafter referred to as the company), 2½ miles north-east of Santa Fe, north of FM Road 1764, in Galveston County, qualifies for Standard Exemption Number 66 pursuant to Rule 116.6 of Regulation VI. This hearing shall be conducted as a part of the proceedings currently pending in Contested Case Hearing Number 209, for which notice was issued on May 9, 1986, and the purpose of this notice is to ensure that the scope of Contested Case Hearing Number 209 properly includes the matters described below.

Said company is directed to appear at the time and place shown below and demonstrate by a preponderance of the evidence that the facility will comply with all requirements of the Texas Air Control Boards (TACB) Regulation VI, Rule 116.6 and Standard Exemption Number 66.

The record of this hearing will be used by the Texas Air Control Board (TACB) in determining whether or not to approve the applicability of Standard Exemption Number 66 to the company.

Information regarding the facility and copies of the board's rules and regulations are available for public inspection at the central office of this agency located at 6330 Highway 290 East, Austin, Texas 78723; the Regional Office of the Texas Air Control Board (TACB), 5555 West Loop, Suite 300, Bellaire, Texas 77401; and the LaMarque Public Library, 101 Bayou Street, LaMarque, Texas 77568.

The examiner has set the hearing to begin at 3 p.m., March 25, 1987, at the Galveston County Health District Office, Environmental Building, 1207 Oak Street, LaMarque, Texas. Parties to the hearing at the time of this revised notice shall remain parties under this revised notice. In addition, any other persons desiring to be made a party must specifically apply in writing to Examiner Bill Ehret, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at the above address by 5 p.m. on March 6, 1987. Previous correspondence with the Texas Air Control Board (TACB) is not effective for this purpose. A final determination regarding party status will be made at the commencement of the hearing. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing but who does not desire to be a party, may call the Legal Division of the Texas Air Control Board (TACB) at (512) 451-5711, extension 350, to determine the names and addresses of all admitted parties. The parties may then be contacted about the possibility of presenting testimony.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the Texas Air Control Board (TACB) in Austin, Texas at (512) 451-5711, extension 350, a day or two prior to the hearing date in order to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on February 20, 1987.

TRD-8701597      Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: February 23, 1987

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

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## **Texas Commission on Alcohol and Drug Abuse**

### **Meeting of the Statewide Advisory Council**

The Advisory Council of the Texas Commission on Alcohol and Drug Abuse will meet on February 25 from 12:30 to 5 p.m. and on February 26 from 8:30 a.m. to noon. The meeting will be held in the Terrace Room at the Stephen F. Austin Hotel in Austin, Texas.

Issued in Austin, Texas, on February 23, 1987.

TRD-8701591      Ross Newby  
Executive Director  
Texas Commission on Alcohol and Drug Abuse

Filed: February 23, 1987

For further information, please call (512) 463-5510.

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## **Notice of Request for Proposals**

The Texas Commission on Alcohol and Drug Abuse, under the authority of the Texas Alcohol and Drug Abuse Services Act, Texas Civil Statutes, Article 5561c-2, gives notice of a request for proposals. Recognizing that substance abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the nation, the commission is soliciting proposals for the development and expansion of community-based prevention programs for children of substance abusers; community-based pilot primary prevention programs; student assistance programs in schools; community-based pilot intervention programs for substance abusing youth; and community-based substance abuse services for high-risk youth.

Approximately \$3 million will be allocated to the state for a one year period, under the Drug Enforcement, Education, and Control Act of 1986, Public Law 99-570, Subtitle B, Drug-Free Schools and Communities Act of 1986.

To be eligible for funding, applicants must be a public entity or a private nonprofit corporation. Eligible applicants may apply for a minimum of \$25,000 and a maximum of \$70,000.

Approved programs will be funded for the period September 1, 1987, through August 31, 1988. Funding of applications under this RFP is contingent on appropriations received by the commission.

The closing date for application submission is April 30, 1987.

To assist applicants in understanding the purpose of the RFP and to assist them in meeting the technical requirements for the application, the commission will conduct workshops from 10 a.m. to 4 p.m. at the following locations: March 25, Kilgore, East Texas Council of Governments, 3800 Stone Road conference room; March 26, San Angelo, Concho Valley Council of Governments, 5014 Knickerbocker, Concho Valley, Regional Training and Conference Center; March 27, Amarillo, Panhandle Regional Planning Commission, 2736 West 10th, conference room; March 30, Corpus Christi, Coastal Bend Council of Governments, 2910 Leonard, conference room; March 31, Belton, Central Texas Council of Governments, 302 East Central, classroom.

To request a copy of the RFP, contact the Grants Management Office at 1705 Guadalupe, Austin 78701-1214, (512) 463-5510.

Issued in Austin, Texas, on February 13, 1987.

TRD-8701496      Ross Newby  
Executive Director  
Texas Commission on Alcohol and Drug Abuse

Filed: February 18, 1987

For further information, please call (512) 473-5510.

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## **Banking Department of Texas**

### **Notice of Application to Acquire Control of a State Bank**

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file

an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 17, 1987, the banking commissioner received an application to acquire control of ENTEX Bancshares, Inc., Enloe by Noel S. Bailey, Cooper; L. W. Bassett, Jr., Paris; and Aaron R. Blankenship, Cooper.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on February 17, 1987.

TRD-8701520 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: February 19, 1987

For further information, please call (512) 479-1200.

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### Notice of Application

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 19, 1987, the banking commissioner received an application to acquire control of The First State Bank, Frisco, by John N. Toole, of Celina.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 19, 1987.

TRD-8701568 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: February 20, 1987

For further information, please call (512) 479-1200.

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### State Banking Board

#### Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by Sterling Bank-Willowbrook, Houston, the hearing previously scheduled for February 23, 1987, has been cancelled.

Issued in Austin, Texas, on February 17, 1987.

TRD-8701519 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: February 19, 1986

For further information, please call (512) 479-1200.

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### Texas Commission for the Blind Announcement of Calls for Proposals

The Texas Commission for the Blind has announced the availability of funds for projects to provide independent living services to blind persons who are not eligible for vocational rehabilitation services. These grants will be for the provision of independent living rehabilitation services for legally and totally blind individuals.

**Funding Area.** Funding will be provided from the Rehabilitation Act of 1973 as amended, Title VII, Part A, Independent Living Rehabilitation Funds. It is anticipated that these funds will be used to supplement already existing projects in order to provide case service purchases such as but not limited to low vision evaluations, orientation and mobility evaluations and training, other adaptive aids and equipment, hearing evaluations and low vision aids.

**Grant Eligibility.** Grant recipients may be local public or private nonprofit organizations. Individuals served by the grantee must meet the eligibility requirements for services for Title VII, Part A, Independent Living Rehabilitation Funds.

**Terms.** Eligible applicants must be organizations that are local public agencies or private nonprofit organizations and are currently providing Independent Living Rehabilitation services.

**Funds.** A total of \$50,000 is available at this time. These funds must be expended by August 31, 1987. It is anticipated that individual grant awards will range from \$5,000-9,000.

**Application Process.** Persons interested in applying for grant funds should write to: Bill Agnell, Program Specialist, Texas Commission for the Blind, Post Office Box 12866, Austin, Texas 78711. A description of the program eligibility requirements and proposal guidelines will be sent to these parties.

**Deadline.** Proposals will be accepted at the above address until 5 p.m. on April 1, 1987.

For further information, call (512) 459-2586.

Issued in Austin, Texas, on February 19, 1987.

TRD-8701530 Pat D. Westbrook  
Executive Director  
Texas Commission for the Blind

Filed: February 19, 1987

For further information, please call (512) 459-2601.

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### Coordinating Board, Texas College and University System

#### Appointment Made February 11, 1987

The Commissioner of Higher Education has made the following appointment to the Board of Directors of the Texas Guaranteed Student Loan Corporation, for a term to expire January 31, 1993: Meg Brooks, 2806 B Harris Park, Austin.

Issued in Austin, Texas, on February 17, 1987.

TRD-8701489 James McWhorter  
Assistant Commissioner  
Administration  
Coordinating Board, Texas College and  
University System

TRD-8701521 Al Endsley  
Consumer Credit  
Commissioner

Filed: February 19, 1987  
For further information, please call (512) 479-1280.

Filed: February 18, 1987  
For further information, please call (512) 462-8420.

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## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 02/23/87-03/01/87	18.00%	18.00%
Monthly Rate— Article 1.04(c) <sup>(1)</sup> 02/01/87-02/28/87	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 <sup>(3)</sup> 01/01/87-03/31/87	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) <sup>(3)</sup> 01/01/87-03/31/87	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2) <sup>(2)</sup> 01/01/87-03/31/87	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 <sup>(3)</sup> 01/01/87-03/31/87	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 01/01/87-03/31/87	18.00%	N/A
Judgment Rate—Article 1.05, §2 03/01/87-03/31/87	10.00%	10.00%

(1) For variable rate commercial transactions only.  
(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).  
(3) Credit for personal, family, or household use.  
(4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on February 17, 1987.

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## East Texas Council of Governments Request for Proposals

The East Texas Council of Governments (ETCOG) hereby solicits proposals for production of a variety of marketing tools that will be utilized to support the Job Training Partnership Program (JTPP) in the East Texas service delivery area (ETSDA). The ETSDA includes Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rains, Rusk, Smith, Upshur, Van Zandt, and Wood Counties. ETCOG operates JTPP on behalf of the East Texas Private Industry Council and JTPA board of directors, and under contract to the Texas Department of Community Affairs. Products to be generated and their specifications are as follows:

(1) a video tape film to explain to employers and residents of the ETSDA the purpose and benefits of JTPP. Said tape shall have the following characteristics: 15-20 minutes running time; concept and script by producer; one 1 inch or 3/4 inch video tape master with a minimum of two 1/2 inch copies in VHS format; professional voice-over narrator and library music; film to be shot on location throughout ETSDA. Producer must certify that ETCOG will retain all rights to the material and that no future payment to any individual will be required. The film should highlight what happens to real people and real graduates of the program when they take advantage of JTPP. The style of the film should be documentary, using the actual words of trainees and business personnel managers, edited for brevity and impact. Footage should show people actually studying, working, and gaining a place in the job market. Delivery dates to be negotiated. Proposals should include the company's name, location, staff qualifications, a minimum of two examples of past projects, detailed specifications of the film, and detailed budget and estimated time of completion;

(2) three public service announcements (PSAs), intended for commercial television, with the following characteristics: 45-60 seconds running time each; appropriate in format and scope; concept and script by producer; one 1 inch or 3/4 inch video tape master with a minimum of two 1/2 inch copies in VHS format; professional voice-over narrator, library music. Producer must certify that ETCOG will retain all rights to the material and that no future payment to any individual will be required. Delivery dates to be negotiated. Proposals should include company's name, location, staff qualifications, a minimum of two examples of past projects, detailed specifications of the film, detailed budget, and estimated time of completion;

(3) three recorded radio PSAs to explain to employers and residents of the ETSDA the purpose, benefits, and activities of JTPP. Said PSAs shall have the following characteristics: concept and script by producer; 45-60 seconds running time; professional narrator; and a minimum of two PSAs to be recorded in both English and Spanish languages. A minimum of two copies of each tape is required. Producer must certify that ETCOG will retain all rights to the material and that no future payment to any individual will be required. Delivery dates to be negotiated. Proposals should include the company's name, location, staff qualifications, a minimum of two examples

of past projects, detailed specifications of the PSAs, a detailed budget, and estimated time of completion;

(4) an update of the artwork for two existing JTPP brochures. Copies of the existing brochures are included. Only minor changes in the existing narratives, to reflect changes in the JTPA law and local policy, will be necessary. (Changes are indicated on the sample brochures). Product will be provided to ETCOG in camera-ready form. Date of delivery of product is to be negotiated. Proposals should include the company's name, location, staff qualifications, a minimum of two examples of past projects, detailed concept for revised brochure, detailed budget and estimated time of completion;

(5) a recorded radio PSA. ETCOG, through a grant provided by the East Tex Private Industry Council, operates a government procurement outreach center referred to locally as the East Texas Contract Assistance Center (ETCAC). The center assists businesses in the ETSDA to compete for government contracts. Said PSA shall have the following characteristics: concept and script by producer 45-60 seconds running time, and professional narrator. Producer must certify that ETCOG will retain all rights to the material and that no future payment to any individual will be required. The PSA will explain to businesses the concept of ETCAC and how these businesses subscribe to the services provided by ETCAC. The PSA will also stress the relationship between ETCAC and JTPP. Delivery date to be negotiated. Proposals should include the company's name, location, staff qualifications, a minimum of two examples of past projects, detailed specifications of the PSA, a detailed budget, and estimated time of completion;

(6) a brochure to explain to local businesses the services of ETCAC. The brochure shall have the following characteristics: design work and narrative by producer; brochure will be printed on 8½ by 11 inch paper with two or three folds, depending on design requirements; and must stress the relationship between ETCAC and JTPP. Product will be provided to ETCOG in camera-ready form. Date of delivery of product is to be negotiated. Proposals should include the company's name, location, staff qualifications, a minimum of two examples of past projects, detailed concept of brochure, detailed budget, and estimated time of completion.

Separate proposals are to be submitted for production materials described in each of the six preceding paragraphs. Proposals may be submitted for any one or more of the items. ETCOG may award all of the items to one offeror or may award different items to different offerors depending upon the proposals submitted and the qualification of the offerors involved. Selections or awards will be based upon the qualifications of offerors submitting proposals, their experience with JTPP or related programs, and the cost identified. ETCOG retains the right to decline one or all proposals, depending upon what is in the best interest of ETCOG and JTPP. Proposals should be mailed to the East Texas Council of Governments, 3800 Stone Road, Kilgore, Texas 75662, and postmarked no later than March 3, 1987. Questions concerning this request for proposals should be addressed to Wayne Smith or Wendell Holcombe, ETCOG, (214) 984-8641.

Issued in Austin, Texas, on February 13, 1987.

TRD-8701522      Glynn J. Knight  
Executive Director  
East Texas Council of Governments

Filed: February 19, 1987  
For further information, please call (512) 475-8641.

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## Texas Education Agency Request for Proposals

(Filed in accordance with provisions of Article 6252-11c, Texas Civil Statutes)

The Texas Education Agency is requesting proposals to develop college level tests in reading, writing, and mathematics that will be used as an admissions requirement into approved teacher education programs. Currently, the pre-professional skills test published by the Educational Testing Service is used for this purpose. The agency will make a transition to a state-owned, state-developed test of basic skills that has comprehensive diagnostic features. Persons interested in receiving a request for proposal or other information on this project should contact Marvin Veselka, Assistant Commissioner for Assessment and Evaluation, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9533.

The potential contractor must be prepared to provide the support services for quality test development as well as agree to administer, score, and report these tests on a continuing basis. The test development will involve committees of Texas educators in at least three stages of the development. The approval authority for the test and the passing standards resides with the State Board of Education. Proposal developers should submit their intent to bid statements to the Texas Education Agency by March 16, 1987. The final deadline for receipt of proposals is May 5, 1987. The anticipated starting date for the contract is July 1, 1987.

There are no funds budgeted by the Texas Education Agency or appropriated by the state legislature to fund the services called for in this request for proposal. The Texas Education Agency will grant rights to the productions of this contract outside of the state of Texas. The contractor will have the authority to charge candidates a fee for test administration as well as the marketing rights in other states.

All proposals will be reviewed and rated by a panel of agency staff members and individuals from Texas colleges and universities. The criteria will include the quality of the management plan, the quality of the item development procedures, the quality of their plan for machine scoring and the scoring of writing samples, and the quality of the plan for continued test administrations. Recommendations will be presented to the commissioner of education who will make his recommendations to the State Board of Education at the May 1987 meeting.

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

TRD-8701575      W. N. Kirby  
Commissioner of Education

Filed: February 20, 1987  
For further information, please call  
(512) 463-9212.

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## Texas Department of Health Availability of 1986 Block Grant Annual Reports

Under authority of the Omnibus Budget Reconciliation Act of 1981, the Texas Department of Health has prepared

1986 annual reports on the Maternal and Child Health Services and Preventive Health Services Block Grants. Included in the annual reports are needs and priorities, goals and objectives, types of services, state activities, financial summary, and legislative proposals.

The purpose of this notice is to inform the public of the availability of these annual reports for inspection and comment. The 1986 block grant annual reports may be viewed at the Texas Department of Health, 1100 West 49th Street, Austin, and the following regional offices: Public Health Region 1, Old Health Center Building, 300 Victory Drive, Canyon, Texas, 79016, (806) 655-7151; Public Health Region 2, 4709 66th Street, Lubbock, Texas, 79414, (806) 797-4331; Public Health Region 3/12, 6090 Surety Drive, #115, El Paso, Texas, 79997, (915) 779-7783; Public Health Region 4, Commerce Plaza Office Building, 1290 South Willis, Suite 100, Abilene, Texas 79605, (915) 695-7170; Public Health Region 5, 2561 Matlock Road, Arlington, Texas, 76015, (817) 460-3032; Public Health Region 6, 2408 South 37th Street, Temple, Texas, 76503, (817) 778-6744; Public Health Region 7/10, 1517 West Front Street, Tyler, Texas, 75702, (214) 595-3585; Public Health Region 8, 1401 South Rangerville Road, Harlingen, Texas, 78552, (512) 423-0130; Public Health Region 9, Old Memorial Hospital, Garner Field Road, Uvalde, Texas, 78801, (512) 278-7173; and Public Health Region 11, 1110 Avenue G, Rosenberg, Texas, 77471, (409) 342-8685.

In addition, the reports may be viewed at the following local health departments: Corpus Christi-Nueces County Public Health District, 1702 Horne Road, Corpus Christi, Texas 78416, (512) 851-7200; Grayson County Health Department, 515 North Walnut, Sherman, Texas, 75090, (214) 893-0131; Laredo-Webb County Health Department, 2600 Cedar Street, Laredo, Texas, 78044, (512) 723-2051; San Angelo-Tom Green County Health Department, 2 City Hall Plaza San Angelo, Texas, 76902, (915) 657-4214; San Antonio Metropolitan Health District, 332 West Commerce Street, San Antonio, Texas, 78285, (512) 299-8781; Texarkana-Bowie County Family Health Center, 902 West 12th Street, Texarkana, Texas, 75504, (214) 792-8211; Victoria County Health Department, 107 West River Street, Victoria, Texas, 77902, (512) 578-6281; and Wichita Falls-Wichita County Public Health District, 1700 Third Street, Wichita Falls, Texas, 76301, (817) 322-9702.

Comments on the Maternal and Child Health Services Block Grant 1986 annual report may be sent to Walter P. Peter, Jr., M.D., Chief, Bureau of Maternal and Child Health. Comments on the Preventive Health and Health Services Block Grant 1986 annual report may be sent to P. Clift Price, M.D., Associate Commissioner, Personal Health Services. The address for the Texas Department of Health is 1100 West 49th Street, Austin, Texas 78756.

Issued in Austin, Texas, on February 19, 1987.

TRD-8701547 Robert A. MacLean  
Deputy Commissioner  
Texas Department of Health

Filed: February 20, 1987  
For further information, please call (512) 458-7236

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## Licensing Action for Radioactive Materials

The Texas Department of Health has taken actions regard-

ing 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
Corpus Christi	Driscoll Foundation Children's Hospital	8-3964	Corpus Christi	0	02/09/87
Houston	Thomas O. Clanton, M.D.	11-3872 11-4008	Houston	0	02/09/87 01/26/87
Pasadena	American Hoechst Corporation				
Throughout Texas	Luling Perforators, Inc.	6-3958	Luling	0	01/26/87
Throughout Texas	K. W. Brown and Associates	5-4028	College Station	0	02/09/87
Throughout Texas	Collin County Courthouse	5-4019	McKinney	0	02/10/87
Wichita Falls	Paul G. Kinnard, M.D.	5-4026	Wichita Falls	0	02/04/87

### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Arlington	Highlands Medical Center	5-3704	Arlington	1	02/05/87
Austin	Holy Cross Hospital	6-2751	Austin	16	02/02/87
Austin	Austin Diagnostic Clinic	6-868	Austin	31	07/09/87
Columbus	Columbus Community Hospital	11-3508	Columbus	3	01/24/87
Dallas	Mallinckrodt, Inc.	5-3580	Dallas	4	01/24/87
Dallas	M. R. Solomon, D.P.M.	5-3730	Dallas	1	02/09/87
Denton	AMI Denton Regional Medical Center	5-2764	Denton	11	02/09/87
Denton	North Texas State University	5-101	Denton	26	02/09/87
Denton	North Texas State University	5-99	Denton	22	02/09/87
East of Sweetwater	Genstar Gypsum Products Company	4-1144	Sweetwater	11	02/11/87
Fort Worth	Fort Worth Osteopathic Medical Center	5-730	Fort Worth	27	02/05/87
Greenville	E-Systems, Inc.	5-856	Greenville	14	01/28/87
Houston	Stewart C. Bushong, Sc.D.	11-2397	Houston	4	02/09/87
Houston	U. T. Health Science Center at Houston	11-2774	Houston	8	01/26/87
Karnack	Morton Thiokol, Inc.	7-82	Marshall	21	01/30/87
Lubbock	South Park Hospital	2-1560	Lubbock	12	01/24/87
Mission	Mission Hospital, Inc.	8-2802	Mission	11	01/26/87
Missouri City	Fort Bend Community Hospital	11-3457	Missouri City	4	01/26/87
Nacogdoches	Lyle Thorstenson, M.D.	10-3420	Nacogdoches	2	02/09/87
New Braunfels	General Portland, Inc.	9-2809	New Braunfels	7	02/10/87
Orange	E.I. DuPont de Nemours & Company	10-5	Orange	51	01/30/87

### AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Pasadena	Celanese Chemical Company	11-1130	Houston	29	01/30/87
Point Comfort	Aluminum Company of America	8-32	Point Comfort	30	01/30/87
Port Arthur	Texaco, Inc.	10-67	Port Arthur	21	01/30/87
Port Neches	Ameripol Sympol Company	10-77	Port Neches	20	01/30/87
San Antonio	Louis B. Levy, Ph.D.	9-3410	San Antonio	1	01/12/87

San Antonio	Syncor International Corporation	9-2033	San Antonio	33	02/09/87	Houston	Sharpstown General Hospital	11-1737	Houston	19	02/09/87
Sherman	Texas Instruments, Inc.	5-2682	Sherman	10	01/28/87	Mt. Vernon	Franklin County Hospital	7-3013	Mt. Vernon	2	01/28/87
Stafford	Texas Instruments, Inc.	11-714	Houston	31	01/30/87	Richardson	The University of Texas at Dallas	5-2114	Richardson	28	01/29/87
Throughout Texas	Core Laboratories, Inc.	11-2975	Houston	11	01/05/87	San Angelo	Ethicon, Inc.	4-720	San Angelo	20	02/10/87
Throughout Texas	Beta Diagnostics, Inc.	9-3574	San Antonio	9	01/24/87	Seminole	Seminole Memorial Hospital	12-3118	Seminole	7	02/09/87
Throughout Texas	Sergent, Hauskins & Beckwith Engineers	3-3622	El Paso	2	01/26/87	Sweetwater	Rolling Plains Memorial Hospital	4-2550	Sweetwater	5	01/28/87
Throughout Texas	Herzog Contracting Corporation	99-3809	Saint Joseph, MO	2	01/23/87	Throughout Texas	Gearhart Industries, Inc.	5-442	Fort Worth	64	01/24/87
Throughout Texas	J.R. Testing Lab, Inc.	4-3836	Abilene	4	01/28/87	Throughout Texas	Dallas Nephrology Associates	5-2604	Dallas	5	01/30/87
Throughout Texas	Trinity Engineering Testing Corporation	12-645	Odessa	31	01/28/87	Throughout Texas	ATE, Inc.	6-1765	Austin	17	02/10/87
Throughout Texas	ITL Manlift Services, Inc.	11-3795	Searcy, Arkansas	6	01/29/87	Wimberly	Richard L. Gonzales	6-3035	Wimberly	7	01/24/87
Throughout Texas	Rountree Inspection, Inc.	7-3412	Longview	11	01/29/87						
Throughout Texas	Alliance E.T.S., Inc.	11-3573	Houston	9	01/29/87	Abilene	Earl R. Cockerell, M.D.	4-1019	Abilene	9	01/22/87
Throughout Texas	Brazos Valley Inspection Services, Inc.	6-2859	Bryan	17	01/29/87	Beaumont	Radiology Consultants of Beaumont, P.A.	10-2060	Beaumont	22	02/09/87
Throughout Texas	Baytown Industrial X-Ray, Inc.	11-2143	Texas City	26	01/29/87	Houston	Rex M. Crago, M.D.	11-2042	Houston	4	02/09/87
Throughout Texas	Schlumberger Well Services	11-1833	Houston	55	01/29/87						
Throughout Texas	Nuclear Sources and Services, Inc.	11-2991	Houston	13	01/30/87						
Throughout Texas	Texas Water Commission	6-2650	Austin	11	01/30/87						
Throughout Texas	CRC Wireline, Inc.	5-315	Grand Prairie	61	01/30/87						
Throughout Texas	W.H. Henken Industries, Inc.	5-967	Arlington	16	01/30/87						
Throughout Texas	El Paso Sand Products Inc.	3-4021	El Paso	1	01/30/87						
Throughout Texas	Lone Star Testing Laboratories	9-4013	San Antonio	2	01/30/87						
Throughout Texas	Tru-Tec	11-3913	LaPorte	6	01/30/87						
Throughout Texas	Littlebit Wireline Service	10-3166	Lumberton	3	01/30/87						
Throughout Texas	Dresser Atlas	11-446	Houston	82	01/30/87						
Throughout Texas	Higgins Roofing Company, Inc.	11-3557	Alvin	3	01/30/87						
Throughout Texas	Wimpey Laboratories Division	11-3891	Houston	1	01/30/87						
Throughout Texas	Chemical Waste Management, Inc.	10-2907	Port Arthur	5	01/30/87						
Throughout Texas	Troxler Electronic Laboratories, Inc.	99-1296	Res.Tri.Pk., NC	21	02/06/87						
Throughout Texas	Price Construction Company	12-2273	Big Springs	4	02/06/87						
Throughout Texas	Raba-Kistner Consultants, Inc.	9-1571	San Antonio	19	01/29/87						
Throughout Texas	Inspection Inc.	12-3724	Midland	5	01/29/87						
Throughout Texas	Atomic Energy of Canada Limited	99-721	Ontario, Canada	25	02/10/87						
Throughout Texas	Radiation Consultants	11-2179	Houston	20	02/10/87						
Tyler	Mother Frances Hospital	7-1670	Tyler	29	02/09/87						

#### RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Angleton	Angleton-Danbury General Hospital	11-2544	Angleton	4	01/26/87
Corpus Christi	Celanese Corporation	8-409	Corpus Christi	36	02/10/87
Edinburg	Pan American University	8-656	Edinburg	9	01/30/87
Fort Worth	Radiation Sterilizers, Inc.	5-3851	Fort Worth	2	02/10/87
Houston	Park Plaza Hospital	11-2071	Houston	18	01/26/87
Houston	Offenhauser Company	11-3109	Houston	7	01/30/87
Houston	Houston Community College System	11-3099	Houston	3	02/09/87

In issuing new licenses and amending and renewing existing licenses, the Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Texas Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

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, from 8 a.m. to 5 p.m. Monday through Friday (except holidays).



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

TRD-8701552 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: February 20, 1987

For further information, please call (512) 458-7245.

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## Public Hearing

The Texas Department of Health will conduct a public hearing on the following municipal solid waste disposal site. The City of Garland presently holds Solid Waste Permit 1062 and 1277 as heretofore issued by the Texas Department of Health for the operation of two Type I municipal solid waste sites located adjacent to each other in the northeast corner of the Garland city limits, adjacent to and on the north side of Castle Drive between Rowlett and Miles Roads, 2.75 miles northeast of the intersection of FM Highway 66 and the MKT Railroad, in Dallas County.

Said permit holder has now filed with the Texas Department of Health an application to amend the aforesaid permit as follows. To add approximately 24.5 acres to the southwest corner of the contiguous 127.5-acre area permitted earlier as Permit 1062, and to add approximately 35 feet to the height of both existing sites (1062 and 1277). The total site will consist of approximately 213.5 acres of land and is to daily receive approximately 800 tons of municipal solid waste. If an amended permit is issued, it is proposed to consolidate both current permits under one number to be designated as 1277-A.

Pursuant to the provisions of the Texas Solid Waste Disposal Act (Texas Civil Statutes Article 4477-7), the Texas Department of Health municipal solid waste management regulations, and the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, a public hearing on the aforesaid application will be held at Council Chambers, City Hall, 5th and State Streets, Garland, Texas, at 1 p.m. on Tuesday, March 23, 1987. The purpose of the hearing is to receive evidence for and against the issuance of a permit amendment for the aforesaid application. The hearing will be conducted and the final decision will be rendered in accordance with the applicable rules contained in the department's said regulations, including all changes in effect as of January 17, 1986. All parties having an interest in this matter shall have the right to appear at the hearing, present evidence, and be represented by counsel. Pursuant to Texas Civil Statutes, Article 6252-13a, and the department's formal hearing procedures, the cost of a written hearing transcript may be assessed against one or more of the designated parties.

A copy of the complete application may be reviewed at the Texas Department of Health, 1100 West 49th Street, Austin, Texas, or at the department's Public Health Region 5 Headquarters, 2561 Matlock Road, Arlington, Texas 76014 (817) 460-3032.

Issued in Austin, Texas, on February 20, 1987.

TRD-8701551 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: February 20, 1987

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

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## Trauma Care System

Trauma Care System, Texas Department of Health, is accepting letters of intent to apply for trauma care systems funding under the preventive health and health services block grant. Funds will be available October 1, 1987; funds may not be used to purchase equipment or pay operational costs of services.

Letters of intent to apply for funds should be sent to Gene Weatherall, Bureau Chief, Texas Department of Health, Bureau of Emergency Management, 1100 West 49th Street, Austin, Texas 78756-3199. Applications will be due July 1, 1987.

Eligible entities who send letters of intent will receive application kits consisting of materials pertinent to submitting an application. An eligible entity is a public entity administering a compact or other regional planning council or consortium, a unit of local government, any other public entity, and any nonprofit entity. All applications must benefit local emergency medical services within the functional geographic units. Preference will be given to applicants with comprehensive 12 component trauma care system planning.

For more information, contact Eric Kunish, Program Administrator, Bureau of Emergency Management, at (512) 465-2601.

Issued in Austin, Texas, on February 20, 1987.

TRD-8701550 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: February 20, 1987

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

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## Public Utility Commission of Texas Request for Proposals

In accordance with Texas Civil Statutes, Article 6252-11c, the Public Utility Commission of Texas seeks proposals from qualified Texas school administrators, board members, educational facility planners, or architects to develop and present individual sessions in a series of one-day workshops on educational programming and the role of energy efficiency in school facility planning and design. The target audience for these workshops will be school administrators and board members in growth areas of the state. Workshops will be sponsored by the Energy Resource Center for Texas schools and will provide 45 to 90 minute training sessions based on successful experiences in Texas school districts in each of the following disciplines:

- (1) defining the building's educational program which identifies the number of students, the subjects to be taught, the methods of instruction, and the anticipated operating schedules for school and community activities;
- (2) selecting an energy-conscious design team;
- (3) incorporating energy considerations into the architectural program;
- (4) reviewing energy efficient school designs devel-

oped in response to specific architectural programs.

Respondents may propose to develop and present one or more of the training segments. Proposals submitted for sessions (1), (3), and (4) will be expected to include copies of educational and architectural programs prepared by the respondent. Proposals submitted for sessions (2), (3), and (4) should include documentation of the actual energy performance of any facilities discussed. Contractors will be selected to develop training segments on the specific disciplines associated with energy efficient planning and design of new school facilities, to provide any appropriate audio-visual materials for use in each segment, and to present the training segments. In addition, contractors will be required to meet in Austin twice prior to delivery of the workshop presentations, once to coordinate integration of the individual segments, and again to conduct a pilot workshop for the Energy Efficiency Division staff. The contractors will be expected to make presentations at six workshops to be scheduled between April 1987, and December 1987, at six locations in the state.

Respondents should include a full cost proposal, broken into the following categories: professional services, for development, for presentations; supplies and materials; and travel.

All expenses incurred will be paid on a cost-reimbursement basis. No bidder will be reimbursed for costs incurred in the preparation or submission of the proposal.

Contractor evaluation will be based on the following criteria:

- (1) experience as a Texas school administrator, school board member, educational facility planner, or school architect in a Texas school district;
- (2) knowledge of and experience in facility planning and programming practices;
- (3) specific understanding of the process of incorporating energy efficiency in the planning and programming phases;
- (4) the quality of specific educational programs submitted as model programs;
- (5) documented energy performance of facilities for which programs are submitted;
- (6) expertise in the discipline of the proposed training segment;
- (7) communication skills of prospective presenters; and
- (8) proposed cost.

Final selection will be made by a review committee. Each written proposal must be able to stand on its own merits, technically and with regard to price, and should not require explanation by the respondent. However, PUC may request interviews with proposers, as well as additional written and oral information or materials prior to final selection. Respondents must comply with all applicable policies and procedures of the PUC and the Department of Energy, as well as with all federal laws and regulations regarding grants to states and subgrantees.

The PUC reserves the right to enter into competitive negotiations with selected respondents prior to final award of the contract. All contracts are contingent upon receipt of federal funding and final approval of the PUC. Funding for this project and all other programs of the Energy Resource Center for Texas Schools is provided by petroleum violation escrow funds authorized for this purpose. The PUC also reserves the right to accept other than the lowest bid and to reject any or all proposals submitted in response to this RFP.

#### **Proposal Submission Procedures.**

(1) Each respondent should submit five copies of the proposal.

(2) Written proposals must arrive at the PUC offices no later than 3 p.m., March 26, 1987.

(3) Bid identification numbers must be outside of proposal envelope as follows: 473-7-180291.

(4) Address proposals to Sandy Becker, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757.

No proposal arriving after 3 p.m. will be accepted.

Further information concerning this request may be obtained by contacting Judith Carroll, Public Utility Commission of Texas, Energy Efficiency Division, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0312.

Issued in Austin, Texas, on February 18, 1987.

TRD-8701523      Phillip Holder  
Secretary of the Commission  
Public Utility Commission

Filed: February 19, 1987

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

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## **Texas Savings and Loan Department Application for Change of Control**

Texas Civil Statutes, Article 852a, §11.20, require any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On February 13, 1987, the savings and loan commissioner received an application for approval of the acquisition of control of University Savings Association, Houston, by University Holding Inc., 1160 Dairy Ashford, Houston, Texas (Richard Collier, CEO, and Paul Yates, President).

Any inquiries may be directed to the Texas Savings and Loan Department, 2601 North Lamar, Suite 201, Austin, Texas 78701, (512) 479-1250.

Issued in Austin, Texas, on February 18, 1987.

TRD-8701543      Russel R. Oliver  
General Counsel  
Texas Savings and Loan Department

Filed: February 19, 1987

For further information, please call (512) 479-1250.

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## **Office of the Secretary of State Texas Register Publication Schedule**

Following are the deadline dates of the March, April, and May 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.

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Tuesday, March 3  
★ Friday, March 6  
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#### 1ST QUARTERLY INDEX

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Tuesday, May 5  
Thursday, May 7  
Tuesday, May 12  
Thursday, May 14  
Tuesday, May 19  
Thursday, May 21  
Tuesday, May 26

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## Texas Surplus Property Agency Consultant Contract Award

The Texas Surplus Property Agency has awarded a consultant contract under Texas Civil Statutes, Article 6252-11c. Notice of the proposal request was published in the December 12, 1986 issue of the *Texas Register* (11 Tex-Reg 4990).

**Description.** A consultant has been selected by the agency to provide technical assistance, expertise and direct services for the development, application, and implementation of software to provide an operational inventory control program on the agency's Compaq Deskpro 286 computer. Specifically, the consultant shall provide a functional conversion or modification of an inventory control software package developed by the Arthur Anderson Company for the Utah Surplus Property Agency for use by the Texas Surplus Property Agency. The services include evaluation of agency requirements relative to hardware and software, the modification of the Utah program, the necessary training and personnel requirements, loading the Utah program into agency hardware and making it functional, modifying the operational system, tailoring it to

TSPA needs and requirements including the ability to network all four district inventory operations, and training agency personnel. The system will be developed using the Metafile language on currently owned agency equipment and other hardware which can be acquired within current budgetary limitations.

**Consultant Name.** The name and address of the private consultant is Data Interface Systems Corporation, Albert C. Lowenstein, President, P.O. Box 4189, Austin, Texas 76765.

**Terms.** The maximum value of this contract is \$5,999. The beginning date is March 1, 1987, and the ending date is June 20, 1987.

**Due Date.** All reports, documentation, modifications, and pertinent information are due by June 30, 1987.

Issued in Austin, Texas, on February 20, 1987.

TRD-8701598      Marvin J. Titzman  
Executive Director  
Texas Surplus Property Agency

Filed: February 23, 1987

For further information, please call (512) 661-2381.

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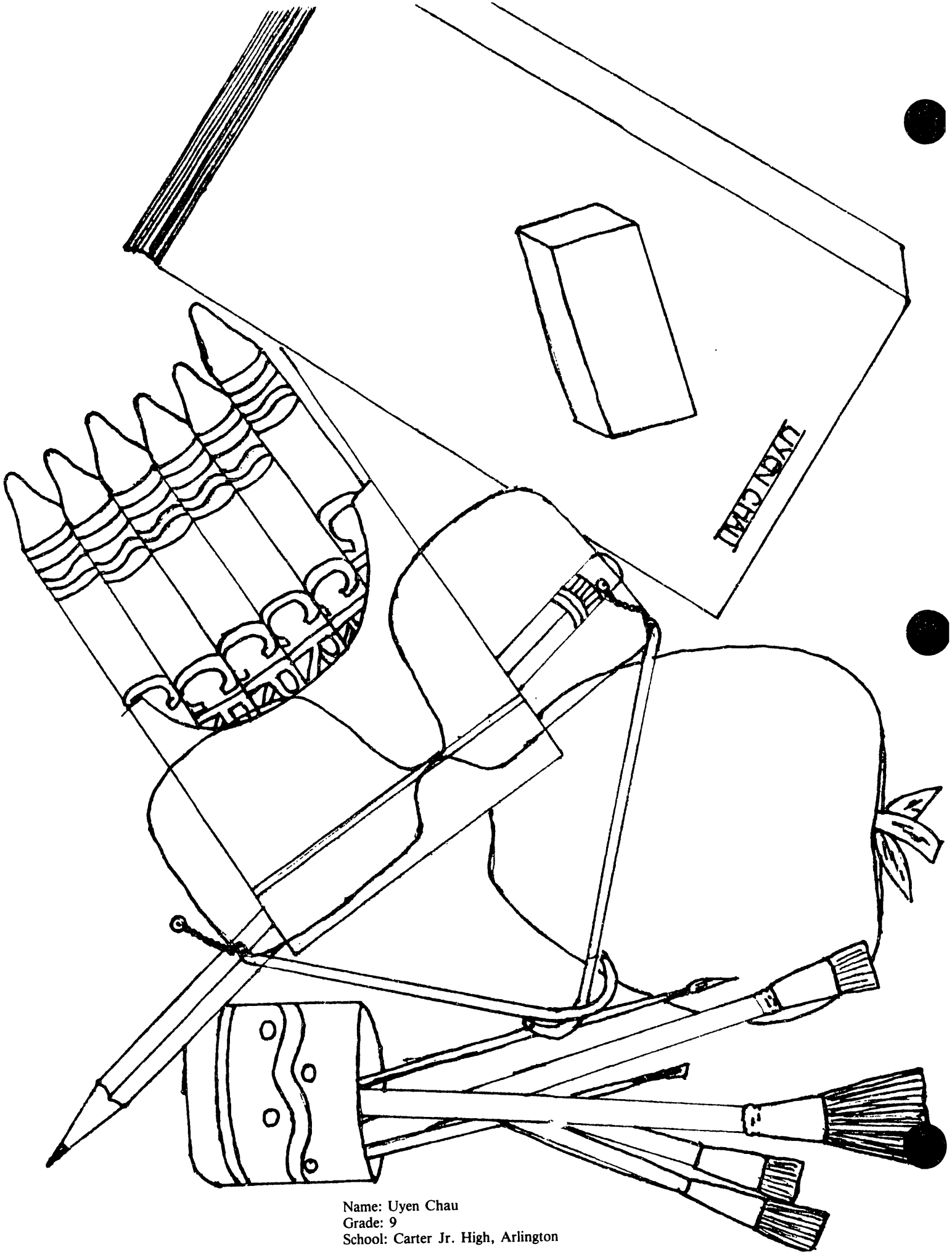
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13 Social Services and Assistance	1	\$12.00	\$4.00
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17 Workers' Compensation	1	\$12.00	\$4.00
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Grade: 9  
School: Carter Jr. High, Arlington



Name: Uyen Chau  
Grade: 9  
School: Carter Jr. High, Arlington



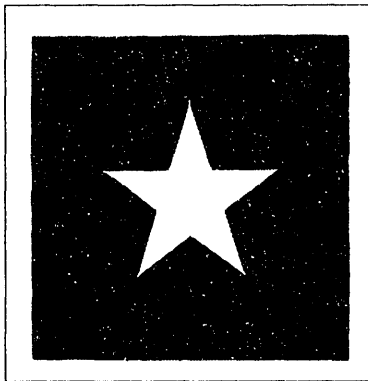
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