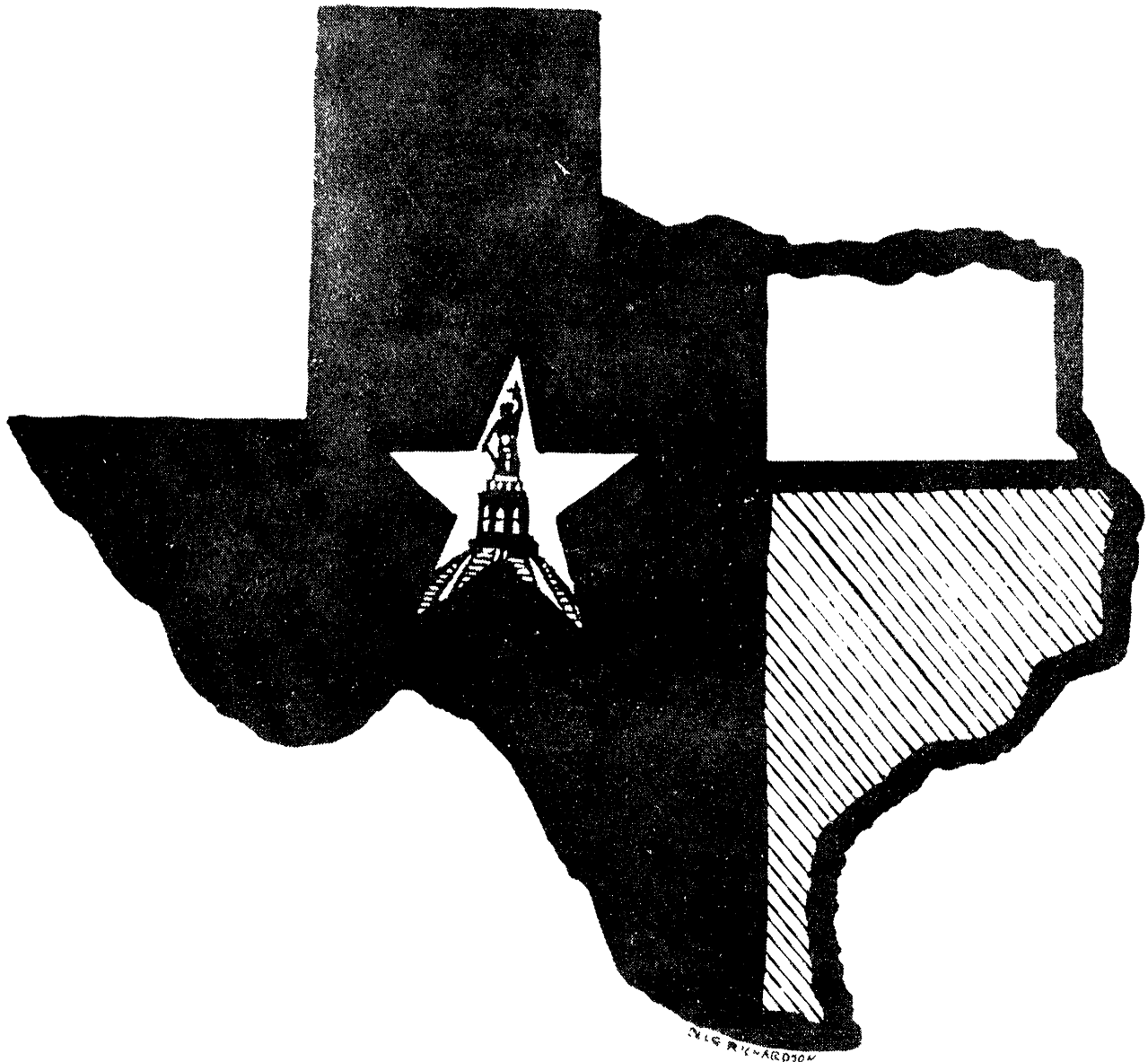


# Texas Register

Volume 12, Number 59, August 7, 1987

Pages 2525-2599



## Highlights

The **Railroad Commission of Texas** initiates a general inquiry into the take-or-pay and/or minimum take provisions in natural gas purchase contracts and their impact on gas rates. Issued date - July 30 **page 2597**

The **Texas Department of Community Affairs** proposes amendments concerning the allocation of community development block grant non-

entitlement area funds under the Texas Community Development Program. Earliest possible date of adoption - September 7, 1987 **page 2541**

The **Texas State Board of Pharmacy** adopts a new section incorporating currently existing federal and state inventory requirements into one rule. Effective date - September 1 **page 2568**

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

## Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

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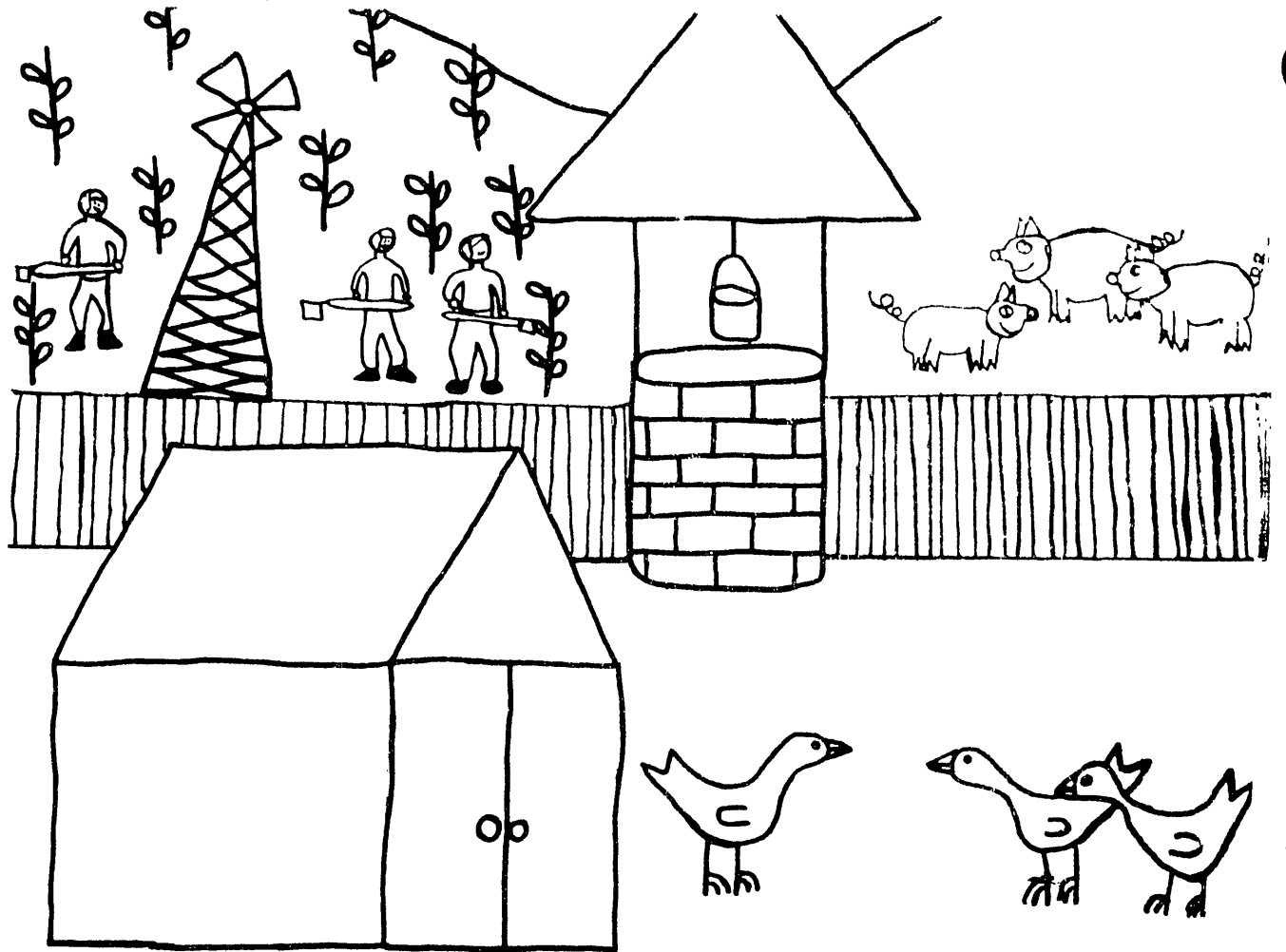
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Name: Melissa Oehl  
Grade: 5  
School: Burton Hill Elementary, Ft. Worth

# 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 July 23

To be a member of the **Lower Colorado River Authority Board of Directors (at-large position)** for a term to expire February 1, 1993: Lawrence Roy Bandy, Route 2, Box 203, Luling, Texas 78648. (Mr. Bandy will be replacing Marvin Selig of Sequin, whose term expired.

To be a member of the **Lower Colorado River Authority Board of Directors (at-large position)** for a term to expire February 1, 1993: Raymond F. Barker, 741 Water Street, Kerrville, Texas 78028. Mr. Barker will be replacing John W. Jones of Brady, whose term expired.

To be a member of the **Lower Colorado River Authority Board of Directors** for a term to expire February 1, 1993: John Kenneth Dixon, 171 Park Lane, Sunrise Beach, Texas 78643. Mr. Dixon is being reappointed.

To be a member of the **Nueces River Authority Board of Directors** for a term to expire February 1, 1991: Joseph E. Gardner, Jr., P.O. Box 6070, Corpus Christi, Texas 78411. Mr. Gardner will be filling the unexpired term of Edward Morris Jones of Ingleside, who is no longer eligible.

To be a member of the **Lower Colorado River Authority Board of Directors (at-large position)** for a term to expire February 1, 1993: J. Randall Grimes, P.O. Box 1019, Georgetown, Texas 75627. Mr. Grimes will be replacing Merritt Schumann of New Braunfels, whose term expired.

To be a member of the **Lower Colorado River Authority Board of Directors** for a term to expire February 1, 1993: J. M. Johnson, Jr., P.O. Box 337, Eagle Lake, Texas 77434. Mr. Johnson will be replacing Milton Jay Anderson of East Bernard, whose term expired.

To be a member of the **Lower Colorado River Authority Board of Directors** for a term to expire February 1, 1993: Rita Myatt Radley, 2503 Meadow Lane, El Campo, Texas 77437. Mrs. Radley will be replacing John W. Hancock of El Campo, whose term expired.

To be a member of the **State Board of Nurse Examiners** for a term to expire January 31, 1993: Lynn Curtis Besselman, 2418 Lipscomb, Amarillo, Texas 79109. Mrs. Besselman will be replacing Dr. Ruby Lee Morris of Midland, whose term expired.

To be a member of the **Lower Colorado River Authority, Board of Directors** for a term to expire February 1, 1993: James B. Garrison, Jr., P.O. Box 760, Marble Falls, Texas 78654. Mr. Garrison will be replac-

ing Martin E. McLean of Marble Falls, whose term expired.

To be a member of the **Upper Neches River Municipal Water Authority** for a term to expire February 1, 1991: J. R. (Jack) Hockridge, 1101 North John, Palestine, Texas 75801. Mr. Hockridge will be replacing Calvin Lester Hamilton of Palestine, whose term expired.

To be a member of the **Egg Marketing Advisory Board** for a term to expire September 27, 1991: Kervin E. Jacob, 939 West 18th Street, Houston, Texas 77008. Mr. Jacob is being reappointed.

To be a member of the **Egg Marketing Advisory Board** for a term to expire September 27, 1989: David Mark Jenkins, P.O. Box 9570, La Grange, Texas 78945. Mr. Jenkins will be replacing T. Pryse Metcalfe of Franklin whose term expired.

To be a member of the **Egg Marketing Advisory Board** for a term to expire September 27, 1989: Hobert H. Joe, 7927 Katy Road, Houston, Texas 77024. Mr. Joe is being reappointed.

To be a member of the **Egg Marketing Advisory Board** for a term to expire September 27, 1989: Terry Alan Legan, 2011 Good Latimer, Dallas, Texas 75226. Mr. Legan will be replacing Ernest A. Mahard, Jr. of Prosper, whose term expired.

To be a member of the **Trinity River Authority of Texas, Board of Directors** for a term to expire March 15, 1993: Ray H. Myers, 505 Woodcrest Way, Forney, Texas 75126. Mr. Myers will be replacing Nobel Welch of Terrell, whose term expired.

To be a member of the **Lower Colorado River Authority, Board of Directors** for a term to expire January 1, 1989: Charles Patrick Oles, Jr., 807 Brazos, Suite 802, Austin, Texas 78701. Mr. Oles will be filling the unexpired term of John McAllen Scanlan of Austin, who resigned.

To be a member of the **Egg Marketing Advisory Board** for a term to expire September 27, 1991: Emil W. Plasek, West Egg Products, 107 South Roberts, West, Texas 76691. Mr. Plasek will be replacing Delvin R. Barrett of Bryan, whose term expired.

To be a member of the **Angelina and Neches River Authority, Board of Directors** for a term to expire September 5, 1987: Joe Echols Rich, 1312 Wilson Street, Lufkin, Texas 75901. Mr. Rich will be filling the unexpired term of Samuel D. Griffin of Lufkin, who resigned.

To be a member of the **State Board of Nurse Examiners** for a term to expire January 31, 1993: Aimee Joanna Seamans, 3714 Inwood

Forest, San Antonio, Texas 78230. Mrs. Seamans is being reappointed.

To be a member of the **State Board of Dental Examiners** for a term to expire May 10, 1993: Mary C. Spinks, Houston Chamber of Commerce, 1100 Milam, Houston, Texas 77002. Mrs. Spinks will be replacing Lydia Evaro Torres of Midland, whose term expired.



## Appointments Made July 24

To be a member of the **Texas County and District Retirement System Board of Trustees** for a term to expire December 31, 1987: Fred R. Clark, 1307 Patio Drive, New Braunfels, Texas 78130. Judge Clark will be filling the unexpired term of Judge Joan Hanson, who is no longer eligible.

To be a member of the **Family Practice Residency Advisory Committee** to be effective August 30, 1987, for a term to expire August 29, 1990: Jack L. Eidson, M.D., 808 Santa Fe Drive, Weatherford, Texas 76086. Dr. Eidson will be replacing E. J. Mason, M.D. of Dallas, whose term expired.

To be a member of the **Texas Planning Council for Developmental Disabilities** for a term to expire February 1, 1993: Priscilla Graham Kirkwood, 215 Chimney Hill Circle, College Station, Texas 77840. Mrs. Kirkwood will be replacing Gary F. Shreve of Monahans, whose term expired.

To be a member of the **Long-Term Care Coordinating Council for the Elderly** for a term to expire January 31, 1989: Charlie White Thompson, P.O. Drawer 866, Buffalo, Texas 75831. Mrs. Thompson will be replacing Alfredo R. Arriola of Corpus Christi, whose term expired.

To be a member of the **Governing Board of the Texas School for the Blind** for a term to expire January 31, 1993: Nalin H. Tolia, M.D., 318 North Alleghany #302, Odessa, Texas 79762. Dr. Tolia will be replacing M. Ray Harrington, M.D. of Dallas, whose term expired.

Issued in Austin, Texas, on July 27, 1987.

TRD-8706191

William P. Clements, Jr.  
Governor of Texas



# Attorney General

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

## Requests for Opinions

**RQ-1177.** Request from Lloyd Criss, Chairman, House Committee on Labor and Employment Relations, Austin, concerning whether the State Board of Insurance is authorized to approve revised owner controlled insurance programs under the Insurance Code, Article 5.77, and related questions.

TRD-8706341



**RQ-1178.** Request from Michael J. Guarino, Criminal District Attorney, Galveston, concerning whether a commissioners court is authorized to grant vacation and sick leave benefits to elected and appointed county officials, and related questions.

TRD-8706342



**RQ-1179.** Request from David H. Cain, Chairman, Committee on Transportation, Texas House of Representatives, Austin, concerning whether a school district is exempt from the provisions of Texas Civil Statutes, Article 6675a-1, regarding non-exempt license plates.

TRD-8706343



**RQ-1180.** Request from Charles W. Chapman, Criminal District Attorney, San Marcos, concerning the retroactivity of the 1985 amendment to Texas Civil Statutes, Article 6812h, relating to the acquisition of a public interest in private roads in certain counties.

TRD-8706344



## Opinions

**JM-757 (RQ-1090).** Request from Paul W. Mayben, Camp County Attorney, Pittsburg, and Joe K. McGill, Gaines County Attorney, Seminole, concerning the right of an individual to copy and reproduce public records in a district or county clerk's office.

**Summary of Opinion.** The Texas Open Records Act, Texas Civil Statutes, Article

6252-17a, does not grant members of the public an unlimited right to copy, with their own copying equipment, information deemed public under the Open Records Act. Requests from members of the public to copy public records with their own equipment may be denied when the requests raise questions of safety or efficiency or threaten the unreasonable disruption of the business of the governmental body. The reasonableness and safety of each request depends on the facts surrounding the request.

Texas Civil Statutes, Article 3930, governs only charges for certified copies of documents covered by Article 3930. The cost of copies of non-certified public records cannot exceed the actual cost of providing those reproductions.

TRD-8706345



**JM-758 (RQ-959).** Request from Carlos Valdez, Nueces County Attorney, Corpus Christi, concerning the conditions under which taxing units are required to make tax increment fund payments beyond three years.

**Summary of Opinion.** The Tax Increment Financing Act of 1981, §10(c), relieves taxing units of an obligation to make payments into a tax increment fund only if none of the three conditions listed there have been met within the time allowed.

TRD-8706346



**JM-759 (RQ-964).** Request from Jim Lynaugh, Director, Texas Department of Corrections, Huntsville, concerning whether the Texas Department of Corrections granting of good time to prisoners for time incarcerated in a county jail violates Texas Civil Statutes, Article 6181-1, §3(c).

**Summary of Opinion.** Texas Civil Statutes, Article 6181-1, §3(c), is not violated by the Department of Corrections policy of awarding good conduct time to all newly received prisoners for time incarcerated in county jails.

TRD-8706347



**JM-760 (RQ-1119).** Request from Joe Warner Bell, Trinity County Attorney, Groveton, concerning whether a peace officer may, without further authorization, release on personal bond a defendant charged with a misdemeanor.

**Summary of Opinion.** A peace officer may not, without authorization from a court or magistrate (except in traffic cases, an arresting officer may release an individual by obtaining his written promise to appear in court, Texas Civil Statutes, Article 6701d, §148), release on personal bond a defendant charged with a misdemeanor.

TRD-8706348



**JM-761 (RQ-1132).** Request from Mark W. Stiles, Chairman, County Affairs Committee, Texas House of Representatives, Austin, concerning the authority of constables to enforce traffic laws anywhere within their counties.

**Summary of Opinion.** After September 1, 1987, effective date of an amendment to Texas Civil Statutes, Article 6889, constables may legally enforce traffic laws and regulations within their counties outside their respective precincts as well as within them.

TRD-8706349



## Open Records Decision

**ORD-473 (RQ-1141).** Request from Stephen G. Williams, City Attorney, Galveston, concerning whether information relating to computer assisted employee performance evaluation of city council appointees is subject to the Open Records Act.

**Summary of Decision.** The city of Galveston received a request under the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, on or around September 26, 1986. The city did not request the decision of this office until February 10, 1987. Under the Open Records Act, §7(a), if a governmental body fails to request, within 10 days, the decision of the attorney general with regard to a request for information under the Open Records Act, the information is presumed public. The governmental body must

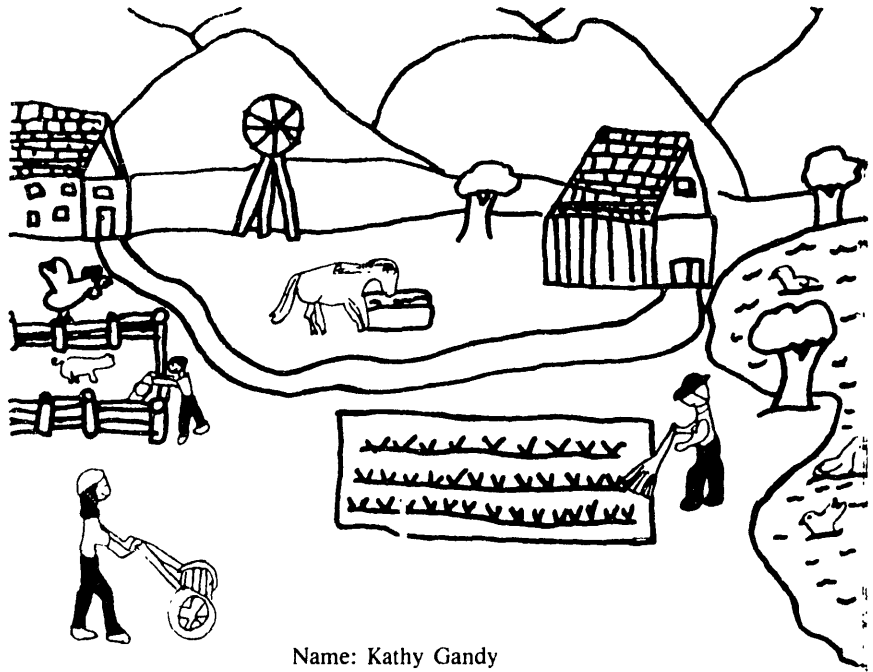


show a compelling interest to overcome the presumption.

Although a less compelling interest will overcome the presumption when privacy or confidentiality interests are at issue, the appraisals at issue do not contain confidential information. Performance appraisals made by city council members that evaluate certain employees appointed by the city council may not be withheld from public disclosure under the Open Records Act, §3(a)(1) or §3(a)(2), unless they contain highly intimate or embarrassing facts about the employee's personal affairs and they are of no legitimate interest to the public. The appraisals at issue here do not meet this test. Nor does §3(a)(9) apply to these evaluations.

Consequently, because the release of these appraisals does not implicate confidentiality interests and because the city failed to show a compelling reason why the appraisals should be withheld, the appraisals must be released.

TRD-8706350



Name: Kathy Gandy  
Grade: 5  
School: Burton Hill Elementary, Ft. Worth

# 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 1.

#### ADMINISTRATION

#### Part IV. Office of the Secretary of State

#### Chapter 87. Notary Public Rejection and Revocation

##### ★ 1 TAC §87.41, §87.43

The Office of the Secretary of State adopts on an emergency basis §87.41 and §87.43, concerning rejection and revocation. The amendments provide for disciplinary actions which may be taken against a notary public by the secretary of state and expand on the specific grounds for these actions. The amendments also incorporate by reference administrative procedural rules, and update references to recodified statutory provisions. It is necessary to adopt amendments on an emergency basis to protect the welfare of those members of the public who may be affected by such complaint or disciplinary actions against notaries public.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 5949, §10, which provide the secretary of state with the authority to adopt regulations necessary to enforce and administer the Notary Public Act.

§87.41. *Rejection of Application and Revocation of Commission.* The secretary of state, by final decision and order may, for ineligibility or good cause, reject any application, **suspend**, or revoke the commission of any notary public, **or take other disciplinary action against a notary public. The other disciplinary action shall include, but not be limited to, those actions outlined in §87.48 of this title (relating to Other Disciplinary Action).** Rejection [and], revocation, and disciplinary proceedings will be held pursuant to the right of notice, hearing, and adjudication as set out in the **rules of practice and procedure before the Office of the Secretary of State** [Office of the Secretary of State practice and procedure rules] and the Administrative Procedure and Texas Register Act, **Texas Civil Statutes**, Article 6252-13. **Any party to a contested case has the right to be represented by legal counsel.** Such action will be subject to the right of appeal to a district court of Travis County, Texas.

##### §87.43. *Good Cause.*

(a) Good cause as stated in §87.41 of this title (relating to Rejection of Application and Revocation of Commission) **may** [shall] include, but not be limited to, **the following:**

(1) a final conviction for a crime involving moral turpitude; [,]

(2) any false statement knowingly made in an application **for appointment or reappointment as a notary public;** [,]

(3) a final conviction for the violation of any law concerning the regulation of the conduct of notaries public [of] in this state or any other state; [, and]

(4) the failure to comply with **subsections**[subsection] (b) or (c) of the **Texas Government Code, §406.017, concerning the** [Texas Civil Statutes, Article 5949, §5, dealing with] restrictions imposed on the advertising of notary services in a foreign language [by other than attorneys] and the prohibition against the literal translation of notary public into Spanish;

(5) a failure to fully and faithfully discharge any of the duties or responsibilities required of a notary public;

(6) the unauthorized practice of law;

(7) a failure by the notary public to print or stamp his or her name and the date of expiration of his or her commission;

(8) a failure to administer an oath or affirmation as required by law;

(9) the collection of a fee in excess of those authorized by **the Texas Government Code, §406.024** [Texas Civil Statutes, Article 3945];

(10) a failure to keep a well-bound book of all notarial transactions as required by **the Texas Government Code, §406.014** [Texas Civil Statutes, Article 5955];

(11) a failure to provide and use a seal of office as required by **the Texas Government Code, §406.013** [Texas Civil Statutes, Article 5960 and Article 5960(a)];

(12) the execution of any certificate as a notary public containing a statement known to the notary public to be false;

(13) a failure to complete the acknowledgment at the time the notary public's signature and seal are affixed to the document;

(14) the advertising in any manner whatsoever that **the** [you are a] notary public **is** [in conjunction with and holding yourself out as] an immigration specialist, immigra-

tion consultant, or any other title or description reflecting an expertise in immigration matters; [and]

(15) the use of false or misleading advertising of either an oral or written nature, whereby the notary public has represented or indicated that he or she has duties, rights, powers, or privileges that are not possessed by law; [,]

(16) **taking an acknowledgment when the person whose signature is acknowledged did not personally appear before the notary at the time of taking the acknowledgment;**

(17) **previous disciplinary action against the notary public in accordance with these sections; and**

(18) **a failure to comply with, or violation of, a previous disciplinary action taken pursuant to §87.48 of this title (relating to Other Disciplinary Action).**

(b)-(d) (No change.)

Issued in Austin, Texas, on July 24, 1987.

TRD-8706203

Lorna Wassdorf  
Special Assistant  
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Division  
Office of the Secretary  
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For further information, please call  
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### Administrative Action

#### ★ 1 TAC §§87.47-87.49

The Office of the Secretary of State adopts on an emergency basis new §§87.47-87.49, concerning administrative action. New §87.47 outlines the notary public complaint procedure before the Office of the Secretary of State beginning with the filing of a complaint to the initiation of a contested case. New §87.48 allows for the secretary of state to take disciplinary action against a notary public whose conduct does not warrant the revocation or suspension of their commission. New §87.49 states that the secretary of state is not barred from taking action against a notary public for alleged misconduct which occurred during a previous term of office. It is necessary to adopt



these new sections on an emergency basis to protect the welfare of those members of the public who may be affected by such complaints or disciplinary action against notaries public.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 5949, §10, which provide the secretary of state with the authority to make regulations necessary for the administration and enforcement of the Notary Public Act.

**§87.47. Complaint Procedures.**

(a) A person harmed by the actions of a notary public may file a complaint with the secretary of state. The complaint shall be filed on the form prescribed by the secretary of state for such purposes, shall be signed and verified by the person alleging misconduct on the part of the notary public, and shall substantially comply with the requirements set forth on the prescribed form.

(b) The complaint shall be reviewed by an employee of the secretary of state to determine if the complaint substantially complies with the requirements set forth on the prescribed form and if the actions complained of are sufficient to constitute good cause for suspension, revocation, or other disciplinary action.

(c) The secretary of state may determine that the actions of the notary public are not sufficiently egregious to warrant formal disciplinary action. The secretary may determine to take no action on the complaint, or the secretary may determine to informally advise the notary public of the appropriate conduct and the applicable statutes and rules governing the conduct. The secretary of state shall notify the complainant of the determination not to take further or formal action.

(d) If the secretary of state determines that the complaint alleges sufficient facts to constitute good cause for the suspension or revocation of the notary public's commission, or other disciplinary action against the notary public, the secretary of state shall notify the notary public of the filing of the complaint and send a copy of the complaint to the notary public.

(e) If the secretary of state determines to proceed on a complaint, the notary public shall be required to respond to the complaint within 20 days of mailing of the notice of complaint to the notary public. The response shall be in writing; the response should specify any disputed facts and provide such additional information as the notary public shall desire.

(f) The secretary of state shall review the response, and determine whether further administrative action is appropriate. If the secretary determines that no further action is appropriate, the secretary shall notify in writing the notary public and the complainant of the determination.

(g) If the secretary determines that further administrative action is appropriate, the secretary shall cause the initiation of a

contested case under the rules of practice and procedure before the Office of the Secretary of State.

**§87.48. Other Disciplinary Action.**

(a) The secretary of state may determine that the conduct which is the basis of a complaint against a notary public does not warrant the suspension or revocation of the commission of the notary public. In the discretion of the secretary of state and after the initiation of a contested case, the secretary of state may seek, but is not limited to, the following disciplinary actions:

(1) official reprimand to the notary public;

(2) a consent decree to cease and desist from engaging in further misconduct;

(3) an agreement to voluntarily surrender the notary public commission;

(4) an agreement to complete a course of study relating to the powers, duties, and responsibilities of a notary public;

(5) an agreement not to seek renewal of a notary public commission for a specified period of time; or

(6) to take such informal action as the secretary deems appropriate.

(b) If the secretary of state and the notary public can reach an agreement as to the appropriate action, the agreement shall be presented to the hearings examiner assigned to the contested case as an agreed settlement under the rules of practice and procedure before the Office of the Secretary of State.

(c) If no agreement can be reached, the secretary of state may request the hearings examiner during the administrative hearing to enter a proposal for final decision and order providing for such disciplinary action.

**§87.49. Time for Action.**

(a) A complaint which arises during the term of office of a notary public which is not disposed of prior to the end of the term may be pursued in a subsequent term of office. The secretary of state shall not be barred from seeking suspension or revocation of a notary public commission or seeking other disciplinary action against a notary public for acts or omissions which occurred during a prior term in office.

(b) In the discretion of the secretary of state, the secretary may determine to take other disciplinary action after the expiration of the term of office of a notary public regardless of whether the notary public has renewed or will seek to renew the notary public commission.

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TRD-8706201 Lorna Wassdorf  
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## TITLE 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Chartering, Operations, Mergers, Liquidations

##### Investments

###### ★7 TAC §91.802

The Credit Union Commission adopts on an emergency basis an amendment to §91.802, concerning investments by credit unions.

The Credit Union Commission finds that there is an imminent peril to the public welfare by the unregulated investment by credit unions in investment trusts. This finding is based on the fact that legal counsel has determined that such investments are legal for state chartered credit unions; that these investments are currently not regulated by the Credit Union Commission; and that National Credit Union Administration representatives have testified that such investments have caused problems in federal credit unions which have adversely affected their retained earnings and reserves. This section is necessary to regulate these investments for the protection of the public.

This section is authorized by the Texas Credit Union Act, §§1.05, 8.01, and 11.07.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

**§91.802. Other Investments.**

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

(c) Authorized activities.

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

(9) **Investment trusts. A credit union may invest funds not used in loans to members in an investment trust established for investing directly or collectively in securities, obligations, participations, or other instruments of or issued by the federal government or any of its agencies or in securities, obligations, participations, or other instruments fully or partially guaranteed as to principal, interest, or both by the federal government or any of its agencies (a mutual fund that is organized as an investment trust may qualify under this provision).**

(d) **Evidence of prudent investment judgement. A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgement in exercising the investment powers granted under the Act and these rules.**

(e) **Accounting and reporting requirements for investment trusts.**

(1) A credit union shall record each investment in an investment trust at the lower of its cost or market value, determined at the end of each month, and net of all purchase and load fees.

(2) Whenever a credit union's total investments in investment trusts exceed 25% of the credit union's reserves and surplus, net of deductions used in calculating the estimated solvency ratio, the credit union shall file a report of the investments to the department on a form supplied by the department for this purpose and within 15 days following each month in which the excess amount occurred. Such filing shall be by certified mail or other means of delivery that will assure prompt receipt by the department.

(3) The board of directors shall be provided by the president a monthly comprehensive report of investment activities, including:

(A) investments purchased and sold during the month;

(B) market gains or losses which have occurred as of monthend;

(C) calculated yield on each outstanding investment;

(D) unrecorded obligations to buy or sell investments;

(E) amounts of investments, or deposits in other institutions, which are not fully insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, National Credit Union Share Insurance Fund, Texas Share Guaranty Credit Union, or federal or state governments or their agencies;

(F) net asset value (NAV) of each investment; and

(G) investments outstanding at monthend.

Issued in Austin, Texas, on July 27, 1987.

TRD-8706156 John R. Hale  
Commissioner  
Credit Union Department

Effective date: July 27, 1987  
Expiration date: November 24, 1987  
For further information, please call  
(512) 837-9236.

◆ ◆ ◆

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division Conservation Rules and Regulations

#### 16 TAC §3.34

The Railroad Commission of Texas is renewing the effectiveness of the emergency adoption of amended §3.34 for a 60-day period effective July 28, 1987. The text of the amended §3.34 was originally published

in the April 7, 1987, issue of the *Texas Register* (12 TexReg 1117).

Issued in Austin, Texas, on July 27, 1987.

TRD-8706192 Walter Earl Lillie  
Special Council  
Railroad Commission of  
Texas

Effective date: July 28, 1987  
Expiration date: September 26, 1987  
For further information, please call  
(512) 463-7149.

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## TITLE 22. EXAMINING BOARDS

### Part IV. Texas Cosmetology Commission

#### Chapter 83. Sanitary Rulings

#### ★ 22 TAC §83.3

The Texas Cosmetology Commission adopts on an emergency basis an amendment to §83.3, concerning proper quarters. The amendment is adopted on an emergency basis to better serve the immediate needs of cosmetology school and salon owners.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

#### §83.3. *Proper Quarters.*

(a) (No change.)  
(b) Linoleum or tile floors must be tight with no broken areas or badly worn spots. Walls and fixtures shall be of a sanitary nature. There must be evidence of routine cleaning and proper maintenance. Hair cuttings must be immediately swept up and deposited in a disposal receptacle when the haircut is finished. [On or after March 1, 1984] Carpeting is not allowed in shampoo and working areas, but is allowed in reception, [and] dryer, **manicuring, and facial** areas provided that it is cleaned on a regular basis and kept in a sanitary condition. Those establishments that currently have carpeting in the shampoo and work areas are not required to removed said carpeting until such time as it can no longer be maintained in a sanitary condition. Floors shall be constructed of smooth, hard finished materials, such as quarry, tile, terrazzo, ceramic tile, etc., or covered with washable composition materials such as rubber base greaseless asphalt tile, or commercial grade linoleum or tile may be used. All of the floors in the establishment shall be graded. No carpet shall be permitted closer than six feet from the outermost edge of the working station. No carpet shall be permitted in the dispensary area as it is a part of the clinic floor, and no carpet shall be permitted from

the shampoo bowl to the extended end of the shampoo chair.

(c)-(j) (No change.)

Issued in Austin, Texas, on August 3, 1987.

TRD-8706337 Jo Ann Reeves  
Executive Director  
Texas Cosmetology  
Commission

Effective date: September 1, 1987  
Expiration date: December 30, 1987  
For further information, please call  
(512) 463-5542.

◆ ◆ ◆

## Chapter 89. General Provisions

#### ★ 22 TAC §§89.28, 89.30, 89.31

The Texas Cosmetology Commission adopts on an emergency basis amendments to §§89.28, 89.30, and 89.31, concerning withdrawal from school, examination applications, and examination. The amendments are adopted on an emergency basis to better serve the immediate needs of cosmetology students and examinees of the Texas Cosmetology Commission examination.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

§89.28. *Withdrawal from School.* Within 10 days of withdrawal or graduation of a student, the school must notify the commission. Effective as of the date of the adoption of this section, a record of **verified** hours completed in a school in this state will be retained by the commission for a period of five years from the date of withdrawal or completion of the course. [Prior to the adoption of this section, records were destroyed after 36 months.] If a student withdraws from school prior to completion of the required course of instruction, and wishes to re-enroll **within the five-year period an official [at a later date, a certified] transcript of the verified hours [from the commission] must be requested from the commission and furnished to the re-enrolling school.**

§89.30. *Examination Applications.* Application for examination must be filed 10 days prior to the first date set by law for examination and verify the applicant has completed the total hours required in the particular course of instruction at that time. The examination application consists of the front portion of the permit with a photograph, the second portion labeled application, and a health certificate not over one year old which includes a tuberculosis test. A copy of the student permit and photograph must be posted in the school should the student continue to attend and accrue hours between the time of application and

date scheduled for exam. The applicant will be required to furnish a valid **Texas driver's license, a Texas Department of Public Safety identification card, a military identification card, a school identification card with a picture, or a resident alien card as proof of identification prior to admittance for examination. No other proof will be accepted** [proof of identification prior to admittance for examination. The examination application may not be withheld for the purpose of tuition collection]. Students holding dates scheduled for exam who do not appear without a seven-day notice to the commission of cancellation may be denied scheduling for at least 60 days.

**§89.31. Examinations.** The examination will be conducted in the English language. Exceptions will be made when English is not the native or first language of the applicant. **The written exam may be taken in their native language if the individual or school notifies the commission at least 120 days in advance, so that the written test would be available. Applicants with learning disabilities, dyslexia, and those who are emotionally disturbed will be extended the service of oral, tape recorded, or reader services exam with valid proof of condition.** The applicant will be responsible for any fee or consideration to be paid to an acceptable interpreter and/or translator whose services are necessary for the examination. If the applicant can make arrangements that are acceptable, the examinations will be given at the first time available. The commission staff will make every attempt to minimize delays. The evaluation of an applicant's performance on any examination by the examining staff of the commission shall be final. No request of reevaluation will be acted upon by the staff or the commission.

Issued in Austin, Texas, on August 3, 1987.

TRD-8706338

Jo Ann Reeves  
Executive Director  
Texas Cosmetology  
Commission

Effective date: September 1, 1987  
Expiration date: December 30, 1987  
For further information, please call  
(512) 463-5542.



**★ 22 TAC §89.35**

The Texas Cosmetology Commission adopts on an emergency basis an amendment to §89.35, concerning uniforms. The amendment is adopted on an emergency basis to better serve the immediate needs of examinees of the Texas Cosmetology Commission examination.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules

**§89.35. Uniforms.**

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

(c) Applicants for a commission examination must appear in **black, brown, or navy dress slacks or black, brown, or navy knee length skirt (no jeans), dark colored shoes, a clean white shirt or blouse, and a clean white professional type three-quarter length lab coat with either short or long sleeves.** [a professional uniform of washable material with the armpits covered, provided that such] **The attire shall not bear any writing or other identifying marks. Applicants not in the prescribed uniform will not be admitted to the exam floor.** Tank tops and bare feet are not allowed. **This section becomes effective January 1, 1988.**

Issued in Austin, Texas, on August 3, 1987.

TRD-8706339

Jo Ann Reeves  
Executive Director  
Texas Cosmetology  
Commission

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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 §3.295**

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.295, concerning natural gas and electricity. The amendment includes new guidelines for taxpayers attempting to qualify for a sales tax exemption on their use of natural gas and electricity. One of the new requirements is that a study must be performed by a registered engineer. The emergency amendment is necessary so that taxpayers won't pay someone other than a registered engineer to perform a utility study only to find out later that the study is unacceptable to the comptroller. The amendment also insures that complete and valid studies are performed thus protecting taxpayers from future tax deficiencies and providing the state with sufficient information to insure the claimed exemption is valid.

The amendment is adopted on an emergency basis under the 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.

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

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

(d) Predominant use.

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

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

(4)-(5) (No change.)

(e) Determining predominant use: Utility studies.

(1) Persons claiming a sales tax exemption because the predominant use of natural gas and electricity through a single meter is for processing, manufacturing, or fabricating must have performed a utility study to establish this predominant exempt use. The study must list all uses of the utility, both exempt and nonexempt, the times of usage, the energy used, and whether the use was taxable or exempt. Twelve consecutive months of utility usage must be a part of the study. **The electrical computations must be certified by a registered engineer or a graduate of an accredited engineering college. The study must be sworn to as true and correct by the operator of the business. If the operator of the business appoints an agent to act on the operator's behalf, the power of attorney must clearly state that the agent is attempting to qualify the principal for a sales tax exemption, and if a refund of sales tax is involved, the power of attorney must also state that a sales tax refund will be made by the state through the utility company.**

(2) (No change.)

(3) The comptroller may request a copy of the study for review, either before or after the sales tax exemption is granted. If the study is incomplete or inaccurate as to energy used, major nonexempt uses omitted or hours of exempt uses misstated, and results in the taxable percentage equaling or exceeding 50% of total uses by more than 5.0%, the findings of the study will be disallowed and exemption denied for a period of one year. After the lapse of one full year, a complete study may be resubmitted for review. The new study is subject to the same rules as the first study. A study will not be rejected solely for mathematical mistakes. **Neither the comptroller by reviewing a study nor the utility company by accepting it, is confirming the study's accuracy. Tax, penalty, and interest will be assessed on the business operator if the study is proven to be incomplete or inaccurate to the extent that the predominant use of the natural gas or electricity is taxable.**

(4) (No change.)

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

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



**TITLE 43.**  
**TRANSPORTATION**  
**Part I. State Department of**  
**Highways and Public**  
**Transportation**  
**Chapter 25. Maintenance**  
**Division**

**Adopt-A-Highway**

**★ 43 TAC §§25.801-25.809**

The State Department of Highways and Public Transportation adopts on an emergency basis new §§25.801-25.809, concerning uniform policies and guidelines to be used in the department's administration of its Adopt-a-Highway Program. These new sections define terms, set forth program guidelines and requirements relative to duties and responsibilities of participating volunteer groups and the department, execution, modification, renewal, and termination of the program agreement, and the termination of the program by the department. In view of the tremendous growth and success of the Adopt-a-Highway Program, there is an immediate need for uniform guidelines and regulations in order to protect the safety and interest of the citizens of Texas who have applied and will be applying to participate in the program.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 6666, which provide the State Highway and Public Transportation Commission with the authority to establish rules for the conduct of the work of the department.

**§25.801. Purpose.** The Adopt-a-Highway Program, sponsored by the department, allows private citizens an opportunity to support the department's antilitter programs by adopting a section of highway for the purpose of controlling and reducing litter on such adopted section. These sections set forth uniform guidelines and requirements to be used in administering the Adopt-a-Highway Program.

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

**Adopt-a-highway chairperson**—Individual appointed or selected by the group to serve a spokesperson.

**Adopt-a-Highway Program**—The public awareness program of the department to assist in the control and reduction of litter in the long term on the adopted section of state highway right-of-way.

**Adopted section**—Section of rural state highway right-of-way approved by the district engineer for adoption by the group.

**Commission**—The State Highway and Public Transportation Commission.

**Department**—The State Department of Highways and Public Transportation.

**Deputy director**—The deputy director, field operations, for the State Department of Highways and Public Transportation.

**District**—One of the 24 districts of the department having the responsibility of administering in their area the Adopt-a-Highway Program in accordance with the sections of this title.

**District engineer**—The chief executive officer in charge of a district of the department.

**Group**—Members or employees of civic and nonprofit organizations, and commercial and private enterprises who have requested to participate in the Adopt-a-Highway Program.

**§25.803. Participation in Adopt-a-Highway Program.** Members or employees of civic and nonprofit organizations, and of commercial and private enterprises may, upon approval by the department, adopt a section of a highway on the state highway system for purposes of picking up and removing litter and trash from the rights-of-way of that section under such terms and conditions as may be duly promulgated under the authority of the commission.

**§25.804. Application.**

(a) The authorized representative of a group who desires to participate, or to continue to participate, in the Adopt-a-Highway Program shall submit an application to the district engineer of the district in which the section of highway proposed to be adopted is located.

(b) The application shall be in the form prescribed by the deputy director and shall contain at a minimum the following information:

- (1) the date of application;
- (2) the name and complete mailing address of the group;
- (3) the name of the president, chairperson, or authorized representative of the group;
- (4) the name, telephone number, and complete mailing address of a contact person for the group;
- (5) the approximate number of people in the group who will be participating in each cleanup; and
- (6) the highway section; as nearly as it can be described, the group is interested in adopting.

**§25.805. Agreement.**

(a) If the application submitted by the group pursuant to §25.804 of this title (relating to Application) is approved by the district engineer, the authorized representative and the adopt-a-highway chairperson of that group shall execute a written agreement with the department providing for the group's participation in the Adopt-a-Highway Program.

(b) The agreement shall be in the form prescribed by the deputy director and shall contain the following:

(1) an acknowledgement by the group of the hazardous nature of the work involved in participating in the Adopt-a-Highway Program;

(2) an acknowledgement that the members of the group agree jointly and severally to be bound by and comply with the terms and conditions set forth in the agreement; and

(3) the respective responsibilities of the group and the department as contained in §25.806 of this title (relating to Responsibilities of Group and Department).

**§25.806. Responsibilities of Group and Department.**

(a) Groups who desire to participate in the Adopt-a-Highway Program shall be subject to each of the following requirements and responsibilities.

(1) The participants of each group shall be required to obey and abide by all laws and regulations relating to safety and such other terms and conditions as may be required by the district engineer for special conditions on a particular adopted section.

(2) The group shall be responsible for furnishing adequate supervision by one or more adults for participants of a group who are 15 years of age or younger.

(3) Each group shall be required to conduct at least two safety meetings per year.

(4) Participants of the group shall be required to attend a safety meeting conducted by the group before participating in the cleanup of the adopted section.

(5) Each group shall be required to adopt a section that is a minimum of two miles in length.

(6) Each group shall be required to adopt a section for a minimum period of two years.

(7) Each group shall be required to pick up litter a minimum of four times a year, with one of these pickups occurring during the department's April trash off event and at such additional times as required by the district engineer.

(8) Each group shall be required to obtain required supplies and materials from the department during regular business hours.

(9) Each group shall be responsible for assuring that the fold-down traffic control signs installed on sign supports on the adopted section are folded down during a cleanup and returned to the closed position after the cleanup has been accomplished.

(10) Each individual participant of the group shall be responsible for wearing department-approved reflective safety vests during the pickup.

(11) Each group shall be responsible for placing filled trash bags at one location of the adopted section site for pickup and disposal by the department the next working day.

(12) Each group shall be responsible for returning to the department within one week following cleanup all unused materials and supplies furnished by the department.

(13) Each group shall be responsible for prohibiting participants from either possessing or consuming alcoholic beverages while on the adopted section.

(14) Each group shall be responsible for maintaining a first-aid kit and adequate drinking water while participating in litter pickup on the adopted section.

(15) Each group shall be prohibited from either subcontracting or assigning its duties and responsibilities to any other group, organization, or enterprise.

(16) Each group shall be responsible for appointing or selecting a chairperson to serve as spokesperson for the group.

(17) The department, in no event, shall have the right to control the group in performing the details of picking up litter from the section of highway adopted by the group, and, in picking up litter, the group shall act as an independent contractor.

(b) The department's participation in the Adopt-a-Highway Program shall include each of the following.

(1) The department will be responsible for working with the group to determine the specific section of state highway right-of-way to be adopted.

(2) The department will be responsible for erecting a sign at each end of the adopted section with the group's name or acronym displayed.

(3) The department will be responsible for providing reflective vests, trashbags, and safety literature.

(4) The department will be responsible for removing the filled trashbags the first workday after the pickup.

(5) The department will be responsible for removing litter from the adopted section only under unusual circumstances, i.e., to remove large, heavy, or hazardous items.

*§25.807. General Limiting Conditions and Eligibility.* Because of administrative, legislative, and financial constraints, the Adopt-a-Highway Program shall be subject to each of the following.

(1) The Adopt-a-Highway Program may, at any time and for any reason, be modified in scope or altered in any other manner at the sole discretion of the department and the commission.

(2) Interstate highways, divided highways, roadways where a lack of sufficiently wide right-of-way or geometrics cause safety hazards, congested highways, and areas with reduced sight distances shall not be eligible for adoption.

(3) The department is generally prohibited by law from expending any funds, directly or indirectly, for the purpose of influencing the outcome of any election or the passage or defeat of any legislation.

(4) If any actions are determined to be contrary to any legislative restrictions or any restrictions on the use of appropriated funds for political activities, the department shall have the right to take any and all necessary remedial actions, including, but not limited to, the removal of the erected signs displaying the group's name or acronym.

(5) Newly installed adopt-a-highway signs shall be no larger than four feet by eight feet or smaller than four feet by four feet and all new installation shall be the least

expensive and more effective for each situation.

(6) No more than 3,000 groups will be eligible for participation, at any one time, in the Adopt-a-Highway Program.

(7) If the 3,000 group limit has been reached, groups who have applied will be contacted, when a space is available in the applicable district, in the order in which they have applied.

*§25.808. Modification/Renewal/Termination of Agreement.* The adopt-a-highway agreement may be modified in scope or altered in any other manner at the sole discretion of the department and the commission. The group shall have the option of renewing the agreement subject to the approval of the district engineer and the continuation by the department of the Adopt-a-Highway Program. The department may terminate the agreement and remove the signs upon 30-day notice, if in its sole judgment it finds and determines that the group is not meeting the terms and conditions of the agreement.

*§25.809. Termination of the Program.* The Adopt-a-Highway Program may at any time and for any reason be terminated at the sole discretion of the department and the commission.

Issued in Austin, Texas, on July 29, 1987.

TRD-8706245 Diane L. Northam  
Administrative  
Technician  
State Department of  
Highways and Public  
Transportation

Effective date: July 29, 1987  
Expiration date: November 25, 1987  
For further information, please call  
(512) 463-8630.



# 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 87. Notary Public Rejection and Revocation

##### ★ 1 TAC §87.41, §87.43

*(Editor's note: The Office of the Secretary of State 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 Office of the Secretary of State proposes amendments to §87.41 and §87.43, concerning rejection and revocation. The amendments provide for disciplinary actions which may be taken against a notary public by the secretary of state and expand on the specific grounds for these actions. The amendments also incorporate by reference administrative procedural rules and update references to recodified statutory provisions. The amendments are simultaneously adopted on an emergency basis to protect the welfare of those members of the public who may be affected by such complaint or disciplinary actions against notaries public.

Lorna Wassdorf, special assistant to the statutory filings division, 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. Wassdorf 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 §87.41 will be the reflection of statutory changes enacted by Senate Bill 681, 69th Legislature. The public benefit anticipated as a result of enforcing §87.43 will be the clarification of grounds constituting good cause for the revocation or suspension of a notary public's commission or the taking of other disciplinary action. 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 Lorna Wassdorf, Special Assis-

tant, Statutory Filings Division, P.O. Box 13697, Austin, Texas 78711-3697.

The new sections are proposed under Texas Civil Statutes, Article 5949, §10, which provide the secretary of state with the authority to make regulations necessary for the administration and enforcement of the Notary Public 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 July 24, 1987.

TRD-8706204      Lorna Wassdorf  
Special Assistant  
Statutory Filings  
Division  
Office of the Secretary  
of State

Earliest possible date of adoption:  
September 7, 1987  
For further information, please call  
(512) 463-5559.



#### Administrative Action

##### ★ 1 TAC §§87.47-87.49

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

The Office of the Secretary of State proposes new §§87.47-87.49, concerning administrative action. New §87.47 outlines the notary public complaint procedure before the Office of the Secretary of State beginning with the filing of a complaint to the initiation of a contested case. New §87.48 allows for the secretary of state to take disciplinary action against a notary public whose conduct does not warrant the revocation or suspension of their commission. New §87.49 states that the secretary of state is not barred from taking action against a notary public for alleged misconduct which occurred during a previous term of office. The new sections are simultaneously adopted on an emergency basis to protect the welfare of those members of the public who may be affected by such complaints or disciplinary action against notaries public.

Lorna Wassdorf, special assistant for statutory filings division, 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. Wassdorf 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 provision to both the public and the Office of the Secretary of State with specific procedural guidelines by which complaints against notaries public may be instituted and resolved. 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 Lorna Wassdorf, Special Assistant, Statutory Filings Division, P.O. Box 13697, Austin, Texas 78711-3697.

The new sections are proposed under Texas Civil Statutes, Article 5949, §10, which provide the secretary of state with the authority to make regulations necessary for the administration and enforcement of the Notary Public 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 July 24, 1987.

TRD-8706202      Lorna Wassdorf  
Special Assistant  
Statutory Filings  
Division  
Office of the Secretary  
of State

Earliest possible date of adoption:  
September 7, 1987  
For further information, please call  
(512) 463-5559.





## TITLE 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Chartering, Operations, Mergers, Liquidations Investments

##### ★7 TAC §91.802

*(Editor's note: The Credit Union Department 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 Credit Union Commission proposes an amendment to §91.802, concerning investments by credit unions. The amendment is simultaneously adopted on an emergency basis. The Credit Union Commission finds that there is unwarranted risk to the credit union members' savings by the unregulated investment by credit unions in investment trusts. Such investments could result in an adverse effect on the credit union's retained earnings and reserves. The amendment regulates the types of investments that credit unions can participate in, and eliminates those that create an undue risk to reserves.

John R. Hale, credit union commissioner, 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. Hale 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 sounder investment policies and practices. The possible economic cost to individuals who are required to comply with the proposed section will be minimal.

Comments may be submitted to Harry L. Elliott, Staff Services Officer, 914 East Anderson Lane, Austin, Texas 78752-1699.

This amendment is proposed under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union 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 July 27, 1987.

TRD-8706182      John R. Hale  
Commissioner  
Credit Union Department

Earliest possible date of adoption:  
September 7, 1987

For further information, please call  
(512) 837-9236.



## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

#### Chapter 9. Texas Community Development Program

##### Subchapter A. Allocation of Program Funds

##### ★10 TAC §§9.1, 9.2, 9.4-9.7, 9.9, 9.10

The Texas Department of Community Affairs (TDCA) proposes amendments to §§9.1, 9.2, 9.4-9.7, 9.9, and 9.10, concerning the allocation of community development block grant (CDBG) non-entitlement area funds under the Texas Community Development Program (TCDP). The amendments establish the standards and procedures by which the TDCA will allocate community development, planning/capacity building, emergency, urgent need, special impact, and interim financing funds to eligible units of general local government in Texas beginning with the expenditure of federal fiscal 1987 funds. The amendment to §9.1 clarifies and changes requirements relating to joint applications, citizen participation, unmet benefits, and substitution of standardized data. The amendments to §§9.2, 9.4, and 9.9 clarify and make changes in the selection procedures and scoring criteria. The planning /capacity building fund is changed to an annual competition and the special impact fund technical review committee is abolished. The amendments to §§9.5, 9.7, and 9.10 provide clarification. The amendment to §9.6 changes the notice requirements for meetings and the appeals procedures. The amendment to §9.10 modifies the loan repayments requirements and abolishes the technical review committee.

Bruce W. Anderson, general counsel, 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. Anderson 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 equitable and expeditious allocation of TCDP funds to eligible units of general local government in Texas. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Bruce W. Anderson, General Counsel, P.O. Box 13166, Austin, Texas 78711, within 30 days after the date of publication.

The amendments are proposed under

Texas Civil Statutes, Article 4413(201), §4A, which provide the Texas Department of Community Affairs with the authority to allocate CDBG nonentitlement area funds to be eligible counties and municipalities in accordance with rules and regulations adopted by the Texas Department of Community Affairs.

##### §9.1. General Provisions.

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

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

(7) [Designated community development area—An area that is identified in a local or regional community development plan or in which previous community development activities (particularly those funded with community development block grant dollars) have occurred. The designated area may be an entire political subdivision.]

[(8)] Local government—A unit of general local government.

(8)[(9)] Low- and moderate-income person—A member of a family which earns less than 80% of the area median family income, as defined under the United States Department of Housing and Urban Development Section 8 Assisted Housing Program.

[(10)] Neighborhood revitalization district—A contiguous area of not more than 2,000 residents in which at least 51% of the residents qualify as low and moderate income persons.]

(9)[(11)] Nonentitlement area—An area which is not a metropolitan city or part of an urban county as defined in 42 United States Code, §5302.

(10)[(12)] Permanent job—A job for which continuation of employment is not dependent on funds provided through the Texas Community Development Program.

(11)[(13)] Poverty—The current official poverty line established by the director of the federal Office of Management and Budget.

(12)[(14)] Primary beneficiary—A low- or moderate-income person.

(13)[(15)] Regional review committee—A regional community development review committee, one which is established in each of the 24 state planning regions established by the governor pursuant to Texas Civil Statutes, Article 1011m.

(14)[(16)] State review committee—The state community development review committee established pursuant to Texas Civil Statutes, Article 4413(201).

(15)[(17)] TDCA—Texas Department of Community Affairs.

(16)[(18)] Underemployed person—A person who works less than 40 hours per week, not by choice, at a salary that is not commensurate with his skills and experience.

(17)[(19)] Unemployed person—A person between the ages of 16 and 64, inclusive, who is not presently working, but is seeking employment.

(18)(20) Unit of general local government—An entity defined as a unit of general local government in 42 United States Code, §5302(a)(1), as amended.

(b) Overview. Community development block grant nonentitlement area funds will be distributed by the Texas Community Development Program to eligible units of general local government in the following program areas:

(1) community development [project] fund;

(2) Texas capital [economic development project] fund;

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

(6) [statewide area revitalization fund];

[(7)] special impact fund;

[(7)] [(8)] interim financing fund.

(c) Types of applications.

(1) (No change.)

(2) Joint applications. Subject to approval by the TDCA and subject to each participating community satisfying the application requirements of the Texas Community Development Program fund under which the application is submitted, an application will be accepted from two or more units of general local government if the application clearly demonstrates that the proposed activities will mutually benefit the residents of the communities applying for funds. However, any community participating in a joint application may not submit a single jurisdiction application under the project fund for which the joint application was submitted. A joint application solely for administrative convenience will not be accepted. One of the participating communities must be primarily accountable to the TDCA for financial compliance and program performance. Only one unit of general local government may be the official applicant and this applicant must enter into a legally binding cooperation agreement with each participant that incorporates Texas Community Development Program requirements. [In the case of a joint application submitted by two units of general local government, not more than 75% of the beneficiaries of the application may reside in any one applicant's jurisdiction. In the case of a joint application submitted by three local governments, not more than 50% of the beneficiaries of the application may reside in any one applicant's jurisdiction. Not less than 10% of the beneficiaries of an application may reside in any one applicant's jurisdiction in the case of a joint application submitted by more than three local governments.]

(d) (No change.)

(e) Citizen participation. Prior to submitting an application, an applicant for Texas Community Development Program funding must:

(1) hold at least one public hearing prior to preparing its application and at least one additional public hearing prior to submitting its completed application to the

TDCA. Except for applications submitted under the planning/capacity building fund, **the Texas Capital Fund, and by applicants with populations of less than 5000**, at least one of the public hearings must be held in the proposed project area. The first public hearing must be held at least seven days prior to the second public hearing. The first public hearing must include a presentation describing the funding available, the types of eligible activities under the Texas Community Development Program, and the use of past Texas Community Development Program funds, if applicable. **The second public hearing must include a discussion of the project proposed in the application.** If an applicant changes the scope of its proposed project (e.g., the site, the amount of funds requested, or the number of beneficiaries) the applicant must hold an additional public hearing on the revised project prior to submitting its completed application to the TDCA; and

(2) (No change.)

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

(h) Unmet benefits. Actions that may be taken against a contractor by the TDCA where the TDCA [and the state review committee] **finds** [find] that the contractor did not provide the level of benefits specified in its contract include, but are not limited to:

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

(i) (No change.)

(j) Substitution of standardized data. Any applicant that chooses to substitute locally generated data for standardized information available to all applicants must use the survey instrument provided by the TDCA and must follow the procedures prescribed in the instructions to the survey instrument. An applicant that intends to use a survey must notify the TDCA of its intent prior to conducting the survey. Only door-to-door surveys will be allowed. Surveys, including tabulation sheets and all responses, must be submitted to the TDCA at least 30 days prior to the date on which the application is due, for verification and spot checking. A survey instrument that lacks any information will be considered as a non-response for that family. Except for satisfying the 51% benefit to low- and moderate-income persons threshold requirement for planning/capacity building **and Texas capital fund** applications, substitution of data for scoring community distress factors and for determining total beneficiaries will require a 100% effort with at least an 80% response rate. Substitution of data to satisfy the 51% benefit to low- and moderate-income persons threshold requirement for planning/capacity building applications, will require a 75% effort with at least a 75% response rate. A survey that was completed after the 1984 [1933] program year for a previous Texas Community Development Program application may be accepted by the TDCA for a new application to the extent specified in the most recent application package for the proposed project.

(k)-(l) (No change.)

#### §9.2. Community Development [Project] Fund.

(a) General provisions. This fund covers housing, public facilities, and public service projects. Eligible units of general local government may [only] apply for funding of a single purpose project such as housing assistance, sewer improvements, water improvements, drainage, roads, or community centers, **or for a multi-purpose project which consists of any combination of such eligible activities.** [A single purpose project (e.g., the extension of water lines and connections) may include some auxiliary activities, such as repair of streets under which the lines were placed, and still be considered a single purpose project, provided, however, that neighborhood revitalization will be considered a single purpose project and may contain a combination of eligible activities if the applicant has designated a neighborhood revitalization district in which all such activities will take place.]

(b) (No change.)

(c) Allocation plan.

(1) (No change.)

(2) Each state planning region is [will be] provided with a target allocation of funds for applications in its region that are ranked in accordance with a shared scoring system involving the TDCA and the regional review committees. Where the remainder of the target allocation is insufficient to completely fund the next ranked application, the TDCA **works** [will work] with the affected applicant to determine whether partial funding is feasible. If partial funding is not feasible, the remaining funds from all the target allocations **are** [will be] pooled to fund projects from among the highest ranked, unfunded applications from each of the 24 state planning regions. Selection criteria for such applications **consists** [will consist] of the selection criteria scored by the TDCA under this fund and a level of services factor, as defined in the most recent application package for this fund. This factor is [will be] weighted based on the types of activities in each competing application. The 125%/75% adjustment factor described in subsection (e)(1) of this section is [will be] used for all competing applications. Funds remaining unobligated under the [statewide area revitalization fund and the] special impact fund **are** [will be] repooled to fund marginal projects under this paragraph.

(d) Selection procedures.

(1) Prior to the submission deadline specified in the most recent application package for this fund, each eligible unit of general local government may submit one application for funding under the community development [project] fund to the TDCA [Community Development and Housing Division]. Each applicant must also provide a copy of its application to the applicant's regional review committee within two weeks after the TDCA submission deadline.

(2) Upon receipt of an application, the TDCA staff **performs** [will perform] an initial review to determine whether the application is complete and whether all proposed activities are eligible for funding, if ranked. The results of this initial review **are** [will be] provided to the applicant. In those instances where the TDCA staff determines that the application is [either] incomplete [or that the activities are ineligible for funding,] the applicant may correct any deficiencies in the application **unless the deficiencies are such as to render impossible a determination of program eligibility** [as long as the corrected application is received by the TDCA by the review deadline specified in the most recent application package for this fund].

(3) (No change.)

(4) Following the resolution of any appeals from actions of the regional review committee as specified in §9.6 of this title (relating to Regional Review Committees) the TDCA **adds** [will add] scores relating to community distress, benefits to low- and moderate-income persons, [continuation of need,] and minority hiring to the regional review committees' project design scores to determine regional rankings. Scores on the factors in these [four] categories are derived from standardized data from the Census Bureau, **the Texas Employment Commission**, [other state and federal sources,] and from information provided by the applicant. The TDCA will ask the regional review committees to review these figures for accuracy.

(5)-(6) (No change.)

(7) The executive director of the TDCA **reviews the** [will then submit] final recommendations for project awards [to the governor for final review and announcement of] **and announces** the contract awards.

(8) Upon announcement of contract awards, [by the governor] the TDCA staff **works** [will begin working] with recipients to execute the contract agreements. While the award must be based on the information provided in the application, TDCA may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded with the remainder of the target allocation within a region.

(e) Selection criteria. The following is an outline of the selection criteria [to be] used by the TDCA and the regional review committees for scoring applications under the community development [project] fund. **One thousand** [Twelve hundred] points are available.

(1) Community distress (total—**100** [150] points). All community distress factor scores are based on the population of the applicant. An applicant that has 125% or more of the average of all applicants in its region of the rate on any community distress factor, except per capita income, will receive the maximum number of points available for

that factor. An applicant with less than 125% of the average of all applicants in its region on a factor will receive a proportionate share of the maximum points available for that factor. An applicant that has 75% or less of the average of all applicants in its region on the per capita income factor will receive the maximum number of points available for that factor:

(A) percentage of persons living in poverty—**25** [40];

(B) per capita income—**25** [40];

(C) percentage of housing units without some or all plumbing—**10** [20];

(D) unemployment rate—**40** [50].

(2) (No change.)

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total—50 points). In the event less than **5.0%** [2.0%] of the applicant's population base is composed of minority residents or the applicant **has less than five** [does not have any] permanent employees, the applicant will be assigned **either** the average score on this factor for all applicants in its state planning region, **or the score calculated on the actual figures, whichever is higher**. The terms used in this paragraph are defined in the current Texas Community Development Program application package.

(4) [continuation of need (Total 50 points)—The definitions and criteria used for scoring this factor are specified in the most recent application package for this fund.

[(5)] Project design (total—**500** [600] points).

(A) **Regional factors** [Severity of need] (total—**300** [400] points). Each regional review committee must select at least three of the **six** factors specified in this subparagraph and **may** [must] select no more than **three** [four] other factors with the prior written approval of the TDCA for a total of **six** [seven] factors. At least 50 points must be assigned to each factor. The terms used in this subparagraph are defined in the most recent regional review committee guidebook:

(i)-(iv) (No change.)

(v) needs determination;

(vi) **continuation of need**.

(B) (No change.)

#### §9.4. *Planning/Capacity Building Fund.*

(a) General provisions. This fund is intended to provide an opportunity for units of general local government to prepare comprehensive community development plans, develop strategies, assess needs, and build or improve local capacity to undertake future community development projects or to prepare other needed planning elements. Eligible units of general local government are to be the direct recipients of planning contracts. Units of general local government may submit one application for planning funds **annually** [semiannually].

(1) A community which is currently receiving or applying for funding under either the community development [project]

fund[, the statewide area revitalization fund,] or the special impact fund, may only submit an application under this section if the proposed planning/capacity building project is unrelated to activities for which the local government has **either** received funding, **or is applying for funding**, under the community development [Project] fund[, the statewide area revitalization fund,] or the special impact fund or, [for which the local government is applying for funding under the community development project fund, the statewide area revitalization fund, or the special impact fund,] **the proposed project is in a different geographic area from the community development or special impact fund contract or application and the applicant provides justification for the selection of that [or is in a different geographic] area.**

(2) (No change.)

(b) Funding cycle. This fund is allocated on an **annual** [a semiannual] basis to eligible units of general local government on a statewide competitive basis. Applications for funding [for each cycle] must be received by the Texas Community Development Program (TCDP) by 5 p.m. on the **date** [dates] specified in the most recent application package for this fund.

(c) Selection procedures. Scoring and the recommended ranking of projects is [will be] done by a [five-member] technical review committee with input from the regional review committees. The **members of the technical review committee are selected** [will be designated] by the executive director of the Texas Department of Community Affairs (TDCA) from **staff** within TDCA. [or other appropriate state agencies (e.g., the Governor's Office of Planning and Intergovernmental Relations).] The application and selection procedures consist of the following steps.

(1) Prior to the application deadline, each eligible jurisdiction may submit one application for funding under the [community development] planning/capacity building fund. Copies of the application should be provided to both the regional review committee and the TDCA. [Local Government Assistance Division.]

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

(4) Technical review committee generates scores on factors related to project design. Each application is [will be] scored on how the proposed planning activities resolve the identified community/economic development needs of the local government. This information, as well as any comments made by the regional review committee, is [will be] used by the technical review committee to generate scores on the project **design** factors. An applicant may make a short oral presentation to the technical review committee to provide pertinent materials and to respond to questions.

(5) The TDCA generates scores on selection criteria relating to community distress and minority hiring. Scores on the factors in these categories are derived from

standardized data from the Census Bureau, **the Texas Employment Commission**, [other state or federal sources,] or from information provided by the applicant.

(6)-(7) (No change.)

(8) The executive director of the TDCA **reviews** [submits] **the funding recommendations** [to the governor for final review] and **announces** [announcement of] the contract awards.

(9) Upon the announcement of contract awards [by the governor], the TDCA staff **works** [will begin working] with recipients to execute the contract agreements. The award is [will be] based on the information provided in the application and **on** the [TDCA will determine the] amount of funding **proposed** for each contract **activity** based on the matrix included in the most recent application package for this fund.

(d) Selection criteria. The following is an outline of the selection criteria to be used by the TDCA, the technical review committee, and the state review committee for selection of the projects under the planning/capacity building fund. Eight hundred points are available.

(1) Community distress (total—150 [200] points). All community distress factor scores are based on the population of the applicant:

(A) percentage of persons living in poverty—30 [50];

(B) per capita income—30 [50];

(C) percentage of housing units without some or all plumbing—30 [50];

(D) unemployment rate—60 [50].

(2) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total—80 points). In the event less than 5.0% [2.0%] of the applicant's population base is composed of minority residents or the applicant **has less than five** [does not have any] permanent employees, the applicant will be assigned **either** the average score on this factor for all applicants, **or the score calculated on the actual figures, whichever is higher**. The terms used in this paragraph are defined in the current application package.

(3) Need for planning effort (total—250 [220] points).

(A) Program priority (total—100 points):[.]

(i) activities which address basic community services such as housing, water, sewer, and employment—51-100;

(ii) activities which address streets, drainage, or transportation circulation—26-50;

(iii) activities which address recreation, historic preservation, [or] community centers, **or other purposes**—0-25.

(B) Previous planning (total—150 [120] points):[.]

(i) applicants which have not previously received a planning/capacity building contract—no more than 150 [120];

(ii) applicants which have received **previous** [only partial or limited] planning/capacity building funding **and can demonstrate that the previous planning recommendations have been implemented**—no more than 120[60];

(iii) applicants which have received **only partial or limited** [a] planning/capacity building **funding** [contract] and **cannot** [can] demonstrate that [either] the planning recommendations under such contract have been implemented [or conditions have changed to warrant new planning]—no more than 60 [30];

(iv) **applicants which received previous planning/capacity building funding but can demonstrate that conditions have changed to warrant new planning—no more than 50.**

(4) Proposed planning effort (total—350 [300] points).

(A) Local commitment (Total—100 [75] points). This factor is based on the matching of TCDP funds by the applicant. Scores will be based on hard dollars committed to the planning effort, community size, and local tax effort. Communities with a population under 2,000 are exempt from this factor and will receive the average score of all other applicants unless such communities commit hard dollars to the project.

(B) Planning strategy and products (Total—250 [225] points). Points will be awarded on the following:

(i)-(iii) (No change.)

§9.5. *Emergency Fund.* Assistance under this fund is available to units of general local government for eligible activities under Title I of the Housing and Community Development Act of 1974, Title I, as amended, for the alleviation of an emergency situation. To receive emergency assistance under this program category, the situation to be addressed with Texas Community Development Program funds must be both unanticipated and beyond the control of the local government. For example, the collapse of a municipal water distribution system due to lack of regular maintenance would not qualify. If the same situation was caused by a tornado or flood, the community could apply for emergency funds. **An applicant may not apply for funding to construct public facilities that did not exist prior to the emergency.** Additionally, in emergency situations, the Texas Community Development Program dollars are to be viewed as gap financing or funds of last resort. In other words, the community may only apply to the Texas Department of Community Affairs (TDCA) for funding of those activities for which assistance from other sources is not available. Assistance under the emergency fund will be provided only if one of the following has occurred:

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

(b)-(c) (No change.)

§9.6. *Regional Review Committees.*

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

(c) General requirements. In the per-

formance of its responsibilities, each regional review committee shall comply with all federal and state laws and regulations relating to the administration of community development block grant nonentitlement area funds including, but not limited to, requirements of this subchapter, the scoring procedures specified in the current regional review committee guidebook, and the procedures established by the regional review committee under the Texas Community Development Program.

(1) Meetings. Each meeting held by a regional review committee shall conform to the following requirements:

(A) Except for notices concerning appeals, the regional review committee shall notify each applicant within the regional review committee's state planning region, in writing, of the date, time, and location of the meeting at least five days prior to the meeting. The notice must be in the format specified by the TDCA in the most recent regional review committee guidebook. The notice must also be published in a regional newspaper at least **three** [five] days prior to the meeting. Articles published in such newspapers which satisfy the content and timing requirements of this subparagraph will be accepted by the TDCA in lieu of publication of notices. The scoring procedures established at a regional review committee's organizational meeting must also be sent to each eligible applicant in the committee's region at least five days prior to its scoring meeting.

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

(E) A quorum of a **simple majority** [two-thirds] of the current members of the regional review committee, rounded to the nearest whole number, shall be present. Any actions taken by a regional review committee in which a quorum was not present shall be voidable, provided however, that if a conflict of interest situation has required a regional review committee member to excuse himself, thus dropping the number of participating members below the **simple majority** [two-thirds] requirement, a quorum shall have been considered present.

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

(d) Appeals. An applicant may appeal the actions of the regional review committee established in its state planning region by following the procedures set forth in this subsection. The TDCA will withhold the running of computer scores on community development [project] fund applications for five working days after the regional review committee's scoring meeting or until all regional appeals, if any, have been resolved, whichever is longer. If an appeal affects another applicant within its region, the regional review committee must provide written notification of the appeal to that applicant. **An applicant that is adversely affected by the action of its regional review committee on an appeal, may appeal that action in accordance with the procedures specified in this subsection.**

(1) (No change.)

(2) Within 10 working days after receipt of an appeal; the regional review committee shall take one of the following actions:

(A) **notify all the applicants within its region that the regional review committee will reconvene to hear the appeal. If a quorum of the regional review committee agrees that the complained of procedural violation occurred, the regional review committee shall sustain the appeal, make [makes] appropriate adjustments to regional scores, and notify [notifies] the applicant, [and] the TDCA, and each applicant within the region affected by the change in scores. [Any agreement must be ratified by a quorum of the membership of the regional review committee.] If a quorum of the regional review committee votes to deny the appeal, the regional review committee shall provide the applicant and the TDCA with a written statement of the basis of its denial; or**

(B) **hold an informal consultation [is held] between the applicant and a designated representative of the regional review committee. If an agreement on the appeal is not reached, a summary of [either an agreement or of] the unresolved issues must be sent to the applicant and the TDCA. If the consultation results in a recommendation by the representative to change the scores, a quorum of the regional review committee must reconvene to vote on the recommendation in accordance with the procedures specified in subparagraph (A) of this paragraph. [Any agreement must be ratified by a quorum of the membership of the regional review committee; or**

(C) The regional review committee disagrees and provides the applicant and the TDCA with a written statement of the basis of the disagreement. The regional review committee may hold a rehearing if so requested by the applicant, as long as both the initial hearing and the rehearing are held within 10 working days after the receipt of the original appeal.)

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

(e) (No change.)

#### §9.7. Urgent Need Fund.

(a) Assistance under this fund will be provided only to eliminate existing **water and sewer** conditions which pose a serious and immediate threat to the health or welfare of the residents of the applicant where other financial resources are not available to meet such conditions. A unit of general local government that wishes to receive assistance under this fund must submit an application, as provided by the TDCA, to the [Community Development and Housing Division of the] TDCA. There is no application deadline. An applicant may not submit an application under this fund and also under the community development [project] fund[, the statewide area revitalization fund] or the special impact fund during the same program year if the proposed activity under each application is the same or substantially similar.

An applicant may submit only one application under this fund in any one program year. The TDCA may negotiate the level of funding to be provided to an applicant and the scope of work to be performed by the applicant.

(b) (No change.)

#### §9.9. Special Impact Fund.

(a) General provisions. This fund covers single purpose or multi-purpose water, sewer, streets, and drainage improvements projects which serve severely distressed unincorporated areas of counties. A county may not submit an application under this fund and also under the community development [project] fund [or the statewide area revitalization fund] during the same program year. Joint applications will only be considered for funding if none of the participating counties submitted applications under [either] the community development [project] fund [or the statewide area revitalization fund] during the same program year.

(b) (No change.)

(c) Selection procedures.

(1) (No change.)

(2) Upon receipt of an application, the TDCA staff **performs** [will perform] an initial review to determine whether the application is complete and whether all proposed activities are eligible for funding. The results of this initial review **are** [will be] provided to the applicant and appropriate regional review committee. In those instances where the TDCA staff determines that the application is [either] incomplete [or that the activities are ineligible for funding,] the applicant may correct any deficiencies in the application **unless the deficiencies are such as to render impossible a determination of program eligibility** [as long as the corrected application is received by the TDCA by the pre-review deadline specified in the most recent application package for this fund].

(3) The [members of a technical review committee appointed by the executive director of the] TDCA **staff scores** [will then score] selection factors relating to project design [in an open meeting]. Review of these factors is [will be] based solely on information contained in the application. **TDCA provides the scores to applicants in an open meeting. An applicant may make a brief presentation concerning its project at the meeting.**

(4) Within five working days after the date of the scoring **presentation meeting** [session by the technical review committee], an applicant may submit a written appeal to the director of the TDCA's **City and County Assistance** [Community Development and Housing] Division. An appeal may only be based on a specific procedural error alleged to have been committed by the **TDCA staff** [technical review committee]. Within 10 working days after the date the appeal was received, the director of the **City and County Assistance** [Community Development and

Housing] Division will notify the applicant that either:

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

(5)-(7) (No change.)

(8) The executive director of the TDCA **reviews the** [will then submit] final recommendations for project awards [to the governor for final review and announcement of] **and announces** the contract awards.

(9) Upon announcement of contract awards, [by the governor], the TDCA staff **works** [will begin working] with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the TDCA may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded.

(d) Selection criteria. The following is an outline of the selection criteria to be used by the TDCA for scoring applications under the **special impact** [statewide area revitalization] fund. One thousand points are available.

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

(3) Percentage of minorities presently employed by the applicant divided by the percentage of minority residents within the local community (total 50 points). In the event less than **5.0%** [2.0%] of the applicant's population base is composed of minority residents or the applicant **has less than five** [does not have any] permanent employees, the applicant will be assigned **either** the average score on this factor for all applicants under this fund, **or the score calculated on the actual figures, whichever is higher.** The terms used in this paragraph are defined in the most recent application for this fund.

(4) Project design (total 400 points). Each activity within the application will be scored on project design criteria and weighted according to the proportion of Texas Community Development Program funds required for that activity in comparison to the total Texas Community Development Program funds requested. **The terms used in this paragraph are further defined in the most recent application package for this fund.**

(A) Level of services [severity of need] (total 300 points).

(i)-(iii) (No change.)

(B) (No change.)

#### §9.10. Interim Financing Fund.

(a) General provisions. A local government may receive funding under this section to make a short-term interim financing loan to a for-profit business for an eligible project. Such loans may only be made for the purpose of providing construction and/or fixed assets financing. The interest rate on an interim financing loan will be negotiated based on the TDCA's credit analysis of the business to be assisted under this

section. [As] Funding under this section will only be obligated each program year during the time between the date the United States Department of Housing and Urban Development announces its Community Development Block Grant State's Program grant to the State of Texas and the date on which Texas Community Development Program funds are first needed to obligate that program year's regular statewide competitions. [, applications under this fund must include an agreement of the applicant to] **Given the nature of this fund, the TDCA expects to recover program income realized through payback of any interim financing loan made by an eligible local government to a for-profit firm. Federal law, however, provides that local governments must be permitted to retain program income to carry out the same activity. For purposes of this fund, the TDCA defines same activity to mean another loan to the same business for an expansion of the activity originally funded if the new activity is proposed during the time period of the original contract. In cases where these qualifications cannot be satisfied, the local government must return all program income (i.e., loan repayments) to the TDCA within the period of any resulting contract. A contractor may retain a negotiated portion of the interest payments made on such interim financing loans for administration. The provisions of §9.1 of this subchapter (relating to Allocation of Program Funds) apply to applications submitted under this fund.**

(b) (No change.)

(c) Selection procedures.

(1) Prior to the application deadline specified in subsection (b) of this section, each eligible unit of general local government may submit one or more applications for funding under the interim financing fund. Each applicant must complete the most recent application package for this fund to be considered for funding under this section. Financial disclosure information on the for-profit firm to be assisted as part of the proposed project includes, but is not limited to, three to five years of financial statements and a detailed cash flow analysis covering five years of the new or expanded operations of such firm and its parent, if applicable. The for-profit firm to be assisted must also obtain an irrevocable letter of credit from its financial institution to guarantee repayment of the interim financing loan [directly to the TDCA. The application must also include the agreement specified in subsection (a) of this section].

(2) (No change.)

(3) **If the findings of the management review are favorable,** [Upon positive response from the management review team, the application will be forwarded to] the TDCA staff **conducts [for] a full[-]credit analysis to make a preliminary determination of the appropriate amount of funding and the loan term and rate.**

(4) The members of the Texas

**capital advisory [a technical review] committee, selected by the executive director of the TDCA, [from among program or division directors within the TDCA or other appropriate state agencies] assist the TDCA staff in evaluating the design of the projects on an as-needed basis [will then review the applicant's ability to satisfy all selection requirements]. The TDCA staff will provide an opportunity for applicants to make a brief presentation prior to the final staff review.** [An applicant may attend technical review committee meetings except during discussions of confidential information concerning a project proposed by another applicant. An applicant may also make a brief presentation to the committee to provide pertinent information regarding its project.]

(5) (No change.)

(6) The executive director of the TDCA **reviews the [will then submit] final recommendations for project awards [to the governor for final review] and announces [announcement of] the contract awards.**

(7) Upon announcement of contract awards, [by the governor,] the TDCA staff **works [will begin working] with recipients to execute the contract agreements. While the award must be based on the information provided in the application, the TDCA may negotiate any element of the contract with the recipient as long as the contract amount is not increased and the level of benefits described in the application is not decreased. The level of benefits may be negotiated only when the project is partially funded.**

(d) Selection requirements. The following is an outline of the selection requirements that must be satisfied in order to be recommended for funding under the interim financing fund.

(1) (No change.)

(2) The proposed project must primarily benefit persons of low- and moderate income. **The following factors are [that will be] reviewed to determine an applicant's satisfaction of this requirement: [are the following:]**

(A) the number **and type** of full-time permanent jobs that will be created or retained as a result of the proposed project;

(B) the number **and type** of such jobs that will benefit low and moderate income persons.

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 July 31, 1987.

TRD-8706299

Bruce W. Anderson  
General Counsel  
Texas Department of  
Community Affairs

Earliest possible date of adoption:

September 7, 1987

For further information, please call  
(512) 834-6060.



## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad

#### Commission of Texas

#### Chapter 11. Surface Mining and Reclamation Division

#### Subchapter D. Coal Mining

#### ★ 16 TAC §11.221

The Railroad Commission of Texas, Surface Mining and Reclamation Division, proposes an amendment to §11.221, concerning state program regulations. The amendment adopts by reference revised coal mining regulations concerning miscellaneous revisions; use of explosives; training, examination, and certification of blasters; self bonding; self insurance; and protection of historic properties, two-acre exemption, permit fees, and renumbering. The amendment makes the Texas program no less effective than the federal program, which has been amended by the United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM), concerning backfilling/grading, bonding, coal mine waste, enforcement, excess spoil fills, experimental practices/exploration, fish/wildlife, hydrology, permanent/temporary impoundments, permitting reclamation, siltation structures, small operator assistance, special categories of mining, underground mining, and definitions.

The amendment incorporates more recent technical parameters, and places increased responsibility on design professionals, such as certified blasters, in establishing design standards for the use of explosives in Texas coal mining operations. Compliance with these revised standards will help prevent unnecessary property damage and will assist permittees in maintaining responsible relationships with residents and landowners adjacent to mining operations.

The amendment establishes standards and procedures for the certification of blasters by the commission.

The amendment provides more detailed standards and include definitions of terms, minimum period of continuous operations, minimum ratios of current assets to current liabilities and total liabilities to net worth, maximum self-bond amount, increased financial reporting, limited third-party guarantors, and specific indemnity agreement requirements.

The Texas Surface Coal Mining and Reclamation Act, §24, provides that on the basis of evidence satisfactory to the commission, an applicant may be allowed to be self-insured. In the absence of state self-insurance criteria, the proposed amendment adopts the commission's self-bonding financial test standard as its standard for self-insurance purposes.

On February 10, 1987, OSM adopted final regulations concerning the consideration which must be accorded historic properties during the permitting of surface coal mining operations in response to In re: Permanent Surface Mining Regulation Litigation II (Number 79-1144, DDC 1985). The amendment incorporates those pertinent provisions not previously addressed in commission Rule Adoption Order Number SMRD 1-87.

On May 7, 1987, the president signed Public Law 100-34, which, effective June 6, 1987, deleted the two-acre exemption from the Surface Mining Control and Reclamation Act of 1977 (30 United States Code 1201 et seq.). The proposed amendment deletes the two-acre exemption from the commission coal mining regulations.

The proposed amendment updates commission regulations to incorporate the fee schedule now set out in the Texas Surface Coal Mining and Reclamation Act, §18. The prefix "051.07.04" used in numbering each substantive coal mining regulation is no longer necessary and has no reference value. The amendment replaces this seven-digit number with a three-digit number which identifies the part of the state program regulations in which each regulation is located. The sequential numbering of the regulations will remain unchanged.

Ron Reeves, legal 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. Reeves 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 protection of the health and safety of the public; increased protection of the environment; simplified procedures and increased efficiency in administering the state program regulations; and the decreased potential for having to resort to the use of state funds for surface coal mining reclamation purposes. 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 J. Randel (Jerry) Hill, Director, Surface Mining and Reclamation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6900.

The amendment is proposed under Texas Civil Statutes, Article 5920-11, §6, which provide the Railroad Commission of Texas with the authority to promulgate rules pertaining to surface coal mining and reclamation operations.

§11.221. *State Program Regulations.*  
(a) The following rules contained in

the document titled *State Program Submissions to Office of Surface Mining Reclamation and Enforcement, Department of the Interior*, as amended, prepared by the Railroad Commission of Texas and submitted to the Office of Surface Mining, are adopted by reference: Rules 051.07.04.001-.023, .069-.085, .100-.163, .170-.243, .300-.304, .306-.314, .317, .325-.328, .330-.422 [.442], .500-.591, .600, .610-.613, .620-.622, .624, .625, .650-.651, .660-.661, .670-.675, .680-.687, .690-.698, and .800-.817.

(b) **The state program regulations are renumbered by commission Rule Adoption Order Number SMRD 2-87 by replacing the generic prefix number "051.07.04" with new specific three-digit prefix numbers to identify the part in which each regulation is located: 700.001-.007, 701.008-.009, 705.010-.019, 707.020-.022, 708.023, 760.069-070, 761.071-.072, 762.073-077, 764.078-.085, 770.100-.102, 771.103-.108, 776.109-.115, 778.116-.123, 779.124-.138, 780.139-.154, 782.155-.163, 783.170-.184, 784.185-.199, 785.200-.205, 786.206-.221, 787.222-.223, 788.224-.233, 795.234-.243, 800.300-.303, 805.304-.307, 806.308-311, 807.312-.313, 808.314-.317, 815.325-.328, 816.330-.422, 817.500-.591, 819.600, 822.610-.613, 823.620-.625, 827.650-.651, 828.660-.661, 840.670-.675, 843.680-.687, 845.690-.698, and 850.700-.710.**

(c)[(b)] The Railroad Commission of Texas has published the state program regulations, as amended, in booklet form titled "Coal Mining Regulations". Copies may be obtained from the Surface and Mining Reclamation Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

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 July 30, 1987.

TRD-8706267 J. Randel (Jerry) Hill  
Director  
Surface Mining and  
Reclamation Division  
Railroad Commission of  
Texas

Earliest possible date of adoption:

September 7, 1987

For further information, please call  
(512) 463-7149.



## TITLE 19. EDUCATION Part I. Texas Higher Education Coordinating Board

### Chapter 25. Administrative Council

#### Subchapter B. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

##### ★ 19 TAC §25.33

The Texas Higher Education Coordinating Board proposes an amendment to §25.33, concerning basic coverage standards. This amendment brings the section into conformance with federal age discrimination in employment amendments (ADEA) of 1986.

James McWhorter, executive secretary to the administrative council, 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. McWhorter 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 removal from the basic coverage standards the category of reduced basic life insurance benefits at age 70. 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 James McWhorter, Executive Secretary to the Administrative Council, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Insurance Code, Article 3.50-3, which provides the administrative council with the authority to adopt rules and regulations consistent with the provision of the Act to carry out its statutory responsibilities.

##### §25.33. *Basic Coverage Standards.*

(a) Each institution shall provide in its program of group insurance a basic plan for active employees and retired employees that includes at least the following minimum coverage standards.

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

(5) Life insurance for active employees. Each participating active employee shall be enrolled for basic group life insurance with accidental death and dismemberment and loss of sight (AD&D) benefits. Amounts of group term life and AD&D shall be at least **\$5,000 for each employee**. [as follows:

(A) Active employees under age 70:  
(i) life insurance—\$5,000;

- (ii) AD&D—\$5,000.
- (B) Active employees age 70 and over:
  - (i) life insurance—\$2,500;
  - (ii) AD&D—\$2,500.
  - (6)-(9) (No change.)
  - (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 July 23, 1987

TRD-8706177 James McWhorter  
Assistant  
Commissioner for  
Administration  
Texas Higher Education  
Coordinating Board

Earliest possible date of adoption:  
September 7, 1987  
For further information, please call  
(512) 462-6420.



### Subchapter C. Administration of Retirement Annuity Programs

#### ★ 19 TAC §25.72

The Texas Higher Education Coordinating Board proposed an amendment to §25.72, concerning ORP standards. The amendment brings the section into conformance with Senate Bill 1301, 70th Legislature. Senate Bill 1301 amends Texas Civil Statutes, Title 110B, Chapter 36, which bring state law into conformance with the federal Tax Reform Act of 1986.

James McWhorter, executive secretary to the administrative council, 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. McWhorter 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 authorize distribution of benefits under the optional retirement program (ORP) to participants at age 70½ while still employed, and to mandate ORP employee contributions to be made on a salary reduction basis. 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 James McWhorter, Executive Secretary to the Administrative Council, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Insurance Code, Article 3.50-3, which provides the administrative council with the authority to adopt rules and regulations

consistent with the provision of the Act to carry out its statutory responsibilities

#### §25.72. ORP Standards.

- (a)-(h) (No change.)
- (i) An individual terminates participation in the ORP [and benefits become available] only upon death, retirement, or termination of employment in all public institutions of higher education in Texas.

(j) **Benefits under the ORP are available only if the participant terminates participation in the program as provided by subsection (i) of this section or if the participant obtains the age of 70½ years.**

(k) No contract issued under the ORP may provide for loans, cash surrender, or contain any other provision which permits the availability of benefits prior to a participant's **obtainment of age 70½ years** or termination as an employee in the public institutions of higher education in Texas.

(l) **Contributions as required by law by participants in the ORP shall be made by salary reduction agreement.**

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 July 23, 1987.

TRD-8706176 James McWhorter  
Executive Secretary to  
the Administrative  
Council  
Texas Higher Education  
Coordinating Board

Earliest possible date of adoption:  
September 7, 1987  
For further information, please call  
(512) 462-6420.



## TITLE 22. EXAMINING BOARDS

### Part XXIV. State Board of Veterinary Medical Examiners

#### Chapter 573. Rules of Professional Conduct

#### ★ 22 TAC §573.14

The Texas Board of Veterinary Medical Examiners proposes an amendment to §573.14, concerning discouragement of unauthorized practice. The amendment prohibits the practice of veterinary medicine by unauthorized individuals.

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 the protection of the consumer from the illegal practice of veterinary medicine in the State of Texas without a valid license to do so. 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(b), 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.

§573.14. *Discouragement of Unauthorized Practice.* A licensed veterinarian shall be **professionally and legally responsible for the unauthorized practice of veterinary medicine by his or her unlicensed employees within the scope of their employment. An employee's unauthorized practice of veterinary medicine without a license constitutes grounds for the Texas State Board of Veterinary Medical Examiners to take action against the licensed veterinarian** [not promote, aid, or abet the practice of veterinary medicine by an unlicensed person, or any illegal or unethical act on the part of any veterinarian].

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 July 28, 1987.

TRD-8706262 Donald B. Wilson  
Executive Secretary  
Texas Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
September 7, 1987  
For further information, please call  
(512) 458-1183.



#### ★ 22 TAC §573.32

The Texas Board of Veterinary Medical Examiners proposes an amendment to §573.32, concerning patient record keeping. The amendment provides for maintenance of patient records on premises.

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 assurance that patient records are maintained at the veterinary facility and in a current status. 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(b), 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.

§573.32. *Patient Record Keeping.* **Individual** [Patient] records will be maintained at the place of business and include, but are not limited to, identification of patient, patient history, including immunization records, dates of visits, x-rays, names and dosages of medications administered and/or dispensed, and other details as necessary to substantiate diagnosis and treatment. Patient records shall be current and maintained on the business premises for a period of three years and are the responsibility and property of the employing veterinarian.

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 July 28, 1987.

TRD-8706260 Donald B. Wilson  
Executive Secretary  
Texas Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
September 7, 1987

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



**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION**  
Part I. General Land Office  
Chapter 4. Rules of Practice  
and Procedure  
Subchapter K. Orders

★31 TAC §§4.161-4.165

*(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 General Land Office, 1700 North Congress Avenue, Stephen F. Austin Building, Room 630, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The General Land Office proposes the repeal of §§4.161-4.165 (comprising Subchapter K), concerning form, content, and service of orders; rehearing; administrative finality; effective date of order; and payment required. These sections are repealed so that new sections, substantially the same but more specifically titled and organized, may be substituted making the content of the section more clear to the reader.

Dan Miller, deputy commissioner for legal services, has determined that for the first five-year period the proposed repeals will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Miller also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be that the general public will be enabled to more clearly understand the official rules and regulations of the agency. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 North Congress Avenue, Room 630, Stephen F. Austin Building, Austin, Texas 78701.

These repeals are proposed under the Natural Resources Code, §31.051 and §52.001 et seq., which provides the commissioner of the General Land Office with the authority to make and enforce suitable rules consistent with the law. Additional statutory authority is found in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which provide minimum standards of uniform practice and procedure before state agencies.

§4.161. *Form, Content, and Service of Orders.*

§4.162. *Rehearing.*

§4.163. *Administrative Finality.*

§4.164. *Effective Date of Order.*

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 July 24, 1987.

TRD-8706168 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption:  
September 7, 1987

For further information, please call  
(512) 463-5009.

★31 TAC §§4.161-4.166

The General Land Office proposes new §§4.161-4.166 (comprising Subchapter K), concerning form, content, and service of orders; time restrictions; rehearing; administrative finality; effective date of order; and payment required. The new sections are not substantively different from those repealed, but are submitted in reorganized form to facilitate clearer understanding by the general public.

Dan Miller, deputy commissioner for legal 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. Miller also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that the general public will be enabled to more clearly understand the official rules and regulations of the agency. 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 Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 North Congress Avenue, Room 630, Stephen F. Austin Building, Austin, Texas 78701.

These new sections are proposed under the Natural Resources Code, §31.051 and §52.001 et seq., which provides the commissioner of the General Land Office with the authority to make and enforce suitable rules consistent with the law. Additional statutory authority is found in the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, which provide minimum standards of uniform practice and procedure before state agencies.

§4.161. *Form, Content, and Service of Orders.* All orders of the agency shall be in writing and shall be signed and dated by the commissioner. All orders shall be accompanied by findings of fact and conclusions of law. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the evidence supporting such findings. All parties of record shall be notified by certified mail, return receipt requested, of any order of the commissioner.

§4.162. *Time Restrictions.*

(a) An order of the commissioner must be issued within 60 days from the last date for filing of objections and replies to objections to the examiner's proposal for decision, unless the hearing examiner, at the conclusion of the hearing, specifies a longer period of time within which the order may be issued.

(b) The commissioner may, by written order, extend the period of time for filing motions and replies and for granting a motion for rehearing; however, in no instance shall the period be extended beyond 90 days after the date of the commissioner's signing of his original hearing order. If an extension is granted, a motion for rehearing shall be overruled by operation of law 90 days from the date of such order.

§4.163. *Rehearing.* Prior to an appeal of an order of the commissioner, a party must file a motion for rehearing within 15 days after receipt of such order. Replies to motions for rehearing must be filed by the agency within 10 days after receipt of a motion for rehearing. A motion for rehearing which has not been granted within 45 days after the date of the commissioner's signing of the order shall be deemed overruled by operation of law. Copies of all motions and replies shall be served on all parties concurrently with their filing with the agency.

§4.164. *Administrative Finality.* Administrative action shall become final upon the occurrence of any of the following:

(1) issuance by the commissioner of an order and failure to file a motion for rehearing in accordance with §4.163 of this title (relating to Rehearing); or

(2) issuance by the commissioner of an order and denial of a motion for rehearing, either expressly or by operation of law; or

(3) issuance by the commissioner of an order which includes a statement that no motion for rehearing will be entertained because the threat of imminent peril to the public health, safety, or welfare requires immediate effect be given to such order.

§4.165. *Effective Date of Order.* The effective date of an order, unless otherwise stated, is the date of its signing by the commissioner. That date shall be incorporated in the body of the order.

§4.166. *Payment Required.* Any audit deficiency assessment plus any relevant penalty and interest must be paid within 30 days after the date an order of the commissioner has become final as provided in §4.164 of this title (relating to Administrative Finality). Failure to make such payment shall subject a party to forfeiture of its lease or leases by the commissioner pursuant to the Natural Resources Code, §52.176, or to filing of a lien against its oil, gas, or other mineral production from state leases pursuant to the Natural Resources Code, §52.136.

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 July 24, 1987.

TRD-8706167 Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption.  
September 7, 1987  
For further information, please call  
(512) 463-5009.

### Part III. Texas Air Control Board

#### Chapter 101. General Rules

##### ★31 TAC §101.1

The Texas Air Control Board (TACB) proposes an amendment to §101.1, concerning definitions. The amendment adds definitions for natural gas/gasoline processing, and for true partial pressure. The definition of natural gas/gasoline processing properly identifies facilities to be affected by concurrently proposed new §§115.281-115.285. The definition for true partial pressure more accurately describes the physical characteristics of gaseous emissions regulated by TACB Regulation V. The definition replaces references to true vapor pressure only contained in TACB §§115.161-115.164, and more clearly identifies the vent gas streams to be affected by these sections. While the TACB is restricting the applicability of the definition at this time, the substitution of true partial for true vapor pressure will be proposed at a later date in order to clarify the original regulatory intent of the following TACB undesignated heads: Loading and Unloading Facilities in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties; Water Separation in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties; Vent Gas Control in Aransas, Bexar, Calhoun, Hardin, Matagorda, Montgomery, San Patricio, and Travis Counties; Storage of Crude Oil or Condensate in Hardin, Matagorda, Montgomery, and San Patricio Counties; and Water Separation in Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

The definitions are necessary provisions in conjunction with concurrently proposed amendments to §§115.161-115.164, and new §§115.181-115.185. The amendment is proposed to satisfy United States Environmental Protection Agency (EPA) requirements and state implementation plan (SIP) commitments.

Bennie L. Engelke, director of management and staff services, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Les Montgomery, director of technical support and regulation development program, has determined that for each year of the first five years the section is in ef-

fect the public benefit anticipated as a result of enforcing the section will be improved understanding and more consistent application of TACB regulations where the proposed definitions are used. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

A public hearing regarding adoption of the amendment is scheduled for 7:30 p.m., September 3, 1987, at the Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087.

Copies of the proposed amendment are available at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Both oral and written public comment is invited at the hearing. The TACB would appreciate receiving five copies of testimony prior to, or at the hearing. Written testimony received by 4 p.m. on September 4, 1987, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

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

§101.1. *Definitions.* Unless specifically defined in the Act or in the rules of the board, the terms used by the board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following terms, when used in this part (31 TAC Part III), shall have the following meanings, unless the context clearly indicates otherwise.

**Natural gas/gasoline processing—A process that separates the liquids and gases obtained from natural gas production and/or fractionates natural gas liquids into component products, such as ethane, propane, butane, and natural gasoline. The following facilities shall be included in this definition if, and only if, located on the same property as a natural gas/gasoline processing operation defined previously: compressor stations, dehydration units, sweetening units, field treatment, underground storage, liquified natural gas units, and field gas gathering systems.**

**True partial pressure—The absolute aggregate partial pressure (PSIA) of all volatile organic compounds in a gas stream.**

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 July 28, 1987.

Proposed date of adoption:  
November 30, 1987

For further information, please call  
(512) 452-5711, ext. 354.



## Chapter 115. Volatile Organic Compounds

### Vent Gas Control

#### ★31 TAC §§115.162-115.164

The Texas Air Control Board (TACB) proposes amendments to §§115.162-115.164, concerning vent gas control in Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. The amendment to §115.163(b)(2) reduces the exemption limit for Harris County to require controls on general vent gas streams from air oxidation synthetic organic chemical manufacturing processes having a true partial pressure of volatile organic compounds (VOC) of more than 0.009 pounds per square inch atmospheric (psia). The amendment also reduces these exemption limits to require controls on general vent gas streams from liquid phase polypropylene manufacturing processes, liquid phase slurry high-density polyethylene manufacturing processes, and continuous polystyrene manufacturing processes having a true partial pressure of VOC of more than 0.006 psia. The existing limit of 0.44 psia will remain in effect until the final compliance date of the proposed amendment. The amendment to §115.164 requires persons affected by the changes to §115.163(b)(2) to submit control plans to the TACB by no later than six months from the effective date of these sections and to be in final compliance no later than two years from that effective date. The amendments also replace all references to true vapor pressure with true partial pressure, as defined in concurrently proposed revisions to the TACB general rules, to more accurately describe the general vent gas streams to be affected by these sections.

The amendments are proposed to satisfy United States Environmental Protection Agency (EPA) requirements and state implementation plan (SIP) commitments for the implementation of reasonably available control technology as defined in the *Guideline Series, Control of Volatile Organic Compounds from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry*, published in December 1984, and *Guideline Series, Control of Volatile Organic Compounds from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins*, published in November 1983.

Bennie L. Engelke, director of management and staff 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.

Les Montgomery, P.E., director of technical support and regulation development program, 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 improved air quality as a result of a reduction of VOC emissions in Harris County after December 31, 1989. In addition, these controls are necessary to satisfy SIP commitments. Failure to satisfy SIP commitments can result in decisions by EPA to implement one or more growth sanctions in Harris County. The anticipated economic cost to individuals who are required to comply with the proposed sections will be none in 1987, and \$1,000 each year in 1989-1991, per ton of VOC reduced for all facilities affected.

A public hearing on this proposal is scheduled for 7:30 p.m., September 3, 1987, at the Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087.

Copies of the proposed amendments are available at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Both oral and written public comment is invited at the hearing. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m., September 4, 1987, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

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

§115.162. *General Vent Gas Streams.* Except for process vent gas streams affected by the provisions of §115.161 of this title (relating to Ethylene from Low-Density Polyethylene Production) and §115.163 of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties), no person may allow a vent gas stream to be emitted from any process vent containing one or more of the specific volatile organic compounds listed in paragraph (1) of this section or one or more compounds which are members of one or more of the classes of volatile organic compounds listed in paragraph (2) of this section unless the vent gas stream is burned properly at a temperature equal to or greater than 1300°F

(704°C) in a smokeless flare or a direct-flame incinerator before it is allowed to enter the atmosphere; alternate means of control may be approved by the executive director in accordance with §115.401 of this title (relating to Procedure).

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

(3) The following vent gas streams are exempt from the requirements of this section:

(A) (No change.)

(B) a vent gas stream having a combined weight of the volatile organic compounds or classes of compounds specified in paragraphs (1) and (2) of this section greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over any consecutive 24-hour period and having a true **partial** [vapor] pressure of the volatile organic compounds specified in paragraphs (1) and (2) of this section less than 0.44 psia (3.0 kPa).

§115.163. *General Vent Gas Streams in Dallas, Harris, and Tarrant Counties.*

(a) (No change.)

(b) The following vent gas streams are exempt from the requirements of this section:

(1) (No change.)

(2) in Harris County: [.]

(A) a vent gas stream from any **air oxidation synthetic organic chemical manufacturing process**, having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over a 24-hour period and having a true **partial** [vapor] pressure of volatile organic compounds less than **0.009** [0.44] psia (**0.06** [3.0] kPa); or [.]

(B) a vent gas stream from any **liquid phase polypropylene manufacturing process, any liquid phase slurry high-density polyethylene manufacturing process, and any continuous polystyrene manufacturing process having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over a 24-hour period and having a true partial pressure of volatile organic compounds less than 0.006 psia (0.04 kPa);** or

(C) any other vent gas stream having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over a 24-hour period and having a true partial pressure of volatile organic compounds less than 0.44 psia (3.0 kPa);

(3) in Dallas and Tarrant Counties, a vent gas stream having a combined weight of volatile organic compounds greater than 100 pounds (45.4 kg) in any consecutive 24-hour period but less than 250 pounds (113.4 kg) per hour averaged over a 24-hour period and having a true **partial** [vapor] pressure of

volatile organic compounds less than 0.009 psia (0.06 kPa).

§115.164. *Compliance Schedule and Counties.*

(a) (No change.)

(b) The provisions of §115.163 of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties) shall apply in Dallas, Harris, and Tarrant Counties.

(1) All persons in Harris County affected by the provisions of §115.163(B)(2)(C) [§115.163] of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties [County]) shall submit a final control plan to the Texas Air Control Board no later than December 31, 1983, and shall be in compliance with this section as soon as practicable but no later than December 31, 1986.

(2) All persons in Harris County affected by the provisions of §115.163(B)(2)(C) [§115.163] of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties [County]) shall remain in compliance with the provisions of §115.162 of this title (relating to General Vent Gas Streams) until compliance is achieved with the provisions of §115.163(b)(2)(C) [§115.163] of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties [County]).

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

(5) All persons in Harris County affected by the provisions of §115.163(b)(2)(A) or (B) of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties) shall submit a final control plan to the Texas Air Control Board no later than six months from the effective date of this section, and shall be in compliance with this section as soon as practicable but no later than two years from the effective date of this section.

(6) All persons in Harris County affected by the provisions of §115.163(b)(2)(A) or (B) of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties) shall remain in compliance with the provisions of §115.163(b)(2)(B) of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties) until compliance is achieved with the provisions of §115.163(b)(2)(A) of this title (relating to General Vent Gas Streams in Dallas, Harris, and Tarrant Counties).

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 July 28, 1987.

TRD-8706303      Allen Eli Bell  
Executive Director  
Texas Air Control Board

Proposed date of adoption.

November 30, 1987

For further information, please call  
(512) 452-5711, ext. 354.

★ 31 TAC §§115.281-115.285

The Texas Air Control Board (TACB) proposes new §§115.281-115.285, concerning fugitive emission control in natural gas/gasoline processing operations in Harris County. New §115.281, requires the detection and repair of volatile organic compound (VOC) leaks exceeding 10,000 parts per million by volume (ppmv) from any component of a natural gas/gasoline processing operation. New §115.282 describes the leak monitoring schedule and tagging requirements for specified components located at operations affected by §115.281. This section also identifies those components exempted from periodic inspections and provides the procedure for modifying the monitoring schedule. New §115.283 requires the owner or operator of an operation affected by §115.281 to maintain a log for a minimum of two years of information regarding the identification and disposition of all leaks detected by the monitoring program. New §115.284 exempt valves with a nominal size of two inches or less under specific conditions, components which contact fluids that contain less than 1.0% VOC by weight, and components which contact liquids having a true vapor pressure equal to or greater than 0.147 psia at 68°F from the inspection, repair, monitoring, and recordkeeping requirements of §§115.281-115.283.

Also exempt from these provisions would be natural gas/gasoline processing operations in temporary nonoperating status, or which have a total design throughput of less than 10 million standard cubic feet of gas per day and do not have the capability to fractionate mixed natural gas liquids. New §115.285 specifies that only natural gas/gasoline processing operations in Harris County will be affected by §§115.281-115.284, and requires submittal of a final compliance plan within six months of the effective date of these revisions with compliance no later than one year from that effective date.

The new sections satisfy the United States Environmental Protection Agency (EPA) requirements and state implementation Plan (SIP) commitments for the implementation of reasonably available control technology as defined in the *Guideline Series, Control of Volatile Organic Compound Emissions from Natural Gas/Gasoline Processing*, published in December, 1983.

Bennie L. Engelke, director of management and staff 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.

Les Montgomery, director of technical support and regulation development program, 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 improved air quality as a result of a reduction of VOC emissions in Harris County after December 31, 1988. In addition, these regulations are necessary to satisfy EPA requirements and SIP commitments in order to avoid possible growth sanctions in Harris County.

The possible economic cost to individuals who are required to comply with the sections will be \$68,000 in 1987, \$136,000 in 1988, \$141,000 in 1989, \$147,000 in 1990, and \$153,000 in 1991 for all facilities affected, adjusted for 5.0 percent annual inflation.

A public hearing on this proposal is scheduled for the following time and place: 7:30 p.m., September 3, 1987, at the Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087.

Copies of the proposed new sections are available at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, and at all TACB regional offices. Both oral and written public comment is invited at the hearing. The TACB would appreciate receiving five copies of testimony prior to or at the hearing. Written testimony received by 4 p.m. on September 4, 1987, at the TACB central office will be included in the hearing record. Written comments should be sent to the Regulation Development Section, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The new sections are proposed under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules and regulations consistent with the general intent and purpose of the Texas Clean Air Act and to amend any rule or regulation the Texas Air Control Board makes.

§115.281. *Control Requirement.* No person shall operate a natural gas/gasoline processing operation, as defined in §101.1 of this title (relating to Definitions), without complying with the following requirements.

(1) No component shall be allowed to leak, as defined in §101.1 of this title (relating to Definitions), volatile organic compounds (VOC) with a VOC concentration exceeding 10,000 parts per million by volume (ppmv). The leak detection equipment can be calibrated with methane, propane, or hexane, but the meter readout must be as parts per million by volume (ppmv) hexane.

(2) Every reasonable effort shall be made to repair a leaking component, as specified in paragraph (1) of this section, within 15 days after the leak is found. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next scheduled shutdown.

(3) All leaking components, as defined in paragraph 1 of this section, which cannot be repaired until the unit is shut down for turnaround shall be identified for such repair by tagging. The executive director, at his discretion, may require early unit turnaround or other appropriate action based on the number and severity of tagged leaks awaiting turnaround.

(4) Except for safety pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken, or during maintenance operations.

(5) Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be marked in some manner that will be readily obvious to monitoring personnel.

**§115.282. Inspection Requirements.**

(a) The owner or operator of a natural gas/gasoline processing operation shall conduct a monitoring program consistent with the following provisions.

(1) Measure yearly (with a hydrocarbon gas analyzer) the emissions from all:

- (A) pump seals; and
- (B) pipeline valves in liquid service.

(2) Measure quarterly (with a hydrocarbon gas analyzer) the emissions from all:

- (A) compressor seals;
- (B) pipeline valves in gaseous service; and
- (C) pressure relief valves in gaseous service.

(3) Visually inspect, weekly, all pump seals.

(4) Measure (with a hydrocarbon gas analyzer) the emissions from any pump seal from which liquids having a true vapor pressure greater than 0.147 psia (1.013 kPa) at 68°F (20°C) are observed dripping.

(5) Measure (with a hydrocarbon gas analyzer) emissions from any relief valve which has vented to the atmosphere within 24 hours.

(6) Measure (with a hydrocarbon gas analyzer) immediately after repair, the emissions from any component that was found leaking

(b) The following items are exempt from the monitoring requirements of subsection (a) of this section.

(1) pressure relief devices connected to an operating flare header, components in continuous vacuum service, inaccessible valves, and valves that are not externally regulated (such as in line check valves),

(2) pressure relief valves that are downstream of a rupture disk which is intact;

(3) pumps in liquid service that are equipped with dual pump seals, barrier fluid system, seal degassing vents, and vent control systems kept in good working order; and

(4) compressors that are equipped with degassing vents and vent control systems kept in good working order.

(c) The owner or operator of a natural gas/gasoline processing operation upon the detection of a component leaking more than 10,000 ppmv of VOC shall affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was located. This tag shall remain in place until the leaking component is repaired.

(d) The monitoring schedule of subsection (a)(1)-(3) of this section may be modified as follows.

(1) After at least two complete annual checks, the operator of a process may request in writing to the Texas Air Control Board that the monitoring schedule be revised. This request shall include data that have been developed to justify any modification in the monitoring schedule.

(2) After at least two complete quarterly checks of pipeline valves in gaseous service, the operator of a process may request in writing to the Texas Air Control Board that the monitoring schedule for pipeline valves in gaseous service be revised. This request shall include data that have been developed to justify any modification in the monitoring schedule.

(3) If the executive director of the Texas Air Control Board determines that there is an excessive number of leaks in any given process, he may require an increase in the frequency of monitoring for that process.

(e) The executive director of the Texas Air Control Board may approve an alternative monitoring method if the process operator can demonstrate that the alternate monitoring method is equivalent to the method required by this section. Any request for an alternate monitoring method must be made in writing to the executive director.

**§115.283. Recordkeeping Requirements.**

(a) The owner or operator of a natural gas/gasoline processing operation shall maintain a leaking components monitoring log for all leaks of more than 10,000 ppmv of VOC detected by the monitoring program required by §115.282 of this title (relating to Inspection Requirements). This log shall contain, at a minimum, the following data:

(1) the name of the process unit where the component is located;

(2) the type of component (e.g., valve or seal);

(3) the tag number of the component;

(4) the date on which a leaking component is discovered;

(5) the date on which a leaking component is repaired;

(6) the date and instrument reading of the recheck procedure after a leaking component is repaired;

(7) a record of the calibration of the monitoring instrument;

(8) those leaks that cannot be repaired until turnaround; and

(9) the total number of components checked and the total number of components found leaking.

(b) Copies of the monitoring log shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report prepared.

(c) Monitoring records shall be maintained for two years and be made available for review by authorized representatives of the Texas Air Control Board or local air pollution control agencies.

**§115.284. Exemptions.**

(a) Valves with a nominal size of two inches (5.0 cm) or less are exempt from the requirements of §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Inspection Requirements), and §115.283 of this title (relating to Recordkeeping Requirements), provided allowable emissions at any plant from sources affected by these sections after controls are applied with exemptions will not exceed by more than 5.0% such allowable emissions with no exemptions. Any person claiming an exemption for valves two inches (5.0 cm) nominal size or smaller under this section shall at the time he provides his control plan also provide the following information:

(1) identification of valves or classes of valves to be exempted;

(2) an estimate of uncontrolled emissions from exempted valves and an estimate of emissions if controls were applied plus an explanation of how the estimates were derived;

(3) an estimate of the total VOC emissions within the process from sources affected by §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Inspection Requirements), and §115.283 of this title (relating to Recordkeeping Requirements), after controls are applied and assuming no exemptions for small valves, plus an explanation of how the estimate was derived.

(b) Components which contact a process fluid that contains less than 1.0% VOC by weight are exempt from the requirements of §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Inspection Requirements), and §114.283 of this title (relating to Recordkeeping Requirements).

(c) Components which contact a process liquid containing VOC having a true vapor pressure equal to or less than 0.147 psia (1.013 kPa) at 68°F (20°C) are exempt from the requirements of §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Inspection Requirements), and §115.283 of this title (relating to Recordkeeping Requirements), if the components are inspected visually according to the inspection schedules specified within these same sections.

(d) Natural gas/gasoline processing units in a temporary nonoperating status are

exempt from the requirements of §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Inspection Requirements), §115.283 of this title (relating to Recordkeeping Requirements), and §115.285(b) of this title (relating to Counties and Compliance Schedule). All natural gas/gasoline processing operations affected by this subsection shall notify the Texas Air Control Board of any nonoperating process units when they are shut down and dates of any start-ups as they occur.

(e) Processes at the same location but unrelated to the production of natural gas/gasoline processing are exempt from the requirements of this undesignated head.

(f) Natural gas/gasoline processing units where the total design throughout at a property is less than 10 million standard cubic feet of gas per day and there is no capability to fractionate the mixed natural gas liquids are exempt from the requirements of this undesignated head.

#### §115.285. Counties and Compliance Schedule.

(a) The provisions of §115.281 of this title (relating to Control Requirements), §115.282 of this title (relating to Inspection Requirements), and §115.283 of this title (relating to Recordkeeping Requirements) shall apply only within Harris County. All affected persons shall submit a final control plan to the Texas Air Control Board no later than six months from the effective date of this undesignated head and shall be in compliance with these provisions as soon as practicable but no later than one year from the effective date of this undesignated head.

(b) The owner or operator of an affected natural gas/gasoline processing operation shall:

(1) submit to the executive director a monitoring program plan as soon as practicable but no later than the date specified in subsection (a) of this section for submitting a final control plan. This plan shall contain, at a minimum, a list of the process units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used;

(2) complete the first weekly, quarterly, and annual monitoring as soon as practicable but no later than the final compliance date specified in subsection (a) of this section.

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 July 28, 1987

TRD-8706304 Allen Eli Bell  
Executive Director  
Texas Air Control Board

Proposed date of adoption  
November 30, 1987

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

## Part IX. Texas Water Commission

### Chapter 325. Certificates of Competency

#### [Subchapter A. Certificates of Competency]

#### ★ 31 TAC §§325.1, 325.4, 325.6, 325.7, 325.9, 325.14

The Texas Water Commission proposes amendments to §§325.1, 325.4, 325.6, 325.7, 325.9, and 325.14; concerning definitions; classes and qualifications of certificates for operators; renewal of operator certificates; certificates for wastewater treatment facility operations companies; reports, applications, and renewals for wastewater treatment facility operations companies; and reciprocity; respectively.

These amendments are proposed in order to implement House Bill 1329, Acts of the 70th Legislature (1987), which amends the Texas Water Code, §26.0301 and §26.0291(c). In new §26.0301(e), the bill requires the commission to set a fee for the issuance or renewal of a certificate of competency. The fees collected under this provision shall be deposited in the state treasury to the credit of the waste treatment facility inspection fund.

Section 325.1 is amended to clarify the definition of the term wastewater treatment facility operations company so that companies which operate only one facility are included in the definition.

Section 325.4 is amended to include payment of the appropriate fee as a qualification for receiving a certificate of competency. The fees are \$20 annually and the entire fee for the certificate period must be paid prior to issuance or renewal, as detailed by new subsection (g). In subsection (b), the words graduation equivalency diploma are amended to read general educational development diploma to reflect the current term for the degree.

Section 325.6 is amended to include requirements that fees be paid when certificates are renewed, and to require reporting of changes in address or employment to the commission within 10 days of the change. A fee schedule is incorporated into this section that sets forth the fees for renewals of certificates.

Section 325.7 is amended to include a fee schedule for issuance and renewal of wastewater treatment facility operations companies' certificates. The fees will cover a two-year period.

Section §325.9 is amended to require operating companies to submit annual reports within one year and 30 days after issuance and renewal of their certificates.

Section 325.14 is amended to include payment of the appropriate fee as one of the prerequisites for recognizing an out-of-state certificate of competency.

William Monroe, chief fiscal officer, has determined that for the first five-year period the sections as proposed will be in effect, there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the section will be in effect is an estimated increase in revenue of \$162,853 each year from 1988-1992. The increase in revenue will fund part of the Operator Certification Program. This sum reflects the total fees that are expected to be received from individual operators and operations companies on a yearly basis based on the number of operators and companies that obtained certificates in 1986. There will be no fiscal implications for local governments as a result of enforcing or administering the proposed sections, since the commission has analyzed these proposed sections on the assumption that individual operators working for local governments will pay their own fees. The cost of compliance with the sections for small businesses will be: \$75 for each year from 1988-1992 for companies with less than five facilities; \$150 for each year from 1988-1992 for companies with five to nine facilities; \$250 for each year from 1988-1992 for companies with 10-19 facilities; and \$400 for each year from 1988-1992 for companies with 20 or more facilities. The comparison of the cost of compliance between small and large businesses is based on the number of facilities that a company has, and not on the cost per employee, per hour of labor, or cost per \$100 of sales; as that information is not available to the agency.

Mr. Monroe also has determined that for each year of the first five years the sections as proposed are in effect, the public benefit anticipated as a result of enforcing the sections will be partial funding of the Operator Certification Program through the collection and deposit of funds in the state treasury. The anticipated economic cost to individuals required to comply with the proposed sections will be a fee of \$20 for each year from 1988-1992 which must be paid for issuance or renewal of certificates.

Comments on the proposed amendments may be submitted to Patricia Barnhard, Staff Attorney, Legal Division, P.O. Box 13087, Austin, Texas 78711-3087

Comments should be submitted no later than 30 days after the date of publication of these proposed amendments.

The amendments are proposed under the Water Code, §5.103 and §5.105, which provides the Texas Water Commission with the authority to promulgate rules necessary to carry out the commission's powers under the Water Code; and the Water Code, §26.0301, as amended, which requires the commission to set a fee for the issuance or renewal of a certificate of competency.

§325.1. *Definitions.* The following

words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Wastewater treatment facility operations company—Any **business**, [person,] company, corporation, firm, partnership, or other nongovernmental entity that employs one or more wastewater treatment plant operators for the purpose of providing operations services, on a contractual basis,

to one or more **than one wastewater treatment facility** [holders of permits].

§325.4. *Classes and Qualifications of Certificates for Operators.*

(a) The certificates of competency for wastewater treatment plant operators shall be Class A, Class B, Class C, and Class D. The qualification requirements for each class of certificate shall include a minimum level of formal education, a minimum level of

training, a period of experience as a treatment plant operator, [and] a grade of 70% or higher on a written examination for that certificate class, **and the payment of the applicable fee.** If the applicant fails to pass an examination for the certificate class, the applicant must wait a minimum of three months before retaking the examination.

(b) The qualification requirements for each class of certificate are as follows:

<u>CERTIFICATE</u>	<u>EDUCATION</u>	<u>YEARS EXPERIENCE*</u>	<u>HOURS TRAINING</u>
Class A	Masters College Degree; or Bachelors College Degree; or High School Graduate or equivalent.**	and 4	plus 160
		and 5	plus 160
		and 8	plus 160
Class B	Bachelors College Degree; or High School Graduate or equivalent.	and 1	plus 100
		and 5	plus 100
Class C	High School Graduate or equivalent.	and 2	plus 60
Class D	High School Graduate or equivalent; or less than High School Graduate or equivalent.	and 0	plus 20
		and 0	plus 40

\* Experience must be actual wastewater treatment facility experience and not experience which is non-operational in nature.

\*\* General Educational Development [Graduation Equivalency] Diploma (GED)

(c)-(f) (No change.)

(g) **In addition to meeting the requirements of subsection (b) of this section, a fee must be paid before a certificate is issued. The fee need not be paid until any applicable educational or training requirements are met. Fees are \$20 annually and the fee for the entire term of the certificate must be paid prior to issuance. A two-year certificate requires a fee of \$40, a three-year certificate requires a fee of \$60, a five-year certificate requires a fee of \$100, and an eight-year certificate requires a fee of \$160.**

§325.6. *Renewal of Operator Certificates.*

(a) Unless revoked under §325.11 of this title (relating to Revocation or Suspension of Certificate), or replaced by a higher class of certificate, certificates may be renewed by **payment of the applicable fee and either by taking and passing a renewal ex-**

amination or by receiving a specified number of hours of approved additional training.

(b)-(c) (No change.)

(d) **Holders of a certificate of competency must notify the executive director of any change in address or employment within 10 days from the date the change occurs.**

(e) **Fees for renewal of certificates must be paid prior to renewal of the certificate, but need not be paid before any applicable educational requirements are met. Fees are \$20 annually and the fee for the entire term of the certificate must be paid prior to renewal. A two-year certificate requires a fee of \$40, a three-year certificate requires a fee of \$60, a five-year certificate requires a fee of \$100, and an eight-year certificate requires a fee of \$160.**

§325.7. *Certificates for Wastewater Treatment Facility Operations Companies.* Every wastewater treatment facility opera-

tions company must hold a valid certificate of competency issued under the direction of the commission. After January 1, 1987, no wastewater treatment facility operations company may operate a wastewater treatment facility without a certificate of competency. Any operator employed by a wastewater treatment facility operations company must hold a valid certificate of competency issued pursuant to this chapter. Upon revocation or suspension of a certificate under §325.11 of this title (relating to Revocation or Suspension of Certificate), the wastewater treatment facility operations company shall no longer operate or assist in operation of any wastewater treatment plant, unless specifically authorized to do so by the commission, or unless the certificate has been reinstated. **Prior to issuance or renewal of an operations company's certificate, a fee shall be paid as follows based on the number of facilities served:**

Number of Facilities Served

Fee\*

less than 5
5 - 9
10 - 19
20 or more

\$ 75
\$150
\$250
\$400

\*Fees will cover the two-year period of the certificate.

**§325.9. Reports, Applications, and Renewals for Wastewater Treatment Facility Operations Companies.**

(a) All wastewater treatment facility operations companies must submit a report to the executive director **within one year and 30 days after issuance or renewal of their certificate**, [by February 1 of each year,] listing every wastewater treatment facility operated by the company during the preceding calendar year as well as the present year. The report will include, as a minimum, the name and location of the treatment facility, the permittee's name and address, the commission permit number for the facility, and the dates that the facility was operated by the company during the reporting year (e.g., January 1-December 31). The report must also include, as a minimum, a roster of all certified operators employed by the operations company listing the employees' names, home addresses, classes of certificates and certificate numbers, at which treatment facilities (by commission permit number) each employee works or has worked, and which employees are head operators or supervisors and for which treatment facilities (by commission permit number). The executive director may specify additional information to be included in the report.

(b) (No change.)

**§325.14. Reciprocity.** The executive director may issue certificates of competency for the commission without requiring the examination specified in §325.4 of this title (relating to Classes and Qualifications of Certificates for Operators) to applicants who hold a valid certificate of competency lawfully issued by any other authorized state, country, or territory **upon payment of the applicable fee** provided that the requirements for that other certificate are equal to, or more stringent than the requirements of this chapter, and provided that the other state, country, or territory recognizes and honors the commission's certificates of competency.

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 July 30, 1987.

TRD-8706249 J.D. Head  
Director, Legal Division  
Texas Water Commission

Earliest possible date of adoption:  
September 7, 1987  
For further information, please call  
(512) 463-8087.

★ ★ ★

**TITLE 34. PUBLIC FINANCE**  
**Part III. Teacher Retirement System of Texas**  
**Chapter 25. Membership Credit**

**★ 34 TAC §25.9**

*(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 Teacher Retirement System of Texas, 1001 Trinity Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Teacher Retirement System of Texas (TRS) proposes the repeal of §25.9, concerning first time employment for employees over 60. The 70th Legislature repealed the exceptions to mandatory participation in the Teacher Retirement System for employees who first became employed in Texas public education after reaching age 60.

Wayne Fickel, TRS controller, 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. Fickel 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 that the rules of the retirement system will reflect current law. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Title 110B, §35.102(1) and (2), which provide the Board of Trustees of the Teacher Retirement System with the authority to adopt rules for membership eligibility and to administer the funds of the retirement system.

**§25.9. Employees Over 60.**

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 July 30, 1987

TRD-8706353 Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System: of Texas

Proposed date of adoption  
September 11, 1987  
For further information, please call  
(512) 397-6478

↓ ↓ ↓

**Compensation**

**★ 34 TAC §25.27**

*(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 Teacher Retirement System of Texas, 1001 Trinity Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Teacher Retirement System of Texas (TRS) proposes the repeal of §25.27, concerning retirement credit when a member's employment contract is bought up by an employer. The retirement system's laws governing compensation have been amended since the section was adopted in its present form. The law prohibits credit for any compensation other than as provided by Texas Civil Statutes, Article 32.201, Title 110B. Because this statute generally permits crediting normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed, the section is repealed to prevent any credit for lump sum payoffs of the remaining amounts that would have been due under the contract.



Wayne Fickel, TRS controller, 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. Fickel 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 that the rules of the retirement system will reflect current law. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal.

Comments on the proposal may be submitted to Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Title 110B, §33.201(b) and §35.102(2), which provide the Board of Trustees of the Teacher Retirement System with the authority to adopt rules with respect to membership service credit and to adopt rules to administer the funds of the retirement system.

#### §25.27. *Contracts Bought Up by Employer.*

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 July 30, 1987

TRD-8706354      Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Proposed date of adoption:  
September 11, 1987  
For further information, please call  
(512) 397-6478



#### ★ 34 TAC §25.31

The Teacher Retirement System of Texas (TRS) proposes an amendment to §25.31, concerning percentage limits on retirement credit for compensation increases. When the benefit calculation formula for members of the Teacher Retirement System was improved in 1981 by changing the base for determining benefits from the member's best five years' average compensation to the best three years' average, the retirement system was authorized to adopt rules placing a percentage limit on increases in credited annual compensation in the years immediately before retirement. These limits were designed to restrict the actuarial impact on retirement benefits of disproportionately large salary increases given to members at the end of their careers. The section adopted places a 20% annual limit on salary increases credited by TRS in the last five years before retirement. Five years were

selected to discourage anticipatory increases in salary immediately before the last three years preceding retirement.

A concern has been raised whether annual compensation credit should be adjusted, and refunds in deposits given accordingly, in the fourth and fifth years from retirement if the last (and best) three years are nevertheless unaffected by the application of the section. For example, if a member's last six years of reported annual compensation in chronological order are \$18,000; \$20,000; \$25,000; \$27,000; \$30,000; and \$33,000; only the compensation for the fourth year from retirement (\$25,000) exceeds the previous year's reported compensation (\$20,000) by more than 20%. Even if the fourth year's compensation were adjusted to \$24,000 to comply with the 20% limit, none of the remaining three years of annual compensation would be affected by the application of the 20% limit to the adjusted amount. In either case the member's benefit calculation would be the same. The retirement system staff has concluded that the law and the section are intended to apply only when retirement benefits are affected and, therefore, that no adjustments or refunds should be made under the section unless benefits would be reduced. A clarifying amendment is proposed to specifically state this conclusion.

Wayne Fickel, TRS controller, 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.

William Baker, TRS general counsel, 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 clarify the existing section to implement the purpose of the law authorizing the section.

Since it has been determined that the law only intends to authorize a section that affects benefits and since the retirement system's implementation of the current section has consistently reflected that determination, there is no anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Title 110B, §35.110, which authorize the board to adopt rules in determining annual compensation.

#### §25.31. *Percentage Limits on Compensation Increases.*

(a) **Except as provided in subsection (c) of this section,** a member's credited compensation for each of the last five creditable years of service before retirement may not exceed the credited compensation of the im-

mediately preceding creditable year for service in the same or similar positions by more than 20%. When appropriate TRS may convert salary for part-time employment to its full-time equivalent in determining the permissible increases in credited annual compensation.

(b) (No change.)

(c) No adjustment in annual compensation will be made:

(1) for years before the 1981-82 school year; or

(2) **for any year if the 20% limit on annual increases in credited compensation, applied to each of the member's last five years of annual compensation, would not affect the calculation of the member's retirement benefit.**

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 July 30, 1987.

TRD-8706355      Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Proposed date of adoption:  
September 11, 1987  
For further information, please call  
(512) 397-6478.



## Chapter 29. Benefits Death Before Service Retirement

### ★ 34 TAC §29.32

The Teacher Retirement System of Texas (TRS) proposes an amendment to §29.32, concerning the death benefit options for beneficiaries of deceased active members. The 70th Legislature has increased the lump sum teacher retirement death benefit option based on the annual compensation of the deceased retirement system member. The new benefit option is two time annual compensation not to exceed \$60,000. The retirement system proposes to amend its rules relating to this benefit to reflect this increase.

Wayne Fickel, TRS controller, 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. Fickel also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the rule will accurately state current law with respect to teacher retirement death benefits. 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 Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Title 110B, §35.102, which provide the board of trustees of the Teacher Retirement System with the authority to adopt rules for membership eligibility, administer the funds of the retirement system, and conduct its business, and House Bill 2623, as passed by the 70th Legislature.

§29.32. *Death Benefit Options.* A member's beneficiary entitled to death benefits under §29.31 of this title (relating to Entitlement) shall receive the largest of the following:

(1) a lump sum payment (not to exceed \$60,000 [\$25,000]) equal to:

(A) **twice** the rate of annual compensation of the member for the last year of service; or

(B) **twice** the annual compensation of the member for the year before the last year of service.

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

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

Issued in Austin, Texas, on July 30, 1987.

TRD-8706356

Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Proposed date of adoption:

September 11, 1987

For further information, please call  
(512) 397-6478.



## Chapter 31. Employment After Retirement

### ★34 TAC §31.12

The Teacher Retirement System of Texas (TRS) proposes an amendment to §31.12, concerning employment after retirement without loss of retirement benefits. The 70th Legislature has amended the Teacher Retirement Law relating to the procedures for electing an exception under which a retiree can work in public education and continue to receive retirement benefits. Under previous law a retiree who wished to work up to full time for a period not to exceed five consecutive months within the period of September through June of the school year and still draw retirement benefits had to notify the retirement system of that choice before beginning that employment. The proposed amendment incorporates the statutory change which will allow the retiree to notify the retirement system by the end of the first month of employment of the desire to proceed under that exception.

Wayne Fickel, TRS controller, 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. Fickel also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the section will accurately reflect current law. 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 Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The amendment is proposed under Texas Civil Statutes, Title 110B, §35.102(2) which provide the Board of Trustees of the Teacher Retirement System with the authority to adopt rules for membership eligibility, administer the funds of the retirement system, and conduct its business.

§31.12. *Employment Up to Five Months on as Much as Full Time.*

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

(c) A person must elect in writing on a form prescribed by TRS to take advantage of the exception described by this section. A person who, during a school year, has already used the exception described in §31.3 of this title (relating to Permissible Substitute Employment) for substitute work or in §31.7 of this title (relating to Regular Employment Having No Effect on Annuity) for work at more than half time is not eligible to elect this exception during the same school year. A person who has been employed in Texas public education during a school year and has forfeited service retirement benefits because the person did not qualify for one of the exceptions described in §31.3 of this title (relating to Permissible Substitute Employment) or §31.7 of this title (relating to Regular Employment Having No Effect on Annuity) is eligible to elect this exception during the same school year. The election must be made **on or before the last day of the first month that the person begins the work to be subject to the exception** described in this section. The person making the election must designate on the form the five-month period during which the exception is to apply. For the election to be effective, the prospective employer of the person must certify on the election form that the contemplated employment after retirement is in the best interests of the employer. A separate election form must be filed for each school year that the person wishes this exception to apply.

(d)-(f) (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-8706357

Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Earliest possible date of adoption:

September 11, 1987

For further information, please call  
(512) 397-6478.



## Chapter 41. Insurance

### ★34 TAC §41.1

The Teacher Retirement System of Texas (TRS) proposes an amendment to §41.1, concerning periods of enrollment in the Retired Public School Employees Group Health Insurance Program. The amendment is being proposed to implement House Bill 1421, Acts of the 70th Legislature, 1987, which amended the Insurance Code, Article 3.50-4, by adding surviving spouses and surviving dependent children of qualified deceased active members and surviving dependent children of qualified retirees as eligible participants.

Wayne Fickel, TRS controller, 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. Fickel 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 provide for and end the enrollment period for eligible participants in the plan. 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 Mr. Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The amendment is proposed under the Insurance Code, Article 3.50-4, §5(a), which provides the Board of Trustees of the Teacher Retirement System with the authority to adopt rules necessary to implement the Texas Public School Retired Employees Group Insurance Program.

§41.1. *Enrollment Periods For the Texas Public School Retired Employees Group Insurance Program.*

(a) The initial enrollment period for eligible Teacher Retirement System retirees or their surviving spouses to elect coverage for themselves or their dependents under the Texas Public School Retired Employees Group Insurance Program (TRS-Care), including any increased level of coverage, shall end on January 31, 1987, if the retiree's effective date of retirement or date of death occurred before January 1, 1987.



(b) Such enrollment period for eligible Teacher Retirement System retirees who retire after December 31, 1986, or surviving spouses of eligible retirees who die after December 31, 1986, will end:

(1) for eligible retirees, 31 days after their effective retirement date; and

(2) for surviving spouses, 31 days after the end of the month in which the eligible retiree died or 31 days following the date of notice of eligibility sent by the Texas Public School Retired Employees Group Insurance Program to the survivor, whichever is later.

(c) The enrollment period for a surviving spouse of a deceased active member, as defined by the Insurance Code, Article 3.50-4, §2, Subdivision 11, and for a surviving dependent child, as defined by the Insurance Code, Article 3.50-4, §2, Subdivision 13 will end 31 days after the end of the month in which the eligible member or retiree died or 31 days following the date of notice of eligibility sent by the Texas Public School Retired Employees Group Insurance Program to the survivor, whichever is later.

(d)[c] Notwithstanding the provisions of subsections (a), (and) (b), and (c) of this section,

(1) a participant in TRS-Care 1 will have coverage increased to TRS-Care 2 upon becoming eligible for Medicare;

(2) a retiree may elect coverage for a spouse within 31 days of the date on which the retiree is married;

(3) a retiree or surviving spouse may add coverage for children within 31 days after the date on which the retiree or surviving spouse first acquires a child eligible for coverage under TRS Care;

(4) a participant shall be entitled to all applicable rights under the Federal Public Health Service Act (COBRA), Title XXII.

(e)[d] A participant's dependent coverage, if elected, will continue until the end of the month of the participant's death.

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 July 30, 1987.

TRD-8706358

Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Proposed date of adoption:

September 11, 1987

For further information, please call  
(512) 397-6478



### ★ 34 TAC §41.5

The Teacher Retirement System of Texas (TRS) proposes an amendment to §41.5, concerning payment of contributions to the Retired Public School Employees

Group Health Insurance Program. The amendment is being proposed to implement House Bill 1421, Acts of the 70th Legislature, 1987, which amended the Insurance Code, Article 3.50-4, by adding surviving spouses and surviving dependent children of qualified deceased active members and surviving dependent children of qualified retirees as eligible participants.

Wayne Fickel, TRS controller, 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. Fickel 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 clarification of when contributions are required and the method for paying the contributions. The anticipated economic cost per month to persons who are required to comply with the proposed section will be as follows. When a retiree and spouse both have Medicare Parts A and B (or the surviving spouse has Medicare), the anticipated cost per month for a retiree only is \$0.00 under TRS-Care 2, and \$25 under TRS-Care 3. For a retiree and spouse the cost is \$42.50 under TRS-Care 2, and \$84 under TRS-Care 3. For a retiree and child(ren) the cost is \$35.20 under TRS-Care 2, and \$80.60 under TRS-Care 3. For a retiree, spouse, and child(ren) the cost is \$77.70 under TRS-Care 2, and \$139.60 under TRS-Care 3. For a surviving spouse only the cost is \$42.50 under TRS-Care 2, and \$59 under TRS-Care 3. For a surviving spouse and child(ren) the cost is \$77.70 under TRS-Care 2, and \$114.60 under TRS-Care 3.

When neither the retiree nor spouse has Medicare Parts A and B (or the surviving spouse or surviving dependent child does not have Medicare), the anticipated cost per month for a retiree only is \$0.00 under TRS-Care 1; \$34 under TRS-Care 2; and \$75.40 under TRS-Care 3. For a retiree and spouse the cost is \$69.10 under TRS-Care 1; \$131.10 under TRS-Care 2; and \$207.40 under TRS-Care 3. For a retiree and child(ren) the cost is \$23.70 under TRS-Care 1; \$69.20 under TRS-Care 2; and \$131 under TRS-Care 3. For a retiree, spouse, and child(ren) the cost is \$92.80 under TRS-Care 1; \$166.30 under TRS-Care 2; and \$263 under TRS-Care 3. For a surviving spouse only the cost is \$69.10 under TRS-Care 1; \$97.10 under TRS-Care 2; and \$132 under TRS-Care 3. For a surviving spouse and child(ren) the cost is \$92.80 under TRS-Care 1; \$132.30 under TRS-Care 2; and \$187.60 under TRS-Care 3. For surviving dependent child(ren) only the cost is \$23.70 under TRS-Care 1; \$35.20 under TRS-Care 2; and \$55.60 under TRS-Care 3.

When the retiree does not have Medicare Parts A and B, but the spouse has Medicare, the anticipated cost per month for

a retiree only is \$0.00 under TRS-Care 1; \$34 under TRS-Care 2; and \$75.40 under TRS-Care 3; for a retiree and spouse the cost is \$29 and TRS-Care 1, \$76.50 under TRS-Care 2; and \$134.40 under TRS-Care 3. For a retiree and child(ren) the cost is \$23.70 under TRS-Care 1; \$69.20 under TRS-Care 2; and \$131 under TRS-Care 3. For a retiree, spouse, and child(ren) the cost is \$52.70 under TRS-Care 1; \$111.70 under TRS-Care 2; and \$190 under TRS-Care 3.

When the retiree has Medicare Parts A and B, and the spouse does not have Medicare, the anticipated cost per month for a retiree only is \$0.00 under TRS-Care 2; and \$25 under TRS-Care 3. For a retiree and spouse the cost is \$97.10 under TRS-Care 2; and \$157 under TRS-Care 3. For a retiree and child(ren) the cost is \$35.20; and \$80.60 under TRS-Care 3. For a retiree, spouse, and child(ren) the cost is \$132.30 under TRS-Care 2; and \$212.60 under TRS-Care 3.

Comments on the proposal may be submitted to Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The amendment is proposed under the Insurance Code, Article 3.50-4, §5(a), which provides the Board of Trustees of TRS with the authority to adopt rules necessary to implement the Texas Public School Retired Employees Group Insurance Program.

#### §41.5. Payment of Contributions.

(a) Retirees shall pay monthly contributions to cover the cost of optional plans.

(b) Surviving spouses shall pay monthly contributions to cover the cost of insurance for the surviving spouse.

(c) Retirees and surviving spouses shall pay monthly contributions to cover the cost of insuring dependents.

(d) **Surviving dependent children, or their representative, shall pay monthly contributions to cover the cost of insurance for the surviving dependent children.**

(e)[d] In order to be eligible for optional coverage, a retiree, [or] surviving spouse or surviving dependent child, or his or her representative, must authorize in writing the deduction by the trustee of the amount of the contributions from their annuity check. After such authorization [by the retiree or surviving spouse,] the trustee shall deduct the amount of the contribution each month from the [retiree's or surviving spouses] annuity check.

(f)[e] In order to pay for dependent coverage, the retiree or surviving spouse shall authorize in writing the deduction of the contribution payment from their annuity check. After authorization by the retiree or surviving spouse, the trustee shall deduct the amount of the contribution each month from the retiree's or surviving spouse annuity check.

(g)[f] In the event that the amount of the contribution is more than the amount of the annuity check, the participant [retiree or

surviving spouse] will be billed directly by the carrier for the entire amount.

(h)[g] Failure to make any required contribution for coverage of a **non-retiree** [surviving spouse and/or a dependent] will result in termination of coverage at the end of the month for which the last contribution was made.

(i)[h] Failure to make any required contribution for coverage of a retiree under an optional plan will result in a decrease in coverage from the optional plan to the basic plan at the end of the month for which the last contribution was made.

(j)[i] Disability retirees shall be required to pay monthly contributions to cover the cost of coverage during periods when their annuity payments are suspended. Failure to make said contributions will result in a decrease in coverage from the optional plan to the basic plan.

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 July 30, 1987

TRD-8706359      Bruce Hineman  
Executive Secretary  
Teacher Retirement  
System of Texas

Proposed date of adoption  
September 11, 1987  
For further information, please call  
(512) 397-6478



### ★34 TAC §41.7

The Teacher Retirement System of Texas (TRS) proposes new §41.7, concerning the effective dates of coverage in the Retired Public School Employees Group Health Insurance Program. The new section clarifies when the effective date of coverage under the program will be.

Wayne Fickel, TRS controller, 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. Fickel also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the clarification of when the effective date of coverage under the program will be. 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 Bruce Hineman, Executive Secretary, 1001 Trinity, Austin, Texas 78701.

The new section is proposed under the Insurance Code, Article 3.50-4, §5(a), which provides the Board of Trustees of the

Teacher Retirement System with the authority to adopt rules necessary to implement the Texas Public School Retired Employees Group Insurance Program.

#### §41.7. *Effective Date of Coverage.*

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

(1) Noncontributory coverage—The coverage provided at no cost to eligible retirees.

(2) Contributory coverage—Coverage for which a contribution is required.

(b) The effective date of noncontributory coverage for a retiree shall be the first day of the month following the effective date of retirement unless the retiree has waived coverage in writing.

(c) The effective date of contributory coverage for the retiree shall be:

(1) the first day of the month following the effective date of retirement if the application for coverage is received by the Texas Public School Retired Employees Group Insurance Program on or before the effective retirement date; or

(2) the first day of the month following the receipt of the application by the Texas Public School Retired Employees Group Insurance Program if the application is received after the effective retirement date but within the 31 day enrollment period.

(d) Retirees who due to their effective retirement date have a choice of beginning contributory coverage in two different months may defer the effective date of coverage to the first day of the latter month if that election is made in writing and is received by the Texas Public School Retired Employees Group Insurance Program in advance of the beginning of the first month in which the effective date of coverage could have taken place.

(e) The effective date of coverage for a surviving spouse or for a surviving dependent child shall be the first day of their eligibility if the Texas Public School Retired Employee Group Insurance Program receives an application within the enrollment period and the deceased participant had the surviving spouse or the surviving dependent child covered under the program before he or she died.

(f) Where the surviving spouse or the surviving dependent child was not covered under the program immediately preceding his or her becoming eligible for coverage the effective date of coverage will be the first day of the month following receipt of an application during the enrollment period by the Texas Public School Retired Employees Group Insurance Program.

(g) The effective date of coverage for dependents who are eligible to be enrolled and who are enrolled under a retiree's or surviving spouse's coverage will be:

(1) the same date as the retiree or surviving spouse if the enrollment is during

the initial enrollment period; or

(2) the first day of the month following receipt of the application by the Texas Public School Retired Employees Group Insurance Program if the enrollment of the dependents is after the initial enrollment period; or

(3) the day on which a child is born, if the participant has coverage for children already in effect under the program.

(h) The effective date of changes in coverage due to the acquisition of Medicare shall be on the first of the month following the date of receipt of a copy of the participant's or dependent's Medicare card by the Texas Public School Retired Employees Group Insurance Program.

(i) The effective date of a reduction in coverage shall be the first day of the month following receipt of a signed request by the Texas Public School Retired Employees Group Insurance Program for reduced coverage.

(j) A retiree, surviving spouse, or surviving dependent child may cancel any coverage by submitting the appropriate cancellation notice to the Texas Public School Retired Employees Group Insurance Program. Cancellations will be effective at midnight on the last day of the month in which the signed notice is received by the program. This section shall also apply to waivers of non-contributory coverage by retirees.

(k) All participants and dependents shall be entitled to all applicable rights under the Federal Public Health Service Act (COBRA), Title XXII.

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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Executive Secretary  
Teacher Retirement  
System of Texas

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For further information, please call  
(512) 397-6478.



## Part IV. Employees Retirement System of Texas Chapter 81. Insurance

### ★34 TAC §81.3

The Employees Retirement System of Texas proposes an amendment to §81.3, concerning administration. The amendment makes a needed correction to the present wording found in subsection (c)(5), concerning health maintenance organizations. Subsection (d)(2), concerning payment of premiums, is also amended to eliminate references to a terminated employee whose application for disability retirements benefits is pending from language prescribing the method by

which premiums are paid by certain health plan participants

James T. Herod, deputy director for programs and 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 Herod also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the correct use of the word "participants" as opposed to the word "participate" as presently found in §81.3(c)(5). Also, applicants for disability retirement benefits whose applications are pending, who subsequently terminate state employment, will be treated the same as other terminating state employees in light of the fact that coverage is now available pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). Persons ultimately approved for disability retirement would suffer no loss of health benefits. The anticipated economic cost to individuals who are required to comply with the section as proposed will be an additional 2.0% of the health insurance premiums they currently pay.

Comments may be submitted to James T Herod, Deputy Director for Programs and General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207.

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

#### §81.3. Administration.

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

(c) Health maintenance organizations.

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

(5) An HMO that loses its state or federal certification will automatically become ineligible to offer its health benefits program to **participants** [participate] in the insurance program on the date determined by the board of trustees.

(d) Funding.

(1) (No change.)

(2) Payment of premiums. Deductions from monthly compensation or annuities and direct payment of premiums are two

methods of payments used for the employee's share of premiums.

(A) (No change.)

(B) Direct payment of premiums.

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

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

(ii)-(iii) (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 July 30, 1987

TRD-8706253

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

Earliest possible date of adoption:

September 7, 1987

For further information, please call

(512) 476-6431, ext. 178.



#### ★ 34 TAC §81.5

The Employees Retirement System of Texas proposes an amendment to §81.5, concerning eligibility. Subsection (g) is amended to eliminate the category of terminated employee whose application for disability retirement benefits is pending with respect to eligibility for certain group insurance coverage.

James T Herod, deputy director for programs and 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. Herod also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the treatment of terminated disability retirement applicants in the same manner as any other terminated state employees. During the interim period between termination and a decision with respect to their application, they will be entitled to continue health insurance under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and not be entitled to continue life insurance unless they are entitled to extended insurance benefits. Applicants ultimately approved for disability retirement will be entitled to retroactive retiree health and insurance benefits and will suffer no loss of benefits. The anticipated economic cost to individuals who are required to comply with the section as proposed will be an additional 2.0% of the health insurance premiums they currently pay.

Comments may be submitted to James T Herod, Deputy Director for Programs and General Counsel, Employees Retirement System of Texas, PO Box 13207, Austin, Texas 78711-3207

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

#### §81.5. Eligibility.

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

(g) Disability retirement. [An employee whose employment is terminated after an application for disability retirement has been filed with the Employees Retirement System, but is pending disposition, may continue only the health, term life, and dependent term life insurance coverages that were in effect as an employee while the application is pending, except as provided in subsection (d) of this section with regard to extended life insurance benefits. Applicants who are eligible to continue these coverages will be required to pay the premiums as provided in §81.3(d)(2)(B)(i) of this title (relating to Administration).] An applicant who is approved for disability retirement is entitled to retiree insurance coverages as provided in §81.7(c) of this title (relating to Enrollment and Participation). A retiring member of ORP who is disabled, as established by the

disability test used by the Employees Retirement System for members of the employee class, is eligible to remain in the program for the amount of time the person would be eligible for benefits had retirement coverages been under the Teacher Retirement System. All costs for determining initial or continued eligibility for insurance coverage for a disabled retiree of the ORP will be paid by the Coordinating Board, Texas College and University System. Coverages will become effective on the first day of the month following the date the disability retirement becomes effective. [The coverage of an applicant for disability retirement benefits whose retirement application is denied will be canceled on the last day of the month following the month in which notification is mailed.]

(h) (j) (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 July 30, 1987

TRD-8706252 Clayton T Garrison  
Executive Director  
Employees Retirement  
System of Texas

Earliest possible date of adoption  
September 7, 1987

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



### ★ 34 TAC §81.7

The Employees Retirement System of Texas proposes an amendment to §81.7, concerning enrollment and participation. The amendment eliminates the category of a terminated employee whose application for disability retirement benefits is pending, with respect to the enrollment of retirees and their dependents. Subsection (c) is further amended to remove reference to subsection (i)(3), but retains and transfers to this subsection relevant language from that paragraph concerning retiree insurance coverage effective dates in certain circumstances. Section 81.7 is further amended to delete subsection (i)(3) in its entirety in order to eliminate the category of a terminated employee whose application for disability retirement benefits is pending. All paragraphs which follow subsection (i)(3) have been renumbered as a result of its deletion. Subsection (i)(4) is amended to extend the grace period allowed from the premium due date to the date beyond which coverage will be cancelled for all former members and employees of the legislature to 30 days

James T. Herod, deputy director for programs and 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 Herod also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the treatment of terminated disability retirement applicants in the same manner as any other terminated State employees. During the interim period between termination and a decision with respect to their application, they will be entitled to continue health insurance under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA), and not be entitled to continue life insurance unless they are entitled to extended insurance benefits. Applicants ultimately approved for disability retirement will be entitled to retroactive retiree health and insurance benefits and will suffer no loss of benefits. Additionally, former members and employees of the legislature will now receive equal treatment to other direct pay participants through the extension of the grace period of the premium due date from 10 days to 30 days. The anticipated economic cost to individuals who are required to comply with the section as proposed will be an additional 2.0% of the health insurance premiums they currently pay.

Comments may be submitted to James T. Herod, Deputy Director for Programs and General Counsel, Employees Retirement System of Texas, P.O. Box 13207, Austin, Texas 78711-3207.

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

#### §81.7. Enrollment and Participation.

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

(c) Retirees and their dependents.

(1) (No change.)

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

eligible for disability retirement will be made effective as provided in subsection (i)(3) of this section]

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

(d)-(h) (No change.)

(i) Continuing coverage in special circumstances.

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

(3) An employee whose employment is terminated after an application for disability retirement has been filed with the Employees Retirement System, but is pending disposition, may continue only the health, term life, and dependent term life insurance coverages that were in effect as an employee while the application is pending, except as provided in §81.5(d) of this title (relating to Eligibility) with regard to extended life insurance benefits. An applicant who is eligible to continue these coverages will be required to pay the premiums as provided in §81.3(d)(2)(B) of this title (relating to Administration). An applicant for disability retirement whose coverages lapsed prior to filing an application for disability retirement with the Employees Retirement System will not be eligible for any coverages until the disability retirement application is approved. Such an applicant who is approved for disability retirement is eligible to apply for insurance coverages as a retiree by submitting an application within 30 days from the date of the notice of approval for disability retirement benefits. Retiree

coverages will be effective the first day of the month following the date the disability retirement became effective unless other Uniform Group Insurance Program coverages are in effect at that time. If other coverages are in effect at that time, the retiree coverages will become effective on the first day of the month following the date of approval of the disability retirement by the Employees Retirement System or the first day of the month following the date the other coverages were canceled if cancellation preceded the date of approval of the disability retirement. If the application for disability retirement is denied, the coverages of the applicant and dependents will be canceled on the last day of the month following the month in which the notification is mailed.]

(3)[(4)] A former member or employee of the legislature, who is eligible to continue to participate in the program, must notify the Employees Retirement System within 30 days after leaving office or employment of his or her intent to continue the coverage in effect. Coverage will be canceled if a premium is not received within 30 [10] days of the due date. A former member or employee of the legislature is not eligible to continue disability insurance coverage.

(4)[(5)] Continuation of health coverage benefits for a surviving spouse and/or dependent child/children of a deceased employee or retiree. The surviving spouse and/or dependent child/children of a deceased employee/retiree, who, in accordance with §81.5(j)(1) of this title (relating to Eligibility), elects to continue health coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation of coverage enrollment form. Continuing health coverage will begin on the first day of the month following the month in which the employee/retiree dies, provided all group insurance premiums due for the month in which the employee/retiree died and for the election/enrollment period have been paid in full.

(5)[(6)] Continuation of health coverage benefits for a covered employee whose employment has been terminated, voluntarily or involuntarily. A terminated employee, his or her spouse and/or dependent child/children, who, in accordance with §81.5(j)(2) of this title (relating to Eligibility), elects to continue health coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation of coverage enrollment form. Continuing health cov-

erage will begin on the first day of the month following the month in which the covered employee terminates employment, provided all group insurance premiums due for the month in which the employee terminates and for the election/enrollment period have been paid in full.

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

(7)[(8)] Continuation of health coverage benefits for a dependent child under 25 years of age who marries. A dependent child under 25 years of age who marries and who, in accordance with §81.5(j)(4) of this title (relating to Eligibility), elects to continue health coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation of coverage enrollment form. Continuing health coverage will begin on the first day of the month following the month in which the marriage occurred, provided all group insurance premiums due for the month in which the dependent child's marriage occurred and for the election/enrollment period have been paid in full.

(8)[(9)] Continuation of health coverage benefits for a dependent child who has attained 25 years of age. A 25-year-old dependent child (not provided for by §81.5(d) of this title (relating to Eligibility)) of an employee/retiree who, in accordance with §81.5(j)(5) of this title (relating to Eligibility), elects to continue health coverage may do so by submitting the required election notification and enrollment forms to the Employees Retirement System. The enrollment form, including all premiums due for the election/enrollment period, must be postmarked or received by the Employees Retirement System on or before the date indicated on the continuation of coverage

enrollment form. Continuing health coverage will begin on the first day of the month following the month in which the dependent child of the employee/retiree attains 25 years of age, provided all group insurance premiums due for the month in which the dependent child attained age 25 and for the election/enrollment period have been paid in full.

(9)[(10)] Extension of continuation of health coverage for certain spouses and/or dependent child/children of former employees who are continuing health coverage under the provisions of paragraph 5 [(6)] of this subsection.

(A)-(D) (No change.)

(10)[(11)] Continuation coverage defined. Continuation coverage as provided for in paragraphs (4)-(9) [(5)-(10)] of this subsection means the continuation of only health coverage benefits which meets the following requirements:

(A)-(D) (No change.)

(E) Conversion option. An option to enroll under the conversion plan available to employees/retirees is also available to a participant who continues health coverage for the maximum period as provided in subsection (i)(9)(B)(i) [(i)(10)(B)(i)] of this section and subsection (i)(9)(B)(ii) [(i)(10)(B)(ii)] of this section. The conversion notice will be provided to a participant during the 180-day period immediately preceding the end of the continuation period.

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

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TRD-8706251

Clayton T. Garrison  
Executive Director  
Employees Retirement  
System of Texas

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September 7, 1987  
For further information, please call  
(512) 476-6431, ext. 178.

◆ ◆ ◆  
**TITLE 40. SOCIAL  
SERVICES AND  
ASSISTANCE**  
**Part VI. Texas Commission  
on Human Rights**  
**Chapter 327. Administrative  
Review**

★ 40 TAC §327.12

The Texas Commission on Human Rights proposes new §327.12, concerning a procedure for disposing of case files and related documents following the completion of the administrative processing of complaints alleging employment discrimi-

nation and exercise of its powers pursuant to the Texas Commission on Human Rights Act, 5221(k), Texas Civil Statutes. This new section provides a procedure for disposing and retaining case files and documents relating to complaints of employment discrimination filed under the Texas Commission on Human Rights Act and complaints deferred to the Texas Commission on Human Rights by the United States Equal Employment Opportunity Commission. This new section establishes uniform procedures for disposing of or retaining case files and related documents.

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

Mr. Hale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the elimination of costs associated with storage of case files and related documents with are no longer relevant to the processing of complaints of employment discrimination or the exercise of the commission powers. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to William M. Hale, Executive Director, Texas Commission on Human Rights, P.O. Box 13493, Austin, Texas 78711.

The new section is proposed under the Texas Commission on Human Rights Act, 5221(k), Texas Civil Statutes, Article 3, §3.02(10), which provides the Texas Commission on Human Rights with the authority to adopt, issue, amend, and rescind procedural rules to carry out the purposes and policies of this Act.

**§327.1. Disposal of Case Files and Related Documents.** The commission shall retain case files and related documents which have not been forwarded to EEOC for a period of one year after the administrative review procedures have been completed, except when a civil action has been filed in state court under the Texas Commission on Human Rights Act. At the conclusion of the one year, the case file and related documents shall be disposed of by the commission. When a civil action has been filed in state court, case files and related documents shall be retained until the final disposition of the

lawsuit. Prior to disposing of case files and related documents, authorization shall be obtained from the State Auditor's Office and the state librarian. In a private cause of action under the Texas Commission on Human Rights Act, the commission shall be held harmless for disposing of case files and related documents when the parties to the lawsuit or their attorneys of record fail to notify the commission by certified letter that a lawsuit has been filed in state court.

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 June 4, 1987.

TRD-8706361 William M. Hale  
Executive Director  
Texas Commission on  
Human Rights

Earliest possible date of adoption.

September 7, 1987  
For further information, please call  
(512) 459-0944



## TITLE 43. TRANSPORTATION Part I. State Department of Highways and Public Transportation Chapter 25. Maintenance Division

### Adopt-a-Highway

#### ★43 TAC §§25.801-25.809

*(Editor's note: The State Department of Highways and Public Transportation proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new sections is published in the Emergency Rules section of this issue.)*

The State Department of Highways and Public Transportation proposes new §§25.801-25.809, concerning Adopt-a-Highway. The new sections more uniformly and effectively regulate the department's Adopt-a-Highway Program, which allows private citizens an opportunity to adopt a section of highway for the purpose of controlling and reducing litter on such adopted section. The new sections

set forth program guidelines and requirements relative to duties and responsibilities of participating volunteer groups and the department.

Bob G. Hodge, chief engineer, Safety and Maintenance Division, has determined that there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the sections will be in effect will be an estimated additional cost of \$504,926 in 1987, and an estimated reduction in cost of \$407,800 in 1988, \$195,080 in 1989, \$397,800 in 1990, and \$250,800 in 1991. There will be no fiscal implications for local government or small businesses for the first five-year period the sections will be in effect.

Mr. Hodge 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 cleaner roadsides, not only along adopted sections of highway, but along all Texas highways as more citizens participate in the program, and a potential savings in tax dollar expenditures resulting from reduced contract labor. 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 Bob G. Hodge, Chief Engineer, Safety and Maintenance Division, State Department of Highways and Public Transportation, 11th and Brazos Streets, Austin, Texas 78701.

The new sections are proposed under Texas Civil Statutes, Article 6666, which provide the State Highway and Public Transportation Commission with the authority to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation.

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 July 29, 1987

TRD-8706244 Diane L. Northam  
Administrative  
Technician  
State Department of  
Highways and Public  
Transportation

Earliest possible date of adoption:  
September 7, 1987

For further information, please call  
(512) 463-8630





# 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 40. SOCIAL SERVICES AND ASSISTANCE

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

#### Chapter 47. Primary Home Care

#### Sanctions

#### ★ 40 TAC §47.6901

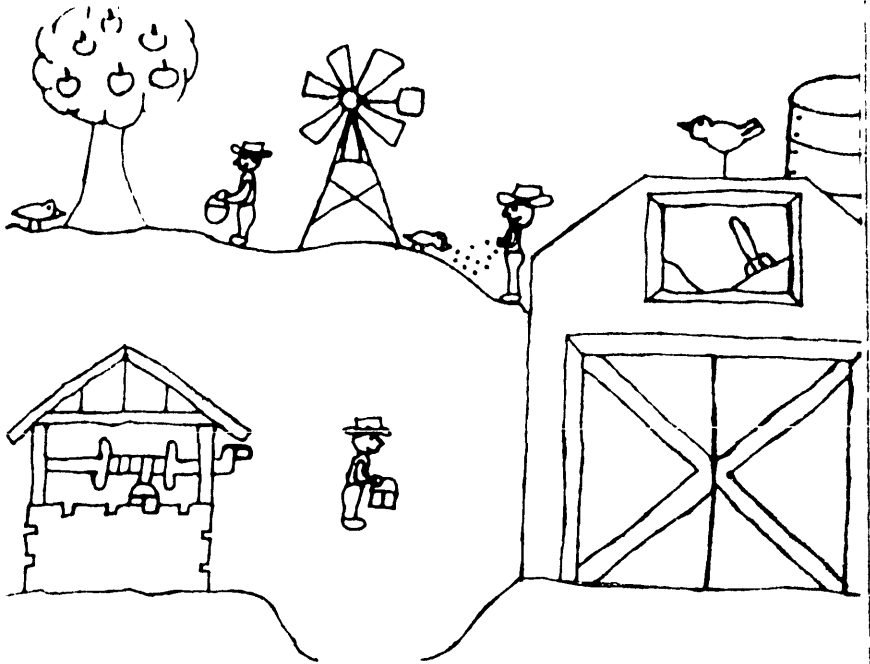
The Texas Department of Human Services has withdrawn from consideration for permanent adoption a proposed new section, concerning sanctions. The text of the proposed new section appeared in the April 14, 1987, issue of the *Texas Register* (12 TexReg 1268) The effective date of this withdrawal is July 30, 1987.

Issued in Austin, Texas, on July 30, 1987

TRD-8706266

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Filed July 30, 1987  
For further information, please call  
(512) 450-3766



Name: Aaron Gadow  
Grade: 4  
School: Burton Hill Elementary, Ft. Worth



# Adopted Rules

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

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

## TITLE 1. ADMINISTRATION

### Part I. Office of the Governor

#### Chapter 5. Office of the Governor, Budget and Planning Office Uniform Grant and Contract Management Standards

##### ★1 TAC §5.167

The Office of the Governor, Budget and Planning Office, adopts the repeal of §5.167, without changes to the proposed text published in the March 31, 1987, issue of the *Texas Register* (12 TexReg 1052).

The repeal is adopted simultaneously with the adoption of new §5.167, Circular A-128—Single Audit Requirements, concerning single audit of federal and state funds under the UGCMS.

The new section complies with the actions of the Federal Office of Management and Budget (OMB) to rescind Attachment P of Circular A-102 and execute the provisions of Circular A-128.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4413(32a), which provide the Office of the Governor, Budget and Planning Office, with the authority to establish uniform grant and contract management procedures in order to promote the efficient use of public funds in local governments.

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 July 24, 1987

TRD-8706293      Bob Davis  
Director  
Budget and Planning  
Office  
Office of the Governor

Effective date: August 20, 1987  
Proposal publication date: March 31, 1987  
For further information, please call  
(512) 463-1788

The Office of the Governor, Budget and Planning Office, adopts new §5.167, without changes to the proposed text published in the March 31, 1987, issue of the *Texas Register* (12 TexReg 1052).

The new section is adopted simultaneously with the repeal of existing §5.167, Attachment P—Audit Requirements, concerning single audit of federal and state funds under the UGCMS.

The new section complies with the action of the Federal Office of Management and Budget (OMB) to rescind Attachment P of Circular A-102 and execute the provisions of Circular A-128.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 4413(32a), which provide the Office of the Governor, Budget and Planning Office, with the authority to establish uniform grant and contract management procedures in order to promote the efficient use of public funds in local governments.

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 July 24, 1987.

TRD-8706292      Bob Davis  
Director  
Budget and Planning  
Office  
Office of the Governor

Effective date: August 20, 1987  
Proposal publication date: March 31, 1987  
For further information, please call  
(512) 463-1788.

### Part. IV. Secretary of State Chapter 71. Office of the Secretary

#### Private Use of the Great Seal

##### ★1 TAC §71.41

The Office of the Secretary of State adopts an amendment to §71.41, without changes to the proposed text published in the June 5, 1987, issue of the *Texas Register* (12 TexReg 1807).

The amendment eliminates confusion over the definition of deceptively similar representation by deleting the definition. The definition was overly broad and caused confusion for applicants. A determination of a deceptively similar representation must be made on a case-by-case basis by comparison of the representation with the great seal of Texas taking into account the nature of the use and the likelihood of deception. This determination cannot be reduced to the mechanical formula in definition.

The amendment deletes the definition of deceptively similar representation. The public will not be required to obtain a license to use the great seal when they are using a seal which is not likely to be confused with the great seal. The current definition of deceptively similar representation is so broad that it can be construed to include seals which are not likely to deceive the public.

No comments were received concerning the adoption of the amendment.

The amendment is adopted under the Business and Commerce Code, §17.08(d), which provides the secretary of state with the authority to adopt rules relating to the use of the great seal.

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 July 31, 1987.

TRD-8706333      Lorna Wassdorf  
Special Assistant  
Statutory Filings  
Division  
Office of the Secretary  
of State

Effective date: August 24, 1987  
Proposal publication date: June 5, 1987  
For further information, please call  
(512) 463-5701.

## TITLE 7. BANKING AND SECURITIES

### Part VI. Credit Union Department

#### Chapter 91. Chartering, Operations, Mergers, Liquidations

##### Organization Procedures

###### ★ 7 TAC §91.211

The Credit Union Commission adopts an amendment to §91.211, without changes to the proposed text published in the May 26, 1987, issue of the *Texas Register* (12 TexReg 1687).

This section will permit the regulatory agency of the state in which the credit union was incorporated to determine the requirement for fidelity bond coverage for out-of-state credit unions operating branch offices in Texas.

No comments were received regarding adoption of the amendment.

This amendment is adopted under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

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

Issued in Austin, Texas, on July 27, 1987.

TRD-8706181 John R. Hale  
Commissioner  
Credit Union Department

Effective date: August 17, 1987  
Proposal publication date: May 26, 1987  
For further information, please call  
(512) 837-9236.



##### Powers of Credit Union

###### ★ 7 TAC §91.402

The Credit Union Commission adopts an amendment to §91.402, without changes to the proposed text published in the May 26, 1987, issue of the *Texas Register* (12 TexReg 1686).

This section will permit destruction of certain records after microfilming following an audit of such records

No comments were received regarding adoption of the amendment.

This amendment is adopted under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit Union Act.

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

Issued in Austin, Texas, on July 27, 1987

TRD-8706180 John R. Hale  
Commissioner  
Credit Union Department

Effective date: August 17, 1987  
Proposal publication date: May 26, 1987  
For further information, please call  
(512) 837-9236



#### Chapter 97. Commission Policies and Administrative Rules

##### Fees

###### ★ 7 TAC §97.112

The Credit Union Commission adopts an amendment to §97.112, without changes to the proposed text published in the May 26, 1987, issue of the *Texas Register* (12 TexReg 1686).

This section does not require supervision fees to be paid by out-of-state credit unions operating branch offices in Texas.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 2461, §11.07, which provide the Credit Union Commission with the authority to adopt reasonable rules necessary for the administration of the Texas Credit.

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 July 27, 1987

TRD-8706179 John R. Hale  
Commissioner  
Credit Union Department

Effective date: August 17, 1987  
Proposal publication date: May 26, 1987  
For further information, please call  
(512) 837-9236



➔ *Adopted Rules*

## TITLE 19. EDUCATION

### Part I. Texas Higher Education Coordinating Board

#### Chapter 25. Administrative Council

##### Subchapter B. Administration of the Texas State College and University Employees Uniform Insurance Benefits Program

###### ★ 19 TAC §25.32

The Texas Higher Education Coordinating Board adopts an amendment to §25.32, without changes to the proposed text published in the May 19, 1987, issue of the *Texas Register* (12 TexReg 1597)

The amendment clarifies eligibility of an employee under the higher education insurance program.

The amendment brings the section into conformance with the TRS definition of employee

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Insurance Code, Article 3.50-3, which provides the administrative council with the authority to adopt rules and regulations consistent with the provisions of the Act to carry out its statutory responsibilities.

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 July 23, 1987.

TRD-8706178 James McWhorter  
Executive Secretary  
Administrative Council  
Texas Higher Education  
Coordinating Board

Effective date: August 17, 1987  
Proposal publication date: May 19, 1987  
For further information, please call  
(512) 462-6420.



## TITLE 22. EXAMINING BOARDS

### Part IV. Texas Cosmetology Commission

#### Chapter 89. General Provisions

###### ★ 22 TAC §§89.4, 89.10, 89.14, 89.15, 89.20, 89.40, 89.51, 89.52, 89.55, 89.75

The Texas Cosmetology Commission adopts amendments to §§89.4, 89.10, 89.14,

*August 7, 1987 12 TexReg 2567*

89.15, 89.20, 89.40, 89.51, 89.52, 89.55, and 89.75, without changes to the proposed text published in the June 19, 1987, issue of the *Texas Register* (12 TexReg 1951).

These sections are directly in accordance with the general provisions of the Texas Cosmetology Commission that must be followed by individuals in the cosmetology industry, schools of cosmetology, and cosmetology salons.

The amendments aid in the clarification of the statutes.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

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

Issued in Austin, Texas, on August 3, 1987.

TRD-8706340 Jo Ann Reeves  
Executive Director  
Texas Cosmetology  
Commission

Effective date: September 1, 1987  
Proposal publication date: June 19, 1987  
For further information, please call  
(512) 463-5542.



## Part XV. Texas State Board of Pharmacy

### Chapter 291. Pharmacies All Classes of Pharmacy

#### ★22 TAC §291.7

The Texas State Board of Pharmacy adopts an amendment to §291.7, without changes to the proposed text published in the March 24, 1987, issue of the *Texas Register* (12 TexReg 938).

This amendment changes the currently existing section regarding change of pharmacist-in-charge and clarifies procedures. The amendment also requires three additional controlled substances to be inventoried—the additional controlled substances represent highly abused drugs, which have been involved in audit shortages in recent investigations.

The requirement of the inventory rule when a change of pharmacist-in-charge occurs is amended to conform with the proposed changes in §291.17.

No comments were received regarding adoption of the amendment. However, please refer to comments received regarding simultaneous proposed §291.17.

The amendment is adopted under Texas Civil Statutes, Article 4542a-1, §30(e), which provide the Texas State Board of Pharmacy with the authority to specify by rule the minimum standards for professional responsibility in the conduct of a pharmacy, and §17(b)(3), which states the board has the responsibility to specify minimum standards for maintenance of prescription drugs.

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 July 31, 1987

TRD-8706362 Fred S. Brinkley, Jr  
Executive  
Director/Secretary  
Texas State Board of  
Pharmacy

Effective date: September 1, 1987  
Proposal publication date: March 24, 1987  
For further information, please call  
(512) 832-0661.



#### ★22 TAC §291.17

The Texas State Board of Pharmacy adopts the repeal of §291.17, without changes to the proposed text published in the March 24, 1987, issue of the *Texas Register* (12 TexReg 984).

The repeal and simultaneous new section provide a quick and easy reference for pharmacists who had questions about inventory requirements and promote voluntary compliance with inventory rules.

The repeal and simultaneous new section clarify the rules regarding controlled substances inventory.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4542a-1, §30(l), which provide the Texas State Board of Pharmacy to specify by rule the minimum standards for professional responsibility in the conduct of a pharmacy, and §17(b)(3), which state the board has the responsibility to specify minimum standards for maintenance of prescription drug records.

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

Issued in Austin, Texas, on July 31, 1987.

TRD-8706363 Fred S. Brinkley  
Executive  
Director/Secretary  
Texas State Board of  
Pharmacy

Effective date: September 1, 1987  
Proposal publication date: March 24, 1987  
For further information, please call  
(512) 832-0661



The Texas State Board of Pharmacy adopts new §291.17, with changes to the proposed text published in the March 24, 1987, issue of the *Texas Register* (12 Tex-Reg 985).

This new section provides a quick and easy reference for pharmacists who had questions about inventory requirements and promotes voluntary compliance with inventory rules.

This new section incorporates currently existing federal and state inventory requirements into one rule, it also requires an annual inventory of controlled substances.

Comments included objections to requiring annual inventory for all controlled substances on hand in all areas of the hospital; objection to requiring an annual inventory, recommendation that annual inventory be done at the time of the general fiscal inventory, notarization of inventory is an extra cost nuisance; recommendation to allow out-of-date controlled substances to be inventories on a DEA-Form 41; a provision to allow pharmacy inventory to be filed with general inventory but in a separate subsection.

The Texas Pharmaceutical Association commented for the new section. The Texas Society of Hospital Pharmacists, Texas Department of Mental Health and Mental Retardation, Diagnostic Center Hospital, Humana Women's Hospital, Cigna HealthPlan of Texas, St. Anthony's Hospital, Saint Rose Catholic Hospital/Villa Rosa, High Plains Baptist Hospital, San Antonio State Hospital, North Texas Hospital, Southeast Baptists Hospital, HCA South Austin Medical Center, Santa Rosa Medical Center, Mainland Center Hospital, DeTar Hospital, All Saints Episcopal Hospital, Round Rock Community Hospital, University of Texas Medical Branch, Mainland Center Hospital, The Woodland Community Hospital, Kings Daughters Hospital, and Humana Hospital of San Antonio commented against a specific part of the section, but not against the section in its entirety.

The agency incorporated several changes to the section as a result of the comments submitted. The agency disagreed with objection to the annual inventory and notarization because the board believes that an annual inventory would assist pharmacists to comply with inventory rules. The notarization is required to assist in determining the time/date the inventory took place.

The new section is adopted under Texas Civil Statutes, Article 4542a-1, §30(e), which provide the Texas State Board of Pharmacy with the authority to specify by rule, the minimum standards for professional responsibility in the conduct of a pharmacy and §17(b)(3), which states the board has the responsibility to specify minimum standards for maintenance of prescription drug records.



§291.17. *Controlled Substances Inventory Requirements.*

(a) General requirements

(1) The pharmacist-in charge shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person(s)

(2) The inventory shall be maintained in a written, typewritten, or printed form. An inventory taken by use of an oral recording device must be promptly transcribed.

(3) The inventory shall be kept in the pharmacy and shall be available for inspection for two years.

(4) The inventory shall be filed separately from all other records.

(5) The inventory shall include all controlled substances on hand on the date of the inventory (including any controlled substances which are out-of-date).

(6) The inventory may be taken either as of the opening of business or as of the close of business on the inventory date.

(7) The inventory record shall indicate whether the inventory is taken as of the opening of business or as of the close of business on the inventory date, with the following exceptions.

(A) In a Class A (community) pharmacy that is open 24 hours a day, the inventory record shall indicate the prescription number of the last prescription filled during the inventory.

(B) In a Class C (institutional) pharmacy that is open 24 hours a day, the inventory record shall indicate the time the inventory was completed.

(8) The person(s) taking the inventory and the pharmacist-in-charge shall indicate the time the inventory was taken (as specified in paragraph (7) of this subsection) and shall sign and date the inventory with the date the inventory was taken. The signature of the pharmacist-in-charge and the date of the inventory shall be notarized within 72 hours or three working days of the completed annual controlled substances inventory.

(9) The person(s) taking the inventory shall make an exact count or measure of all substances listed in Schedule I or II.

(10) The person(s) taking the inventory shall make an estimated count or measure of all substances listed in Schedule III, IV, or V, unless the container holds more than 1,000 tablets or capsules, in which case an exact count of the contents must be made.

(11) The inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV, and V controlled substances.

(12) If a pharmacy maintains a perpetual inventory of controlled substances, the perpetual inventory shall be reconciled on the date of the inventory.

(b) Initial inventory.

(1) A new Class A (community) pharmacy or Class C (institutional) pharmacy that is registered under the Texas and

Federal Controlled Substances Acts shall take an inventory of all controlled substances on hand on the opening day of business.

(2) In the event the Class A or C pharmacy commences business with no controlled substances on hand, the pharmacy shall record this fact as the initial inventory.

(3) The initial inventory shall serve as the pharmacy's inventory until the next May 1, or until the pharmacy's regular general physical inventory date, at which time the Class A or C pharmacy shall take an inventory of all controlled substances on hand; the inventory may be taken within four days of this date.

(c) Annual inventory.

(1) A Class A or C pharmacy shall take an inventory of all controlled substances on hand (including any controlled substances which are out-of-date) on May 1 of each year, or on the pharmacy's regular general physical inventory date; the inventory may be taken within four days of this date.

(2) A Class A or C pharmacy applying for renewal of a pharmacy license shall include as a part of the pharmacy license renewal application a statement attesting that an annual controlled substances inventory has been conducted, the date of the inventory, and the name of the person taking the inventory.

(d) Change of ownership.

(1) A Class A or C pharmacy that changes ownership shall take an inventory of all controlled substances on hand (including any controlled substances which are out-of-date) on the date of change of ownership.

(2) Such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer.

(3) Transfer of any controlled substances listed in Schedule I or II shall require the use of official DEA order forms (Form 222C).

(e) Closed pharmacies. The pharmacist-in-charge of a Class A or C pharmacy that ceases to operate as a pharmacy shall forward to the board, within 10 days of the cessation of operation, a statement attesting that an inventory of the controlled substances on hand has been conducted, the date of closing, and a statement attesting the manner by which the controlled substances possessed by such pharmacy were transferred or disposed.

(f) Requirements for Class C (institutional) pharmacies.

(1) Perpetual inventory.

(A) A Class C pharmacy shall maintain a perpetual inventory of all Schedule II controlled substances.

(B) The perpetual inventory shall be reconciled on the date of the annual inventory.

(2) Annual inventory.

(A) An inventory shall be conducted of all controlled substances on hand in the institution on May 1 of each year, or

on the pharmacy's regular general physical inventory date; the inventory may be taken within four days of this date.

(B) The annual inventory of the institution shall include all controlled substances on hand in the pharmacy.

(C) The inventory of the institution shall be maintained in the pharmacy; if an inventory of controlled substances is conducted in other departments within the institution, the inventory of the pharmacy shall be listed separately, as follows.

(i) The inventory of controlled substances on hand in the pharmacy shall be listed separately from the inventory of the controlled substances on hand in the other areas of the institution.

(ii) The inventory of controlled substances on hand in all other departments shall be identified by department.

(g) Change of pharmacist-in-charge of a pharmacy.

(1) On the date of change of the pharmacist-in-charge of a Class A (community) or Class C (institutional) pharmacy, an inventory of the following controlled substances shall be taken:

(A) all Schedule II controlled substances;

(B) all dosage forms containing Pentazocine (Talwin);

(C) all dosage forms containing Phentermine (Ionamin, Fastin, Adipex-P, etc.);

(D) all dosage forms containing Diazepam (Valium);

(E) all dosage forms containing Phendimetrazine (Bontril, Plegine, Prelu-2, etc.);

(F) all oral liquid dosage forms containing Codeine;

(G) all dosage forms containing Hydrocodone (Tussionex, Tussend, Vicodin, Hycomine, etc.);

(H) all dosage forms containing Alprazolam (Xanax); and

(I) all dosage forms containing Triazolam (Halcion).

(2) This inventory shall constitute, for the purpose of this section, the closing inventory of the departing pharmacist-in-charge and the beginning inventory of the incoming pharmacist-in-charge.

(3) If the departing and the incoming pharmacists-in-charge are unable to conduct the inventory together, a closing inventory shall be conducted by the departing pharmacist-in-charge and a new and separate beginning inventory shall be conducted by the incoming pharmacist-in-charge.

(4) The incoming pharmacist-in-charge shall be responsible for the following actions:

(A) deleting the name of the departing pharmacist-in-charge on the pharmacy license;

(B) entering the name of the incoming pharmacist-in-charge on the pharmacy license;

(C) notifying the board in writing that a change of pharmacist in charge has occurred. The notification shall include the following:

(i) the name and license number of the departing pharmacist-in-charge;

(ii) the name and license number of the incoming pharmacist-in-charge;

(iii) the date the incoming pharmacist-in-charge became the pharmacist-in-charge; and

(iv) a statement that an inventory has been conducted by the departing and incoming pharmacist-in-charge; if the inventory was not taken by both pharmacists, the statement shall provide an explanation.

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 July 31, 1987

TRD-8706364

Fred S. Brinkley, Jr.,

RDH,

Executive Director

Texas State Board of  
Pharmacy

Effective date: September 1, 1987

Proposal publication date: March 24, 1987

For further information, please call  
(512) 832-0661.



## Community Pharmacy (Class A)

### ★ 22 TAC §291.39

The Texas State Board of Pharmacy adopts new §291.39, with changes to the proposed text published in the March 24, 1987 issue of the *Texas Register* (12 Tex-Reg 505). Nonsubstantive changes appear in subsection (e)(2)(D) and (E), regarding records, subsection (f)(3)(A)(i), regarding substitution on prescriptions, subsection (i)(1) regarding copies of prescriptions dispensed to Texas residents, and new subsection (j) regarding disciplinary action. These changes were made as a result of comments received during the public hearing and public comments period.

The new section provides adequate safeguards to the citizens of Texas when their drugs are dispensed by facilities not located in the state of Texas.

The new section provides standards in the conduct, practice, activities, and operation of a pharmacy located in a state in the United States other than Texas, that dispense prescriptions to Texas residents using the United States Postal Service or other common carrier.

Comments received in support of the new section endorsed the regulations requiring that pharmacists located in states other than Texas dispense prescriptions to Texas residents through the United States Postal Service or other common carriers, be registered with the Board of Pharmacy. Additionally, these comments endorsed the requirement that the pharmacist-in-charge of such a pharmacy be licensed by the State of Texas and that compliance with appropriate state laws be required. Comments received against the proposed rule included the following.

Concerning Subsection (d), comments stated that out-of-state pharmacies did not want to obtain a pharmacy license because the public benefits of providing standards for out-of-state pharmacies can be provided without the imposition of provisions that violate the United States Constitution or deprive Texans of the option of purchasing their maintenance drugs from mail order pharmacies. Regulations are considered to be in violation of the Commerce Clause of the United States Constitution if they place that burden on interstate commerce that is not balanced by a reasonable means of protecting commensurate local interests.

An alternative solution suggested a disclosure statute which does not require a formal and revocable license by an out-of-state pharmacy and does not subject the pharmacy to Texas rules and regulations in addition to those of its home locality. A second section was also recommended to enable the Texas Board of Pharmacy to facilitate and enhance the enforcement efforts of other boards with jurisdiction over mail service pharmacies which serve Texas residents. The board disagreed. In addition, the board included subsection (j) to address the enforcement provisions of the Texas Pharmacy Act.

Concerning subsection (c), comments received stated that out-of-state pharmacies would be unable to comply with this section because they did not employ a pharmacist licensed in Texas. Further, it would be too burdensome to have a staff pharmacist become licensed in Texas, especially if all states required an out-of-state pharmacy to obtain a license and employ a pharmacist licensed in their state. This situation would require the out-of-state pharmacy to have 50 pharmacy licenses, and a pharmacist with licenses in 50 states. The board disagrees.

Subsection (e)(2)(D), requires an out-of-state pharmacy to dispense a Schedule II controlled substance after the second day following the date of issuance, which is consistent with the Texas Controlled Substances Act. Comments received stated that a two-day time period was unreasonable since patients had to rely on the United States Postal Service to

mail their prescriptions to an out-of-state pharmacy. The board agreed and changes are made.

Subsection (e)(2)(E) required an out-of-state pharmacy to mail Copy I of the Texas triplicate form to the Texas Department of Public Safety. Comments received stated that an out-of-state pharmacy was required to retain original records on file in the state in which the pharmacy was located. The board agreed and changes are made.

Subsection (f)(3)(ii) addressed substitution on prescriptions not issued in Texas. Comments stated this requirement may cause out-of-state pharmacies to violate the substitution regulations in the state in which the pharmacy was located. The board agreed and changes are made.

Concerning subsection (i)(1), the comments received stated that an out-of-state pharmacy was required to retain original records on file in the state in which the pharmacy was located. The board agreed and changes are made.

The Attorney General of Texas rendered Opinion JM-555, based upon the Texas Pharmacy Act, which states in part: "Out-of-state mail-order pharmacists or pharmacies which fill prescriptions for Texas residents clearly deliver, dispense, or distribute those prescriptions in Texas. Consequently, the legislature granted authority in Sections 17 and 19 of Article 4542a-1 to regulate mail-order sales or transfers of prescription drugs from out-of-state pharmacists and pharmacies to persons within Texas with regard to the aspects of such practice that may directly affect users residing in Texas. The Texas State Board of Pharmacy may regulate out-of-state mail-order pharmacists only to the extent that they actually engage in the practice of pharmacy or dispense, deliver, or distribute prescription drugs within the state of Texas. Such regulation is not per se unconstitutional under the Commerce Clause of the United States Constitution."

The board believes these rules are necessary to provide adequate safeguards to the citizens of Texas when their drugs are dispensed by facilities not located in the state. Unless these pharmacies are licensed by TSBP, the board has no mechanism to regulate their practices in the public interest. In addition, the rules which have been proposed by the TSBP serve a legitimate public interest and do not appear to impose an unreasonable burden on interstate commerce. The proposed section represents the minimum standards needed to protect the health, safety, and welfare of the citizens of Texas who receive services from pharmacies operating outside the State of Texas.

The Texas Pharmaceutical Association, and the Texas Department of Public Safety commented for the new section. The American Association of Retired Persons,

Preferred Prescription Service, Texas Retired Persons Pharmacy, Medco Containment Services, Inc., and Baxter Travenol Labs, commented against the new section.

The new section is adopted under Texas Civil Statutes, Article 4542a-1, §17 and §19, which provide the Texas State Board of Pharmacy with the authority to regulate mail-order sales or transfers of prescription drugs from out-of-state pharmacists or pharmacies to persons within Texas with regard to the aspects of such practice that may directly affect users residing in Texas.

*§291.39. Pharmacies Located in a State other than Texas.*

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

(1) Act—The Texas Pharmacy Act, Texas Civil Statutes, Article 4542a-1.

(2) Board—The Texas State Board of Pharmacy.

(3) Controlled substance—A drug, immediate precursor, or other substance included in Schedule I, II, III, IV, or V of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended (Public Law 91-513).

(4) Dangerous drug—Any drug or device that is not a controlled substance and that is unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(A) "Caution: federal law prohibits dispensing without prescription;" or

(B) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

(5) Dispense—Preparing, packaging, compounding, or labeling for delivery a prescription drug or device in the course of professional practice to an ultimate user or his agent by or pursuant to the lawful order of a practitioner.

(6) Distribute—The delivery of a prescription drug or device other than by administering or dispensing.

(7) Generically equivalent drug—A drug that is pharmaceutically equivalent and therapeutically equivalent to the drug prescribed.

(8) Pharmaceutically equivalent drugs—Drug products which have identical amounts of the same active chemical ingredients in the same dosage form and which meet the identical compendial or other applicable standards of strength, quality, and purity according to the United States Pharmacopeia or other nationally recognized compendium.

(9) Pharmacist-in-charge—The pharmacist designated on a pharmacy license as the pharmacist who has the authority or responsibility for a pharmacy's compliance with laws and rules pertaining to the practice of pharmacy.

(10) Practitioner

(A) A physician, dentist, podiatrist, veterinarian, or other person licensed or registered to distribute or dispense a prescription drug or device in the course of professional practice in this state;

(B) A person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs; or

(C) A person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV, or V controlled substances in such other state. Practitioner does not include a person licensed under this Act.

(11) Prescription drug order—A written order from a practitioner or a verbal order from a practitioner or his authorized agent to a pharmacist for a drug or device to be dispensed.

(12) Therapeutically equivalent drugs—Pharmaceutically equivalent drug products which, when administered in the same amounts, will provide the same therapeutic effect, identical in duration and intensity.

(b) Purpose. The purpose of this section is to provide standards in the conduct, practice, activities, and operations of a pharmacy located in a state in the United States other than Texas that dispense prescriptions to Texas residents using the United States Postal Service or other common carrier.

(c) Personnel.

(1) All pharmacists shall have a current license in good standing to practice pharmacy in the state where the pharmacy is located.

(2) At least one pharmacist shall be licensed to practice pharmacy by the Texas State Board of Pharmacy, which such pharmacist shall be designated as the pharmacist-in-charge on the pharmacy license issued by the Texas State Board of Pharmacy.

(3) The pharmacist-in-charge shall ensure that the pharmacy is in compliance with laws and rules governing the practice of pharmacy in the state where the pharmacy is located, and federal laws or rules governing the practice of pharmacy and the rules set out in this section.

(d) Licensing requirements.

(1) A pharmacy located in a state in the United States other than Texas that dispenses prescriptions to Texas residents using the United States Postal Service or other common carrier shall register annually with the board on an application provided by the board.

(2) The pharmacist-in-charge of the pharmacy and the owner/managing executive officer of the pharmacy shall sign the application and shall agree to comply with the board rules set out in this section.

(3) The application shall be notarized and state whether the pharmacy is a sole ownership and give the name of the

owner, or if a partnership, name all the managing partners, or if a corporation, name all the managing officers.

(4) The pharmacy shall have a current pharmacy license in good standing issued by the state in which the pharmacy is located.

(5) When a pharmacy changes ownership, a new and separate license application must be filed with the board and the previously issued license returned to the board's office with the application for a new license.

(6) When a pharmacy changes name and/or location, an application for an amended license must be filed with the board and the previously issued license returned to the board's office with the application for an amended license.

(7) The fees as set out in §291.6 of this title (relating to Pharmacy License Fees) shall be charged for the issuance of a new license, the renewal of a pharmacy license, or the issuance of an amended license.

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

(9) A pharmacy shall notify the board in writing within 10 days of a change of the pharmacist-in-charge.

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

(e) Records.

(1) General. Records of controlled substances and noncontrolled prescription drugs shall be maintained in accordance with the laws and rules of the state where the pharmacy is located.

(2) Triplicate Prescriptions.

(A) A Schedule II controlled substance prescription issued in Texas may not be dispensed without a prescription of a practitioner written on a triplicate prescription form provided by the Texas Department of Public Safety.

(B) Upon receipt of Copy 1 and Copy 2 of a properly completed Texas triplicate prescription for a Schedule II controlled substance, each dispensing pharmacist shall utilize the "Pharmacy Use Only" section and record the following:

(i) pharmacy name, address, area code/telephone number, and Drug Enforcement Administration number. This information may be printed, typed, or rubber stamped, or the pharmacist may use a label that is securely affixed in this area;

(ii) the dispensing pharmacist's signature, entered in a space located directly below the pharmacy information; and

(iii) the date filled and the pharmacy prescription number, entered in the spaces provided.

(C) The dispensing pharmacist shall ensure that the drug prescribed and/or its substitute is legible on Copy 1 and Copy 2 of the triplicate prescription.

(D) No Schedule II prescription

may be dispensed after the end of the seventh day following the date of issuance.

(E) Within 30 days from the date a pharmacist dispenses a triplicate prescription, the pharmacy is required to mail a photocopy of Copy 1 of the form to the Texas Department of Public Safety, Triplicate Prescription Section, P.O. Box 4087, Austin, Texas 78773.

(f) Drug product selection.

(1) Pharmacist's responsibility. The determination of the drug product to be substituted as authorized by the Act, §40, is the professional responsibility of the pharmacist, and the pharmacist may not dispense any product that does not meet the requirements of the Act §40.

(2) Notification. A pharmacist who selects a generically equivalent drug product as authorized by the Act, §40, shall inform the patient or the patient's agent prior to delivery of a generically equivalent drug product through one of the following methods:

(A) personally or telephonically, or through his agent or employee, that a less expensive generically equivalent drug product has been substituted for the brand prescribed and that the patient or his agent has the right to refuse such substitution; or

(B) written notice provided to the patient or his agent, in both English and Spanish, which reads: "Texas law allows a less expensive generically equivalent drug to be substituted for certain brand name drugs unless your physician directs otherwise. You have a right to refuse such substitution. Consult your physician or pharmacist concerning the availability of a safe, less expensive drug for your use;" "Las leyes de Texas permiten que se sustituya una medicina genericamente equivalente y menos cara por ciertas medicinas de marca reconocida a menos que su medico instuya de otra manera. Ud. Tiene el derecho de rehusar dicha sustitucion. Consulte a su medico o farmaceutico con referencia a la disponibilidad de una medicina segura y menos cara para su uso."

(3) Records.

(A) Written prescription drug orders.

(i) A pharmacist may not dispense a prescription issued in Texas unless it is ordered on a form containing two signature lines of equal prominence, side by side, at the bottom of the form. Under either signature line shall be printed clearly the words "product selection permitted," and under the other signature line shall be printed clearly the words "dispense as written." If the practitioner's signature does not clearly indicate that the prescription must be dispensed as written, generically equivalent drug selection is permitted.

(ii) Substitution on prescriptions not issued in Texas shall be in accordance with the laws and rules of the state where the pharmacy is located.

(B) Oral prescription drug orders.

(i) If a prescription is transmit-

ted to a pharmacist orally, the pharmacist shall note any dispensing instructions by the practitioner or practitioner's agent on the file copy of the prescription.

(ii) Such file copy may follow the two-line format indicated in subparagraph (A)(i) of this paragraph, or any other format that clearly indicates the dispensing instructions.

(iii) Refills authorized on such prescription shall follow the original dispensing instructions, unless otherwise indicated by the practitioner or practitioner's agent.

(iv) If the practitioner or practitioner's agent does not indicate that the prescription drug must be dispensed as ordered, generically equivalent drug selection is permitted.

(C) Product Selection. If a generically equivalent drug is dispensed on oral or written prescriptions, the pharmacist shall note on the face of the prescription the name, strength, and manufacturer or distributor of the drug product actually dispensed. This information shall also be indicated:

(i) on the prescription, when it is refilled with a generically equivalent drug from a different manufacturer or distributor than was previously dispensed; and

(ii) on the patient medication records, if such document is utilized for providing and recording refill information.

(g) Labeling requirements. The label affixed on the dispensing container of any prescription dispensed by a pharmacy pursuant to a prescription drug order shall bear:

(1) unique identification number of the prescription;

(2) the name and address of the pharmacy;

(3) the name of the patient, or if such drug was prescribed for an animal, the species of the animal and the name of its owner;

(4) the name of the prescribing practitioner;

(5) the date of prescription is dispensed;

(6) the instructions for use;

(7) unless otherwise directed by the prescribing practitioner, in addition to the information listed in this subsection, either the brand name and strength, or if no brand name, then the generic name of the drug dispensed, the strength of the drug, and the name of the manufacturer or distributor of such generic drug, on the label. The name of the manufacturer or distributor may be reduced to an abbreviation or initials, provided the abbreviation or initials are sufficient to identify the manufacturer or distributor. For combination drug products having no brand name, the principal active ingredients shall be indicated on the label; and

(8) if a drug product is dispensed other than the one prescribed, the statement, "Substituted for brand prescribed," or an auxiliary label bearing such statement, affixed to the dispensing container. The brand name of the prescribed drug shall not appear

on the prescription label unless it is the drug product actually dispensed.

(h) Library. A reference library shall be maintained which includes current copies of the following:

(1) Texas Pharmacy Act and Rules;

(2) Texas Dangerous Drug Act;

(3) Texas Controlled Substances Act and Rules; and

(4) Federal Controlled Substances Act and Regulations (or official publication describing the requirements of the Federal Controlled Substances Act and Regulations).

(i) Records to be provided to the Texas State Board of Pharmacy.

(1) At the request of the Texas State Board of Pharmacy, a pharmacy shall provide the Texas State Board of Pharmacy, certified copies of prescriptions dispensed to Texas residents.

(2) A pharmacy shall provide the board copies of any inspection reports resulting from an inspection conducted by the State Board of Pharmacy of the state where such pharmacy is located.

(j) Disciplinary action. The board may, in its discretion, refuse to issue or renew a license or may fine, reprimand, revoke, restrict, cancel, or suspend any license granted by the board, and may probate any license suspension, if the board finds that the applicant or licensee has violated any provision of the Act, §26.

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 July 31, 1987.

TRD-8706365

Fred S. Brinkley, Jr.  
Executive  
Director/Secretary  
Texas State Board of  
Pharmacy

Effective date August 24, 1987

Proposal publication date: March 24, 1987

For further information, please call

(512) 832-0661



## Part XXIV. State Board of Veterinary Medical Examiners Chapter 573. Rule of Professional Conduct

### ★ 22 TAC §573.31

The Texas Board of Veterinary Medical Examiners adopts an amendment to §573.31, with changes to the proposed text published in the February 27, 1987, issue of the *Texas Register* (12 TexReg 644).

The amendment makes information concerning an animal's rabies vaccination readily available to consumers.



The amendment requires rabies tags to carry information as to the doctor of veterinary medicine and clinic address and/or phone number in order that the animal's vaccination record concerning rabies is readily available in case of bite, etc.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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 or address, and the title "rabies."

(b) (No change.)

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

Issued in Austin, Texas, on July 28, 1987.

TRD-8706259 Donald B. Wilson  
Executive Secretary  
Texas Board of  
Veterinary Medical  
Examiners

Effective date: August 20, 1987  
Proposal publication date: February 27, 1987  
For further information, please call  
(512) 458-1183

## Chapter 575. Practice and Procedures

### ★22 TAC §575.13

The Texas Board of Veterinary Medical Examiners adopts an amendment to §575.13, without changes to the proposed text published in the February 27, 1987, issue of the *Texas Register* (12 TexReg 645).

The amendment requires respondents in contested cases to pay for copies of transcripts of agency proceedings when appealing a decision, which in turn saves the agency several hundred dollars annually.

The amendment specifies that the respondent in contested cases will pay for certified copies of transcripts when appealing a board decision.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on July 28, 1987.

TRD-8706261 Donald B. Wilson  
Executive Secretary  
Texas Board of  
Veterinary Medical  
Examiners

Effective date: August 20, 1987  
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For further information, please call  
(512) 458-1183

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department

#### Chapter 65. Wildlife

##### Subchapter U. Type II Wildlife Management Area—Public Hunting Lands

### ★31 TAC §§65.701-65.707

The Texas Parks and Wildlife Commission adopts new §§65.701-65.707. Sections 65.702-65.705 are adopted with changes to the proposed text published in the June 23, 1987, issue of the *Texas Register* (12 TexReg 2005). Changes to the proposed text clarify who may enter, hunt, and take in §65.701(a) and (b) and in §65.702 prohibit the use of dogs to take javelina in §65.704(b); change the word "quadraplegic" to "paraplegic" in §65.704(d); change the word "any" to "a" in §65.704(e), to clarify text; change the phrase "such as" to "including" in §65.704(f), to clarify text; change text of §65.704(k) to permit the executive director to establish camping restrictions; add new subsection (l) to §65.704, which provides additional restrictions to specific wildlife management areas; and completely change and add text to §65.705 which clarifies who may enter Type II areas without a Type II permit. Sections 65.701, 65.706, and 65.707 are adopted without changes and will not be republished.

The new sections provide a mechanism which permits the department to offer low cost family oriented public hunting to a large segment of the state's population.

The new sections provide regulations that allow the opportunity for spontaneous hunting for many game species on over 350,000 acres of land that will be controlled by the department.

Comments from the public regarding adoption of the new sections were received by letter and telephone. Six commenters opposed the concept by letter or telephone.

Two persons made comments in favor of adoption of the new sections. Both persons favored the Type II low cost public hunting concept, although one person felt landowners should be guaranteed a minimum lease fee, the permit fee should be increased, an increased fee should be charged to permittees if the area is within 20 miles of a large hunter population, and the Type II program might compete with at least one private sector hunting program. No persons made comments at the commission public hearing for or against adoption of the new sections. All public comments are available for public inspection at the Texas Parks and Wildlife Headquarters Complex, 4200 Smith School Road, Austin, Texas 78744, telephone (512) 389-4974.

The Texas Parks and Wildlife Commission disagreed with several of the comments made by telephone or letter as the comments were judged not to be compatible with the overall concept of providing low cost family oriented public hunting opportunity to a large group of people.

The new sections are adopted under the Parks and Wildlife Code, Chapter 81, Subchapters A and E, which provides the Texas Parks and Wildlife Commission with authority to regulate seasons, numbers, means, methods, and conditions for taking wildlife resources on wildlife management areas.

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

Immediate supervision—Control of the actions of a person less than 17 years of age by the parent or guardian by the use of verbal instructions in a normal voice level.

Loaded firearm—A firearm containing a live round of ammunition within the chamber and/or magazine, or if muzzle-loading, one which has a cap on the nipple or a priming charge in the pan.

Type II permit—An annual permit, valid from September 1-August 31 of the following year, issued to an individual to allow the entering, hunting, and taking of wildlife resources on land designated as a Type II Wildlife Management Area in accordance with commission adopted regulations for the county where the Type II Wildlife

Management Area is located.

Type II Wildlife Management Area—Land under the authority of the Type II Wildlife Management Area Proclamation which provides public hunting under an annual permit.

Wildlife resources—Game animals, game birds, fur-bearing animals, alligators, frogs, exotic mammals, predatory animals, rabbits and hares, and other wild fauna.

*§65.703. Open Seasons, Bag and Possession Limits, and Means and Methods.*

(a) The open seasons, bag limits, possession limits, means, methods, and other rules that apply to Type II Wildlife Management Area—Public Hunting Lands are the same for the species as those commission-adopted regulations for the county where the Type II Area lies, except as provided by §76.704 of this title (relating to Exceptions).

(b) The executive director may close a Type II Wildlife Management Area to the taking of a wildlife resource if surveys determine the wildlife resource is depleted or is being depleted.

*§65.704. Exceptions.* The exceptions to commission adopted regulations provided by this section apply to all Type II Wildlife Management Areas.

(a) The use of a dog or dogs when hunting deer or javelina is prohibited.

(b) Except on national grasslands and General Land Office lands designated as Type II areas, the use of a dog or dogs to hunt, pursue, or take bobcats, coyotes, and fur-bearing animals is prohibited during the period of 30 minutes before sunrise through 30 minutes after sunset.

(c) Possession of a loaded firearm within or on a motor vehicle is prohibited.

(d) Hunting from a vehicle is prohibited, except paraplegics and single or double amputees of the legs may hunt from a stationary vehicle provided the hunting is not conducted on a road.

(e) Hunting from a road is prohibited. For purposes of this subsection, a road is defined as a road that can be negotiated by a motor vehicle.

(f) Motor vehicles including all-terrain vehicles, three-wheelers, four-wheelers, and dirt bikes may be used only to travel to and from the hunting area by the most direct route.

(g) Persons less than 17 years of age must hunt under the immediate supervision of a parent or guardian who possesses a Type II Wildlife Management Area permit.

(h) Permanent hunting blinds, stands, towers, or platforms are prohibited. The use of temporary hunting blinds, stands, towers, or platforms is permitted on the condition that such structures not be nailed to merchantable timber, be emplaced no longer than 72 hours, and all materials be removed from the area upon completion of the hunt.

(i) A hunting blind, stand, tower, or platform may not be emplaced within fifty yards of any road or marked boundary.

(j) Each hunter must visibly wear a minimum of 400 square inches of daylight fluorescent orange material with 144 square inches appearing on both the chest and back when hunting any wildlife resource on a Type II Wildlife Management Area, except that persons hunting waterfowl and turkey are exempt from this requirement.

(k) The executive director may establish restrictions on camping consistent with the type of hunting season and the environmental protection of the area.

(l) The restrictions listed in this subsection apply only to specific areas.

(1) On the Matador Wildlife Management Area, entering, hunting, and taking of wildlife resources is limited to dove and quail, and then only during the designated seasons.

(2) On the Black Gap Wildlife Management Area, the hunting of mule deer is restricted by a random drawing of a limited number of mule deer permits.

(3) The Black Gap Wildlife Management Area is closed to all public use except a specially permitted mule deer hunters during the period November 23-December 6, 1987.

(4) On the Black Gap Wildlife Management Area, hunting of javelina is permitted only during the period January 16-February 29, 1988.

(5) On the Black Gap Wildlife Management Area, fur-bearing animals and predators may not be taken.

(6) On the Black Gap and Matador Wildlife Management Areas, hunters must register at area headquarters immediately upon arrival and prior to departing must complete a harvest questionnaire.

(7) On the Richland Creek Wildlife Management Area, north of U.S. Highway 287, only shotguns are permitted.

*§65.705. Permit Required.*

(a) Except as provided in subsection (b) of this section, no person 13 years of age or older may enter or hunt on a Type II Wildlife Management Area without having in his or her possession a Type II Wildlife Management Area—Public Hunting Lands permit.

(b) The permit required under subsection (a) of this section is not required for:

(1) persons who enter on United States Forest Service lands designated as a Type II Area for purposes other than hunting;

(2) persons who are authorized by, and acting in an official capacity for the department or the landowners of the Type II Areas; and

(3) persons owning land within the boundaries of a Type II Area while traveling to or from their property.

(c) A person, by this signature on the permit, waives all liability towards the landowner (licensor) and Texas Parks and Wildlife Department (licensee). The text of the disclaimer of liability being:

"This permit allows entry upon lands owned by licensor and licensed to Texas Parks and Wildlife Department. Neither licensor nor the Texas Parks and Wildlife Department know what type of conditions exist upon any of such lands, nor the number or proficiency of other participating hunters, and they specifically do not make any warranty or representation of any type, kind or character, whatsoever, as to existing conditions upon said lands or as to the suitability or nonsuitability of such lands for hunting purposes. Any persons entering upon such lands enters at his or her own risk, impliedly accepts such lands in the existing conditions, and recognize that all hunting is potentially dangerous because of the use of firearms by hunters of varying degrees of proficiency, and in consideration of being permitted to participate in this public hunting program, I, and as parent or guardian of any accompanying minor, unconditionally release and holds harmless licensor and licensee against and for all liability, cost, expenses, claims and damages for which licensor and licensee might otherwise become liable by reason of any accidents, or injuries to or death of any persons, or damage to property, or both, in any manner arising or resulting from, caused by, connected with, or related to the presence of any such person upon such land and premises, regardless of how, where, or when such injury, death, or damage occurs even if caused by the negligence of licensor and licensee, its agents, servants, or employees, or due to conditions on or defects in the premises. I, the permittee, have read this release and understand all its terms. I execute it voluntarily with full knowledge of its significance."

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 July 30, 1987.

TRD-8706256 Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: August 20, 1987  
Proposal publication date: June 23, 1987  
For further information, please call  
(512) 389-4974.



## Part III. Texas Air Control Board

### Chapter 116. Control of Air Pollution by Permits for New Construction or Modification

#### ★31 TAC §§116.3, 116.7, 116.10

The Texas Air Control Board (TACB) adopts amendments to §§116.3, 116.7, and 116.10, with changes to the proposed text published in the March 17, 1987, issue of the *Texas Register* (12 TexReg 891). The amendment to §116.3 incorporates by reference federal rules concerning limits on the credit for reductions in air quality impacts due to dispersion techniques, and prevention of significant deterioration (PSD) of air quality. The amendment to §116.10 eliminates, for most TACB permit applications, the requirement for a preliminary determination to issue or deny the permit. The amendments to §116.7 and §116.10 establish time limits for interested persons to request a public hearing on an application for a permit, special permit, or permit continuance. Included with the amendments, but not published in the *Texas Register*, is an introductory statement to the PSD state implementation plan (SIP). This narrative statement is a commitment by the TACB to carry out specific elements of the PSD SIP requirements.

A public hearing was held in Austin on April 16, 1987. Testimony was received from nine commenters during the comment period. Those commenting in favor of the proposal were Cities Service Oil and Gas Corporation (Cities Service), Texas Mid-Continent Oil and Gas Association (TMOGA), Texas Utilities Electric Company (TU Electric), Texas Chemical Council (TCC), and Houston Lighting and Power Company (HL&P). Those commenting against the proposal were the Sierra Club Lone Star Chapter (Sierra Club), Brandt Mannchen, James Blackburn, and the United States Environmental Protection Agency (EPA). All comments addressed the proposed revisions and have been divided into parts which correspond to the amended sections.

The changes to §116.3(a)(13) and (14) include several wording changes in the TACB rules for PSD permitting and stack heights. These changes reflect agreements reached between EPA and TACB as a result of correspondence and personal meetings, to enhance federal approvability of the Texas PSD and stack height SIPs. These two areas of the Texas SIP must be approved by EPA before Texas receives full delegation of authority for the PSD permitting program. Six commenters submitted remarks concerning the proposed changes to this section. TMOGA, Cities Service, TU Electric, TCC, and HL&P supported the changes, while EPA suggested some minor wording changes to enhance

approvability as a SIP revision.

Regarding TACB's proposed incorporation of federal PSD regulations by reference, EPA requested that the word "accepted" in the fourth sentence of paragraph (13) be replaced by the words "currently approved," and that the word "accepted" in the fifth sentence be replaced by the word "approved," both for consistency with federal regulatory language. Also, EPA requested a rearrangement of part of the fifth sentence to emphasize case-by-case approval of nonguideline models, to eliminate any implication that generic models could be approved on a case-by-case basis, and to allow the section language to be consistent with the federal regulations. Further, EPA recommended the word "written" be added before "...approval of the administrator of the EPA," with respect to any approval of TACB nonguideline models. These changes are made and will make paragraph (13) more approvable as a SIP revision.

EPA suggested that certain state responsibilities related to the SIP be added to paragraph (13), to require TACB to include in the public notice the degree of expected increment consumption from the source; to send a copy of the public notice to any comprehensive regional land use planning agency and to any other affected agencies; to notify the applicant of application completeness within a specified period; and to transmit a copy of each PSD permit application and notices relating to new or modified sources to the EPA administrator if a Class I area is impacted. All four of these recommendations are provided for in the narrative statement which was attached to the proposal at the hearing. As stated previously, the narrative statement is a TACB commitment to carry out these and other PSD SIP responsibilities. The narrative statement will be submitted to EPA as a proposed SIP revision.

EPA recommended that a date be specified in paragraphs (13) and (14) to indicate which versions of the PSD and federal stack height regulations are being incorporated by reference. The commenter expressed concern with the lack of a specific date and the validity of a prospective incorporation of federal rules by TACB. The commenter suggested inclusion of either the date of TACB adoption of the PSD and federal stack height rules, or the date that EPA recodified 40 Code of Federal Regulations Part 51 (November 7, 1986). The latter date is added to appropriate locations in paragraphs (13) and (14).

The amendment to §116.7 is made in response to the Texas Clean Air Act (TCAA) requirement. The Texas Clean Air Act, §3.271(c), mentions a time period, set by board rules, during which affected parties may request a public hearing on an application for a permit, special permit, or permit continuance. The TCAA clearly

intends for a time period to be provided in the board's rules, but allows the board to specify the amount of time. Currently, the board's procedural rules allow such a public hearing to be requested at any time, including the day a permit is actually issued. The proposal specifies that the time period for requesting a public hearing be limited to the time period currently established for receipt of public comment. In the case of special permits, that period is 15 days after the last publication of the applicant's required newspaper notices.

TMOGA, Cities Service, TU Electric, TCC, and HL&P supported the proposed time limit. The Sierra Club, Brandt Mannchen, James Blackburn indicated that a 15-day limit is too short to allow concerned citizens to submit a request for a public hearing on a special permit application. Mannchen recommended that no time limit be set, regardless of the provisions established by the Texas Legislature. The Sierra Club and Blackburn argued that a more equitable time limit would be 30 days. The Sierra Club stated that interested persons need time to collect information, obtain advice, assess risks, and hold meetings before reaching a decision to request a hearing. The TACB staff agrees that interested persons may not become fully informed in 15 days. In such cases, it will be fully appropriate to submit a hearing request where there is initial doubt concerning a proposed project. Once a person obtains more complete information concerning the application, he or she may proceed with the hearing, or elect to withdraw the hearing request.

Under the current procedure, the TACB has received hearing requests for fewer than 5.0% of the special permit applications processed by the agency. While the number of initial hearing requests may increase as a result of this proposed action, the staff believes it is preferable to act on these requests in cooperation with those who submit them, rather than to prevent unopposed permit applications from being processed in a timely manner. Therefore, the 15-day limit for requesting a hearing is retained.

The amendment to §116.10(a) shortens the processing times for TACB permit applications, and allows applicants to begin public notice much sooner. TMOGA, TCC, Cities Service, TU Electric, and HL&P supported the proposed revisions to this section. EPA questioned the changes to subsection (a), which would eliminate the requirement for the executive director to precede the required public notice with a preliminary determination to issue or deny the permit, except for permits subject to the Federal Clean Air Act (FCAA), Parts C or D, relating to PSD and nonattainment area reviews for major sources or major modifications. Those permits not issued under Parts C or D constitute 80% to 85% of the permit applications processed annually by the TACB. Removal of

the requirement for a preliminary determination would shorten processing times and allow applicants to begin public notice much sooner. However, EPA suggested that the proposed revision would not satisfy requirements of the FCAA.

To clarify the nature of this concern, the TACB staff subsequently met with representatives of the EPA Region 6 office. EPA was concerned that some major sources regulated under 40 Code of Federal Regulations, §51.165(b), rather than Part C or Part D of the FCAA, could be exempted from the preliminary determination requirement if the TACB proposal is not changed. EPA agreed that the issue would be resolved by including in the TACB section the major sources regulated under 40 Code of Federal Regulations §51.165(b) with those covered by Parts C and D of the FCAA. The citation 40 Code of Federal Regulations, §51.165(b) is added to the proposed section to retain the preliminary determination requirement for all major sources in Texas.

No specific comments were received concerning changes to §116.10(b), which would limit the time for receipt of public hearing requests to 30 days and further clarify intent of the subsection.

No comments were received concerning the proposed PSD SIP narrative statement.

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

### §116.3. Consideration for Granting Permits to Construct and Operate.

(a) Permit to Construct. In order to be granted a permit to construct, the owner or operator of the proposed facility shall submit information to the Texas Air Control Board which will demonstrate that all of the following are met:

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

(13) The proposed facility shall comply with the prevention of significant deterioration (PSD) of air quality regulations promulgated by the Environmental Protection Agency (EPA) in the Code of Federal Regulations at 40 Code of Federal Regulations, §52.21 as amended November 7, 1986, and the definitions for protection of visibility promulgated at 40 Code of Federal Regulations, §51.301, hereby incorporated by reference, except for the following paragraphs: 40 Code of Federal Regulations, §52.21(j), concerning control technology review; 40 Code of Federal Regulations, §52.21(l), concerning air quality models; 40 Code of Federal Regulations, §52.21(q), concerning public notification (provided, however, that a determination to issue or not issue a permit shall be made within one year

after receipt of a complete permit application so long as a contested case hearing has not been called on the application); 40 Code of Federal Regulations, §52.21(r)(2), concerning source obligation; 40 Code of Federal Regulations, §52.21(s), concerning environmental impact statements; 40 Code of Federal Regulations, §52.21(u), concerning delegation of authority; and 40 Code of Federal Regulations, §52.21(w), concerning permit rescission. The term "executive director" shall replace the word "administrator" except in 40 Code of Federal Regulations, §52.21(b)(17), f (1)(v), (f)(3), (f)(4)(i), (g), and (t). "Administrator or executive director" shall replace "administrator" in 40 Code of Federal Regulations, §52.21(b)(3)(iii) and "administrator and executive director" shall replace "administrator" in 40 Code of Federal Regulations, §52.21(p)(2). All estimates of ambient concentrations required under this paragraph shall be based on the applicable air quality models and modeling procedures specified in the *EPA Guideline on Air Quality Models*, as amended, or models and modeling procedures currently approved by EPA for use in the state program, and other specific provisions made in the state PSD state implementation plan. If the air quality impact model approved by EPA or specified in the guideline is inappropriate, the model may be modified or another model substituted on a case-by-case basis, or a generic basis for the state program, where appropriate. Such a change shall be subject to notice and opportunity for public hearing and written approval of the administrator of the EPA. Copies of 40 Code of Federal Regulations, §52.21 and 40 Code of Federal Regulations, §51.301 are available upon request from the Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723.

(14) In evaluating air quality impacts under paragraphs (11) or (13) of this subsection, the owner or operator of a proposed new facility or modification of an existing facility shall not take credit for reductions in impact due to dispersion techniques as defined in the Code of Federal Regulations. The relevant federal regulations are incorporated herein by reference, as follows: 40 Code of Federal Regulations, §51.100(hh)-(kk) promulgated November 7, 1986; the definitions of "owner or operator," "emission limitation and emission standards," "stack," "a stack in existence," and "reconstruction," as given under 40 Code of Federal Regulations, §51.100(f), (z), (ff), (gg), and 40 Code of Federal Regulations, §60, respectively; 40 Code of Federal Regulations, §51.118(a), (b), and (c); and 40 Code of Federal Regulations, §51.164. Copies of these sections of the Code of Federal Regulations are available upon request from the Texas Air Control Board, 6330 U.S. Highway 290 East, Austin, Texas 78723

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

### §116.7. Special Permits.

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

(c) Interested persons may submit written comments, including request for public hearings pursuant to the Texas Clean Air Act, §3.271(c), on the special permit application to the executive director. All such comments and hearing requests must be received in writing within 15 days of the last publication date of the notices specified in subsection (b)(2) and (3) of this section. All written comments submitted to the executive director pursuant to this subsection shall be considered in determining whether to issue or not to issue the permit.

(d)-(g) (No change.)

### §116.10 Public Notification and Comment Procedure.

(a) Public Notification Procedures.

(1) General requirement. Within 30 days of receipt of a completed construction permit application, as determined by the executive director of the Texas Air Control Board (TACB), the executive director shall mail a written notification to the permit applicant acknowledging receipt of the application, stating his preliminary determination to issue or not to issue the permit (for permits subject to the Federal Clean Air Act, Parts C or D, or to 40 Code of Federal Regulations, §51.165(b)), and requiring the applicant to provide public notice of the proposed construction which shall include the information specified in paragraph (3) of this subsection. The applicant shall provide such notification using each of the methods specified in paragraphs (3) and (4) of this subsection. The executive director may specify that additional information needed to satisfy public notice requirements of 40 Code of Federal Regulations, §52.21 also be included in the notice published pursuant to paragraph (3) of this subsection.

(2) (No change.)

(3) Publication in public notices section of newspaper. At the applicant's expense, notice of intent to construct shall be published in the public notice section of two successive issues of a newspaper of general circulation in the county where the proposed facility is to be located. The notice shall contain the following information:

(A)-(E) (No change.)

(F) preliminary determination of the executive director to issue or not issue the permit (for permits subject to the Federal Clean Air Act, Parts C or D, or to 40 Code of Federal Regulations, §51.165(b));

(G)-(K) (No change.)

(4)-(7) (No change.)

(b) Comment procedures.

(1) Comment period. Interested persons may submit written comments, including request for public hearings pursuant to the Texas Clean Air Act, §3.271(c), on the construction permit application and on the executive director's preliminary decision to issue or not to issue the permit to the executive director. All such comments and

hearing requests must be received in writing within 30 days of the last publication date of the notices specified in subsection (a)(3) and (4) of this section. All written comments submitted to the executive director pursuant to this subsection shall be considered in determining whether to issue or not to issue the permit.

- (2) (No change)
(c)-(e) (No change)

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

Issued in Austin, Texas, on July 31, 1987

TRD 8706306 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: August 17, 1987
Proposal publication date: March 17, 1987
For further information, please call
(512) 451-5711, ext. 354



Issued in Austin, Texas, on July 31, 1987
TRD-876306 Allen Eli Bell
Executive Director
Texas Air Control Board

Effective date: August 20, 1987
Proposal publication date: March 17, 1987
For further information, please call
(512) 451-5711, ext. 354



TITLE 37. PUBLIC SAFETY AND CORRECTIONS
Part III. Texas Youth Commission
Chapter 81. General Provisions
Case Management System for Delinquent Youth

★37 TAC §81.121

The Texas Youth Commission adopts the repeal of §81.121, without changes to the proposed text published in the June 23, 1987, issue of the Texas Register (12 TexReg 2008)

The repeal is justified because the section is no longer in compliance with Texas Youth Commission board of directors approved policy.

The section is being repealed in order to adopt a new §81.121 which will allow the Texas Youth Commission to comply with new rules regarding conditions of discharge of youth under TYC authority.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Human Resources Code, §61.084, which provides the Texas Youth Commission with the authority to discharge youth.

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 July 27, 1987.

TRD-8706150 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: August 17, 1987
Proposal publication date: June 23, 1987
For further information, please call
(512) 452-8111, extension 390



The Texas Youth Commission adopts new §81.121 without changes to the proposed text published in the June 23, 1987, issue of the Texas Register (12 TexReg 2008).

This action is necessary to effect changes in the Texas Youth Commission discharge policy approved by the board of directors.

The new section provides information regarding conditions under which youth are discharged from Texas Youth Commission authority.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, §61.084, which provides the Texas Youth Commission with the authority to discharge youth.

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 July 27, 1987

TRD-8706150 Ron Jackson
Executive Director
Texas Youth Commission

Effective date: August 17, 1987
Proposal publication date: June 23, 1987
For further information, please call
(512) 452-8111 extension 390.



Chapter 118. Control of Air Pollution Episodes

★31 TAC §118.7

The Texas Air Control Board (TACB) adopts the repeal of §118.7, without changes to the proposed text published in the March 17, 1987, issue of the Texas Register (12 TexReg 896). The section is unnecessary since the effective date of any adopted revision to Chapter 118 is established according to procedures used by the Texas Register, Office of the Secretary of State, and not by the text of this chapter. The repeal eliminates unnecessary language. In concurrent action, the TACB adopts amendments to §§118.1-118.6 concerning the control of air pollution episodes.

A public hearing was held in Austin on April 16, 1987. Cities Service Oil and Gas Corporation supported adoption of the repeal. No other testimony was received regarding adoption of the repeal.

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

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.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
Chapter 29. Purchased Health Services
Subchapter L. General Administration

★40 TAC §29.1112

The Texas Department of Human Services adopts an amendment to §29.1112 and new §29.1125 without changes to the proposed text published in the June 2, 1987, issue of the Texas Register (12 TexReg 1772).

The amendment and new section are justified because they will help ensure that funds continue to be available for services that are proven to be effective means of treatment.

Amended §29.1112 specifies that the Texas Medical Assistance Program does not cover experimental or investigational services, supplies, or procedures. New §29.1125 describes coverage of organ transplants.

No comments were received regarding adoption of the amendment or new section

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

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 July 29, 1987

TRD-8706221 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date September 1, 1987  
Proposal publication date June 2, 1987  
For further information, please call  
(512) 450-3766



**★ 40 TAC §29.1125**

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

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

Issued in Austin, Texas, on July 29, 1987

TRD-8706222 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Effective date September 1, 1987  
Proposal publication date: June 2, 1987  
For further information, please call  
(512) 450-3766.



**Part III. Texas Commission  
on Alcohol and Drug  
Abuse**

**Chapter 153. DWI Education  
Program Standards and  
Procedures**

**DWI Education Program  
Procedures**

**★ 40 TAC §§153.4, 153.35-153.38,  
153.41**

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §§153.4, 153.35-153.38, and 153.41, without changes to the proposed text published in the June 30, 1987, issue of the *Texas Register* (12 TexReg 2095).

The amendments enhance the quality of DWI education programming and provide a mechanism for getting all new programs on the same reporting/certification period as existing programs. In addition, the amendments provide a process for getting all instructors on the same reporting/certification period.

The amendments enhance the quality of DWI education programming efforts in Texas.

One comment received was against requiring data collection, registration, and screening instruments to be completed prior to the first class session because it could potentially decrease the number of persons served. On the second comment received, it was felt that the amendment on data collection should not apply to those programs teaching more than the mandatory eight hours, and the commission agrees with this. Another comment received was for lowering class size, but felt it should be lowered to 25, not 30. Other comments received requested clarification on the intent of some of the amendments, which will be provided.

Texas A&M University commented for the amendments. The Texas Aid and Guidance Center, Dallas Council on Alcohol and Drug Abuse, and Central Texas Mental Health/Mental Retardation Center commented against the amendment.

The commission feels strongly that the DWI curriculum cannot be thoroughly covered in less than eight hours, which necessitates all paperwork being completed prior to the first class session. The commission agrees that the smaller the class size, the greater the increase in knowledge, but believes the impact of limiting class size could place severe financial constraints on many programs.

These amendments are adopted under the Code of Criminal Procedure, Article 42.12, §6d, which authorizes the commission to publish the rules and regulations for approved DWI education programs and to monitor and coordinate the educational programs.

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

Issued in Austin, Texas, on July 31, 1987

TRD-8706335 Ross Newby  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: September 1, 1987  
Proposal publication date June 30, 1987  
For further information, please call  
(512) 463-5510.



**Chapter 155. Community  
Services**

**Peer Assistance Program**

**★ 40 TAC §155.26**

The Texas Commission on Alcohol and Drug Abuse adopts an amendment to §155.26, without changes to the proposed text published in the June 30, 1987, issue of the *Texas Register* (12 TexReg 2096).

The amendment clarifies that the peer assistance programs must be statewide and made available to all professional registered, licensed, or certified by the regulatory boards involved in establishing the programs in order to prevent geographic or other discriminatory limitations or access to the programs.

The amendment requires that peer assistance programs established under Texas Civil Statutes, Article 5561c-3, shall be statewide and available for all of the professionals registered, licensed, or certified by the regulatory boards involved in establishing these programs for other professionals.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5561c-2, §1.14(11), and Article 5561c-3, §1, which authorizes the commission to develop minimum criteria for the establishment of peer assistance programs.

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

Issued in Austin, Texas, on July 31, 1987.

TRD-8706336 Ross Newby  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: August 23, 1987  
Proposal publication date: June 30, 1987  
For further information, please call  
(512) 463-5510.



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

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

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

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

The State Board of Insurance has considered two filings by the Insurance Services Office, Incorporated.

(1) FR 86-086SU (Amendment)—simplification of CLM Division Four—farm rules, State of Texas. This filing is divided into two parts. Part I proposes revisions to Rules 37 and 38. This revision conveys the use of Forms FL 01 63 and FL 04 13. Part II contains manual rule revisions to correct the original filing FR 86-086SU approved by Board Order 50989 dated May 26, 1987.

(2) FR 86-086SF (amendment)—simplification of farm forms, State of Texas. This revision proposes a new endorsement FL 01 63 (Ed. 06 87), which provides a measure of pollution liability coverage. Endorsement FL 04 03 is revised to incorporate the hostile fire exception to the pollution exclusion. Endorsement FL 04 11 has been revised, and FL 04 13 is added to provide the same pollution liability for farm risk insured under the commercial general liability (CGL) coverage form.

These filings were approved to become effective September 1, 1987, under the following rule of applications.

These changes are applicable to all policies effective on or after September 1, 1987.

This notification is made pursuant to the

Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on July 23, 1987.

TRD-8706173      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

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



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

The board has adopted physical damage rating symbols for certain 1987 and 1988 model private passenger automobiles, and adjusted physical damage rating symbols for 1987 models.

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

The F.O.B. list price/symbol chart from which the appropriate symbols are derived is on page two of the symbol and identification section of the Texas Automobile Manual.

If applicable, the appropriate symbol has been raised or lowered based on the experience thresholds set out in the vehicle series rating rule in the symbol and identification section of the Texas Automobile Manual.

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

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

Issued in Austin, Texas, on July 28, 1987.

TRD-8706219      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: August 23, 1987  
For further information, please call  
(512) 463-6327.



The State Board of Insurance has approved revised simplified farm inland marine policy forms and endorsements for the mobile agricultural equipment and livestock classes of farm inland marine insurance, and has approved a revision to the farm inland marine portion of Division Four of the Commercial Lines Manual for the mobile agricultural equipment and livestock classes of farm inland marine insurance.

The revised policy forms and endorsements reflect simplified language, modernized coverage, and provide compatibility with automation. The revision to simplified forms and endorsements does not make major changes in coverage previously afforded under the conventional language forms and endorsements.

The revision of Division Four of the Commercial Lines Manual allows the rules for mobile agricultural equipment and livestock classes of farm inland marine to parallel the new simplified policy forms and endorsements. The revision to the simplified rules does not make major change in rules previously provided in Division Four of the Commercial Lines Manual with the exception of the approval of a \$250 standard deductible to be applicable to the mobile agricultural equipment class. To compensate for the change in deductible, an off set was provided in the rating.

These changes are to be effective September 1, 1987.

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

Issued in Austin, Texas, on July 28, 1987

TRD-8706218      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

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



The State Board of Insurance has considered a request by the Insurance Services Office, Incorporated, proposing to withdraw IL 00 19 11 85 TX Common Policy

Declarations—Texas approved in the following filings GL 86-086F, FR 86-086F, and BM 84-084F

This request was approved to become effective September 1, 1987.

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

Issued in Austin, Texas, on July 28, 1987

TRD-8706217 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

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



The State Board of Insurance has adopted amendments to the Standard Provisions for Automobile Policies (October 1, 1974 edition) and Standard Provisions for Automobile Policies (June 1, 1981, edition).

The amendments delete the standard provisions for the excess liability policy, mobilowners policy, mechanical breakdown policy, and single interest automobile physical damage insurance policy (pages 87-108b, and 115-123) from the Standard Provisions for Automobile Policies (October 1, 1974, edition), and insert them in the Standard Provisions for Automobile Policies (June 1, 1981, edition) as pages 22-54.

The Standard Provisions for Automobile Policies (October 1, 1974, edition) is effectively eliminated in its entirety as the remaining pages were removed by a previous action by the board by adopting new commercial auto forms effective November 1, 1987.

The transfer of these provisions enables the Texas automobile companies to use only one standard provisions for automobile policies for writing any type auto risk in Texas.

These amendments are effective on and after 12:01 a.m., November 1, 1987.

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

Issued in Austin, Texas, on July 23, 1987.

TRD-8706175 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

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



The State Board of Insurance has adopted amendments to the Standard Provisions for Automobile Policies (1981 edition)

The amendments are editorial in nature. These amendments correct errors made in previous filings relating to the business auto, truckers, and garage policy revisions.

Special instructions, §10, Mutuals, include a second mutuals—membership and voting notice paragraph which was inadvertently omitted in a previous petition.

Reference notes, §1 and §2, revise instructions for §II, liability coverage.

Section II, liability coverage, §C, limit of insurance, is revised as the wording shown in the original petition was in error.

Declarations pages reference notes, §8, is revised as the wording in the original petition was incorrect.

Garage declarations, Item Two, physical damage, towing and labor, is revised as the words "not available in California" was inadvertently included in the original petition.

Truckers declarations, Item Seven, is revised as the words "or mileage" in the heading were inadvertently omitted in the original petition.

The amendments are effective on and after 12:01 a.m., November 1, 1987.

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

Issued in Austin, Texas, on July 23, 1987.

TRD-8706174 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

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



Effective April 1, 1987, for a period of 120 days, the State Board of Insurance adopted on an emergency basis amendments to Rule 120 of the rules and rates governing the insuring of automobiles and standard automobile endorsements (12 TexReg 1126) The board has now extended the effective period of these amendments for an additional 60 days.

The board has amended Rule 120, §I, to delete the first sentence of §I— Mobile Homes and Recreational Trailers which read: "In order to be eligible under automobile policies, mobile homes and recreational trailers must have wheels, and not be based on a permanent foundation."

The board has amended Rule 120, §IV, to delete the first sentence of §IV— Mobile-owners Policy which read: "In order to be eligible under Mobileowners Policy, mobile homes must have wheels, and not be based on a permanent foundation."

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

Issued in Austin, Texas, on July 28, 1987

TRD-8706216 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date, July 29, 1987  
For further information, please call  
(512) 463-6327





# Open Meetings

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

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

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

## Texas Department on Aging

**Thursday, August 13, 1987, 10 a.m.** The State Citizens Advisory Council of the Texas Department on Aging will meet for an agenda revision in the Conference Room, Third Floor, 1949 South IH 35, Austin. According to the agenda, the council will approve minutes of the May 14, 1987, meeting; conduct introductions; discuss fiscal and program reports; consider the Area Agency on Aging (AAA) reports; and hear general announcements.

**Contact:** Linda Health, P.O. Box 12786, Capitol Station, Austin, Texas 78711, (512) 444-2727.

**Filed:** July 31, 1987, 4:07 p.m.  
TRD-8706308



## Texas Department of Agriculture

**Thursday, August 13, 1987, 10 a.m.** The Texas Department of Agriculture will meet on the second floor, North Central Council of Government, Center Point Two, 616 Six Flags Drive, Arlington. According to the agenda, the department will conduct a public hearing to receive public comment on proposed amendments to the department's pesticide regulations concerning the distribution and use of certain pesticides used for treatment of subterranean termites.

**Contact:** Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

**Filed:** July 28, 1987, 4:08 p.m.  
TRD-8706211



## Texas Commission on the Arts

**Tuesday, August 18, 1987, 2 p.m.** The Assistance Review Committee of the Texas Commission on the Arts will meet in the Crystal Ballroom, Driskill Hotel, Sixth and Brazos Streets, Austin. According to the

agenda summary, the committee will approve minutes of the May 26, 1987, ARC meeting; hold a public hearing; and consider fiscal year 1988 grants recommendations. The committee will also meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, 2(g) to consider the appointments, employment, evaluation, duties, or dismissal of a public officer or employee, if such executive session is needed.

**Contact:** Betty J. Brown, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** August 3, 1987, 1:55 p.m.  
TRD-8706372

**Wednesday, August 19, 1987, 9 a.m.** The Texas Commission on the Arts will meet in the Crystal Ballroom, Driskill Hotel, Sixth and Brazos Streets, Austin. According to the agenda summary, the commission will hold a public hearing, consider items for individual consideration, and informational items. The commission will also meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, 2(g) to consider the appointments, employment, evaluation, duties, or dismissal of a public officer or employee, if such executive session is needed.

**Contact:** Betty J. Brown, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

**Filed:** August 3, 1987, 1:55 p.m.  
TRD-8706373



## Banking Section of the Finance Commission

**Thursday, August 6, 1987, 9 a.m.** The Banking Section of the Finance Commission met in the State Banking Department, 2601 North Lamar Boulevard, Austin. According to the agenda, the commission reviewed and approved minutes of the previous meeting; considered proposed rules relating to other real estate, legal lending limits, insurance, and courier service; and discussed examination fee formula; and reviewed departmen-

tal operations, including budget, personnel, and litigation.

**Contact:** Jorge A. Gutierrez, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

**Filed:** July 29, 1987, 2:51 p.m.  
TRD-8706239



## Battleship Texas Advisory Board

**Thursday, August 20, 1987, 4 p.m.** The Battleship Texas Advisory Board will meet on board the U.S.S. Texas, 3527 Battleground Road, La Porte. According to the agenda, the board will consider an update on upcoming events, tour the ship, and hear the condition report.

**Contact:** Denny G. Hair, 1003 Eastlake, Houston, Texas 77034, (713) 947-8089.

**Filed:** August 3, 1987, 2:28 p.m.  
TRD-8706374



## Texas Department of Community Affairs (TDCA)

**Friday, August 21, 1987, 9 a.m.** The National Community Volunteer Fire Prevention Advisory Committee for the Texas Department of Community Affairs (TDCA), will meet in the Conference Room, (1-96), First Floor, 8317 Cross Park Drive, Austin. According to the agenda, the committee will select officers draft committee by-laws; determine application selection criteria; consider application review and selection; discuss travel requirements and limitations; and set the date, place, and time for the next meeting.

**Contact:** Donnie Carriker, 8317 Cross Park Drive, Austin, Texas 78753, (512) 834-6176.

**Filed:** July 29, 1987, 10:59 a.m.  
TRD-8706228

### Texas Commission for the Deaf

**Friday, August 7, 1987, 9 a.m.** The Texas Commission for the Deaf will meet in emergency session in the Conference Room, 510 South Congress Avenue, Austin. According to the agenda, the commission will welcome and approve minutes of the previous meeting; hear a report from the Board for Evaluation of Interpreters; hear director and staff reports; public comments; annual election of commission officers; and hear the chairman's report. The commission also will meet in executive session. The emergency status will be necessary due to appropriations affecting certain elements on the agenda.

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

**Filed:** July 31, 1987, 2:49 p.m.  
TRD-8706298



### Texas Employment Commission

**Wednesday, August 5, 1987, 8 a.m.** The Texas Employment Commission met in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda, the commission considered prior meeting notes; internal procedures of commission appeals; considered and acted on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 31; and set the date of the next meeting.

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

**Filed:** July 28, 1987, 2:57 p.m.  
TRD-8706210



### State Finance Commission

**Thursday, August 6, 1987, 10:30 a.m.** The State Finance Commission met in the State Banking Building, 2601 North Lamar Boulevard, Austin. According to the agenda, the commission reviewed and approved minutes of the previous meeting; heard reports from the Consumer Credit Department, Savings and Loan Department, and Banking Department, which included departmental operations, legislative update, and consideration and review of departmental budgets. The commission also met in executive session to discuss personnel and litigation matters.

**Contact:** Jorge A. Gutierrez, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

**Filed:** July 28, 1987, 2:51 p.m.  
TRD-8706240



### State Department of Highways and Public Transportation

**Wednesday-Thursday, July 29-30, 1987, 10 a.m. and 9 a.m., respectively.** The State Highway and Public Transportation Commission for the State Department of Highways and Public Transportation met for an emergency revised agenda in the Auditorium, Room 101 and 101a, First Floor, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin. According to the agenda, the department appointed a director to the Grand Parkway Association. The emergency status was necessary because immediate action was required to provide a quorum for conducting Grand Parkway Association business.

**Contact:** Lois Jean Turner, Room 203, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin, Texas 78711, (512) 463-8616.

**Filed:** July 28, 1987, 2:13 p.m.  
TRD-8706220



### Texas Housing Agency

**Tuesday, August 11, 1987, 3 p.m.** The Multi-Family Committee of the Texas Housing Agency will meet in Suite 300, 811 Barton Springs Road, Austin. According to the agenda summary, the committee will hear a presentation of quarterly multi-family reports, consider and possibly act on applications for low income rental housing tax credit program, market study for the Del Norte development in Laredo, review draft of the low income rental housing tax credit rules complying with federal treasury regulation before publication in the *Texas Register*, and consider and possibly act on addition of market research firms to the agency's approved list.

**Contact:** Dan A. McNeil, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

**Filed:** August 3, 1987, 4:35 p.m.  
TRD-8706382



### Texas Industrial Accident Board

**Monday, August 3, 1987, 9:30 a.m.** The Texas Industrial Accident Board met in Room 255, Second Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda, the board approved minutes of the previous meeting; discussed policies and procedures concerning issuance of medical examination orders; policy concerning carrier contract with claimant's physician; discussed acquisition to new data processing equipment; and reviewed and discussed board activities.

**Contact:** Inez "Tippy" Foster, 200 East Ri-

verside Drive, Austin, Texas 78704, (512) 448-7960.

**Filed:** July 29, 1987, 3:27 p.m.  
TRD-8706242



### State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

**Thursday, August 6, 1987, 10 a.m.** The board submitted a revised agenda for a meeting held in Room 414, concerning emergency amendment and proposed amendment of 28 TAC §§1.301-1.306 concerning rules on fees, charges, and costs of copies and access to public records and specified publications.

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

**Filed:** July 29, 1987, 3:55 p.m.  
TRD-8706243

**Thursday, August 6, 1987, 10 a.m.** The board met in Room 414 to consider request by Department of Human Services for assistance with questionnaire for health maintenance organizations and accident and health insurance companies.

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

**Filed:** July 28, 1987, 4:21 p.m.  
TRD-8706215

**Friday, August 7, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9641—Application of Texas Health Network, Inc., Houston, for a certificate of authority to operate a health maintenance operation.

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

**Filed:** July 30, 1987, 12:34 p.m.  
TRD-8706254

**Tuesday, August 11, 1987, 10 a.m.** The board will meet in Room 414, to consider amendment to the workers' compensation manual deleting classifications for employers primarily engaged in supplying temporary help to others; facilities agreement between the Texas Medical Liability Insurance Underwriting Association and the Texas workers' compensation assigned risk pool; petition by the Texas workers' compensation assigned risk pool for amendment to its special form all states endorsement; proposed amendment to 28 TAC §19.703; board orders on several different matters; personnel matters concerning Fire Marshal, Research and Information Services, and Commissioner; and litigation matters concerning Commissioner.

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

**Filed:** August 3, 1987, 3:03 p.m.  
TRD-8706380

**Friday, August 17, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9557—Application for approval of a reinsurance agreement submitted by Lawyers Title Insurance Corporation, Chicago Title Insurance Company, First American Title Insurance Company, and Ticor Title Insurance Company of California.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6498.

**Filed:** July 30, 1987, 12:34 p.m.  
TRD-8706255

**Tuesday, August 11, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9631—Application of Barry Wayne Duncan, Dallas, for a group I, legal reserve life insurance agent's license.

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

**Filed:** August 3, 1987, 11:45 a.m.  
TRD-8706375

**Wednesday, August 12, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9642—Application of American Travelers Life Insurance Company, Warrington, Pennsylvania, to acquire control of ISL Life Insurance Company.

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

**Filed:** August 3, 1987, 11:46 a.m.  
TRD-8706376



### Texas Juvenile Probation Commission

**Friday, August 7, 1987, 10 a.m.** The Board of the Texas Juvenile Probation Commission will meet for a revised agenda at 2015 South IH 35, Austin. According to the agenda, the board will approve minutes of the June 12, 1987, meeting; hear the director's report; approve budget transfers for fiscal year 1987; approve the administrative budget for fiscal year 1988; review and approve state aid allocations for fiscal year 1988; review and approve one-time adjustment grants; appoint citizen member to the Advisory Council; present Incentive Plan Fund; review and approve guidelines for challenge grants; discuss new rules required by Senate Bill 17; approve emergency action on 37 TAC §341.13 to enable juvenile courts to collect informal fees

beginning September 1, 1987; and hear public comment. Members of the public are invited to attend this meeting and speak on any issue under the jurisdiction of the commission.

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

**Filed:** August 29, 1987, 9:54 a.m.  
TRD-8706226



### Texas State Library and Archives Commission

**Thursday, August 20, 1987, 2 p.m.** The Records Management and Preservation Advisory of the Texas State Library and Archives Commission will meet in Room 314, 1201 Brazos Street, Austin. According to the agenda, the advisory will hear a report of the Subcommittee on Revision of Recommended Retention Schedule, review the responses to the status of records management in the member agencies, hear the preliminary report to the legislature, and consider other business brought before the committee.

**Contact:** Susan Tennison, P.O. Box 2960, Austin, Texas 78769, (512) 450-3011.

**Filed:** August 3, 1987  
TRD-8706368



### Texas Department of Mental Health and Mental Retardation

**Tuesday-Wednesday, August 11-12, 1987, 10 a.m. and 9 a.m., respectively.** The Texas Board of Mental Health and Mental Retardation for the Texas Department of Mental Health and Mental Retardation will meet in the Central Office (Auditorium), 909 West 45th Street, Austin. According to the agenda, the board will hear citizens comments; approve minutes of the June 5, 1987, meeting; consider issues; discuss the commissioner's calendar and committee calendars; and litigation.

**Contact:** Gary E. Miller, M.D., P.O. Box 12668, Capitol Station, Austin, Texas 78711, (512) 465-4588.

**Filed:** July 29, 1987, 8:34 a.m.  
TRD-8706223



### Board of Pardons and Paroles

**Monday-Friday, August 10-14, 1987, 1:30 p.m. daily, except 11 a.m. on Friday.** A three member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the panel will receive, review, and consider in-

formation and reports concerning prisoner/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 78758, (512) 459-2713.

**Filed:** July 31, 1987, 10:44 p.m.  
TRD-8706273

**Tuesday, August 11, 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 approve minutes of the July 6-8 and 20, 1987, meetings; consider legislation; budget; Dallas County Advisory Council reappointment; personnel transfer policy; procedures for evaluation of exempt personnel; Senate Bill 215 eligible cases review; early mandatory supervision policy; administrative review of 45 years or greater cases; constitutionality of Senate Bill 215/early mandatory; project RIO-presentation by TDCA staff; parole decision guidelines recommendation; EEOC policy statement; regional staff meetings; notification bills—House Bills 150, 1196, and Senate Bill 26; and hear the executive director's report.

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

**Filed:** August 3, 1987, 11:07 a.m.  
TRD-8706369



**Tuesday, August 11, 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/restoration of civil rights of citizenship; emergency medical reprieves, commutations of sentence; and other reprieves, remissions, and executive clemency actions.

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

**Filed:** July 31, 1987, 10:44 a.m.  
TRD-8706272

### Texas State Board of Public Accountancy

**Wednesday, July 29, 1987, 2 p.m.** The Texas State Board of Public Accountancy made an emergency revision to the agenda for a meeting held in Suite 340, 1033 La Posada, Austin. The revision concerned discussion of proposed amendments to board fees. The emergency status was necessary due to last-minute legislation involving professional fees for CPAs.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** July 29, 1987, 11:18 a.m.  
TRD-8706231

**Thursday-Friday, July 30-31, 1987, 9 a.m.** The Texas State Board of Public Accountancy made an emergency revision to the agenda for a meeting held in Suite 340, 1033 La Posada, Austin. The revision included discussion of proposed amendments to board fees. The emergency status was necessary because of last-minute legislation involving professional fees for CPAs.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** July 29, 1987, 11:19 a.m.  
TRD-8706232

**Friday, August 21, 1987, 2 p.m.** The Texas State Board of Public Accountancy will hold a public hearing in Suite 340, 1033 La Posada, Austin. Items on the agenda include proposed amendments to §501.2-definitions, §501.3-applicability, §501.11-independence, §501.12-integrity and objectivity, §501.13-payment of commissions, §501.14-receipt of other compensation, §501.21-competence, §501.22-professional auditing standards and accounting principles, §501.23-other standards, §501.24-forecasts, §501.25-mandatory continuing education, §501.31-confidential client information, §501.32-records, §501.41-discreditable acts, §501.42-acting through others, §501.43-advertising, §501.44-soliciting, §501.45-competitive bidding, §501.46-form of practice, §501.47-firm names, §501.48-responses, §501.50-contract, §523.27-credit for instructors and discussion leaders, and §523.63(5)-mandatory CE attendance.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** July 31, 1987, 3:23 p.m.  
TRD-8706300



### Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

**Thursday, July 30, 1987, 9 a.m.** The Hearings Division made an emergency addition to the agenda of a meeting considering the appeal of examiner's oral ruling denying GSU's proposal to pay discovery costs in Docket 7195/6755—Application of Gulf States Utilities for authority to change rates, inquiry of the Public Utility Commission of Texas into the prudence and efficiency of the planning and managing of the construction of the River Bend Nuclear Generation Station. The emergency status was necessary

because prompt commission action is necessary to preserve authority over subject matter of the appeal.

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

**Filed:** July 29, 1987, 3:13 p.m.  
TRD-8706241

**Thursday, July 30, 1987, 11 a.m.** The Administrative Division made an emergency addition to the agenda of a meeting concerning whether and when to appeal court's July 27, 1987, ruling in Cause 422,311. The emergency status was necessary because court's ruling in July 27 hearing requires immediate action by the commission.

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

**Filed:** July 28, 1987, 2:34 p.m.  
TRD-8706209

**Friday, August 7, 1987, 10 a.m.** The Hearings Division will consider Docket 7596—Application of Central Power and Light Company for a large industrial power experimental rider 16.

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

**Filed:** July 28, 1987, 2:35 p.m.  
TRD-8706207

**Monday, August 10, 1987, 1:30 p.m.** The Hearings Division will consider Docket 7593—Application of Tri-County Telephone Company, Inc. to implement mandatory service upgrade, unbundle service connection charges, detariff CPE and inside wire and effect miscellaneous tariff revisions.

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

**Filed:** July 31, 1987, 2:37 p.m.  
TRD-8706295

**Thursday, August 13, 1987, 10 a.m.** The Hearings Division will consider Docket 7598—Application of Tri-County Telephone Company, Inc. to implement mandatory service upgrade, unbundle service connection charges, detariff CPE and inside wire, and effect miscellaneous tariff revisions.

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

**Filed:** July 28, 1987, 2:35 p.m.  
TRD-8706206

**Friday, August 21, 1987, 9 a.m.** The Hearings Division will consider Docket 7581—Petition of National Cogeneration Inc. for an order requiring execution of power purchase contract by Texas Utilities Electric Company.

**Contact:** Phillip A. Holder, 7800 Shoal

Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** July 30, 1987, 2:38 p.m.  
TRD-8706265

**Friday, August 21, 1987, 10 a.m.** The Hearings Division will consider Docket 7470—Petition of Panda Energy Corporation, et al., for a cease and desist order against Texas Utilities Electric Company.

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

**Filed:** July 28, 1987, 2:34 p.m.  
TRD-8706208

**Tuesday, August 25, 1987, 1:30 p.m.** The Hearings Division will consider Docket 7535—Application of the Lower Colorado River Authority for transfer of certificate rights and sale of facilities to the City of Kerrville.

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

**Filed:** July 31, 1987, 2:38 p.m.  
TRD-8706296

**Monday, September 28, 1987, 9 a.m.** The Hearings Division will consider Dockets 7556—Application of Dickens Electric Cooperative, Inc. for authority to change rates.

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

**Filed:** July 28, 1987, 2:35 p.m.  
TRD-8706205

**Monday, November 9, 1987, 10 a.m.** The Hearings Division will consider Docket 7582—Application of Houston Lighting and Power Company for approval of deferred accounting treatment for the South Texas Project Unit 1.

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

**Filed:** July 31, 1987, 2:37 p.m.  
TRD-8706297



### Railroad Commission of Texas

**Monday, August 10, 1987, 9 a.m.** The Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider and act on division agendas as follows.

The Administrative Services Division director's report on division administration, budget, procedures, and personnel matters, including but not limited to discussion, consideration and/or action on the following: management study, oil and gas general

counsel, and oil field investigator personnel and their operations.

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

**Filed:** July 31, 1987, 10:51 a.m.  
TRD-8706274

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

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

**Filed:** July 31, 1987, 10:55 a.m.  
TRD-8706275

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

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

**Filed:** July 31, 1987, 10:50 a.m.  
TRD-8706276

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

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

**Filed:** July 31, 1987, 10:55 a.m.  
TRD-8706277

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

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

**Filed:** July 31, 1987, 10:51 a.m.  
TRD-8706278

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

**Contact:** Thomas D. Petru, P.O. Drawer 12967, Austin, Texas 78711-2967, (512) 463-6931.

**Filed:** July 31, 1987, 10:53 a.m.  
TRD-8706279

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

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

**Filed:** July 31, 1987, 10:56 a.m.  
TRD-8706280

Additions to the previous agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and

108.

**Contact:** Margie L. Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

**Filed:** July 31, 1987, 10:56 a.m.  
TRD-8706281

Investigation of cementing practices of Western Company of North America.

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

**Filed:** July 31, 1987, 10:58 a.m.  
TRD-8706282

Consideration of the application of Mitchell Energy Corporation for statewide Rules 37/38, Raymond C. McBay gas unit lease, well 2, Personville N(Cotton Valley Lime) field, Limestone County, Case 102,941 and consideration of the application of Precision Operating Inc., Rule 37, Calhoun Lease, well 1, Hudgins (Dornick Hills 8000) and Wildcat Fields in Grayson County, case 102,379.

**Contact:** Dilma Scimeca and Don Walker, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6925 and (512) 463-6921.

**Filed:** July 31, 1987, 3:48 p.m.  
TRD-8706301

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

**Contact:** Mark K. Bogan, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6981.

**Filed:** July 31, 1987, 10:52 a.m.  
TRD-8706283

The Office of Research and Statistical Analysis director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Gail Gemberling, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6976.

**Filed:** July 31, 1987, 10:54 a.m.  
TRD-8706284

The Office of the Special Counsel director's report relating to pending litigation, including but not limited to discussion and/or decision in Gas Utilities Docket 500 amendment; state and federal legislation, and other budget, administrative, and personnel matters. Also, discussion of Hufo Oils, et al. v. Railroad Commission C-5937 in the Supreme Court of Texas; Walker Operating Corp., et al. v. Federal Energy Regulatory Commission, U.S. Court of Appeals for the 10th Circuit, 85-2683 and 86-2698 et al; Lone Star Gas Company, et al. v. Railroad Commission of Texas and Jim Mattox, in his official capacity as Attorney General of the State of Texas, 414,537, 299th District Court; FERC Docket GP87-27-000 (formerly RM79-76-250) Travis peak formation; FERC Docket RM 87-31-000 et al, 18 CFR Part 271, tight gas formation.

**Contact:** Walter Earl Lilie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

**Filed:** July 31, 1987, 10:53 a.m.  
TRD-8706285

Various matters falling within the Surface Mining and Reclamation Division's regulatory jurisdiction.

**Contact:** J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

**Filed:** July 31, 1987, 10:51 a.m.  
TRD-8706286

Various matters falling within the Transportation Division's regulatory jurisdiction.

**Contact:** Michael A. James, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7122.

**Filed:** July 31, 1987, 10:58 a.m.  
TRD-8706287

**Monday, August 17, 1987, 1:30 p.m.** The Oil and Gas Division of the Railroad Commission of Texas will meet in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

**Contact:** Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

**Filed:** July 31, 1987, 11:00 a.m.  
TRD-8706288



### Texas Real Estate Research Center

**Monday, August 10, 1987, 10 a.m.** The Advisory Committee for the Texas Real Estate Research Center will meet in the Apollo Room, Marriott Airport Hotel, 18700 Kennedy Boulevard, Houston. According to the agenda, the committee will hear opening remarks; approve minutes; review 1987-1988 proposed budget; set the date for the next meeting; and discuss other business.

**Contact:** Richard L. Floyd, Texas Real Estate Research Center, Texas A&M University, College Station, Texas 77843, (409) 845-9691.

**Filed:** July 31, 1987, 8:59 a.m.  
TRD-8706270



### Texas Rehabilitation Commission

**Monday, August 10, 1987.** The Texas Advisory Board of Occupational Therapy of the Texas Rehabilitation Commission will meet on the Third Floor, 118 East Riverside Drive, Austin. Committees, times, and agendas follow.

**9 a.m.** The Continuing Education Committee will discuss continuing education requirements for retired licensees, prorating continuing education requirement for licensees renewing license in less than one year, and review and discuss requests from licensees regarding continuing education.

**Contact:** Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

**Filed:** July 31, 1987, 12:07 p.m.  
TRD-8706291

**9:15 a.m.** The Applications Review Committee will review and discuss applications for license, and licensing by endorsement.

**Contact:** Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

**Filed:** July 31, 1987, 12:08 p.m.  
TRD-8706290

**9:30 a.m.** The Texas Advisory Board of Occupational Therapy will approve minutes of the previous meeting; hear reports from the Applications Review Committee and Continuing Education Committee; and discuss fiscal year 1987 budget overview and legislative appropriations for fiscal year 1988-1989. The board also will meet in executive session to hear a report in open session, and hear the office report.

**Contact:** Cary Westhause, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8368.

**Filed:** July 31, 1987, 12:08 p.m.  
TRD-8706289



### State Rural Medical Education Board

**Friday, July 31, 1987, 3 p.m.** The State Rural Medical Education Board met in emergency session in Suite 408, 211 East Seventh Street, Austin. According to the agenda, the board considered requests for renewal loans. The emergency status was necessary because of emergency need for funds.

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

**Filed:** July 30, 1987, 2:04 p.m.  
TRD-8706257



### Texas Savings and Loan Department

**Thursday, August 6, 1987, 9 a.m.** The Texas Savings and Loan Department met at 2601 North Lamar Boulevard, Austin. According to the agenda, the department considered final adoption of the proposed repeal of §51.14, regarding Interim Charter; proposed

amendments to §§53.3, 53.5, 53.12, 55.3, and 57.4, regarding application forms. In addition, the department conducted a legislative and budget update, and met in executive session to discuss personnel and supervisory matters.

**Contact:** Nancy O. Ricketts, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

**Filed:** July 27, 1987, 4:40 p.m.  
TRD-8706196



### Board of Tax Professional Examiners

**Friday, August 14, 1987, 9 a.m.** The Board of Tax Professional Examiners will meet at the Holiday Inn, Civic Center, 810 Avenue Q, Lubbock. According to the agenda, the board will meet with the Liaison Committee of the Texas Association of Appraisal Districts to hear testimony from that group, and from other interested groups and individuals in the panhandle, north and west Texas on board proposed additions to the assessor's code of ethics which affects 4,000 registered property tax professionals.

**Contact:** Sam H. Smith, P.O. Box 15920, Austin, Texas 78761-5920 (512) 834-4981.

**Filed:** July 30, 1987, 2:05 p.m.  
TRD-8706258



### Texas Southern University

**Thursday, August 6, 1987, 1:30 p.m.** The Finance Committee of the Board of Regents for Texas Southern University, met in Room 117, Hannah Hall, Texas Southern University, 3100 Cleburne Avenue, Houston. According to the agenda, the committee considered the fiscal year 1988 budget.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** August 3, 1987, 11:21 a.m.  
TRD-8706371



### University Interscholastic League

**Wednesday, August 5, 1987, 9:30 a.m.** The Standing Committee on Music for the University Interscholastic League met in Room 1.120, Joe C. Thompson Conference Center, U.T. Station, Austin. According to the agenda, the committee heard proposals for amendments to the University Interscholastic League Constitution and contest rules.

**Contact:** Richard Floyd, UIL, P.O. Box 8028, U.T. Station, Austin, Texas 78713, (512) 471-5883

**Filed:** July 28, 1987, 1:46 p.m.  
TRD-8706199



### University System of South Texas

**Thursday, August 13, 1987.** The Board of Directors of the University System of South Texas will meet at Texas A&I University, Kingsville. Times, rooms, and agendas follow.

**8:45 a.m.** The Finance and Development Committee will meet in Room 108, Student Union Building, to consider operating budgets for 1987-1988 fiscal year, increase in residence hall room and board rates, and lease of facilities agreement between Laredo State University and Laredo Junior College.

**Contact:** Frederick Bigelow, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2208.

**Filed:** August 3, 1987, 2:24 p.m.  
TRD-8706377

**9:30 a.m.** The Academic Programs Review Committee will meet in Room 108, Student Union Building, to consider preliminary proposal for a joint doctoral program in educational leadership between Corpus Christi State University and Texas A&I University.

**Contact:** Frederick Bigelow, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2208.

**Filed:** August 3, 1987, 2:23 p.m.  
TRD-8706378

**10 a.m.** The board will meet in the Founders' Room, Lewis Hall, to approve minutes of the April 9, 1987, meeting; consider budget changes; amendment to retirement policy; operating budgets for 1987-1988 fiscal year; increase in residence hall room and board rates at Texas A&I; lease agreement between Laredo State and Laredo Junior College; doctoral program in educational leadership; gifts and donations; routine personnel changes; signature changes; authorization of persons to approve travel; hear reports from committees, presidents, and chancellor; consider time and date of next meeting; and hear presentation by Woodie Horn, president, NAACP Kingsville branch. The board will also meet in executive session to discuss personnel matters and consider acquisition of real estate and legal matters within the system.

**Contact:** Frederick Bigelow, P.O. Box 1238, Kingsville, Texas 78363, (512) 595-2208.

**Filed:** August 3, 1987, 2:24 p.m.  
TRD-8706379



### Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise

noted. Dates, times, rooms, and agendas follow.

**Wednesday, August 5, 1987, 2 p.m.** The commission made an emergency addition to the agenda of a meeting held in Room 118. According to the agenda, the commission considered a request by Donna Refinery Partners, Ltd. for an emergency order pursuant to §26.0191 of the Texas Water Code. The emergency status was necessary because the applicant has refurbished the plant which is scheduled to commence refining operations on August 2, 1987, and requested emergency consideration in order to prevent severe economic loss to the company and the local area.

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

**Filed:** July 31, 1987, 4:12 p.m.  
TRD-8706309

**Monday, August 10, 1987, 2 p.m.** The commission will meet in Room 118, to consider study of basin-wide management of water resources.

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

**Filed:** July 31, 1987, 4:13 p.m.  
TRD-8706310

**Tuesday, August 11, 1987, 10 a.m.** the commission will meet in Room 118, to consider water district bond issues, increase in tax rate, rate charge inquiry, certificates of convenience and necessity, dismissal of certificate of convenience, complaint on rate matter, proposed water quality permits, amendments and renewals, amendments to production area authorizations, nunc pro tunc orders, water use applications, amendments to certificates of adjudication, forfeiture and abandonment of certificates, and consideration of a complaint regarding an unsafe dam.

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

**Filed:** July 31, 1987, 4:13 p.m.  
TRD-8706311

**Wednesday, August 12, 1987, 2:30 p.m.** The commission submitted a revised agenda for a meeting to be held in Room 118, considering examiner's proposal for decision on an application by El Paso Water Utility Public Service Board, a department of the City of El Paso, for a proposed water quality permit to authorize a discharge of treated domestic wastewater effluent via three outfalls at a combined daily average flow not to exceed 39.0 million gallons per day from the proposed southeast wastewater treatment plant. The proposed plant site is to be located approximately 4,000 feet southeast of the Riverside Canal headgates, north of the Rio Grande River and one and one-half miles northwest of the Socorro Wastewater Treatment Plant in the City of El Paso, El Paso County.

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

**Filed:** July 31, 1987, 4:13 p.m.  
TRD-8706312

**Monday, August 17, 1987, 9 a.m.** The commission will meet in Room 118, to consider basin-wide management of the water resources of the Colorado River Basin.

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

**Filed:** July 31, 1987, 4:14 p.m.  
TRD-8706314

**Monday, August 17, 1987, 9 a.m.** The commission will meet in Room 118, to consider study of basin-wide management of the water resources of the Sabine River Basin.

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

**Filed:** July 31, 1987, 4:14 p.m.  
TRD-8706313

**Tuesday, August 18, 1987, 2 p.m.** The commission will meet in Room 118, to consider Permit 10935-01—Noncompliance and requiring certain actions by the Czech Catholic Home; Permit 11512-01—City of San Juan; Permit 10035-001—City of Albany; Permit 10483-02—City of Nederland; and Permit 02640-01—Betz Laboratories.

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

**Filed:** July 31, 1987, 4:14 p.m.  
TRD-8706315

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5727 of Arco Pipe Line Company for a permit to divert and use 39 acre-feet of water for one year period from Red River, Red River Basin for industrial (hydrostatic pipeline test) purposes in Montague County.

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

**Filed:** July 31, 1987, 4:14 p.m.  
TRD-8706317

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5746 of Jones Brothers Dirt and Paving Contractors, Inc. for a permit to divert and use 25 acre-feet of water for one year period from Valley Creek, tributary of the Colorado River, Colorado River Basin for industrial (highway construction) purposes in Runnels County.

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

**Filed:** July 31, 1987, 4:14 p.m.  
TRD-8706318

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5733 of Dean Word Company for a permit to divert and use 34 acre-feet of water for one year period from four diversion points, two being Copperas

Creek, tributary Colorado River; Alum Creek, tributary Colorado River, and the Colorado River, Colorado River Basin for industrial (highway construction) purposes in Bastrop County.

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

**Filed:** July 31, 1987, 4:15 p.m.  
TRD-8706319

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5744 of Standard Oil Production Company to divert and use 15 acre-feet of water for a nine month period from Salt Fork Brazos River, tributary Brazos River, Brazos River Basin for industrial (highway construction) purposes in King County.

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

**Filed:** July 31, 1987, 4:15 p.m.  
TRD-8706320

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA 5747 of Olmos Construction Company for a permit to divert and use 15 acre-feet of water for a one year period from Hondo Creek, tributary of Frio River, tributary of the Nueces River, Nueces River Basin for industrial (highway construction) purposes in Medina County.

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

**Filed:** July 31, 1987, 4:15 p.m.  
TRD-8706321

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5732 of Allen Construction Company, Inc. for a permit to divert and use 50 acre-feet of water for a two year period from three diversion points: an unnamed creek, tributary Hords Creek; a reservoir on Hords Creek; and a reservoir on an unnamed creek, tributary Hords Creek, tributary Jim Ned Creek, tributary Pecan Bayou, tributary Colorado River, Colorado River Basin for industrial (highway construction) purposes in Coleman County.

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

**Filed:** July 31, 1987, 4:15 p.m.  
TRD-8706322

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5748 of H.H. Howard and Sons, Inc. for permit to divert and use three acre-feet of water for a three year period from Little Cypress Creek, tributary Cypress Creek, Cypress Creek Basin for industrial (highway construction) purposes in Gregg County.

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

Filed: July 31, 1987, 4:15 p.m.  
TRD-8706323

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5743 of H.B. Zachry Company for a permit to divert and use 10 acre-feet of water for a three year period from Garners Bayou, tributary Greens Bayou, tributary Houston Ship Channel, tributary San Jacinto River, San Jacinto River Basin for industrial (highway construction) purposes in Harris County.

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

Filed: July 31, 1987, 4:15 p.m.  
TRD-8706324

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5728 of Arco Pipe Line Company for a permit to divert and use 77 acre-feet of water for one year period from San Jacinto River (Houston Ship Channel), San Jacinto River Basin for industrial (hydrostatic pipeline test) purposes in Harris County.

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

Filed: July 31, 1987, 4:15 p.m.  
TRD-8706325

**Wednesday, August 19, 1987, 9:30 a.m.** The commission will meet in Room 118, to consider hearing on TA-5730 of Williams Brothers/Traylor Brothers (Joint Venture) for a permit to divert and use 25 acre-feet of water for a 18 month period from two diversion points on San Jacinto River (Houston Ship Channel), San Jacinto River Basin for industrial (bridge construction, State Highway 146) purposes in Harris County.

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

Filed: July 31, 1987, 4:15 p.m.  
TRD-8706326

**Wednesday, August 19, 1987, 10 a.m.** The commission will meet in Room 118, to consider examiner's proposal for decision on applications 4327 and 4327A of the City of Stephenville, City of Glen Rose, and Somervell County for a Texas Water Code, §11.121 permit to construct a dam and 99,674 acre-foot capacity reservoir (Paluxy Reservoir) on the Paluxy River, tributary of the Brazos River, Brazos River Basin, in Somervell and Hood Counties, approximately 3.2 miles west-northwest of Glen Rose; to use 200 acre-feet of water per annum from the Paluxy River for construction of the reservoir; to divert and use 12,954 acre-feet of water per annum from the reservoir for domestic and municipal purposes; and to use the impounded water for recreation purposes.

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

Filed: July 31, 1987, 4:16 p.m.  
TRD-8706327

**Wednesday, August 19, 1987, 2 p.m.** The commission will meet in Room 118, to consider noncompliance and requiring certain actions of the City of Karnes City, Permits 10352-01 and 10352-02; City of Collinsville, Permit 10151-01; and report on noncompliance and petition for an order finding substantial noncompliance and finding no further action is necessary of Easley Investment Corporation; Permit 12913-01, also applications by Celanese Chemical Company, Inc. for permits (Proposed Permit WDW-244, WDW-245, and WDW-246).

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

Filed: July 31, 1987, 4:14 p.m.  
TRD-8706316

**Tuesday, September 1, 1987, 9 a.m.** The commission will meet in Room 215, to consider application by the City of Cedar Park, P.O. Box 1090, Cedar Park for renewal of Permit 12308-01 which authorizes a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 1,000,000 gallons per day from the wastewater treatment facilities which are located adjacent to and north of South Brushy Creek, approximately ¼ mile south of Brushy Creek of ¼ mile east of U.S. Highway 183 in Williamson County. The effluent is discharged into South Brushy Creek; thence to Brushy Creek in Segment 1244 of the Brazos River Basin.

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

Filed: July 29, 1987, 11:26 a.m.  
TRD-8706238

**Tuesday, September 8, 1987, 9:30 a.m.** The Office of Hearings Examiner will meet in the Conference Room 4100A, City of Houston City Hall, 900 Bagby Street, Houston. According to the agenda summary, the examiner will consider application by Alpha Utility Services, Inc., 4265 San Felipe, Suite 1400, Houston, Texas 77027 for an amendment to Permit 12248-01 to authorize an increase in the discharge of treated domestic wastewater effluent from a volume not to exceed an average flow of 50,000 gallons per day to a volume not to exceed 10,000 gallons per day average. The applicant operates the Corum West Montgomery Sewage Treatment Plant.

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

Filed: July 29, 1987, 11:27 a.m.  
TRD-8706237

**Tuesday, September 8, 1987, 9:30 a.m.** The Office of Hearings Examiner will meet in Conference Room 4100A, City of Houston City Hall Annex, 900 Bagby Street, Houston. According to the agenda summary, the examiner will consider application by Houston Lighting and Power Company,

P.O. Box 1700, Houston, Texas 77001, for an amendment to Permit 01038 which regulates discharges from the W.A. Parish Steam Electric Station into Smithers Lake and from the lake into Dry Creek. The proposed amendment would add an additional outfall (outfall 004) to regulate an infrequent discharge of stormwater runoff from ash storage/handling areas into Smithers Lake at a volume not to exceed 5,800,000 gallons during any 24-hour period. The currently authorized discharge volume not to exceed 37,000,000 gallons per day average (outfall 001) which flows from Smithers Lake into Dry Creek will not increase as a result of this additional outfall. The proposed amendment would also add a monitoring requirement for outfall 003 of total residual chlorine and renumber existing outfalls in order to provide a more uniform numbering sequence.

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

Filed: July 29, 1987, 11:27 a.m.  
TRD-8706236

**Thursday, September 10, 1987, 10 a.m.** The commission will meet in the City Council Chambers, 2401 Market Street, Baytown. According to the agenda summary, the office of hearings examiner will consider application by J.R. Oliver, P.O. Box 1287, Mont Belvieu, Texas 77580 for a permit (Proposed Permit 13364-01) to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 10,000 gallons per day. The applicant plans to construct wastewater treatment facilities to serve a 28 home subdivision.

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

Filed: July 29, 1987, 11:27 a.m.  
TRD-8706235

**Tuesday, September 15, 1987, 10 a.m.** The commission will meet in Room 118, to consider application 5149—MFW Development, a partnership, seeks a permit to build and maintain a dam creating a reservoir on an unnamed tributary of Pine Creek, tributary of Red River, Red River Basin, for in-place recreational use, Lamar County.

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

Filed: July 31, 1987, 4:16 p.m.  
TRD-8706328

**Wednesday, September 16, 1987, 9 a.m.** The Office of Hearings Examiner will meet in Room 215, to consider application by Williamson-Travis Counties MUD #1, in care of Armburst and Brown, 2600 One American Center, 600 Congress Avenue, Austin, Texas 78701 for an amendment to Permit 12747-01 which currently authorizes a discharge of treated domestic wastewater effluent at an interim volume not to exceed 92,000 gallons per day average and a final volume not to exceed 250,000 gallons per day average. The proposed amendment would



increase the final authorized volume to 450,000 gallons per day average with limitations of 5 mg/l for biochemical oxygen demand; 5 mg/l for total suspended solids; 2 mg/l for ammonia nitrogen; 1 mg/l for total phosphorus; and 5 mg/l for minimum dissolved concentration.

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

**Filed:** July 29, 1987, 11:28 a.m.  
TRD-8706234

**Tuesday, September 22, 1987, 10 a.m.** The commission will meet in Room 118, to consider public hearing on San Miguel Electric Cooperative, Inc. 5145 seeking a permit to build and maintain two reservoirs of La Jarita Creek, tributary of San Miguel Creek, tributary of Frio River, Nueces River Basin, all being more fully set out in the notice, Atascosa and McMullen Counties.

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

**Filed:** July 31, 1987, 4:16 p.m.  
TRD-8706329

**Tuesday, September 22, 1987, 10 a.m.** The commission will meet in Room 118, to consider public hearing on Hallmark Service Corp. 5144 seeking a permit to construct and maintain three on-channel reservoirs 6, 7, and 8 on White Rock Creek, tributary of Trinity River, Trinity River Basin, for in place recreation use, Collin County

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

**Filed:** July 31, 1987, 4:16 p.m.  
TRD-8706330

**Tuesday, September 22, 1987, 10 a.m.** The commission will meet in Room 118, to consider public hearing on Tarrant County WCID #1 08-3365 and 08-3366, seeking to consolidate and amend Certificates of Adjudication 08-3365 and 08-3366 and pending applications 2126A and 4240, Benbrook Reservoir, Trinity River Basin, Tarrant County all being more fully set out in the notice.

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

**Filed:** July 31, 1987, 4:16 p.m.  
TRD-8706331



### West Texas State University

**Tuesday, August 11, 1987, 11 a.m.** The Board of Regents of West Texas State University will meet in Room 211, Virgil Henson Activities Center, West Texas State University, Canyon. According to the agenda, the board will consider finance and administrative services items: budget changes; construction contracts; adoption of provisional 1987-1988 operating budget; Old Main Project architectural design; surplus property

sale; travel reimbursement approval; year-end accounting entries; bond sale; and telephone system. Confirm museum director; discuss use of university resources for superconducting super collider; consider academic affairs items: promotion; resignations; retirement; employment-new program request; publication policy amendment; and retitling a college within the university. Consider student affairs items: traffic and parking regulations. The board also will meet in executive session to discuss university personnel and real estate.

**Contact:** Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-3962.

**Filed:** July 31, 1987, 9 a.m.  
TRD-8706269



### Regional Agencies Meeting Filed July 29

**The Bexar Appraisal District, Appraisal Review Board,** met in emergency session at 535 South Main, San Antonio, on July 31, 1987, at 9 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.  
TRD-8706230



### Meetings Filed July 30

**The Brazos Valley Development Council, Regional Review Committee,** will meet in Suite Seven, Council Offices, 3006 East 29th Street, Bryan, on August 13, 1987, at 3:30 p.m. Information may be obtained from Jill Hyde, 3006 East 29th Street, Bryan, Texas 77802, (409) 776-2277.

**The Dallas Area Rapid Transit, Work Session,** met in emergency session in the Board Conference Room, 601 Pacific Avenue, Dallas, on August 1, 1987, at 9 a.m. The Budget and Finance Committee met at the same location, on August 4, 1987, at 2 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Dallas Central Appraisal District, Board of Directors,** and a public hearing, met in Suite 500, 1420 West Mockingbird Lane, Dallas, on August 5, 1987, at 7:30 a.m. and 8 a.m., respectively. The Appraisal Review Board will meet at the same location, on August 12, 1987, at 10 a.m. Information may be obtained from Rick L. Kuehler, 1420 West Mockingbird Lane, Dallas, Texas 75247, (214) 631-0520.

**The Dawson County Central Appraisal District, Board of Directors,** met at 920 North

Dallas, Lamesa, on August 5, 1987, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

**The Denton Central Appraisal District, Board of Directors,** will meet at 3911 Morse, Denton, on August 20, 1987, at noon. Information may be obtained from Joe D. Rogers, 3911 Morse, Denton, Texas 76205, (817) 566-0904.

**The Middle Rio Grande Development Council, Texas Review and Comment System Committee,** met in the Reading Room, Civic Center, Uvalde, on August 6, 1987, at 10 a.m. Information may be obtained from Oralia Saldua, 213 Canal, Del Rio, Texas 78840, (512) 775-4160 or 774-4741.

**The South Plains Association of Governments, Executive Committee and Board of Directors,** met at 1323 58th Street, Lubbock, on August 4, 1987, at 9 a.m. and 10 a.m., respectively. Information may be obtained from Jerry D. Casstevens, P.O. Box 373, Freedom Station, Texas 79452.

TRD-8706250



### Meetings Filed July 31

**The Education Service Center Region XI, Board of Directors,** will meet at 3001 North Freeway, Fort Worth, on August 18, 1987, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

**The Erath County Appraisal District, Board of Directors,** will meet in the Boardroom, 1390 Harbin Drive, Stephenville, on August 12, 1987, at 10 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

**The Sabine Valley Regional Mental Health and Mental Retardation Center, Board of Trustees,** will meet at Marshall Family Services, 1500 West Grand Avenue, Marshall, on August 10, 1987, at 7 p.m. Information may be obtained from Ron Cookston, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

**The San Patricio County Appraisal District, Board of Directors,** will meet in the Courthouse Annex, Sinton, on August 13, 1987, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

**The Scurry County Appraisal District**, Board of Directors, met at 2612 College Avenue, on August 4, 1987, at 8 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

**The Upshur County Appraisal District**, Board of Directors, will meet in the District Office, Warren and Trinity Streets, Gilmer, on August 10, 1987, at 1 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041

**The West Central Texas Council of Governments**, Regional Advisory Council on Aging, met in the WCTCOG Administrative Offices, 1025 East North 10th Street, Abilene, on August 6, 1987, at 10 a.m. Information may be obtained from Lewis E. Lemmond, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544.

**The Wise County Appraisal District**, Board of Directors, will meet in the Boardroom, 206 South State, Decatur, on August 13, 1987. Information may be obtained from Brenda Jones, 206 South State, Decatur, Texas 76234, (817) 627-3081, ext. 74.  
TRD-8706268



#### Meetings Filed August 3

**The Burnet County Appraisal District**, Board of Directors, will meet at 215 South

Pierce Street, Burnet, on August 13, 1987, at 6:30 p.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291

**The Carson County Appraisal District**, Board of Directors, will meet at 102 Main, Panhandle, on August 12, 1987, at 9 a.m. and 9:15 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068, (806) 537-3569.

**The East Texas Council of Governments**, Executive Committee, met at 3800 Stone Road, Kilgore, on August 6, 1987, at 2 p.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The Garza County Appraisal District**, Appraisal Review Board, will meet at the Appraisal Office, Courthouse, Post, on August 12, 1987, at 9 a.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

**The Golden Crescent Service Delivery Area**, Private Industry Council, Inc., will meet at 1301 East Rio Grande, Victoria, on August 12, 1987, at 6:30 p.m. Information may be obtained from Cleva Schoener, P.O. Box 2149, Victoria, Texas 77902, (512) 578-0341.

**The Gray County Appraisal District**, Board of Directors, met at 815 North Sumner, Pampa, on August 6, 1987, at 5 p.m. Information may be obtained from Charles Buzard, P.O. Box 836, Pampa, Texas 79065.

**The North Plains Water District**, Board of Directors, will meet at 702 East First Street, Dumas, on August 10, 1987, at 10 a.m. Information may be obtained from Richard S. Bowers, P.O. Box 795, Dumas, Texas 79029, (806) 935-6401.

**The Tyler County Appraisal District**, Board of Directors, met at 103 Pecan, Woodville, on August 4, 1987, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

TRD-8706367



#### Meetings Filed August 4

**The Brazos Valley Development Council**, Executive Committee, will meet in Suite 7, 3006 East 29th Street, Bryan, on August 13, 1987, at 1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277.

**The Hays County Central Appraisal District**, Appraisal Review Board, met in Courthouse Annex, First Floor, San Marcos, on August 7, 1987, at 9 a.m. Information may be obtained from Lynnell Sedlar, 102 LBJ Couthouse Annex, San Marcos, Texas 78666, (512) 396-4777.

TRD-8706386



# 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 Department of Agriculture Correction of Error

An Interim Order Modifying Piece Rates submitted by the Texas Department of Agriculture contained errors as submitted in the July 21, 1987, issue of the *Texas Register* (12 TexReg 2388).

The second and third sentences should read: "Such an order, Piece Rate Order 3, was issued in 1975 in accordance with the provisions of Article 5159. The commissioner has now modified Piece Rate Order 3 to conform to amendments made to the Texas Minimum Wage Law in the 70th Legislature, 1987."



## Texas Air Control Board Public Hearings

Notice is given that pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.09; and 40 Code of Federal Regulations 51.102 of the Environmental Protection Agency (EPA) regulations concerning state implementation plans (SIP); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; and the procedural rules of the Texas Air Control Board (TACB), §103.11(4), the TACB will conduct a public hearing to receive testimony concerning revisions to its rules and to the SIP.

The TACB proposes to revise Regulation V, concerning control of air pollution from volatile organic compounds (VOC), to satisfy a commitment included in the 1982 SIP revisions for ozone in Harris County for the adoption of Set III control technique guidelines published by the EPA. The changes would require applicable sources in Harris County to control vent gas streams from air oxidation synthetic organic chemical manufacturing processes having a true partial pressure of VOC of more than 0.009 pounds per square inch atmospheric (psia); control vent gas streams from specified types of high-density polyethylene, polypropylene, and polystyrene resin manufacturing processes having a true partial pressure of VOC of more than 0.006 psia; and detect and repair VOC leaks exceeding 10,000 parts per million by volume from any component of a natural gas/gasoline processing operation. In addition, proposed concurrent changes to the TACB general rules would define natural gas/gasoline processing and true partial pressure to clarify the intent and applicability of the proposed Regulation V revisions.

The hearing will be held at 7:30 p.m., Thursday, September 3, 1987, at the City of Houston Bureau of Air Quality Control, 7411 Park Place, Houston, Texas 77087. The hearing is structured for the receipt of oral or written comments. Interrogation or cross-examination is not permitted, although a TACB staff member will be available at the hearing to answer questions.

Written comments not submitted at the hearing may be submitted to the TACB central office in Austin up to and including September 4, 1987. Comments received by 4 p.m. on that date will be considered by the board prior to any final decision on the proposed revisions. Copies of the proposed language are available for inspection at the TACB central office and at all TACB regional offices. For further information, contact Russ Baier at (512) 451-5711.

Issued in Austin, Texas, on July 28, 1987.

TRD-8706302      Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: July 31, 1987

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



## State Banking Board Notice of Hearing Cancellation

As no opposition has been noted in the application for domicile change by State Bank of Texas (in organization), Dallas, the hearing previously scheduled for August 3, 1987, has been cancelled.

Issued in Austin, Texas, on July 27, 1987.

TRD-8706212      William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: July 28, 1987

For further information, please call (512) 479-1200



## Banking Department of Texas 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 July 15, 1987, the banking commissioner received an application to acquire control of American Bank of Waco, Waco, by M. N. Bostick, Waco.

On July 23, 1987, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on July 23, 1987.

TRD-8706213 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: July 28, 1987  
For further information, please call (512) 479-1200



Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On June 23, 1987, the banking commissioner received an application to acquire control of Allied Citizens Bank, Kilgore, by O. Paul Corley, Jr., Dallas; Harold Smotherman, Tyler; Mike G. Griffin, Santa Barbara, California; Dr. Rene Holt, New London; Presley C. Hudson, Mount Pleasant; Bill Cox, Tony Rothrock, and Neal Hawthorn, all of Longview; Dean Bingham, Paul E. Bolt, John H. Bolt, Bettye V. Long, Dr. Duane Landry, A. P. Merritt, Larry T. Long, Denny Smith, W. R. Yazell, Bobby Parks, H. L. Long Trust, The Long Trusts, and Pauline Barron Long Trust, all of Kilgore.

On July 23, 1987, notice was given that the application would not be denied.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas, on July 23, 1987.

TRD-8706214 William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: July 28, 1987  
For further information, please call (512) 479-1200.



## Court Reporters Certification Board Certification of Court Reporters

Following examination of applicants on July 10, 1987, the Court Reporters Certification Board has certified to the Supreme Court that the following persons are qualified in the method indicated to practice reporting pursuant to the Government Code, Texas Civil Statutes, Subchapter C, §52.024(a).

The qualified applicant for oral stenography is Ben Petty, Atoka, Oklahoma. Qualified applicants for machine shorthand are Sylvia A. Baker, Houston; Lori Ann Barnett, Madill, Oklahoma; Edith Ann Boggs, Tomball; Cynthia Ann Boyd, Corpus Christi; Mary Delle Brantley, San Antonio; Eileen Marie Brewer, Grand Prairie; Cynthia J. Carson, Houston; Maggie M. Costello, Grand Prairie; Trudy Lynn Cox, Houston; Toi K. Cunningham, Austin; April Presley Curran, Plano; Marcia Ximena Demenjon, Dallas; Stephanie Jean Driver, Houston; Gina Lynn Dumas, Houston; Cathy Gale Engle, San Antonio; Jacquelyn Susanne Fleck, Detroit, Michigan; Barbee Machado Frisby, Tyler; Jackie Lee Fuller, Orange; Marcey Joe Glazer, Dallas; Cynthia L. Gloe, Houston; Maria Elena Gordon, Killeen; Carol A Grills, Plano; Catherine Ann Heine, Austin; Carol Ann Hensley, Eules; Myra G. Jimenez, Corpus Christi; Paula Kaye Jordan, Eules; Shannon Sue Kurz, Killeen; Cheryl Kaay LeBlanc, Allen; Randi Gay Lewis, Victoria; Julie Annette Mathis, Dallas; Lauren Renee McKnight, Dallas; Glenna Jane McNealy, Huntington Beach, California; Machele A. Miller, Greenville; Letitia M. Moncivais, Pflugerville; Janis F. Morris, Dallas; Helen Ann Mullen, Houston; Laura Kay Oyler, Hitchcock; Joe E. Phillips, Dallas; Sandra Denise Randle, Austin; Beverly Francine Rogers, Grand Prairie; Karen Mechelle Rollins, Amarillo; Rosa V. Saucedo, San Antonio; Ginger Lynn Smith, San Antonio; Janis Lynn Stewardson, Santa Anna; Laurie Ann Stillwagon, San Antonio; Jeanie M. Tamborello, Irving; Stephanie Ann Tamborello, Alvin; Lisa Diane Valenzuela, San Antonio; Sylvia M. Vidaurri, Manchaca; Carolyn Ann Weatherwax, Arlington.

Issued in Austin, Texas, on July 31, 1987.

TRD-8706366 Peggy Liedtke  
Executive Secretary  
Court Reporters Certification Board

Filed: August 3, 1987  
For further information, please call (512) 463-1630



## Texas Economic Development Commission Private Activity Bond Allocation Report

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1987 is \$1,227,750,000.

State legislation, 70th Legislature, Senate Bill 1382, was passed, effective June 20, 1987, to establish the allocation process. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

As a result of Senate Bill 1382, the aggregate amount for qualified mortgage bond subceiling is \$302,376,642, with \$201,584,428 available to the local housing authorities and \$100,792,214 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$226,782,481, and the amount for all other bonds requiring an allocation is \$377,970,802.

Generally, the state ceiling will be allocated on a first-come, first-served basis within the applicable subceiling, with the Texas Economic Development Commission (the commission) administering the allocation system.

The information that follows is a summary report of the allocation activity for the period July 20, 1987, through July 24, 1987.

**Weekly Report on the 1987 Allocation of the State Ceiling on Certain Private Activity Bonds as Pursuant to Senate Bill 1382**

Total amount of state ceiling remaining unreserved for the \$302,376,642 subceiling for qualified mortgage bonds under Senate Bill 1382 through July 24, 1987: \$302,376,642.

Total amount of state ceiling remaining unreserved for the \$226,782,481 subceiling for state-voted issues under Senate Bill 1382 from July 20, 1987, through July 24, 1987: \$226,782,481.

Total amount of state ceiling remaining unreserved for the \$377,970,802 subceiling for all other bonds under Senate Bill 1382 from July 20, 1987, through July 24, 1987: \$372,470,802.

Total amount of the \$1,227,750,000 state ceiling remaining unreserved as of July 24, 1987: \$901,629,925.

Comprehensive listing of bond issues which have received a reservation date per Senate Bill 1382 from July 20, 1987, through July 24, 1987: None.

Comprehensive listing of bonds issued and delivered as per Senate Bill 1382 from July 20, 1987, through July 24, 1987: None.

Issued in Austin, Texas, on July 27, 1987

TRD-8706225 David V Brandon  
Executive Director  
Texas Economic Development  
Commission

Filed: July 29, 1987  
For further information, please call (512) 472-5059.



## Texas Education Agency Consultant Contract Amendment

On September 22, 1986, Coopers and Lybrand, 1800 American Center, Austin, Texas 78701, entered into a contract with the Texas Education Agency to implement an operational plan for a public education information management system. The amount of the contract is \$399,886, and runs through August 31, 1987.

The contract will be amended by increasing the maximum amount to be paid to Coopers and Lybrand to \$459,868.90. The amendment is based upon additional services to be provided by Coopers and Lybrand in implementing the operational plan.

The original notice of this contract award was published in the July 25, 1986, issue of the *Texas Register* (11 TexReg 3418). This notice is filed in compliance with provisions of Texas Civil Statutes, Article 6252-11c.

Issued in Austin, Texas, on July 24, 1987.

TRD-8706155 W. N. Kirby  
Commissioner of Education

Filed July 27, 1987  
For further information, please call (512) 463-9212.



## Public Review

The Texas Education Agency notifies all interested parties of the intent to make available and provide information about the removal of architectural barriers to the handicapped grant application for federal funds. Subgrants are to be awarded to local education agencies (LEAs) to alter existing buildings and equipment to eliminate architectural barriers to the handicapped and to create employment opportunities for the general public.

The objectives are to make available to handicapped children the variety of educational programs and services available to nonhandicapped children in the area served by the LEA; to provide nonacademic and extracurricular services and activities in a manner that affords handicapped children opportunity for participation in those services and activities; to provide accessibility to handicapped individuals involved in the education of handicapped children or eligible to participate in programs administered by LEAs; to create new employment opportunities by employing personnel and/or through the award of subgrants; and to create employment in areas experiencing high rates of unemployment according to statistics provided by the Texas Employment Commission.

Project activities which may be supported may include, but are not limited to, alteration of existing structures and equipment such as remodeling a classroom, library or science lab, alteration of locker (shower room) facilities, alteration of entrance/exit passageways, alteration of restroom facilities, and installation of special audiovisual instructional equipment, telecommunications devices, and other technological aids.

This project is funded through the United States Department of Education, Public Law 98-8, commonly referred to as the Emergency Jobs Bill, which provides for the implementation of the Education of the Handicapped Act-Part A, §607, (EHA-A), and will be administered by the Division of Special Education Funding, Texas Education Agency. The contract will be for the 18-month period following the award of the subgrants. Selection of the applicant<sup>s</sup> will be based on points awarded by a review committee according to the criteria stipulated in the request for application (RFA) review guide. Additional points will be given based on the following priorities established by the agency: project applications from LEAs located in counties with high employment within the past year as documented by the Texas Employment Commission; projects that create new employment opportunities; projects that create a less restrictive environment for handicapped students on a regular campus; projects that alter buildings constructed prior to June 3, 1977, when the Rehabilitation Act of 1973, §504, was enacted; projects which make structural changes in existing facilities only where there is no other feasible way to make the program accessible; and projects which make structural changes based on previously cited monitoring discrepancies.

Copies of the removal of architectural barriers to the handicapped grant application are available for public review in each regional education service center in Texas. Copies are also available for public review at the Texas Education Agency, Division of Special Education Funding, Room 6-125, 1701 North Congress Avenue, Austin, Texas 78701. Parties interested in reviewing the grant application should contact the special education director at the nearest education service center or Shirley Sanford, Division of Special Education Funding, Texas Education Agency, (512) 463-9362. Any party is invited to submit written comments regarding the removal of architectural barriers to the handicapped to Ms. Sanford.

The time period for public review and comment on the removal of architectural barriers to the handicapped begins August 10, 1987, and ends September 11, 1987. Following public review and a receipt of the written comments, the grant application will be submitted to the United States Department of Education, Office of Special Education Programs, for approval.

Issued in Austin, Texas, on July 28, 1987.

TRD-8706200 W. N. Kirby  
Commissioner of Education

Filed: July 28, 1987  
For further information, please call (512) 463-9212.



## Texas Department of Health Intent to Revoke Radioactive Material Licenses

The Bureau of Radiation Control, Texas Department of Health, is seeking the revocation of Radioactive Material License Number 11-3034, issued to Earth Tech, Inc., because the agency determined that the licensee is no longer located at 6625 Guhn Road, Houston, Texas 77040. The licensee has not notified the agency of a change of address and no forwarding address is available.

All attempts by the agency to contact the licensee by telephone, by mail, and by inspection have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the radioactive material license be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* 13.8, this notice affords the opportunity for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a hearing be timely filed, the radioactive material license will be revoked at the end of the 30-day period of notice.

Issued in Austin, Texas, on July 28, 1987.

TRD-8706247 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: July 30, 1987  
For further information, please call (512) 835-7000.



The Bureau of Radiation Control, Texas Department of Health, filed complaints against the following licensees for failure to pay fees pursuant to Texas Regulations for Control of Radiation (TRCR) 13.8:

(1) Emerald Tubular Inspection, Inc., 1409 Story, Houston, Texas 77066, Radioactive Material License Number 11-3100;

(2) Blackwell Hospital, 438 West Roosevelt Street, P.O. Box 368, Gorman, Texas 76454, Radioactive Material License Number 4-3223;

(3) Standard Perforators of Abilene, Inc., P.O. Box 5976, Abilene, Texas 79608, Radioactive Material License Number 4-1703;

(4) City of Jersey Village, 16501 Jersey Village, Houston, Texas 77040, Radioactive Material License Number 11-3441;

(5) Roy W. Dowdell, M.D., P.A., 1109 West Baker Road, Baytown, Texas 77521, Radioactive Material License Number 11-3801;

(6) Sierra Testing, Inc., P.O. Box 9858, Tulsa, Oklahoma 74157, Radioactive Material License Number 99-3794;

(7) Larry Thompson's Logging and Perforating, Inc., 3125 Edgewood, San Angelo, Texas 76903, Radioactive Material License Number 4-3197;

(8) Double E. Perforators, P.O. Box 1560, Pampa, Texas 79066-1560, Radioactive Material License Number 1-3402;

(9) Well-Data Surveys, Inc., P.O. Box 7641, Odessa, Texas 79760, Radioactive Material License Number 12-3355;

(10) Coastal Wireline Services, Inc., P.O. Box 5008, Victoria, Texas 77903, Radioactive Material License Number 8-3484;

(11) Harris Hospital-Methodist, 1300 West Cannon, Fort Worth, Texas 76104, Radioactive Material License Number 5-2069;

(12) Bio-Diagnostics, Inc., 2100 Road to Six Flags, Arlington, Texas 76011-5195, Radioactive Material License Number 5-3406;

(13) B. Sotoodeh, M.D., 105 East Laurel, San Antonio, Texas 78212, Radioactive Material License Number 9-367; and

(14) RAM Inspection, Inc., P.O. Box 9042, Odessa, Texas, Radioactive Material License Number 12-3741.

The agency intends to revoke the radioactive material licenses, order the licensees to cease and desist use of such radioactive materials, and order the licensees to divest themselves of such radioactive material, presenting evidence satisfactory to the Bureau of Radiation Control that they have complied with the order and the provisions of Texas Civil Statutes, Article 4590f. If the fee is paid within 30 days of the date of each complaint, no order will be issued.

This notice affords the opportunity for a hearing to show cause why the radioactive material licenses should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the radioactive material licenses will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin from 8 a.m. to 5 p.m., Monday-

Friday (except holidays).

Issued in Austin, Texas, on July 29, 1987

TRD-8706224 Robert A Maclean  
Deputy Commissioner for  
Professional Services  
Texas Department of  
Health

Filed: July 29, 1987  
For further information, please call (512) 835-7000.

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The Texas Department of Health, Bureau of Radiation Control, is seeking the revocation of Radioactive Material License Number 11-3345, issued to Quality Systems Inspection Services, Incorporated, because the agency determined that the licensee is no longer located at P.O. Box 1094, Tomball, Texas 77375. The licensee has not notified the agency of a change of address and no forwarding address is available.

All attempts by the agency to contact the licensee by telephone, by mail, and by inspection have been unsuccessful. Therefore, the Texas Department of Health, Bureau of Radiation Control, recommends that the radioactive material license be revoked immediately.

In accordance with *Texas Regulations for Control of Radiation* 13.8, this notice affords the opportunity for a hearing to show cause why the radioactive material license should not be revoked. A written request for a hearing must be received within 30 days from the date of publication of this notice to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a hearing be timely filed, the radioactive material license will be revoked at the end of the 30-day period of notice.

Issued in Austin, Texas, on July 28, 1987.

TRD-8706246 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: July 30, 1987  
For further information, please call (512) 835-7000.

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The Texas Department of Health, having duly filed complaints pursuant to *Texas Regulations for Control of Radiation*, Part 13.8, has revoked the following radioactive material licenses. Listed are licensee, license number, location, and date of action: Quality Diagnostics, Incorporated, 11-3517, Houston, July 1, 1987; Bay Area X-Ray and Inspection Company, Incorporated, 11-2912, Manvel, July 1, 1987; and Advanced Tubular Services, Incorporated, 11-3673, Houston, July 9, 1987.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on July 28, 1987

TRD-8706248 Robert A MacLean, M D  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: July 30, 1987  
For further information, please call (512) 835-7000

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## Texas Housing Agency Correction of Error

An adopted section submitted by the Texas Housing Agency contained an error as published in the July 21, 1987, issue of the *Texas Register* (12 TexReg 2379).

In §149.4, subsection (b)(2)(B) should read: "Between January 1 and June 30 [of 1987,] of each calendar year, no application for reservation may be filed which requests an increase in the applicable fraction in excess of 60% for a qualified project of more than four units previously placed in service; provided, this restriction will not apply if the housing development is receiving or will receive a governmental contribution."

## Public Hearing

The Texas Housing Agency (the agency) gives notice that it will hold a public hearing on Friday, August 14, 1987, at 10 a.m. in the Conference Room of the agency, 811 Barton Springs Road, Third Floor, Austin, with respect to its proposed issuance of approximately \$110,000,000 single family mortgage revenue bonds, 1987 Series B (the bonds). The bonds will be issued to refund certain outstanding bonds of the agency, thereby permitting the agency to use certain funds available to it (including prepayments of mortgage loans acquired by the agency with the proceeds of such refunded bonds) to acquire an estimated \$1,700 single family mortgage loans made to eligible low and moderate-income homebuyers to finance the purchase of homes located within the State of Texas. The agency expects to make such amounts available for the purchase of mortgage loans beginning in March of 1988.

For purposes of the agency's mortgage acquisition program, eligible borrowers will include individuals whose adjusted gross income does not exceed \$33,000 and households and families whose aggregate adjusted gross income does not exceed \$42,000. In addition, substantially all of the borrowers under the program will be required to be persons who have not owned a principal residence during the preceding three years. Mortgage loans purchased under the agency's program also will be subject to certain other limitations, including limits on the purchase prices of the residences being acquired.

All interested persons are invited to attend this public hearing and to express their views on the proposed issuance of the bonds. Questions or requests for additional information may be directed to Bruce Belvin, Deputy Administrator of Program Operations, Texas Housing Agency, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974, or 1-800-792-1119. Persons who plan to attend the hearing are encouraged, in advance of the public hearing, to inform the agency either in writing or by telephone. Any interested persons who are unable to attend the public hearing may submit their views in writing to the agency prior to the date scheduled for the hearing.

For further information, please call (512) 474-2974, or 1-800-792-1119.

Issued in Austin, Texas, on July 31, 1987.

TRD-8706271      Dan A. McNeil  
Executive Administrator  
Texas Housing Agency

Filed: July 31, 1987

For further information, please call (512) 474-2974.



## Texas Department of Human Services

### Correction of Error

A request for proposal, as submitted by the Texas Department of Human Services, contained an error as submitted in the July 28, 1987, issue of the *Texas Register* (12 TexReg 2486).

The second sentence of the first paragraph may be deleted, as the citation to Article 6252-11c is not necessary since the request for proposal is not for "consulting services."

## State Board of Insurance

### Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for a name change by Knighton Life Insurance Company, a domestic life insurance company. The home office is in Richland Hills. The proposed new name is American Community Life Insurance Company.

(2) Application for admission to do business in Texas of Commercial Risk Underwriters Insurance Company, a foreign fire and casualty insurance company. The home office is in Omaha, Nebraska.

(3) Application for incorporation of Commuter National Life Insurance Company, a domestic life insurance company. The home office is to be in Plano.

(4) Application for admission to do business in Texas of Eastern Aviation & Marine Insurance Company, a foreign fire and casualty insurance company. The home office is in Lutherville, Maryland.

(5) Application for a name change by E. F. Hutton Life Insurance Company, a foreign life insurance company. The home office is in La Jolla, California. The proposed new name is First Capital Life Insurance Company.

(6) Application for admission to do business in Texas of Investors Security Insurance Company, a foreign life insurance company. The home office is in Oklahoma City, Oklahoma.

(7) Application for incorporation of Metropolitan Dental Care, Inc., a domestic health maintenance organization. The home office is to be in Dallas.

(8) Application for admission to do business in Texas of Monumental General Casualty Company, a foreign fire and casualty insurance company. The home office is in Baltimore, Maryland.

(9) Application for admission to do business in Texas of Nordstern Insurance Company of America, a foreign fire and casualty insurance company. The home office is in New York, New York.

(10) Application for name change by Commonwealth Mortgage Assurance Company of Maryland, a foreign mortgage guaranty insurance company. The home office is in Baltimore, Maryland. The proposed new name is Prudential Mortgage Insurance Company.

(11) Application for a name change by Boren Life Insurance Company, a domestic life insurance company. The home office is in Richland Hills. The proposed new name is Republic Life Insurance Company.

(12) Application for admission to do business in Texas of York Insurance Company, a foreign fire and casualty insurance company. The home office is in Elmhurst, Illinois.

(13) Application for admission to do business in Texas of United Group Insurance Company of Arizona, a foreign life insurance company. The home office is in Phoenix, Arizona.

Issued in Austin, Texas, on July 24, 1987

TRD-8706229      Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: July 29, 1987

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



## Texas State Board of Medical Examiners

### Consultant Proposal Request

This request is filed pursuant to Texas Civil Statutes, Article 6252-11c. The Texas State Board of Medical Examiners, the licensing and regulatory agency for physicians in the State of Texas, invites proposals for the services of a consultant to assist in the development of a systems improvement plan for the agency. The plan will be used by the board as a guideline for acquiring and implementing new computer hardware and software and converting the board's existing computer applications.

A study has been performed by an independent consulting firm which examined the data processing options available to the board. The study recommended installing an in-house computer system and converting existing applications from a service bureau.

The objectives of the proposed plan are to identify the business and information requirements of the board; to identify hardware and software combinations available to meet those requirements; to identify areas essential to the successful implementation of the new system and conversion; and to develop a detailed plan for this system improvement.



The proposal must include awareness of the scope of the project, technical approach, firm qualifications, project staffing, and fees. The contract period will begin no earlier than September 15, 1987, and shall be completed no later than December 31, 1987.

All proposals must be received by noon on August 31, 1987, at 1101 Camino La Costa, Suite 201, Austin, Travis County, Texas 78752. For additional information, contact Joan Dorris at the preceding address.

In evaluating proposals, the agency reserves the right to contact any bidder to obtain explanations regarding its proposal, to accept or reject all or any part of any proposal; to waive minor technical deficiencies; to award the contract to the bidder whose proposal best serves the needs of the Texas State Board of Medical Examiners (without assuming an obligation to accept any proposal); to use for comparison and clarification purposes any or all of the materials from any or all of the proposals, and information from other sources; and to make an award for all or any part of the requirements contained in this document.

Issued in Austin, Texas, on July 30, 1987.

TRD-8706263 G. V. Brindley, Jr.  
Executive Director  
Texas State Board of Medical  
Examiners

Filed: July 30, 1987  
For further information, please call (512) 452-1078



## Railroad Commission of Texas Notice of Inquiry

The Railroad Commission of Texas (commission), on July 23, 1987, initiated a general inquiry into the take-or-pay and/or minimum take provisions in natural gas purchase contracts and their impact on gas rates in the State of Texas. This inquiry has been docketed as Gas Utilities Docket 6750.

**Purpose.** The purpose of the inquiry is to obtain information from the public in order that the commission may be in a position to make informed policy or rulemaking decisions regarding this issue. The issue of take-or-pay and/or minimum take provisions is one that is regarded by this commission as extremely significant, and, therefore, the commission has found it necessary to set a public hearing for the discussion and dissemination of information. The commission encourages all segments of the gas industry and the public to participate in this hearing.

**Hearing Date.** A public hearing will be convened by the commission, at 10 a.m., on September 1, 1987, and continue on successive days, if necessary, in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin.

**Procedure.** The hearing will be conducted as a public forum for oral or written testimony and comments on the issue of take-or-pay and/or minimum take provisions in gas purchase contracts. The procedures to be followed are set out in the Texas Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5. Rules pertaining to contested cases will not apply.

Participants will have a maximum of 15 minutes to present their oral testimony; however, written statements may be of any desired length.

The commission requests that those persons or entities that desire to participate in the public hearing file a statement of intent to participate in Gas Utilities Docket 6750, with the Gas Utilities Division, on or before August 28, 1987. This statement should describe the type of testimony, documents, or exhibits to be presented at the hearing.

All written comments shall be filed in Gas Utilities Docket 6750, with the Gas Utilities Division, on or before August 28, 1987.

After the hearing, participants may file additional statements responding to positions of other participants or to questions or requests of the commission. This additional information should be filed in Gas Utilities Docket 6750, with the Gas Utilities Division, on or before September 8, 1987.

All written comments and statements of intent to participate should be filed with the Gas Utilities Division at the address listed previously.

In light of the broad topic for the hearing, the commission has identified certain topics of discussion that it requests the participants to address. These topics are available from the commission; participants should request a copy of the topics and be prepared to provide sufficient detail, facts, and figures regarding these areas of interest.

If there are other relevant areas of discussion that will provide the commission with additional detail and facts, the participants are encouraged to provide such information.

Requests for the list of topics and any questions regarding this inquiry or the hearing may be directed to Carlos W. Higgins, Director, Gas Utilities Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7002.

Issued in Austin, Texas, on July 27, 1987.

TRD-8706195 Walter Earl Lillie  
Special Counsel  
Railroad Commission of Texas

Filed: July 27, 1987  
For further information, please call (512) 463-7002



## Texas Rehabilitation Commission Supported Employment

An announcement in the July 24, 1987, issue of the *Texas Register* (12 TexReg 2450) inviting proposals on supported employment indicated a deadline of 5 p.m., Monday, August 17th. That deadline is changed.

The new deadline requires that the original proposal and two copies be post-marked no later than August 21, 1987, and mailed to Ron Trull, Supported Employment Program, Texas Rehabilitation Commission, 118 East Riverside Drive, Austin, Texas 78704.

Questions regarding the proposal should be addressed to Mr. Trull at (512) 445-8282.

Issued in Austin, Texas, on July 28, 1987.

TRD-8706264 Charles Schiesser  
Assistant Commissioner for Legal  
Services  
Texas Rehabilitation Commission

Filed: July 30, 1987  
For further information, please call (512) 445-8282



## Texas Water Commission

### Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of July 20-24, 1987.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

#### Period of July 20-24, 1987

City of Houston; wastewater treatment plant; on the south bank of Sims Bayou and approximately 800 feet west of Zavalla Street in the City of Houston, Harris County; 10495-069; renewal

City of Houston; wastewater treatment facilities; at 4020 Banner Road in the City of Houston, Harris County; 10495-041; renewal

Tomsa, Incorporated, Houston; sewage treatment plant; approximately 1,400 feet northeast of the intersection of Interstate Highways 10 and 610 in the City of Houston, Harris County; 12487-01; renewal

Gulf Coast Waste Disposal Authority, Houston; wastewater treatment plant; on the north bank of Cypress Creek approximately one mile north of FM Road 1960 and 2½ miles east of the Missouri Pacific Railroad in northern Harris County; 11141-01; renewal

The McLendon Company, Houston; wastewater treatment facilities; approximately 2,000 feet southwest of the intersection of IH 45 and West Road in Harris County; 12413-01; renewal

Mobay Corporation, Baytown; class I hazardous industrial solid waste storage, processing and disposal facility; on a 727-acre tract of land east of Cedar Bayou, approximately ½ mile south of the intersection of FM Road 565 near the City of Baytown in Chambers County; HW-50173-000; new permit

Transwestern Pipeline Company, Fort Stockton; land-fill for the management of hazardous and non-hazardous industrial solid waste; on an eight-acre tract of land in Pecos County, approximately 14 miles south of the intersection of FM Road 2023 and IH 10, and approximately 25 miles southeast of Fort Stockton;

HW- 50137-000; new permit

Guadalupe-Blanco River Authority, Seguin; wastewater treatment facilities; on the east bank of the Guadalupe River, immediately north of U.S. Highway 175 in Victoria County; 11078-01; renewal

Emmet F. Lowry, doing business as Lowry Tank and Terminal, Texas City; facility for storage and transfer of petroleum products; approximately 2,000 feet east of the west end of the Industrial Ship Canal in Texas City, Galveston County; 02565; renewal

The Texas Department of Corrections, Huntsville; wastewater treatment facilities; approximately 1.4 miles south-southwest from the intersection of FM Road 2 and State Highway 6 and approximately one mile south-southeast of the City of Courtney in Grimes County; 12458-02; renewal

Howell Hydrocarbons Incorporated, San Antonio; petroleum refinery; at 7811 South Presa in the City of San Antonio, Bexar County; 02921; new permit

Standard Industries, Inc., San Antonio; Class I hazardous industrial solid waste storage, processing, and disposal facility; on a 253.523-acre tract of land in Bexar County, approximately 4,000 feet west and 3,750 feet north of the intersection of Nelson Road and Pearsall Road, southwest of the City of San Antonio; HW-50118-000; new permit

City of Texarkana, wastewater treatment facilities; along the east bank of Days Creek adjacent to the west side of State Line Road, approximately one mile south of the intersection of Phillips Lane and State Line Road in South Texarkana in Bowie County; 10374-05; renewal

Jones Chemicals, Inc., Houston; chemical plant; at 1777 Haden Road in the City of Houston, Harris County; 01801; renewal

Country Terrace Water Company, Inc., Highlands; wastewater treatment facilities; approximately 600 feet south of Highlands Reservoir, approximately ¾ mile northwest of the intersection of Wallisville and Wade Roads, Harris County; 11955-01; renewal

The Bayou Club of Houston, Houston; wastewater treatment facilities; at 8550 Memorial Drive in the City of Houston in Harris County; 12233-01; renewal

Richey Development Company, Inc., Houston; wastewater treatment facilities; at 9300 Bissonnet Street, approximately 600 feet east of the intersection of U.S. Highway 59 and Bissonnet Street in the City of Houston, Harris County; 12529-01; renewal

City of Daingerfield; wastewater treatment facilities; approximately 5,000 feet southeast of the intersection of U.S. Highway 259 and FM Roads 11 and 4 on the bank of Brutons Creek in Morris County; 10499-01; renewal

Bastrop County Utility Company, Inc., Cedar Creek; wastewater treatment facilities; approximately 8,000 feet northeast of the intersection of U.S. Highway 21 and FM Road 812 and three miles west of the community of Cedar Creek in Bastrop County; 13371-01; new permit

Woodland Oaks Company, Houston; wastewater treatment plant; approximately 1,800 feet west of the intersection of Hollister Drive and Hellwood Drive in Harris County; 11670-01; renewal

Woody Leskar Aircraft Sales and Service Incorporated, Houston; sewage treatment plant, on Lakeside Airport property at 18000 Groeschke Road in Harris County, 12516-01; renewal

City of Houston; wastewater treatment facilities; approximately 0.75 mile south and 0.25 mile east of the intersection of Westheimer Road and Synott Road in Harris County; 10495-118; renewal

John Lloyd Development Company, doing business as Villas Joint Venture, Austin; wastewater treatment facilities; approximately 200 feet northwest of FM Road 620 at a point 1.8 miles west of Mansfield Dam and adjacent to Lake Travis in Travis County; 11532-01; renewal

Exxon Chemicals Americas, a division of Exxon Corporation, Mont Belvieu; polyethylene manufacturing plant; just west of the Southern Pacific Railroad Line (about one mile west of Highway 146) and approximately two miles northwest of the City of Mont Belvieu, Chambers and Liberty Counties; 02546; renewal

Liberty-Dannville Fresh Water Supply District Number 2, Kilgore; wastewater treatment facilities; four miles northeast of the City of Kilgore at a point approximately 5,000 feet east of the intersection of IH 20 and U.S. Highway 259, just south of IH 20 in Gregg County; 11833-01; renewal

Wharton County WCID Number 1, Louise; wastewater treatment facilities; between FM Road 1160 and East Mustang Creek, approximately 850 feet north of the intersection of FM Road 1160 and U.S. Highway 59 within Wharton County; 10849-01; renewal

City of Midlothian; wastewater treatment facilities; 1 1/2 miles northwest of the City of Midlothian on a county road which is an extension of the northern end of Overlook Drive in Ellis County; 10348-01; renewal

City of Schertz; wastewater treatment facilities; approx-

imately 0.5 mile northwest of the intersection of IH 35 and Schwab Road, approximately 1,000 feet south of the intersection of Ranch to Market Road 482 and Schwab Road in Comal County, 13360-01; new permit

Emmett F. Lowry, doing business as Lowry Tank and Terminal, Texas City; bulk liquid petroleum storage facility; west of the south slip of the Texas City Harbor in Texas City, Galveston County; 02564; renewal

City of Idalou; wastewater treatment plant; approximately one mile southwest of the intersection of U.S. Highways 82 and 62 (State Highway 114) and FM Road 400, 1/2 mile south of the highway on Pecan Street, in Lubbock County; 10421-01; amendment

Texas Utilities Electric Company, Dallas; steam electric station; on the east side of White Rock Creek between the Texas and Pacific Railroad and Scylene Road (State Highway 352) in the City of Dallas, Dallas County; 01251; renewal

The Sabine Mining Company, Hallsville; a lignite mining operation; south of the City of Hallsville, bordered on the north by FM Road 968 and IH 20 at their intersection and on the south by the Sabine River in Harrison County; 02538; renewal

City of West Columbia; wastewater treatment facilities; on Washington Street approximately three miles east of the intersection of State Highway 35 and 36 and 2,000 feet west of the Brazos River in Brazoria County; 10312-01; amendment

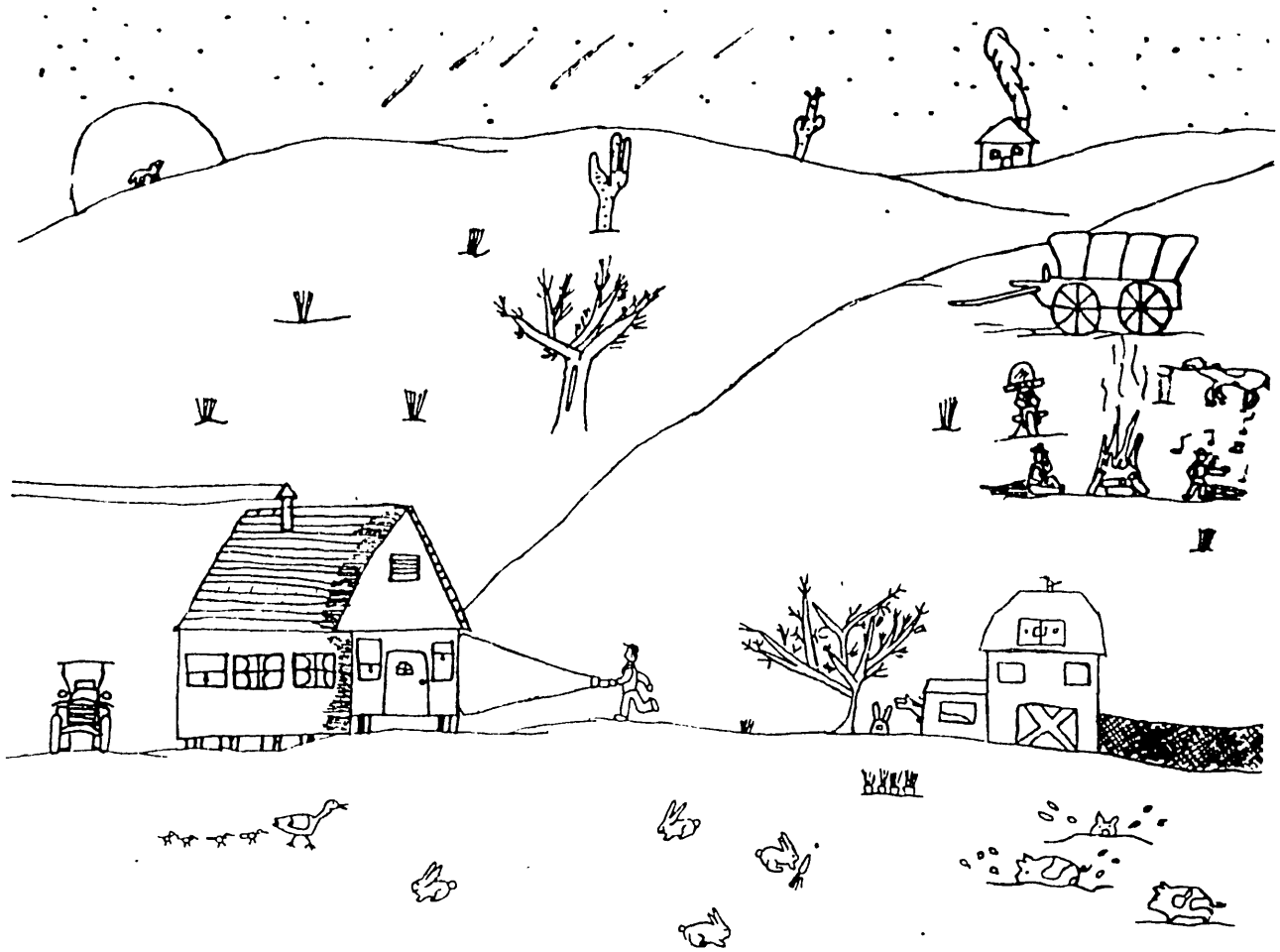
Issued in Austin, Texas, on July 27, 1987

TRD-8706233      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

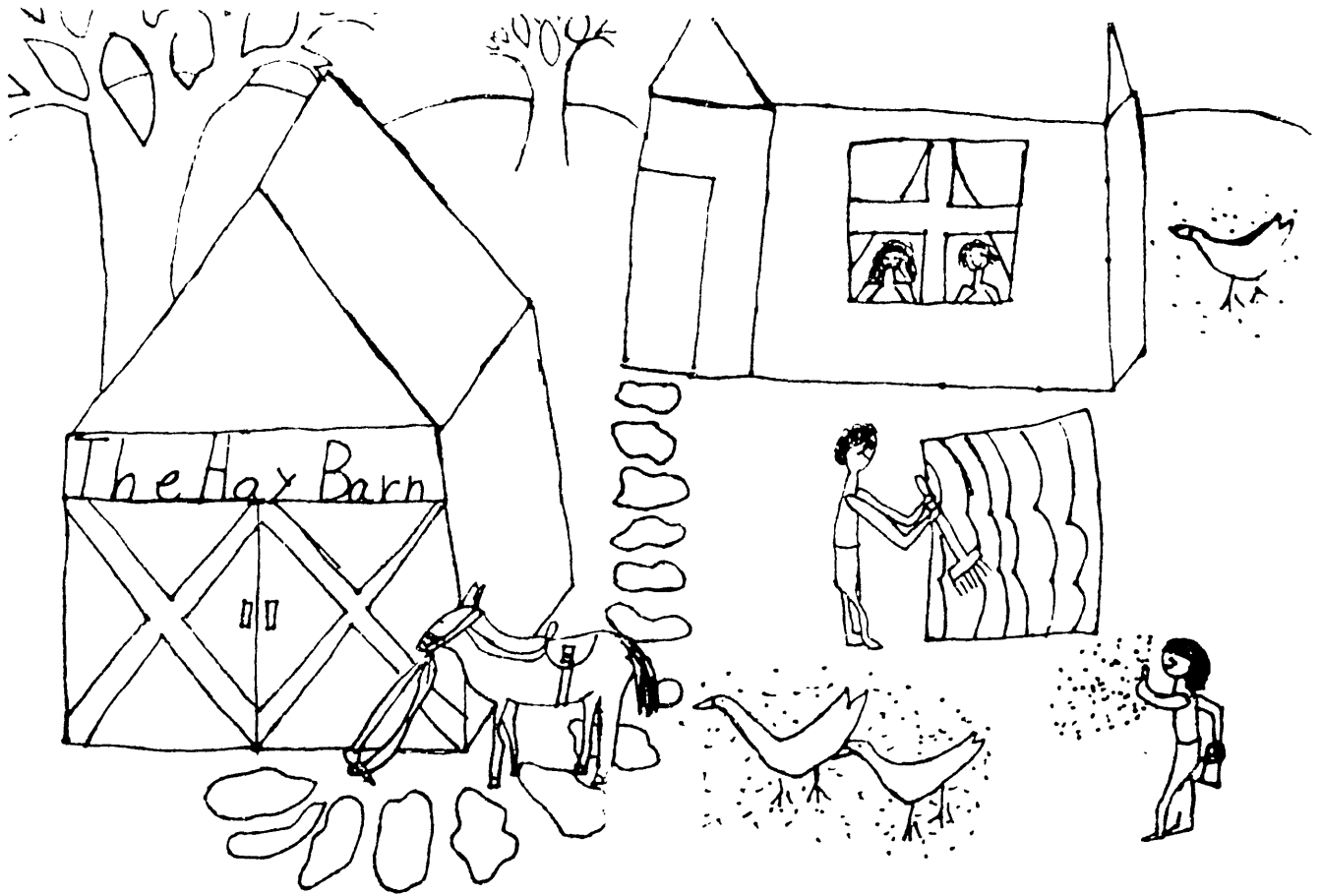
Filed, July 29, 1987

For further information, please call (512) 463-7898

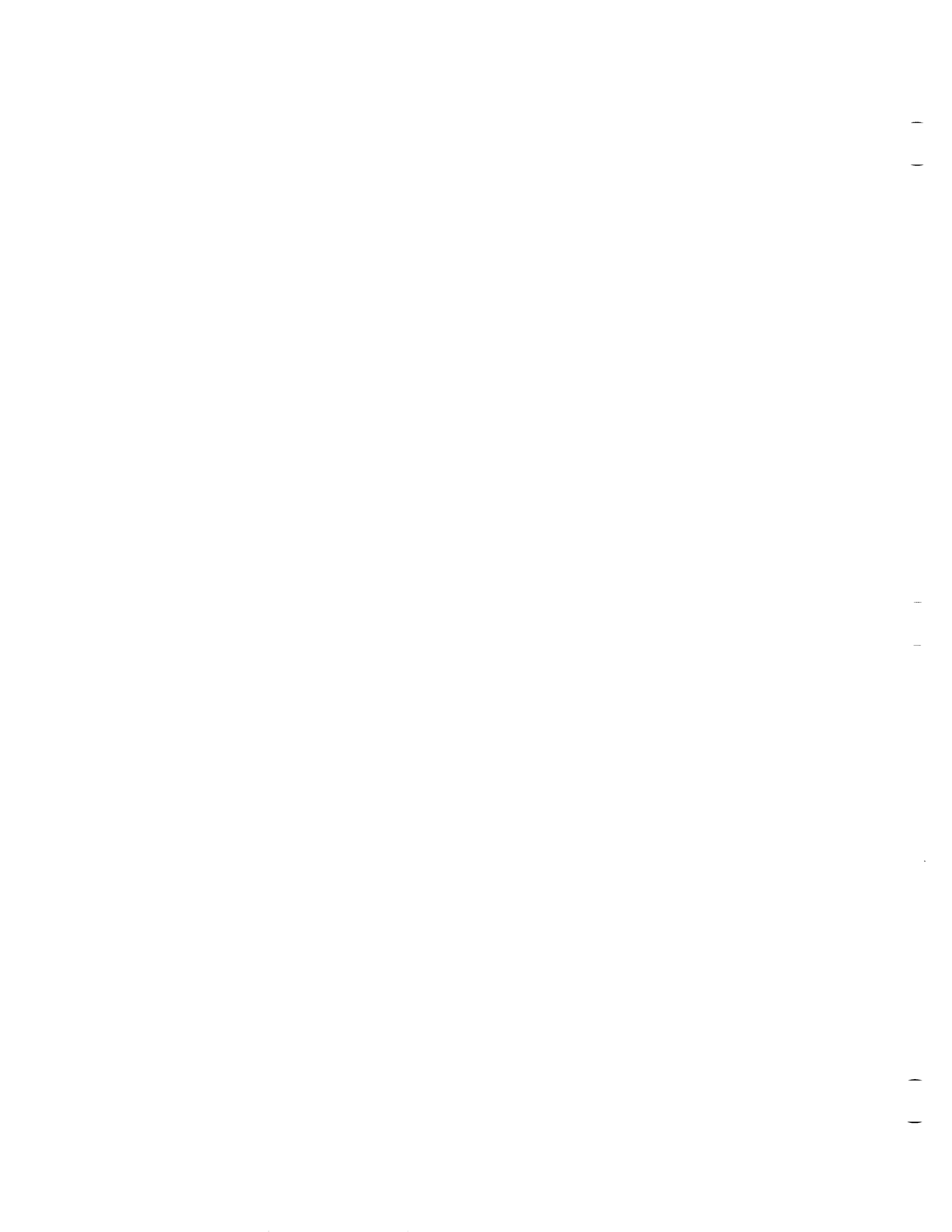




Name: Edward Lopez  
Grade: 5  
School: Burton Hill Elementary, Ft. Worth



Name: Jessica Perkins  
Grade: 5  
School: Burton Hill Elementary, Ft. Worth



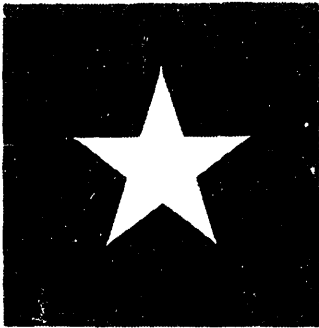


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