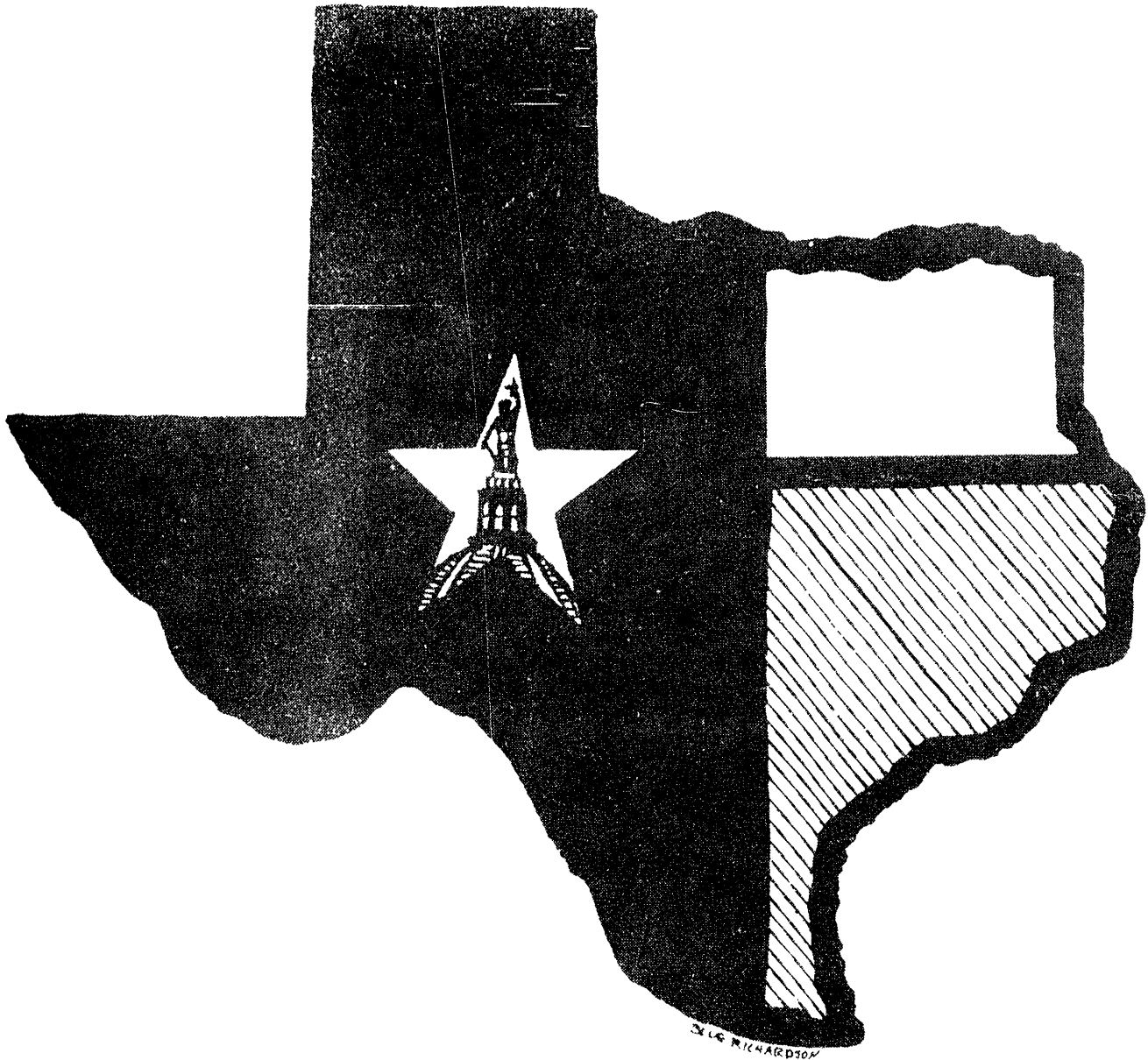


# Texas Register

Volume 12, Number 78, October 16, 1987

Pages 3795-3859



## Highlights

The **Texas Department of Health** proposes a new section concerning inhalant abuse; permits for sellers of abusable glues and aerosol paints. Proposed date of adoption - December 5, 1987 . . . **page 3817**

The **Texas Board of Private Investigators and Private Security Agencies** adopts on an emergency basis, requirements for issuance, application, re-

newal, and uniforms, standards for commissioned security officers. Effective date - October 12, 1987 . . . **page 3805**

The **Texas Department of Human Services** propose amendments regarding general licensing procedures. Proposed date of adoption - January 4, 1988 . . . **page 3831**

**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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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.

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

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

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

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

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# Table of Contents

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## The Governor

- Appointments Made October 5
  - 3801— Texas Strategic Economic Policy Commission
  - 3801— Coastal Water Authority Board of Directors
  - 3801— Interstate Oil Compact Commission and to the Legal Committee
  - 3801— Upper Colorado River Authority Board of Directors
- Appointments Made October 6
  - 3801— Nueces River Authority Board of Director
  - 3801— Board of Regents of Texas State Technical Institute
  - 3801— Texas Savings and Loan Section of the Finance Commission of Texas

## Attorney General

- Opinions
  - 3802— JM-797 (RQ-1171)
  - 3802— JM-798 (RQ-1192)
  - 3802— JM-799 (RQ-1202)
  - 3802— JM-800 (RQ-1049)
  - 3802— JM-801 (RQ-1030)
  - 3802— JM-802 (RQ-1146)
  - 3802— JM-803 (RQ-1157)
  - 3802— JM-804 (RQ-927)
  - 3802— JM-805 (RQ-1018)
  - 3802— JM-806 (RQ-1174)
  - 3803— JM-807 (RQ-1167)
- Open Records Decision
  - 3803— ORD-480 (RQ-1218)

## Emergency Rules

- Office of the Secretary of State
  - 3804— Office of the Secretary
- Texas Board of Private Investigators and Private Security Agencies
  - 3804— Application and Examination
  - 3805— Handgun; Security Officer Commission
  - 3806— Training Programs
  - 3807— Registration of Employers or Private Investigators
  - 3807— Fees
  - 3808— Application Processing and Refunds
- Texas State Board of Public Accountancy
  - 3808— Continuing Professional Education
- State Board of Insurance
  - 3809— Corporate and Financial
- Texas Parks and Wildlife Department
  - 3813— Wildlife
- School Land Board
  - 3813— Land Resources

## Proposed Rules

- Automated Information and Telecommunications Council
  - 3814— Acquisition of Telecommunications Systems
- Texas State Board of Public Accountancy
  - 3814— Professional Conduct
- State Board of Veterinary Medical Examiners
  - 3814— Practice and Procedure
- Texas Department of Health
  - 3817— Product Safety
  - 3819— Solid Waste Management
- School Land Board
  - 3821— Land Resources
- Texas Water Development Board
  - 3822— Research and Planning Fund
  - 3825— Agricultural Water Conservation Program
- Texas Department of Public Safety
  - 3829— Organization and Administration
- Texas Department of Human Services
  - 3829— ICF-MR
  - 3831— Day Care Licensing Standards

## Withdrawn Rules

- Texas Department of Human Services
  - 3838— ICF-MR

## Adopted Rules

- State Board of Insurance
  - 3839— Life, Accident, and Health Insurance and Annuities
- Texas Department of Human Services
  - 3839— ICF-MR
- Texas Commission on Alcohol and Drug Abuse
  - 3840— Licensure
- State Board of Insurance
  - 3843— Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

## Open Meetings

- 3844— Texas Department of Agriculture
- 3844— Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons
- 3844— Bond Review Board
- 3844— Texas Department of Commerce
- 3844— Texas Commission for the Deaf
- 3844— Employees Retirement System of Texas
- 3845— Commission on Fire Protection Personnel Standards and Education
- 3845— Governor's Office
- 3845— Health and Human Services Coordinating Council
- 3845— Texas Historical Commission
- 3846— Texas Housing Agency

3846— Texas Commission on Human Rights  
3846— State Board of Insurance  
3846— Texas Department of Labor and Standards  
3847— Lamar University System  
3847— School Land Board  
3847— Texas Department of Mental Health and Mental Retardation  
3847— Midwestern State University  
3847— Board of Pardons and Paroles  
3848— Texas Department of Public Safety  
3848— Public Utility Commission of Texas  
3848— Railroad Commission of Texas  
3849— Teacher Retirement System of Texas  
3849— Texas State Technical Institute  
3849— University of Texas System  
3849— University Interscholastic League  
3850— Texas Council on Vocational Education  
3850— Texas Water Commission  
3850— Joint Select Committee on Workers' Compensation Insurance  
3851— Regional Agencies

### **In Addition**

Texas Air Control Board  
3853— Applications for Construction Permits  
3853— Contested Case Hearing  
Banking Department of Texas  
3854— Application to Acquire Control of a State Bank

Texas Employment Commission  
3854— Correction of Error  
Texas Department of Health  
3854— Radioactive Material License Amendments  
Texas Housing Agency  
3855— Request for Proposals  
Texas Industrial Accident Board  
3855— Consumer Price Index for the State of Texas  
State Board of Insurance  
3855— Public Hearing  
Texas Department of Mental Health and Mental Retardation  
3856— Consultant Proposal Request  
Middle Rio Grande Development Council  
3856— Request for Proposals  
Texas Public Finance Authority  
3857— Consultant Proposal Request  
Railroad Commission of Texas  
3857— Public Notice  
Texas Savings and Loan Department  
3857— Notice of Application to Establish Remote Service Units  
Texas Water Commission  
3858— Applications for Waste Disposal Permits  
3858— Public Hearing

# TAC Titles Affected

## TAC Titles Affected—October

The following is a list of the administrative rules that have been published this month.

### TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State	
1 TAC §71.8, §71.9	3804
Part V. State Purchasing and General Services Commission	
1 TAC §111.37	3513
1 TAC §113.5	3513
1 TAC §113.10	3540
1 TAC §113.73	3540
1 TAC §§115.31-115.33, 115.36	3514
Part X. Automated Information and Telecommunications Council	
1 TAC §201.1	3619, 3634
1 TAC §205.1	3814

### TITLE 4. AGRICULTURE

Part II. Texas Animal Health Commission	
4 TAC §§32.1-32.12	3540
4 TAC §§32.1-32.8	3540
4 TAC §§35.1, 35.2, 35.4	3514
4 TAC §§35.2, 35.4, 35.5	3541
4 TAC §37.2	3547
4 TAC §§39.1, 39.3, 39.4	3547
4 TAC §41.1	3548
4 TAC §43.2	3548
4 TAC §47.1, §47.2	3515
4 TAC §47.1-47.6	3516
4 TAC §51.1, §51.2	3549
4 TAC §§51.1-51.3	3548
4 TAC §§55.6, §55.7	3549

### TITLE 16. ECONOMIC REGULATION

16 TAC §3.31	3584
16 TAC §5.91	3590
16 TAC §5.256	3590
16 TAC §5.316	3590
16 TAC §5.462	3591
Part IV. Texas Department of Labor and Standards	
16 TAC §69.67	3549

### TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board	
19 TAC §25.33	3518, 3550
19 TAC §25.72	3550
Part II. Texas Education Agency	
19 TAC §41.61	3634
19 TAC §§149.41, 149.43, 149.44	3506
19 TAC §§149.41, 149.43, 149.44	3519

### TITLE 22. EXAMINING BOARDS

Part XI. Board of Nurse Examiners	
22 TAC §§218.1, 281.5-218.12	3519
Part XII. Board of Vocational Nurse Examiners	
22 TAC §233.76	3602
Part XX. Texas Board of Private Investigators and Private Security Agencies	
22 TAC §429.11	3804
22 TAC §§433.1-433.4, 433.7-433.17	3805
22 TAC §§433.1-433.11	3805
22 TAC §§435.12-435.16	3806
22 TAC §§435.12-435.15	3806
22 TAC §451.7-§451.8	3807
22 TAC §451.8	3807
22 TAC §455.1	3807
22 TAC §460.1	3808

Part XXII. Texas State Board of Public Accountancy	
22 TAC §501.47	3814

Part XXIII. Texas Real Estate Commission	
22 TAC §523.71	3808
22 TAC §523.72	3808
22 TAC §523.73	3809
22 TAD §523.74	3809
22 TAC §535.61	3775
22 TAC §591.21	3775
22 TAC §§593.1-593.3, 593.5-593.7, 593.21	3775
22 TAC §595.2, §595.3	3777

Part XXIV. State Board of Veterinary Medical Examiners	
22 TAC §575.2	3814
22 TAC §575.3	3815
22 TAC §575.9	3815
22 TAC §575.10	3816
22 TAC §575.12	3816
22 TAC §575.13	3816
22 TAC §575.20	3817
22 TAC §575.21	3817

### TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health	
25 TAC §§1.2, 1.5, 1.7	3592
25 TAC §§13.11-13.15	3521
25 TAC §§13.11-13.17	3521
25 TAC §§89.4-89.8	3550
25 TAC §§157.63, 157.77, 157.82	3507, 3523
25 TAC §205.51	3817
25 TAC §229.172	3635
25 TAC §229.173	3594
25 TAC §§289.141-289.156	3761
25 TAC §295.2, §295.9	3551
25 TAC §325.5	3819
25 TAC §§325.91, 325.91, 325.93, 325.95	3819

Part VII. Texas Medical Disclosure Panel	
25 TAC §601.1, §601.2	3636

### TITLE 28. INSURANCE

Part I. State Board of Insurance	
28 TAC §§3.1302, 3.1304-3.1306	3839
28 TAC §§7.1401-7.1414	3809
28 TAC §9.1	3524

Part II. Industrial Accident Board	
28 TAC §41.27	3637
28 TAC §41.135	3637
28 TAC §43.5	3637
28 TAC §43.10	3638
28 TAC §§56.5, 56.10, 56.15, 56.20, 56.25, 56.30, 56.35, 56.40, 56.45, 56.50, 56.55, 56.60, 56.65, 56.70	
28 TAC §§69.5, 69.10, 69.15, 69.20, 69.25, 69.30, 69.35, 69.40, 69.45, 69.50, 69.55, 69.60, 69.65, 69.70, 69.75, 69.80, 69.85, 69.90	
28 TAC §§69.205, 69.210, 69.215, 69.220, 69.225, 69.230, 69.235, 69.240	

### TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office	
31 TAC §13.1	3587, 3594
31 TAC §13.3	3587, 3594
31 TAC §13.19	3508, 3524
Part II. Texas Parks and Wildlife Department	
31 TAC §65.205	3813
Part III. Texas Air Control Board	
31 TAC §101.1	3525
31 TAC §103.11	3595
31 TAC §103.41, §103.53	3595

31 TAC §§115.131-115.135	3526	40 TAC §27.3010	3830	
31 TAC §115.163, §115.164	3528	40 TAC §33.112	3779	
31 TAC §115.171, §115.176	3529	40 TAC §33.122	3779	
31 TAC §§115.191, 115.193, 115.194	3529	40 TAC §33.306, §33.317	3779	
31 TAC §§115.201-115.203	3531	40 TAC §33.402	3779	
31 TAC §§115.291, 115.293, 115.294	3532	40 TAC §§35.1-35.6	3553	
31 TAC §§116.5, 116.7, 116.10	3533	40 TAC §35.101, §35.102	3553	
31 TAC §116.13	3535	40 TAC §§35.201-35.203, 35.205-35.210	3553	
<b>Part IV. School Land Board</b>				
31 TAC §155.8	3813, 3821	40 TAC §§35.201-35.205	3554	
31 TAC §155.11	3813, 3821	40 TAC §35.301, §35.302	3554	
<b>Part IX. Texas Water Commission</b>				
31 TAC §307.1-307.10	3643	40 TAC §§35.301-35.303	3554	
31 TAC §§335.201, 335.202, 335.204	3768	40 TAC §§35.401-35.404	3554	
<b>Part X. Texas Water Development Board</b>				
31 TAC §355.1	3508	40 TAC §35.401-35.408	3554	
31 TAC §§355.10-355.19	3509	40 TAC §§35.501-35.504	3554	
31 TAC §§355.31-355.40	3822	40 TAC §35.501, §35.502	3554	
31 TAC §§355.101-355.110	3512	40 TAC §§35.601-35.610	3554, 3555	
31 TAC §367.1, §367.2	3825	40 TAC §35.701-35.710	3555	
31 TAC §§367.21-367.23, 367.25, 367.27-367.29	3825	40 TAC §§35.701-35.709	3555	
31 TAC §§367.41-367.46, 367.48, 367.49	3827	40 TAC §35.801-35.804	3556	
<b>TITLE 34. PUBLIC FINANCE</b>				
<b>Part I. Comptroller of Public Accounts</b>				
34 TAC §3.11	3596	40 TAC §35.801-35.808	3556	
34 TAC §3.175	3777	40 TAC §35.901-35.904	3556	
34 TAC §3.185	3777	40 TAC §35.9001	3556	
34 TAC §3.191	3778	40 TAC §§35.9801, 35.9803, 35.9804	3556	
34 TAC §3.293	3623	40 TAC §48.3904	3597	
34 TAC §3.319	3626	40 TAC §48.3905	3597	
34 TAC §3.333	3626	40 TAC §48.8901	3598	
34 TAC §3.342	3627	40 TAC §§81.101-81.128	3831	
34 TAC §3.343	3628	40 TAC §85.7005	3539	
34 TAC §3.354	3629	40 TAC §§85.7005-85.7007	3539	
34 TAC §3.355	3630	40 TAC §§85.1403, 85.1405, 85.1406	3832	
34 TAC §3.356	3631	40 TAC §85.1801, §85.1803	3832	
34 TAC §3.544	3778	40 TAC §§85.2006, 85.2012, 85.2014, 85.2019, 85.2033, 85.2035, 85.2037-85.2039, 85.2041, 85.2044	3832	
34 TAC §3.545	3778	40 TAC §§85.2016, 85.2034, 85.2043	3833	
34 TAC §3.548	3778	40 TAC §§85.2034, 85.2046, 85.2047	3833	
34 TAC §3.562	3632	40 TAC §§85.3044, 85.3047, 85.3049, 85.3050, 85.3054, 85.3057, 85.3071-85.3073, 85.3075	3834	
34 TAC §5.113	3633	40 TAC §§85.3051, 85.3052, 85.3060	3834	
<b>TITLE 37. PUBLIC SAFETY AND CORRECTIONS</b>				
<b>Part I. Texas Department of Public Safety</b>				
37 TAC §1.122	3829	40 TAC §85.5010	3835	
37 TAC §3.59	3536	40 TAC §§85.5010, 85.5021, 85.5022	3835	
<b>Part IX. Texas Commission on Jail Standards</b>				
37 TAC §253.1	3538	40 TAC §§85.5012, 85.5014, 85.5020	3835	
37 TAC §259.345	3538	40 TAC §§85.6003, 85.6006, 85.6007, 85.6018, 85.6027	3836	
37 TAC §259.346	3538	<b>Part III. Texas Commission on Alcohol and Drug Abuse</b>		
<b>TITLE 40 SOCIAL SERVICES AND ASSISTANCE</b>				
<b>Part I. Texas Department of Human Services</b>				
40 TAC §27.108	3839	40 TAC §§151.11-151.17, 151.21, 151.22	3840	
40 TAC §27.1206	3830, 3838	40 TAC §§151.41-151.50	3842	
40 TAC §27.1804	3840	<b>Part V. Veterans Land Board</b>		
<b>Part X. Texas Employment Commission</b>				
<b>Part XII. Texas Advisory Board of Occupational Therapy</b>				
40 TAC §375.1				3772

# 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 October 5

To be a member of the **Texas Strategic Economic Policy Commission** pursuant to House Bill 3, 70th Legislature, 1987, for a term to expire June 1, 1989:

H. Scott Caven, 1000 Louisiana, Suite 2200, Houston, Texas 77002.

To be a member of the **Coastal Water Authority Board of Directors** for a term to expire April 1, 1989:

R. Wayne Smith, P.O. Box 96636, Houston, Texas 77213. Mr. Smith will be replacing Wallace Claypool of Houston, whose term expired.

To be a member of the **Interstate Oil Compact Commission and to the Legal Committee** thereof for a term at the pleasure of the governor:

Stephen C. Mahood, 4317 Overhill, Dallas, Texas 75205.

To be a member of the **Texas Strategic Economic Policy Commission** pursuant to House Bill 3, 70th Legislature, 1987, for a term to expire June 1, 1989:

James R. Adams, P.O. Box 655521, Dallas, Texas 75265- 5521.

To be a member of the **Upper Colorado River Authority Board of Directors** for a term to expire February 1, 1993:

Robert L. Galloway, P.O. Drawer 654, Bronte, Texas 76933. Mr. Galloway will be replacing Harvey Daniel Glass, Jr. of Sterling City, whose term expired.

To be a member of the **Texas Strategic Economic Policy Commission** pursuant to House Bill 3, 70th Legislature, 1987, for a term to expire June 1, 1989:

John F. Sammons, Jr., P.O. Box 486, Temple, Texas 76503.

## Appointments Made October 6

To be a member of the **Nueces River Authority Board of Directors** for a term to expire February 1, 1993:

Dolph Briscoe, III, P.O. Box 726, Cotulla, Texas 78014. Mr. Briscoe will be replacing Leslie H. Laffere of Uvalde, whose term expired.

To be a member of the **Board of Regents of Texas State Technical Institute** for a term to expire August 31, 1993:

Jesse S. Harris, P.O. Box 29957, Dallas, Texas 75229. Mr. Harris will be replacing Ralph T. Doshier, Jr. of Dallas, whose term expired.

To be a member of the **Board of Regents of Texas State Technical Institute** for a term to expire August 31, 1993:

George Weldon Baur, P.O. Box 2539, Houston, Texas 77252-2539. Mr. Baur will be replacing James A. Besselman of Amarillo, whose term expired.

To be a member of the **Savings and Loan Section of the Finance Commission of Texas** for a term to expire February 1, 1989:

Charles S. Teeple, IV, Windsor Financial Corporation, 522 Congress Avenue, Suite 225, Austin, Texas 78701. Mr. Teeple will be filling the unexpired term of Ralph Reed of Bryan, who resigned.

Issued in Austin, Texas, on October 7, 1987.

TRD-8708687

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*.

## Opinions

**JM-797 (RQ-1171).** Request from Henry B. Keene, Chairman, Board of Pardons and Paroles, Austin, concerning whether a full pardon is equivalent to a restoration of citizenship under the Code of Criminal Procedure, Article 42.12, §24.

**Summary of Opinion.** The terms "restoration of full rights of citizenship" and "pardon" are synonymous except in regard to the status of the prisoner. There is no authority under the present statute for the Board of Pardons and Paroles to recommend to the governor that individuals be restored to full rights of citizenship only.

TRD-8708787



**JM-798 (RQ-1192).** Request from Rayford A. Ratliff, Moore County Attorney, Dumas, concerning whether a defendant is eligible for misdemeanor probation while he is serving a probated felony sentence.

**Summary of Opinion.** A criminal defendant is not eligible to apply for a recommendation of probation from a jury in a misdemeanor case while the defendant is on felony probation.

TRD-8708786



**JM-799 (RQ-1202).** Request from Benjamin Euresti, Jr., Cameron County Attorney, Brownsville, concerning whether the Cameron County Bail Bond Board is authorized to set a limit on the value amount of bonds which a corporate surety may provide.

**Summary of Opinion.** The Cameron County Bail Bond Board is not authorized to set a limit on the value amount of bonds which a corporate surety may provide where the corporation has been issued a certificate of authority to do business in this state by the State Board of Insurance pursuant to the Insurance Code, Article 8.20, and has met the requirements of Texas Civil Statutes, Article 2372p-3, §6.

TRD-8708785



**JM-800 (RQ-1049).** Request from L. M. Braziel, Rains County Attorney, Emory, concerning whether Texas Civil Statutes, Ar-

ticle 2368a.2, permit the construction of a county jail building through a lease-purchase agreement when the agreement describes the building as personal property.

**Summary of Opinion.** The Public Property Finance Act, Texas Civil Statutes, Article 2368a.2, applies to the acquisition of personal property and not real property. The parties to a contract may not bring property ordinarily considered to be real property within the terms of this statute by agreeing to characterize it as personal property.

TRD-8708784



**JM-801 (RQ-1030).** Request from Jimmy F. Davis, Castro County Attorney, Dimmitt, concerning whether a county commissioner may hire the son of another county commissioner in a county which has ex officio road commissioners.

**Summary of Opinion.** Texas Civil Statutes, Article 5996a, the nepotism statute, prohibits an ex officio road commissioner from hiring the son of another county commissioner as a road hand.

TRD-8708783



**JM-802 (RQ-1146).** Request from John R. Hale, Commissioner, Credit Union Department, Austin, concerning conditions under which a credit union may make certain loans to insiders.

**Summary of Opinion.** The credit union commissioner has the authority to determine whether the ten percent loan limit of Texas Civil Statutes, Article 2461-7.02, has been violated.

TRD-8708782



**JM-803 (RQ-1157).** Request from Emory C. Walton, Criminal District Attorney, Eastland, concerning whether a court-appointed counsel may be compensated for services rendered and expenses incurred prior to the time of appointment and related questions.

**Summary of Opinion.** The validity of a judicial order for the payment of attorneys

fees is a question which is presently the subject of adjudication in the courts, and therefore cannot be resolved by this office.

TRD-8708781



**JM-804 (RQ-927).** Request from O. P. (Bob) Bobbitt, Executive Director, Texas Department on Aging, Austin, concerning whether amendments to the Texas Housing Agency Act and the Texas Finance Corporations Act concerning housing for the elderly apply to refunding bonds.

**Summary of Opinion.** The refinancing of a housing development by issuance or refunding bonds under the Texas Housing Agency Act, Texas Civil Statutes, Article 12691-6, or the Texas Finance Corporation Act, Local Government Code, Chapter 394, does not impose upon the housing development the requirement that space be reserved in the development for elderly occupants.

TRD-8708792



**JM-805 (RQ-1018).** Request from Kent Caperton, Chairman, Jurisprudence Committee, Texas State Senate, Austin, concerning whether a home rule city may issue general obligation bonds to finance public housing for low income and moderate income families.

**Summary of Opinion.** A home rule city's issuance of general obligation bonds to finance affordable housing for low and moderate income families does not per se violate the public purpose requirements of the Texas Constitution, Article VIII, §3, and Article III, §52 although some statute limit the manner of issuing general obligation bonds and the manner in which an affordable housing program may be carried out, no statutes prohibit the issuance of general obligation bonds by a home rule city to finance affordable housing for low and moderate income families.

TRD-8708791



**JM-806 (RQ-1174).** Request from Larry R. Soward, Executive Director, Texas Water Commission, Austin, concerning whether a corporate guarantee given by the operator





of a hazardous waste facility as a mechanism for demonstration of financial responsibility can be enforced if the owner or operator of a subsidiary corporate has signed a settlement agreement disclaiming liability.

**Summary of Opinion.** A corporate guarantee based on contractual liability imposed by a settlement agreement may be legally enforced in Texas.

TRD-8708790



**JM-807 (RQ-1167).** Request from Neal Birmingham, Cass County District Attorney, Linden, concerning whether \$30,000 is the aggregate limit on articles exempt from execution under the Property Code, §42.001 and §42.002.

**Summary of Opinion.** The items listed in the Property Code, Article 42.001, are the only items that may be claimed as exempt under the Property Code, Article 42.002, and the listed items may be claimed only to the extent that their aggregate fair market value does not exceed \$30,000 for a family or \$15,000 for a single adult.

TRD-8708789



### Open Records Decision

**ORD-480 (RQ-1218).** Request from Joe L. McCormick, Executive Director, Texas Guaranteed Student Loan Corporation, Austin, concerning whether the Open Records Act, Texas Civil Statutes, Article 6252-17a, authorize the Guaranteed Student Loan Corporation to withhold information concerning student loans.

**Summary of Decision.** The Guaranteed Student Loan Corporation is not an educational agency or institution; accordingly, the Open Records Act, §3(a)(14) and §14(e) do not permit it to withhold information concerning student loans guaranteed by the corporation. Constitutional disclosural privacy, applied through the Act, §3(a)(1), also does not embrace the requested information.

TRD-8708788



Name: Trang Nguyen  
Grade: 5  
School: Menchaca Elementary, Austin

# 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 71. Office of the Secretary

#### Practice and Procedure ★1 TAC §71.8, §71.9

The Office of the Secretary of State proposes amendments to §71.8 and §71.9 concerning copies; certified copies; fees for copies, and fees; payment of money; and refunds, respectively. The amendment to §71.8 is necessary to comply with the provisions of Texas Civil Statutes, Article 6252-17a, §9(a) and (b), as amended by Senate Bill 560, 70th Legislature, 1987; and to conform to the State Purchasing and General Services Commission's sections as set forth in 1 TAC §§111.61-111.63. The proposed amendment to §71.8 provides updated information and costs figures in determining charges for copies of open records. The amendment to §71.9 increases the minimum amount of revenue which the agency may refund from \$5 to \$10. New subsection (e) of §71.8 is simply a renumbering of the provision previously set forth in §71.8(c)(3). It is necessary to adopt these sections on an emergency basis in order to comply with Texas Civil Statutes, Article 6252-17a, §9(a) and (b), as amended by Senate Bill 560, 70th Legislature, 1987, which became effective August 31, 1987.

The amendments are proposed under Texas Civil Statutes, Article 6252-13a, §4, and Texas Civil Statutes, Article 6252-17a, §9, which provide the Office of the Secretary of State with the authority to adopt rules of practice reasonably necessary to carry out its ministerial duties under the Act.

#### §71.8. Copies; Certified Copies; Fees for Copies.

- (a)-(b) (No change.)
- (c) Fees for noncertified copies of documents on file in the Office of the Secretary of State shall be computed [as follows:
  - [(1) \$.55 for the first page of a document;
  - [(2) \$.15 for each additional page of the same document, or additional copies of

the same document;  
[(3) when noncertified copies are required to be mailed, the cost of postage will be added to the computed fee] in accordance with the administrative rules, as amended from time to time, of the State Purchasing and General Services Commission, as set forth in §111.62 of this title (relating to Standard-Sized Pages) which deals with the maximum charges allowable for noncertified copies of standard sized pages.  
(d) The fees for reproducing noncertified copies of documents or other open records from the microfilm records of the Office of the Secretary of State shall be computed as follows:

- (1) \$.75 for the first page of a document; and
- (2) \$.25 for each additional page of the same document, or additional copies of the same document.
- (e) When noncertified copies are required to be mailed, the cost of postage will be added to the computed fee.

#### §71.9. Fees; Payment of Money; Refunds.

- (a)-(b) (No change.)
- (c) Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when the party desires to withdraw an application for filing, will not entitle a party to a refund. Only amounts in excess of [5] \$10 will be refunded under any circumstances.

Issued in Austin, Texas, on September 25, 1987.

TRD-8708738 Lorna Wassdorf  
Special Assistant  
Statutory Filings  
Division  
Office of the Secretary  
of State

Effective date: October 8, 1987  
Expiration date: February 5, 1988  
For further information, please call  
(512) 463-5586.

### TITLE 22. EXAMINING BOARDS Part XX. Texas Board of Private Investigators and Private Security Agencies Chapter 429. Application and Examination

#### ★22 TAC §429.11

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis the repeal of §429.11, concerning of pocket card. The section which requires that pocket cards issued to all registrants and commissioned security officers must be returned to the board upon termination of employment.

The board has determined that adoption of the repeal on an emergency basis is in the public interest and should be in effect as soon as possible in order to comply with Texas Civil Statutes, Article 4413 (29bb), which was revised effective September 1, 1987, by House Bill 888, 70th Legislature, 1987. The bill provides for a transferable pocket card to be issued to all noncommissioned and commissioned security officers, thus eliminating the return of pocket cards by these persons.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

#### §429.11. Return of Pocket Card.

Issued in Austin, Texas, on October 1, 1987.

TRD-8708833 Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.

## Chapter 433. Handgun; Security Officer Commission

### ★ 22 TAC §§433.1-433.4, 433.7-433.17

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis the repeal of §§433.1-433.4, 433.7-433.17, concerning handgun; security officer commission.

The board has determined that adoption of the repeals on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §19(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987. This bill provides for a two-year transferable card to be issued to commissioned security officers and the deletion of temporary security officer commissions.

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

§433.1. *Renewal of Security Officer Commissions.*

§433.2. *Letter of Authority.*

§433.3. *Requirements for Issuance of a Security Officer Commission by the Board.*

§433.4. *Application for a Security Officer Commission.*

§433.7. *Issuance of a 60-day Temporary Security Officer Commission.*

§433.8. *Validity of a Temporary Security Officer Commission.*

§433.9. *Issuance of a Regular Security Officer Commission by the Board.*

§433.10. *Return of a Security Officer Commission.*

§433.11. *Verification of Information Received.*

§433.12. *Violations of the Act by Commissioned Security Officers.*

§433.13. *Employers Records Required on Commissioned Security Officers.*

§433.14. *Interstate Armored Car Business.*

§433.15. *Carrying of a Security Officer Commission.*

§433.16. *Uniform Requirements.*

§433.17. *Commissioned Security Officer Scope of Authorization.*

Issued in Austin, Texas, on October 1, 1987.

TRD-8708834

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.

### ★ 22 TAC §§433.1-433.11

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis §§433.1-433.11, concerning handgun; security officer commission. The new chapter sets out requirements for issuance, application, renewal, temporary commissions, return of commissions to the board, record keeping, carrying of commissions, and uniforms; standards for letter of authority holders and armored car businesses who employ commissioned security officers; and violations by, and the scope of, authorization of commissioned security officers.

The board has determined that adoption of the new sections on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §19(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987. The bill provides for a two-year transferable card to be issued to commissioned security officers and the deletion of temporary security officer commissions.

The sections are adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

§433.1. *Renewal of Security Officer Commission.* The renewal period for security officer commissions shall be the month prior to the expiration of the security officer commission.

§433.2. *Letter of Authority.*

(a) A letter of authority shall be obtained by a private business that employs commissioned or noncommissioned security officers so that the private business can comply with the provisions of the Act, §19 and §32.

(b) A license number shall be issued to each letter of authority approved by the board and this number shall be used on all applications submitted to the board.

(c) A letter of authority shall be issued for one year and shall be renewed upon receipt of an acceptable renewal application.

(d) The renewal period for a letter of authority is the month preceding the month of expiration.

(e) A letter of authority for the purpose of the Act shall be considered a license with respect to suspension, revocation, or denial.

(f) A private business that is issued a letter of authority shall have a security supervisor and maintain on file with the board the name and signature of the security supervisor.

(g) A private business that is issued a letter of authority shall notify the board in writing within 14 days after the security supervisor listed in the board records ceases for any reason to function as the security supervisor, and at the same time notify the board in writing of the name of the replacement security supervisor.

(h) Any notification of a change or fact relating to business for which a letter of authority is required shall be in writing and shall be signed by the security supervisor or the owner of the private business, in the temporary absence of the security supervisor.

§433.3. *Requirements for Issuance of a Security Officer Commission by the Board.*

(a) Applicant shall have successfully completed a board approved 30-hour training program and be awarded a certificate of completion from a board approved security officer training school.

(b) The employer shall submit and maintain on file with the board one color photograph of the company uniform(s) shown in full length and as worn by its commissioned security officer employees, size 8 inches by 10 inches desired, three inches by 5 inches minimum acceptable.

§433.4. *Application for a Security Officer Commission.* Applicant shall submit a completed application to the board for a security officer commission on a form provided by the board. To be complete, the application shall include:

(1) the required fee which is nonrefundable for any cause;

(2) at least two sets of fingerprints on a card furnished by the board. No security officer commission shall be issued prior to classification of fingerprints and receipt of concurrence from the Texas Department of Public Safety;

(3) one color photograph affixed on the application that shows a facial likeness with employee's name legibly printed on the back. The employer shall retain one color photograph, one inch by one inch, and affix to the pocket card when received from the board;

(4) a copy of the certificate of completion awarded to the employee from a board approved security officer training school.

§433.5. *Issuance of a Security Officer Commission by the Board.* The board may issue a regular commission to an applicant,

which shall be valid until its expiration date provided:

(1) the applicant and employer are in compliance with all requirements of the Act and board sections;

(2) the applicant has not been terminated from employment;

(3) concurrence has been received from the Texas Department of Public Safety;

(4) no objection has been received from a law enforcement agency; and

(5) no information has been received by the board that the application may contain a material misstatement or misrepresentation of qualifications.

**§433.6. Verification of Information Received.** Prior to or after issuance of any security officer commission, the board may require documented evidence from any appropriate person subject to the Act or board sections verifying the applicant meets all security officer commission requirements. Failure to provide such evidence required by the board shall be sufficient cause for the board to deny, revoke, suspend, reprimand, or demand the surrender of any security officer commission, license, authority number, or letter of approval.

**§433.7. Violations of the Act by Commissioned Security Officers.** The following shall be considered a violation of the Act if a commissioned security officer:

(1) does not perform private security officer duty for the employer as indicated in the board records;

(2) performs commissioned security officer duties for any person(s) other than the employer as indicated in the board records;

(3) does not affix his signature and photograph to the commission card issued by the board;

(4) does not timely surrender his commission card upon written notice served by the board;

(5) fails to timely surrender his commission upon conviction of any felony or crime of moral turpitude, or upon written notice from the board;

(6) possesses or uses any security officer commission which has been altered;

(7) defaces or allows improper use of his security officer commission.

**§433.8. Employers Records Required on Commissioned Security Officers.** The employers of a commissioned security officer shall maintain for board inspection current records on all persons issued a commission. The records shall contain:

(1) current residence of security officer;

(2) current duty assignment and location of assignment; and

(3) documented information on training required and provided.

**§433.9. Carrying of a Security Officer Commission.** A private security officer who has been issued a security officer com-

mission by the board shall carry it on or about his person while on duty and going to and from his place of assignment, and shall present same upon request, if he is carrying a firearm.

**§433.10. Uniform Requirements.**

(a) Each commissioned security officer shall wear:

(1) a shoulder patch on his or her outermost garment which shows the name of the company under whom the security officer is employed; and

(2) an identification nameplate which contains at least the last name of the security officer.

(b) Each commissioned security officer shall display on his or her outermost garment the word "security" in one of the following places:

(1) the company shoulder patch;

(2) the nameplate; or

(3) the badge.

(c) No licensee, owner, officer, partner, shareholder, or employee shall have a badge, shoulder patch, or any identification which contains the words "law enforcement" and/or similar word(s).

**§433.11. Commissioned Security Officer Scope of Authorization.** In view of the fact that a Class B or Class C license or letter of authority are authorized to engage in license activity in all 254 Texas counties, it is in the public interest that commissioned security officers employed by a Class B or Class C licensee or a letter of authority be authorized to carry out duties in all counties.

Issued in Austin, Texas, on October 1, 1987.

TRD-8708835  
Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

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For further information, please call  
(512) 463-5545.

## Chapter 435. Training Programs

### ★ 22 TAC §§435.12-435.16

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis the repeal of §§435.12-435.16, concerning firearm qualifications; firearm courses; shotgun training; training school and instructor approval; and security officer training manual, examination, and grade. The sections set out firearm qualifications, courses, and training for commissioned security officers, and training school and instructor approval.

The board has determined that adoption of the repeals on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §20, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987. The bill provides for a two-year transferable card to be issued to commissioned security officers.

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

### §435.12. Firearm Qualification.

### §435.13. Firearm Courses.

### §435.14. Shotgun Training.

### §435.15. Training School and Instructor Approval.

### §435.16. Security Officer Training Manual, Examination, and Grade.

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Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.

### ★ 22 TAC §§435.12-435.15

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis new §§435.12-435.15, concerning firearm courses; shotgun training; training school and instructor approval; and security officer training manual, examination, and grade, respectively.

The board has determined that adoption of the new sections on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §20, which was revised September 1, 1987, by House Bill 888, 70th Legislature. The bill provides for a two-year transferable card to be issued to commissioned security officers.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

§435.12. *Firearm Courses.* In addition to the firearm qualification requirements as set forth in the Act, a firearm instructor may qualify a student by using the:

- (1) Texas Department of Public Safety practical combat pistol course;
- (2) Federal Law Enforcement Training Center practical pistol course.

§435.13. *Shotgun Training.* Competency with a shotgun shall be determined by the firearms training instructor after instructing the student in the operation of a shotgun and after the student has fired a minimum of five shots at a standard target.

§435.14. *Training School and Instructor Approval.* For the purpose of the Act, approval as a security officer training school and/or instructor shall be considered a license with respect to suspension, revocation, or denial.

§435.15. *Security Officer Training Manual, Examination, and Grade.*

(a) The board's official commissioned security officer training manual shall be used by all board approved security officer training schools, beginning September 1, 1984.

(b) All students of a commissioned security officer training school basic program shall be tested with an examination prepared by and obtained from the board, beginning September 1, 1984.

(c) The passing grade of the commissioned security officer examination shall be a minimum of 70% correct answers.

Issued in Austin, Texas, on October 1, 1987.

TRD-8708841 Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

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For further information, please call  
(512) 463-5545.



## Chapter 451. Registration of Employers or Private Investigators

### ★22 TAC §451.7, §451.8

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis new §451.7 and §451.8, concerning licensee responsible for the registration of employees, and registration deadline. Section 451.7 concerns the responsibility of licensees in registering employees with the board. Section 451.8 establishes the time period in which an application for registration must be submitted to the board.

The board has determined that adoption of the new sections on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §32, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

The new sections are adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11 which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

§451.7. *Licensee Responsible for the Registration of Employees.* It shall be the responsibility of the licensee to register with the board all employees required to register under the Act, §32.

§451.8. *Registration Deadline.* Any person required to be registered with the board must have their application on file with the board within 14 days after they commence employment in a position that requires registration.

Issued in Austin, Texas, on October 1, 1987.

TRD-8708837 Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

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For further information, please call  
(512) 463-5545.



### ★22 TAC §451.8

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis the repeal of §451.8, concerning licensee responsible for the registration of employees. The section concerns the responsibility of licensees to register employees with the board.

The board has determined that adoption of the repeal on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §32, which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

§451.8. *Licensee Responsible for the Registration of Employees.*

Issued in Austin, Texas, on October 1, 1987.

TRD-8708836 Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.



## Chapter 455. Fees

### ★22 TAC §455.1

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis the repeal of §455.1, concerning fees. The section establishes fees for the administration of the Private Investigators and Private Security Agencies Act, Texas Civil Statutes, Article 4413(29bb).

The board has determined that adoption of the repeal on an emergency basis is in the public interest and should be in effect as soon as possible in order to comply with the Act, §17(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987. The bill provides for the increase and deletion of certain fees and the adoption of certain new fees.

The repeal is adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

§455.1. *Fees.*

Issued in Austin, Texas, on October 1, 1987.

TRD-8708838 Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.



The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis new §455.1, concerning fees. The new section establishes fees for the administration of the Private Investigators and Private Security Agencies Act, Texas Civil Statutes, Article 4413(29bb).

The board has determined that emergency adoption of this section is in the public interest and should be in effect as soon as possible in order to comply with Texas Civil Statutes, Article 4413(29bb), §17(a), which was revised September 1, 1987, by House Bill 888, 70th Legislature, 1987.

Issued in Austin, Texas, on October 1, 1987.

TRD-8708840

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11, which provide the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

Effective date: October 12, 1987  
Expiration date: February 9, 1988  
For further information, please call  
(512) 463-5545.

## Chapter 460. Application Processing and Refunds

### ★ 22 TAC §460.1

The Texas Board of Private Investigators and Private Security Agencies adopts on an emergency basis new §460.1, concerning processing of applications for a license. The new section sets out the time limitation of the board in issuing a license after application and the procedures to be followed by applicants for receiving a refund of the filing fee.

The board has determined that adoption of the new section on an emergency basis is in the public interest and is necessary to comply with Texas Civil Statutes, Article 4413 (29bb), §15, which was revised September 1, 1987, by House Bill 5, 70th Legislature, 1987.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 4413 (29bb), §11 which provides the Texas Board of Private Investigators and Private Security Agencies with the authority to promulgate all rules and regulations necessary in carrying out the provisions of the Act.

**§460.1. Processing of Applications for a License.** The processing of applications for a license to engage in business is governed by House Bill 5, 70th Legislature, 1987, according to the following procedure.

(1) Upon receipt of an application for a license to engage in business, the board shall issue the license or notify the applicant of any problem with the application within 120 days after receipt of the application.

(2) If the license is not issued and the applicant has not been notified of any problem with the application within 120 days after receipt of the application by the board, the applicant may request a refund of the filing fee.

(3) Any request for a refund shall be filed with the executive director and the director shall examine the files of the agency to determine if the fee should be refunded.

Issued in Austin, Texas, on October 1, 1987.

TRD-8708842

Clema D. Sanders  
Executive Director  
Texas Board of Private  
Investigators and  
Private Security  
Agencies

## Part XXII. Texas State Board of Public Accountancy Chapter 523. Continuing Professional Education Registered Continuing Education Sponsors

### ★ 22 TAC §523.71

The Texas State Board of Public Accountancy adopts on an emergency basis new §523.71, concerning application as a sponsor. The new section sets out the procedure by which an organization shall submit applications. The new section is adopted on an emergency basis to provide the board with authority to audit continuing education sponsor courses to preclude granting of credit for standard courses being offered by some sponsors.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to application to become a sponsor of continuing education and the review of such application.

#### §523.71. Application as a Sponsor.

(a) Each organization desiring to initially register as a provider of continuing education shall submit an application on forms provided by the board. This application must be complete in all respects.

(b) The board's staff will review each application for registration and notify the applicant of its acceptance or rejection. Accepted sponsors will be assigned a sponsor number. Rejected applicants will be notified of the reason for rejection.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708800

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

Effective date: October 9, 1987  
Expiration date: February 6, 1987  
For further information, please call  
(512) 450-7066.

### ★ 22 TAC §523.72

The Texas State Board of Public Accountancy adopts on an emergency basis new §523.72, concerning renewal applications. The new section sets out that sponsors

**§455.1. Fees.** The board has established the following fees for the administration of the Act:

(1) Class A license (original and renewal)—\$225;

(2) Class B license (original and renewal)—\$225;

(3) Class C license (original and renewal)—\$340;

(4) Reinstate suspended license—\$150;

(5) Assignment of license—\$150;

(6) Change name of license—\$75;

(7) Delinquency fee—;

(8) Branch office certificate and renewal—\$150;

(9) Registration fee for private investigators, managers, branch office managers, and alarm systems installers (original and renewal)—\$15;

(10) Registration fee for noncommissioned security officer (original and renewal)—\$30;

(11) Registration fee for security sales person (original and renewal)—\$15;

(12) Registration fee for alarm systems monitor (original and renewal)—\$15;

(13) Registration fee for dog trainer (original and renewal)—\$15;

(14) Registration fee for owner, officer, partner, or shareholder of a licensee (original and renewal)—\$15;

(15) Registration fee for security consultants (original and renewal)—\$50;

(16) Security officer commission fee (original and renewal)—\$30;

(17) School instructor fee (original and renewal)—\$100;

(18) School approval fee (original and renewal)—\$250;

(19) Letter of Authority fee for private businesses and political subdivisions (original and renewal)—\$225;

(20) Duplicate pocket card—\$10;

(21) Employee information update fee—\$10;

(22) Burglar alarm sellers certificate fee (original and renewal)—\$25.

are required to indicate their desire to continue as a registered continuing education sponsor annually, on forms provided by the board. The new section is adopted on an emergency basis to provide the board with authority to audit continuing education sponsor courses to preclude granting of credit for substandard courses being offered by some sponsors.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to renewal application for sponsors of continuing education and the review of such application.

§523.72. *Renewal Application.* Sponsors are required to indicate their desire to continue as a registered continuing education sponsor annually on forms provided by the board. This application must be complete in all respects. The board's staff will review each renewal application and notify the sponsor of its acceptance or rejection and, if rejected, the reason for rejection.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708801      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 9, 1987  
Expiration date: February 6, 1988  
For further information, please call  
(512) 450-7066.



#### ★ 22 TAC §523.73

The Texas State Board of Public Accountancy adopts on an emergency basis new §523.73, concerning obligations of the sponsor. The new section sets out that, in consideration for registration, every organization shall agree to certain obligations. The new section is adopted on an emergency basis to provide the board with authority to audit continuing education sponsor courses to preclude granting of credit for substandard courses being offered by some sponsors.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the obligation of continuing education sponsors to the Texas State Board of Public Accountancy and the penalty for failure to impart acceptable standards.

§523.73. *Obligations of the Sponsor.* In consideration for registration as a sponsor of continuing education, every organization shall agree, in writing, to the following.

(1) We understand that after acceptance of the application or reapplication by the board we may advise prospective attendees of the program sponsor agreement, our sponsor number, and the number of credit hours recommended. We further agree that if we notify licensees of this agreement we shall do so by use of the following language.

(A) We have entered into an agreement with the Texas State Board of Public Accountancy to meet the requirements of continuing education rules covering maintenance of attendance records, retention of program outline, qualifications of instructors, program content, physical facilities, and length of class hours. This agreement does not constitute an endorsement by the board as to the quality of the program or its contribution to the professional competence of the licensee.

(2) We understand that our advertising shall not contain words such as accredited or approved or any terms which may imply that a determination has been made by the board on the merits or quality of the program.

(3) We agree that the board or its official designees may inspect our facilities, examine our records, attend our courses or seminars at no charge, and audit our program to determine compliance with the sponsor agreement and the continuing education standards of the board.

(4) We understand and agree that if we fail to comply with this agreement or fail to meet acceptable standards in our programs, our sponsor agreement may be terminated at any time by the board, our sponsor agreement renewal application denied, and notice of such termination or denial may be provided to licensees by the board.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708802      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 9, 1987  
Expiration date: February 6, 1988  
For further information, please call  
(512) 450-7066.



#### ★ 22 TAC §523.74

The Texas State Board of Public Accountancy adopts on an emergency basis new §523.74, concerning national registry of CPE sponsors. The new section states that the board shall accept courses offered by sponsors shown to be in good standing with the NASBA's national registry of CPE sponsors. The new section is adopted on an emergency basis to provide the board with authority to audit continuing education sponsor courses to preclude granting of credit for substandard courses being offered by some sponsors.

The new section is adopted on an emergency basis under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to the acceptance by the board of sponsors of continuing education courses registered with the NASBA national registry of continuing education sponsors.

§523.74. *National Registry of CPE Sponsors.* The board shall accept courses offered by sponsors shown as being in good standing on NASBA's national registry of CPE sponsors; however, organizations are not required to register with NASBA. Organizations that register with NASBA must conform to NASBA's standards. Organizations that elect to register with this board shall adhere to the obligations of the sponsor identified in §523.73 of this title (relating to Obligations of Sponsor) and to the standards promulgated by this board.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708803      Bob E. Bradley  
Executive Director  
Texas State Board of  
Public Accountancy

Effective date: October 9, 1987  
Expiration date: February 6, 1988  
For further information, please call  
(512) 450-7066.



## TITLE 28. INSURANCE

### Part I. State Board of Insurance

#### Chapter 7. Corporate and Financial

##### Subchapter N. Service of Process

#### ★ 28 TAC §§7.1401-7.1414

The State Board of Insurance adopts on an emergency basis new §§7.1401-7.1414, concerning service of process. The new sections provide for consistency, efficiency, and clarity in the administration of legally mandated service of process functions by the commissioner of insurance and his designated representatives, in accordance with the Insurance Code, Article 1.36, and other statutory provisions. The new sections consolidate procedures for effecting service of legal process and establish fees appropriate for such service. Under §7.1414, the board adopts by reference forms for use in appointing the commissioner or some other person as attorney for service of legal process. The board has filed copies of the forms with the secretary of state's office. Copies of these forms are available for inspection at the office of the chief clerk in the State Insurance Building, Room 406, 1110 San Jacinto Boulevard, Austin. An imminent peril to the public welfare requires that the

new sections be adopted on an emergency basis in order to provide for the proper functioning of administrative regulation of the business of insurance and related matters in Texas. The emergency action is necessary to enable the board to effect timely compliance with the provisions of the Insurance Code, Article 1.36, effective September 1, 1987. Article 1.36 establishes fees for the filing of citations with the board and establishes general procedures for effectuation of service upon domestic insurers, alien and foreign insurers, unauthorized insurers, surplus lines insurers, domestic and foreign third party administrators, and domestic and foreign risk retention groups and purchasing groups. Neither the fees nor the procedures existed prior to the effective date of Article 1.36.

The new sections are adopted on an emergency basis under the Insurance Code, Articles 1.04 and 1.36, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04, provides the State Board of Insurance with the authority to determine policy and rules. The Insurance Code, Article 1.36, establishes fees and procedural guidelines for effecting the service of legal process upon insurers licensed to transact the business of insurance in the State of Texas and upon other entities conducting related business in this state. Article 1.36 also provides the board with the authority to promulgate rules as may be determined by it to be essential for the implementation of statutory provisions concerning service of legal process. Texas Civil Statutes, Article 6252-13a, §4, authorizes and requires each state administrative agency to adopt rules of practice setting forth the nature and requirements of available procedures. Section 5 prescribes the procedure for adoption of rules by any state administrative agency.

**§7.1401. Purpose.** The purpose of this subchapter is to clarify and consolidate the procedure for effecting service of process on persons, companies, and other entities doing the business of insurance or conducting related business in the state of Texas, whether licensed or not, to provide general instructions for unique circumstances, and to establish fees for service of legal process and related documentation.

**§7.1402. Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Commissioner—The Commissioner of Insurance.

**§7.1403. Service on Domestic Insurance Companies Licensed by the State Board of Insurance and on Related Entities Authorized To Conduct Business in Texas.**

(a) Person and place for service. Except as provided by subsections (b) and (c) of this section, a domestic insurance carrier, including a casualty, county mutual, farm

mutual, fire, fraternal, life, Lloyd's, mutual other than life, reciprocal, stipulated premium, or title insurance company, and any mutual assessment company, carrier providing job protection insurance, risk retention group, third party administrators (in accordance with the Insurance Code, Article 21.07-5), group hospital service corporation, health maintenance organization, prepaid legal services corporation, and exempt associations under the Insurance Code, Article 14.17, authorized to conduct the business of insurance in this state and any other company domiciled in Texas and engaged in the business of insurance as a principal may be served with legal process, notice, or demand required or permitted by law by:

(1) serving the president, any active vice-president, secretary, or attorney in fact at the office or principal place of business of that carrier; or

(2) leaving a copy of the process, notice, or demand at the home office or principal business office of the carrier during regular business hours.

(b) Article 1.28 exception. A domestic carrier and the controlling person of the affiliated insurance holding company system that has moved its principal offices and any portion of its books, records, and accounts outside this state under the Insurance Code, Article 1.28, must have appointed the commissioner as their attorney for service for all judicial and administrative processes, notices, or demands.

(c) Domestic purchasing group exception. A domestic purchasing group registered in Texas pursuant to the Insurance Code, Article 21.54, must appoint the commissioner as its agent for service of process and receipt of legal documents.

**§7.1404. Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Lines Insurers.**

(a) If service of legal process, notice, or demand is to be effected on a company or organization by serving the commissioner, the process, notice, or demand may be served personally by a disinterested person over 18 years of age by leaving with the commissioner or with any appointee of the commissioner authorized to receive process, two copies of the process, notice, or demand, at the offices of the State Board of Insurance during regular business hours or by certified or registered mail.

(b) A fee of \$25, payable by check or money order to the State Board of Insurance, must be provided for each legal process, notice, or demand served on the commissioner, and the fee must accompany each service of legal process, notice, or demand filed with the commissioner.

(c) The citation must be directed to the defendant insurance company or organization, must be served through the commissioner, and must include the following:

(1) for a licensed company, the name and address of the company or organization as it appears in the records of the State Board of Insurance;

(2) for an unauthorized person or insurer, the name and address of the person or insurer to be served;

(3) for a surplus lines insurer, the name and address of the company to be served;

(4) for a risk retention group, the name and address of the group to be served;

(5) for a purchasing group, foreign or domestic, the name and address of the group to be served;

(6) for a third party administrator, the name and address of the entity to be served; or

(7) for an unincorporated association, trust, or other organization formed under the Insurance Code, Article 3.71, the name and address of the association, trust, or organization.

(d) If the process, notice, or demand served on the commissioner is in full compliance with the requirements of subsections (a)-(c) of this section, the commissioner shall immediately have one copy forwarded by certified or registered mail to:

(1) the home office or principal business office of the company, if licensed, as indicated in the records of the State Board of Insurance; or

(2) the defendant at the address supplied in the citation as provided by subsection (c)(2)-(7) of this section.

(e) Failure to fully comply with the filing requirements of subsections (a)-(c) of this section will result in the return of the citation and related documents to the plaintiff or petitioner, to a representative of the plaintiff or petitioner, or to the appropriate court official involved. The fee will not be reimbursed in such instances. An explanation of the action taken will accompany the documents being returned.

(f) The commissioner shall keep a record of any process, notice, or demand served on the commissioner under this subchapter and of the action taken by the commissioner with reference to the process, notice, or demand.

(g) The commissioner shall provide on request a certificate issued by the commissioner showing the service and proof of delivery by a return receipt for certified or registered mail. The commissioner will charge a fee of \$10 for this certificate.

(h) Service on the commissioner acting as attorney for service constitutes service on the principal.

**§7.1405. Service of Process on Foreign and Alien Insurance Companies Licensed by State Board of Insurance.**

(a) Requirements for appointment of person in Texas for service of process. As



a condition of being issued a certificate of authority to conduct the business of insurance in this state, foreign or alien insurance carriers, including a life, mutual life, non-profit life, fire, mutual fire and/or casualty, fire and casualty, casualty, Mexican casualty, Lloyd's, reciprocal, fraternal, or title insurance company, a health maintenance organization, a risk retention group, and any other foreign or alien insurance company regardless of its type or category authorized to conduct the business of insurance in this state, shall appoint a person in this state as attorney for service of process on whom any process, notice, or demand required or permitted by law to be served on the insurance company may be served.

(b) Failure to appoint or maintain person in state; action when certificate is revoked. If a foreign or alien insurance company authorized to transact business in this state fails to appoint or maintain an attorney for service in this state, or if an attorney for service cannot with reasonable diligence be found, or if the certificate of authority of a foreign insurance company is revoked, the commissioner shall be the attorney for service of the company on whom process, notice, or demand may be served as provided by §7.1404 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Lines Insurers).

§7.1406. *Service of Process on Foreign Risk Retention Groups Registered with the State Board of Insurance.* A foreign risk retention group registered in this state under the Insurance Code, Article 21.54, must designate the commissioner as its agent for service of process and receipt of legal documents. Procedures and fees for service of process on a risk retention group are governed by §7.1404 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Lines Insurers).

§7.1407. *Service of Process on Foreign Purchasing Groups Doing Business in Texas Pursuant to the Insurance Code, Article 21.54.* Foreign purchasing groups registered to do business in Texas under the Insurance Code, Article 21.54, must appoint the commissioner as their agent for service of process and receipt of legal documents. Procedures and fees for service of process on purchasing groups are governed by §7.1404 of this title (relating to Service of

Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Line Insurers).

§7.1408. *Service of Process on Third Party Administrators Doing Business in Texas Pursuant to the Insurance Code, Article 21.07-5.* Foreign third party administrators doing business in Texas under the Insurance Code, Article 21.07-5, must appoint the commissioner as their agent for service of process and receipt of legal documents. The procedures and fees for service on a third party administrator are governed by §7.1404 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Line Insurers).

§7.1409. *Service of Process on Person, Insurers, or Other Entities in Receivership.* If a court of competent jurisdiction has appointed the liquidator as receiver of any person, insurer, or other entity, service of process with respect to that person, insurer, or other entity must be made on the person designated liquidator as receiver. This service of process has no effect if it is made on the commissioner or the secretary of state. Furthermore, if service is made upon the commissioner under these circumstances, it will be returned in the manner described in subsection 7.1404(e) of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Line Insurers).

§7.1410. *Service of Process on Commissioner on Behalf of Unauthorized Persons or Insurers.*

(a) Any act of doing an insurance business as provided by the Insurance Code, Article 1.14-1, §2, by an unauthorized person or insurer is equivalent to and constitutes an irrevocable appointment by that person or insurer of the commissioner to be the lawful attorney for service of that person or insurer, binding on that person or insurer, on the executor, administrator, or personal representative of that person or insurer, and, if that person or insurer is a corporation, on any successor in interest to that person or insurer. The commissioner may be served any process, notice, or demand arising out of doing an insurance business in this state

by that person or insurer, except in an action, suit, or proceeding by the State Board of Insurance or by the State of Texas.

(b) Any act of doing an insurance business as provided by the Insurance Code, Article 1.14-1, §2, by an unauthorized person or insurer signifies the person's or insurer's agreement that legal process served under this section has the same legal force and validity as personal service of process in this state on that person or insurer or his executor, administrator, or personal representative, or, if a corporation, its successor in interest.

(c) In addition to service under §7.1404 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Line Insurers) and subsection (a) of this section, service of process, notice, or demand on an unauthorized person or insurer is valid if served on any person in this state who on behalf of that unauthorized person or insurer is doing any act of an insurance business as provided by the Insurance Code, Article 1.14-1, §2.

(d) A plaintiff or complainant is not entitled to a judgment by default in any action, suit, or proceeding in which process, notice, or demand is served under this section earlier than the 30th day after the date on which the copy of the process, notice, or demand served is mailed to the defendant.

(e) The courts of this state have jurisdiction over any person defined by the Insurance Code, Article 21.49-1, §2(i), who is not resident, domiciled, or authorized to do business in this state and who files a statement with the commissioner under the Insurance Code, Article 21.49-1, and over actions involving any person defined by the Insurance Code, Article 21.49-1, §2(i), arising out of violations of that article. Any person defined by the Insurance Code, Article 21.49-1, §2(i), is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person to be his lawful attorney on whom process in any action, suit, or proceeding arising out of violations of the Insurance Code, Article 21.49-1, may be served. Copies of process shall be served on the commissioner and transmitted by the commissioner by certified or registered mail to that person at his last known address. Procedures and fees for service of process are governed by §7.1404 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance

Code, Article 3.71, and Surplus Line Insurers)

*§7.1411 Service of Process, Notice, Order, or Pleading on Secretary of State on Behalf of Unauthorized Persons and Insurers.*

(a) Service of process may be effected on the secretary of state in those actions, suits, or other proceedings brought:

(1) in court by the State Board of Insurance or by the state against unauthorized persons or insurers; or

(2) before the State Board of Insurance by notice, order, pleading, or other process against unauthorized persons or insurers.

(b) Any act of doing an insurance business as provided by the Insurance Code, Article 1.14-1, §2, by an unauthorized person or insurer is equivalent to and constitutes an irrevocable appointment by that person or insurer of the secretary of state to be the lawful attorney for service of that person or insurer. Such appointment is binding on that person or insurer, on the executor, administrator, or personal representative of that person or insurer, or, if that person or insurer is a corporation, on any successor in interest to that person or insurer. The secretary of state may be served legal notice, order, pleading, or other process in any proceeding described by subsection (a) of this section that arises out of doing an insurance business in this state by that person or insurer.

(c) Any act of doing an insurance business as provided by the Insurance Code, Article 1.14-1, §2, by any unauthorized person or insurer signifies that the person or insurer agrees that a notice, order, pleading, or other legal process in the proceeding described by subsection (a) of this section has the same legal force and validity as personal service of process in this state on that person or insurer or on the executor, administrator, or personal representative of that person or insurer, or, if that person or insurer is a corporation, on its successor in interest.

(d) Service of a notice, order, pleading, or other process in a proceeding described by subsection (a) of this section must be made by leaving, with the secretary of state or with any appointee of the secretary of state authorized to receive service, two copies of the notice, order, pleading, or other process, at the office of the secretary of state during regular business hours.

(e) The secretary of state shall mail one copy of the notice, order, pleading, or other process in the proceeding to the defendant in a court proceeding or to whom the notice, order, pleading, or process in an administrative proceeding is addressed or directed at the person's or entity's last known home office or principal place of business. The secretary of state shall keep a record of the notices, orders, pleadings, and other process served on him.

(f) A plaintiff or complainant is not

entitled to a judgment or determination by default in any court or administrative proceeding in which a notice, order, pleading, or other process in proceedings is served under this section earlier than the 30th day after the date the copy of the service is mailed to the defendant.

*§7.1412. Other Methods of Service.* Section 7.1410 and §7.1411 of this title (relating to Service of Process on Commissioner on Behalf of Unauthorized Persons or Insurers; and Service of Process, Notice, Order, or Pleading on Secretary of State on Behalf of Unauthorized Persons or Insurers) do not limit or abridge the right to serve process, notice, or other pleading or demand on any person or insurer in any other manner provided by law.

*§7.1413. Service of Process on Surplus Lines Insurers.*

(a) A surplus lines insurer may be sued on any cause of action arising in this state under any surplus lines insurance contract issued by it or under any certificate, cover note, or other confirmation of that insurance issued by the surplus lines agent, under the same procedure provided for unauthorized insurers in §§7.1404, 7.1410, and 7.1411 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Lines Insurers; Service of Process on Commissioner on Behalf of Unauthorized Persons or Insurers; and Service of Process, Notice, Order, or Pleading on Secretary of State on Behalf of Unauthorized Persons or Insurers).

(b) Any policy issued by the surplus lines insurer or any certificate of insurance issued by the surplus lines agent must contain a provision stating the substance of this section and designating the person to whom the commissioner is to mail process. This address must be supplied by the plaintiff in the citation that is served.

(c) Each surplus lines insurer assuming a surplus lines risk under this article is considered to have made itself subject to the terms of this section.

(d) This section is cumulative of any other methods that may be provided by law for service of process on a surplus lines insurer, including §7.1404 of this title (relating to Service of Process Procedure for Domestic Insurers Approved to Operate Under the Insurance Code, Article 1.28, Foreign and Alien Insurance Companies, Risk Retention Groups, Purchasing Groups, Third Party Administrators, Unauthorized Persons or Insurers, Organizations Formed Under the Insurance Code, Article 3.71, and Surplus Lines Insurers).

*§7.1414. Forms Required to Administer Service of Process.*

(a) Requirement for use of specific forms designating commissioner as attorney for service. When, by meeting the requirements of this subchapter and of the Insurance Code, Article 1.36, a person, insurer, or other entity qualifies to appoint the commissioner as attorney and agent for accepting and acknowledging service of legal process, such appointment must be effected by using forms promulgated by the State Board of Insurance.

(b) Adoption by reference of forms for appointments for service of process. The State Board of Insurance adopts by reference standard forms for use when the commissioner or some other person is to be appointed as attorney and agent for accepting and acknowledging service of legal process under the provisions of this subchapter and/or the Insurance Code, Article 1.36. Copies of these forms are available from the Corporate Custodian and Tax Division, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998. The following forms must be utilized, as applicable, when the commissioner or another person, located in this state, is to be appointed as attorney for service of legal process under the provisions of this subchapter and/or the Insurance Code, Article 1.36.

(1) Foreign or alien life, fire and/or casualty, and title companies which are licensed to do business in this state must utilize Form L/FC/T/1987/SP.

(2) Foreign or alien risk retention groups and third party administrators and foreign, alien, or domestic purchasing groups doing business in Texas must utilize Form RRG/PG/TPA/1987/SP.

(3) Foreign or alien reciprocal and Lloyds companies which are licensed to do business in this state must utilize Form R/L/1987/SP.

(4) Foreign or alien fraternal benefit societies which are licensed to do business in this state must utilize Form F/1987/SP.

(5) Domestic companies qualifying for relocation of books and records under the Insurance Code, Article 1.28, must utilize Form D/C/1987/SP.

Issued in Austin, Texas, on October 7, 1987.

TRD-8708718

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: October 7, 1987  
Expiration date: February 4, 1988  
For further information, please call  
(512) 463-6327.

**TITLE 31. NATURAL  
RESOURCES AND  
CONSERVATION**  
**Part II. Texas Parks and  
Wildlife Department**  
**Chapter 65. Wildlife**  
**Subchapter H. Type I Wildlife  
Management Areas Hunting  
and Fishing Proclamation**

**★31 TAC §65.205**

The Texas Parks and Wildlife Commission adopts on an emergency basis new §65.205, concerning Type I wildlife management areas hunting and fishing proclamation. The new section provides a mechanism whereby bighorn sheep may be taken by permit. The commission found imminent peril to the public's wildlife resources requires the new section in order to increase public participation in bighorn sheep hunting.

The new section is adopted on an emergency basis under the Parks and Wildlife Code, Chapter 81, Subchapter 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.

**§65.205. Desert Bighorn Sheep.**

(a) Season. There is no closed season. Legal hunting dates to be designated on the permit issued by the department to the hunter.

(b) Bag limit. The bag limit is one mature desert bighorn sheep ram by permit only. Any bighorn sheep taken must be certified by the accompanying department wildlife biologist as a harvestable animal prior to the kill. The permit must be possessed while hunting.

(c) Legal weapons. Only centerfire rifles designed to shoot a bullet of at least .250 inch in diameter may be used. The firearm must be equipped with a telescopic sight capable of four power magnification or greater.

(d) Mode of hunting.

(1) All hunting shall be on foot or from horseback or mule.

(2) No motorized conveyance or aircraft of any type may be used to hunt, spot, herd, or harass desert bighorn sheep.

(3) No two-way radio communications may be used in hunting desert bighorn sheep.

(e) Tagging. Any bighorn sheep must be tagged immediately after being taken with a permanent tag issued and affixed in the horn by a designated representative of the department. The tag shall remain in the horn throughout the existence of the trophy.

(f) Hunter orientation. Each person receiving a bighorn sheep hunting permit is required to attend an orientation conducted

by the department prior to the hunt.

(g) Tag fees.

(1) The tag fee is \$300 for permittee selected by means of a random drawing.

(2) The tag fee is \$54,900 for permittee selected by means of auction conducted by the Foundation for North American Wild Sheep.

(h) Permit issuance.

(1) One bighorn sheep hunting permit is authorized for issuance to a person selected by random drawing. Only residents of Texas who have purchased a Type II wildlife management-public hunting lands permit are eligible to participate in the random drawing.

(2) One bighorn sheep hunting permit is authorized for issuance to a person selected by auction conducted by the Foundation for North American Wild Sheep.

Issued in Austin, Texas, on October 8, 1987.

TRD-8708732

Boyd M. Johnson  
General Counsel  
Texas Parks and Wildlife  
Department

Effective date: October 8, 1987  
Expiration date: February 5, 1988  
For further information, please call  
(512) 389-4974.

**Part IV. School Land Board  
Chapter 155. Land Resources**

**★31 TAC §155.8**

The School Land Board adopts on an emergency basis an amendment to §155.8, concerning federal, state, and local laws and regulations. Adoption of the amendment on an emergency basis is necessary to avoid conflict with new §155.11, which is also adopted on an emergency basis in this issue, to protect the status of certain coastal public lands. The amendment deletes subsection (f) which covers issued which will subsequently be covered by new §155.11.

The amendment is adopted on an emergency basis under the Natural Resources Code, Title 2, Chapters 32 and 33, §32.062 and §33.064, which provides the School Land Board with the authority to adopt rules for the sale and lease of state land for the enforcement of the Natural Resources Code, Chapter 33.

**§155.8. Federal, State, and Local Laws and Regulations.**

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

[(f) The School Land Board shall consider the purposes and intent of the United States Congress in enacting the Coastal Barrier Resources Act, 16 United States Code §3501 et seq., when granting leases, easements, or other interests under the Texas Natural Resources Code, Chapter 33, in any coastal public lands which would be subject to the Coastal Barrier Resources Act if not excepted as a state-owned land.]

Issued in Austin, Texas, on October 7, 1987.

TRD-8708692

Garry Mauro  
Chairman  
School Land Board

Effective date: October 7, 1987  
Expiration date: February 4, 1988  
For further information, please call  
(512) 463-5009.

**★31 TAC §155.11**

The School Land Board adopts on an emergency basis new §155.11 concerning the protection of certain coastal public land. Adoption of the new section on an emergency basis is necessary to ensure the protection of certain coastal public land. The new section adopts by reference Volumes 19 and 20 of a draft report to congress for the purposes of specifying which land is proposed for addition to the coastal barrier resources system.

The new section is adopted on an emergency basis under the Natural Resources Code, Title 2, Chapters 32 and 33, §32.062 and §33.064, which provides the School Land Board with the authority to adopt rules for the sale and lease of state land and for the enforcement of the Natural Resources Code, Chapter 33.

**§155.11. Protection of Certain Coastal Public Land.** The School Land Board establishes that all of the coastal public land included within the proposed additions to the coastal barrier resources system by the United States Department of the Interior's February, 1987, draft report to congress *Coastal Barrier Resources System, Proposed Recommendations for Additions to or Deletions from the Coastal Barrier Resources System*, Volumes 19 and 20, are areas to be used primarily for wildlife refuge, sanctuary, recreation, or natural resources conservation purposes. Volumes 19 and 20 of the draft report are adopted by reference only for the purpose of specifying which land is proposed for addition to the coastal barrier resources system. Copies of Volumes 19 and 20 of the draft report can be obtained by sending a written request to the Texas General Land Office, Land Management Division, 1700 North Congress Avenue, Austin, Texas 78701.

Issued in Austin, Texas, on October 7, 1987.

TRD-8708690

Garry Mauro  
Chairman  
School Land Board

Effective date: October 7, 1987  
Expiration date: February 4, 1988  
For further information, please call  
(512) 463-5009.

# 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 X. Automated Information and Telecommunications Council

#### Chapter 205. Acquisition of Telecommunication Systems

##### ★1 TAC §205.1

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Automated Information and Telecommunications Council, 510 South Congress Avenue, Suite 200, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Automated Information and Telecommunications Council proposes the repeal of §205.1, concerning acquisition of telecommunications systems. The section is being incorporated into §201.1 to comply with the provisions of House Bill 2224, 70th Legislature. The merging of these sections will simplify the procedures for developing and submitting long-range automated information and telecommunications systems plans, inventories, and procurements.

Robert B. Jordan, executive director, 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. Jordan 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 greater clarity in the procedures for developing and submitting long-range automated information and telecommunications systems plans, inventories, and procurements. 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 Robert B. Jordan, Executive Director, P.O. Box 13564, Austin, Texas 78711-3564.

The repeal is proposed under Texas Civil Statutes, Article 4413 (32h), which provide the Automated Information and Telecommunications Council with the authority to adopt rules regarding the development and submission of long-range automated information and telecommunications systems plans, inventories, and procurements by state governmental bodies.

##### §205.1. Acquisition of Telecommunication Systems.

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 October 8, 1987.

TRD-8708735

Tina J. Turner  
Administrative Assistant  
Automated Information  
and  
Telecommunications  
Council

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 463-5530.



## TITLE 22. EXAMINING BOARDS

### Part XXII. Texas State Board of Public Accountancy Chapter 501. Professional Conduct

#### Advertising and Soliciting

##### ★22 TAC §501.47

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas State Board of Public Accountancy, 1033 La Posada, Suite 340, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Public Accountancy proposes the repeal of §501.47, concerning the firm names. The repeal concurs with changes in the public accounting profession.

Bob E. Bradley, executive director, 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. Bradley 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 the ability to adopt a new section which will reflect changes within the accounting profession. 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 William A. Sansing, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The repeal is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules of professional conduct relating to firm names which may be used in the practice of public accounting.

##### §501.47. Firm Names.

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 October 6, 1987.

TRD-8708711

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

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 450-7066.



### Part XXIV. State Board of Veterinary Medical Examiners Chapter 575. Practice and Procedure

##### ★22 TAC §575.2

The State Board of Veterinary Medical Examiners proposes an amendment to

§575.2, concerning filing of documents. The amendment brings the section into conformity with the Veterinary Licensing Act by changing references from the executive secretary to the executive director.

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

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.2. *Filing of Documents.* All applications, petitions, complaints, motions, replies, answers, notices, and other pleadings relating to any proceeding pending or to be instituted before the board shall be filed with the executive director [secretary]. They shall be deemed filed only when actually received by him, accompanied by the filing fee, if any, required by statute or board sections. All pleadings shall be accompanied by a signed copy for each board member.

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 October 8, 1987.

TRD-8708701 Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
November 16, 1987

For further information, please call  
(512) 447-1183.



★22 TAC §575.3

The State Board of Veterinary Medical Examiners proposes an amendment to §575.3, concerning computation of time. The amendment brings the section into conformity with the Veterinary Licensing

Act by changing references from the executive secretary to the executive director.

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

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.3. *Computation of Time.*

(a) (No change.)

(b) Extensions. Unless otherwise provided by statute, the time for filing any pleading may be extended by order of the executive director [secretary] upon written motion duly filed with him prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefore is not caused by the neglect, indifference, or lack of diligence of the movant. A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

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 October 8, 1987.

TRD-8708702 Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
November 16, 1987

For further information, please call  
(512) 447-1183.



★22 TAC §575.9

The State Board of Veterinary Medical Examiners proposes an amendment to §575.9, concerning docketing and

numbering of causes, and service. The amendment brings the section into conformity with the Veterinary Licensing Act by changing reference from the executive secretary to the executive director.

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

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.9. *Docketing and Numbering of Causes, and Service.* Upon receipt of a complaint or other pleading, which is intended to institute a contested proceeding before the board and complies with these sections as to form and content, the board [executive] secretary shall **cause to be docketed** [docket] the same as a pending proceeding and **shall cause notice to be served** thereon by personal service **or registered mail**. If unable to obtain personal service then services may be had as provided in the rules of civil procedure for district courts. While said case is under investigation, reports shall be made to the executive director [secretary] and will not be discussed with the members of the board prior to hearing and there will be no ex parte consultations as provided in the Administrative Procedure Act, Texas Civil Statutes, Article 6252-13a, §17. Notice to the defendant and the members of the board shall contain the same information.

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 October 8, 1987.

TRD-8708708 Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
November 16, 1987

For further information, please call  
(512) 447-1183.



★ 22 TAC §575.10

The State Board of Veterinary Medical Examiners, proposes an amendment to §575.10, concerning motions for postponement, continuance, withdrawal, or dismissal of complaints or other matters before the board. The amendment brings the section into conformity with the Veterinary Licensing Act by changing references from the executive secretary to the executive director.

Donald B. Wilson 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 none. 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 Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.10. *Motions for Postponement, Continuance, Withdrawal or Dismissal of Complaints or Other Matters Before the Board.* Motions for postponement, continuance, withdrawal, or dismissal of complaints or other matters which have been duly set for hearing, shall be in writing, shall be filed with the executive director [secretary] and distributed to all interested parties, under a certificate of service, not less than five days prior to the designated date that the matter is to be heard. Such motion shall set forth, under oath, the specific grounds upon which the moving party seeks such action and shall make reference to all prior motions of the same nature filed in the same proceeding. Failure to comply with the above, except for good cause shown, may be construed as lack of diligence on the part of the moving party, and at the discretion of the executive director [secretary], may result in the dismissal of the application or other matter in issue, with prejudice to refile. Once an application or other matter has actually proceeded to a hearing, pursuant to the notice issued thereon, no postponement or continuance shall be granted without the consent of all parties involved, unless the board shall have ordered such postponement or continuance.

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 October 8, 1987.

TRD-8708703 Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 447-1183



★ 22 TAC §575.12

The State Board of Veterinary Medical Examiners proposes an amendment to §575.12, concerning presiding officer, oath, imposing the rule. The amendment brings the section into conformity with the Veterinary Licensing Act by changing references from the executive secretary to the executive director.

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

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, Texas State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.12. *Presiding Officer, Oath, Imposing the Rule.* Hearings will be conducted before a quorum [majority] of the members of the board of examiners. The president shall preside at all hearings, if present, otherwise, the vice-president or, if they both be absent, then the secretary. The presiding officer shall instruct the court reporter to administer the oath to all witnesses. The presiding officer [board] may place witnesses under the rule. The presiding officer shall have authority to examine witnesses, and to

rule upon the admissibility of evidence and amendments to pleadings. He shall have the authority to recess any hearing from day to day.

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 October 8, 1987.

TRD-8708704 Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 447-1183.



★ 22 TAC §575.13

The State Board of Veterinary Medical Examiners proposes an amendment to §575.13, concerning reporters and transcripts. The amendment brings the section into conformity with the Veterinary Licensing Act by changing references from the executive secretary to the executive director.

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

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.13. *Reporters and Transcript.*

(a) The board shall employ a stenographic reporter to record all [contested] formal hearings.

(b) (No change.)

(c) Upon approval of the request by the executive director [secretary], the stenographic reporter shall furnish a copy to

the requesting party. The executive **director** [secretary] of the board may exclude any stenographic reporter for late [later] delivery or poor workmanship in previous hearings.

(d) Suggested corrections to the transcript of the records may be offered within 10 days after the transcript is filed in the proceeding, unless the board shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record, the official reporter, and the executive **director** [secretary] of the board. If suggested corrections are not objected to, the executive **director** [secretary] will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the executive **director** [secretary], who shall then determine the manner in which the record shall be changed, if at all.

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 October 8, 1987.

TRD-8708705      Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption  
November 16, 1987

For further information please call  
(512) 447-1183.



#### ★ 22 TAC §575.20

The State Board of Veterinary Medical Examiners proposes an amendment to §575.20, concerning subpoena fees and expenses of witnesses. The amendment brings the section into conformity with the Veterinary Licensing Act by changing references from the executive secretary to the executive director.

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

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The amendment is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.20. *Subpoena Fees and Expenses of Witnesses.* A witness or deponent who may or may not be a party and who is subpoenaed, compelled, or requested to attend any hearing or proceeding to testify or to give a deposition or to produce books, records, papers, or other objects that may be necessary and proper for the purposes of the proceeding under the authority of this section is entitled to receive:

- (1) (No change.)
- (2) (No change.)
- (3) fees to which a witness or deponent is entitled under this section and which shall be paid by the agency from the funds deposited by the party or agency at whose request the witness appears or the deposition is taken, on presentation of proper vouchers sworn by the witness, **accompanied by receipts for commercial transportation, hotel, parking, and tolls,** and approved by the agency.

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

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 October 8, 1987.

TRD-8708706      Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption.  
November 16, 1987

For further information, please call  
(512) 447-1183



#### ★ 22 TAC §575.21

The State Board of Veterinary Medical Examiners proposes new §575.21, concerning civil penalties. The section conforms with revisions to the Veterinary Licensing Act which provides the board with the authority to impose civil penalties.

Donald B. Wilson, 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. Wilson also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section. There is no anticipated economic cost to individuals who are re-

quired to comply with the proposed section.

Comments on the proposal may be submitted to Donald B. Wilson, Executive Director, State Board of Veterinary Medical Examiners, 1946 South IH-35, Box 113, Austin, Texas 78704, (512) 447-1183.

The new section is proposed under Texas Civil Statutes, Article 7465a, §9(a), which provide the State Board of Veterinary Medical Examiners with the authority to make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of the Act.

§575.21. *Civil Penalties.*

(a) Method of payment. Payment is payable in the form of a cashier's check or money order to the State Board of Veterinary Medical Examiners.

(b) Payment date.

(1) Civil penalties paid as a result of a negotiated settlement entered into with the board secretary and approved by the board shall be due and payable in full at the time of the hearing.

(2) In cases where the civil penalty is assessed by order of the board as a disciplinary action, payment in full is due no later than 45 days from the date of the hearing.

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

Issued in Austin, Texas, on October 8, 1987.

TRD-8708707      Donald B. Wilson  
Executive Director  
State Board of  
Veterinary Medical  
Examiners

Earliest possible date of adoption:  
November 16, 1987

For further information, please call  
(512) 447-1183.



## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 205. Product Safety Inhalant Abuse

#### ★ 25 TAC §205.51

The Department of Health proposes new §205.51, concerning permits for sellers of abusable glues and aerosol paints. The new section implements the provisions of House Bill 173, 70th Legislature, 1987. The new section covers definitions, applications for and renewal of permits to sell glues and paints, application and renewal fees, and department procedures for approving, denying, and renewing permits.

Stephen Seale, chief accountant III, has determined that for the first-five year period the proposed section will be in effect there will be fiscal implications as a result of administering or enforcing the sections. The effect on state government will be an estimated increase in revenue of \$450,000 each year for fiscal years 1988-1992. There will be no effect on local government. The effect on small businesses will be the permit fee described in the text of the new section.

Mr. Seale 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 generation of revenue which, after recovering administrative costs, will be used for education and prevention of inhalant abuse, a very serious and growing public health problem in Texas. By reducing inhalant abuse through education and prevention programs, the public will benefit from reduced loss of life and property and fewer medical costs associated with hospitalization and treatment of inhalant abusers. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments may be submitted to Dan Soward, Chief of Hazardous Products, Product Safety Program, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7519. Comments will be accepted for 30 days after publication of the proposed section in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 4476-15d, §2, which provide the Texas Board of Health with the authority to adopt rules covering the issuance of permits to sellers of glues and aerosol paints.

**§205.51. Permit for Sellers of Abusable Glues and Aerosol Paints.**

(a) Purpose and scope. This section's purpose is to implement the provisions of House Bill 173, 70th Legislature, 1987, concerning abusable glues and aerosol paints. The section covers definitions, applications for, and renewal of permits to sell glues and paints, application and renewal fees, and department procedures for approving, denying, and renewing permits.

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

(1) Abusable glue and aerosol paint—Glue or aerosol paint which is:

(A) packaged in a container holding a pint or less by volume or less than two pounds by weight; and

(B) labeled in accordance with the labeling requirements concerning precautions against inhalation established under the Federal Hazardous Substances Act, 15 United States Code §§1261-1274, and under regulations adopted under that Act in 16 Code of Federal Regulations Part 1500.

(2) Aerosol paint—Aerosolized paint products, including clear or pigmented lacquers and finishes.

(3) Department—The Texas Department of Health.

(4) Glue and paint sales permit—A permit authorizing a retailer to sell at retail abusable glue or aerosol paint.

(5) Permittee—A person who has a valid glue and paint sales permit.

(6) Retailer—Any business or location which sells to the general public, without restrictions to limit purchases to institutional or industrial clients only.

(7) Seller—Any retail seller of abusable glue and aerosol paint.

(c) Basic requirement. To be eligible for a glue and paint sales permit or to have a glue and paint sales permit renewed, an applicant or permittee must:

(1) complete and return an application form furnished by the department, signing and dating the form attesting to the accuracy of all information contained therein;

(2) have a valid sales tax permit issued to the applicant;

(3) pay an application fee to the department of \$25 for each location at which abusable glue and aerosol paint may be sold by the applicant on obtaining a glue and paint permit; and

(4) verify by information requested on the application form that the applicant or permittee has not been convicted more than one time in the preceding year of an offense that is committed at the location for which the permit or renewal is issued and that is committed under Texas Civil Statutes, Article 4476-13a, §4(a), or under Texas Civil Statutes, Article 4476-15, §4.13(a), (f), (m), or (r).

(d) Annual refiling. After the initial permit has been issued, the seller shall refile each year by filing a renewal application accompanied by a \$25 application fee in accordance with this section prior to the expiration date of the original or renewal permit. The department shall notify the seller of the need to renew prior to the expiration date.

(e) Application form.

(1) The application form shall be signed and verified, shall be made on an application form furnished by the department, and shall contain the following information:

(A) the name under which the retail sale of abusable glue and aerosol paint is conducted;

(B) the address of the place of business being permitted. A separate fee of \$25 is required for each location at which abusable glue and aerosol paint may be sold by the applicant upon obtaining a glue and paint permit;

(C) the number of the valid sales tax permit issued to the applicant;

(D) a statement that the permittee has not been convicted more than one time in the preceding year of any offense that

is committed at the location for which the permit or renewal is issued as described in subsection (c)(4) of this section;

(E) if the business is a sole proprietorship, the name of the proprietor;

(F) if the business is a partnership, the names of the partners;

(G) if the business is a corporation, the name of the officer with responsibility for the location applying for the permit or renewal; and

(H) if the business is of any other kind than the ones described in subparagraphs (E)-(G) of this paragraph, the names of those persons in a managerial position.

(2) Application forms may be obtained from the Product Safety Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(f) Application fees.

(1) Each initial application form and each renewal of the application shall be accompanied by a \$25 fee.

(2) The fee shall be by money order, certified check, or personal check and shall be made payable to the Texas Department of Health. Cash payment is not acceptable.

(3) For corporations, proprietorships, partnerships, and other kinds of businesses operating as a retailer at more than one location where abusable glues and aerosol paints are to be sold, a separate \$25 application fee is required for each retail location.

(g) Approval and denial of application.

(1) Upon approval of an application, the department shall issue to the applicant or permittee a permit for retail sale of abusable glues and aerosol paints within 60 days of the receipt of the application form and fee payment.

(2) If an application is denied, the department shall notify the applicant or permittee within 60 days of the receipt of the application form and fee payment. The department shall include in the notice the reasons for the denial.

(3) A permit issued by the department is the property of the department and must be surrendered on demand by the department.

(4) A permittee must have the permit or a copy of the permit available for inspection by the public. The permit or copy thereof must be posted in a prominent location at the place where the permittee sells abusable glue and aerosol paint.

(5) If the department does not approve an application or a renewal, the applicant or permittee may appeal the proposed action by requesting a hearing in accordance with the connected case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the department formal hearing procedures in §§1.21-1.33 of this title (relating to Formal Hearing Procedures).



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 October 9, 1987.

TRD-8708761 Robert A. MacLean, M.D.  
Deputy Commissioner  
for Professional  
Services  
Texas Department  
of Health

Proposed date of adoption:  
December 5, 1987  
For further information, please call  
(512) 458-7519.



## Chapter 325. Solid Waste Management

The Texas Department of Health proposes amendments to §§325.5, 325.91, 325.93, and 325.95, concerning definitions of terms and abbreviations, general, scheduling and preparation for a public hearing, and final determination on application. The amendments update and clarify definitions of terms and abbreviations, general information for application review process, scheduling and preparation for a public hearing, and final determination on application. The amendments are mandated by House Bills 2174, 814, 5, and 175, 70th Legislature, 1987. House Bill 2174 requires that the term "rubbish" be included in the definition of solid waste. House Bill 814 requires that within 270 days after the department has requested information needed to make a permit application administratively complete, the applicant shall provide the requested information or the application will be void. House Bill 5 requires that the department identify minimum, median, and maximum time periods within which processing of any permit application will be completed and if the permit processing time is exceeded without good cause on an application made by a small business, that applicant may appeal to the commissioner of health for return of the permit application fee. House Bill 175 provides that no state agency may issue a permit or license to any corporation that is delinquent in paying a tax owed to the state.

Stephen Seale, chief accountant III, has determined that for each year of the first five years the proposed sections will be in effect, there will be fiscal implications as a result of enforcing or administering these sections. The effect on state government will be an estimated additional cost of \$8,500 each year for fiscal years 1988-1992. There will also be an estimated increase in revenue to state government of \$1,000 each year for fiscal years 1988-1992. There will be an estimated additional cost to local govern-

ments only if they make application for a landfill permit. The additional cost to such local governments is expected to be \$125 per application. There will be additional costs to businesses if they apply for a landfill permit. The average cost to a large business is expected to be \$142 per application, or \$2.84 per employee; the average cost to a small business is expected to be \$142 per application, or \$28 per employee.

Mr. Seale 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 awareness by an applicant of the time frame within which processing of a municipal solid waste permit application is expected to be completed; the opportunity for a small business applicant to have the permit application fee returned if the permit processing time is exceeded without good cause; and additional revenue to the state from corporations who owe taxes to the state. The anticipated economic cost to individuals who are required to comply with the sections as proposed, will only occur when an individual is an applicant for a new municipal solid waste facility permit. For the cost of the permit application refer to §325.63 of this title (relating to Permit Application Fees).

A public hearing is scheduled for 10 a.m. on November 4, 1987, in the auditorium of the Texas Department of Health, 1100 West 49th Street, Austin. Written comments will be considered if they are received by 5 p.m. on November 16, 1987. Written comments may be mailed to Hector H. Mendieta, P.E., Director, Division of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7271.

### Subchapter A. General Information

#### ★ 25 TAC §325.5

The amendment is proposed under Texas Civil Statutes, Article 4477-7, §3(a) and §4(c), which provide the board of health with the authority to adopt rules on municipal solid waste management, and House Bill 2174, 70th Legislature, 1987, which covers the definitions of solid waste.

§325.5. *Definitions of Terms and Abbreviations.* The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions, pertinent to specific sections, are contained within the appropriate sections.

Solid waste—Any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and

agricultural operations, and from community and institutional activities, but does not include:

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

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

Issued in Austin, Texas, on October 9, 1987.

TRD-8708759 Robert A. MacLean, M.D.  
Deputy Commissioner  
for Professional  
Services  
Texas Department  
of Health

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December 5, 1987  
For further information, please call  
(512) 458-7271.



## Subchapter E. Permit Procedures and Design Criteria Application Review Process

### ★ 25 TAC §§325.91, 325.93, 325.95

The amendments are proposed under Texas Civil Statutes, Article 4477-7, §3(a) and §4(c), which provide the Texas Board of Health with the authority to adopt rules on municipal solid waste management; under House Bill 5, 70th Legislature, 1987, which covers the time frame within which a permit application must be processed; House Bill 814, 70th Legislature, 1987, which requires a solid waste facility permit applicant to provide application information within 270 days after the information is requested; and House Bill 175, 70th Legislature, 1987, which prohibits a state agency from issuing a permit or license to any corporation that owes taxes to the state.

§325.91. *General.* The chief of the bureau is responsible for accomplishing all departmental actions necessary for the processing, technical evaluation of permit applications, and referral to the office of general counsel for issuance of a notice of opportunity for a public hearing or scheduling of the public hearing. The chief of the bureau or his designated representative will be designated a party in accordance with the Administrative Procedure and Texas Register Act in all cases and will submit a recommendation for approval or denial of applications for permits, or for their renewal, amendment, or transfer. **Receipt of the permit application Part B/site development plan will initiate a period within which the bureau will inform the applicant that the permit application is administratively complete or deficient and set out the additional information that is required. This period shall be 185 days initially and will be reviewed annually based on the bureau experience. Upon receipt of this notice, the applicant shall have 270**

calendar days to satisfy the bureau with regard to administrative completeness of the application. Unless there are extenuating circumstances, if this time frame is exceeded by the applicant the application will be considered withdrawn. Based on the date of filing of an administratively complete permit application, as established by the preliminary evaluation of the bureau, the department will either deny or approve the permit application within a period established on bureau experience, exclusive of length of any required public hearing, which includes continuances, delays associated with need for applicant to supply additional data, delays associated with out-of-hearing negotiation between the applicant and opposition parties, etc., as determined by the department. This period shall be 310 days initially and will be reviewed annually. The department experience, based on the previous 12 month period (initially only June, July, August 1987), indicates the following processing times, including delays associated with the bureau workload, applicant's response times, opposition legal tactics, and applicant/opposition negotiations, from the date the permit application is initially received to the date of the final permit decision: a minimum of 253 calendar days; a median of 475 calendar days; and a maximum of 1,248 calendar days. (The two action periods previously described are based on a 99% statistical confidence level of nine permits issued during the initial three month evaluation period, using the Student t formula with eight degrees of freedom, that the times will not exceed those given). The chief of the bureau, or his designated representative, will designate a professional engineer as project engineer, and such other staff members as may be necessary, to assist him in performing all processing and evaluation actions for each application. The chief of the bureau, or his designated representative, shall determine when the permit application is sufficiently complete to schedule a public hearing. The chief of the bureau, or his designated representative, may temporarily approve an applicant's request for a variance from these sections if considered justified and may temporarily waive any requirement which he considers not essential to the evaluation of the application or for holding a public hearing. A temporary waiver/variance shall be affirmed, modified, or set aside at the public hearing or during the final decision-making process. The applicant is responsible for presenting justification at the public hearing for the waiver/variance temporarily granted by the chief of the bureau or his designated representative. If the applicant requests a variance from the requirements of these sections, the chief of the bureau will ensure that the request is incorporated into the application. When the application is determined to be administratively complete, with all the required forms, attachments, and fees, the department will forward to the applicant a notice of filing of application which the ap-

plicant, at his own expense, shall cause to be published one time in a newspaper regularly published or circulated in the county in which the solid waste site is located. Such publication shall be accomplished by the applicant and a publisher's affidavit relative to such publication shall be forwarded to the department immediately thereafter. Technical review of the permit application will not commence until the publisher's affidavit has been received. The publication of this notice of filing of application shall be in addition to the publication of the notice of opportunity for a public hearing and/or the notice of public hearing required by §325.93 of the title (relating to Scheduling and Preparation for a Public Hearing). If a permit applicant is a small business as defined in House Bill 5, 70th Legislature, 1987, and is of the opinion that the processing times have been exceeded through no fault of the applicant and without good cause, the applicant may appeal to the commissioner of health for timely resolution of any dispute arising from violation of these defined action periods. The commissioner will cause the chief counsel to investigate the circumstances involved in the alleged violation. If the commissioner resolves in favor of the bureau, and applicant still alleges a violation, a formal hearing may be requested through the office of general counsel. This hearing will be held in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and §§1.21-1.33 of this title (relating to Formal Hearing Procedures). If a resolution is made in favor of the permit applicant, then all permit application fees shall be reimbursed to the applicant. Good cause is established in House Bill 5, 70th Legislature, 1987, if:

(1) the number of permits to be processed exceeds by 15% or more the number of permits processed in the same calendar quarter the preceding year;

(2) the agency must rely on another public or private entity for all or part of its permit processing, and the delay is caused by the other entity; or

(3) any other conditions exist giving the agency good cause for exceeding the period established for processing a permit.

§325.93. *Scheduling and Preparation for a Public Hearing.*

(a) The bureau, on its own motion, may request that a hearing be scheduled or that an opportunity for a public hearing be provided, and will make available copies of its draft brief upon request.

(1) (No change.)

(2) If the bureau does not receive a written request from a person deemed to have a justiciable interest for a public hearing, the chief of the bureau will submit to the department's office of general counsel a final brief containing the bureau's technical evaluation of the permit application, analysis, conclusions, and recommendations accompanied by the proposed permit.

(A) (No change.)

(B) Subject to the conditions in clauses (i)-(iii), of this subparagraph, the commissioner reviews the bureau's brief, findings of fact, conclusions of law, and recommendations of the office of general counsel and either approves or denies the permit. Normally, the [final] decision to approve or deny the permit will be made within 10 days after the office of general counsel forwards its recommendations, but this time may be extended by the commissioner when required by circumstances. [The applicant will be advised by the department of the commissioner's final decision by letter.]

(i) If the applicant is a corporation under the Texas Business Corporation Act, and the commissioner determines that the permit should be issued, then the bureau shall prepare a notice of the commissioner's intent, along with an affidavit containing the applicant's corporate name, to the state comptroller's office. The notice shall request that the state comptroller's office determine whether the applicant is delinquent in a tax owed the state under the Tax Code, Chapter 171, then complete and return the affidavit to the bureau with the results of the determination. If the affidavit indicates that the applicant is delinquent in a tax owed the state, then the applicant shall be notified that the permit will not be issued until the comptroller's office notifies the bureau that all taxes owed the state are paid. If the affidavit indicates that the applicant is not delinquent in a tax owed the state, then the applicant shall be notified that the permit is issued.

(ii) If the applicant is not a corporation under the Texas Business Corporation Act, and the commissioner determines that the permit is issued, then the applicant shall be notified of the commissioner's approval, without a notice and affidavit being sent to the comptroller's office.

(iii) If the commissioner denies the permit, then no notice and affidavit shall be sent to the comptroller's office and the applicant shall be notified of the commissioner's denial.

(C) The applicant will be advised by the department of the commissioner's final decision by letter.

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

§325.95. *Final Determination on Application.*

(a) (No change.)

(b) Unopposed cases. After the record is closed, the bureau will complete the technical evaluation of all data submitted prior to and during the hearing and before the closing of the record, including comments received from the various review agencies. The chief of the bureau will submit a brief containing the bureau's technical evaluation of the permit application, analysis, conclusions, and recommendations to the hearing examiner, providing a copy to the applicant. The recommendations or pro-

posed permit provisions submitted by the Texas Air Control Board shall be incorporated into the bureau's brief. The hearing examiner reviews the bureau's brief and, if he does not receive any exceptions to the brief from the applicant, forwards the brief to the commissioner together with his findings of fact and conclusions of law. The commissioner reviews the findings of fact, conclusions of law, and recommendations and either approves or denies the permit. Normally, the final decision will be made within 60 days after the closing of the hearing record, but this time may be extended by the hearing examiner at the public hearing when required by circumstances. **(If the applicant is a corporation under the Texas Business Corporation Act, and the commissioner determines that the permit should be issued, then the issuance of the permit and notification of the applicant shall be subject to the additional conditions in §325.93(a)(2)(B)(i) of this title (relating to Scheduling and Preparation for a Public Hearing).)** The applicant will be advised by the department of the commissioner's final decision by letter. If the applicant determines that the bureau's brief contains conclusions and recommendations that are adverse to the applicant and files exceptions with the hearing examiner, the hearing examiner will prepare a proposal for decision and provide copies to the applicant and the chief of the bureau. The ensuing actions and final determination will then be as for an opposed case, as described in subsection (c) of this section.

(c) **Opposed cases.** In opposed cases in which the commissioner neither hears the evidence nor reads the complete record, a proposal for decision will be prepared by the hearing examiner. Prior to the closing of the hearing record, the hearing examiner shall establish a schedule for all ensuing actions through the final determination by the commissioner. All parties shall have an opportunity to file briefs with the hearing examiner, providing copies thereof to all other parties who shall then have an opportunity to file reply briefs with the hearing examiner. The chief of the bureau will revise his draft brief as necessary taking into consideration all new evidence received at the public hearing and file a brief in all cases. The hearing examiner will then prepare a proposal for decision and provide copies to all parties. All parties filing exceptions and briefs to the proposal for decision shall provide copies of such exceptions and briefs to all other parties who shall then have an opportunity to file replies with the hearing examiner. Following the receipt of replies from all parties or the termination of the specified period of time for receipt of such replies, the office of general counsel will forward the proposal for decision, together with all briefs, exceptions, and replies received, through the associate commissioner for environmental and consumer health protection to the commissioner. Following his review of the proposal for decision, exceptions,

briefs, replies, and staff recommendations, the commissioner shall issue a final decision in the form of a permit, with special provisions attached thereto, if appropriate; a denial order, containing the grounds for such denial; or any other action as may be authorized by state law. **(If the applicant is a corporation under the Texas Business Corporation Act, and the commissioner determines that the permit should be issued, then issuance of the permit and notification of the applicant shall be subject to the additional conditions in §325.93 (a)(2)(B)(i) of this title (relating to Scheduling and Preparation for a Public Hearing)).** Subsequent to this final decision by the commissioner, a motion for rehearing may be filed by any person affected by the decision. This motion must be filed within 15 days of the commissioner's decision and persons opposing or otherwise responding to the motion for rehearing shall be provided an opportunity to file a reply to the motion. The commissioner shall have 45 days from the time of the final decision (i.e., the issuance of the permit or denial order) to rule on the motions for rehearing, unless such time is extended by the commissioner by written order. Anyone who has filed a motion for rehearing may appeal the commissioner's final decision to a district court in Travis County within 30 days after a motion for rehearing has been overruled either by written order of the commissioner or by operation of law. Time limitations for the filing of motions, responses, exceptions, and briefs shall be governed by the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

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 October 9, 1987.

TRD-8708760      Robert A. MacLean, M.D.  
Deputy Commissioner  
for Professional  
Services  
Texas Department  
of Health

Proposed date of adoption:  
December 5, 1987  
For further information, please call  
(512) 458-7271.

✦      ✦      ✦

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IV. School Land Board Chapter 155. Land Resources

✦      ✦      ✦

#### ★ 31 TAC §155.8

*(Editor's note: The School Land Board proposes for permanent adoption the amend-*

*ment 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 School Land Board proposes an amendment to §155.8 concerning federal, state, and local laws and regulation. The amendment deletes subsection (f) because the issues involved are revised and covered by new §155.11, which is proposed elsewhere in this issue. An identical emergency action also is taken elsewhere in this issue.

Frank Morgan, deputy commissioner for land management for the General Land Office 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. Morgan also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater availability of resources to protect and maintain the state's valuable natural resources. 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 Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5009.

The amendment is proposed under the Natural Resources Code, Title 2, Chapters 32 and 33, §32.062 and §33.064, which provides the School Land Board with the authority to adopt rules for the sale and lease of state land and for the enforcement of the Natural Resources Code, Chapter 33.

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 October 7, 1987

TRD-8708689      Garry Mauro  
Chairman  
School Land Board

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 463-5009

✦      ✦      ✦

#### ★ 31 TAC §155.11

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

The School Land Board proposes new §155.11, concerning the protection of certain coastal public land. The new section adopts by reference volumes 19 and 20 of a draft report to congress which sets out which coastal public land will be used primarily for wildlife refuge, sanctuary, recreation, or natural resources conservation purposes. Identical emergency action is taken elsewhere in this issue.

Frank Morgan, deputy commissioner for land management for the General Land Office, 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. Morgan also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater availability of resources to protect and maintain the state's valuable natural resources. 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 Dan Miller, Deputy Commissioner for Legal Services, General Land Office, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5009.

The new section is proposed under the Natural Resources Code, Title 2, Chapters 32 and 33, §32.062 and §33.064, which provides the School Land Board with the authority to adopt rules for the sale and lease of state land and for the enforcement of the Natural Resources Code, Chapter 33.

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 October 7, 1987

TRD-8708691      Garry Mauro  
                          Chairman  
                          School Land Board

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 463-5009.



## Part X. Texas Water Development Board Chapter 355. Research and Planning Fund

### Flood Protection Planning

#### ★ 31 TAC §§355.31-355.40

The Texas Water Development Board proposes new §§355.31-355.40, concerning flood protection planning. These sections

contain the new application requirements and evaluation criteria for flood protection planning projects for the limited amounts of funds in the board's research and planning fund under the Water Code §15.402 and §15.405. Section 355.31 provides definitions for the terms used in the section, and §355.32 states the purpose of the sections. Section 355.33 addresses rule applicability and limits board funding to no more than 50% of the planning costs, with the applicant supplying the remainder in cash or limited in-kind services. The method for board solicitation of proposals in areas of the state where there is a need for flood protection is outlined in §355.34. The board will publish all solicitations, including the areas and type and scope of the project, in the *Texas Register*. Deadlines for submission will also be established in the published notice. Section 355.34(b) states that announcements of the board's acceptance of unsolicited proposals will be published in the *Texas Register*. Section 355.35 presents the criteria for eligibility, which are designed to ensure that appropriate applicants apply.

Section 355.36 identifies the information that must be contained in an application. The form published in the Uniform Grants and Contract Management Act (UGCMA), Texas Civil Statutes, Article 4413(32g), does not have to be used because the Water Code, §15.405, establishes certain statutory requirements for the content of an application. Further, the UGCMA form does not include the information needed by the board so the UGCMA form does not need to be used. In order to assure the board that all local political subdivisions in the planning area are aware of the project, notice under §355.37 must be given.

Section 355.38 outlines the evaluation criteria the board will use to choose which applications will receive grants from the limited amount of funds available. Important considerations such as the immediacy and urgency of need, the probability that the planning proposal will be implemented, and the ability of the applicant to provide the matching share are described in the section. Section 355.36(b)(15) specifies that the applicant is responsible for supplying information which addresses each of the criteria.

The method of contracting with the board is described in §355.39. The board will contract with the local political subdivision. Any subcontracts that the political subdivision enters into for professional services must be approved by the executive administrator. Also, no subcontracts can be entered into until the board approves the application and negotiates a contract that establishes fair and reasonable professional fees. The definitions of direct costs, fringe costs, overhead, travel, and subsistence are included in §355.39 and are designed to provide the applicant and the subcontractors guidance in putting together the proposed budget required in the application.

The results of a flood protection planning study are public information and will be made available to the public. Section 355.40 also states that the board will contract with the applicants regarding copyrights and patents.

The board proposes these new sections to ensure fairness in selecting flood protection planning proposals for funding and to ensure that contracts entered into by the board achieve the most benefit for flood protection planning in the state.

Gladys Stansberry, director of accounting, 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. Stansberry 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 the use of limited state funds for flood protection planning will be more effective so that the most critical areas of the state are helped. Additionally, these new sections provide for improved accountability for the use of public funds. 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 Dr. Herbert W. Grubb, Director of Planning, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711.

The new sections are proposed under the Texas Water Code, §6.101 and §15.403, which provides the board with authority to make rules necessary to carry out its powers and duties.

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

Applicant—Political subdivision(s) that apply(ies) for financial assistance from the research and planning fund.

Fund—The research and planning fund authorized and described in the Texas Water Code, Chapter 15, Subchapter F.

Flood protection planning—The process of developing the means of providing protection from flooding through structural and non-structural measures.

(A) Planning for flood protection includes studies and analyses to:

(i) determine and describe problems resulting from or relating to flooding;

(ii) determine the views and needs of the affected public relating to flooding problems;

(iii) identify potential solutions;

(iv) estimate benefits and costs of potential solutions, including structural and non-structural measures;

(v) recommend feasible solu-

tions to flood protection problems; and  
(vi) determine that any proposed solutions are consistent with appropriate regional or statewide plans and relevant laws and regulations.

(B) Planning, as herein defined, does not include those activities directly related to the preparation of applications for state or federal permits or other approvals, nor does it include activities associated with administrative or legal proceedings by regulatory agencies.

(C) As examples, planning would include activities comparable to comprehensive basin studies, reconnaissance and feasibility grade studies, and other phases of pre-construction planning of the United States Army Corps of Engineers, but would not include advanced engineering and design, which involves the preparation of final project plans and specifications for construction bids. Likewise, planning, as herein defined, would be the equivalent to Stage I planning of the United States Bureau of Reclamation, but would not include most activities associated with Stage II activities, which involve the preparation of final engineering plans and specifications for construction of the selected project or projects.

Political subdivision—A city, county, district, or authority created under the Texas Constitution, Article III, §52; or Article XIV, §59; any other political subdivision of the state; any interstate compact commission to which the state is a party; and any nonprofit water supply corporation created and operating under Texas Civil Statutes, Article 1434a.

Reconnaissance-level or feasibility investigation—The level of investigations and studies which normally can be carried out using existing data, with the basic objective of formulating an implementable solution or alternative solutions to existing or potential flood protection problems. Such investigations should be sufficient in scope to support the preparation of cost estimates for recommended or alternative solutions within a reasonable degree of accuracy.

§355.32. *Purpose.* It is the intent of the board to establish a general policy for processing applications to fund planning for flood protection. Because of the limited availability of funds, each applicant will have 90 days from the date of board approval of an application to enter into the contract and to demonstrate to the executive administrator that the applicant has the local matching share committed and available. Funding of flood protection planning projects shall be at the discretion of the board from funds in the research and planning fund created in the state treasury and in accordance with §355.1 of this title (relating to General Policy).

§355.33. *Applicability.*

(a) The board will consider applications and may enter into contracts with political subdivisions to provide funding

from the research and planning fund to develop new plans or to update existing plans for flood protection for specific areas.

(b) The board will provide funding not to exceed 50% of planning costs.

(c) Subject to board approval, an applicant may substitute in-kind services for any part of the required local share of planning costs if such services are related to the proposed planning project and reimbursement by any other party does not occur.

(d) Applications for funding to develop flood protection plans will be considered for developed areas with a history of flooding.

(e) Flood protection plans may include, but are not limited to, the following types of structural and non-structural measures:

- (1) reduction of peak flows by means of detention reservoirs;
- (2) confinement of flood flows by levees, flood walls, or closed conduits;
- (3) reduction of flooding by channel improvements which increase channel capacity and flow velocity;
- (4) diversion of water through bypasses or floodways;
- (5) improvement of bridges, culverts, and other hydraulic structures;
- (6) temporary evacuation, permanent evacuation, or buyout of floodplain areas;
- (7) flood proofing of structures;
- (8) reduction of runoff by land management methods, such as floodplain zoning regulations or land use restrictions;
- (9) flood warning systems; and
- (10) flood forecasting.

§355.34. *Solicitation Procedures.*

(a) Solicited proposals.

(1) The board may solicit planning proposals for areas of the state where there is a perceived need for flood protection.

(2) The board will specify the planning area and the type and scope of project for which planning proposals are being solicited. The board will publish information on the solicitation in the *Texas Register*, including appropriate schedules for submission of planning proposals by applicants. Proposal solicitations for flood protection planning will include the following:

- (A) a description of planning objectives;
- (B) a description of funding considerations;
- (C) an explanation of review criteria and procedures;
- (D) a deadline and address for proposal submission;
- (E) a target date for contract award;
- (F) guidelines for proposal contents; and
- (G) the designation of a contact person for additional information.

(3) Publication of a solicitation does not obligate the board to make an award if an appropriate or adequate pro-

posal is not received.

(b) Unsolicited proposals.

(1) The board will consider unsolicited proposals for flood protection planning provided the proposals satisfy the eligibility criteria in §355.35 of this title (relating to Criteria for Eligibility). Unsolicited proposals will receive appropriate consideration within time and funding limitations.

(2) The board will periodically publish notices in the *Texas Register* that unsolicited proposals will be accepted. The announcement will indicate the period during which proposals may be submitted for consideration.

§355.35. *Criteria for Eligibility.* To be eligible for funding from the research and planning fund, the applicant must demonstrate:

(1) specific application of the planning proposal to reduce flooding problems in the watershed for which the planning is to be carried out;

(2) the legal authority to plan for and abate flooding;

(3) a need for funds;

(4) an indication that the proposed planning does not duplicate previously completed plans or on-going planning, with the exception that updating flood protection plans, if needed, would be eligible;

(5) consideration has been given to the flood protection needs of the entire watershed in which the planning studies are to be carried out; and

(6) all cities, counties, non-profit water supply corporations, regional planning agencies, and all districts and authorities created under the Texas Constitution, Article III, Chapter 52, or Article XVI, Chapter 59, in the planning area have been notified by certified mail that an application for planning assistance to develop flood protection plans for the area is being filed with the board. The notice shall include the name and the address of the applicant and the name of the applicant's manager or official representative; a brief description of the planning area; the purposes of the planning project; the board's name, address, and the name of a contact person with the board; a statement that any comments must be filed with the board and the applicant within 30 days of the date on which the notice is mailed. With its application to the board, the applicant must provide one copy of the notice sent to affected political subdivisions, a list of the political subdivisions to which notice was sent, and the date on which the notice was sent.

§355.36. *Submission of Proposals.*

(a) The application need not be in the form prescribed by the Uniform Grants and Contract Management Act, Texas Civil Statutes, Article 4413(32g).

(b) The following information shall be included in a flood protection planning application:

(1) the legal name and address of the applicant;

(2) a citation of the laws under which the political subdivision was created and is operating, including specific citation of all laws providing flood protection authority;

(3) the geographic area to be included in the plan, justification for specific area boundary selection, and the need for the planning area and the applicant to receive state financial assistance in order to develop the proposed plan;

(4) a detailed description of the existing or potential flood hazard the planning is intended to address and the way in which the proposed plan will address the problem;

(5) a description of the relationship to, and effect of, any proposed flood protection planning project(s) on other flood protection plans or facilities in the planning area, the surrounding region, and the state, if any;

(6) evidence as to the relevance of the proposed plans as a component of regional flood protection plans and programs;

(7) assurances that the proposed project does not duplicate existing studies or plans;

(8) a list of work tasks and a time schedule for the tasks to be completed;

(9) a detailed object class cost budget, as defined in §355.39(h) of this title (relating to Disbursement of Contracted Funds and Cost Accounting), and a detailed task budget for all aspects of the planning project;

(10) the total planning cost, the source of the local matching share, and the total amount of money requested from the fund;

(11) potential sources and amounts of funding for implementation of all projects proposed in the plan;

(12) assurance by the applicant that, if a viable solution is formulated, implementation of the solution will be diligently pursued;

(13) if the plan is to be prepared through subcontracts, a list of the staff qualifications and direct experience that potential subcontractors must demonstrate;

(14) all information required by §355.35 of this title (relating to Criteria for Eligibility);

(15) all information necessary to evaluate the application under §355.38 of this title (relating to Evaluation Criteria); and

(16) any other pertinent information deemed necessary by the executive administrator.

**§355.37. Comments from Affected Political Subdivisions.** For flood protection planning applications, the board will allow 30 days from the date notice is sent to affected political subdivisions to receive comments from affected political subdivisions. However, the board may act on an application before the end of the 30-day period if all political subdivisions to which notice is

required to be mailed agree in writing to waive the notice period

**§355.38. Evaluation Criteria.** Flood protection planning proposals will be evaluated and selected according to the following criteria:

(1) an indication that the planning will not duplicate previously completed or on-going flood protection planning within the proposed planning area, with the exception of revising out-of-date flood protection plans;

(2) the probability that the planning will result in implementation of viable flood protection measures for the planning area;

(3) a history of flooding and flood damage in the planning area;

(4) the urgency of addressing flood protection problems;

(5) the potential cost-effectiveness of proposed flood protection alternatives;

(6) the extent to which the planning will address public safety and welfare impacts;

(7) significance to Texas;

(8) the population within the planning area;

(9) significance to the region of the state in which the planning area is a part;

(10) significance to the planning area of the proposed project in terms of flood protection and specifically considering the extent to which areas with existing development (primarily) or planned development (secondarily) would be protected;

(11) extent to which the planning area participates actively in the National Flood Insurance Program (NFIP) as measured principally by the number of NFIP policies in effect;

(12) the need for the planning area and the applicant to receive state financial assistance in order to conduct needed flood protection planning; and

(13) the ability of the applicant to provide the required matching funds for planning.

**§355.39. Disbursement of Contracted Funds and Cost Accounting.**

(a) Contracts. A contract between the applicant (contractor) and the board will be used. Contracts entered into shall contain terms and conditions considered appropriate to protect the interests of the state and the contractor. The applicant has 90 days from the date of board approval to execute the contract and to provide written evidence acceptable to the executive administrator that the applicant has available its matching share of funds.

(b) Subcontracts. The applicant may not enter into a subcontract until after the date of board approval of the application. Professional service subcontractors shall be selected and awarded in accordance with the Professional Services Procurement Act, Texas Civil Statutes, Article 664-4. All subcontracts between the contractor and subcontractors must be approved in writing by

the executive administrator before they can be considered in effect and work can begin.

(c) Method of payment. State of Texas contractors will be paid on an actual cost reimbursement basis provided for in the State Purchasing and General Services Commission's rules and regulations and board policies and procedures. Contractor billings must be submitted on a State of Texas purchase voucher and be accompanied by sufficiently detailed invoice information from the contractor and subcontractors to verify the authenticity of billing charges and amounts. All contracts shall provide that 10% of the contract amount be retained for final payment until after receipt and acceptance of all required reports and documentation. All contract payments shall be made in accordance with the Prompt Payment Act, Texas Civil Statutes, Article 601f, unless otherwise noted in the contract.

(d) Records. Contractors and subcontractors shall maintain satisfactory financial accounts, documents, and records and shall make all records available for examination and audit by the staff of the board and the state. Accounting by contractors and subcontractors shall be in a manner consistent with generally accepted accounting procedures.

(e) Uniform grants and contract management. The contractor will be subject to the Uniform Grants and Contract Management Act, Texas Civil Statutes, Article 4413(32g).

(f) Capital equipment. Capital equipment may not be purchased with flood protection planning grant funds.

(g) Computer programs. All computer programs and models that are acquired or developed as a part of the planning project are to be provided to the board for use by board staff and other state agencies, as appropriate.

(h) Project budgets. Application budgets shall be based upon fair and reasonable rates for all cost items. The board reserves the right to require specific information to explain and justify each cost element, including salary rates for professional staff, fringe benefits, overhead, and profits.

(1) Direct costs are defined to include the cost of salaries for professional staff, draftsmen, stenographers, surveyors, clerks, laborers, etc., for time directly chargeable to the planning project; computer services; communication expenses; travel expenses; and expendable supplies.

(2) Fringe costs are defined to include social security contributions, unemployment compensation insurance, retirement benefits, medical and insurance benefits, and sick leave, vacation, and holiday pay applicable thereto.

(3) Overhead costs are those costs incurred in maintaining a place of business and performing professional services. In all cases, overhead rates are to be reasonable and are subject to negotiation. Overhead or indirect cost rates developed for federal pro-

jects may be acceptable.

(4) Travel and subsistence expenses are limited to those amounts authorized for state employees by the General Appropriations Act, Senate Bill 1, 70th Legislature, 1987, Article V, §13 and §14, or as amended.

(5) Profit may be included in applications in which all or a part of the work is to be done by private sector subcontractors. In all cases, profit rates are to be reasonable and are subject to negotiation.

**§355.40. Dissemination of Results.**

(a) Reports. Results of all planning completed under contract with the board will be submitted by the applicant in the form of a written report, which will then become public information. A minimum of 12 copies of all final reports shall be delivered to the board. The applicant and subcontractors shall be available for brief presentations of results as required by the board. Specific provisions will be included in each contract to establish eventual ownership of results and potential patents, copyrights, and licenses at the conclusion of the planning project.

(b) Patents. In the absence of statutory or contractual limitations, the contractor may apply for patents on any discoveries made through the planning project. If the contractor does not wish to make the application, the state may request and receive title to the discovery. If the contractor receives a patent, the state of Texas and its political subdivisions shall be entitled to an irrevocable, non-exclusive, royalty-free license to use the discovery(ies) for governmental purposes.

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

Issued in Austin, Texas, on October 12, 1987.

TRD-8708830 Nancy Matchus  
Assistant General  
Counsel  
Texas Water  
Development Board

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 463-7850.

Chapter 367. Agricultural  
Water Conservation  
Program

Introductory Provisions

★31 TAC §367.1, §367.2

The Texas Water Development Board proposes amendments to §367.1 and §367.2, concerning policy statement and definitions. The amendment to §367.1 is the addition of a reference to the statutory changes enacted in the 70th Legislature, 1987, in Senate Bill 410. The definitions in §367.2, of borrower and evaluation unit,

are clarified to make the sections more understandable. Evaluation units are now defined as equipment which has a broader definition because of the expansion of the types of eligible equipment in Senate Bill 410. The term "conservation loan" is defined as a loan made by an irrigation district to a borrower so there is a distinction from a loan made to an irrigation district that will be making improvements to its irrigation delivery system.

Gladys Stansberry, director of accounting, 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. Stansberry 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 the increase in water conservation by farmers and irrigation districts because of the broader applicability of these changes. 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 Dr. Herbert Grubb, Director of Planning, P.O. Box 13231, Austin, Texas 78711, within 30 days from the date of publication of the proposed amendments.

The amendments are proposed under the Water Code, §§6.101, 15.435, 15.472, and 15.541, which provides the board with the authority to make rules necessary to carry out its powers and duties including the use of the agricultural soil and water conservation fund for grants for equipment purchase and the pilot program for low interest loans for agricultural water conservation equipment.

**§367.1. Policy Statement.** It is the policy of the board to implement the intent of the 69th Legislature, 1985, [and] House Bill 2, and the 70th Legislature, 1987, Senate Bill 410, by developing programs for agricultural water conservation to conserve the state's water resources and provide resulting benefits to all of the state's citizens. In accordance with this purpose, §§367.21-367.30 of this title (relating to Grants for Equipment Purchases) are adopted to implement the Texas Water Code, Subchapter H, and §§367.41-367.50 of this title (relating to Pilot Program for Low Interest Loans for Agricultural Water Conservation Equipment) are adopted to implement the Texas Water Code, Subchapter I.

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

**Borrower**—A person who receives funds from a lender in order to purchase agricultural water conservation equipment under the pilot loan program.

**Conservation loan**—A loan made to a borrower, except when the borrower is an irrigation district that will be making improvements to its irrigation water delivery system.

**Equipment** [Evaluation unit]—**Storage** [An enclosed mobile storage unit] units, [equipped with] instruments, tools, and supplies necessary to perform a field evaluation or demonstration of the efficiency of an irrigation system and agricultural water conservation practices on irrigated land, dryland, and rangeland.

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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Grants for Equipment Purchases

★31 TAC §§367.21-367.23, 367.25,  
367.27-367.29

The Texas Water Development Board proposes amendments to §§367.21-367.23, 367.25, and 367.27-367.29, concerning purpose; districts eligible for grants; equipment eligible for grants; applications; approval of grants; management of grant funds; and reports by recipients. These amendments bring these sections into compliance with statutory changes enacted in the 70th Legislature, 1987, in Senate Bill 410, which changed the Water Code, §15.471. The change allows for grants to be used to measure, evaluate, and demonstrate efficient irrigation systems and agricultural water conservation practices on irrigated land as well and dryland and rangeland. Section 367.21 expands the purpose of the grant program to include dryland and rangeland areas. Section 367.22 is amended to remove language limiting loans to irrigated areas because of the change in the Water Code, §15.471. Section 367.23 is proposed to be amended to make the items which are eligible to be purchased comply with the Water Code, §15.471, and to simplify the method of determining eligible equipment by allowing the executive administrator to decide whether the equipment will aid in the measurement, evaluation, and demonstration of efficient irrigation systems and agricultural water applications. The old section was too inflexible because only equipment on the list was eligible even though other equipment would have been appropriate.

The amendment to §367.25 would expand the applications to those agricultural uses on dryland and rangeland. The amendment to §367.27 would allow either the executive administrator or the board to determine whether the grant is used to supplement the applicant's money. This amendment will allow the executive administrator to approve grant applications of less than \$25,000 in order to make processing some applications more efficient. Section 367.28 is amended to clarify how the grant funds must be returned. Section 367.29 is amended to reflect the broader scope of grant purchases and uses.

Gladys Stansberry, director of accounting, 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. Stansberry 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 the increase in water conservation by farmers and irrigation districts because of the broader applicability of these changes. 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 Dr. Herbert Grubb, Director of Planning, P.O. Box 13231, Austin, Texas 78711, within 30 days from the date of publication of the proposed amendments.

The amendments are proposed under the Texas Water Code, §§6.101, 15.435, and 15.472; which provides the board with the authority to make rules necessary to carry out its powers and duties including the use of the agricultural soil and water conservation fund for grants for equipment purchases.

§367.21. *Purpose.* In accordance with the Texas Water Code, §15.471, [the board may make] grants **may be made** to districts [in which there is significant irrigation from surface water or ground water] for purchasing equipment **required to:** [used to measure and evaluate irrigation systems.]

(1) **measure and evaluate irrigation systems and agricultural water conservation practices on irrigated land, dryland, and rangeland; or**

(2) **demonstrate efficient irrigation systems and agricultural water conservation practices on irrigated land, dryland, and rangeland.**

§367.22. *Districts Eligible for Grants.*

[(a)] In accordance with the Texas Water Code, §15.471, grants may be made to underground water conservation districts and to other districts created under the Texas Constitution, Article III, §52(b)(1) and (2), or Article XVI, §59 [within which there is significant irrigation from surface or ground water.]

[(b) In determining significant irrigation, the board will consider the irrigated acreage in the district, the value of the irrigated crops, the number of irrigated farms and ranches, the percentage of total water use in the district attributed to irrigation, and other information considered relevant].

§367.23. *Equipment Eligible for Grants.* Eligible equipment for grants shall include any or all equipment [identified in paragraphs (1)-(77) of this section and/or equipment] which the **executive administrator** [board] finds will aid in the measurement [and], evaluation, and **demonstration of efficient irrigation systems and agricultural water conservation practices on irrigated land, dryland, and rangeland** [of irrigation equipment]. An applicant may purchase equipment to replace existing inoperable equipment, to update existing equipment, or to provide **equipment** [an evaluation unit] where none currently exists. **The executive administrator shall maintain a list of equipment approved for purchase with grant funds.** This list will be reviewed periodically and amended as circumstances warrant. [.]

[(1) enclosed mini-trailer, storage box (pickup bed), or pick-up bed cover;

[(2) velocity gauge set;

[(3) water level indicator;

[(4) soil moisture meter (resistance blocks);

[(5) electrical resistance blocks;

[(6) tensiometer vacuum pump/gauge;

[(7) tensiometers;

[(8) soil sampler;

[(9) tube soil probe;

[(10) soil bucket auger;

[(11) 36-inches soil moisture meter;

[(12) 10-inches flow meter;

[(13) 10-inches in-line valve;

[(14) eight-inch flow meter;

[(15) eight-inch in-line valve;

[(16) six-inch flow meter;

[(17) six-inch in-line valve;

[(18) four-inch flow meter;

[(19) four-inch in-line valve;

[(20) seven-inch to six-inch reducer;

[(21) six-inch to seven-inch increaser;

[(22) eight-inch to six-inch reducer;

[(23) six-inch to eight-inch increaser;

[(24) six-inch to four-inch reducer;

[(25) four-inch to six-inch increaser;

[(26) 10-inches tube five feet long with one inch nipple;

[(27) eight-inch tube, five feet long with one-inch nipple;

[(28) six-inch tube, five feet long with one-inch nipple;

[(29) four-inch tube, five feet long with one-inch nipple;

[(30) pressure gauge/(pitot tube);

[(31) pocket sling psychrometer;

[(32) tube soil thermometer;

[(33) wind (velocity) meter;

[(34) 3/4 inch gate valve;

[(35) orifice plates (various sizes);

[(36) stop watch;

[(37) 500 milliliter graduated cylinder;

[(38) 100 milliliter graduated cylinder;

[(39) volt-ampere hook-on meter;

[(40) multi-tester (electrical circuit);

[(41) set of fittings and bushings;

[(42) pressure gauge (faucet);

[(43) portable electronic flow meter (enclosed pipes);

[(44) programmable surge valve unit;

[(45) neutron probe (meter, accessories, access tubes);

[(46) programmable calculator;

[(47) dye detection meter/supplies;

[(48) portable wier;

[(49) current meter;

[(50) electronic meter (open-flow);

[(51) tool box;

[(52) pipe wrenches;

[(53) adjustable wrenches;

[(54) set open end wrenches;

[(55) regular pliers;

[(56) water pump pliers;

[(57) extension ladder;

[(58) set drill bits;

[(59) screwdrivers;

[(60) measuring tapes (various lengths);

[(61) hatchet;

[(62) 100 point scale;

[(63) water hose (various sizes);

[(64) canvas sleeve;

[(65) water bucket (various sizes);

[(66) clipboard;

[(67) wooden stakes;

[(68) spray catch cans;

[(69) security chain;

[(70) padlock;

[(71) ponchos;

[(72) rubber boots;

[(73) eight-inch to 10-inch increaser;

[(74) 10-inch to eight-inch reducer;

[(75) 12-inch flow meter;

[(76) soil moisture oven;

[(77) computerized elevation instrumentation.]

§367.25. *Applications.* An application shall include the following.

(1) General information. The application shall state the applicant's name and address, the statutory authority creating the applicant and under which the applicant currently operates, and the names of the directors and, if applicable, the managing officer for the applicant. The application shall also contain a map and description of the applicant's jurisdictional area and a description of the extent of **applicable irrigated land [lands], dryland, and rangeland acreages and current agricultural practices on these lands** [irrigation practices in the district]. The application shall provide an assessment of current **agricultural** [irrigation] water-use efficiency and an estimate of possible improvement.

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



(4) Participation commitment. The application shall provide a description of the applicant's ability to raise other revenue [for measurement of irrigation systems,] and evidence that the grant will be used as a supplement to other sources of financing available to the applicant for the purpose the grant would fulfill.

(5) (No change.)

(6) Amount of grant. The application shall specify the amount of grant funds requested and a **description or listing of all equipment to be purchased** [the number of evaluation units to be acquired or the equipment to be purchased if it is to be used as a supplement to an existing unit(s)].

§367.27. *Approval of Grants.*

(a) (No Change.)

(b) The board or executive administrator shall make a grant only upon a finding that the grant funds to be made available will supplement rather than replace money to be made available by the district receiving the grant.

(c) **The executive administrator may consider approval of grant applications of less than \$25,000 and the board will consider approval of grant applications of \$25,000 or greater.**

§367.28. *Management of Grant Funds.* In order to insure the protection and best utilization of available funds, the following management procedures will apply to all grant recipients.

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

(3) [Within 365 days of receiving grant funds,] The recipient shall return to the executive administrator grant funds not used to purchase equipment **according to the schedule established at the time of grant approval.**

§367.29. *Reports by Recipients.* For a period of two years following receipt of grant funds, each recipient of a grant shall provide to the executive administrator an **annual** [a semi-annual] report [(beginning on the six-month anniversary of the grant approval)] on the number of **agricultural** [irrigation] system efficiency evaluations made (including, but not limited to, the types of systems or equipment evaluated and the affected acres and crops) **or uses of the equipment to demonstrate efficient irrigation systems and agricultural water conservation practices.** Individual field evaluation forms and reporting forms supplied by the executive administrator shall be completed and shall accompany each **annual** [six-month] report.

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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For further information, please call  
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### Pilot Program for Low Interest Loans for Agricultural Water Conservation Equipment

★ 31 TAC §§367.41-367.46, 367.48,  
367.49

The Texas Water Development Board proposes amendments to §§367.41-367.46, 367.48, and 367.49, concerning purpose, applicants eligible for loans, borrowers, equipment and costs eligible for loans, applications, review and approval of applications, lender loan limits, and terms of lender contracts. These amendments bring the sections into compliance with statutory changes enacted in the 70th Legislature, 1987, in Senate Bill 410, which added to the districts eligible to be lenders and to the purposes for which the loans could be made. Section 367.41 is amended to reflect that the pilot loan program is extended to state fiscal years 1988 and 1989, and to reflect that these funds may be used by irrigation districts only for improvements of their irrigation water delivery systems. These changes are based on the changes to the Water Code, §15.532 and §15.537. Irrigation districts created under the Texas Constitution, Article III, §52(b)(1) or Article XVI, §59 are now eligible applicants under the Water Code, §15.531, and §367.42 is amended to reflect that. Proposed changes to §367.43 are for better organization. Section 367.44 is proposed to be amended to clarify the language and to add to the equipment eligible for loans. Remote control gates and automatic water level control levee gates can help conserve water so they are included in this list. Section 367.45 is amended to clarify that different applications will be required for conservation loans to districts who will lend money to farmers and for loans to districts who will be improving their distribution system. The application contents for these types of loans are separated in the proposed amendments to §367.45. Section 367.46 is proposed to be amended to clarify that this section relates to any type of a loan application. Section 367.48 is proposed to be amended to separate the lender loan limits for the two different types of loans and to establish the limit of \$1 million for loans to districts to improve their facilities. Finally, several changes are made to §367.49 to clarify which terms will go into lender contracts for the two separate types of loans, conservation loans or loans for improvements to district facilities. A provision allowing for extensions of time is added based on the board's experience in processing these loans.

Gladys Stansberry, director of accounting, 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. Stansberry also has determined that for the first five year period the sections are in effect that the public benefit anticipated as a result of enforcing the sections as proposed will be the increase in water conservation by farmers and irrigation districts because of the broader applicability of these changes. 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 Dr. Herbert Grubb, Director of Planning, P.O. Box 13231, Austin, Texas 78711, within 30 days after the date of publication of the proposed amendments.

The amendments are proposed under the Water Code, §§6.101, 15.435, and 15.541, which provides the board with the authority to make rules necessary to carry out its powers and duties including the use of the agricultural soil and water conservation fund for the pilot program for low interest loans for agricultural water conservation equipment.

§367.41. *Purpose.* In accordance with the Texas Water Code, §15.532, the board may use funds, not to exceed \$5 million, to make loans to lenders for use in making [conservation] loans. The funds may only be used during state fiscal years 1986, [and] 1987, **1988, and 1989.** The funds used for irrigation water delivery and application systems may only be used on land which has been irrigated for at least two of the previous six years. **The funds used by an irrigation district may only be used for improvements of its irrigation water delivery system.**

§367.42. *Applicants Eligible for Loans.* A lender applying for board loans must be a state soil and water conservation district created under the Texas Agriculture Code, Chapter 201, [or] an underground water conservation district created under the Texas Constitution, Article XVI, §59, **or an irrigation district created under the Texas Constitution, Article III, §52(b)(1) or Article XVI, §59.**

§367.43. *Borrowers.*

(a) An eligible borrower may include individual farmers or ranchers, corporations, partnerships, entities, or institutions.

(b) A district created under the Texas Constitution, Article XVI, §59, or Article III, §52(b)(1) and (2), and water supply corporations may be eligible as a borrower if the district or corporation supplies substantial amounts of agricultural irrigation water through its distribution system. [A lender may use loan funds for improvement of its irrigation delivery system if it meets the previously mentioned criteria and if, in its application to the board, it indicates that it seeks funds for improvement of its irrigation

delivery system, and the board approves that aspect of the application.]

**§367.44. Equipment and Costs Eligible for Loans.**

(a) Lenders may loan or use funds only for eligible equipment, materials, and costs.

(b) (No change.)

(c) The following equipment and practices are eligible for loans under the Pilot Loan Program.

(1) Irrigation water delivery equipment:

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

(D) in-line flow meters or other flow measuring devices to measure distribution system flow or output of wells; and

(E) remote controlled gates to control water levels in open canals to prevent spills.

(2) Irrigation application systems:

(A)-(F) (No change.)

(G) contractor services or use of hired farm labor and purchase of implements excluding power units such as tractors used with the implements, for land leveling or shaping of land slope or topography to improve application distribution efficiency or infiltration of irrigation water; [and]

(H) furrow dikers to hold precipitation or irrigation water on irrigated land; and [.]

(I) automatic water level controlled levee gates to control flow of water.

**§367.45. Applications.** A separate application shall be made for a loan to be used for conservation loans to borrowers and for a loan to be used by an irrigation district to improve district delivery facilities. An application shall include the following information.

(1) (No change.)

(2) Proof of borrower interest. The applicant shall provide evidence, such as a list of potential borrowers, that local borrower interest in the program warrants the lender providing service.]

(2)(3) Fiscal information. The applicant shall provide evidence, such as the most recent year's audit report, of its financial condition and its ability to manage a loan program. The applicant shall also provide a plan for repayment to the board of the lender's loan, including a plan for repayment in the event of [borrower] default.

(3)(4) Amount and use of loan. The applicant shall specify the amount, period, and intended use of the loan.

(4) Conservation loans to borrowers. If the loan is to be used for conservation loans to borrowers, the applicant shall submit the following:

(A) the lender's rules or procedures for approving borrower's loan applications, and for approving and managing lender-borrower agreements. The applicant shall also submit the lender's rules or procedures for establishing standards, inspections, and certification of equipment or of

contractor services for installed conservation measures; and

(B) proof of borrower interest through evidence, such as a list of potential borrowers, that local borrower interest in the program warrants the lender providing service.

(5) Improvement to irrigation district delivery facilities. [Lender's rules.] If the loan is to be used by an irrigation district to improve the district's irrigation water delivery system, the district shall submit plans and specifications for the proposed improvements, the estimated cost of the improvements, and a schedule for construction.

[The applicant shall submit the lender's rules or procedures for approving borrowers' loan applications, and for approving and managing lender-borrower agreements. The applicant shall also submit the lender's rules or procedures for establishing standards, inspections, and certification of equipment or of contractor services for installed conservation measures.]

**§367.46. Review and Approval of Application.** The executive administrator shall review all applications for eligibility and completeness. Upon receipt of an application from a soil and water conservation district created under the Texas Agriculture Code, Chapter 201, the executive administrator shall notify the Texas State Soil and Water Conservation Board requesting their review and comments on the application. After the executive administrator considers an application from a lender, if the executive administrator finds that the lender is able to perform the purpose(s) of the loan application [make conservation loans to eligible borrowers] and that the lender agrees to comply with rules adopted by the board under this chapter, the executive administrator shall place the item on the board's agenda with a recommendation concerning granting or denying the application. The board shall approve or disapprove the loan application.

**§367.48. Lender Loan Limits.**

(a) A loan to an individual lender for use in making conservation loans to borrowers shall not exceed \$1,000,000 for multiple county districts, and \$300,000 for single-county districts, provided that 120 days after approval of the initial loan, the lender may apply for an additional loan which shall not exceed the original loan limit. Reapplication for additional loans may continue following successive 120 day periods.

(b) A loan to a district for use to improve district delivery facilities shall not exceed \$1,000,000 for either multi-county districts or single-county districts. A lender may use the full amount of the loan for lender facilities, but is subject to the limitations on shared-cost of financing. Reapplication for additional loans may continue following successive 120 day periods.

**§367.49. Terms of Lender Contract.**

(a) (No change.)

(b) The loan contract between the

board and the lender shall provide for or include the following items:

(1) (No change.)

(2) investment of funds. The lender may deposit and/or invest unallocated funds received from the board in interest bearing accounts, provided the investment does not interfere with the lender's ability to make the funds available for conservation loans or improvement of district delivery facilities. The lender shall deposit and/or invest such funds in a manner such that the deposits and/or investments are secure;

(3) (No change.)

(4) lender interest and service fees to borrower. A lender making conservation loans may charge borrowers the interest rate charged to the lender. In addition, the lender may charge the borrower a one-time fee, up to 2-1/2% of the amount of the loan, to cover loan fees and charges of the lender;

(5) repayment of unused funds. A lender making conservation loans to borrowers shall close loans within 120 days after receiving funds from the board. If the lender wishes an extension of time to close the loans, a request must be filed with the board 45 days before the end of the 120 day period. If an extension is not granted, [At the end of the 120 day period,] the lender must return any unallocated loan funds to the executive administrator at the end of the 120 day period;

(6) (No change.)

(7) borrower loan limit. A lender making conservation loans shall not loan an individual borrower more than \$100,000. [A lender's loan to borrowers shall be limited to a maximum of 80% of the purchase price of capital items and a maximum of 50% of the costs for contractor services or of labor to install equipment purchased with loan funds.]

(8) eligible costs. Lender's conservation loans to borrowers and loans for improvements to irrigation district delivery facilities shall be limited to a maximum of 80% of the purchase price of capital items and a maximum of 50% of the costs for contractor services or of labor to install equipment purchased with loan funds;

(9)(8) default and foreclosure on conservation loans. The lender is responsible for foreclosure under a conservation loan agreement in the event of a default in payment on a conservation loan made by a lender or the failure of the borrower to perform any of the terms or conditions of the conservation loan agreement. Foreclosure under a conservation loan agreement shall be accomplished in the manner provided by law for foreclosure of similar loan agreements made by private lending institutions and by the conservation loan agreement. The lender is responsible for liquidation of any collateral provided under the conservation loan agreement and shall sell the collateral on terms and subject to procedures that it follows in liquidating other collateral;

(10)(9) lender protection from

losses on conservation loans. A lender may prescribe acceptable collateral and may establish loan insurance or vendor agreements to insure capability to repay lender loans to the board or may establish a reserve fund or other means to assure repayment which are acceptable to the executive administrator;

(11)(10) state guarantee on conservation loans. Each lender is guaranteed that, in the event of default of a conservation loan made by a lender with funds from the state, the state will assume 50% of the amount of the balance that remains due and payable under the default after all collateral for the conservation loan is liquidated; and

(12)(11) lender reports on conservation loans. By September 10 of each year, the lender shall provide to the executive administrator a report on the loans made to borrowers during the preceding state fiscal year, in a format specified by the executive administrator. The executive administrator may request and the lender shall supply similar reports at other times. These reports shall include a list of borrowers, the amount of each loan, a description of the equipment and systems installed by borrowers, and the status of repayment of loans, including delinquencies. In addition, the lender shall submit an annual performance evaluation report by September 10, in a format specified by the executive administrator. The report shall include copies of any preloan system evaluations and provide an estimate of improved efficiency of water use after installation of the purchased equipment or practices;

(13) default on irrigation district delivery facility improvement loans. The lender agrees to provide the board with protection from loan default by the lender by providing a lien on lender assets, including, but not limited to, facilities improved with loan funds, sufficient to provide complete repayment of the loan balance;

(14) lender reports on irrigation district delivery facility improvement loans. The lender shall submit an annual performance evaluation report by September 10. The report shall include copies of any preloan system evaluations and provide an estimate of improved efficiency of water use after delivery facility improvements.

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 October 12, 1987

TRD-8708827 Nancy Matchus  
Assistant General  
Counsel  
Texas Water  
Development Board

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 463-7850.



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part I. Texas Department of Public Safety

#### Chapter 1. Organization and Administration

##### Fees for Copies of Records

#### ★ 37 TAC §1.122

The Texas Department of Public Safety proposes an amendment to §1.122, concerning License Issuance and Vehicle Inspection Bureau fees. The section title is amended to properly identify the License Issuance and Vehicle Inspection Bureau. Subsection (a) is amended by adding and deleting language in order to comply with recently enacted legislation whereby class type listings will not be authorized by the department to any business; however, such information will be available to governmental entities for official governmental purposes only. Subsection (c) is added which requires the purchaser of the complete driver license basic history file to agree to delete the name, address, and date of birth of any person who desires to be eliminated from mailing list.

Melvin C. Peebles, assistant chief of fiscal affairs, has determined that there will be fiscal implications as a result of enforcing or administering the section. Effect on state government for the first five-year period the section will be in effect is an estimated loss in revenue of \$107,000 for each year from 1988-1992. There are no fiscal implications for local governments or small business.

Winston C. Johnson, manager, 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 an option will be available for individuals of having their name deleted from a driver license record mailing list that was obtained by a company purchasing the entire basic history file. 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 John C. West, Jr., Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773-0001, (512) 465-2000.

The amendment is proposed under the Texas Government Code, §411.004(3) and §411.006(4); and Texas Civil Statutes, Article 6687b, §1A, which provide the Public Safety Commission with the authority to adopt rules necessary for carrying out the department's work. The director, subject to the approval of the commission, shall have the authority to adopt rules considered necessary for the control of the department. Also, the department may adopt rules that it determines are neces-

sary to effectively administer the Act relating to drivers licenses.

§1.122. License Issuance and Vehicle Inspection [Driver Records] Bureau Fees.

(a) Requests for class type listings of names, addresses, and date of birth from Texas drivers license records requiring special programming and search of more than 11 million files will not be authorized by the department for any person or business; however, such information will be available to an official of the federal government, the state, a city, town, county, special district, or other political subdivision for official governmental purposes only [be furnished for a minimum fee of \$1,000]. [An additional fee of \$.05 per listing on computer printout or \$.03 per listing on magnetic tape will be required for each item in excess of 5,000, provided that the requestor must specify exact type information desired.]

(b) A copy of the complete basic record back-up tape will be furnished for \$2.25 per 1,000 names. This is raw data with no programming by the department. Record layout will be furnished in order that the data may be interpreted. Updates will be furnished for \$100 per week.

(c) Before the department may release the information requested in subsection (b) of this section, the purchaser must agree to delete the name, address, and date of birth of any person whose name is also included on the mail or telephone preference list maintained by a recognized trade association which is used to remove the name of any individual who has requested that the individual's name not be made available for solicitation purposes. If the individual does not want their name made available for solicitation purposes, they should contact such recognized trade associations to be included on such associations' mail/telephone preference list.

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 October 7, 1987.

TRD-8708793 Leo E. Gossett  
Director  
Texas Department of  
Public Safety

Earliest possible date of adoption:  
November 16, 1987  
For further information, please call  
(512) 465-2000.



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 27. ICF-MR

The Texas Department of Human Services (DHS) proposes the repeal of §27.1206 and new §27.3010, concerning visits away from the facility and payment for absences from the facility. The purpose of the repeal and new section is to allow vendor payments to be made during one 10-day extended therapeutic visit per year for residents of intermediate-care facilities for the mentally retarded (ICF-MR), in addition to the unlimited number of three-day therapeutic visits now allowed. DHS proposed a related repeal and new section in the April 24, 1987, issue of the *Texas Register* (12 TexReg 1386). Because of substantial public comment regarding that proposal, DHS has withdrawn it from consideration for adoption.

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

Mr. Packard also has determined that for each year of the first five years the repeal and new section are in effect the public benefit anticipated as a result of enforcing the repeal and new section will be that residents, especially those whose families live far from the facility, will be able to spend longer periods of time with their families. There is no anticipated economic cost to individuals who are required to comply with the proposed repeal and new section.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-065, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

### Subchapter M. Admissions Policies

#### ★ 40 TAC §27.1206

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

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

#### §27.1206. Visits Away from the Facility.

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 October 9, 1987.

TRD-8708755

Marlin W. Johnston  
Commissioner  
Texas Department  
of Human Services

Proposed date of adoption:

December 30, 1987

For further information, please call  
(512) 450-3765.



### Subchapter EE. Admissions and Release

#### ★ 40 TAC §27.3010

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

#### §27.3010. Payment for Absences from the Facility.

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

(1) Day—A 24-hour period extending from midnight to midnight, with the first 24-hour period beginning at midnight following the resident's departure from the facility.

(2) Extended therapeutic visit—A resident's absence from the facility for therapeutic purposes, with the absence not exceeding 10 consecutive days.

(3) Therapeutic visit—A resident's absence from the facility for therapeutic purposes, with the absence not exceeding three consecutive days. This term also applies to an unauthorized departure that results in an absence not exceeding three consecutive days.

(b) In order for vendor payments to be made for ICF-MR residents who are away from the facility on therapeutic and extended therapeutic visits, the following criteria must be met.

(1) The resident's individual program plan must provide for therapeutic or extended therapeutic visits or both.

(2) Each therapeutic and extended therapeutic visit must be authorized and documented by the resident's QMRP, if not contraindicated by the resident's physician.

(3) Each resident may have an unlimited number of therapeutic visits per calendar year. If a therapeutic visit exceeds the allowed three days, the facility must submit a discharge form effective on the fourth day of absence.

(4) Each resident may have one extended therapeutic visit per calendar year. The resident, family member, or responsible party must document, in writing, the specific days selected for the extended therapeutic visit. If an extended therapeutic visit exceeds the allowed 10 days, the facili-

ty must submit a discharge form effective on the 11th day of absence.

(5) Facility staff must be available to residents during therapeutic and extended therapeutic visits, even if all the facility's residents are away at the same time. In the event that all residents are planning therapeutic or extended therapeutic visits on the same day(s), the facility's administrator or QMRP must notify, in writing, the MR program administrator of the Texas Department of Health (TDH) at least 60 days in advance. Failure to do so may result in denial of the facility's recertification.

(6) The facility must maintain a record of each therapeutic and extended therapeutic visit and ensure that these records are available for review by staff of the Texas Department of Human Services (DHS). Facility staff must also ensure that the records include statistics concerning the number of visits for which vendor payments have not been made.

(7) During audits of facilities, DHS verifies therapeutic and extended therapeutic visits.

(c) DHS does not make vendor payments when a Title XIX resident is absent from the facility because of:

(1) hospitalization;

(2) a therapeutic visit that exceeds three consecutive days;

(3) an unauthorized departure resulting in an absence that exceeds three consecutive days; or

(4) an extended therapeutic visit that exceeds 10 days.

(d) A facility may enter into a written agreement with the resident or responsible party to hold a bed during the resident's temporary absence from the facility. Each time this bed-hold arrangement is made, the written agreement must be signed and dated by the facility administrator or QMRP and by the resident or responsible party. The facility may charge the resident an amount not to exceed DHS' daily vendor rate according to the resident's classification at the time he leaves the facility.

(1) The facility must document each bed-hold charge in the resident's financial record at the time the bed-hold service is provided, and must specify that it is a bed-hold charge.

(2) If a bed-hold charge is made against the resident's personal-funds account managed by the facility, the facility must comply with §27.4803 of this title (relating to Protection of Funds).

(3) During audits of facilities, DHS audit staff verify bed-hold charges.

(e) When a resident is absent from the facility for special activities, including, but not limited to, Special Olympics and camping trips, DHS makes vendor payments if:

(1) the need for the special activity is documented in the resident's individual program plan (IPP) with designation of IPP training provided;

(2) sufficient facility personnel are

present at the special activity to meet the direct-care staff requirements outlined in §27.3213 of this title (relating to Resident Living Staff); and

(3) the facility incurs usual costs for caring for the resident, including, but not limited to, costs for meals, lodging, staff, supervision, and medication administration; and provides the indicated active-treatment program.

(f) In the event that all residents are planning to be absent from the facility for special activities on the same day(s), the facility's administrator or QMRP must notify, in writing, the MR program administrator of TDH at least 60 days in advance. Failure to do so may result in denial of the facility's recertification.

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

Issued in Austin, Texas, on October 9, 1987.

TRD-8708756 Marlin W. Johnston  
Commissioner  
Texas Department  
of Human Services

Proposed date of adoption:  
December 30, 1987  
For further information, please call  
(512) 450-3765.



## Chapter 81. Day Care Licensing Standards Subchapter B. Standards for Family Day Homes

### ★40 TAC §§81.101-81.128

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Human Services (DHS) proposes the repeal of §§81.101-81.128, concerning day care licensing standards. Recent statutory changes no longer require the department to license family day homes.

Brian Packard, associate commissioner for budget, planning, and economic analysis, 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. Packard 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 more time available for licensing repre-

sentatives to concentrate on more critical licensing activities. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-435, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 60 days of publication in the *Texas Register*.

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

- §81.101. *Organization.*
- §81.102. *General Administration.*
- §81.103. *Enrollment.*
- §81.104. *Records.*
- §81.105. *Staff Qualifications and Responsibilities.*
- §81.106. *Staff-Child Ratio.*
- §81.107. *Space.*
- §81.108. *Furnishings.*
- §81.109. *Equipment.*
- §81.110. *Toileting Arrangements.*
- §81.111. *Fire.*
- §81.112. *Sanitation.*
- §81.113. *Safety.*
- §81.114. *Health Requirements for Children.*
- §81.115. *Illness and Injury.*
- §81.116. *Medications.*
- §81.117. *Emergency Phone Numbers.*
- §81.118. *Animals.*
- §81.119. *Food Service.*
- §81.120. *Nutrition.*
- §81.121. *Operation.*
- §81.122. *Discipline and Guidance.*
- §81.123. *Infant and Toddler Care.*
- §81.124. *Children Needing Special Care.*
- §81.125. *Evening and Night Care.*
- §81.126. *Water Activities.*
- §81.127. *Transportation.*
- §81.128. *Definitions.*

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 October 12, 1987

TRD-8708845 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Proposed date of adoption:  
February 1, 1988  
For further information, please call  
(512) 450-3765.



## Chapter 85. General Licensing Procedures

The Texas Department of Human Services (DHS) proposes amendments to §§85.1403, 85.1405, 85.1406, 85.1801, 85.1803, 85.2006, 85.2012, 85.2014, 85.2019, 85.2033, 85.2035, 85.2037-85.2039, 85.2041, 85.2044, 85.3044, 85.3047, 85.3049, 85.3050, 85.3054, 85.3057, 85.3071-85.3073, 85.3075, 85.5012, 85.5014, 85.5020, 85.6003, 85.6006, 85.6007, 85.6018, and 85.6027; the repeal of §§85.2016, 85.2034, 85.2043, 85.3051, 85.3052, 85.3060, and 85.5010; and new §§85.2034, 85.2046, 85.2047, 85.5010, 85.5021, and 85.5022, in its general licensing procedures chapter. The proposal is based on recent statutory changes that made registration for registered family homes voluntary if three or fewer children were in care, added a definition of agency group home, required that the Texas Commission on Alcohol and Drug Abuse regulate facilities that treat chemically dependent persons, removed biennial licensing provisions, set requirements for timeframes in which to act on license applications, added evaluation as an alternative to probation, established a basis for exempting licensed administrators of emergency shelters in counties of less than 40,000 people, and added provisions for suspension and reprimand to sections governing administrator's licensing. Other changes dealing with F.B.I. fingerprint checks and notification procedures reflect departmental policy changes. In addition, grandfathered provisions in administrator's licensing and social work certification that have expired have been deleted.

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

Mr. Packard 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 compliance with the statutory changes. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-435, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in the *Texas Register*.

Subchapter O. Exemptions from Licensing

★ 40 TAC §§85.1403, 85.1405, 85.1406

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

§85.1403. Facilities Exempt from Licensing. The types of child care facilities or arrangements that are exempt from licensing are:

- (1) (No change.)
(2) an agency home or agency group home certified by a child-placing agency as meeting minimum standards;
(3)-(10) (No change.)
(11) a [registered] family home whether registered or not. Registration is a regulatory procedure different from licensing;
(12) (No change.)
(13) a treatment facility or a structured program for treating chemically dependent persons that is licensed by the Texas Commission on Alcohol and Drug Abuse.

§85.1405. Facilities Not Subject to Regulation Requesting Regulation.

(a) If a facility that is exempt from licensing [regulation,] requests a statement that the facility is meeting applicable minimum standards to receive funding, then the governing body of that facility must send a written request for standards compliance evaluation to the department and go through an abbreviated investigation.

(b) A family home that provides care for three or fewer children, excluding the caretaker's own children, may request registration. A family home that requests registration is regulated under the same provisions of the law, rules, and standards that apply to a home that must be regulated.

§85.1406. Multiple Programs: Exempt Programs and Licensed Facilities.

(a) If a governing body operates one program that is exempt based on law or administrative rule and also operates a child [day] care facility that is subject to regulation, the two facilities must meet the following criteria.

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

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

Issued in Austin, Texas, on October 12, 1987

TRD-8708846 Marlin W Johnston Commissioner Texas Department of Human Services

Proposed date of adoption: January 4, 1988 For further information, please call (512) 450-3765.



Subchapter S. Administrative Procedures

★ 40 TAC §§85.1801, §85.1803

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

§85.1801. Criminal History Check.

- (a)-(d) (No change.)
(e) The identifying information must be sent to the licensing representative on a department form:
(1) (No change.)
(2) [when a regulated facility sends its next renewal application or request for re-registration after January 1, 1986;]
[(3)] no later than two weeks after a new person(s) is at the facility if criminal history check information is required but has not been sent.
(f)-(g) (No change.)

§85.1803. Application Received after Revocation [or Denial] of License. Applicants [or requestors for registration] who have had a license [or registration] revoked or suspended after the effective date of this section must give the department evidence that they have sent a letter to inform parents of this action, as required in §85.1802 of this title (relating to Notice of Action Against a Facility). The applicant must also reimburse the department for the cost of publishing the revocation or suspension notice in the newspaper. The department will not accept any application until it has evidence that the letter has been sent and that the department has been reimbursed.

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 October 12, 1987.

TRD-8708847 Marlin W. Johnston Commissioner Texas Department of Human Services

Proposed date of adoption. January 4, 1988 For further information, please call (512) 450-3765.



Subchapter U. Day Care Licensing Procedures

★ 40 TAC §§85.2006, 85.2012, 85.2014, 85.2019, 85.2033, 85.2035, 85.2037-85.2039, 85.2041, 85.2044

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

§85.2006. Submission and Acceptance of Application.

- (a)-(d) (No change.)
(e) Within 15 workdays of receiving the application, the department notifies the applicant in writing that:
(1) the application is complete and accepted for filing; or
(2) the application is incomplete. The notification letter must explain what is needed to complete it.
(f) The applicant may authorize the department by telephone to change or add to an incomplete application. Staff making the changes must date and initial them and send the applicant a copy with the letter notifying him that the application is complete and accepted for filing.
(g) Within two months of the date that a completed application is accepted for filing, the department decides to issue or deny a license.
(h) The applicant may appeal any dispute about the amount of time the department took to decide that an application was complete or to approve or deny an application. To appeal, the applicant must submit a written request within 30 days after the department's time limit expires. The applicant must send the request stating the nature of the dispute to the assistant commissioner for licensing. If the department exceeded the time limit without establishing good cause, the appeal is decided in the applicant's favor. In this case, the department must reimburse the application fee.

(b) The applicant may appeal any dispute about the amount of time the department took to decide that an application was complete or to approve or deny an application. To appeal, the applicant must submit a written request within 30 days after the department's time limit expires. The applicant must send the request stating the nature of the dispute to the assistant commissioner for licensing. If the department exceeded the time limit without establishing good cause, the appeal is decided in the applicant's favor. In this case, the department must reimburse the application fee.

§85.2012. Issuance of Provisional License.

- (a) A provisional license is appropriate if:
(1) (No change.)
[(2)] A facility's license has expired;
(2)[(3)] An operating facility is not currently licensed;
(3)[(4)] a licensed facility changes location;
(4)[(5)] a licensed facility changes ownership;
(5)[(6)] a licensed facility adds a different program subject to regulation;
(6)[(7)] a facility changes from one type of licensed child care to another;
(7)[(8)] a license has been denied[,] or revoked, or [has expired without issuance of another license,] the facility has ceased operation, and an application is submitted for the same facility;

(8)(9) a corrective denial has been imposed, the facility has immediately reapplied, and the facility has waived its right to appeal. A provisional license will not be issued more than two consecutive times.

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

§85.2014. *Issuance of a [Biennial] License.* A facility is eligible for a [biennial] license if it has:

(1) satisfied provisional licensing requirements by maintaining compliance with the minimum standards on a continuing basis; and [or

(2) met the requirements for the renewal of a biennial license by maintaining compliance with minimum standards on a continuing basis; and]

(2)(3) paid the annual license fee of \$35 plus \$1 for each child the facility is licensed to serve. The annual fee may be refunded if the facility pays the fee but the department does not issue the license.

§85.2019. *Corrective/Adverse Action.*

(a) (No change.)

(b) Corrective action is imposed on a facility when noncompliance threatens to result in the loss of the license if the noncompliance continues. A corrective action is one of the following.

(1) (No change.)

(2) Probation or evaluation is imposed when licensing staff has determined that a serious noncompliance occurred at a facility and believes that an established time period is needed to monitor continuing compliance with the standards.

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

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

§85.2033. *[Initial] Registration.*

(a) The department issues a notice of registration when a registration request, determined in compliance with registration requirements, is processed and when the registration fee is paid. If the annual registration fee is paid, the registration continues to be valid unless **relinquished** or revoked by the department for just cause.

(b) (No change.)

§85.2035. *Denial or Revocation of a Registration.*

(a) Reasons for revocation or denial are:

(1) failure to comply with minimum standards for registered family homes or the **registration requirements**;

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

(4) **nonpayment of the registration fee** [Assumed cessation of operation based on failure to receive a fee from the caregiver];

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

(8) violation of the conditions of probation or evaluation.

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

(d) If the caregiver ceases operation, but provides care for children **subject to registration** in the future, he must first register with the department and pay a registration fee.

§85.2037. *Probation or Evaluation.* The department may place a registered family home on probation or evaluation for a specified period rather than suspend or revoke the registration. The department may revoke the registration during these periods [the probationary period] if the facility does not meet the conditions of the probation or evaluation.

§85.2038. *Notification of Non-compliance.* The facility is entitled to written notification of any noncompliance with the conditions of probation or evaluation, including noncompliance with standards and/or the law.

§85.2039. *Extending Probation or Evaluation.* To establish continuing compliance, a facility's period of probation or evaluation may be extended [to a date not to extend beyond the expiration of the license].

§85.2041. *Annual License Fee.* Before the anniversary date of the [biennial] issuance of the license, the governing body of the facility must pay the annual license fee. At least 60 days before the anniversary date of issuance, licensing staff sends the governing body a notice that the payment is due.

§85.2044. *Nonpayment of Annual Registration Fee.*

(a) (No change.)

(b) The department may revoke a registration **during** [following] suspension for not paying registration fees if the caregiver continues to care for children. The revocation letter must state that the right to appeal the decision of revocation is limited only to the issues of paying the required fee and providing child care while under suspension for not paying registration fees.

(c) **The department may revoke a registration following the suspension of a caregiver for not paying the registration fee within three months of the anniversary date.**

(d)[(c)] To appeal the decision, the caregiver must submit a written request for an appeal within 30 days after receiving the revocation letter. The caregiver must send the assistant commissioner for licensing a letter stating the reasons against revocation. If the caregiver appeals a decision and continues to care for children, the caregiver and his staff must permit licensing staff to inspect the home during the appeal process.

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

Issued in Austin, Texas, on October 12, 1987.

TRD-8708856 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Proposed date of adoption:  
January 4, 1988  
For further information, please call  
(512) 450-3765.

★ 40 TAC §§85.2016, 85.2034,  
85.2043

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

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

§85.2016. *Notice of Expiration Letter.*

§85.2034. *Registration Fees.*

§85.2043. *Annual Registration Fee.*

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

Issued in Austin, Texas, on October 12, 1987.

TRD-8708848 Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Proposed date of adoption:  
January 4, 1988  
For further information, please call  
(512) 450-3765.

★ 40 TAC §§85.2034, 85.2046,  
85.2047

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

§85.2034. *Registration Fees.*

(a) Before the annual anniversary date of the registration issuance, the caregiver must pay a \$35 registration fee. At least 60 days before this date, licensing staff send the caregiver a notice that payment is due.

(b) If the registration fee is not paid by the anniversary date, licensing staff mail a second notice. If the caregiver does not pay the registration fee within 30 days after the second notice is mailed, licensing staff suspend the registration. Children must not be in care during the suspension.

§85.2046. *Regulation of Family Homes.*

(a) The department does not routinely inspect registered family homes.

(b) Abuse/neglect complaints about registered family homes that are exempt from registration are referred to law enforcement. The department does not investigate complaints about exempt homes.

(c) The department may inspect family homes to determine whether child care is subject to registration.

(d) Registered family homes placed on probation or evaluation are inspected for compliance with the law, minimum standards, and registration requirements.

§85.2047. *Regulation of Facilities Formerly Defined as Family Day Homes.* Facilities caring for one to six children under age 14 for less than 24 hours and not operating in the caretaker's residence or any of the children's residences are regulated under the minimum standards for group day care homes.

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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For further information, please call  
(512) 450 3765



## Subchapter EE. Agency and Institutional Licensing Procedures

★ 40 TAC §§85.3044, 85.3047, 85.3049, 85.3050, 85.3054, 85.3057, 85.3071-85.3073, 85.3075

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

§85.3044. *Application.*

(a) (No change.)

(b) The requirements do not apply to:

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

(4) **Licensed operating facilities that are changing the corporate structure only (no real change in the facility's ownership).**

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

(e) **Within 15 workdays of receiving the application, the department notifies the applicant in writing that:**

(1) **the application is complete and accepted for filing; or**

(2) **the application is incomplete. The notification letter must explain what is needed to complete it.**

(f) **The applicant may authorize the department by telephone to change or add to an incomplete application. Staff making the changes must date and initial them and send the applicant a copy with the letter notifying him that the application is complete and accepted for filing.**

(g) **Within two months of the date that a completed application is accepted for filing, the department decides to issue or deny a license.**

(h) **The applicant may appeal any dispute about the amount of time the department took to decide that an application was complete or to approve or deny an application. To appeal, the applicant must submit a written request within 30 days after the department's time limit expires. The applicant must send the request stating the nature of the dispute to the assistant commissioner for licensing. If the department exceeded the time limit without establishing good cause, the appeal is decided in the applicant's favor. In this case, the department must reimburse the application fee.**

§85.3047. *Issuance of Provisional License.*

(a) A provisional license is appropriate for a facility if:

(1) (No change.)

[(2) a facility has suspended operation and the license has expired;]

(2)[(3) an operating facility is not currently licensed;

(3)[(4) a facility licensed for one type of child care applies for a license for a different type of child care;

(4)[(5) a facility licensed for one type of child care applies to add another type of child care to its program; a provisional license is issued for the new facility type;

(5)[(6) a facility changes location;

(6)[(7) a facility changes ownership.

(b) (No change.)

§85.3049. *Facilities Not Providing Services in Provisional Licensing Period.* Provisional licensees who do not become operational during the provisional licensing period are not eligible for a [biennial] license since the department cannot determine compliance with all minimum standards. The facility is entitled to be notified in writing of the right to appeal. The only issue on an appeal is whether there was continuing compliance with all minimum standards based on information available to the department. The licensee may apply for another provisional license by completing another application form and submitting a new \$35 application fee and \$35 provisional license fee for child care facilities and \$35 application fee and \$50 provisional fee for child-placing agencies.

§85.3050. *[First Biennial] License.* A facility is eligible for a [first biennial] license providing:

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

(4) the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve or \$100 for a child-placing agency has been paid. An annual fee for a [biennial] license may be refunded if the licensee pays the fee but the department does not issue the license

§85.3054. *Request for Suspension.* A facility requesting suspension in place of revocation must make its request in writing and must show specifically that standards can be met within the suspension period, in addition to recommending a suggested

suspension period. The facility may request an extension of the suspension period [if the extension period does not exceed the expiration date of the license].

§85.3057. *Cessation of Operation.* The department may deny or revoke a license without first conducting a standard-by-standard evaluation in the following instances:

(1) (No change.)

(2) a licensed/certified facility ceases to operate, has no plan to reopen, and refuses to **relinquish** [return] the license/certificate.

§85.3071. *Reasons for Probation or Evaluation.*

[(a)] A facility may be placed on probation or evaluation if it has:

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

[(b)] A facility may be placed on probation only once during a biennial licensing period; probation is not granted during a provisional licensing period.]

§85.3072. *Notification of Noncompliance.* The facility is entitled to written notification of any noncompliance with the conditions of probation or evaluation, including noncompliance with standards and/or the law.

§85.3073. *Extending Probation or Evaluation.* To establish continuing compliance, a facility's period of probation or evaluation may be extended [to a date not to extend beyond the expiration of the license].

§85.3075. *Annual License Fee.* Before the annual anniversary date of the [biennial] issuance of the license, the governing body of the facility must pay the annual license fee of \$35 plus \$1.00 for each child the facility is licensed to serve or \$100 for a child-placing agency. At least two months before the anniversary date of issuance, licensing staff sends the governing body a notice that the payment is due.

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 October 12, 1987

TRD-8708850 Marlin W Johnston  
Commissioner  
Texas Department of  
Human Services

Proposed date of adoption:  
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For further information, please call  
(512) 450 3765



★ 40 TAC §§85.3051, 85.3052, 85.3060

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the*



offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

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

§85.3051. *Subsequent Biennial License.*

§85.3052. *Denial of Subsequent Biennial Application.*

§85.3060. *Agency Foster Group Home.*

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 October 12, 1987.

TRD-8708851 Marlin W. Johnston  
Commissioner  
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For further information, please call  
(512) 450-3765.



## Subchapter YY. Institutional Administrators Licensing

### ★ 40 TAC §85.5010

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

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

§85.5010. *License Required.*

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 October 12, 1987.

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Commissioner  
Texas Department of  
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For further information, please call  
(512) 450-3765.



### ★ 40 TAC §§85.5010, 85.5021, 85.5022

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

§85.5010. *License Required.*

(a) A person must be licensed as a child care administrator under the Human Resources Code, Chapter 43, if he administers a child care facility that:

(1) provides 24-hour-a-day care for seven or more children (excluding agency foster family homes and agency foster group homes); and

(2) is required to be licensed or certified under the Human Resources Code, Chapter 42.

(b) Under the Human Resources Code, §43.003(b), an emergency shelter in a county with a population of less than 40,000 may claim exemption for an unlicensed administrator by sending the director a letter that includes the following:

(1) the name of the county in which the emergency shelter is located;

(2) the date the membership of the governing body adopted the resolution certifying that the shelter made a reasonable effort to hire a licensed administrator but was unable to do so;

(3) a statement that the resolution was adopted by majority vote;

(4) the name of the unlicensed administrator hired and a statement of his qualifications, identifying those areas in which his qualifications do not meet the requirements for an administrator's license.

(c) If a licensed administrator or an applicant for an administrator's license disagrees with a decision (including the decision to place an administrator on probation) or action of the director of administrator's licensing, he may request an administrative review. He makes the request to the assistant commissioner for licensing. He must describe the decision or action in dispute and must state whether he will have an attorney present for the review.

(d) An exemption granted under §43.003(b) waives the requirement in the minimum standards for emergency shelters that an administrator must be licensed. The department must decide on the exemption within 15 workdays of receiving the letter. The exemption may be time-limited, requiring the administrator to meet the minimum requirements and apply for a license within a specified period.

§85.5021. *Probation.*

(a) The department may place a licensed administrator on probation rather than revoke or suspend his license.

(b) The department may impose conditions of probation and suspend or revoke a license if the conditions of probation are not met.

(c) An administrator may be placed on probation only once during the two-year term of his license.

§85.5022. *Reprimand.*

(a) The department may issue a letter of reprimand rather than place a licensed administrator on probation or revoke or suspend his license.

(b) The letter is sent to the licensed administrator by certified mail. In it, he is entitled to information about:

(1) the reasons for the reprimand;

(2) further disciplinary actions that may result from future violations;

(3) his right to request an administrative review within 30 days of receiving the letter.

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 October 12, 1987.

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Commissioner  
Texas Department of  
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January 4, 1988  
For further information, please call  
(512) 450-3765.



### ★ 40 TAC §§85.5012, 85.5014, 85.5020

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

§85.5012. *Handling Applications.*

(a) (No change.)

(b) **Within 10 workdays of receiving an application, staff determine the applicant's eligibility to take the appropriate examination. The applicant is notified by mail. If additional information is needed to determine eligibility, staff is notified of the information required.** [The applicant is entitled to be notified if he does not pass the examination for a child care administrator's license. An applicant for a child care administrator's license may take the examination up to three times before he is disqualified from re-examination. The applicant must pay a \$25 examination fee for each examination he takes. Examination fees are not refundable to an applicant who fails to obtain a passing score on the examination.]

(c) **Within five workdays of receiving the examination from the testing organization, staff send the applicant a notice of the results.**

(d) **Within five workdays of receiving all application materials in subsection (a)(1)-(a)(4) of this section and the examination results, the applicant is notified that his application is approved or denied.**

(e) If an application is still incomplete 60 days after the department received the examination results, staff notify the applicant in writing of the deficiency and information needed to complete the application process.

(f) If an applicant believes his application was not processed within appropriate time frames, he may submit a written complaint and documentation, if any, and request a review by the director. Within 30 days of receiving the request, the director notifies the applicant of his decision.

(g) An applicant for a child care administrator's license may take the examination up to three times before he is disqualified from re-examination. The applicant must pay a \$25 examination fee for each examination he takes. Examination fees are not refundable to an applicant who fails to obtain a passing score on the examination.

#### §85.5014. *Renewal Requirements.*

(a) (No change.)

(b) If the department does not receive the request for renewal within 10 days of the expiration date of the license, the administrator must reapply and retake the examination or:

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

(3) If a license has been expired for longer than two years, the department may renew it if the administrator is currently licensed in another state (if required) and has been in practice there for the past two years.

(c) (No change.)

#### §85.5020. *Suspension [Probation].*

(a) The department may suspend an administrator's license [place a licensed administrator on probation] rather than revoke it [his administrator's license] if:

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

(b) Suspension requires that the licensee not function as a child care administrator for a definite time period [An administrator may be placed on probation only once during the two-year term of his license].

(c) The department may revoke an administrator's license during the term of suspension [probation] if the conditions of suspension [probation] are not met.

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 October 12, 1987

TRD-8708854

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Proposed date of adoption

January 4, 1988

For further information please call

(512) 450-3765.

### Subchapter III. Social Work Certification

★ 40 TAC §§85.6003, 85.6006, 85.6007, 85.6018, 85.6027

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

#### §85.6003. *Recognition.*

(a) (No change.)

(b) Private practice—A private practitioner of social work is one who, on either a full- or part-time basis, is responsible for his own practice, establishes his own conditions of exchanges with his clients, and identifies himself as a social work practitioner in offering services. A social worker is considered in private practice if he provides social work services with sole responsibility for the client, regardless of the organizational structure in which he provides the services.

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

(4) An applicant for certification may request provisional certification to allow him to work in a position requiring social work certification while he is completing the certification process and examination. To be eligible for provisional certification, the applicant must demonstrate that he has only recently qualified to apply for certification in Texas. Justifications for issuing a provisional certification are recently qualifying for certification because the person has just completed a degree or moving to Texas from another state. If the applicant fails the certification examination, he may petition for an extension of his provisional certification. To do this, he must verify that he has applied to retake the examination at the next scheduled date. The director reviews the applicant's qualifications and reasons to justify issuing a provisional certification. If the applicant appears qualified pending the successful completion of the examination, the director issues a letter. The letter verifies that the applicant may be employed as a social worker for no longer than six months. The director may extend the temporary certification for just cause. Upon the director's approval, the applicant may use the certification title or initials for Social Work Associate (SWA), Social Worker (SW), Certified Social Worker (CSW), or Certified Social Worker—Advanced Clinical Practitioner (CSW-ACP) as appropriate. [Until August 31, 1987, the department may grant provisional recognition if the private practitioner has one year of full-time experience in the private practice of social work before March 1, 1983. Applicants for provisional recognition as private practitioners must submit within 90 days of application an acceptable plan for completing the required five years of full-time social work experience beyond the C.S.W. by August 31, 1987. They must include in their plans a minimum of one hour

per week of supervision by or consultation with a certified social worker approved by the department for the duration of the provisional recognition.]

(5) (No change.)

(c) (No change.)

#### §85.6006. *Application.*

(a) (No change.)

(b) Within 10 workdays of receiving an application, staff determine the applicant's eligibility to take the appropriate examination. The applicant is notified by mail. If additional information is needed to determine eligibility, staff is notified of the information required.

(c) Within five workdays of receiving the examination from the testing organization, staff send the applicant a notice of the results.

(d) Within five workdays of receiving all application materials in subsection (a)(1)-(a)(4) of this section and the examination results, the applicant is notified that his application is approved or denied.

(e) If an application is still incomplete 60 days after the department received the examination results, staff notify the applicant in writing of the deficiency and information needed to complete the application process.

(f) If an applicant believes his application was not processed within appropriate time frames, he may submit a written complaint and documentation, if any, and request a review by the director. Within 30 days of receiving the request, the director notifies the applicant of his decision.

(g){(b)} Falsification or misrepresentation by an applicant or certificate holder of his qualifications or any of the information requested is grounds for denial or revocation of the certification.

§85.6007. *Examination Requirement.* All [After December 31, 1985, the department will require] applicants for certification as social work associate, social worker, certified social worker, and certified social worker—advanced clinical practitioner must [to] pass an examination designated by the department unless otherwise exempted. Certificate holders whose certification has been expired for two or more years and certificate holders who are unable to meet renewal requirements will be required to pass an examination designated by the department. Applicants for private practice recognition may be required to take an examination designated by the department. Information on applying for the examination will be given to all applicants and others who request it.

§85.6018. *Code of Ethics.* Social workers certified by the department must observe and comply with the code of ethics. Engaging in unethical conduct or conduct that discredits the profession of social work is grounds for disqualification of a certificate holder. Violation of any of the following ethical principles may be regarded as engaging in unethical conduct or conduct which discredits the profession of social work.

(1) In providing services, a social worker must not discriminate on the basis of age, sex, race, color, religion, national origin, handicap, **sexual orientation**, or political affiliation.

(2)-(11) (No change.)

§85.6027. *Exemption from Examination.* The department may grant an exemption from the examination requirement to an applicant:

(1) [who completes at least half of the required experience and who notifies the department in writing by December 31, 1985,

of his intent to be certified without examination;]

[(2)] who provides documentation of successfully completing in another jurisdiction an examination for licensing, certification, or registration of social work in a category comparable to that sought from the department;

(2)[(3)] whose certification has been expired less than two years and who has paid all past due fees plus penalties and meets all other requirements for renewal.

This agency hereby certifies that the pro-

posal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 12, 1987.

TRD-8708855

Marlin W. Johnston  
Commissioner  
Texas Department of  
Human Services

Proposed date of adoption:

January 4, 1988

For further information, please call  
(512) 450-3765.



Name: Winfield Wilson  
Grade: 5  
School: Menchaca Elementary, Austin

# 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 27. ICF-MR**  
**Subchapter M. Admissions Policies**

**★40 TAC §27.1206**

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Human Services, 701 West 51st Street, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Human Services (DHS) has withdrawn from consideration for permanent adoption a proposed repeal to §27.1206, concerning visits away from the facility. The proposed repeal appeared in the April 24, 1987, issue of the *Texas Register* (12 TexReg 1386). The effective date of this withdrawal is October 9, 1987.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708753      Marlin W. Johnston  
                                 Commissioner  
                                 Texas Department of  
                                 Human Services

Filed: October 9, 1987  
For further information, please call  
(512) 450-3765.



The Texas Department of Human Services (DHS) has withdrawn from consideration for permanent adoption new §27.1206, concerning visits away from the facility. The text of the proposed new section appeared in the April 24, 1987, issue of the *Texas Register* (12 TexReg 1386). The effective date of this withdrawal is October 9, 1987.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708754      Marlin W. Johnston  
                                 Commissioner  
                                 Texas Department of  
                                 Human Services

Filed: October 9, 1987  
For further information, please call  
(512) 450-3765.



# 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 28. INSURANCE

### Part I. State Board of Insurance

#### Chapter 3. Life, Accident, and Health Insurance and Annuities

##### Subchapter N. Nonforfeiture Standards for Individual Life Insurance In Employer Pension Plans

###### ★28 TAC §§3.1302, 3.1304-3.1306

The State Board of Insurance adopts an amendment to §3.1302, a new §3.1304, and amendments to old §3.1304, and old §3.1305, which become renumbered §3.1305 and renumbered §3.1306 in subchapter N, without changes to the proposed text published in the June 5, 1987, issue of the *Texas Register* (12 TexReg 1810). The tables proposed for adoption by reference were not published, but are on file with the Secretary of State's office, Texas Register Section.

These amendments and this new section are necessary in order to provide for the use of appropriate mortality tables in determining minimum nonforfeiture standards for smokers and nonsmokers under individual life insurance policies in employer pension plans. New §3.1304 includes incorporation by reference of certain tables. This adoption makes no changes to the proposed text of new §3.1304; however, adoption is with changes to the tables filed in the secretary of state's office with the proposal for adoption by reference. The changes are necessary to provide a consistent basis of age on nearest birthday for all tables which this new section adopts by reference. The board has filed copies of the changes in the Secretary of State's office, Texas Register Section. Copies of the tables as adopted by reference are available from the Life Actuaries Division of the State Board of Insurance at 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The amendment to §3.1302 adds definitions concerning mortality tables for smokers and nonsmokers, and concerning a judicial decision about comparison of benefits for male and female insureds. New §3.1304 establishes an alternate rule

which insurance companies may use, at their option, for policies with separate rates for smokers and nonsmokers. Amendments to renumbered §3.1305 and renumbered §3.1306 clarify the interrelationship of sections within Subchapter N.

No comments were received regarding adoption of the amendments and new section.

The amendments and new section are adopted under the Insurance Code, Article 3.44a, §8(e)(6), which provides for approval by the State Board of Insurance of ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners, for use in determining minimum nonforfeiture standards.

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 October 9, 1987.

TRD-8708820 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: November 1, 1987  
Proposal publication date: June 5, 1987  
For further information, please call  
(512) 463-6327

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 27. ICF-MR

The Texas Department of Human Services (TDHS) adopts new §27.108 and an amendment to §27.1804. New §27.108 is adopted with changes to the proposed text published in the July 17, 1987, issue of the *Texas Register* (12 TexReg 2333). The amendment to §27.1804 is adopted without changes and will not be republished.

The new section and amendment are necessary to establish a policy for obtaining retroactive levels of care for ICF-MR residents who may be eligible for three-months-prior Medicaid benefits.

New §27.108 will function by specifying the actions providers must take to ensure that residents' records remain in compliance with Medicaid utilization review

requirements, thereby allowing vendor payments to begin when residents' financial resources are exhausted. The amendment to §27.1804 will function by making its language consistent with new §27.108.

No comments were received regarding adoption of the new section and amendment.

#### Subchapter B. Criteria for ICF-MR Care

##### ★40 TAC §27.108

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.

§27.108. *Retroactive Level-of-care Determination.* Private-pay individuals living in Medicaid-certified ICF-MR facilities who do not receive SSI cash benefits may be eligible for three months prior vendor payments. To ensure that vendor payments begin on the date that an individual's financial resources are exhausted, the potential recipient must have a valid level of care, and the ICF-MR facility staff should maintain his records in compliance with the Medicaid utilization review (UR) requirements.

(1) To be in compliance with UR requirements, potential recipients' records must be maintained and reviewed as follows.

(A) Facility staff must conduct an interdisciplinary team evaluation before the applicant's admission to the Medicaid program. The team, which consists of health-care professionals and includes a QMRP, must make a comprehensive medical, social, and psychological evaluation of the applicant's need for ICF-MR services. If the evaluation indicates that the applicant's needs could be met by alternative services, facility staff must document this fact in the applicant's record and must document attempts to locate the services. Facility staff must comply with 42 Code of Federal Regulations §456.370 and §456.371.

(B) The potential recipient must have a current individual program plan. The physician's certification of need for ICF-MR services must be dated no more than 30 days before the date that the facility administrator learned about the resident's application for Medicaid assistance, or before authorization for vendor payment.

(C) The physician's recertifica-

tion must be obtained as described in §27.1804 of this title (relating to Preadmission and Admission Process).

(2) If a resident is found to be otherwise eligible for vendor payments for all or part of the three months prior to the date of his application for Medicaid assistance, facility staff may use either of the options described in subparagraphs (A) and (B) of this paragraph to ensure that the resident has a valid level of care.

(A) When the facility administrator or QMRP learns about the resident's need for Medicaid assistance, facility staff submit a level-of-care (LOC) assessment form to the TDH MR program unit requesting a preadmission LOC evaluation. The preadmission LOC must be updated every 30 days until the resident's financial eligibility is established.

(B) If a resident's preadmission LOC has not been maintained as described in subparagraph (A) of this paragraph, and Texas Department of Human Services (TDHS) Medicaid-eligibility staff notify the facility about an applicant's potential eligibility for all or part of the three-month-prior coverage, facility staff must review the applicant's records to ensure that they meet the UR requirements and submit a LOC assessment form for the retroactive period. Facility staff must ensure that the form:

(i) indicates potential eligibility for Medicaid;

(ii) clearly identifies, in the form's comment section, the applicable retroactive period(s) for which payment is requested; and

(iii) includes, in the form's comment section, a statement of certification that the applicant required ICF-MR services during the applicable period(s).

(3) If an applicant meets all other eligibility criteria for three-months-prior coverage, TDHS makes retroactive vendor payments according to:

(A) the assigned LOC on the preadmission LOC assessment form submitted by the facility as described in paragraph (2)(A) of this section; or

(B) the assigned LOC for the period indicated on the second LOC assessment form submitted by the facility as described in paragraph (2)(B) of this section.

(4) TDHS makes retroactive vendor payments for only those months during which physician's certification, individual program plan, and level-of-care requirements are met. The TDH MR program staff verifies, during the first inspection-of-care visit to the facility after establishment of any retroactive level of care, that the applicant's record includes the physician's certification, recertification, and individual program plans, and that the plans were reviewed as required during the applicable period(s).

(5) The effective date of the new level of care for the retroactive period of eligibility is the first day of the earliest month

in which the applicant qualified for a level of care.

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 October 9, 1987.

TRD-8708757

Marlin W. Johnston  
Commissioner  
Texas Department  
of Human Services

Effective date: November 16, 1987  
Proposal publication date: July 17, 1987  
For further information, please call  
(512) 450-3765.



### Subchapter S. Utilization Review and Re-Evaluation

#### ★ 40 TAC §27.1804

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.

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 October 9, 1987.

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### Part III. Texas Commission on Alcohol and Drug Abuse

#### Chapter 151. Licensure General Provisions

#### ★ 40 TAC §§151.11-151.17, 151.21, 151.22

The Texas Commission on Alcohol and Drug Abuse adopts the repeal of §§151.11-151.17, 151.21, and 151.22, without changes to the proposed text published in the August 18, 1987, issue of the *Texas Register* (12 TexReg 2711).

The repeals conform with recent amendments to Texas Civil Statutes, Article 5561cc, by the 70th Legislature, 1987.

The repeals enable the commission to license treatment programs for drug abusers, in addition to treatment programs for alcoholics.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to license all alcohol and drug abuse treatment facilities.

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 October 1, 1987.

TRD-8708713

Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: October 28, 1987  
Proposal publication date: August 18, 1987  
For further information, please call  
(512) 463-5510.



The Texas Commission on Alcohol and Drug Abuse adopts new §§151.11-151.17, 151.21, and 151.22. Section 151.21 is adopted with changes to the proposed text published in the August 18, 1987, issue of the *Texas Register* (12 TexReg 2712). Sections 151.11-151.17, and 151.22, are adopted without changes and will not be republished.

The new sections conform with changes to Texas Civil Statutes, Article 5561cc, which revised the requirements for licensure of treatment programs to include those which treat drug abusers, and made significant changes in definitions.

The new sections set requirements for the licensure of alcohol and drug abuse treatment facilities, and set out definitions to enable the licensure sections to be in compliance with Texas Civil Statutes, Article 5561c.

Comments were received regarding adoption of the new sections. Daniel L. Boone, Yvonne Kohutek, and Christine B. Meadows commented in favor of the proposed definition of alcohol and drug abuse counselor. The agency felt that the definitions needed additional study prior to adoption.

The new sections are adopted under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to license all alcohol and drug abuse treatment facilities.

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

Act—Texas Civil Statutes, Article 5561cc.

Adolescent—A minor child under the

age of 18 years as defined in the Civil Practice and Remedies Code, §129.011, whose disabilities of minority have not been removed by judicial decree or by marriage pursuant to the Family Code, §4.03.

**Alcoholism and drug abuse counselor**—A person who is certified by the Texas Certification Board for Alcoholism and Drug Abuse Counselors (TCBADAC).

**Ambulatory health care facility**—A facility that provides treatment to patients not requiring overnight care.

**Application**—A written request for consideration for licensure that meets the commission's requirements for form and content.

**Assistant alcoholism and drug abuse counselor**—A person who is pursuing certification by the Texas Certification Board for Alcoholism and Drug Abuse Counselors and who has at least ¼ of the training hours required for TCBADAC certification and who has at least one year of supervised counseling experience in chemical dependency services.

**Chemical dependency**—The abuse of or psychological or physical dependence on or addiction to alcohol or a controlled substance.

**Client**—An individual who has been admitted to, but not yet discharged from, a chemical dependency treatment facility or who is currently receiving chemical dependency treatment and rehabilitation services from a facility licensed by the commission. It does not include a family member or significant other of a client. The term "client" has the same meaning as the term "patient".

**Client abuse**—Any act or failure to act by staff, volunteers, or board members of a treatment facility which is done knowingly, recklessly, or intentionally, including incitement to act, which caused, or may have caused, injury to a client. Injury may include, but is not limited to, physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement. Without regard to actual proof of injury, client abuse is any sexual activity between an employee, volunteers, or board members of the facility and a client, corporal punishment, unreasonable restraint, nutritional or sleep deprivation, systematic provocation to fear, and the use of verbal or other forms of communication to curse, shame, or degrade the value or self-worth of a client, or threaten a client with physical or emotional harm.

**Client exploitation**—An act or process by staff, volunteers, or board members of a treatment facility to use the labor or personal resources of a client for monetary or personal benefit, profit, or gain by the facility, staff, volunteer, or board member(s).

**Client neglect**—Actions taken by staff, volunteers, or board members of a treatment facility resulting from inattention, disregard, carelessness, ignoring or omission of reasonable consideration of the physical

or emotional injury to a client. Examples of neglect include, but are not limited to, failure to provide adequate nutrition, clothing, or health care; failure to provide a safe environment; or failure to provide an environment free of client abuse.

**Commission**—The Texas Commission on Alcohol and Drug Abuse.

**Community mental health center**—A center established under Texas Civil Statutes, Article 5547-203.

**Controlled substance**—A toxic inhalant or any substance designated as a controlled substance in the Texas Controlled Substances Act (Texas Civil Statutes, Article 4476-15).

**Detoxification services**—A planned program of medical and therapeutic services for clients who are in need of medically supervised withdrawal from alcohol and drugs.

**Executive director**—The executive director of the Texas Commission on Alcohol and Drug Abuse.

**Governing authority**—The individual or individuals who are the policy-making body for the entity as designated by law, by charter, by another written document which creates or governs operations of the entity, or by ownership of assets of a sole proprietorship.

**Governmental unit**—The state, any political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision of the state. The term does not include any agency of the federal government.

**Halfway house/recovery home**—A residential treatment facility that provides structured and supervised living with limited chemical dependency rehabilitation services but which is not a registered boarding home or shelter exempt from licensure under the Act. The emphasis is social rehabilitation with support and guidance toward the goal of independent living for its chemically dependent clients. The facility may charge residents or third party payors for services.

**Health maintenance organization**—Any person who undertakes to provide or arrange for one or more health-care plans pursuant to Texas Civil Statutes, Articles 20A.01-20A.35.

**Hospital**—An institution that provides 24-hour services for the diagnosis and treatment of patients through an organized medical or professional staff, permanent facilities that include inpatient beds and medical and nursing services, and which is licensed by the Texas Department of Health or the Texas Department of Mental Health and Mental Retardation.

**Intensive outpatient care**—A planned program of services for clients who are not in need of detoxification but who are appropriate for intensive treatment services in a nonresidential setting.

**Intermediate care**—A planned program of residential services in a 24-hour supervised living environment for clients who

are not in need of more intensive care such as detoxification or primary care, but are in transition to an independent living status and need more intensive care and treatment than is available in an outpatient setting. When the treatment regimen requires a 24-hour supervised environment, then the living quarters must meet physical plant standards, regardless of whether or not the living quarters are located on the same premises as the treatment services or are owned or managed by the treatment provider or by someone else.

**Involuntary client**—A client committed to a treatment program by court order under authority of Texas Civil Statutes, Articles 4476-15a, 5561c-1, or 5561c-2.

**Licensed health care professional**—An individual who is licensed under state law to provide a professional health care service, such as a licensed physician, professional counselor, psychologist, registered nurse, or certified social worker.

**Licensed vocational nurse**—A nurse licensed by the Texas State Board of Vocational Nurse Examiners.

**License**—A license issued by the commission to operate a treatment facility in the state of Texas.

**Licensee**—A person named in the license. The term does not include the legal successors of that person.

**Long-term care**—A planned program of services for clients who are not in need of detoxification and whose condition indicates a need for a 24-hour a day supervised living environment. When the treatment regimen requires a 24-hour supervised environment, then the living quarters must meet physical plant standards, regardless of whether or not the living quarters are located on the same premises as the treatment services or are owned or managed by the treatment provider or by someone else.

**Medically supervised**—Supervision by a qualified physician who appropriately directs or legally delegates services to be performed by other licensed health care professionals whose license authorizes them to perform the delegated acts.

**Mood-altering drugs**—Drugs or other substances which have a mood-altering effect, including alcohol; a controlled substance as defined in Texas Civil Statutes, Article 4476-15; any dangerous drug as defined in Texas Civil Statutes, Article 4476-14; a synthetic narcotic as referenced in Texas Civil Statutes, Article 4476-14; or any volatile chemical as defined in Texas Civil Statutes, Article 4476-13(a).

**Policy**—A statement of philosophy and direction issued by a facility's governing authority which guides the conduct of the facility.

**Procedure**—A particular series of operational steps to be followed in order to implement a policy.

**Patient**—An individual who has been admitted to, but not yet discharged from, a chemical dependency treatment facility or

who is currently receiving chemical dependency treatment and rehabilitation services from a facility licensed by the commission. It does not include a family member or significant other of a patient. The term "patient" has the same meaning as the term "client."

**Peer support group**—An independent nonresidential fellowship of persons who have admitted their chemical dependency and who derive a sense of common identity, insight, and purpose from recognition of each person's inability to cope individually with one's chemical dependency.

**Physician**—A person licensed to practice medicine in the State of Texas or a person employed by any agency of the United States who has a license to practice medicine in any state of the United States.

**Primary care**—A planned program of services for clients who are not in need of detoxification and who are appropriate for intensive treatment services and 24-hour a day supervision. When the treatment regimen requires a 24-hour supervised environment, then the living quarters must meet physical plant standards, regardless of whether or not the living quarters are located on the same premises as the treatment services or are owned or managed by the treatment provider or by someone else.

**Registered nurse**—A professional nurse licensed by the Texas State Board of Nurse Examiners.

**Rehabilitation**—A planned and organized program of services designed to reestablish the social and vocational life of a person who is free of alcohol or illicit drugs.

**Rehabilitation services**—Supportive services that include helping or counseling individuals to learn or relearn social skills, secure employment or training, make psychosocial adjustments, and any other chemical dependency service on the treatment continuum provided to clients prior to their being able to live independently.

**Supportive outpatient care**—The provision of nonresidential services for clients whose physical and emotional status allows them to function independently.

**Toxic inhalant**—A gaseous substance inhaled by a person to produce a desired physical or psychological effect that may cause personal injury or illness to the inhaler, as defined in Texas Civil Statutes, Article 4476-13(a).

**Treatment**—A continuum of intensive to supportive therapeutic activities designed to initiate and promote a person's chemical-free status or to maintain a person free of illegal drugs.

**Treatment facility**—A public or private hospital, detoxification facility, primary care facility, intensive care facility, long-term care facility, outpatient care facility, community mental health center, health maintenance organization, recovery center, halfway house, ambulatory care facility, or any other facility that is required to be licensed and approved by the commission.

**Treatment services**—The broad range of services, including diagnostic assessment, counseling, medical, psychiatric, psychological, rehabilitation, and social service care for chemical dependency that may be provided to clients, and that motivate such individuals to recover from chemical abuse and dependency.

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 October 1, 1987.

TRD-8708712      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: October 28, 1987  
Proposal publication date: August 18, 1987  
For further information, please call  
(512) 463-5510.

### Denial, Non-Renewal, or Revocation of License

#### ★ 40 TAC §§151.41-151.50

The Texas Commission on Alcohol and Drug Abuse adopts the repeal of §§151.41-151.50 without changes to the proposed text published in the August 18, 1987, issue of the *Texas Register* (12 TexReg 2714).

The repeals conform with amendments to Texas Civil Statutes, Article 5561cc, by the 70th Legislature, 1987.

The repeals allow the commission to deny, not renew, or revoke licenses for the treatment of chemical dependency in accordance with the amended statute.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to license all alcohol and drug abuse treatment facilities.

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 October 1, 1987.

TRD-8708716      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: October 28, 1987  
Proposal publication date: August 18, 1987  
For further information, please call  
(512) 463-5510.

The Texas Commission on Alcohol and Drug Abuse adopts new §§151.41-151.50, without changes to the proposed text published in the August 18, 1987, issue of the *Texas Register* (12 TexReg 2714).

This new sections comply with amendments to Texas Civil Statutes, Article 5561cc, by the 70th Legislature, 1987.

The new sections change the procedure by which licenses are denied, not renewed, or revoked, and requires all drug abuse treatment facilities, as well as alcoholism facilities, to now be licensed.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article 5561cc, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to require that all treatment facilities for chemical dependency must be licensed.

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 October 1, 1987.

TRD-8708715      Bob Dickson  
Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Effective date: October 28, 1987  
Proposal publication date: August 18, 1987  
For further information, please call  
(512) 463-5510.



State Board of Insurance Exempt Filings

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

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

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

*The text of the material being adopted will*

*not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin.)*

The State Board of Insurance has approved the amendment to the Texas workers' compensation assigned risk pool surcharge formula. This amended formula applies to insureds written by the assigned risk pool with a standard premium in excess of \$3,000, modifies the pool permissible loss ratio contained in the formula to 41.7%, increases the maximum surcharge to 50%, and prohibits servicing carrier fees or agents commissions from having paid on any portion of the surcharge premiums accrued pursuant to the surcharge formula.

The State Board of Insurance also approved elimination of premium discount on policies written through the Texas workers' compensation assigned risk

pool.

This filing is effective 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 October 12, 1987.

TRD-8708843

Nicholas Murphy  
Chief Clerk  
State Board of Insurance

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



Name: Brian Rockafellow  
Grade: 5  
School: Menchaca Elementary, Austin

# Open Meetings

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

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

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

## Texas Department of Agriculture

**Tuesday, October 20, 1987, 10:30 a.m.** The Texas Department of Agriculture will meet in the District Office, Expressway 83, two blocks west of Morningside Road, San Juan. According to the agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §103.001 by Pat Womack, Inc., doing business as Quality Valley Growers, Inc., as petitioned by C.E. Duncan Produce.

**Contact:** Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7591.

**Filed:** October 9, 1987, 2:12 p.m.  
TRD-8708794



## Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons

**Thursday, October 22, 1987, 10 a.m.** The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons will meet in the Administrative Conference Room, Criss Cole Rehabilitation Center, 4800 North Lamar Boulevard, Austin. According to the agenda summary, the committee will approve minutes of the July 30, 1987, meeting; and discuss and act on performances, programs, and budget for 1988, service invoicing procedures, new services, renewal services, new products, and product changes and revisions.

**Contact:** Michael T. Phillips, P.O. Box 12866, Austin, Texas 78711, (512) 459-2603.

**Filed:** October 13, 1987, 8:42 a.m.  
TRD-8708894



## Bond Review Board

**Tuesday, October 20, 1987, 10 a.m.** The Bond Review Board will meet on the Senate Floor, State Capitol, Austin. According to the agenda, the board will consider proposed bond issues, hold a public hearing on Bond

Review Board rules, hear a staff report, and consider other business.

**Contact:** T.C. Adams, 201 East 14th Street, Sam Houston Building, Room 713, Austin, Texas 78711, (512) 463-1778.

**Filed:** October 12, 1987, 11:42 a.m.  
TRD-8708859



## Texas Department of Commerce

**Tuesday, October 20, 1987, 9 a.m.** The Board of Directors of the Texas Department of Commerce, will meet in the Tannehill Room, The Marriott at the Capitol, 701 East 11th Street, Austin. According to the agenda, the board will review action on TDOC budget and organizational structure; consider emergency and proposed rules for individual revenue bond program, and emergency and proposed rules for allocation of private activity bond ceiling; discuss proposed enterprise of zone rules; consider renegotiation of rural loan to Caprock Development Company (Llano Estacaco project); and discuss transfer schedule of Job Partnership Act and community development block grant programs from the Texas Department of Community Affairs to the Texas Department of Commerce. The board will also meet in executive session pursuant to Texas Civil Statutes, Article 6252-17 (as amended) to discuss personnel matters.

**Contact:** Alexa Richter, 410 East Fifth Street, Austin, Texas 78701, (512) 472-5059.

**Filed:** October 12, 1987, 4:40 p.m.  
TRD-8708889



## Texas Commission for the Deaf

**Thursday, October 15, 1987, 8 p.m.** The Board for Evaluation of Interpreters of the Texas Commission for the Deaf met in emergency session at 300 North Shoreline Boulevard, Corpus Christi. According to the agenda, the board approved previous

meeting minutes; discussed recertification procedure; set evaluation dates and scheduled evaluators; and heard the chairman's report. The board also met in executive session to review certificate recommendations, evaluations, and revocations. The emergency status was necessary due to lack of quorum at last meeting held July 25, 1987. The business that was unable to be completed at the last meeting must be ready for commissioner approval at the commission meeting to be held on October 16, 1987.

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

**Filed:** October 12, 1987, 9:09 a.m.  
TRD-8708831



## Employees Retirement System of Texas

**Wednesday, October 21, 1987, 9 a.m.** The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in the Auditorium, 6330 U.S. Highway 290 East, Austin. According to the agenda summary, the committee will recognize members, visitors, and guests; approve minutes of the previous meeting; hear presentations concerning prescription credit cards; consider prescription credit card proposal, and dental plan proposal; act on large case management proposal; consider update on Insurance Division and update on implementation of cafeteria plan; hear chelation therapy presentation and discussions; and consider assignment of subcommittees.

**Contact:** James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701-3207, (512) 476-6431.

**Filed:** October 12, 1987, 3:10 p.m.  
TRD-8708867



## Commission on Fire Protection Personnel Standards and Education

**Wednesday, October 14, 1987, 1:30 p.m.** The Board of the Commission on Fire Protection Personnel Standards and Education met in emergency session in the Deaf Commission Conference Room (basement level), 510 South Congress Avenue, Austin. According to the agenda, the board took action on several fire department requests, heard petitions from fire departments, and took administrative action against a fire department and individuals. The emergency status was necessary to hear pleadings by several fire departments and to take administrative action against fire departments to insure public safety in Texas.

**Contact:** Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas 78701, (512) 474-8066.

**Filed:** October 9, 1987, 4:09 p.m.  
TRD-8708807



## Governor's Office

**Monday, October 26, 1987, 10 a.m.** The Governor's Office will meet in the Commissioners Courtroom, Second Floor, Main Bell County Courthouse, Central Avenue and Main Street, Belton. According to the agenda summary, the office will consider proposed issuance by the Bell County Health Facilities Development Corporation of its Texas fixed rate health facilities financing program health facilities development revenue bonds, Series 1987A (the "bonds") in an amount not to exceed \$400,000,000. The bonds would provide funds to finance or refinance all or part of the costs of certain real or personal property constituting a health facility for certain public and private non-profit health care providers located within the state of Texas.

**Contact:** John B. Messer, 118 South East Street, Belton, Texas 76513.

**Filed:** October 12, 1987, 10:55 a.m.  
TRD-8708869

**Monday, October 26, 1987, 10 a.m.** The Governor's Office will meet in the County Commissioner's Courtroom, Second Floor, Main Bell County Courthouse, Central Avenue and Main Street, Belton. According to the agenda summary, the office will consider the proposed issuance by the Bell County Health Facilities Development Corporation of its Texas fixed rate health facilities financing program health facilities development revenue bonds, Series 1987A (the "bonds") in an amount not to exceed \$400,000,000. The bonds would provide funds to finance or refinance all or part of the costs of certain real or personal property constituting a health facility for certain public and private non-profit health care providers located within the state of Texas.

**Contact:** John B. Messer, 118 South East Street, Belton, Texas 76513..

**Filed:** October 12, 1987, 10:55 a.m.  
TRD-8708870



## Health and Human Services Coordinating Council

**Tuesday, October 20, 1987, 1:15 p.m.** The Children and Youth Services State Coordinating Committee of the Health and Human Services Coordinating Council, will meet in the Lieutenant Governor's Committee Room, Second Floor, Capitol Building, Austin. According to the agenda, the committee will overview and discuss authorizing legislation; review and discuss proposed bylaws concerning decision to adopt or revise; hold nomination and election of committee chair and vice chair; discuss and develop committee workplan and project timelines, and create subcommittees; discuss liaison with other committees; and consider other business and select next meeting date.

**Contact:** Tom Olsen, 311-A East 14th Street, Austin, Texas 78711, (512) 463-2195.

**Filed:** October 12, 1987, 3:11 p.m.  
TRD-8708868



## Texas Historical Commission

**Thursday, October 22, 1987, 4 p.m.** The Executive Committee of the Texas Historical Commission will meet in the Meeting Room, Union National Bank Building, 1100 Matamoros, Laredo. According to the agenda, the committee will hear performance report for 1987 and 1986 audit report; consider 1988 operating budget, 1988 federal preservation grant, status of major projects, THC staff summary, and Texas awards for historic preservation. The committee will also meet in executive session to consider pending litigation.

**Contact:** Curtiss Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

**Filed:** October 12, 1987, 4:16 p.m.  
TRD-8708884

**Thursday, October 22, 1987, 4 p.m.** The State Marker Committee of the Texas Historical Commission will meet in the Union National Bank Building, 1100 Matamoros, Laredo. According to the agenda, the committee will hold a workshop including review of criteria and procedures of the marker program and review of marker applications from Comal County appealed directly to State Marker Committee.

**Contact:** Frances Rickard, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

**Filed:** October 12, 1987, 4:15 p.m.  
TRD-8708885

**Friday, October 23, 1987, 7:30 a.m.** The Main Street Committee of the Texas Historical Commission will meet in the Dining Room, LaPosada Hotel, 1001 Zaragosa, Laredo. According to the agenda, the committee will consider adoption of 1988 budget, discuss and select cities to be recommended for 1988 designation, and procedures for working with former and self-initiated main street cities.

**Contact:** Anice Read, P.O. Box 12276, Austin, Texas 78711, (512) 463-6092.

**Filed:** October 12, 1987, 4:15 p.m.  
TRD-8708886

**Friday, October 23, 1987, 7:30 a.m.** A Division of the Architecture Committee of the Texas Historical Commission will meet at Union National Bank Building, 1100 Matamoros, Laredo. According to the agenda, the committee will hear a quarterly report of activities; consider Texas historic preservation grants for 1988; consider nationwide assessment of preservation needs/HPF funding; discuss resolution on Incarnate Word Convent Motherhouse; and review significant projects. The committee also will meet in executive session to consider pending litigation.

**Contact:** Curtis Tunnell, P.O. Box 12276, Austin, Texas 78701, (512) 463-6094.

**Filed:** October 9, 1987, 2:35 p.m.  
TRD-8708796



**Friday, October 23, 1987, 8 a.m.** The Nominations and Surveys Committee of the Texas Historical Commission will meet on the First Floor, Union National Bank Building, 1100 Matamoros, Laredo. According to the agenda, the committee will hold nominations for the Texas award for historic preservation; hear an update on historic preservation fund grants; consider State Board of Review resolution on surveys and nominations; consider resolution on the 1908 Texas and Pacific Railroad Depot in Marshall; and hear the quarterly report on activities.

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

**Filed:** October 9, 1987, 2:34 p.m.  
TRD-8708797



**Friday, October 23, 1987, 9:30 a.m.** The Texas Historical Commission will hold their quarterly meeting in the Conference Room, Union National Bank Building, 1100 Matamoros, Laredo. According to the agenda summary, the commission will hear the chairman's report, Main Street Committee report, State Marker Committee report, Field and Museum Services Committee report, Architecture Committee report, and Review and Compliance Committee report; consider nominations, surveys, and certified local governments; and hear the Archeology and Publications Committee reports.

**Contact:** Curtis Tunnell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

**Filed:** October 12, 1987, 4:14 p.m.  
TRD-8708887



### Texas Housing Agency

**Sunday, October 11, 1987, 2 p.m.** The Board of Directors of the Texas Housing Agency met in emergency session in Ballroom B, Hilton at Hobby, 8181 Airport Boulevard, Houston. According to the agenda summary, the board heard a status report on continuing investigation arising out of litigation and settlement agreement with Texas American Bank/Fort Worth, N.A. The board also met in executive session to review current investments held under all single-family and multi-family agency trust indentures and possible action authorizing certain fund transfer and investment actions thereunder, considered and possibly acted on appointment of depository under single family mortgage revenue B and trust indenture (October 1, 1980), and considered and possibly acted on removal and replacement of trustee under the indenture and the series 1987-A supplement to the indenture dated as of May 1, 1987. The emergency status was necessary to ensure an appropriate level of financial services and to consider potential litigation.

**Contact:** Dan A. McNeil, P.O. Box 13941, Austin, Texas 78711, (512) 474-2974.

**Filed:** October 9, 1987, 5:20 p.m.  
TRD-8708823



### Texas Commission on Human Rights

**Friday, October 16, 1987, 10 a.m.** The Texas Commission on Human Rights will meet in the Old Supreme Court Room 310, State Capitol, Austin. According to the agenda, the commission will welcome guests; approve minutes; hear administrative reports; look at the first quarterly cash flow report for 1988; consider personnel matters; consider status report on EEO compliance training and status of proposal with the Texas Planning Council for Developmental Disabilities; discuss the project with Texas Rehabilitation Commission; approve rule related retention of case files, litigation, and purchasing and leasing of equipment; discuss charge resolution contract and the management plan for fiscal year 1988; hear the TCHR annual report; consider IAOHRA annual conference; and consider commissioner's issues and any unfinished business.

**Contact:** William M. Hale, 8100 Cameron Road, Suite 525, Austin, Texas 78753, (512) 837-8534.

**Filed:** October 8, 1987, 11:15 a.m.  
TRD-8708729



### State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, October 20, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9553—Application of Robert Allen Lunday, Arlington, for a prepaid legal services solicitation.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** October 12, 1987, 1:20 p.m.  
TRD-8708862

**Wednesday, October 21, 1987, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9672—Application of Interests, Inc. to acquire control of Great Southwest Life Insurance Company, Houston.

**Contact:** James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** October 12, 1987, 1:20 p.m.  
TRD-8708863

**Wednesday, October 21, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9686—Renewal application of Calvin Douglas Baldwin, Humble, for a group I, legal reserve life insurance agent's license.

**Contact:** Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526

TRD-8708864

**Thursday, October 22, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9681—Application for amendment to articles of incorporation of Colonial Empire Life Insurance Company, Texarkana, changing par value of the capital stock.

**Contact:** James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526

TRD-8708865

**Friday, October 23, 1987, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9687—Application of Textent Dental Plan, Inc., Irving, for a certificate of authority to operate a health maintenance operation offering a single health care plan.

**Contact:** O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** October 12, 1987, 1:22 p.m.  
TRD-8708866



### Texas Department of Labor and Standards

**Friday, October 30, 1987.** The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 105, 920 Colorado Street, E.O. Thompson Building, Austin. Times and agendas follow.

**9 a.m.** The division will consider suspension or revocation of the manufactured housing registration of Redman Homes, Inc. and Tri-County, Inc. for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 8, 1987, 4:05 p.m.  
TRD-8708742

**10 a.m.** The division will consider suspension or revocation of the manufactured housing registration of RS Contractors for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 8, 1987, 4:04 p.m.  
TRD-8708744

**11 a.m.** The division will consider suspension or revocation of the manufactured housing registration of Sunrizon Homes and Don's Apple Homes for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 8, 1987, 4:04 p.m.  
TRD-8708746

**1:30 p.m.** The division will consider suspension or revocation of the manufactured housing registration of Manatee Homes Division and Zack's Mobile Homes for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 8, 1987, 4:04 p.m.  
TRD-8708743

**2:30 p.m.** The division will consider suspension or revocation of the manufactured housing registration of Cedar Ridge Homes, Inc. and AAA Manufactured Housing for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 8, 1987, 4:04 p.m.  
TRD-8708745

**3:30 p.m.** The division will consider suspension or revocation of the manufactured

housing registration of Sunbelt Mobile Homes for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 9, 1987, 4:16 p.m.  
TRD-8708811

**Wednesday, November 4, 1987, 10 a.m.** The Manufactured Housing Division will meet in Room 105, E.O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division will consider suspension or revocation of the manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 8, 1987, 4:04 p.m.  
TRD-8708747

**Friday, November 6, 1987, 10 a.m.** The Manufactured Housing Division will meet in Room 105, E.O. Thompson Building, 920 Colorado Street, Austin. According to the agenda, the division will consider suspension or revocation of the manufactured housing registration of Shelter America for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127

**Filed:** October 8, 1987, 4:03 p.m.  
TRD-8708748

**Thursday, November 12, 1987, 9:30 a.m.** The Manufactured Housing Division will meet at 3014 Sandage, Fort Worth. According to the agenda, the division will consider suspension or revocation of the manufactured housing registration of Shelter America for alleged violation of the department's manufactured housing rules and regulations.

**Contact:** Orlando S. Mata, P.O. Box 12157, Austin, Texas 78711 (512) 463-3127.

**Filed:** October 9, 1987, 4:16 p.m.  
TRD-8708811



### Lamar University System

**Thursday, October 15, 1987, 1 p.m.** The Board of Regents of the Lamar University System held committee meetings in the Map Room, John Gray Institute, 855 East Florida, Beaumont. According to the agenda summary, the following committees met: Building and Grounds, Finance and Audit, and Academic Affairs. The Building and Grounds Committee and the Personnel Committee met in executive session.

**Contact:** George E. McLaughlin, P.O. Box 10014, Beaumont, Texas 77710, (409) 880-2304.

**Filed:** October 12, 1987, 10:54 a.m.  
TRD-8708858

**Thursday, October 22, 1987, 1 p.m.** The Board of Regents of Lamar University System will meet in the Map Room, John Gray Institute, 855 East Florida, Beaumont. According to the agenda summary, the board will consider approval of recommendations of the following committees: Development and Public Relations, Building and Grounds, Finance and Audit, Academic Affairs, and Personnel. The board will also hold election of officers and appointment of committees.

**Contact:** George McLaughlin, P.O. Box 10014, Beaumont, Texas 77771, (409) 880-2304.

**Filed:** October 12, 1987, 10:54 a.m.  
TRD-8708857



### School Land Board

**Tuesday, October 20, 1987, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will approve minutes of the previous meeting; consider schedule and procedures for April 1988, oil, gas, and other minerals lease sale; and consider excess acreage applications, coastal public lands concerning preliminary consideration of lease option request, packery channel area in Nueces County, commercial lease applications, easement applications, and lease applications.

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

**Filed:** October 12, 1987, 4:20 p.m.  
TRD-8708888



### Texas Department of Mental Health and Mental Retardation

**Monday, October 12, 1987, 7:30 p.m.** The Texas Board of Mental Health and Mental Retardation of the Texas Department of Mental Health and Mental Retardation met in emergency session in Room 295, Central Office, 909 West 45th Street, Austin. According to the agenda, the board considered issues, *Lelsz v. Kavanagh*, and *Petty v. TDMHMR*. The emergency status was necessary because the L.B.B. met on October 13, 1987, to consider the department's budget with regard to class action litigation and class action litigation just filed.

**Contact:** Gary E. Miller, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

**Filed:** October 12, 1987, 12:14 p.m.  
TRD-8708860



### Midwestern State University

**Tuesday, October 13, 1987, 2 p.m.** The Board of Regents of Midwestern State University met in emergency session via telephone communication system in the Hardin Boardroom, Wichita Falls. According to the agenda, the board recommended to accept low bidder to provide Visa/Master Card services on campus; employ the firm of Friberg Alexander Gipson Weir, Inc. to do the necessary bid preparation and oversee technical work to replace the lighting system in the Fine Arts Theatre at an estimated cost of \$180,000; and convert the dance studio area in the coliseum to a weight room, utilizing \$35,000 from HEAF funds and \$15,000 of building use fees. An architect was recommended to commence work on this project and prepare bids for the building modification. The emergency status was necessary because unforeseen technical difficulties make it vital that decisions on the above matters be made immediately since a delay would be costly to the university and the state.

**Contact:** Deborah L. Barrow, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6611, ext. 4211.

**Filed:** October 12, 1987, 1:56 p.m.  
TRD-8708871



### Board of Pardons and Paroles

**Monday-Friday, October 19-23, 1987, 1:30 p.m. daily Monday-Thursday, and 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 summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

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

**Filed:** October 9, 1987, 10:35 a.m.  
TRD-8708763

**Tuesday, October 20, 1987, 10:35 p.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

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

**Filed:** October 9, 1987, 10:35 a.m.  
TRD-8708762

## Texas Department of Public Safety

**Thursday, October 22, 1987, 10 a.m.** The Public Safety Commission of the Texas Department of Public Safety will meet in the DPS Regional Office, 1302 West Sixth Street, Lubbock. According to the agenda, the commission will approve minutes of the previous meeting, consider budget matters, personnel matters, pending litigation and real estate, and miscellaneous and other unfinished business.

**Contact:** Leo E. Gossett, 5805 North Lamar Boulevard, Austin, Texas 78773, (512) 465-2000, ext. 3700.

**Filed:** October 13, 1987, 9:28 a.m.  
TRD-8708896



**Thursday, October 22, 1987, 1 p.m.** The State Emergency Management Council of the Division of Emergency Management (Department of Public Safety) will meet in the Emergency Operations Center, DPS Headquarters, 5805 North Lamar Boulevard, Austin. According to the agenda, the council will review state and federal planning criteria, LEPC liability, rulemaking, LEPC approvals, and §313 of the Superfund Amendments and Reauthorization Act, Title III, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

**Contact:** Mike L. Scott, 5805 North Lamar Boulevard, Austin, Texas 78751, (512) 465-2138.

**Filed:** October 8, 1987, 2:08 p.m.  
TRD-8708733



## Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Room 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

**Friday, October 16, 1987, 9 a.m.** The Hearings Division will consider Docket 7725—Application of Houston Lighting and Power Company to amend its certificate of convenience and necessity for the South Texas Nuclear Project and the Limestone Electric Generating Station.

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

**Filed:** October 8, 1987, 4:30 p.m.  
TRD-8708749

**Monday, October 19, 1987, 9 a.m.** The Extended Area Service (EAS) Advisory Committee, will discuss EAS issues.

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

**Filed:** October 9, 1987, 2:49 p.m.  
TRD-8708798

**Tuesday, December 1, 1987, 10 a.m.** The Hearings Division will consider Docket 7560—Application of Central Power and Light Company for approval of deferred accounting treatment of certain costs related to the South Texas Nuclear Project Unit #1.

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

**Filed:** October 9, 1987, 2:49 p.m.  
TRD-8708799

**Thursday, February 4, 1988, 10 a.m.** The Hearings Division will consider Docket 7619—Application of Texas Utilities Electric Company for a proposed transmission line and associated substation within Anderson County.

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

**Filed:** October 12, 1987, 2:32 p.m.  
TRD-8708900



## Railroad Commission of Texas

**Monday, October 12, 1987, 9 a.m.** The Oil and Gas Division made an emergency addition to the agenda of a meeting held in the 12th Floor Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the division considered whether to use additional state funds for the plugging of a leaking well of unidentified operator, unknown lease, unidentified well, in Kent County. The emergency status was necessary because the well is flowing approximately 200 barrels of salt water per day which could run into the Double Mountain Fork of the Brazos River if not contained. The well is an imminent threat to the public's health and safety.

**Contact:** Willis C. Steed, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6830.

**Filed:** October 9, 1987, 2:29 p.m.  
TRD-8708795

**Monday, October 19, 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 commission will give consideration of and possible election of chairman of the Railroad Commission of Texas.

**Contact:** Walter Earl Lilie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

**Filed:** October 9, 1987, 11:31 a.m.  
TRD-8708764

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, oilfield investigator personnel and their operations and the creation and designation of an executive director with related positions and matters.

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

**Filed:** October 9, 1987, 11:29 a.m.  
TRD-8708765

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:** October 9, 1987, 11:28 a.m.  
TRD-8708766

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:** October 9, 1987, 11:28 a.m.  
TRD-8708767

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:** October 9, 1987, 11:31 a.m.  
TRD-8708768

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:** October 9, 1987, 11:29 a.m.  
TRD-8708769

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:** October 9, 1987, 11:26 a.m.  
TRD-8708770

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:** October 9, 1987, 11:30 a.m.  
TRD-8708774

The Oil and Gas Division submitted a revised agenda considering Oil and Gas Docket 9-90,433—Review field rules for the Barbee (Atoka) Field, Young County.

**Contact:** Gregg Cloud, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-6919.

**Filed:** October 9, 1987, 11:32 a.m.  
TRD-8708771

The Oil and Gas Division submitted a revised agenda considering Oil and Gas Docket 103,396—Texaco Producing Inc., rule 37, Elizabeth Wieboldt lease, well #2, Neal (Smackover) and wildcat fields, Freestone County.

**Contact:** Don Walker, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6922.

**Filed:** October 9, 1987, 11:32 a.m.  
TRD-8708772

The Oil and Gas Division submitted a revised agenda concerning investigation of cementing practices of Western Company of North America.

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

**Filed:** October 9, 1987, 11:31 a.m.  
TRD-8708773

The Oil and Gas Division submitted a revised agenda concerning Oil and Gas Dockets 3-89,127 and 3-89,128—Railroad Commission District 3, consideration of whether to enter a commission order assessing administrative penalties and/or requiring compliance with commission regulations on the Pruitt's Frac Tanks, Inc., Bryan Yard-Washout Pit at the Carrabba Industrial Park, Brazos County, and on the Giddings Yard-Washout Pit, Giddings (Austin Chalk) Field, Lee County.

**Contact:** Lisa C. Anderson, P.O. Drawer 12967, Austin, Texas 78701, (512) 463-6921.

**Filed:** October 9, 1987, 4:44 p.m.  
TRD-8708825

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) 445-1186.

**Filed:** October 9, 1987, 11:29 a.m.  
TRD-8708775

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:** October 9, 1987, 11:30 a.m.  
TRD-8708776

The Office of the Special Counsel director's report relating to proposed and pending litigation, including but not limited to discussion and/or decision in 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 in relation to Oil and Gas Docket 10-87,017, state and federal legislation, and other budget, administrative, and personnel matters.

**Contact:** Walter Earl Lilie, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-7149.

**Filed:** October 9, 1987, 11:28 a.m.  
TRD-8708777

Consideration of various matters falling within the Surface Mining and Reclamation Division regulatory jurisdiction.

**Contact:** J. Randel (Jerry) Hill, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas, (512) 463-7149.

**Filed:** October 9, 1987, 11:29 a.m.  
TRD-8708778

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:** October 9, 1987, 11:12 a.m.  
TRD-8708779

### Teacher Retirement System of Texas

**Friday, October 16, 1987, 10 a.m.** The Board of Trustees of the Teacher Retirement System of Texas will meet in East Tower, International Parkway, Hyatt Regency DFW, DFW Airport. According to the agenda, the board will review staffing and compensation study of Investment Division; consider proposed staff reorganization and salary adjustments; consider an amendment to 1987-1988 TRS operating budget; and consider use of title holding corporations. The board also will meet in executive session to discuss duties and salaries of particular employees.

**Contact:** Mary Godzik, 1001 Trinity Street, Austin, Texas 78701, (512) 397-6400.

**Filed:** October 8, 1987, 3:31 p.m.  
TRD-8708740

**Friday, October 23, 1987, 10 a.m.** The Retirees Advisory Committee of the Teacher Retirement System of Texas will meet in the Boardroom, 1001 Trinity, Austin. According to the agenda, the committee will approve minutes of the March 27, 1987, meeting; consider the healthline review process; 1986-1987 utilization review report; 1986-1987 mail order prescription drug

report; 1986-1987 final year end results; 1986-1987 group meeting report; legislative report; 1986-1987 financial report; and new enrollment forms.

**Contact:** Stan Blake, 1001 Trinity, Austin, Texas 78701, (512) 370-0550.

**Filed:** October 12, 1987, 3:32 p.m.  
TRD-8708872

### Texas State Technical Institute

**Tuesday, October 13, 1987, 11:15 a.m.** The Board of Regents, Executive Committee, for Texas State Technical Institute met via conference call in the TSTI System Office, Waco. According to the agenda, the committee authorized salary changes for acting system president; discussed terms relating to resignation of system president; and considered legal and personnel matters.

**Contact:** Theodore A. Talbot, (817) 799-3611.

**Filed:** October 9, 1987, 4:21 p.m.  
TRD-8708814

### University of Texas System

**Friday, October 9, 1987, 1 p.m.** The Board of Regents and Standing Committees for the University of Texas System met for an emergency agenda revision in Room 1.212, Conference Center, 2601 North Floyd, The University of Texas at Dallas, Richardson. According to the agenda, the U.T. Health Science Center-Houston considered approval of affiliation agreement between the Board of Regents for and on behalf of the U.T. Health Science Center-Houston, and the Hermann Hospital, to be considered in open session of the Health Affairs Committee of the meeting of the Board of Regents. The emergency status was necessary because negotiations earlier this week between the Hermann Hospital Estate Board of Trustees and financing agencies in New York City required that a new and restated affiliation agreement between Hermann Hospital and the Board of Regents for an on behalf of the UTHSC-Houston, be considered at this meeting of the Board of Regents.

**Contact:** Arthur H. Dilly, P.O. Box N, U.T. Station, Austin, Texas 78713-7328, (512) 499-4402.

**Filed:** October 9, 1987, 8:29 a.m.  
TRD-8708751

### University Interscholastic League

**Wednesday, October 14, 1987, 9:30 a.m.** The Waiver Review Board of the University Interscholastic League met in Room 3.120, Thompson Conference Center, Austin. According to the agenda summary, the

board considered appeal of waiver decision to determine student eligibility.

**Contact:** Bob Young, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

**Filed:** October 9, 1987, 4:12 p.m.  
TRD-8708810

**Thursday, October 15, 1987, 1:30 p.m.** The State Executive Committee of the University Interscholastic League met in Room 2.110, Thompson Conference Center, Austin. According to the agenda summary, the committee considered alleged violations of UII rules.

**Contact:** Bonnie Northcutt, P.O. Box 8028, Austin, Texas 78713, (512) 471-5883.

**Filed:** October 9, 1987, 4:24 p.m.  
TRD-8708809



### Texas Council on Vocational Education

**Thursday-Friday, November 5-6, 1987, 6:30 p.m. and 8 a.m., respectively.** The Texas Council on Vocational Education will meet in the Marriott Market Center Hotel, 2101 Stemmons Freeway, Dallas. According to the agenda, the council will receive an update on the master plan implementation, discuss the list of priority occupations included in the master plan, review vocational education rules, discuss "approved" vs. "non-approved" vocational education programs, and discuss the school dropout prevention project. The council will also receive an update on the work of the Governor's Task Force on Vocational Education, the cost benefit study of vocational education, evaluation topics assigned to the council by the State Board of Education, and the Awards Program, discuss budget revisions, upcoming conferences, and council meetings, as well as other business. The council will tour vocational programs at Eastfield College, Skyline Center (DISD), Northlake College, and Irving High School (Irving ISD), on Friday.

**Contact:** Val Blaschke, P.O. Box 1886, Austin, Texas 78767, or 815 Brazos, Suite 500, Austin, Texas 78701, (512) 463-5490.

**Filed:** October 8, 1987, 1:51 p.m.  
TRD-8708734



### Texas Water Commission

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, October 13, 1987, 2 p.m.** The commission made an emergency addition to the agenda of a meeting held in Room 118, to consider emergency order by Cominco American, Inc. for permission to inject the wastewater from two french drain systems

into an underground injection well, Permit WDW-115, near the City of Borger, Hutchinson County. The emergency status was necessary because the applicant had requested emergency consideration in order to prevent severe economic loss due to having to store and dispose of the large volumes of wastewater and to avoid discharging the contaminated wastewater into stream segment 0101 of the Lower Canadian River.

**Contact:** Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 12, 1987, 3:55 p.m.  
TRD-8708874

**Tuesday, October 20, 1987, 10 a.m.** The commission will meet in Room 118, to consider water district bond issues, use of surplus funds, water rate matters, proposed water quality permits, amendments and renewals, water right applications, renewal of a weather modification license, correction of a certificate of adjudication, and consider rulemaking proceedings for protection of water quality of the South San Gabriel River Watershed.

**Contact:** Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 9, 1987, 4:31 p.m.  
TRD-8708818

**Wednesday, October 21, 1987, 10 a.m.** The commission will meet in Room 118, to consider a report of substantial noncompliance and order finding substantial noncompliance and requiring certain actions of Amoco Oil Company (Permit 00443); Monarch Tile Manufacturing, Inc. (Solid Waste Registration 37932); Parkans International, Inc. (Solid Waste Registration 37436); Wright-Way Spraying Service (Solid Waste Registration 33773); Greenway Aviation, Inc. (Solid Waste Registration 36884); and San Patricio County (No solid waste registration number).

**Contact:** Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 9, 1987, 4:30 p.m.  
TRD-8708822

**Wednesday, October 21, 1987, 2 p.m.** The commission will meet in Room 118, to consider application by Kingsland Municipal Utility District for renewal of Permit 11549-01, Colorado River Basin, Llano County; consideration of enforcement report and petition for order assessing administrative penalties of Julian H. Zimmerman, doing business as Fentress Swine Farm (Permit 02343); and consideration of transfer of Permit 10847-02 from Parker County Utility District to Doyle Hanley, and renumbering permit as Permit 13409-01.

**Contact:** Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 9, 1987, 4:30 p.m.  
TRD-8708819

**Tuesday, November 4, 1987, 2 p.m.** The commission will meet in Room 118, to deter-

mine whether Emergency Order 87-13E, issued by the commission on September 30, 1987, to Spanish Grant Water System, P.O. Box 424, Waxahachie, Texas 75165, should be affirmed, modified, or set aside by the commission. The order requires Spanish Grant Water System to provide continuous and adequate service to all portions of its service area granted in Water Certificate of Convenience and Necessity 11543 in Ellis County, and to take other steps necessary to ensure compliance with Texas Water Code, Chapter 13, and rules of the Texas Water Commission.

**Contact:** Andrew N. Barrett, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

**Filed:** October 9, 1987, 4:24 p.m.  
TRD-8708816

**Friday, November 13, 1987, 10 a.m.** The Office of Hearings Examiner will meet in Room 618 to consider a rate increase by Jones-Owen Company, Docket 7332-G.

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

**Filed:** October 9, 1987, 4:28 p.m.  
TRD-8708817

**Tuesday, November 24, 1987, 10 a.m.** The commission will meet in Room 118, to consider Starkey A. Wilson #5155, seeking a permit to create a reservoir by closing the ports in the service spillway of an existing dam on Dry Elm Creek, tributary of Elm Ford Trinity River, tributary of Trinity River, Trinity River Basin, for domestic (including personal recreation purposes) and livestock purposes on the applicant's land in Cooke County.

**Contact:** Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 8, 1987, 11:34 a.m.  
TRD-8708730

**Tuesday, November 24, 1987, 10 a.m.** The commission will meet in Room 118 to consider the City of Fort Worth, under Permit 3932 seeking to extend the time to commence and complete construction of a dam authorized by Permit 3932 (A 4252), Trinity River Basin in Tarrant County.

**Contact:** Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** October 8, 1987, 11:33 a.m.  
TRD-8708731



### Joint Select Committee on Workers' Compensation Insurance

**Friday, October 16, 1987, 10 a.m.** The Joint Select Committee on Workers' Compensation Insurance will meet in the Old Supreme Court Room, Capitol Building, Austin. According to the agenda, the committee will hold an organizational meeting for approval of staff and budget, and discuss possible substantive issues involved in workers' com-



pensation to be studied by the committee, for presentation by the Industrial Accident Board and the State Board of Insurance.

**Contact:** Pamela R. Beachley, Capitol G-38-D, Austin, Texas 78701, (512) 463-0380.

**Filed:** October 8, 1987, 4:32 p.m.  
TRD-8708750



### Regional Agencies Meetings Filed October 8

**The Concho Valley Council of Governments, Regional Review Committee and Executive Committee,** met at 5014 Knickerbocker Road, San Angelo, on October 14, 1987, at 2 p.m. and 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

**The Education Service Center Region X, Board of Directors,** met in the Region X Boardroom, 400 East Spring Valley, Richardson, on October 13, 1987, at 12:30 p.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas, 75080, (214) 231-6301.

**The Erath County Appraisal District, Board of Directors,** met in the Boardroom, 1390 Harbin Drive, Stephenville, on October 14, 1987, at 10 p.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434.

**The Hale County Appraisal District, Board of Directors,** met in the Appraisal District, 302 West Eighth Street, Plainview, on October 15, 1987, at 8:30 p.m. Information may be obtained from Linda Jaynes, 302 West Eighth Street, Plainview, Texas 79072, (806) 293-4226.

**The Henderson County Appraisal District, Board of Directors,** met at 101 East Corsicana, Athens, on October 12, 1987, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 101 East Corsicana, Suite 202, Athens, Texas 78751, (214) 675-9296.

**The Trinity River Authority of Texas, Administration Committee,** met at 5300 South Collins, Arlington, on October 14, 1987, at 10 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.  
TRD-8708725



### Meetings Filed October 9

**The Atascosa County Appraisal District, Board of Directors,** met at 1010 Zanderson Avenue, Jourdanton, on October 15, 1987, at 1:30 p.m. Information may be obtained from Vernon A. Warren, 1010 Zanderson

Avenue, Jourdanton, Texas 78026, (512) 769-2730.

**The Blanco County Appraisal District, Board of Directors,** met at the Blanco County Courthouse Annex, Johnson City, on October 13, 1987, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

**The Brazos Higher Education Authority, Inc., Board of Directors,** will meet in the City Club, 801 Washington Avenue, Waco, on October 16, 1987, at 11:30 a.m., noon, and 12:30 p.m. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

**The Dallas Area Rapid Transit, Minority Affairs Committee** met in the DART Office, 601 Pacific Avenue, Dallas, on October 13, 1987, at 2 p.m. and 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The Ellis County Tax Appraisal District,** met at 406 Sycamore Street, Waxahachie, on October 15, 1987, at 7 p.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552

**The Houston-Galveston Area Council, Board of Directors,** will meet in the Holiday Inn, Greenway Plaza, 2712 Southwest Freeway, Houston, on October 20, 1987, at 10 a.m. Information may be obtained from Sallie Sosa, P.O. Box 22777, Houston, Texas 77227-9972, (713) 627-3200.

**The Rio Grande Council of Governments, Board of Directors,** will meet in the Second Floor Conference Room, 123 Pioneer Plaza, El Paso, on October 16, 1987, at 9:30 a.m. Information may be obtained from Cecile C. Gamez, 123 Pioneer Plaza, Suite 210, El Paso, Texas 79901, (915) 533-0998.  
TRD-8708752



### Meetings Filed October 12

**The Austin-Travis County Mental Health and Mental Retardation Center, Operation and Planning Committee,** will meet in Room 107, 611 South Congress Avenue, Austin, on October 16, 1987, at 7:30 a.m. Information may be obtained from Sharon Taylor, 611 South Congress Avenue, Austin, Texas 78704, (512) 447-4141.

**The Bexar Appraisal District, Board of Directors,** will meet at 535 South Main, San Antonio, on October 19, 1987, at 5 p.m. Information may be obtained from William Johns Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Brazos River Authority, Administrative Policy Committee, Properties Committee,**

and Board of Directors will meet at 4400 Cobbs, Waco, on October 18, 1987, at 3 p.m. and 4 p.m. and October 19, 1987, at 9 a.m., respectively. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441.

**The Deep East Texas Council of Governments, Board of Directors,** will meet in the Community Room, Jasper Federal Savings and Loan, Newton, on October 22, 1987, at 11 a.m. Information may be obtained from Katie Bayliss, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704.

**The Dewitt County Appraisal District, Board of Directors,** will meet at 103 Bailey Street, Cuero, on October 20, 1987, at 7:30 p.m. Information may be obtained from Wayne K. Woolsey, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753.

**The East Texas Council of Governments, Private Industry Council,** met in the ETCOG Offices, Kilgore, on October 15, 1987, at 9:30 a.m. Information may be obtained from Glynn J. Knight, 3800 Stone Road, Kilgore, Texas 75662, (214) 984-8641.

**The Eastland County Appraisal District, Board of Directors,** will meet in the Commissioners' Courtroom, Eastland County Courthouse, Eastland, on October 21, 1987, at 1 p.m. Information may be obtained from Steve Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597.

**The Education Service Center, Region XII, Board of Directors,** met at 401 IH-35, Waco, on October 15, 1987, at 7:30 p.m. Information may be obtained from Weldon O. Mills, P.O. Box 1249, Waco, Texas 76703-1249, (817) 756-7494.

**The Edwards County Appraisal District, Board of Directors,** will meet in the New County Annex Building, Rocksprings, on October 20, 1987, at 10 a.m. Information may be obtained from Sondra Madden, P.O. Box 378, Rocksprings, Texas 78880, (512) 683-4189.

**The Hays County Appraisal District, Appraisal Review Board,** will meet at 632 "A" East Hopkins Municipal Building, San Marcos, on October 28, 1987, at 9 a.m. Information may be obtained from Lynnell Sedlar, 632 "A" East Hopkins Municipal Building, San Marcos, Texas 78666, (512) 754-7400.

**The Houston-Galveston Area Council, Project Review Committee,** will meet in the Plaza III Room, Holiday Inn Greenway Plaza, 2712 Southwest Freeway, Houston, on October 20, 1987, at 8:30 a.m. Information may be obtained from Steve Howard, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200.

**The Lavaca County Central Appraisal District**, Appraisal Review Board, will meet at 113 North Main, Hallettsville, on October 19, 1987, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

**The North Texas Municipal Water District**, Board of Directors, will meet in the Administrative Offices, 505 East Brown Street, Wylie, on October 22, 1987, at 4 p.m. Information may be obtained from Carl W. Riehn, 505 East Brown Street, Wylie, Texas 75098, (214) 442-5405.

**The Nueces-Jim Wells-Kleberg Soil and Water Conservation District**, Board of Directors, will meet at 2287 North Texas Boulevard, Alice, on October 22, 1987, at 2 p.m. Information may be obtained from Carol G. Freeman, P.O. Box 142, Alice, Texas 78333, (512) 668-9390.

**The Palo Pinto Appraisal District**, Board of Directors, will meet in the Palo Pinto County Courthouse, Palo Pinto, on October 21, 1987, at 3 p.m. Information may be obtained from Jack F. Samford, P.O. Box 250, Palo Pinto, Texas 76072, (817) 659-3651, ext. 234.

**The San Antonio River Authority**, Board of Directors, will meet in the Community Center, Main Street, Stockdale, on October 21, 1987, at 1:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.

**The Upper Leon River Municipal Water District**, Board of Directors, will meet in the General Office of the Filter Plant, Proctor Lake, Comanche County, on October 22, 1987, at 6:30 p.m. Information may be obtained from Garry W. Godfrey, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258.

**The West Central Texas Municipal Water District**, will meet in Suite 300, First National West Building, 401 Cypress Street, Abilene, on October 22, 1987, at 9 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-8708826



### Meetings Filed October 13

**The Capital Area Planning Council**, General Assembly/Executive Committee, will meet in the Quality Inn South, Austin, on October 20, 1987, at 11:30 a.m. Information may be obtained from Richard G. Bean, 2520 IH-35 South, Suite 100, Austin, Texas 78704-5798, (512) 443-7653.

**The Education Service Center, Region XIV**, Board of Directors, will meet at 1850 State Highway 351, Abilene, on October 22, 1987, at 5:30 p.m. Information may be obtained from Taressa Huey, Route 1, Box 70-A, Abilene, Texas 79601, (915) 676-8201.

**The Grayson Appraisal District**, Board of Directors, will meet at 205 North Travis, Sherman, on October 21, 1987, at noon. Information may be obtained from Deborah Reneau, 124 South Crockett, Sherman, Texas 75090, (214) 893-8673.

**The Lower Neches Valley Authority**, Board of Directors, will meet at 7850 Eastex Freeway, Beaumont, on October 20, 1987, at 10:30 a.m. Information may be obtained from A.T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.

**The Mason County Appraisal District**, will meet at 206 Fort McKavitt Street, Mason, on October 21, 1987, at 5:15 p.m. Information may be obtained from Ann Stapp, P.O. Box 1119, Mason, Texas 76856, (915) 347-5989.

**The San Patricio County Appraisal District**, Board of Directors, will meet in the Courthouse Annex, Sinton, on October 22, 1987, at 9:30 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

**The Trinity River Authority of Texas**, Utility Service Committee, will meet at 5300 South Collins, Arlington, on October 19, 1987, at 10 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

TRD-8708893



Name: Nathan Cartwright  
Grade: 4  
School: Menchaca Elementary, Austin

# In Addition

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

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

## Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of September 28-October 2, 1987.

Information relative to the following applications, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the previously mentioned address, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Cal-Tex Lumber Co., Inc., Nacogdoches; lumber milling facility; Nacogdoches, Nacogdoches County; 18356; new source

CCPC Chemical, Inc. (Subdivision of Cain Chemical Inc.), Corpus Christi; gas turbine cogeneration facility; Corpus Christi, Nueces County; 18358; new source

LTV Aerospace and Defuese Co., Grand Prairie; flexible composites center; Grand Prairie, Dallas County; 18359; new source

Issued in Austin, Texas, on October 6, 1987.

TRD-8708727 Bill Ehret  
Director of Hearings  
Texas Air Control Board

Filed: October 8, 1987

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



## Contested Case Hearing

Pursuant to the Texas Clean Air Act, §§3.15, 3.16, and 3.17, Texas Civil Statutes, Article 4477-5 (the Act), and §§103.11(3), 103.31, and 103.41 of the procedural rules of the Texas Air Control Board (TACB), an examiner for the TACB will conduct a contested case hearing to consider whether a special permit should be issued to Elite Pork Producers, Inc., (the applicant) to construct a swine production facility approximately seven miles east of the intersection of State Highway 281 and FM Road 665 and approximately seven miles east of Alice, Jim Wells County.

The applicant is directed to appear at the time and place shown following and demonstrate by a preponderance of evidence that the proposed facility will have emissions of less than 250 tons per year of carbon monoxide or nitrogen oxides or 25 tons per year of any other air contaminant, and that the emissions from the proposed facility will not cause or contribute to a condition of air pollution. The applicant must also demonstrate that the proposed facility will operate in compliance with all rules and regulations of the TACB and will utilize the best available control technology (with consideration given to the technical practicability and economic reasonableness of reducing or eliminating the emissions resulting from the facility), and that the proposed facility will comply with any applicable federal regulations.

The record of this hearing will be used by the TACB in determining whether to issue a special permit to construct the swine production facility.

Information regarding the application for the special permit and copies of the board's rules and regulations are available for public inspection at the central office of this agency located at 6330 Highway 290 East, Austin, Texas 78723; the regional office of the TACB, 5602 Old Brownsville Road, Corpus Christi, Texas 78415, and the Office of the Alice City Clerk, City Hall, 500 East Main, Alice, Texas 78332.

The examiner has set the hearing to begin at 2 p.m., November 16, 1987, at the central office of this agency located at 6330 Highway 290 East, Room 332, Austin, Texas 78723. Prospective parties to the hearing will be the TACB staff and the applicant. Any other person desiring to be made a party to the hearing must specifically apply in writing for party status to Examiner John Worley, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties unless the request is actually received at the previously listed address by 5 p.m., October 22, 1987. Previous correspondence with the TACB is not effective for this purpose. A final determination regarding party status will be made at the prehearing conference on the date set out following. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and argument and to cross-examine witnesses. Any person who desires to give testimony at the hearing but who does not desire to be a party, may call the Legal Division of the TACB at (512) 451-5711, extension 350, to determine the names and addresses of all admitted parties. The parties may then be contacted about the possibility of presenting testimony.

Pursuant to §103.46 of the procedural rules of the TACB, the examiner has scheduled a prehearing conference on November 2, 1987, at 2 p.m. at the central office of this agency located at 6330 Highway 290 East, Room 332, Austin, Texas 78723. All persons wishing to be admitted as parties must attend the conference. Proposed written disputed

issues for consideration at the hearing on the merits and written requests for official notice should be made at the prehearing conference. Motions for continuance will only be granted upon proof of good cause. At this conference, a specific date prior to the hearing on the merits will be established for the exchange of written testimony and copies of written and documentary evidence pursuant to §103.46(2). Prehearing orders setting out discovery periods and other requirements may also be issued following this conference.

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin, at (512) 451-5711, extension 350, a day or two prior to the hearing date in order to confirm the setting since continuances are granted from time to time.

Issued in Austin, Texas, on October 5, 1987.

TRD-8708726      Allen Eli Bell  
Executive Director  
Texas Air Control Board

Filed: October 8, 1987

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



## 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 October 6, 1987, the banking commissioner received an application to acquire control of Crossroads Bank, Victoria, by Dorothy B. Ploeger, Gonzales.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on October 6, 1987.

TRD-8708700      William F. Aldridge  
Director of Corporate Activities  
Banking Department of Texas

Filed: October 7, 1987

For further information, please call (512) 479-1200.



## Texas Employment Commission Correction of Error

Proposed amendments submitted by the Texas Employment Commission contained errors as published in the October 6, 1987, issue of the *Texas Register* (12 TexReg 3600).

In §301.16(6)(C) the first sentence should read: "At any time during the **14-day** [10-day] period from the date a decision on an appeal is mailed, the appeal tribunal may assume continuing jurisdiction over the appeal for the purpose of reconsidering the issues on appeal and issuing a corrected decision in regard thereto, if deemed necessary by the appeal tribunal."

The title to §301.17 should read: "**§301.17. Appeals to the Commission from Decisions on Entitlement to Benefits.**"



## Texas Department of Health Radioactive Material License Amendments

Notice is given by the Texas Department of Health that it has granted an amendment to the following radioactive material license: Radioactive Material License LO3907 issued to Syncor International Corporation, for their facility located in Fort Worth (mailing address: Syncor International Corporation, 200 West Magnolia Street, Suite 203, Fort Worth, Texas 76104).

The amendment of this license is summarized as follows. Changes the person who is designated the radiation safety officer.

The Division of Licensing, Registration, and Standards has determined that the amendment has no significant impact on the human environment; the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; the issuance of the license amendment will not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in the TRCR, Part 44.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR 13.6. A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on October 6, 1987.

TRD-8708737 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 8, 1987  
For further information, please call (512) 835-7000



Notice is given by the Texas Department of Health that it has granted an amendment to the following radioactive material license: Radioactive Material License 01825 issued to Texas Nuclear Corporation, for their facility located in Austin, Travis County (mailing address: Texas Nuclear Corporation, Ramsey Engineering Company, P.O. Box 9267, Austin, Texas 78766-9990):

The amendment of this license is summarized as follows. Allows the licensee to store Class A quantities of radioactive waste outdoors for periods no longer than two years prior to transfer of the waste for disposal.

The Division of Licensing, Registration, and Standards has determined that: the amendment has no significant impact on the human environment; the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health and safety, and the environment; the licensee's equipment, facilities, and procedures are adequate to minimize danger to public health and safety, and the environment; the issuance of the license amendment will not be inimical to public health and safety, or have a detrimental impact on the environment; and the licensee satisfies any applicable special requirements in the TRCR, Part 44.

This notice affords the opportunity for a public hearing upon written request within 30 days of the date of publication of this notice by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR 13.6. A person affected is defined as a person who is resident of a county, or a county adjacent to a county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage. A person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated. Should no request for a public hearing be timely filed, the amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on October 6, 1987.

TRD-8708736 Robert A. MacLean  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: October 8, 1987  
For further information, please call (512) 835-7000.



## Texas Housing Agency Request for Proposals

The Texas Housing Agency invites proposals from interested businesses and/or individuals with qualifications and experience required to produce a professional annual report to be printed in January 1988. The type of services needed include typesetting, printing, design, illustration of statistical data, and possibly photography. Bids may be submitted for a portion of the job or for the entire project. The anticipated cost of the entire project is between \$10,000 and \$13,000. All proposals must be received by 5 p.m. on November 23, 1987.

The Public Information and Marketing staff will review and award the job by December 3, 1987. Multiple factors will be considered when awarding the job, including cost, the firm's experience, perceived stability, and ability to meet deadlines.

Additional information may be obtained from Jayne Crawford, Research and Writing Assistant, P.O. Box 13941, Austin, Texas 78711-1394.

Issued in Austin, Texas, on October 5, 1987.

TRD-8708695 Dan A. McNeil  
Executive Administrator  
Texas Housing Agency

Filed: October 7, 1987  
For further information, please call (512) 474-2974.



## Texas Industrial Accident Board Consumer Price Index for the State of Texas

The adjusted gross annual payroll requirement of an employer for coverage of seasonal workers under Texas Civil Statutes, Article 8306, §2(b), is \$26,750.

The comptroller has established that Texas inflation increased 1.1% during the period of September 1986-August 1987.

Issued in Austin, Texas, on October 7, 1987.

TRD-8708728 Scott McAnally  
Executive Director  
Industrial Accident Board

Filed: October 8, 1987  
For further information, please call (512) 448-7962.



## State Board of Insurance Public Hearing

Notice is given that a hearing will be held before the State Board of Insurance on Tuesday, October 27, 1987, at 9

a.m. in Room 1-110 of the Joe C. Thompson Conference Center, 26th and Red River Streets, Austin, for the purpose of revision of workers' compensation and employers' liability insurance rates and rating values based on experience and the statutorily mandated benefits increase, and such other matters as may be properly brought before the board. This hearing will be held in accordance with the legal authority and jurisdiction provided in the Insurance Code, Articles 5.55, 5.56, 5.57, 5.58, 5.60, 5.62, and 5.96. Please note that this hearing will combine the hearings on experience and benefits increase.

The hearing and procedure will be governed by the contested case provisions of the rules of practice and procedure before the State Board of Insurance (28 TAC Chapter 1, Subchapter A) and by the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), as modified by the Insurance Code, Article 5.96. This hearing deals exclusively with the revision and promulgation of rates and the hearing relating to those items will be conducted pursuant to the provisions of the APTRA relating to contested cases.

The staff of the State Board of Insurance and the National Council on Compensation Insurance propose that the State Board of Insurance consider amendments to workers' compensation and employers' liability rates and rating values, including those applicable to United States longshoremen's and harbor workers' exposure other than stevedoring, based on the latest statistical data, ratemaking procedure, and expense provision in the rating formula prepared by the staff, the National Council on Compensation, and other interested parties. The cumulative annual average of the manufacturing production workers' average weekly wage in Texas in 1986 exceeded by \$20 or more the weekly wage for these workers in 1985, as determined by the Texas Employment Commission and resulting in a weekly benefit increase of \$7.00 maximum and \$1.00 minimum, effective September 1, 1987. This statutory increase has been taken into consideration in the staff proposal.

Please direct inquiries regarding this hearing to Gaylon Daniel, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998, (512) 463-6363.

Issued in Austin, Texas, on October 12, 1987.

TRD-8708844      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Filed: October 12, 1987

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



## Texas Department of Mental Health and Mental Retardation Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Department of Mental Health and Mental Retardation invites bids for consultant services. The required services will be a continuation of services currently being provided by Marjorie P. Avera. The department intends to award the contract to Ms. Avera unless a better offer is submitted.

**Description of Services.** The contract shall require the consultant to provide assistance to all state mental hospitals in maintaining compliance with the standards of the Joint Commission on Accreditation of Hospitals and Medicare; to assist in monitoring the compliance of San Antonio State

Hospital with the plan of correction required in the settlement of RAJ v. Miller; and other related professional services as needed.

Consultant shall be required to provide services at on-site at state hospitals approximately 10 days per month. The contract shall be effective January 1, 1988, through June 30, 1988.

**Closing Date for Offers.** The closing date for receipt of offers is November 2, 1987.

**Contact Person.** All offers should be submitted to Sue Dillard, Director, Office of Standards and Quality Assurance, P.O. Box 12668, Austin, Texas 78711-2668. Prospective bidders may obtain more information by writing to the same address or by calling (512) 465-4675.

**Selection Criteria.** The contractor must have a bachelor's degree and at least 10 years experience in compliance review of JCAH and Medicare standards. The contractor must have a thorough working knowledge of the administrative and programmatic operations of state mental hospitals in Texas, particularly with regard to the settlement agreement in RAJ v. Miller. Subject to the provisions of the opening paragraph of this notice, the consultant demonstrating the most relevant experience and background and having the greatest and most expert knowledge of the services to be performed will be awarded the contract.

Issued in Austin, Texas, on October 2, 1987.

TRD-8708709      Gary E. Miller, M.D.  
                         Commissioner  
                         Texas Department of Mental Health  
                         and Mental Retardation

Filed: October 7, 1987

For further information, please call (512) 465-4591.



## Middle Rio Grande Development Council Request for Proposals

The Middle Rio Grande Development Council, centrally located at 403 East Nopal Street, Carrizo Springs, in accordance with Texas Civil Statutes, Article 6252-11c, files this request for proposals. The Middle Rio Grande Development Council is accepting proposals to conduct a feasibility study in Maverick County.

**Nature of Services Required.** The contractor will work with specific businesses, developers, producers, and investors to provide statistical information, analysis, strategies, and methods in order to eliminate barriers to establishment of a frozen vegetable processing facility in Maverick County. The establishment of this facility would create jobs for JTPA eligible participants in an area with severe unemployment and limited job opportunities.

The Middle Rio Grande Development Council has entered into a preliminary contract with Oscar Mello and Associates to perform Phase I of the feasibility study. The Middle Rio Grande Development Council will award the remaining phases of the feasibility study to Mello and Associates, unless a better offer is submitted.

Proposal packets may be obtained by contacting Greg Davenport, 200 East Nopal Street, Suite 203, Uvalde. Proposals must be received no later than 5 p.m., December 1, 1987.

Middle Rio Grande Development Council will award the contract based on performance of the preliminary contractor and an evaluation compared to other bidders according to scope, cost, experience, familiarity with MRGDC area and Northern Mexico, academic credentials, and ability to produce feasibility study within the time frame required.

Issued in Carrizo Springs, Texas, on October 8, 1987.

TRD-8708821 Michael M. Patterson  
Executive Director  
Middle Rio Grande Development  
Council

Filed: October 9, 1987  
For further information, please call (512) 876-3533.



## Texas Public Finance Authority Consultant Proposal Request

This request is filed under Texas Civil Statutes, Article 6252-11c.

The Texas Public Finance Authority invites proposals from established institutions to provide trustee, registrar, and paying agent services for its first 1987 bond issue. The deadline for proposal submission is noon, October 19, 1987.

Selection will be made based on the experience of the firm with similar projects, the qualifications of the firm, and the cost to the State of Texas.

Copies of the consultant proposal request may be attained by contacting Ann Moriarty, Texas Public Finance Authority, P.O. Box 12906, Austin, Texas 78711, (512) 463-5544.

Issued in Austin, Texas, on October 7, 1987.

TRD-8708694 Glen Hartman  
Executive Director  
Texas Public Finance Authority

Filed: October 7, 1987  
For further information, please call (512) 463-5544.



## Railroad Commission of Texas Public Notice

Notice is hereby given to all interested persons, that the Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Drawer 12967, Austin, Texas 78711, on its own motion in Docket Number 003623ZZCW, will investigate the operations of the Long Island Bridge Company, Inc. of the Long Island Swing Bridge (located over, through, and across the intercoastal canal at the northern tip of Long Island and the City of Port Isabel, Cameron County). The purpose of this proceeding is to allow the Railroad Commission to regulate and control the Long Island Bridge Company, Inc. pursuant to Texas Civil Statutes, Article 1466, et seq.

All interested persons affected by this commission called proceeding that wish to participate in this commission investigation may do so only by filing a written protest, intervention in opposition, or intervention in support at or before 10 a.m. on Monday, November 16, 1987, by writing Docket Services, Transportation Division, Railroad

Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. Please include the Docket Number (003623ZZCW) in all responses.

Issued in Austin, Texas, on September 28, 1987.

TRD-8708567 Walter Earl Lillie  
Special Counsel  
Railroad Commission of Texas

Filed: October 2, 1987  
For further information, please call (512) 463-7149.



## Texas Savings and Loan Department Notice of Application to Establish Remote Service Units

Notice is hereby given that application has been filed with the Savings and Loan Commissioner of Texas by Bright Banc Savings Association, for approval to establish and operate remote service unit(s) at the following location: 1211 Highway 77 North, Waxahachie, Ellis County.

The applicant association asserts that the security of the association's funds and that of its account holders will be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest this application must file a written protest with the commissioner within 10 days following publication. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to §§53.11-53.16 of the rules of the Texas Savings and Loan Department. These rules are on file with the Secretary of State, Texas Register Division, or may be seen at the department's offices in the Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin, Texas.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708805 Laura M. Hale  
General Counsel  
Texas Savings and Loan Department

Filed: October 9, 1987  
For further information, please call (512) 479-1250.



Notice is hereby given that application has been filed with the Savings and Loan Commissioner of Texas by: Bright Banc Savings Association, for approval to establish and operate remote service unit(s) at the following location(s): Parke Green Shopping Center, 1717 South Pleasant Valley Road, Austin, Travis County.

The applicant association asserts that: the security of the association's funds and that of its accounts holders will be maintained and the proposed service will be a substantial convenience to the public.

Anyone desiring to protest this application must file a written protest with the commissioner within 10 days following publication. The commissioner may dispense with a hearing on this application.

This application is filed pursuant to §§53.11-53.16 of the rules of the Texas Savings and Loan Department. These rules are on file with the Secretary of State, Texas Register

Division, or may be seen at the department's offices in the Finance Commission Building, 2601 North Lamar Boulevard, Suite 201, Austin.

Issued in Austin, Texas, on October 9, 1987.

TRD-8708804      Laura M. Hale  
                            General Counsel  
                            Texas Savings and Loan Department

Filed: October 9, 1987  
For further information, please call (512) 479-1250.

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## 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 October 5-9, 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 October 5-9, 1987

San Miguel Electric Cooperative, Inc., San Miguel Lignite Mine, Jourdanton; lignite mine; south/southeast of the San Miguel S.E.S. which is located approximately four miles east of State Highway 16, and 16 miles south (via State Highway 16) of the City of Jourdanton, Atascosa County; 02043; amendment

USI Chemicals Co., division of National Distillers and Chemical Corporation, Deer Park; plant that manufactures plastics and chemicals; approximately one mile north of the intersection of Miller Cutoff Road with State Highway 225 in Harris County; 00534; amendment

City of Premont; wastewater treatment facility; southwest of the center of Premont, approximately one mile south and 1.5 miles east of the intersection of FM Road 716 and United States Highway 281 in Jim Wells County; 10253-01; renewal

Issued in Austin, Texas, on October 9, 1987.

TRD-8708815      Karen A. Phillips  
                            Chief Clerk  
                            Texas Water Commission

Filed: October 9, 1987  
For further information, please call (512) 463-7898.

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## Public Hearing

The Texas Water Commission is required under the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, (the Act) §13, to identify and assess hazardous waste facilities or areas which may constitute an imminent and substantial endangerment to public health and safety or to the environment. A registry identifying those sites was published in the *Texas Register* on January 16, 1987 (12 TexReg 205). Pursuant to §13, the commission must update the registry annually to add new facilities, or to delete those facilities that have been cleaned up pursuant to the Act, §13(g), or to delist facilities pursuant to the Act, §13(e).

The following is a list of facilities or areas that may be added to the registry. Hearings have been scheduled to receive information about the proposed sites. The hearings are at the following times and places, and will be conducted in such a manner to receive information regarding the named site:

October 29, 1987, 10 a.m., El Paso City Hall, 2 Civic Center Plaza, 10th Floor Conference Room, El Paso, Unnamed Plating Site, 6816 Industrial Boulevard, El Paso; October 29, 1987, 6:30 p.m., Odessa City Hall, 411 West Eighth Street, Fifth Floor, Odessa, Precision Machine, 500 West Olive Street, Odessa; November 4, 1987, 7 p.m., Pasadena Convention Center, 7902 Fairmont Parkway, Pasadena, Aztec Mercury, 401 Callaway Drive, Alvin, Houston Lead, 300 Holmes Road, Houston, Gulf Metals, Mykawa at Alameda-Genoa, Houston, La Pata Oil/S.W. Oil, 1403 Ennis Street, Houston; November 10, 1987, 10 a.m., Trinity River Authority Central Plant, 6500 West Singleton Boulevard, Grand Prairie, Bestplate, 1098 South IH-45, Dallas, Texas American Oil Company, Route 2, Old Dallas Highway, Midlothian; November 12, 1987, 1:30 p.m., Nueces County Memorial, Agricultural Center, Highways 44 and 77 (Avenue J.), Robstown, Baldwin Waste Oil, County Road 44, 1.6 miles west of Highway 77 near Robstown; November 12, 1987, 7 p.m., Port Arthur Civic Center, 3401 Cultural Center Drive, Port Arthur, Maintech International, near Pleasure Islet/Rainbow Bridge, Old Ferry Road, Port Arthur; November 16, 1987, 1:30 p.m., Alamo Area Council of Governments, 118 Broadway, Suite 400, San Antonio, Freddie Harris Sand Pits, 23340 South Highway 16, Von Ormy; November 19, 1987, 7 p.m., Pasadena Convention Center, 7902 Fairmont Parkway, Pasadena, Houston Scrap, 3799 Jensen, Houston, Solvent Recovery Services, ½ mile south of Highway 6 on Highway 521, Arcola, Pip Mineral, 3303½ Beaumont Avenue, Liberty, Waste Oil Tank Company, 2010 Hartwick Road off Highway 59 North, Houston.

Persons desiring to comment on the proposed inclusion of these sites on the registry should do so in the context of these public hearings. Comments relating to the facilities or areas identified may be submitted orally or in writing at the hearing. Oral presentations should be accompanied by written comments. Written comments will be accepted until November 30, 1987.

Additional information relating to the facilities or areas proposed for inclusion on the registry may be obtained by contacting Sheldon Seibel, Central Records, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8562. Other information may be obtained



from Patricia E. Carls, Staff Attorney, Legal Division,  
Texas Water Commission, P.O. Box 13087, Austin, Texas  
78711-3087, (512) 463-8069.

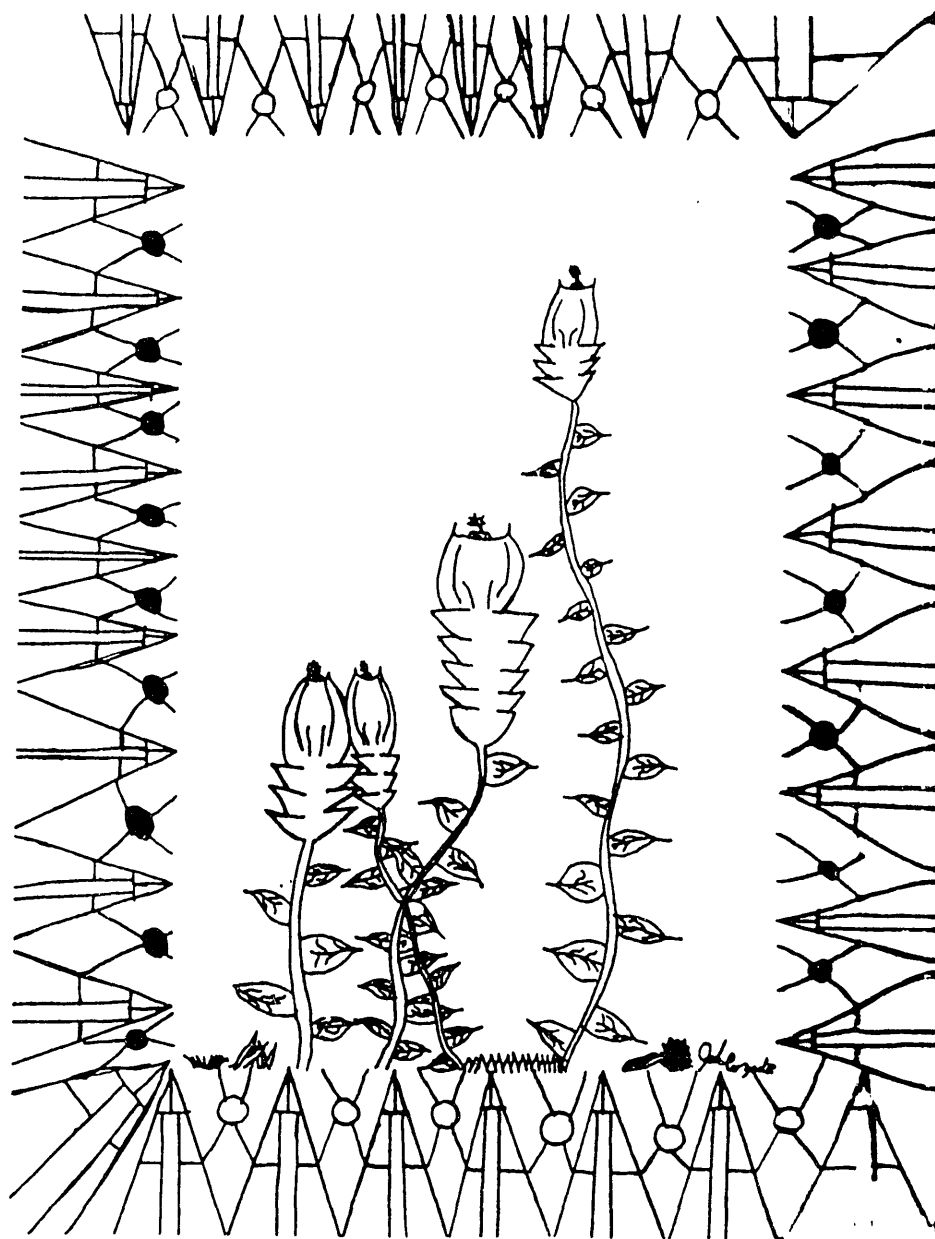
Issued in Austin, Texas, on October 9, 1987.

TRD-8708824      J. D. Head  
Director  
Legal Division  
Texas Water Commission

Filed: October 9, 1987  
For further information, please call (512) 463-8078.



Name: John Cozad  
Grade: 4  
School: Menchaca Elementary, Austin





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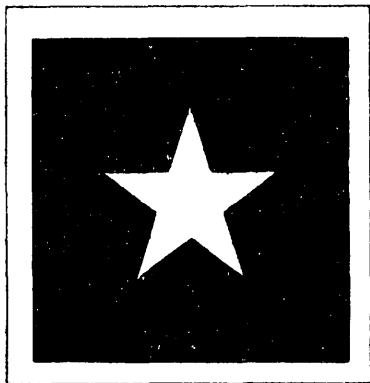
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