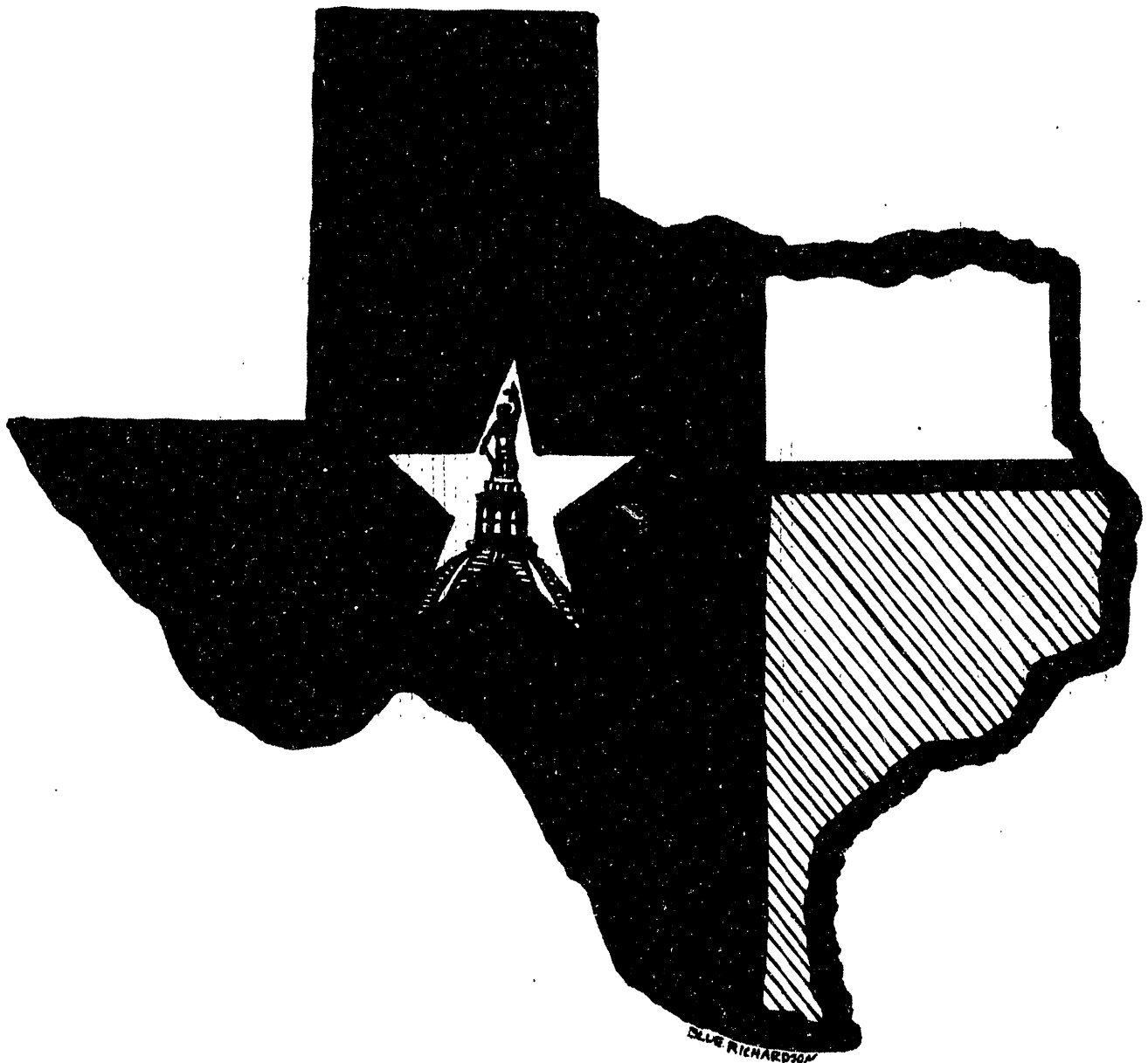


Texas Register

Volume 12, Number 89, November 27, 1987

Pages 4427-4494



Highlights

The **Office of the Secretary of State** proposes new sections concerning the financing of the 1988 primary elections with state funds. Earliest possible date of adoption - December 28, 1987 **page 4447**

The **Railroad Commission of Texas** proposes amendments and new sections concerning prescribed rates, collective applications, rate

changes, deviations, and suspensions. Earliest possible date of adoption - December 28, 1987 **page 4447**

The **State Securities Board** adopts an amendment reflecting the fees for filing forms sometimes required in order to claim exemptions. Effective date - January 1, 1988 **page 4470**

**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.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the *Texas Register* director, provided no such republication shall bear the legend *Texas Register* or "Official" without the written permission of the director. The *Register* is published under Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send Form 3579 changes to the *Texas Register*, P.O. Box 13824, Austin, Texas 78711-3824.

Information Available: The 10 sections of the *Register* represent various facets of state government. Documents contained within them include:

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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

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

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

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

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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



Texas Register Publications

a division of the
Office of the Secretary of State
P.O. Box 13824
Austin, Texas 78711-3824
512-463-5581

Jack M. Rains
Secretary of State

Director
Dan Procter

Assistant Director
Dee Wright

Documents Section Supervisor
Cynthia Cooke

Document Editor
Lainie Crease

Document Filing
Patty Parris

Production Section Supervisor
Craig Howell

Production Editor
Jody Allen

Typographers
Ann Franklin
Victoria Parrish

Circulation/Marketing
Richard Kallus
Roberta Knight

TAC Editor
Kristine Hopkins Mohajor

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

Cover illustration by *Blue Richardson*, Sam Houston High School, Arlington, as part of the *Texas Register* Student Art Contributions.

Table of Contents

The Governor

Appointments Made November 19

- 4435— Industrial Accident Board
- 4435— Joint Select Committee on the Judiciary

Executive Order

- 4435— WPC 87-18

Proclamation

- 4436— 41-2202

Attorney General

Open Records Decision

- 4437— ORD-483 (RO-1163)

Emergency Rules

Office of the Secretary of State

- 4438— Elections

Texas Education Agency

- 4442— Student Attendance

Comptroller of Public Accounts

- 4443— Central Administration
- 4444— Tax Administration

Proposed Rules

Office of the Secretary of State

- 4447— Elections

Railroad Commission of Texas

- 4447— Transportation Division

Texas Education Agency

- 4451— Curriculum
- 4457— Occupational Education and Technology
- 4458— Vocational [Occupational] Education [and Technology]
- 4460— Adaptations for Special Populations
- 4461— Foundation School Program

Comptroller of Public Accounts

- 4462— Central Administration

Texas Department of Human Services

- 4463— ICF/SNF

Withdrawn Rules

State Securities Board

- 4464— Administrative Guidelines for Registration of Open-End Investment Companies
- 4464— Forms

Railroad Commission of Texas

- 4464— Transportation Division

Adopted Rules

Texas Department of Agriculture

- 4465— Pesticides

State Securities Board

- 4470— Transactions
- 4470— Dealers and Salesmen
- 4470— Administrative Guidelines for Registration of Real Estate Programs

- 4470— Administrative Guidelines for Registration of Open-End Investment Companies

- 4471— Forms

- 4472— Administrative Guidelines for Registration of Equipment Programs

- 4472— Administrative Guidelines for Registration of Real Estate Investment Trusts

State Board of Dental Examiners

- 4473— Pertaining to Dentistry
- 4473— Extension of Duties of Auxiliary Personnel

General Land Office

- 4474— Energy Resources
- 4474— Land Resources

School Land Board

- 4475— Exploration and Development

Texas Department of Public Safety

- 4476— Organization and Administration

Texas Commission on Jail Standards

- 4476— Definitions
- 4476— New Construction Rules

Open Meetings

- 4478— Texas Department on Aging
- 4478— Texas Department of Agriculture
- 4478— State Board of Barber Examiners
- 4478— Texas Commission for the Blind
- 4478— Texas Cancer Council
- 4478— State Board of Canvassers
- 4478— Texas State Board of Dental Examiners
- 4478— Texas Education Agency
- 4479— Texas Funeral Services Commission
- 4479— Texas Department of Human Services
- 4479— Texas Industrial Accident Board
- 4479— State Board of Insurance
- 4481— Texas Municipal Retirement System
- 4481— Board of Pardons and Paroles
- 4481— Public Utility Commission of Texas
- 4481— Railroad Commission of Texas
- 4481— Texas Rehabilitation Commission
- 4481— Employees Retirement System of Texas
- 4481— Texas Savings and Loan Department
- 4482— School Land Board
- 4482— State Committee of Examiners for Speech-Language Pathology and Audiology
- 4482— Structural Pest Control Board
- 4482— Board of Tax Professional Examiners
- 4482— Texas County and Retirement System
- 4482— Texas Southern University
- 4483— Texas State Technical Institute
- 4483— Texas Tech University Health Science Center
- 4483— Texas Water Commission
- 4483— Regional Agencies

In Addition

Texas Air Control Board

- 4485— Applications for Construction Permits

State Banking Board
4485— Notice of Hearing
Banking Department of Texas
4485— Application to Acquire Control of a
State Bank
4486— Notice of Application
Comptroller of Public Accounts
4486— Gasoline and Alcohol Mixture
Determination of Credits Allowable for
January, February, and March 1988
Office of Consumer Credit Commissioner
4486— Notice of Rate Ceilings
Texas Department of Health
4487— Current Schedule of Controlled
Substances
4487— Intent to Revoke Certificates of
Registration

4488— Licensing Actions for Radioactive
Materials
Texas Higher Education Coordinating Board
4489— Notice of Meeting
State Board of Insurance
4489— Company Licensing
Texas Advisory Board of Occupational
Therapy
4490— Examination Notices
Texas Savings and Loan Department
4490— Notice of Application to Establish
Remote Service Units
Office of the Secretary of State
4491— Correction of Error
Texas Water Commission
4491— Enforcement Orders
4492— 1988 Publication Schedule

TAC Titles Affected

TAC Titles Affected—November

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

TITLE 1. ADMINISTRATION	16 TAC §5.386	4363
Part III. Office of the Attorney General	16 TAC §5.423, §5.424	4448
1 TAC §§53.181-53.184	16 TAC §5.501	4325, 4325, 4448, 4484
1 TAC §§53.193-53.200	16 TAC §5.503	4449
1 TAC §§53.211-53.217	16 TAC §§5.581-5.590	4449
1 TAC §§53.227-53.233	16 TAC § 56	4241
1 TAC §§53.244-53.250	16 TAC §9.1	4174
1 TAC §§81.100-81.123	16 TAC §9.4	4057
1 TAC §§81.100-81.131	16 TAC §9.6	4058
Part IV. Office of the Secretary of State	16 TAC §9.15	4058
1 TAC §97.31, §97.32	16 TAC §9.29	4058
1 TAC §97.41, §97.42	16 TAC §9.39	4059
Part V. State Purchasing and General Services Commission	16 TAC §9.58	4059
1 TAC §113.9	16 TAC §9.64	4059
1 TAC §113.72	16 TAC §9.65	4080
Part VI. Texas Surplus Property Agency	16 TAC §9.99	4081
1 TAC §143.1	16 TAC §9.104	4081
TITLE 4. AGRICULTURE	16 TAC §9.130	4082
Part I. Texas Department of Agriculture	16 TAC §9.155	4082
4 TAC §§7.8, 7.11, 7.16, 7.24, 7.32, 7.33	16 TAC §9.162	4174
4 TAC §7.41	16 TAC §9.171	4083
TITLE 7. BANKING AND SECURITIES	16 TAC §9.261	4083
Part I. State Finance Commission	16 TAC §9.265	4083
7 TAC §3.25	16 TAC §9.285	4085
7 TAC §3.27	16 TAC §9.291	4085
7 TAC §3.61	16 TAC §9.301	4085
Part VI. Credit Union Department	16 TAC §9.303	4086
7 TAC §91.506	16 TAC §9.400	4087
7 TAC §91.701	16 TAC §9.401	4087
7 TAC §91.802	16 TAC §9.402	4088
7 TAC §123.3	16 TAC §9.403	4088
7 TAC §133.5	16 TAC §9.404	4088
7 TAC §133.6	16 TAC §9.405	4089
7 TAC §133.15	16 TAC §9.406	4089
7 TAC §133.19	16 TAC §9.407	4070
7 TAC §133.20	16 TAC §9.408	4070
7 TAC §133.24	16 TAC §9.409	4071
7 TAC §133.25	16 TAC §9.410	4071
7 TAC §133.29	16 TAC §9.411	4071
7 TAC §133.31	16 TAC §9.412	4072
7 TAC §§141.1-141.8	16 TAC §9.413	4072
7 TAC §143.41	16 TAC §9.414	4072
TITLE 10. COMMUNITY DEVELOPMENT	16 TAC §9.415	4073
Part II. Texas Department of Commerce	16 TAC §9.417	4073
10 TAC §180.1, §180.2	16 TAC §9.418	4073
TITLE 13. CULTURAL RESOURCES	16 TAC §9.419	4074
Part VII. State Preservation Board	16 TAC §9.420	4074
13 TAC §111.13	16 TAC §9.421	4077
TITLE 16. ECONOMIC REGULATION	16 TAC §9.422	4077
Part I. Railroad Commission of Texas	16 TAC §9.423	4078
16 TAC §3.1	16 TAC §9.424	4078
16 TAC §3.8	16 TAC §9.425	4078
16 TAC §3.34	16 TAC §9.426	4079
16 TAC §5.40	16 TAC §9.427	4080
16 TAC §5.145, §5.148	16 TAC §9.428	4080
16 TAC §5.184	16 TAC §9.429	4080
16 TAC §5.186	16 TAC §9.430	4080
16 TAC §5.246	16 TAC §9.431	4081
16 TAC §5.294	16 TAC §9.432	4081
16 TAC §5.346	16 TAC §9.433	4082
	16 TAC §9.434	4082
	16 TAC §9.435	4083
	16 TAC §9.436	4083
	16 TAC §9.437	4083
	16 TAC §9.438	4084
	16 TAC §9.439	4085
	16 TAC §9.440	4086
	16 TAC §9.441	4086
	16 TAC §9.442	4087
	16 TAC §9.443	4087

16 TAC §9.444	4088	22 TAC §521.1	4398
Part IV. Texas Department of Labor and Standards		22 TAC §521.3	4398
16 TAC §65.15	4401	22 TAC §521.4	4398
16 TAC §§75.1, 75.2, 75.4, 75.5, 75.8-75.10	4255	22 TAC §571.3	4091
16 TAC §75.2	4401	22 TAC §571.4	4092
16 TAC §75.4	4402	22 TAC §571.5	4092
16 TAC §75.6	4241, 4322	22 TAC §571.8	4092
16 TAC §§75.12-75.14	4256	22 TAC §571.12	4093
16 TAC §§80.180.10	4256	22 TAC §571.13	4093
TITLE 19. EDUCATION		22 TAC §571.15	4093
Part II. Texas Education Agency		22 TAC §571.16	4094
19 TAC §41.61	4412	22 TAC §571.52	4094
19 TAC §75.152	4048, 4409, 4412	22 TAC §571.53	4094
19 TAC §§75.211-75.218	4451	22 TAC §571.54	4095
19 TAC §77.476	4048, 4409, 4412	22 TAC §571.55	4095
19 TAC §§78.1-78.5	4457, 4458	22 TAC §571.57	4095
19 TAC §78.21	4458	22 TAC §573.14	4120
19 TAC §§78.21-78.25	4458	22 TAC §573.32	4120
19 TAC §78.41	4459	22 TAC §577.1	4096
19 TAC §§78.61-78.64	4460	22 TAC §577.2	4096
19 TAC §81.62	4048, 4409, 4413	22 TAC §577.11	4096
19 TAC §§81.110, 81.119, 81.120, 81.126	4048, 4409, 4413	22 TAC §577.13	4097
19 TAC §81.176	4048, 4409, 4413	Part XXIII. Texas Real Estate Commission	
19 TAC §89.211	4413	22 TAC §542.1	4243
19 TAC §89.215	4460	Part XXXII. State Commission for Speech Language Pathologists and Audiologists	
19 TAC §105.211	4461	22 TAC §741.181	4244
19 TAC §129.61	4442	TITLE 25. HEALTH SERVICES	
19 TAC §141.2	4414	Part I. Texas Department of Health	
19 TAC §§141.181, 141.182, 141.184-141.186	4414	25 TAC §§37.81-37.84, 37.86, 37.88-37.90, 37.93	4402
19 TAC §§141.181-141.186	4409	25 TAC §133.21	4190
19 TAC §141.2	4048, 4409	25 TAC §§141.2, 141.3, 141.5, 141.6, 141.9, 141.11, 141.14-141.17	4191
19 TAC §§141.181, 141.182, 141.184-141.186	4048	25 TAC §141.4	4185
19 TAC §141.294	4048, 4410, 4414	25 TAC §141.5, §141.16	4185
TITLE 22. EXAMINING BOARDS		25 TAC §325.5	4227, 4245, 4252
Part V. State Board of Dental Examiners		25 TAC §325.22, §325.25	4228, 4246, 4252
22 TAC §101.33	4473	25 TAC §325.32	4228, 4246
22 TAC §115.2	4473	25 TAC §325.133, §325.155	4230, 4246, 4252
Part IX. Texas State Board of Medical Examiners		25 TAC §325.222, §325.223	4231, 4246, 4253
22 TAC §161.1, §161.2	4089	25 TAC §325.912-325.916	4253
22 TAC §§163.3, 163.5-163.7, 163.9	4089	25 TAC §§325.912-325.918	4232, 4246
22 TAC §165.1	4090	25 TAC §325.721	4191
22 TAC §166.2	4091	TITLE 28. INSURANCE	
22 TAC §§187.1-187.52	4175	Part I. State Board of Insurance	
22 TAC §§187.1-187.16	4176	28 TAC §5.4001	4097
22 TAC §§187.17-187.24	4179	28 TAC §7.56	4099
22 TAC §§187.25-187.30	4180	28 TAC §7.66	4100
22 TAC §§187.31-187.36	4182	28 TAC §7.1601-7.1621	4049
Part XV. Texas State Board of Pharmacy		28 TAC §11.2	4259
22 TAC §281.48	4259	28 TAC §§11.102, 11.104-11.108, 11.108, 11.109	4259
22 TAC §291.93	4242	28 TAC §§11.202-11.208	4259
Part XXII. State Board of Public Accountancy		28 TAC §§11.301, 11.302, 11.304, 11.305	4415
22 TAC §501.2	4158	28 TAC §§11.501-11.506, 11.508, 11.509	4363
22 TAC §501.3	4160	28 TAC §§11.601, 11.603, 11.604	4364
22 TAC §501.11	4160	28 TAC §§11.701, 11.705, 11.706	4364
22 TAC §501.12	4161	28 TAC §11.802, §11.803	4364
22 TAC §501.13	4161	28 TAC §11.1001	4364
22 TAC §501.14	4161	28 TAC §11.1101, §11.1102	4365
22 TAC §501.21	4162	28 TAC §11.1201-11.1206	4365
22 TAC §501.22	4162	TITLE 31. NATURAL RESOURCES AND CONSERVATION	
22 TAC §501.23	4162	Part I. General Land Office	
22 TAC §501.24	4163	31 TAC §1.91	4102
22 TAC §501.25	4163	31 TAC §3.7	4260
22 TAC §501.31	4163	31 TAC §3.15	4474
22 TAC §501.32	4164	31 TAC §3.21	4260
22 TAC §501.41	4164	31 TAC §4.161-4.164	4261
22 TAC §501.42	4164	31 TAC §4.161-4.168	4261
22 TAC §501.43	4165	31 TAC §11.11	4415
22 TAC §501.44	4165	31 TAC §11.12	4415
22 TAC §501.45	4165	31 TAC §11.13	4193
22 TAC §501.46	4166	31 TAC §11.15	4261
22 TAC §501.47	4166	31 TAC §11.17	4193
22 TAC §501.48	4166	31 TAC §13.1	4474
22 TAC §501.48	4167		
22 TAC §501.50	4167		
22 TAC §519.27	4185, 4296		

31 TAC §13.11	4475
Part II. Texas Parks and Wildlife Department	
31 TAC §§55.111, 55.114, 55.115	4323
Part IV. School Land Board	
31 TAC §153.13	4262
31 TAC §153.37	4475
31 TAC §153.64	4262
31 TAC §153.65	4262
31 TAC §153.71	4475
Part V. Boards for Lease of State-owned Lands	
31 TAC §201.15, §201.16	4121
Part VII. Texas Water Well Drillers Board	
31 TAC §231.2	4103
Part IX. Texas Water Commission	
31 TAC §335.28	4193
31 TAC §335.35	4104
Part X. Texas Water Development Board	
31 TAC §375.1	4329, 4329
31 TAC §§375.1-375.3	4326, 4327
31 TAC §§375.11-375.21	4330
31 TAC §§375.31-375.38	4333
31 TAC §375.1	4339
31 TAC §§375.61-375.63	4340
31 TAC §375.71, §375.72	4341
31 TAC §§375.81-375.88	4342
31 TAC §§375.101-375.103	4343
TITLE 34. PUBLIC FINANCE	
Part I. Comptroller of Public Accounts	
34 TAC §1.5	4167, 4183
34 TAC §1.7	4168, 4184
34 TAC §1.29	4443, 4462
34 TAC §1.30	4443, 4462
34 TAC §3.11	4385
34 TAC §3.65	4196
34 TAC §3.77	4196
34 TAC §3.90	4196
34 TAC §3.251	4121
34 TAC §3.285	4196
34 TAC §3.287	4198
34 TAC §3.295	4104
34 TAC §3.307	4121
34 TAC §3.320	4198
34 TAC §3.325	4121
34 TAC §3.329	4122
34 TAC §3.335	4122
34 TAC §3.338	4198
34 TAC §3.344	4344
34 TAC §3.378	4198
34 TAC §3.391	4106
34 TAC §3.403	4108
34 TAC §3.404	4112
34 TAC §3.405	4112
34 TAC §3.408	4114
34 TAC §3.444	4122
34 TAC §3.445	4122
34 TAC §3.447	4122
34 TAC §3.448	4122
34 TAC §3.544	4444
34 TAC §3.548	4444
34 TAC §3.550	4445
34 TAC §3.554	4445
34 TAC §3.558	4446
34 TAC §3.601	4345
34 TAC §3.602	4346
34 TAC §3.603	4347
34 TAC §3.604	4347
34 TAC §3.605	4348
34 TAC §3.606	4348
34 TAC §3.607	4349
34 TAC §3.608	4349
34 TAC §3.609	4350
34 TAC §3.610	4350
34 TAC §3.611	4351
Part III. Teacher Retirement System of Texas	
34 TAC §25.9	4199

34 TAC §25.27	4199
34 TAC §25.31	4199
34 TAC §29.32	4199
34 TAC §31.12	4200
Part IV. Employees Retirement System of Texas	
34 TAC §73.27	4293
Part V. Texas County and District Retirement System	
34 TAC §§109.1-109.11	4114
Part VI. Texas Municipal Retirement System	
34 TAC §§129.1-129.11	4247
Part VII. State Property Tax Board	
34 TAC §153.1	4366
34 TAC §153.2	4366
34 TAC §155.6	4367
34 TAC §155.17	4367
34 TAC §155.19	4367
34 TAC §155.37	4367
34 TAC §155.43	4368
34 TAC §155.51	4368
34 TAC §155.52	4368
34 TAC §157.2	4369
34 TAC §§157.21-157.25	4369
34 TAC §§161.3, 161.6, 161.7	4369
34 TAC §161.8	4369
34 TAC §§161.21-161.25	4370
34 TAC §163.7	4371
34 TAC §165.71, §165.73	4331
34 TAC §§165.101-165.107	4371
34 TAC §165.141	4372
34 TAC §165.142	4373

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety	
37 TAC §1.4	4123
37 TAC §1.114	4123
37 TAC §1.122	4476
37 TAC §1.191	4352
Part IX. Texas Commission on Jail Standards	
37 TAC §253.1	4476
37 TAC §259.345	4476
37 TAC §259.346	4477

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services	
40 TAC §3.3702	4123
40 TAC §§10.3101-10.3111, 10.3113, 10.3114, 10.3118, 10.3119, 10.3121, 10.3122, 10.3124-10.3151, 10.3153, 10.3154	4201
40 TAC §§10.3101-10.3136, 10.3150-10.3163, 10.3165-10.3180	4202
40 TAC §10.3164	4185
40 TAC §16.1511	4463
40 TAC §48.1201	4117, 4352
40 TAC §48.2919, §48.2928	4352
40 TAC §48.3903	4353, 4416
40 TAC §48.5907	4353
40 TAC §48.8902	4353
40 TAC §48.9803	4353
40 TAC §48.9805	4124
40 TAC §52.101	4353
40 TAC §§52.201-52.204	4354
40 TAC §52.301	4355
40 TAC §§52.401-52.403	4356
40 TAC §§52.501-52.503	4357
40 TAC §§52.601-52.603	4359
40 TAC §69.263	4360
40 TAC §§79.401-79.406	4293
40 TAC §§79.1605, 79.1607, 79.1610	4118
Part IV. Texas Commission for the Blind	
40 TAC §163.8	4205
40 TAC §163.8	4206
40 TAC §169.5, §169.6	4207
Part VI. Texas Commission for the Deaf	
40 TAC §181.18	4238, 4249
40 TAC §§181.800, 181.810, 181.820, 181.830, 181.840, 181.850	4239, 4250
40 TAC §§183.11, 183.19, 183.33	4399, 4407

40 TAC §§183.19, 183.23, 183.27	4399, 4407
40 TAC §183.75	4360
40 TAC §§183.101, 183.103, 183.105, 183.107, 183.109	4399, 4407
Part XII. Texas Advisory Board of Occupational Therapy	
40 TAC §375.1	4417

TITLE 43. TRANSPORTATION

**Part I. State Department of Highways and Public
Transportation**

43 TAC §17.20	4417
43 TAC §25.8	4250
43 TAC §25.42	4417
43 TAC §§25.801-25.809	4262

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 November 19

To be a member of the Industrial Accident Board for a term to expire on September 1, 1993:

James J. Kaster, 4808 Timberline Drive, Austin, Texas 78746. Mr. Kaster is replacing Mr. N. J. "Nick" Huestis of Austin, whose term expired

To be a member of the Joint Select Committee on the Judiciary for a term to serve at the pleasure of the Governor:

Dee J. Kelly, 2500 First City Bank Tower, Fort Worth, Texas 76102.

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

TRD-8710461 William P. Clements, Jr.
Governor of Texas

Name: Justus M.
Grade: 3
School: Maedgen Elementary, Lubbock



Executive Order WPC 87-18

WHEREAS, Internal auditing is an ongoing independent appraisal activity within an organization for the review of operations as a service to management; and

WHEREAS, Internal auditing is a managerial control that functions by measuring and evaluating the effectiveness of other controls; and

WHEREAS, The objective of internal auditing is to assist members of the organization in the effective discharge of their responsibilities and in identifying potential cost saving opportunities; and

WHEREAS, Internal auditing furnishes managers with analyses, appraisals, recommendations, counsel, and information concerning the activities reviewed and promotes effective control at reasonable cost; and

WHEREAS, The scope of internal auditing encompasses the examination and evaluation of the adequacy and effectiveness of the organization's system of internal control and the quality of performance in carrying out assigned responsibilities;

NOW, THEREFORE, I, William P. Clements, Jr., Governor of Texas, do direct all agencies of the State of Texas to recognize internal auditing as a highly regarded professional management support and control procedure and do recommend consideration of the following factors.

Internal auditing should be used to its maximum effect by any state agency, particularly those that meet at least one of the following criteria:

- (1) an operating budget exceeding \$10 million annually;
- (2) a staff of more than 200 employees;
- (3) the receipt and processing of cash items in excess of \$5 million annually;
- (4) operation of 12 or more field offices or branches that process material cash amounts or utilize significant amounts of state supplies; or
- (5) a recommendation by the State Auditor that an internal auditing program should be implemented by the agency.

The governing body of a state agency using an internal auditing program should ensure its continuing review of the program's results by adopting rules or policies that provide for one or both of the following:

- (1) a subcommittee that will meet with the internal auditing director on a scheduled basis and review the program and internal audit reports; or
- (2) a permanent item on the board or commission agenda to discuss the program and receive its reports.

An agency's internal auditing program should be managed by a director appointed by and responsible to the chief executive officer and should have unrestricted and officially documented access to the agency's governing board

or a subcommittee of the board. The chief executive officer should receive board concurrence in the appointment of or removal of the director.

The director of an internal auditing program should have extensive and verified experience as a professional supervising auditor and should preferably be a Certified Internal Auditor or a Certified Public Accountant.

The duties of the director of an internal audit program should include the following:

- (1) coordination with agency executives in the establishment of an internal auditing program that will conform to the standards promulgated by The Institute of Internal Auditors, Inc.;
- (2) operation of the program as a positive support for management at all levels of the agency;
- (3) performance of audit reviews and formulation of recommendations without responsibility for nonaudit related assignments or tasks; and
- (4) coordination of liaison activities with the State Auditor and other external auditors and communication with other audit and budget or oversight offices.

This executive order shall be effective immediately and shall remain in full force and effect until modified, amended, or rescinded by me.

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

TRD-8710391

William P. Clements, Jr.
Governor of Texas

Proclamation 41-2202

I, WILLIAM P. CLEMENTS, JR., Governor of Texas, do hereby certify that severe thunderstorms and tornados caused a disaster in State Disaster Districts 1B, 2B, 6A, and 6B. The storm occurred on November 15 and 16, 1987.

Therefore, in accordance with the authority vested in me by §5(d) of the Texas Disaster Act of 1975, I do hereby proclaim the existence of such disaster and direct that all necessary measures both public and private as authorized under §5(e) of the Act be implemented to meet that disaster.

As provided in §5(g) all rules and regulations that may inhibit or prevent prompt response to this disaster are suspended for the duration of the incident.

- Ⓢ In accordance with the statutory requirements, copies of this Proclamation shall be filed with the applicable authorities.

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

TRD-8710392

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*.

Open Records Decision

ORD-483 (RQ-1163). Request from L. L. Bowman, III, Commissioner, Texas Savings and Loan Department, Austin, concerning whether information relating to reviews of particular savings and loan institutions is exempt from disclosure under the Open Records Act, Article 6252-17a.

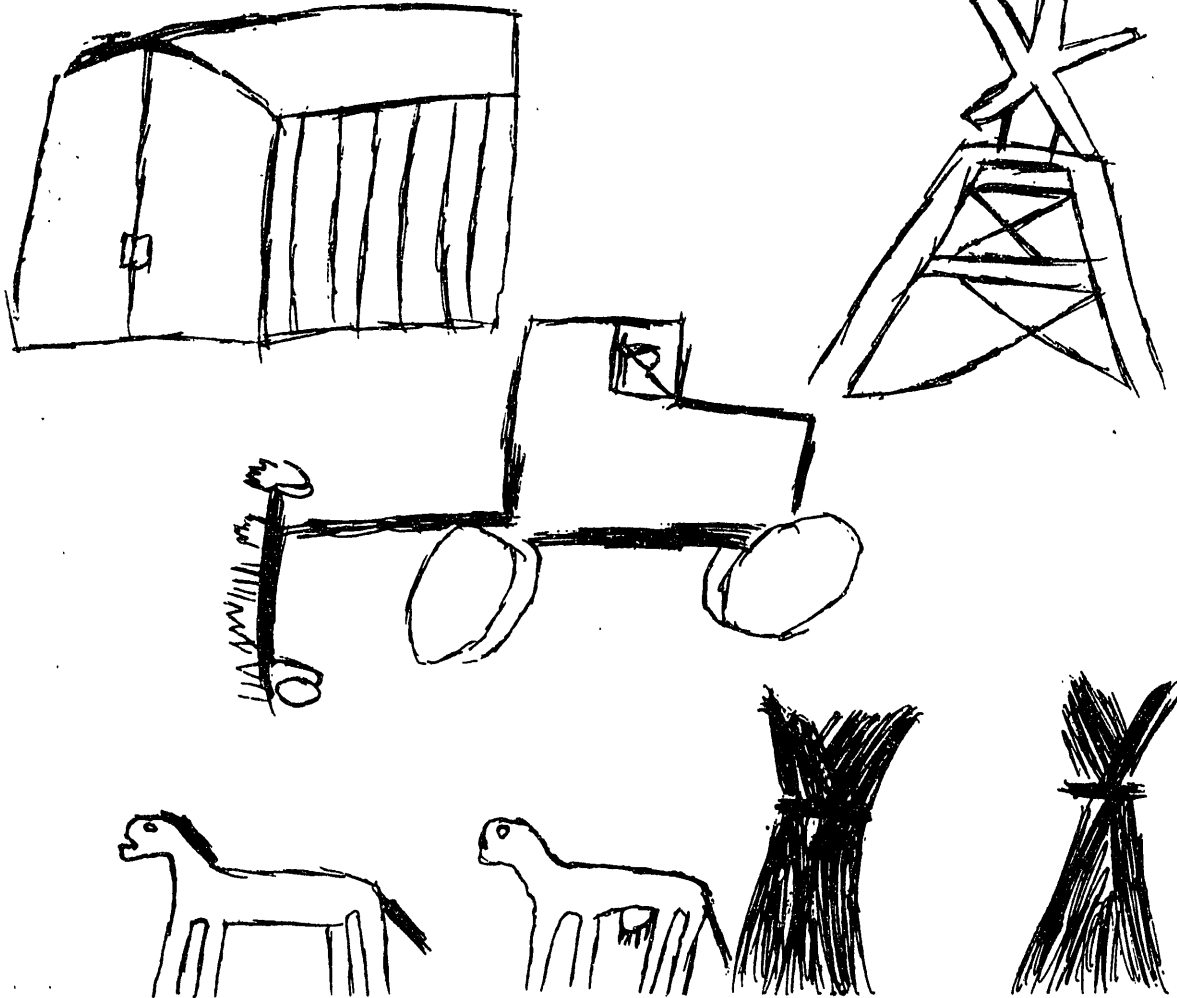
Summary of Decision. The Texas Savings and Loan Department may withhold from

public disclosure reports of investigations that identify particular savings and loan institutions pursuant to the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a, §11.18 and §8.05(d) in conjunction with the Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(1). Additionally, insofar as the information requested consists of financial information submitted with an application for a charter, the information may be withheld under the Savings and Loan Act, §2.01(b), in conjunction with

the Open Records Act, §3(a)(1).

Neither these provisions nor the Open Records Act, §3(a)(12), however, protect general discussions, compilations, or statistics regarding the general condition of the savings and loan industry that do not identify particular institutions under investigation or supervision.

TRD-8710442



Name: Jackie
Grade: 3
School: Maedgen Elementary, Lubbock

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 81. Elections

Political Parties

★1 TAC §§81.100-81.123

The Office of the Secretary of State adopts on an emergency basis the repeal of §§81.100-81.123, concerning political parties. The repeals allow for the proposal of new §§81.100-81.131, which provide for the proper conduct of the 1988 primary elections. The new sections are simultaneously proposed and adopted on an emergency basis, and are published concurrently in this issue of the *Texas Register*.

The repeal of these sections is necessary to obtain and maintain uniformity in the application of the provisions of the Texas Election Code regarding the financing of the primary elections.

The repeals are adopted on an emergency basis under the authority provided the Secretary of State under Texas Education Code, §31.003, which requires the Secretary to obtain and maintain uniformity in the application, interpretation, and operation of the Texas Election Code and election laws, and in performing such duties to prepare detailed and comprehensive written directives and instructions based on such laws. Additional authority is provided by the Texas Election Code, §173.006, which is specific to the secretary's duties relating to primary finance.

§81.100. *Primary Administrator.*

§81.101. *Other Salaried Personnel.*

§81.102. *Contracts for Labor.*

§81.103. *Employee Fidelity Bond.*

§81.104. *Office Rent.*

§81.105. *Office Equipment.*

§81.106. *Office Supplies and Copies of the Texas Election Code.*

§81.107. *Telephone and Postage Charges.*

§81.108. *Competitive Quotations for Services or Products.*

§81.109. *Bank Account for Primary Fund Deposits and Expenditures.*

§81.110. *Deposit of Currency.*

§81.111. *List of Candidates and Filing Fees.*

§81.112. *Signature on Checks; Authorization of Primary Fund Expenditures.*

§81.113. *Payee of Checks Restricted to an Entity or Person.*

§81.114. *Form of Payments; Petty Cash Fund; Documentation of Petty Cash Transactions.*

§81.115. *Documentation of Expenses.*

§81.116. *General Primary Election Cost Estimate Transmitted to the Secretary of State Prior to the Close of the Regular Filing Period.*

§81.117. *Returning Surplus Funds.*

§81.118. *County Election Officer Not to Receive Compensation Under Election Services Contracts For 1986 Primary Election.*

§81.119. *Compensation for Services at the Polling Place.*

§81.120. *Compensation for Delivering Election Records and Supplies.*

§81.121. *Number of Election Workers Per Voting Precinct.*

§81.122. *Number of Voting Machines, Devices, and/or Precinct Ballot Counters Per Voting Precinct.*

§81.123. *Estimating Voter Turnout.*

Issued in Austin, Texas, on November 23, 1987.

TRD-8710529

Randall H. Erben
Assistant Secretary of
State
Office of the Secretary
of State

Effective date: November 23, 1987

Expiration date: March 22, 1988

For further information, please call
(512) 463-5701.



★1 TAC §§81.100-81.131

The Office of the Secretary of State adopts on an emergency basis new §§81.100-81.130, concerning political parties. The new sections provide for the proper conduct of the 1988 primary elections.

The new sections are necessary to obtain and maintain uniformity in the application of the provisions of the Texas Election Code, regarding the financing of the primary elections.

The new sections are adopted on an emergency basis under the authority provided the Secretary of State under the Texas Election Code, §31.003, which requires the secretary to obtain and maintain uniformity in the application, interpretation, and operation of the Texas Election Code and election laws, and in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws. Additional authority is provided by the Texas Election Code, §173.006, which is specific to the secretary's rule-making authority relating to primary finance.

§81.100. *Personnel Prior to December, 1987.* Notwithstanding the provisions of other primary finance rules, a county with registered voters in excess of 100,000 may employ one person beginning November 24, 1987, or immediately upon the effective date of these sections, whichever is earlier, whose salary and related expenses are payable from the primary fund. Only services which must be performed prior to December 1, 1987, for the proper conduct of the 1988 general primary election and which are otherwise payable from the primary fund under the Texas Election Code, Chapter 173, may be compensated from the primary fund. Related expenses are those that are necessary, reasonable, and directly related to only those services which must be performed prior to December 1, 1987, for the proper conduct of the 1988 primary election. The person's related expenses may not exceed 50% of the person's monthly salary schedule as determined by the rule setting forth the compensation for salaried personnel. A written description of the person's job, duties, responsibilities, services, hours to be worked, and related expenses for this month must accompany the request for the employment of such person and the general primary election cost estimate.

§81.101. *Primary Administrator.* In counties with more than 100,000 registered voters, county chairmen may employ a primary administrator for the period beginning on December 1 preceding the primary elections and ending on the last day of the month in which the last primary election is held (general or runoff primary). If the county executive committee contracts with the county election officer to perform election services pursuant to the Texas Election Code, Chapter 31, Subchapter D, a primary administrator may not be employed without the prior written approval of the secretary of

state. The maximum salary payable from the primary fund to a primary administrator shall be \$2,000 per month, and such compensation must reasonably reflect the duties and responsibilities assigned to the administrator. No payment from the primary fund is allowable for transportation or other personal expenses incurred by the primary administrator in the performance of his duties. A written description of the primary administrator's job, hours, duties, responsibilities, and services must accompany the request for the employment of the primary administrator and the general primary election cost estimate. If the county executive committee wishes to employ both a primary administrator and the county elections officer pursuant to an election services contract, such written description of the primary administrator's job, duties, responsibilities, and services must be submitted with the request to employ the primary administrator and the proposed election services contract.

§81.102. Other Salaried Personnel. Salaries or wages of personnel necessary to aid in the conduct of the primary elections are payable from the primary fund for the period beginning on December 1 preceding the primary elections and ending on the last day of the month in which the last primary election is held (general or runoff primary election). Such personnel may not be employed without the prior written approval of the secretary of state. Compensation for each salaried person performing clerical or secretarial duties may not exceed \$1,500 per month. Compensation for each salaried person performing duties related to the conduct and administration of the primary elections may not exceed \$1,800 per month. Salaries must be reasonable for the hours worked and services rendered and must reflect the salaries paid in the locale for the same or similar services. A list of necessary personnel must accompany the request for the employment of personnel to be paid from the primary fund transmitted to the secretary of state and must indicate the name and title of the employee, job duties, hours to be worked, period of employment, monthly or hourly rate of pay, and the estimated or actual gross pay for the period. This information must also be attached to each finance report. Copies of all quarterly 941 returns filed with the Internal Revenue Service must be transmitted to the secretary of state along with the final primary election cost report.

§81.103. Contracts for Labor. All contracts for labor necessary for the conduct of the primary elections must be in writing. The contract shall include the name of the individual, the duties, job, or services to be performed, period of employment, and the rate or fee to be paid. The fee or rate must be reasonable for the services rendered and must reflect the fee or rate prevailing in the locale for the same or similar services. Contracts for services charging over \$5,000 must re-

ceive prior written approval from the secretary of state before money from the primary fund may be expended under the terms of such contracts. The contract shall be signed by both the chairman and the contractor. Copies of all contracts for labor shall be transmitted to the secretary of state with the next primary election cost estimate or with the final primary election cost report.

§81.104. Election Services Contract. The model election services contract prescribed by the secretary of state is adopted by reference. Copies of the contract may be obtained from the Elections Division of the Secretary of State's Office, P.O. Box 12060, Austin, Texas 78711, or by calling, toll-free, 1-800-252-8683. The model contract must be used in an agreement for election services pursuant to the Texas Election Code, Chapter 31, Subchapter B, between the county executive committee and the county elections officer, unless otherwise authorized by the secretary of state. Any modification of an election services contract is not binding until approved in writing by the secretary of state, and execution of the contract is not completed until written approval is obtained. Reimbursement for training of election workers or providing materials published by the secretary of state may not be a term of an election services contract.

§81.105. Employee Fidelity Bond. The purchase of an employee fidelity bond for those persons whose responsibilities include the receipt and/or expenditure of primary funds is required and payable from the primary fund. The amount of the bond is based upon the anticipated total amount of money the employee is expected to handle for the period beginning December 1 before the primary elections and ending the last day of the month in which the final primary election (either general or runoff) is held. The maximum anticipated amount of money handled by any such employee for purposes of determining the cost of the bond shall be \$50,000. Chairmen are not required to post such bonds.

§81.106. Office Rent. Office rent is payable from the primary fund for the period beginning on December 1 preceding the primary elections and ending on the last day of the month in which the last primary is held (general or runoff primary election). A copy of the lease agreement or explanation of change in such agreement shall be transmitted to the secretary of state along with the general primary election cost estimate. Office rent shall not exceed the fair market rate for office space in the locale. Any change in a lease agreement and an explanation of such change shall be transmitted to the secretary of state with the next required primary election estimate or report. If the home or business of a party officer is used as an office in connection with the conduct of the primary elections, primary funds shall not be paid for the rental of such office unless no other such office is established for required activity re-

lated to the conduct of the primary elections. Only rental of the portion of the home or business regularly and exclusively used for primary election purposes may be paid from the state primary fund. The amount of allowable rental is determined by multiplying the percentage of the home or business used as such office by the rental or mortgage payment for the applicable period. If no rental or mortgage payment is paid, then the fair market rental of the home or business is to be used in the calculations.

§81.107. Office Equipment. Office equipment (including telephone equipment) necessary for the administration of the primary elections may be leased for the period beginning December 1 preceding the primary and ending on the last day of the month in which the last primary is held (general or runoff primary election).

§81.108. Office Supplies and Copies of the Texas Election Code. Purchases of office supplies necessary for the administration of the primary elections are payable from the primary fund. The expenditure for purchase of two copies of a paperback version of the Texas election code is authorized from the primary fund.

§81.109. Telephone and Postage Charges. Telephone costs (including rental and installation charges for no more than two telephones) and postage charges which are incurred during the period from December 1 preceding the primary elections and ending on the last day of the month in which the last primary is held and which are related to the administration of the primary elections, are payable from the primary fund. Any cost not directly attributable to the conduct of the primary elections is not payable from the primary fund.

§81.110. Competitive Quotations for Services or Products. Unless prior approval of the secretary of state is obtained, chairmen must purchase all services and products using competitive quotations from two or more sources if more than one source is available in the state. Documentation or explanation of the lack of availability of competitive quotations must be submitted with the general primary election cost estimate. This section does not apply to petty cash expenditures of \$100 or less.

§81.111. Bank Account for Primary Fund Deposits and Expenditures. Chairmen shall establish and maintain a bank account for the sole purpose of depositing and expending primary funds. Primary funds shall not be commingled with any other fund or account.

§81.112. Deposit of Currency. All filing fees and contributions received in currency shall be deposited intact into the primary fund.

§81.113. List of Candidates and Filing Fees. A complete list of candidates, including the office sought and amount of filing fees received from each candidate, shall be trans-

mitted to the secretary of state by January 14, 1988.

§81.114. *Interest on Loans.* Interest on loans of money to cover operating costs until the receipt of primary funds approved by the secretary of state is not payable from the primary fund. Such start-up money should be obtained from the secretary of state by filing a general primary election cost estimate.

§81.115. *Signature on Checks; Authorization of Primary Fund Expenditures.* All checks written on the primary fund shall be personally signed by either the chairman or a bonded agent for the chairman, except that payroll checks and checks to sole source vendors must be signed by the chairman. All primary fund expenditures shall be authorized by the chairman.

§81.116. *Payee of Checks Restricted to an Entity or Person.* No check written on the primary fund shall be made payable to cash or bearer. All checks shall be made payable to an entity or person.

§81.117. *Form of Payments; Petty Cash Fund; Documentation of Petty Cash Transactions.* All payments from the primary fund shall be made by check, except that chairmen may establish a petty cash fund not exceeding \$100 for minor purchases and payments. Complete documentation of all petty cash transactions shall be kept.

§81.118. *Documentation of Expenses/Record Keeping.* Copies of all bills, invoices, contracts, petty cash receipts, and any other related materials supporting primary election costs shall be transmitted to the secretary of state upon request. Such records must be preserved for a period ending not later than one calendar year from July 1 following the primary elections, but if court action or an official investigation is pending, they shall be preserved until the termination of such court action or official investigation.

§81.119. *Legal Expenses.* No legal expenses may be paid from the primary fund without the prior written approval of the secretary of state. Before entering into a contract for legal services anticipated to be payable from primary funds, the chairman must contact the secretary of state and obtain a determination that such legal services are payable from the primary fund. Such determination must be verified in writing and submitted to the chairman.

§81.120. *Transfer of Records to New Chairman.* The chairman is responsible for the complete and orderly transfer to his successor or the county appropriate committee of all records required by law in connection with the primary election. If a vacancy occurs in the office of chairman, the executive committee shall appoint a custodian of these records until a successor is appointed or elected.

§81.121. *General Primary Election Cost Estimate Transmitted to the Secretary of State Prior to the Close of the Regular Filing Period.* If the general primary election cost estimate is transmitted to the secretary of state prior to the close of the regular filing period, chairmen shall estimate the amount of filing fees to be collected. The amount of estimated filing fees shall be reported as a financing source on the general primary election cost estimate. When the general primary election cost estimate is transmitted to the secretary of state after the close of the regular filing period, chairmen shall report the actual amount of filing fees received as a financing source on the general primary election cost estimate.

§81.122. *Returning Surplus Funds.* Any surplus remaining in a primary fund account after payment of approved expenses shall be remitted to the secretary of state, primary fund account, with the final cost report, but not later than July 1 following the primary election unless otherwise provided by the secretary of state.

§81.123. *County Election Officer Not to Receive Compensation under Election Services Contracts for 1988 Primary Election.* An election services contract for the 1988 primary elections shall not provide for any additional salary or compensation of the county election officer for the performance of an primary election duty or service.

§81.124. *Transportation Costs.* No payment from the primary fund is allowable for transportation or other personal expenses incurred by the chairmen or party employees in the performance of their duties.

§81.125. *Compensation For Services at the Polling Places.* For the 1988 general and runoff primary elections, the hourly compensation for election officers shall not exceed \$5.00.

§81.126. *Compensation for Delivering Election Records and Supplies.* Compensation of the election judge or clerk who delivers the election records, equipment, and unused supplies after the 1988 general and runoff primary elections may not exceed \$15 for each election.

§81.127. *Estimating Voter Turnout.*

(a) County chairmen should use the following formula as a starting point in determining the estimated voter turnout for the 1988 primary elections. The result achieved from utilizing the formula should be adjusted for other factors likely to affect turnout locally. Among these factors include hotly contested races, organizing by state and national candidates, the level of political interest, and shifts in party affiliation. Because of these and other factors, the county chairman should determine whether the local political situation suggests a higher turnout, and, if so, his estimate should be adjusted to take such factors into account. In presenting such estimate, the chairman should present those factors and his or her analysis of those factors, and the secretary of state will evaluate such higher estimates based on the factors and analysis on a case-by-case basis.

A.

B.

Highest % Voter Turnout for
a Statewide Race in the 1984
or 1986 Party Primary (Percentage
Turnout is the number of registered
voters divided by the sum of all
votes cast for all candidates in
one contested race)

X Number of Registered
Voters as of December
1987

C.

D.

$$\begin{array}{rcl}
 50\% \text{ of the Resulting} & = & \text{Preliminary Estimated} \\
 + \text{ Number (A X B)} & & 1988 \text{ Turnout}
 \end{array}$$

$$(A \times B + C = D)$$

(b) After estimating the voter turnout for each precinct, county chairmen should then use the guidelines set forth in §§81.128-81.130 of this title (relating to Number of Paper or Electronic Voting System Ballots Per Voting Precinct; Number of Election Workers Per Precinct; and Number of Voting Machines, Devices, and/or Precinct Ballot Counters Per Voting Precinct) to determine the necessary physical requirements (i.e., ballots, election judges, and clerks, voting devices, or machines) for each precinct. After estimating the physical requirements for each precinct, county chairmen should combine the precinct data to arrive at the total estimated physical requirements of the primary election countywide. This may then be used to estimate the election costs.

to each voting precinct for a primary election shall be equal to the estimated voter turnout as determined by the county chairman pursuant to §81.127 of this title (relating to Estimating Voter Turnout). In no event shall the minimum number of ballots be less than arrived at by application of the numerical formula. The number of ballots provided may significantly exceed the estimated number of voters determined by the numerical formula, since the number of ballots provided should never be so low as to impede the voting process or to jeopardize the rights of voters. The maximum number of ballots may equal the total number of registered voters of the precinct if such a number may be substantiated.

tion is two, for a total of three workers, including the presiding judge (Texas Election Code, §173.008(c)). Pursuant to the Texas Election Code, §32.072(b), after providing for the statutory requirement of two clerks, the presiding judge may allocate any additional clerks allowed under these guidelines among such work periods as he may choose. Thus, a third clerk position could be used to hire three additional clerks to work one four-hour shift each from 4 p.m. to 7 p.m. or six clerks to work from 5 p.m. to 7:30 p.m. Additionally, a new provision under the Texas Election Code, §32.073, allows clerks to leave before the polls close up to the time of the counting or examination of ballots begins. Thus, unnecessary clerks may be excused early, preventing unwarranted personnel expenses.

§81.128. *Number of Paper or Electronic Voting System Ballots per Voting Precinct.* The minimum number of ballots furnished

§81.129. *Number of Election Workers per Voting Precinct.* The following table must be used to determine the number of election workers allowable for each precinct. The minimum number of clerks in a primary elec-

Number of Election Workers

Per Voting Precinct

(Includes one judge and one alternate judge)

Estimated Voter Turnout Per Voting Precinct	Paper Ballot	Punch Card, Optical Tabu- lators and Voting Machine
200 or fewer	3	3
201 - 400	5	4
401 - 700	6	5
701 - 1100	8	6
1101 or more	12	8

§81.130. Number of Voting Machines, Devices, and/or Precinct Ballot Counters per Voting Precinct.

(a) The following table must be used to determine the number of voting machines,

precinct ballot counters, and punch card voting devices allowable for each precinct.

Number of Voting Machines,
Devices and/or Precinct Ballot Counters

Estimated Voter Turnout Per Voting Precinct	Voting Machines	Punch- Card Devices	Precinct Ballot Counters (Punch-Card or Optical Tabulators)
100 or less	2	2	1
101 - 300	2	2	1
301 - 600	2	4	1
601 - 900	3	6	1
For each additional:			
300 voters	1	N/A	N/A
350 voters	N/A	1	N/A

(b) In counties where voting machines are to be used, the county chairman should make a special assessment of whether the number of voting machines calculated according to this formula is adequate and make a provision both in his cost estimate and his actual procurement of voting machines accordingly.

§81.131. Application of Sections. These sections apply to cost estimates by the chairman of either state or county executive committees, as applicable.

Issued in Austin, Texas, on November 23, 1987.

TRD-8710530

Randall H. Erben
Assistant Secretary of
State
Office of the Secretary
of State

Effective date: November 23, 1987
Expiration date: March 22, 1988
For further information, please call
(512) 463-6701.



TITLE 19. EDUCATION
Part II. Texas Education
Agency
Chapter 129. Student
Attendance
Subchapter D. Student
Attendance Accounting
★ 19 TAC §129.61

The Texas Education Agency adopts on an emergency basis an amendment to §129.61, concerning requirements for student attendance accounting for state funding purposes. The amendment implements Senate Bill 1, 70th Legislature, 1987, Second Called Session, which mandated timely reporting of student attendance information and directed the withholding of Foundation School Program payments from school districts that do not meet reporting deadlines. The amendment also authorizes school district to use and report only the fall report of pupil attendance as the district's best four of

eight weeks of attendance accounting for state funding purposes.

The amendment is adopted on an emergency basis to ensure agency compliance with the requirements of Senate Bill 1 during the 1987-1988 school year and to enable school districts that wish to use only the fall reporting period to do so.

This emergency adoption is identical to a proposed amendment published in the September 29, 1987, issue of the *Texas Register* (12 TexReg 3458).

The amendment is adopted on an emergency basis under the General Appropriations Act, 70th Legislature, 1987, Article III, §1, Rider Number 17, which directs the State Board of Education to establish reporting deadlines for student attendance information and to withhold Foundation School Program funds from districts not in compliance.

§129.61. Requirements for Student Attendance Accounting for State Funding Purposes.

- (a) (No change.)
- (b) The State Board of Education

shall establish reporting deadlines for the counts of students in average daily attendance. If a school district has not filed the required report by the deadline prescribed, then payments from the foundation school fund will be withheld from the district until an acceptable report is filed. The commissioner of education may establish a later deadline for specific district where unusual circumstances justify a later date.

(c)(b) Average daily attendance shall be determined [based] on the best four weeks of eight weeks of attendance.

(1) (No change.)

(2) Districts may opt to use the fall report of pupil attendance as their best four of eight weeks of attendance accounting for purposes of calculating foundation school funds. District choosing to report the fall four weeks only will annually notify the Central Education Agency of their intent to do so on an agency form provided for that purpose. Districts opting for the fall four weeks will not be required to maintain attendance accounting data in the daily register of pupil attendance, or equivalent system, for the spring four week attendance accounting period. Entry and withdrawal data must, however, continue to be maintained for the entire school year.

(3)(2) Any district in which fewer than four school days are scheduled or held during one of the designated weeks shall inform the commissioner of education, who may approve the next full week at the end of the reporting period for that district. Districts which count attendance in an alternate week shall report to the commissioner of education such information concerning transfers into and out of the district as the commissioner may require.

(4)(3) Districts shall maintain records and make reports concerning student attendance and participation in bilingual education, special language programs, vocational education, and special education, and gifted and talented education as required by the commission of education.

(5)(4) If a school chooses to use a locally developed record, it must contain the minimum information required by the commissioner of education.

(d)(c) When classroom instruction is organized on a departmentalized basis, a central attendance accounting system must be used.

(e)(d) A student must be enrolled for at least two hours to be considered in membership for half-day, and for at least four hours to be considered in membership for one full day.

(f)(e) Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless permission has been obtained from the Central Education Agency for an alternate period to record absences.

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

(g)(f) A student who is not actually in school at the time attendance is taken shall

not be counted in attendance for Foundation School Program funding purposes unless the student is participating in an activity which meets the conditions set out in subsection (h)(g) of this section.

(h)(g) A student not actually on campus at the time attendance is taken may be considered in attendance for Foundation School Program purposes under the following conditions:

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

(i)(h) In accordance with the Texas Education Code, §21.035, students may be excused for medical, dental, and psychological appointments; for special education assessment procedures; and for special education related services. However, if such students are absent when attendance is taken, they shall not be counted present for Foundation School Program purposes.

(j)(i) The superintendent of schools is responsible for the safekeeping of all attendance records and reports. The superintendent of schools may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or property stored on the respective school campuses of the district. Regardless of where such records are filed or stored, they must be readily available for audit by the Division of Audits of the Central Education Agency.

(k)(j) Each teacher or other school employee who records student attendance shall certify in ink that all such records are true and correct to the best of the teacher's knowledge and that they have been prepared in accordance with laws and regulations pertaining to student attendance accounting.

(l)(k) Late afternoon and evening schools.] The requirements concerning pupil attendance accounting for later afternoon or evening school are as follows:

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

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

TRD-8710481

W. N. Kirby
Commissioner of
Education

Effective date: November 20, 1987
Expiration date: March 19, 1988
For further information, please call
(512) 463-9212.

◆ ◆ ◆
**TITLE 34. PUBLIC
FINANCE**
**Part I. Comptroller of
Public Accounts**
**Chapter 1. Central
Administration**
Practice and Procedure

★34 TAC §1.29

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §1.29, concerning motions for

rehearing. The amendment requires a refund claimant to set out the amount of the refund sought. The amendment is the result of changes made during the 70th Legislature, 1987.

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

§1.29. Motion for Rehearing. A motion for rehearing may be filed by any party, but to be timely, it must be filed with the clerk of the administrative law judges within 15 days from the date the comptroller's decision is issued. The motion must state each specific ground upon which the party believes the comptroller's decision is erroneous. **In addition, a motion for rehearing on a refund claim must state the amount of the refund sought.** Any reply to a motion for rehearing must be filed within 25 days after the date the decision is rendered. The motion will be acted on within 45 days after the date the decision is rendered. These times may be varied only as provided by the Administrative Procedure and Texas Register Act, §16 (e) and (f). If a rehearing is granted, a notice will be issued to the parties setting out all pertinent information.

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

TRD-8710406

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 19, 1987
Expiration date: March 18, 1988
For further information, please call
(512) 463-4004.

◆ ◆ ◆
★34 TAC §1.30

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §1.30, concerning court suits for refunds. The amendment requires refund claimants to attach a copy of their original protest letter to a petition for refund of taxes and to set out the amount of refund sought. The amendment is adopted on an emergency basis as a result of changes made to the Tax Code during the 70th Legislature, 1987.

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

§1.30. Court Suit for Refund. To gain access to the courts of Texas, the total amount of tax, penalty, and interest in question must be paid and suit timely filed for its refund in a district court of Travis County, under the provisions of the Tax Code,

§§112.051-112.053 or §112.151 and §112.152.

(1) To properly invoke the court's jurisdiction under the Tax Code, §§112.051-112.053, it is not necessary to pursue any administrative remedies with the agency; however, the taxpayer is required to accompany the payment with a protest letter that sets out in detail every ground the taxpayer intends to raise in the lawsuit; the suit must be filed within 90 days from the date of payment; a copy of the original protest letter must be attached to the original petition; and a copy of the original petition and attachment(s) must be served on [and] the comptroller, the state treasurer, and the attorney general [must be named] as party defendants.

(2) To properly invoke the court's jurisdiction under the Tax Code, §112.151 and §112.152, the taxpayer is required to timely petition the agency for a refund and to timely file a motion for rehearing of the comptroller's decision denying the refund (reference should be made to §1.29 of this title (relating to Motion for Rehearing)). The motion for rehearing must state in detail every ground the taxpayer intends to raise in the lawsuit[,] and the amount of refund sought; a copy of the motion for rehearing must be attached to the original petition filed with the court; a copy of the original petition and attachment(s) must be served on the comptroller, as defendant; and suit against the comptroller must be filed within 30 days from the date the motion for rehearing is overruled.

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

TRD-8710404

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 19, 1987

Expiration date: March 18, 1988

For further information, please call

(512) 463-4004.

Chapter 3. Tax Administration Subchapter V. Bingo Regulation and Tax

★34 TAC §3.544

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.544, concerning definitions. The amendment expands the definition of the term "fraternal organization" to include nonprofit National Historical District Preservation Committees and specifies that daubers and glue sticks are not bingo equipment.

This amendment is adopted on an emergency basis so that the definition of the term "fraternal organization" in §3.544 will not conflict with the definition of the same term in the Bingo Enabling Act, as amended, effective September 1, 1987.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

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

Authorized organization or licensed organization—One of the following:

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

(C) a fraternal organization—

(i) any nonprofit organization, including a lodge, chapter, post, tribe, or any auxiliary or other subordinate organization affiliated with and chartered by a state or national organization that is organized to perform and engages primarily in performing charitable, benevolent, patriotic, employment-related, or educational functions, and that:

(I)(i) does not distribute any of its income to its members, officers, or governing body other than as reasonable compensation for services;

(II)(ii) has been organized in Texas for at least three years preceding its application for a license and:

(-a)-(I) has had a governing body of officers elected by a vote of members or by a vote of delegates elected by the members; or

(-b)-(II) has been affiliated with a state or national organization organized to perform the same purposes;

(III)(iii) has had a bona fide membership actively and continuously engaged as an organization in furthering its authorized purposes during the three years preceding its application for a license;

(IV)(iv) is not an organization whose members are predominantly veterans or dependents of veterans of the armed forces of the United States; and

(V)(v) has a §501(c) exemption from the Internal Revenue Service;[,] or

(ii) a nonprofit National Historical District Association representing the owners and lessees of a majority of the real property located within a national historical district so determined and designated by the National Register of Historic Places, Heritage Conservation and Recreation Service (HCRS) of the United States Department of the Interior, whose net proceeds are used for restoration, construction, maintenance, and security within the district, and which has been so designated for at least five years.

(D)-(E) (No change.)

Bingo equipment and supplies—Items used, made, or sold for use in bingo games.

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

(D) Bingo equipment and supplies also does not include daubers and glue sticks.

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

TRD-8710454

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 20, 1987

Expiration date: March 19, 1988

For further information, please call

(512) 463-4004.

★34 TAC §3.548

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.548, concerning general restrictions on the conduct of bingo. The amendment revises subsection (d) to prohibit advertising of prize amounts, subsection (l) to delete certain language, and subsection (j) to refer to §3.562, concerning unauthorized prizes.

The amendment is adopted on an emergency basis to implement the provisions of House Bill 1043, which became effective September 1, 1987, and to avoid conflict with §3.562, concerning unauthorized prizes.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.548. General Restrictions on the Conduct of Bingo.

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

(d) Advertising. All advertisements for bingo games, whether in newspapers, fliers, pamphlets, brochures, or other circulars, billboards, signs, or recordings, must clearly identify the name of the licensed authorized organization [bingo operator], its bingo license number, and the days and times of the occasions it will operate. Only a licensed authorized organization may advertise or promote bingo. No licensed authorized organization may include in any advertisement or promotion in the amount of a prize or prizes offered at a bingo occasion. A reference to the prize limits allowed by the Bingo Enabling Act, so long as no specific amount is mentioned, is allowed.

(e)-(h) (No change.)

(i) Other games prohibited. No unlawful games of chance of any kind other than bingo, whether any separate or additional charge is required or not, may be conducted or allowed on the premises, as that term is defined in §3.544 of this title (relating to Definitions), during any occasion when bingo is played. [A raffle or lottery is an example of an unlawful game of chance. A drawing where no payment of any kind is necessary to be eligible to win is not an unlawful game of chance. Bingo proceeds may not be used to purchase any prize given at a drawing.]

(j) Gifts prohibited. No license or holder of a temporary authorization may offer, distribute, or give any service, thing of value, or opportunity to play bingo without charge, unless all players are offered or given the service, thing of value, or opportunity to play without charge. Bingo proceeds may not be used to purchase any such service or thing of value. This subsection does not apply to additional prizes which are prohibited by §3.562 of this title (relating to Unauthorized Prizes).

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

Issued in Austin, Texas, on November 20, 1988.

TRD-8710455

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 20, 1987
Expiration date: March 19, 1987
For further information, please call
(512) 463-4004.

★34 TAC §3.550

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.550, concerning bingo reports. The amendment deletes references to areas where the bingo gross receipts tax has not been imposed because there was imposed a state bingo gross receipts tax effective September 1, 1987.

The amendment is adopted on an emergency basis to avoid confusion by bingo licensees in paying the new bingo gross receipts tax.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.550. *Bingo Reports.*

(a) Quarterly reports for gross receipts tax and for information relating to the conduct of bingo games.

(1) An authorized organization holding an annual license, temporary license, or a temporary authorization to conduct bingo [in an area in which the bingo gross receipts tax has been imposed] must file on a form provided by the comptroller a quarterly report for gross receipts taxes and statistical information relating to the conduct of bingo games. The report must be accompanied by any tax due and must be filed on or before the 15th day of the month following the end of the calendar quarter even if there were no gross receipts or gross receipts subject to tax for that quarter.

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

(4) Organizations holding an annual license, temporary license, or temporary authorization to conduct bingo in an area in which the bingo gross receipts tax has not been imposed must file a quarterly report

containing statistical information relating to the conduct of bingo on a form provided by the comptroller. The report must be filed on or before the 15th day of the month following the end of the calendar quarter and be signed by the member designated as responsible for the filing of reports.]

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

(g) This section, as amended, is effective for all quarterly reports and bingo gross receipts tax payments due on or after January 1, 1988, covering periods beginning with the fourth quarter of 1987. [The effective date of this section is December 31, 1984.]

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

TRD-8710453

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 20, 19887
Expiration date: March 19, 1988
For further information, please call
(512) 463-4004.

★34 TAC §3.554

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.554, concerning instant bingo. The amendment revises subsection (d)(3) to allow play of instant bingo during all licensed times and to allow sales of instant bingo cards prior to a licensee's authorized playing times (provided that redemption may be made only during licensed times); repeals that present paragraphs (5) and (9) in subsection (d), which restrict prize amounts and sales percentages for instant bingo, since the Bingo Enabling Act sets a separate prize limit for instant bingo effective September 1, 1987; revises subsection (a)(2)(D) to eliminate the requirement that every instant bingo card be no less than 12 square inches in area when opened; revises subsection (c)(4) to require use of pattern gluing on all instant bingo cards offered for sale by licensees on or after February 1, 1988; and renumbers other paragraphs as necessary. The amendment is intended to clearly inform manufacturers, distributors, licensees, and their employees and agents of the rules relating to the conduct of instant bingo as permitted under the Bingo Enabling Act, Texas Civil Statutes, Article 179d.

The amendment is adopted on an emergency basis and is intended to clarify certain requirements in connection with the conduct of instant bingo pursuant to §3.554, concerning instant bingo and the Bingo Enabling Act. The amendment implements the statement of legislative purposes expressed in the Bingo Enabling Act, §16(a) and §13(f), of requiring the comptroller of public accounts to exercise strict control and close supervision over all games of bingo conducted in this state to the end that the games are fairly conducted, and of discouraging the commercialization of bingo and maximizing the

availability of bingo proceeds for charitable purposes, respectively.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.554. *Instant Bingo.*

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

(1) (No change.)

(2) Instant bingo card—A device used to play a specific game of chance consisting of an individual card, the face of which is initially hidden from view to conceal numbers. Each individual card must:

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

[(D) be no less than 12 square inches in area when opened;]

[(D)][(E)] contain the series number assigned by the manufacturer;

[(E)][(F)] contain the manufacturer's name or trademark;

[(F)][(G)] disclose the amount and number of prize winners, the number of individual cards contained in a deal, and the cost per card; and

[(G)][(H)] contain no other symbols, emblems, or characters.

(3) (No change.)

(b) Approval of cards.

(1) (No change.)

(2) Prototypes or examples of all cards must be presented to the **Regulatory Taxes Section, Enforcement Division** [Bingo Regulation Division], of the comptroller's office in Austin, for review. If granted, approval extends only to the specific card or series approved. If the card is modified in any way, except only in color and series number, it must be resubmitted to the comptroller for approval.

(c) Manufacturing requirements.

(1) Manufacturers of instant bingo cards must manufacture, assemble, and package each deal in such a manner that none of the winning cards, nor the location or approximate location of any of the winning cards, can be determined in advance of opening by any means or device, including any pattern in manufacture, printing, color variations, assembly, packaging markings, or by the use of a light. All winning and losing numbers conforming with designated numbers on the instant bingo card must be randomly selected. Each manufacturer must supply proof of random selection to the **Regulatory Taxes Section, Enforcement Division** [Bingo Division], by detailed description of the manufacturing process, and is subject to inspection by the comptroller or his designee.

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

(4) Each individual card must be constructed so that it is substantially impossible, in the opinion of the comptroller, to de-

termine a concealed number or numbers until it has been opened by a player. **Without limiting the requirements of the previous sentence of this paragraph, for all instant bingo cards offered for sale by a licensed organization on or after February 1, 1988, such cards shall be required to be constructed in such a manner so that card gluing occurs on all four edges of the card and between the individual breakopen tabs on the card.**

(5) (No change.)

(d) Prizes, costs, sales, percentages.

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

(3) Instant bingo cards may be sold to the playing public only by a licensed organization, and only during the times [and in the immediate vicinity that regular bingo games are in progress,] and [only] on the premises specified in its license. **All sales of instant bingo cards must be performed under the same conditions and in the same manner as sales of regular and paper special bingo cards. Thus, a licensed organization may sell instant bingo cards prior to its licensed times if none of the cards are played by being redeemed for cash or other cards except during its licensed times.**

(4) (No change.)

(5) Prizes awarded on winning instant bingo cards must be taken into consideration in determining the maximum total of \$2,500 for any one occasion. Cards must be sold and prizes awarded on winning cards far enough in advance of the close of an occasion to enable an organization to adjust, if necessary, the prizes remaining for its regular and special bingo games.]

(5)(6) A licensed organization may not withdraw a series of cards from play until the series is completely sold out, all winning cards of \$5.00 or more have been cashed, or the bingo occasion ends.

(6)(7) A licensed organization may not commingle different deals of instant bingo cards.

(7)(8) Gross receipts from the sale of instant bingo cards must be included in the reported total gross receipts of the organization.

(9) The gross receipts on any one bingo occasion from the playing of instant bingo may not exceed 50% of a licensed organization's gross receipts for that occasion.]

(e)-(g) (No change.)

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

TRD-8710451

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 20, 1987
Expiration date: March 19, 1988
For further information, please call
(512) 463-4004.

★ 34 TAC §3.558

The Comptroller of Public Accounts adopts on an emergency basis an amendment to §3.558, concerning the seal required on disposable bingo cards. The amendment revises subsection (a) to prohibit any card furnished for use in promotional bingo from containing a seal such as is required to be included on all other disposable cards; revises subsection (e)(1) to provide that the requirement that the comptroller approve cards (except promotional bingo cards) also applies to manufacturers collating cards, even though such cards were previously approved; and that any manufacturer collating cards must purchase paper for that purpose from a licensed manufacturer. The amendment is adopted on an emergency basis and is intended to clearly inform manufacturers, distributors, licensees, and their employees and agents of their duties and responsibilities regarding the conduct of promotional bingo games permitted under Texas Civil Statutes, Article 179d, Bingo Enabling Act, §39(b)(4).

The amendment implements the statement of legislative purpose expressed in the Bingo Enabling Act, §39(d)(4), of permitting the conduct of promotional bingo games in this state in accordance with the applicable sections of such Act and the rules promulgated thereunder.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 179d, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the Bingo Enabling Act.

§3.558. *Seal Required on Disposable Bingo Cards.*

(a) For the purposes of this section a disposable bingo card is a card made of paper or other suitable material which is designed or intended for use at a single bingo occasion; **provided that this section shall not apply to cards furnished for use in promotional bingo games conducted in accordance with the Bingo Enabling Act, §39, and §3.560 of this title (relating to Promotional Bingo), which cards may not contain a seal.**

(b) Subject to the implementation schedule set out in subsection (e) of this section, the face of every disposable bingo card used, sold, or otherwise furnished in this state shall bear an impression of the State of Texas and a star of five points encircled by olive and live oak branches and the words "Office of the Comptroller *Texas*," in accordance with detailed specifications, available on request from the **Regulatory Taxes Section, Enforcement** [Miscellaneous Services Section, Tax Administration] Division of the comptroller's office.

(c) (No change.)

(d) Manufacturers shall submit an example of all disposable cards to the **Regulatory Taxes Section, Enforcement** [Miscellaneous Services Section, Tax Administration] Division of the comptroller's office for written approval. Approval extends only to cards manufactured to the same specifications as examples submitted. Any modification of approved disposable bingo cards other than color, series numbers, serial numbers, and/or card numbers shall require submission of an example to the **Regulatory Taxes Section, Enforcement** [Miscellaneous Services Section, Tax Administration] Division of the comptroller's office for approval.

(e) The provisions of this section shall be implemented according to the following schedule.

(1) A manufacturer shall not sell or otherwise furnish unapproved disposable cards to distributors or licensed organizations for use in this state after March 31, 1986. **This requirement shall also apply to any manufacturer who assembles and collates disposable cards for sale in Texas even though such cards have been previously submitted for approval by the original manufacturer. In addition, any licensed manufacturer who collates another manufacturer's disposable cards for sale in Texas must purchase all card sheets to be used in collating such cards from a licensed manufacturer.**

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

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

TRD-8710452

Bob Bullock
Comptroller of Public
Accounts

Effective date: November 20, 1987
Expiration date: March 9, 1988
For further information, please call
(512) 463-4004.

Proposed

Rules

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

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

TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State Chapter 81. Elections Political Parties

★ 1 TAC §§81.100-81.123

(Editor's note: The Office of the Secretary of State proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the section proposed for repeal will not be published. The sections may be examined in the offices of the Secretary of State, 201 East 14th Street, Austin or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin)

The Office of the Secretary of State proposes the repeal of §§81.100-81.123, concerning the financing of the 1986 primary elections with state funds, including the determination of necessary and proper expenses relating to the proper conduct of the primary elections by party officials and the procedures for requesting reimbursement by the parties for such expenses. The repeals allow for the proposal of new §§81.100-81.131, which are simultaneously proposed and adopted on an emergency basis, and are published concurrently in this issue of the *Texas Register*.

Randall Erben, Assistant Secretary of State, 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. Erben 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 the proper conduct of the 1988 primary elections by party officials with the aid of state money appropriated for that purpose. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals.

Comments on the proposal may be submitted to Randall Erben, Assistant Secretary of State, P.O. Box 12697, Austin, Texas 78711.

The repeals are proposed under the Texas Election Code, §31.03 and §173.006, which

provide the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws, and in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws, and to adopt rules consistent with the Code that reduce the cost of the primary elections or facilitate the holding of the elections within the amount appropriated by the legislature for that purpose.

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 November 23, 1987.

TRD-8710531 Randall E. Erben
Assistant Secretary of
State
Office of the Secretary
of State

Earliest possible date of adoption:
December 28, 1987
For further information, please call
(512) 463-5701.

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

★ 1 TAC §§81.100-81.131

The Office of the Secretary of State proposes new §§81.100-81.131, concerning the financing of the 1988 primary elections with state funds, including determination of necessary and proper expenses relating to the proper conduct of the primary elections by party officials and the procedures for requesting reimbursement by the parties for such expenses.

Randall Erben, assistant secretary of state, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Erben 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 proper conduct of the

1988 primary elections by party officials with the aid of state money appropriated for that purpose. 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 Randall H. Erben, Assistant Secretary of State, P.O. Box 12697, Austin, Texas 78711.

The new sections are proposed under the Texas Election Code, §31.003 and §173.006, which provide the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws, and in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws, and to adopt rules consistent with the Code that reduce the cost of the primary elections or facilitate the holding of the elections within the amount appropriated by the legislature for the purpose.

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 November 23, 1987.

TRD-8710532 Randall H. Erben
Assistant Secretary of
State
Office of Secretary of
State

Earliest possible date of adoption:
December 28, 1987
For further information, please call
(512) 463-8701.

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas Chapter 5. Transportation Division

The Railroad Commission of Texas proposes amendments to §§5.145, 5.148, 5.423, and 5.424, and new §§5.581-5.590 (comprising new Subchapter Z), concerning prescribed rates; collective applications; applications to establish or change rates;

unprotected proceedings; and base rates, deviations, and suspensions; respectively.

The new sections and amendments are proposed to implement the rate simplification and flexibility provisions of Texas Civil Statutes, Article 911b, §4(a)(4) and §4(a)(5). The amendments provide for the nonapplicability of certain procedural structures to rate applications and procedures established in the newly amended statute, and allow carrier associations to participate in the new procedures. The new sections set up the substantive standards and procedural requirements for annual base rate review proceedings, deviation requests, and suspension petitions. The new sections also clarify the applicability of the new system to contract carriers, the effect of rate changes on deviations, and the permissibility and effect of specific rates and charges.

The availability and permissible extent of deviations is limited at this time to that mandated by the statute. The commission may extend the availability of deviations to other carriers or widen the available range of deviation requests pursuant to rulemaking procedures in the future.

The sections also clarify the permissible charges for services by contract carriers, provide for the publication of permanent deviations, and allow carriers to establish specific rates which are not subject to deviations.

Ronald D. Stutes, hearings examiner, has determined that for the first five-year period the proposed sections will be in effect there will be fiscal implications as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$88,000 for 1988, and \$99,000 for each year from 1989-1992; and an estimated increase in revenue of \$3,750 for 1988, and \$7,500 for each year from 1989-1992. There will be no fiscal implications for local governments or small businesses.

Mr. Stutes also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a more competitive and efficient transportation system, while ensuring that motor carriers continue to earn a reasonable return and preventing undue discrimination against shippers or locations. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted within 30 days to Ronald D. Stutes, Hearings Examiner, and C. Tom Clowe, Director, Transportation Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

Subchapter H. Tariffs and Schedules

★ 16 TAC §5.145, §5.148

The amendments are proposed under Tex-

as Civil Statutes, Article 911b, §4(a)(4) and §4(a)(5), which provide the commission with the authority to establish base rates and charges for the transportation of general commodities by motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities), to allow deviation from those base rates and charges, and to consider suspension petitions filed in response to those deviations.

§5.145. Prescribed Rates. Rates applicable to motor carrier(s) under the Motor Carrier Act and to motor bus companies under the Motor Bus Act are effective and lawful only when prescribed by order of the commission. Except as may be permitted by §5.582 of this title (relating to Deviations from Base Rates), no motor carrier or motor bus company shall charge or apply any rates not prescribed and effective by order of the commission.

§5.148. Collective Applications. Applications to establish or change rates, deviation requests, and petitions to suspend deviations from commission-prescribed base rates and charges, may be submitted and prosecuted, or opposed by an authorized association on behalf of a motor carrier(s) pursuant to an agreement which has been approved by the commission under §5.315 of this title (relating to Approval of Agreements Between Carriers Concerning Group Representation). Applications, protests, or interventions in opposition filed by an association must disclose, by reference to documents on file with the commission or otherwise, on whose behalf the application, protest, intervention, deviation request, or suspension petition is filed.

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 November 16, 1987.

TRD-8710485 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:
December 28, 1987
For further information, please call
(512) 463-7149.

Subchapter U. General and Special Rules of Practice and Procedure

★ 16 TAC §5.423, §5.424

The amendments are proposed under Texas Civil Statutes, Article 911b, §4(a)(4) and §4(a)(5), which provide the commission with the authority to establish base rates and charges for the transportation of general commodities by motor carriers (other than

specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities), to allow deviations from those base rates and charges, and to consider suspension petitions filed in response to those deviations.

§5.423. Applications to Establish or Change Rates.

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

(c) **Applicability.** The provisions of this section shall not apply to annual review of base rates or charges held pursuant to §5.586 of this title (relating to Procedures for Annual Base Rate Adjustment Hearings), deviation procedures held pursuant to §5.587 of this title (relating to Base Rate Deviation Procedures), or suspension procedures held pursuant to §5.588 of this title (relating to Procedures for Deviation Suspension Proceedings).

§5.424. Unprotected Proceedings.

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

(d) The provisions of this section shall apply only to applications filed pursuant to the provisions of §5.423 of this title (relating to Applications to Establish or Change Rates).

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 November 16, 1987.

TRD-8710486 Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:
December 28, 1987
For further information, please call
(512) 463-7149.

Subchapter W. Registration of Commercial Carriers

★ 16 TAC §5.501

The Railroad Commission of Texas proposes an amendment to §5.501, concerning the definition of a commercial motor vehicles. The amendment exempts the vehicles of farmers and ranchers used for agricultural purposes from the requirement that commercial motor vehicles be registered with the Railroad Commission of Texas.

Ronald D. Stutes, hearings examiner, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. There will be fiscal implications for small businesses, as small farmers will be able to avoid the large premiums for the liability insurance levels otherwise required. There will be no effect on state or local government.

Mr. Stutes also has determined that for each year of the first five years the sec-

tion is in effect the public benefit anticipated as a result of enforcing the section will be avoidance of economic burdens on small farms and ranches. 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 Ronald D. Stutes, Hearings Examiner, and C. Tom Clowe, Director, Transportation Division, P.O. Drawer 12967, Austin, Texas 78711-2967.

The amendment is proposed under Texas Civil Statutes, Article 911b, §4(a)(13), which give the commission authority to define commercial motor vehicle.

§5.501. Definitions.

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

(e) Notwithstanding the provisions of subsections (a) and (b) of this section:

(1) a motor vehicle is not a commercial motor vehicle when the vehicle is operated by or on behalf of a farmer or rancher:

(A) transporting his own poultry or poultry products, dairy products, livestock or livestock products, or farm products to market, to other points for sale, processing, or storage; or

(B) transporting materials, animals, tools, or equipment, from the place of purchase or storage to the farm or ranch of the farmer or rancher;

(2) provided, however, that this subsection shall not apply to a cooperative association of farmers or ranchers.

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 November 16, 1987.

TRD-8710487

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:

December 28, 1987

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



★ 16 TAC §5.503

The Railroad Commission of Texas proposes an amendment to §5.503, concerning liability insurance for commercial carriers. The commission proposes to prescribe two levels of minimum liability insurance dependent on the weight and size of the vehicle used. The proposed amendment will allow operators of commercial motor vehicles who operate vehicles with a gross vehicular weight of 26,000 pounds or less or with three or fewer axles to use as the minimum insurance limits those prescribed in the Safety Responsibility Law, Texas Civil Statutes, Article 6701h, §1(10).

Stephen P. Webb, assistant general counsel for transportation, 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. Webb also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be lower insurance costs for businesses that operate smaller vehicles. 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 Stephen P. Webb, Office of General Counsel, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 20 days after publication in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 911b, §4(a)(13), and Article 6701d, §139(c), which provide the commission with the authority to register commercial motor vehicles and to require filing of proof of liability insurance coverage.

§5.503. Liability Insurance for Commercial Carriers.

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

(c) Minimum limit.

(1) For commercial motor vehicles of 26,000 pounds gross vehicular weight or less or which have three or fewer axles, the minimum amount referred to in subsection (a) of this section is the minimum requirement of the Safety Responsibility Law, Texas Civil Statutes, Article 6701h, §1(10).

(2) For commercial motor vehicles not covered by paragraph (1) of this subsection, the minimum amount referred to in subsection (a) of this section is \$500,000 combined single limit for bodily injuries or death of all persons injured or killed in any accident, and loss or damage in any one accident to the property of others.

(d)-(g) (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 November 16, 1987.

TRD-8710488

Walter Earl Lillie
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:

December 28, 1987

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



**Subchapter Z. Base Rates,
Deviations, and Suspensions**

★ 16 TAC §§5.581-5.590

The new sections are proposed under Texas Civil Statutes, Article 911b, §4(a)(4) and §4(a)(5), which provide the commission with the authority to establish base rates and charges for the transportation of general commodities by motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities), to allow deviations from those base rates and charges, and to consider suspension petitions filed in response to those deviations.

§5.581. Annual Review of Base Rates and Charges.

(a) The commission shall review the base rates and charges for general commodities shipments weighing in excess of 500 pounds on an annual basis. Adjustment to such base rates and charges shall be made by the commission, if necessary, so as to make such base rates and charges just and reasonable and to ensure that such base rates and charges cover the involved carriers' actual operating costs plus a reasonable margin.

(b) On its own motion or on application of any person with an administratively cognizable or justiciable interest, the commission may review the base rates and charges for general such other times as may be necessary to ensure that such base rates and charges are just and reasonable and cover the involved carriers' actual operating costs plus a reasonable margin.

§5.582. Deviations from Base Rates.

(a) Motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate from prescribed base rates or charges on shipments weighing in excess of 500 pounds in accordance with the provisions of this section. No deviation from any base rate or charge shall be permitted except in accordance with the provisions of this section and §5.587 of this title (relating to Base Rate Deviation Procedures).

(b) Motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed 5.0% above or below the applicable base rate or charge for shipments of general commodities weighing from 501 to 9,999 pounds.

(c) Motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed 15% above

or below the applicable base rate or charge for shipments of general commodities weighing 10,000 pounds or more.

(d) Carrier(s) proposing to deviate in accordance with the provisions of this section must file a deviation request with the commission under the provisions set forth in §5.587 of this title (relating to Base Rate Deviation Procedures). No deviation shall become effective unless it has been approved for publication pursuant to the provisions of §5.587(d) of this title (relating to Base Rate Deviation Procedures).

(e) A request to cancel or amend an effective deviation shall be made under the standards in this section and the procedures in §5.587 of this title (relating to Base Rate Deviation Procedures).

§5.583. Contract Carrier Deviations. A contract carrier may deviate under the provisions and the procedures in §5.582 (relating to Deviations from Base Rates).

§5.584. Suspension of Deviations.

(a) Any interested person shall have the right to petition the commission for suspension of a deviation published and effective in accordance with §5.587 of this title (relating to Base Rate Deviation Procedures). Any petition for suspension must be filed within 15 days from the date of the weekly notice in which the subject deviation appears.

(b) The commission shall suspend any deviation which results in predatory pricing. A deviation which results in predatory pricing is a deviation which results in a rate:

(1) which is below the actual operating costs of the carrier(s) that proposed the deviation;

(2) which is unreasonably above the actual operating costs of the carrier(s) that proposed the deviation; or

(3) which is unduly discriminatory.

(c) The director may order the carrier(s) proposing the deviation to produce such records, documents, or other evidence as may be necessary to resolve the issues in suspension proceedings.

(d) The deviation rate or charge under review in a suspension proceeding shall remain in effect until suspended by the commission. If the commission determines that the deviation results in predatory pricing, the commission may:

(1) suspend the carrier(s) deviation from the base rate;

(2) direct the carrier(s) to charge and collect the base rate;

(3) direct the carrier(s) to repay any overcharges and collect any undercharges; and

(4) order other or additional relief as it finds appropriate, including but not limited to administrative fines and penalties.

§5.585. Increase or Decrease in Base Rate or Charge. The percentage of deviation shall not be affected by subsequent adjustment of the base rate or charge.

§5.586. Procedures for Annual Base Rate Adjustment Hearings.

(a) The commission shall institute a base rate adjustment hearing in accordance with §5.581(a) of this title (relating to Annual Review of Base Rates and Charges) within 12 months of the date of the notice of the previous base rate adjustment hearing. The initial annual base rate adjustment hearing shall be held prior to September 30, 1988.

(b) The commission may require motor carriers to produce relevant revenue, expense, and other data necessary for the commission to determine whether the existing base rates and charges are just and reasonable, and cover carriers' actual operating costs incurred in transporting involved shipments plus a reasonable margin.

(c) All affected motor carriers, shippers, associations, and any other person with an administratively cognizable or justiciable interest shall be allowed to become a party of record in the annual base rate adjustment hearing. Parties of record shall not be designated as applicants, protestants, intervenors, or proponents. The commission shall be responsible for all original transcript charges. All parties of record shall be allowed to present and cross examine witnesses, subject to any limitation by the presiding examiner permissible under the provisions of Subchapter U, of this (relating to General and Special Rules of Practice and Procedure). Subject to the provisions of this section, the annual base rate adjustment hearings shall be held in accordance with the provisions of Subchapter U, of this chapter (relating to General and Special Rules of Practice and Procedure) and shall be determined in accordance with the contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

§5.587. Base Rate Deviation Procedures.

(a) The procedures provided in this section govern deviations proposed under §5.582 of this title (relating to Deviations from Base Rates)

(b) Any carrier(s) proposing to deviate from an established base rate or charge must file a deviation request with the director on a form promulgated by the director, setting forth the name, address, and telephone number of the applicant carrier(s); the tariff and item number thereof affected by the proposed deviation; the base rate or charge affected by the proposed deviation; the proposed percentage of deviation from the base rate or charge; the percentage of deviation currently applicable to the base rate or charge, if any; the origins, destinations, and commodities for which the proposed deviation will apply, if any; and the circumstances or conditions under which the deviation is proposed to be effective, if any. The deviation request shall be accompanied by a filing fee of \$25. A deviation request shall be considered filed pursuant to the provisions

of §5.404 of this title (relating to Filing of Documents).

(c) No deviation request may:

(1) include the name of a shipper for whom the deviation will apply; or

(2) be filed by a carrier(s) if that carrier(s) has filed a deviation request, not yet been published in the weekly notice pursuant to subsection (g) of this section, which is applicable to the same traffic.

(d) Upon filing of a deviation request by a carrier(s), the director shall determine whether the carrier(s) is permitted to file a deviation request under §5.582(a) of this title (relating to Deviations from Base Rates); whether the proposed deviation is permissible under §5.582 of this title (relating to Deviations from Base Rates); and whether the proposed deviation meets the requirements of this section. If the proposed deviation meets the requirements of this subsection, the proposed deviation shall be approved for publication by the director.

(e) If the proposed deviation does not meet the requirements of subsection (d) of this section, the director shall attempt to notify the applicant carrier(s) of the rejection by telephone within two working days of the filing of the deviation. The director shall mail written notice of the rejection to the address specified in the request pursuant to subsection (b) of this section, within two working days. The written rejection of the proposed deviation shall include the reason for the rejection.

(f) If the proposed deviation is approved for publication, it shall be effective five days after filing.

(g) All deviations approved for publication shall be published in a weekly notice of deviation.

§5.588. Procedures for Deviation Suspension Proceedings.

(a) Any affected motor carrier(s), shipper, receiver, or other person with an administratively cognizable or justiciable interest, including the commission on its own motion, may file a petition to suspend a deviation which has been filed pursuant to §5.587 of this title (relating to Base Rate Deviation Procedures). A petition for suspension must be filed with the commission within 15 days from the date of the weekly notice in which the subject deviation appears. A petition for suspension shall be accompanied by a filing fee of \$25.

(b) A suspension petition shall be filed with the director and shall set forth:

(1) the name of the complaining person(s);

(2) an identification of the subject deviation(s); and

(3) a statement of the grounds asserted for the sought suspension.

(c) The petitioner must serve the suspension petition on the respondent carrier(s). Upon receipt of the suspension petition the director shall issue a notice of hearing compelling the petitioner(s) and the respondent

carrier(s) to appear at a designated time and place.

(d) A suspension petition shall be posted pursuant to the Open Meetings Act, Texas Civil Statutes, Article 6252-17, for commission consideration of an interim order at the next regularly scheduled commission conference following the hearing on the suspension proceeding, or as early thereafter as is reasonably possible.

(e) The final disposition of any suspension proceeding shall be in accordance with all applicable contested case provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(f) A deviation may be withdrawn by the carrier(s) only after a petition for suspension has been filed. After withdrawal, the deviation will no longer be effective. The commission may order any relief provided for in §5.584(d) of this title (relating to Suspension of Deviations) if the commission determines that the withdrawn deviation resulted in predatory pricing.

§5.589. *Publication of Deviations.*

(a) All deviations shall be published in the tariff containing the base rate to which the deviation applies, and in the weekly notice:

(1) fifteen days after the deviation has been noticed in the weekly notice of deviation, if no suspension petition is filed; or

(2) when the commission has issued a final order denying a suspension petition, and the order has become final.

(b) All tariffs which include base rates and charges adopted pursuant to §5.581 of this title (relating to Annual Review of Base Rates and Charges) shall be supplemented no less frequently than monthly to reflect all deviations required to be published under subsection (a) of this section.

§5.590. *Specific Rates and Charges.*

(a) In addition to the base rates and charges established pursuant to §5.581 of this title (relating to Annual Review of Base Rates and Charges), the commission may establish specific rates and charges applicable to transportation of shipments of general commodities weighing in excess of 500 pounds by motor carrier(s) (other than specialized motor carrier(s) and contract carrier(s) subject to commission prescribed tariffs governing transportation of specialized commodities).

(b) No carrier(s) shall be permitted to deviate from specific rates established pursuant to subsection (a) of this section.

(c) Applications to establish or change specific rates shall be filed and determined pursuant to the provisions of Subchapter H of this chapter (relating to Tariffs and Schedules).

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 November 16, 1987.

TRD-8710489

Walter Earl Lille
Special Counsel
Railroad Commission of
Texas

Earliest possible date of adoption:
December 28, 1987
For further information, please call
(512) 463-7149.

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 75. Curriculum Subchapter I. Special Provisions for Vocational Education

★ 19 TAC §§75.211-75.218

The Texas Education Agency proposes new §§75.211-75.218, comprising new Subchapter I, concerning special provisions for vocational education. The new subchapter implements the master plan for vocational education adopted by the State Board of Education in January 1987.

The new sections provide for five types of courses. Cluster courses are designed to teach occupationally related skills basic to a family of occupations. Comprehensive courses are to be exploratory in nature to provide students with broad exposure to an entire industry. Cooperative education courses are designed to provide occupationally specific training in a specific occupation. Preemployment laboratory courses provide occupationally specific training in a laboratory setting. Technical courses provide a concentrated focus in one occupational or technological area.

The new sections require vocational instruction to be planned to reinforce the skills of reading, writing, and mathematics in grades seven through 12. Students identified as educationally disadvantaged must be taught to the extent possible in regular classes with the support to help them succeed. If such students cannot succeed in the regular class, they may be served in a separate class designed to serve the needs of educationally disadvantaged students or in the vocational component of an alternative program.

Districts must conduct a follow-up study on students who have completed a vocational program and graduated from high school.

Section 75.214 sets out specific course requirements by vocational program area, including grade ranges and minimum age requirements. Additional program requirements are found in §75.217.

Districts must do an annual evaluation of vocational programs in accordance with criteria established in §75.218.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing the sections will be improvement of effectiveness and relevance of vocational education. 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. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §21.111, which authorizes the State Board of Education to make rules for vocational education programs in public schools.

§75.211. *Vocational Program Unit-General Provisions.*

(a) All vocational program units shall provide competency-based instruction. Instruction shall be based on the State Board of Education-approved essential elements.

(b) A competency profile shall be maintained on each student enrolled. Competency profiles for students in vocational education courses, other than grades 11 and 12 occupationally specific courses, shall be defined as evidence of mastery of the essential elements.

(c) A district may employ vocational personnel on 10-, 11-, or 12-month contracts in accordance with local policy.

(d) Additional assignments may be given teachers assigned to vocational program units provided the full scope of the vocational program is being conducted in accordance with this subchapter. These additional assignments may be:

(1) periodic or rotating duties that are normally assigned all teaching faculty members, such as hall duty, class sponsorship, or parking lot duty; and

(2) nonvocational assignments including, but not limited to, study hall and nonvocational teaching assignments. In accordance with the Texas Education Code, §21.112(i), funding for vocational teachers assigned nonvocational activities will be reduced by an amount equal to the portion of the school day that the teacher is involved in nonvocational activities.

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

Cluster course—A course designed to impart occupationally related skills that are basic to a related family of occupations.

Comprehensive course—A course designed to be exploratory in nature and provide students with a broad exposure to an entire industry.

Cooperative education course—A course designed to provide occupationally specific training in a specific occupation. The training is planned and supervised cooperatively by the local education agency and employers. Students receive occupational and related instruction by alternating study in school with work experience in a specific occupation.

Preemployment laboratory course—A course designed to provide occupationally specific training in a specific occupation. The training is provided in a laboratory setting utilizing tools, equipment, and processes actually utilized in the occupation.

Technical course—Specific, generally a one semester course designed to provide a concentrated focus on an occupational or technological area.

§75.213. General Operational Provisions.

(a) Instruction shall be planned to reinforce the skills of reading, writing, and mathematics in grades seven-12.

(b) Each school district shall plan and provide instruction to meet the needs of all students, including students who have educational disadvantages that require special services or specially designed vocational instruction, and handicapped students who have individual needs and who may require special services, modified vocational instruction, or specially designed vocational instruction.

(c) Students identified as educationally disadvantaged at grades seven-12 shall, to the extent possible, be taught in regular classes with necessary support to enable them to succeed. If the student cannot succeed in a regular class, he or she may be served in a separate class designed to serve the needs of educationally disadvantaged students or the vocational component of an alternative program.

(d) Students identified as educationally disadvantaged, limited English proficient, or at risk of not graduating from high school in Subchapter H of this chapter (relating to Promotion and Alternatives to Social Promotion) are eligible participants in vocational programs when the requirements in this subsection are met.

(1) Assessment of vocational interest, aptitudes, and special needs of each student will be made prior to planning a vocational program for the students.

(2) Each student identified as educationally disadvantaged, limited English proficient, or at risk by the district may participate in vocational education (regular and Coordinated Vocational-Academic Education

(CVAE)) Programs at age appropriate levels: 14-year-olds may enroll in ninth grade courses, 15-year-olds may enroll in 10th grade courses, 16-year-olds may enroll in 11th grade courses, and 17-year-olds may enroll in 12th grade courses.

(3) Students identified as educationally disadvantaged, limited English proficient, or at risk in Subchapter H of this chapter (relating to Promotion and Alternatives to Social Promotion), will be served through coordination of general and vocational instruction to ensure that the concepts in both programs are taught in an applied manner.

(e) Handicapped students as identified in accordance with the provisions of the Carl D. Perkins Vocational Education Act (Public Law 98-524); the Education of the Handicapped Act, as amended (Public Law 94-142); and Chapter 89, Subchapter G of this title (relating to Special Education), shall be instructed to the extent possible within a regular vocational class. Provisions for special education instruction, modification of curriculum or program goals, and additional support service shall be provided the student. Students unable to succeed in an integrated setting may be served in separate programs designed to address their special vocational education needs.

(f) Handicapped students identified in accordance with provisions of Public Law 98-524; Public Law 94-142; and Chapter 89, Subchapter G of this title (relating to Special Education) are eligible participants in vocational education when the requirements in this subsection are met.

(1) Vocational interest and vocational aptitude assessment data will be collected for each handicapped student as specified in §89.233(h) of this title (relating to Comprehensive Individual Assessment) prior to his or her enrolling in vocational education classes. Assessment data will be collected for each handicapped student by special education personnel with assistance from vocational education personnel when appropriate.

(2) A vocational education counselor or teacher shall review the vocational assessment data with the special education person responsible for the vocational assessment. A written recommendation for appropriate vocational program placement shall be developed cooperatively, signed by both representatives, and presented to the Admission, Review, and Dismissal (ARD) Committee, in accordance with §89.233(h) of this title (relating to Comprehensive Individual Assessment).

(3) The ARD committee shall include a vocational administrator or designee from vocational education and the vocational teacher who will instruct the student as voting members of the ARD committee in accordance with §89.221 of this title (relating to the Admission, Review, and Dismissal Committee).

(4) Those identified handicapped students who cannot succeed in regular vocational education programs without modifications, special supplementary aids, or services placed

in vocational education programs shall be placed through the ARD committee process. The handicapped student will be placed in the least restrictive vocational education environment appropriate to the needs of the student, in accordance with 34 Code of Federal Regulations, Part 400.

(5) In accordance with §89.223 of this title (relating to Content of the Individual Education Plan (IEP)) and 34 Code of Federal Regulations, Part 400, an ARD committee will address the goals, objectives, and vocational needs of each handicapped student in the IEP including:

(A) modification of instructional equipment;

(B) modification or adaptation of program goals; and

(C) related aids and services needed to benefit from the vocational program.

(g) Districts shall schedule time for supervision, planning, organizing, conducting, and coordinating the instruction by vocational teachers of students in their required supervised occupational experience programs, supervised work experiences, or on-the-job training in cooperative education.

(h) Districts must conduct a follow-up study on students who have completed a vocational program and graduated from high school. The follow-up study shall be conducted annually and shall address only those students who graduated during the previous school year. Follow-up records shall be retained for a period of not less than five years.

(i) Needs of students and adequacy of instructional facilities must determine the assignment of vocational program units to individual campuses. The maximum number of students enrolled in a class section shall not be greater than the number who can be provided safe and effective instruction and the number of available classroom or laboratory training stations.

(j) Preemployment laboratory and cooperative education programs may be offered for two years; the length of other programs is determined by the units of credit specified for each program. Handicapped students may be counted as eligible students for an extended number of years when the extended time for instruction is specified as a modification in the IEP.

(k) Vocational programs should be available to students who have the interest, aptitude, and ability to benefit from the program. Vocational programs are designed to:

(1) assist students in making informed and meaningful occupational choices;

(2) prepare students for paid or unpaid employment; or

(3) provide preparation for enrollment in an occupational program at a higher secondary or postsecondary level.

§75.214. Vocational Course Requirements.

(a) Specific course requirements by vocational program area are shown in the following table. Subsections (b)-(k) of this section provide additional information about course requirements for students.

VOCATIONAL COURSE REQUIREMENTS			
	GRADE RANGE	MINIMUM AGE	SPECIFIC REQUIREMENTS
AGRICULTURAL SCIENCE AND TECHNOLOGY			
<u>Agriscience</u>			
Comprehensive	9-12		Each student must carry out an approved supervised agricultural experience for three months each semester of enrollment in Agriscience. The supervised agricultural experience shall be optional in the Introduction to World Agriculture course. See (c) and (e).
Cluster	10-12		
Technical	10-12		
<u>Agribusiness</u>			
Cooperative education	11-12	16	A student may take Agriscience prior to enrolling in cooperative education; however, Agriscience is not a prerequisite for cooperative education. See (b).
<u>Agribusiness</u>			
Preemployment laboratory	11-12		A student may take Agriscience prior to enrolling in preemployment laboratory; however, Agriscience is not a prerequisite for preemployment laboratory. See (c).
HOME ECONOMICS			
Life Management Skills	7-8		Districts are required to offer Life Management Skills at grades 7 & 8. Each student enrolled in Comprehensive, Cluster, and Technical Courses must carry out an approved supervised occupational experience program. See (b).
Comprehensive	9-12		
Cluster	10-12		
Technical	10-12		
Cooperative education	11-12	16	See (b).
Preemployment laboratory	11-12		See (c).
MARKETING			
Cluster	10-12		See (b).
Cooperative education	11-12	16	
Preemployment laboratory	11-12		See (c).
TRADE AND INDUSTRIAL			
Cluster	10-12		See (b).
Cooperative education	11-12	16	
Preemployment laboratory	11-12		See (c).
HEALTH OCCUPATIONS			
Cluster	10-12		See (b) and (c).
Cooperative education	11-12	16	
Preemployment laboratory	11-12		See (c).
OFFICE EDUCATION			
Cluster	10-12		See (b).
Cooperative education	11-12	16	

Preemployment laboratory	11-12		See (c).
COORDINATED VOCATIONAL- ACADEMIC EDUCATION			
Cooperative education	9-12	16	See (b) and (d).
Preemployment laboratory	9-12		See (c) and (d).
VOCATIONAL EDUCATION FOR THE HANDICAPPED			
Preemployment laboratory	7-12	14	(Must turn 14 before or during the school year) See (k).
INDUSTRIAL TECHNOLOGY EDUCATION			
Introductory Industrial Technology I & II	7-8		
Comprehensive	9-12		
Technical	9-12		
CAREER INVESTIGATION	7-8		
VEH CAREER INVESTIGATION	7-12		See (k).
VEH OCCUPATIONAL EXPLORATION	9-12		See (k).
TECHNICAL EDUCATION INTERNSHIP	12	16	See (f) and (g).
BASIC VOCATIONAL EDUCATION	9	14	See (j).
INDIVIDUALIZED VOCATIONAL EDUCATION	9-12	14	(on campus) See (k).
		16	(in business or industry)

(b) Each student, while enrolled in a cooperative education program, must be employed part-time in one of the approved occupations listed under the appropriate program of vocational education. To receive three units of credit, a student must be employed 15 hours per week. At least 10 of the required 15 hours must be during the school week. For two units of credit, the student must be employed 10 hours per school week. Districts shall identify cooperative program units as either two-credit or three-credit units. All students enrolled in the same cooperative program unit shall be eligible to receive the same units of credit. A student may be counted as an eligible student from the date of employment provided an approved training plan is on file with the local education agency within three weeks after the date of employment. Cooperative education training plans shall be developed by the cooperative training teacher/coordinator in consultation with the person responsible for providing on-the-job training experiences to the student involved. Training stations shall be in business, industry, and governmental agencies and shall provide each student with a broad range of curriculum related training experi-

ences. The approved training plans shall be based on competency statements which address the appropriate essential elements identified in this chapter.

(c) Each student is expected to pursue a program in manipulative processes, applied basic academic skills, related and technical instruction, practical experiences, and planned field trips directly related to the occupation or cluster of occupations approved. Courses classified as cluster, technical, or preemployment emphasize specialized and practical knowledge related to the mechanical, scientific, or technical aspects of the occupational objective.

(d) Students enrolled in coordinated vocational-academic education must be one or more years below grade level in achievement in three or more academic courses, or below grade level as evidenced by a score at or below the 25th percentile on a standardized test at the time of enrollment.

(e) The supervised agricultural experience shall relate directly to the course in which the student is currently enrolled; however, the use of time during the school day for the purpose of developing projects for show purposes is discouraged. The three-

month supervised agricultural experience requirement for students enrolled in agriscience may be satisfied by any one of the following three methods or a combination of the three:

(1) agricultural entrepreneurship (involves the functions of organizing and managing the factors of production and distribution of goods and services);

(2) work experience in an agribusiness establishment; or

(3) point credit for supervised agricultural experiences which require the development of skills, outside the classroom, that are considered necessary for employment in the agricultural science and technology industry.

(f) Each student, while enrolled in a technical education internship program, must be serving as an unpaid part-time intern in an approved technical occupation. To receive three units of credit, a student must be in training 15 hours per week; at least 10 of the required 15 must be during the school week. For two units of credit, the student must be in training 10 hours per school week. Districts shall identify technical education internship program units as either two-credit or three-credit units. All students enrolled in

the same technical education internship program unit shall be eligible to receive the same units of credit. A student may be counted from the date of placement as an intern provided an approved training plan is on file with the local education agency within three weeks after the date of placement. Technical education internship training plans shall be developed by the teacher/coordinator in consultation with the person responsible for providing intern training experiences to the student involved. Training stations shall be in business, industry, or governmental agencies and shall provide each student with a broad range of technical training experiences. The approved training plans shall be based on competency statements which address the appropriate essential elements identified in this chapter.

(g) Students enrolled in technical education internship must have previously completed:

- (1) two years of mathematics, including algebra II or geometry;
- (2) two years of science; and
- (3) a program specifically related to the area of internship placement or a 30-hour (minimum) technical education internship summer program.

(h) The home economics supervised occupational experience program shall be for the purpose of remediation, reinforcement, in-depth study or enrichment related to classroom instruction. This requirement may be satisfied by any one of the following techniques:

- (1) entrepreneurial experiences in home economics;
- (2) on-the-job training in a home economics occupation; or
- (3) research and/or its application in home economics or individual curriculum content element(s).

(i) Districts operating vocational education magnet schools may request modifications to the grade range requirements, in accordance with §75.164 of this chapter (relating to Experimental Courses, Magnet Programs, and Alternative School Programs) specified in subsection (a) of this section.

(j) Enrollment for the Basic Vocational Education (BVE) course will be limited to students identified as at risk in Subchapter H of this chapter (relating to Promotion and Alternatives to Social Promotion) and students identified as handicapped in Chapter 89, Subchapter G of this title (relating to Special Education), who have been placed in the program through the Admission, Review, and Dismissal (ARD) Committee and have an individualized education plan (IEP).

(k) Enrollment for vocational education for the handicapped (VEH) and individualized vocational education (IVE) for the handicapped will be limited to handicapped students identified in Chapter 89, Subchapter G of this title (relating to Special Education). Students will be placed through the ARD Committee and have an IEP.

§75.215. *Participation in Vocational Education Programs.* Before students who do not meet the requirements in this chapter are enrolled, as ineligible students, in secondary vocational education programs, the following factors and the effect or result thereof shall be considered:

- (1) available facilities, work stations, or teaching capacity;
- (2) effect of the enrollment upon the established or proposed vocational program;
- (3) suitability of established curricula for the particular student; and
- (4) effect of the enrollment upon the progress of other students in the vocational program.

§75.216. *Vocational Education Student Organizations.* School districts shall provide opportunities for student participation in a local chapter of an approved student leadership organization related to each vocational program being conducted. No student, however, shall be required to join or participate in such organizations.

§75.217. *Specific Program Requirements.*

(a) Agriculture.

(1) The full scope of the agriscience program shall include the comprehensive agriscience courses and six semester courses from at least three different instructional areas.

(2) The full scope of the combination agriscience/agribusiness program shall include the comprehensive agriscience courses and four semester courses from at least three different instructional areas in addition to at least one class of preemployment laboratory training or at least one class of cooperative part-time training.

(3) Each course in paragraphs (1) and (2) of this subsection requires a supervised agricultural experience program to be conducted in accordance with §75.214(e) of this title (relating to Vocational Course Requirements), with the exception of the Introduction to World Agriculture course in which the supervised agricultural experience program is optional.

(4) One hour per day of supervising the agricultural experience program may, at the option of the local district, be counted as classroom teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(5) Teachers assigned to program units or combination program units shall visit the supervised agricultural experience program of each student at least three times each semester.

(6) For each vocational agriculture program unit approved for more than 10 months, the district shall ensure that the activities of the teacher include supervising and instructing the students in the supervised agricultural experience program, assisting students with the development of the supervised agricultural experience program, visiting prospective students and parents concerning the supervised agricultural experience program, and supervising and managing the school

agricultural laboratory/project site.

(b) Home economics education.

(1) A minimum comprehensive and technical home economics program shall consist of at least one course of comprehensive home economics and a combination of four different specialized semester home economics technical courses representing four different subject matter areas each school year.

(2) Vocational home economics program units approved for comprehensive and technical home economics courses must include conducting parent/guardian conferences and organizing and supervising the required occupational experience program of students.

(3) One hour per day of organizing and supervising the occupational experience program may, at the option of the local district, be counted as classroom teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(4) Home economics program units approved for comprehensive home economics courses and technical courses and approved for more than 10 months shall consist of organized group instruction and supervised occupational experience program, and may include other activities conducted for prospective students.

(A) An organized group instruction summer program shall provide instruction in one or more home economics subject matter areas and shall be based on the State Board of Education-approved essential elements.

(B) Secondary school students may participate in the organized group instruction summer program on either a credit or noncredit basis.

(i) Credit for the organized group instruction summer program may be granted to students accomplishing the goals and objectives established by the home economics teacher and approved by the local school administration. The goals and objectives shall be established to require both class instruction and occupational experience program.

(ii) A student may receive up to one unit of credit for summer program activities; however, no more than one-half unit of credit may be earned each summer.

(iii) A student may enroll in summer program activities after completion of two semesters of vocational home economics education.

(c) Preemployment laboratory program units.

(1) Preemployment laboratory classes may be conducted for one, two, or three class periods per day in accordance with this subsection.

(2) All two- and three-hour preemployment classes must be scheduled for consecutive class periods.

(3) Students may not be enrolled in or receive credit for participating one hour in a two-hour class or for one or two hours

in a three-hour class.

(4) One-hour preemployment classes may be offered in coordinated vocational, academic education (grade nine only), vocational education for the handicapped (grades seven, eight, and nine only), agriculture, marketing education, office education, home economics, and health occupations.

(5) Cosmetology preemployment classes must be conducted for three consecutive class periods each day.

(6) At local option, senior students in their last semester of high school who have completed three semesters of vocational training may be placed with business or industry for paid or unpaid employment in a training station provided:

(A) the training station is directly related to the occupational area for which the student has received training;

(B) an approved training plan is on file with the local education agency within three weeks after the date of placement;

(C) remediation for identified needs is available in the preemployment laboratory; and

(D) the training occurs during the time period in which the student is scheduled in the preemployment laboratory class.

(d) Cooperative education program units.

(1) Teachers assigned to cooperative education program units shall:

(A) visit each student training station at least six times each school year, including at least one visit during each student grading period; and

(B) be assigned specific times each day for the purpose of supervising the on-the-job training of students enrolled.

(2) Up to two hours of on-the-job supervision per day may, at the option of the local district, be counted as teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(3) School districts with an average daily attendance of 1,600 or less may apply for a multi-occupational cooperative training (MOCT) program unit. Special requirements for MOCT units are as follows.

(A) The program may provide training in any occupation approved for one of the regular cooperative training program units.

(B) The teacher assigned to an MOCT program unit must be either certified in or approvable for any regular cooperative training program unit.

(C) An MOCT program unit may not be approved in a school district if the district has any other cooperative training program unit in operation.

(D) All other sections of this chapter related to cooperative training program units shall apply to MOCT program units.

(e) Technical education internship program units.

(1) Teachers assigned to technical education internship program units shall:

(A) visit each student training station at least six times each school year, including at least one visit during each student grading period; and

(B) be assigned specific times each day for the purpose of supervising the intern training of students enrolled.

(2) Up to two hours of intern supervision per day may, at the option of the local district, be counted as teaching to meet the minimum teaching duty requirement in the Texas Education Code, §13.907.

(3) At the option of the local district, the related technical education internship class may be scheduled for a period of three consecutive hours for a three-credit course and two consecutive hours for a two-credit course during one school day. The technical education internship teacher/coordinator must have as a minimum one other regularly scheduled classroom instructional period, per school day, and conduct a daily technical education internship organizational, instructional, and attendance reporting class for a period of not less than 30 minutes. Teacher Coordinators of districts utilizing this option meet the requirements of §143.1 of this title (relating to Minimum Teaching Duties).

(f) Vocational cluster courses.

(1) Vocational cluster courses are one-hour classes that may be taught:

(A) as an approved vocational program unit utilizing an appropriately certified occupational exploration teacher or a vocational teacher certified in one or more of the occupational areas addressed in the cluster course;

(B) as a part of an approved vocational program unit in an occupational area that is addressed in the cluster course; or

(C) as a part of several approved vocational program units utilizing a team teaching approach with certified vocational teachers assigned to teach the portion of the cluster course related to their area of certification.

(g) Industrial technology education. The full scope of the high school industrial technology education program, grades nine-12, shall include the comprehensive course and/or at least one course from each of the following areas: communication, energy, and production technology.

(h) Vocational special needs programs. Vocational special needs programs are specially designed to meet the needs of handicapped, educationally disadvantaged, limited English proficient, migrants, dropouts, and potential dropouts, who have been identified as at risk of not graduating from high school in Subchapter H of this chapter (relating to Promotion and Alternatives to Social Promotion).

(1) The Basic Vocational Education (BVE) course may be offered at the ninth grade level for students who are 14 years of age and older and who are eligible for special education programs and have an individual education plan (IEP) or are identified by the

local district as being in one of the categories eligible to be served in an alternatives to social promotion program. The course will be taught for one or two hours per day and shall be a full-year course. The program components will include:

(A) informal counseling and guidance;

(B) instruction of functional academics to include instruction of basic academic concepts as they relate to vocational education;

(C) emphasis on employability skills and application of productive work habits and attitudes;

(D) occupational awareness;

(E) hands-on occupational exploration; and

(F) vocational assessment of interests, abilities, needs, and job readiness skills.

(2) Teachers assigned to the BVE class must have certification in one of the vocational education program areas and have additional training provided or identified by the Central Education Agency.

(3) The individual vocational education (IVE) program will be offered at grades nine-12 for severely handicapped students who receive special education instruction during 50% or more of the school day. The class will be a coordinated effort between vocational education and special education. The program will be conducted with on-campus instruction beginning at age 14 and off-campus on-the-job training at age 16. The program will be individualized with each student being trained in multiple skill areas. The program will provide instruction in varied supported work models including, but not limited to:

(A) shadow training on campus and in business or industry;

(B) job coach in business and industry;

(C) mobile work crews; and

(D) enclaves in industry.

(4) Teachers assigned to the IVE class must be certified in one of the vocational education program areas and have additional training provided or identified by the Central Education Agency.

§75.218. Program Evaluations.

(a) Programs designed to prepare students for gainful employment. Districts shall evaluate annually the quality and effectiveness of vocational education, as a part of the district and campus five-year plan, determining to what extent the instruction provided to prepare high school students for gainful employment is:

(1) realistic in the light of actual or reliably anticipated opportunities for gainful employment in the area served by the school;

(2) suited to the needs, interests, and ability of students to benefit from the program in which they are enrolled in terms of acquiring the knowledge and skills necessary for entry into and success in employ-

ment in the occupations for which they are trained;

(3) effective in the teaching, reinforcement, and application of basic skills;

(4) cost effective in terms of number of students served; and

(5) effective in the placement of students, which includes employment in the occupation for which they were trained or continuing occupational training at the post-secondary level.

(b) Approved home economics program units for comprehensive and technical education courses, industrial technology, and career investigation. Districts shall evaluate annually the quality and effectiveness of each program to determine the extent to which the program is:

(1) realistic and effective in achieving up-to-date program objectives;

(2) suited to the needs, interests, and abilities of students to benefit from the program in which they are enrolled;

(3) effective in the teaching, reinforcement, and application of basic skills;

(4) cost effective in terms of numbers of students served and benefits derived; and

(5) effective in producing students' achievement of identified competencies.

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 November 17, 1987.

TRD-8710483

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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



Chapter 78. Occupational Education and Technology

The Texas Education Agency proposes the repeal of §§78.1-78.5, 78.21, and 78.61-78.64, concerning the State Board of Vocational Education; the Advisory Council for Technical-Vocational Education in Texas; annual applications; the formula for distribution of federal funds; vocational monitoring; occupations education for the public school students by contract; vocational program units; general provisions; requirements for new, additional, and continuing vocational program units; and allocation of vocational program units to budget balance districts, respectively; and new §§78.1-78.5, 78.21-78.25, 78.41, and 78.61-78.64, concerning the State Board for Vocational Education; local advisory councils, equal access to vocation programs; program reports and information; vocational monitoring; annual applications; the formula for the distribution of federal funds; the state

vocational education allotment; vocational program unit approval; approval of vocational program units for the Texas Department of Corrections; vocational education for public school students by contract; types of program; teacher qualifications; funding; and reporting; respectively.

On January 10, 1987, the State Board of Education adopted the master plan for vocational education. The proposed new sections implement the master plan. Previously, sections in Chapter 78 addressed matters related to finance, compliance, and curriculum. Curriculum-related requirements for vocational education previously in Chapter 78 are included, with revision, in new Subchapter I of Chapter 75, proposed concurrently and published elsewhere in this issue of the *Texas Register*.

New §§78.1-78.5 set out responsibilities of the State Board of Education (State Board for Vocational Education), require each local education agency operating an approved vocational program unit to establish a districtwide local advisory council for vocational education, require equal access to vocational programs, and provide for monitoring and reporting.

New §§78.21-78.25 concern vocational education funding and program approval. Each local education agency desiring to receive state or federal funds for vocational education must submit an annual application. Each approved vocational program unit must undergo a sunset review at least once every five years to reestablish approval status. Federal funds shall be distributed based upon a weighted formula developed under federal guidelines and approved by the agency. State funds are allocated in accordance with the Texas Education Code, §16.155. The minimum number of students to be enrolled in a vocational program unit shall be determined by the local education agency. In approving vocational program units, the agency will give priority to units providing instruction relating to occupations identified on the list of priority occupations approved by the State Board of Education or to units specified as priorities under the master plan for vocational education. All new and additional program unit requests must include a plan for articulation between the proposed vocational program unit and existing postsecondary programs in the area offering instruction in the same occupation.

New §78.41 concerns vocational education for public school students by contract. The section permits contracts with a public school district, a postsecondary institution, or a trade or technical school approved or accredited by the Central Education Agency. The contractor must have adequate physical facilities and qualified staff and must be able to provide secondary level instruction during the regular school day.

New §§78.61-78.64 concern adult vocational education program provided in accordance with the Texas Education Code, Chapter 33. Teachers of adult vocational education must have qualifications as required by the local education agency.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed repeals and 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 repeals and sections.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the repeals and sections are in effect the public benefit anticipated as a result of enforcing the repeals and sections will be implementation of the master plan for vocational education to help to ensure that vocational programs are effective in preparing young people for jobs in the Texas economy. There is no anticipated economic cost to individuals who are required to comply with the proposed repeals and sections.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

Subchapter A. General Provisions

★19 TAC §§78.1-78.5

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

The repeals are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.1. *State Board for Vocational Education.*

§78.2. *Advisory Council for Technical-Vocational Education in Texas.*

§78.3. *Annual Application.*

§78.4. *Formula for the Distribution of Federal Funds.*

§78.5. *Vocational Monitoring.*

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 November 17, 1987.

TRD-8710479

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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



Chapter 78. Vocational [Occupational] Education [and Technology]

Subchapter A. General Provisions

★19 TAC §§78.1-78.5

The new sections are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.1. State Board for Vocational Education.

(a) The State Board of Education shall also serve as the State Board for Vocational Education and is the sole agency to enter into agreements with the federal government pertaining to the expenditure of funds for vocational-technical education.

(b) The State Board of Education shall:

(1) provide state level leadership for and administration of vocational education programs offered in the local education agencies of Texas;

(2) approve vocational programs, services, and activities for which each local education agency may expend vocational education allotment funds under the Foundation School Program;

(3) annually update the master plan for vocational education in Texas and ensure that the master plan continues to reflect strategies designed to assist with the accomplishment of objectives in the long-range plan for Texas public school education;

(4) amend annually, or as needed, the state plan for federal vocational education funding utilizing advice from the Joint Advisory Committee when considering items relating to postsecondary vocational-technical education;

(5) delegate the responsibility for state level administration of vocational-technical education programs in Texas public community colleges, public technical institutes, and other eligible public postsecondary institutions to the Texas Higher Education Coordinating Board; and

(6) consider the advice of the joint advisory committee when determining the annual allocation of federal vocational education funds between secondary and postsecondary education.

§78.2. Local Advisory Councils.

(a) Each local education agency operating approved vocational program units shall establish a districtwide local advisory council for vocational education.

(b) The local advisory council should be composed of representatives of the general public, business, industry, labor, one member knowledgeable of at-risk students, one member representing parents of program participants, and at least one representative from each vocational program area offered in the school district (agriculture, health occupations, home economics, marketing education, office, and trade and industrial). The council shall have appropriate representation of both sexes and of the racial and ethnic minorities found in the schools, community, or region with the local advisory council serves.

(c) The local advisory council shall advise the school district on current job needs and the relevance of programs and courses being offered by the local education agency in meeting current job needs.

(d) The local advisory council shall consult with the school district in developing its annual application for federal funds.

(e) The local advisory council shall meet at least two times each year.

(f) Minutes of local advisory council meetings shall be maintained at the local level.

§78.3. Equal Access to Vocational Programs. All students, including women, members of minority groups, handicapped students, disadvantaged students, and persons of limited English proficiency shall have equal access to vocational education programs, services, and activities.

§78.4. Program Reports and Information. School districts which have been allotted funds for vocational programs, services, and activities shall provide data and information in accordance with format and timelines established by the Central Education Agency. Failure to comply with this section shall result in a reduction or discontinuance of program units and funds allotted.

§78.5. Vocational Monitoring.

(a) The purpose of vocational monitoring is to determine each local education agency's compliance with appropriate state and federal laws, rules, and regulations.

(b) Every local education agency offering vocational education shall be monitored by the Central Education Agency.

(c) Local education agencies found to be out of compliance will be notified accordingly in the Central Education Agency monitoring report. The report shall identify specific discrepancies and also provide recommended corrective actions to remove such dis-

crepancies. Failure to correct identified discrepancies shall result in a reduction or discontinuance of vocational education funds.

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 November 17, 1987.

TRD-8710476

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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



Subchapter B. Vocational Education by Contract or Agreement

★19 TAC §78.21

(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 Education Agency, Austin, or in the Texas Register office, Room 503F, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.21. Occupational Education for Public School Students by Contract.

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

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

TRD-8710478

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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



★19 TAC §§78.21-78.25

The new sections are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.21. Annual Applications.

(a) Any local education agency desiring to receive state and/or federal funds to support vocational education programs, services, and activities shall submit an annual application in accordance with instruction issued by the Central Education Agency.

(b) The state funding section of the annual application shall be for the purpose of submitting requests for approval of new and existing vocational program units.

(c) The federal funding section of the annual application shall be for the purpose of requesting approval to expend all or any part of the local education agency's identified federal vocational education planning allocation.

(d) In accordance with Public Law 98-524, §115(c), the Central Education Agency may exempt certain local education agencies, providing relatively few vocational education programs, services, and activities funded with limited total federal and state funds, from the requirements of this subsection.

(e) Each approved vocational program unit shall undergo a sunset review at least once every five years to reestablish approval status. To justify continued approval, the following items will be considered:

- (1) student competencies acquired;
 - (2) student enrollments;
 - (3) adequacy of facilities and equipment;
 - (4) instructional materials utilized;
 - (5) methods of instruction;
 - (6) opportunities for employment;
- and
- (7) follow-up records for program completers.

(f) If the sunset review process indicates that the vocational program unit has discrepancies that can be corrected, the local education agency may be granted a one-year period to correct the identified discrepancies. If the discrepancies are not removed during the one-year period, the vocational program unit will be discontinued.

§78.22. Formula for the Distribution of Federal Funds. Each local education agency's planning allocation shall be determined by a weighted formula developed in accordance with applicable federal regulations and approved by the Central Education Agency.

§78.23. State Vocational Education Allotment.

(a) The funds allotted each school district under the Texas Education Code, §16.155, shall be used on for vocational programs, services, and activities specifically approved by the Central Education Agency to be conducted or provided by the district.

(b) In determining full-time equivalencies for students enrolled in cooperative or technical education internship programs, the units of credit designated for the program shall be considered as the number of class hours a student is present each day.

(c) The minimum number of students

to be enrolled in a vocational program unit shall be determined by the local education agency.

(d) Only those students enrolled in Central Education Agency-approved vocational program units may be counted for vocational education allotment purposes.

(e) Funds from the local education agency's vocational education allotment may be used to pay full or partial salaries to persons assigned to a vocational ancillary position (vocational administrator, vocational supervisor, vocational job placement coordinator, or vocational counselor), provided the person assigned is certified for the specific vocational ancillary position involved.

§78.24. Vocational Program Unit Approval.

(a) A vocational program is a single instructional unit as identified in the certified list of courses published annually by the Central Education Agency. The instruction shall be provided by an appropriately certified vocational education teacher or by more than one appropriately certified teacher in a team teaching arrangement.

(b) Priority shall be given to requests for program units designed to provide instruction relating to occupations identified on the list of priority occupations approved by the State Board of Education or to requests for program units specified as priorities pursuant to the master plan for vocational education.

(c) All new and additional vocational program unit requests shall include a plan for articulation between the proposed vocational program unit and existing postsecondary programs in the area offering instruction in the same occupation. The request must also include evidence that an articulation agreement will be implemented between the applying district and the postsecondary institution involved.

(d) All new and additional vocational program unit requests shall include evidence that the district has conducted a cost study to determine if it is more cost-effective to operate its own program than to offer the program through a contractual agreement. A cost study is not necessary if there are no other appropriate programs within a reasonable distance.

(e) Local education agencies shall consider the following items prior to requesting new program units:

- (1) the number of students having a desire to enroll in the program;

(2) the assessed needs of the students for the program;

(3) the assessed needs of the community as evidenced by a community labor market survey and other appropriate labor market or needs assessment information; and

(4) facilities, instructional materials, and equipment that must be provided for effective operation of the program.

§78.25. Approval of Vocational Program Units for the Texas Department of Corrections.

(a) Within funds available, vocational program units may be approved for the Texas Department of Corrections provided adequate facilities are available and the students enrolled have the ability to benefit from the instruction.

(b) Vocational program units approved for the Texas Department of Corrections shall operate in accordance with the requirements in this chapter.

(c) In instances where unique situations prevent the Texas Department of Corrections from conforming with the requirements in this chapter, special consideration may be requested from the Central Education 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.

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

TRD-8710475

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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

◆ ◆ ◆

**Subchapter C. Vocational
Education by Contract and
Agreement [Advisory
Committees]**

★ 19 TAC §78.41

The new section is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.41. Vocational Education for Public School Students by Contract.

(a) Any public school district, public or private postsecondary institution, or trade or technical school which is approved or accredited by the Central Education Agency or any other authorized state accrediting or licensing agency which has adequate physical facilities and qualified instructional person-

nel and is able to provide instruction at the secondary level during the regular public school day will be eligible to enter into contracts with public school districts for vocational instruction.

(b) Requirements for contracted instruction teachers are as follows.

(1) Contracted instruction teachers employed by public school districts, private postsecondary institutions, or trade or technical schools shall meet the certification requirements for public secondary teachers in Chapter 141 of this title (relating to Teacher Certification).

(2) Contracted instruction teachers employed in public postsecondary institutions shall meet the initial approval requirements for public secondary vocational teachers as prescribed by the Central Education Agency in §141.295 of this title (relating to Vocational Education Emergency Teaching Permits: Requirements and Procedures).

(c) Maximum per student allotments for vocational education by contract shall be determined in accordance with the Texas Education Code, §16.100. Districts shall negotiate the actual per student contract amount.

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 November 17, 1987.

TRD-8710474 W. N. Kirby
Commissioner of
Education

Proposed date of adoption:
February 13, 1988
For further information, please call
(512) 463-9212.



Subchapter D. Secondary School Vocational Education Vocational Program Approval

★ 19 TAC §§78.61-78.64

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

The repeals are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.61. Vocational Program Units.

§78.62. General Provisions.

§78.63. Requirements for New, Additional, and Continuing Vocational Program Units.

§78.64. Allocation of Vocational Program Units to Budget Balance Districts.

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 November 17, 1987.

TRD-8710480 W. N. Kirby
Commissioner of
Education

Proposed date of adoption:
February 13, 1988
For further information, please call
(512) 463-9212.



The new sections are proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program; and the Texas Education Code, §16.155, which makes vocational education a part of the Foundation School Program.

§78.61. Types of Programs. Adult vocational education programs may be provided by local education agencies in accordance with the Texas Education Code, Chapter 33; the Texas state plan for federal vocational education funding; and this subchapter. These programs shall be for individuals who are 16 years of age or older and out of school and may include:

(1) preparatory courses designed to train unemployed, unskilled, or semi-skilled persons to fill existing job openings identified in a particular occupational area;

(2) supplementary courses designed to provide specialized training which will enable individuals employed in specific occupations (paid or unpaid) to improve their knowledge and skills or upgrade their skill classification; and

(3) apprenticeship courses designed to provide related instruction (classroom and laboratory) for apprentices registered with the Department of Labor, Bureau of Apprenticeship Training.

§78.62. Teacher Qualifications. Teachers of adult vocational education shall possess the qualifications and experience required by the local education agency.

§78.63. Funding.

(a) Adult vocational education classes shall be funded in accordance with the provisions of the Texas Education Code, Chapter 33, or through an application process determined by the Central Education Agency.

(b) Districts offering adult education classes under this section shall maintain a roster of participants. The roster shall in-

clude participant's name, place of employment, and occupation, if employed.

§78.64. Reporting. Adult vocational education programs shall submit reports as required in §78.4 of this title (relating to Program Reports and 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 November 17, 1987.

TRD-8710473 W. N. Kirby
Commissioner of
Education

Proposed date of adoption:
February 13, 1988
For further information, please call
(512) 463-9212.



Chapter 89. Adaptations for Special Populations Subchapter G. Special Education Clarification of Provisions in Federal Regulations and State Law

★ 19 TAC §89.215

The Texas Education Agency proposed an amendment to §89.215, concerning special education related services personnel. The amendment adds persons who hold licensure as a certified social worker to the list of persons who can provide social work services to handicapped students.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to incorporate the new classification of certified social worker into special education rules. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for administration of the Foundation School Program and §16.151, which makes special education a part of the Foundation School Program.

§89.215. *Related Services Personnel.*

(a) (No change.)

(b) Related services personnel shall meet the following certification or licensure requirements.

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

(4) Counseling services shall be provided in the area of specialization by a professional who holds one of the following:

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

(C) licensure by the State Board of Examiners of Professional Counselors; [or]

(D) a master's degree in social work from a recognized institution of higher education; [.] or

(E) licensure as a certified social worker.

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

(14) Social work services shall be provided by one of the following:

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

(C) a professional counselor licensed by the State Board of Examiners of Professional Counselors; [or]

(D) a Texas Education Agency certified school psychologist, associate school psychologist, visiting teacher, or counselor; [.] or

(E) a professional who holds licensure as a certified social worker.

(15) (No change.)

(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 November 17, 1987.

TRD-8710477

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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

Chapter 105. Foundation
School Program
Subchapter K. Foundation
Entitlement to District

★ 19 TAC §105.211

(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 Education Agency, 1701 North Congress Avenue, Austin, or in the Texas Register office, Room 503F, Sam

Houston Building, 201 East 14th Street, Austin.)

The Texas Education Agency proposes the repeal of §105.211, concerning the determination of allocation for school districts under the Foundation School Program. The text of the section repeated statutory provisions which in some cases were no longer current and which did not need to be repeated in the agency's administrative rules. The section is being replaced with a new section to address the issue of proration of allocations should the state share of the Foundation School Program exceed appropriated amounts.

Lynn M. Moak, deputy commissioner for research and information, 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. Moak and Dr. Beverly Bardsley, director for policy development, have 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 deletion of statutory material and outdated material from rules. 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 Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §16.005, which authorizes the State Board of Education to make rules for the administration of the Foundation School Program.

§105.211. *Determination of Allocation.*

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 November 17, 1987.

TRD-8710482

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1987

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

The Texas Education Agency proposes new §105.211, concerning the determination of each school district's allocation under the Foundation School Program. The section provides that if the state's share of the Foundation School Program exceeds the amount appropriated, the commissioner of education shall prorate the district's allocations based on district wealth, total tax effort, and tax collection effort. The proposed section provides that for districts with total effective tax rates (maintenance and debt service), after adjustment for collection rate, of at least 150% of the state average, the proration rate will be set at zero. During the rule-making process, the board may consider other options for standards for tax effort, besides the proposed standard of 150% of the state average.

Lynn M. Moak, deputy commissioner for research and information, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section. Gains and losses in state revenue for individual districts will cancel one another out at the state level; the impact on most districts will be small.

Mr. Moak and Dr. Beverly Bardsley, director for policy development, have determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be assurance that allocations under the Foundation School Program do not exceed the appropriated amount. There is no anticipated economic cost to individuals who are required to comply with the proposed section.

Comments on the proposal may be submitted to Dr. Beverly Bardsley, Director for Policy Development, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9682. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The new section is proposed under House Bill 177, 70th Legislature, 1987, Second Called Session, §2, which directs the State Board of Education to adopt a proration formula for use by the commissioner of education should the state's share of the Foundation School Program exceed the appropriated amount for either year of the 1988-1989 biennium.

§105.211. *Determination of Allocation.*

(a) General provisions. The commissioner of education shall annually determine the state's share of the Foundation School Program according to the provisions of the Texas Education Code, Chapter 16. If the state's share of the Foundation School Pro-

gram exceeds the amount appropriated, the commissioner shall prorate each district's allocation. The proration formula shall reduce the state's share of the Foundation School Program for each district based on the district's wealth, total tax effort, and tax collection effort.

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

(1) Funding shortfall—The total funding shortfall shall be determined by subtracting the state's share of the Foundation School Program as determined under the Texas Education Code, Chapter 16, including enrichment equalization and experienced teacher allotments, from the amount appropriated for that year.

(2) Historical tax collection rate—A three-year historical tax collection rate shall be determined by dividing the ending balance of delinquent taxes receivable for the prior three years by the total levies for those years, and subtracting this value from one. The source of this information shall be the school district fiscal audits, Exhibit D-1, Column 50 "Ending Balance," Rows 8-10, for the prior year and Column 20 "Current Year's Total Levy," Row 1000 "Totals," for the prior three years.

(3) Taxable property value—The taxable property value shall be the taxable value of property for each school district as certified by the State Property Tax Board.

(4) Total effective tax rate—The total effective tax rate shall be calculated by dividing the maintenance and debt service levies, adjusted for losses due to tax freeze, by the taxable value of property as certified by the State Property Tax Board. The levies shall be obtained from the self report of property as reported to the State Property Tax Board.

(c) Proration rate.

(1) Each district's taxable property value shall be adjusted by the district's total effective tax rate and historical tax collection rate. The adjustment shall be computed with the following formula: $ADJDPV = DPV \times ((STRT \times 1.50) - (DTRT \times CRT))$, where ADJDPV is the district's adjusted taxable property value; DPV is the district's taxable property value; STRT is the state average total effective tax rate; DTRT is the district's total effective tax rate; and CRT is the district's three-year historical collection rate.

(2) A proration rate shall be calculated for each district by dividing the district's adjusted taxable property value by the state total adjusted taxable property value.

(3) For district without property value, the proration rate shall be set at zero.

(4) For districts with total effective tax rates, after adjustment for collection rate, of at least 150% of state average, the proration rate shall be set at zero.

(d) Reduction of funds. The amount by which each school district's allocation of

state funds is reduced shall be calculated by multiplying the district proration rate for the funding shortfall.

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 November 17, 1987.

TRD-8710484

W. N. Kirby
Commissioner of
Education

Proposed date of adoption:

February 13, 1988

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

to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 November 18, 1987.

TRD-8710405

Bob Bullock
Comptroller of Public
Accounts

Earliest possible date of adoption:

December 28, 1987

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

◆ ◆ ◆

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 1. Central Administration Practice and Procedure

★34 TAC §1.29

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

The Comptroller of Public Accounts proposes an amendment to §1.29, concerning motions for rehearing. The amendment requires a refund claimant to set out the amount of the refund sought. The amendment is the result of changes made during the 70th Legislature, 1987.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient handling of these issues and a speedier hearings process. 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 Wade Anderson, Executive Counsel, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating

◆ ◆ ◆

★34 TAC §1.30

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

The Comptroller of Public Accounts proposes an amendment to §1.30, concerning court suits for refunds. The amendment requires refund claimants to attach a copy of their original protest letter to a petition for refund of taxes and to set out the amount of refund sought. The amendment is the result of changes made to the Tax Code during the 70th Legislature, 1987.

John Moore, director of the comptroller's economic analysis center, has determined that for the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Moore also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a more efficient handling of these issues and a speedier hearings process. 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 Wade Anderson, Executive Counsel, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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

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

Earliest possible date of adoption:
December 28, 1987
For further information, please call
(512) 463-4004.

◆ ◆ ◆

**TITLE 40. SOCIAL
SERVICES AND
ASSISTANCE**
Part I. Texas Department of
Human Services
Chapter 16. ICF/SNF
Compliance with State and Local
Laws

★ 40 TAC §16.1511

The Texas Department of Human Services (DHS) proposes an amendment to §16.1511, concerning additional participation requirements. The amendment requires that providers qualifying under current moratorium exemptions stipulated in subsections (c)(1) and (c)(8) of this section must start construction no later than March 1, 1988, and must complete construction requirements and be licensed and certified by the Texas Department of Health no later than December 31, 1988.

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

Mr. Packard also has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be to ensure that nursing facility beds are available for Medicaid recipients and that potential contractors fulfill commitments to complete facilities within agreed-upon time frames. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Support Division-515, Texas Department of Human Services 222-E, P.O. Box 2960, Austin, Texas 78769. DHS requests that comments be submitted within 15 days after publication in the *Texas Register*.

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

§16.1511. Additional Participation Requirements.

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

(d) Providers who apply for exceptions under subsections (c)(1) or (c)(8) of this section must:

(1) (No change.)

(2) begin facility construction within 120 days from the date of the letter of acceptance from DHS. Providers already in receipt of letters of acceptance have 120 days from the effective date of this amendment to begin construction; and]

(2) [(3)] provide [the following] proof that construction has begun no later than March 1, 1988, by submitting to DHS a copy of the completed notice of construction start form sent to the Texas Department of Health (TDH).:]

[(A)] the Texas Department of Health must give DHS written notification; or

[(B)] facilities must submit to DHS copies of the proposed facility's:

[(i)] architectural plan approved by the Texas Department of Health;

[(ii)] construction contracts that have been let;

[(iii)] construction schedule; and

[(iv)] all zoning and building permits.]

(3) complete facility construction requirements and be licensed and certified by TDH no later than December 31, 1988.

(e)-(g) (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 November 23, 1987.

TRD-8710492

Marlin W. Johnston
Commissioner
Texas Department of
Human Services

Proposed date of adoption:

January 20, 1988

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

◆ ◆ ◆

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 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 123. Administrative Guidelines for Registration of Open-End Investment Companies

★7 TAC §123.3

The State Securities Board has withdrawn from consideration for permanent adoption the amendment to §123.3, concerning administrative guidelines for registration of open-end investment companies. The text of the proposed amendment appeared in the September 4, 1987, issue of the *Texas Register* (12 TexReg 3012). The effective date of this withdrawal is November 20, 1987.

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

TRD-8710432 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: November 20, 1987
For further information, please call
(512) 474-2233.



Chapter 133. Forms

★7 TAC §133.15

The State Securities Board has withdrawn from consideration for permanent adoption the amendment to §133.15, concerning the amendment. The text of the proposed amendment appeared in the July 31, 1987, issue of the *Texas Register* (12 TexReg 2499). The effective date of this withdrawal is November 20, 1987.

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

TRD-8710425 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: November 20, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.19

The State Securities Board has withdrawn from consideration for permanent adoption the amendment to §133.19, concerning forms. The text of the proposed amendment appeared in the September 4, 1987, issue of the *Texas Register* (12 TexReg 3013). The effective date of this withdrawal is November 20, 1987.

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

TRD-8710426 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: November 20, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.20

The State Securities Board has withdrawn from consideration for permanent adoption the amendment to §133.20, concerning forms. The text of the proposed amendment appeared in the July 31, 1987, issue of the *Texas Register* (12 TexReg 2500). The effective date of this withdrawal is November 20, 1987.

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

TRD-8710427 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: November 20, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.24

The State Securities Board has withdrawn from consideration for permanent adoption the amendment to §133.24, concerning forms. The text of the proposed amendment appeared in the July 31, 1987, issue of the *Texas Register* (12 TexReg 2500). The effective date of this withdrawal is November 20, 1987.

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

TRD-8710428 Denise Voigt Crawford
General Counsel
State Securities Board

Filed: November 20, 1987
For further information, please call
(512) 474-2233.



TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter W. Registration of Commercial Carriers

★16 TAC §5.501

The Railroad Commission of Texas has withdrawn from consideration for permanent adoption the amendment to §5.501, concerning registration of commercial carriers. The text of the proposed amendment appeared in the November 20, 1987, issue of the *Texas Register* (12 TexReg 4325). The effective date of this withdrawal is November 20, 1987.

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

TRD-8710490 Walter Earl Lille
Special Counsel
Railroad Commission of Texas

Filed: November 20, 1987
For further information, please call
(512) 463-7149.



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 4. AGRICULTURE Part I. Texas Department of Agriculture Chapter 7. Pesticides

★4 TAC §§7.8, 7.11, 7.16, 7.24, 7.32, 7.33

The Texas Department of Agriculture (TDA) adopts amendments to §§7.8, 7.11, 7.16, and 7.24, and new §7.32 and §7.33. New §7.32 and §7.33 are adopted with changes to the proposed text published in the May 19, 1987, issue of the *Texas Register* (12 Tex Reg 1593). Sections 7.8, 7.11, 7.16, and 7.24 are adopted without changes and will not be republished.

These regulations have been adopted as part of a comprehensive response to the problem of livestock predation in Texas. TDA will use this program to identify the causes of livestock loss in Texas, to assess the benefits and risks of alternative lethal and nonlethal control techniques through monitoring, enforcement efforts, and studies, and to offer training and education in the use of these control techniques. Through the training sessions, TDA will provide information about the safe and proper use of chemicals such as Compound 1080 and the M-44 device and will also promote the use of nonlethal methods of predator control.

TDA believes that a thorough evaluation of predation problems and management techniques will result in an effective predator management program that poses the least possible risk to humans, non-target species, and the environment and that also promotes the most feasible humane control methods. TDA will take every step necessary to protect public health and the environment through monitoring of the approved control methods and thorough investigations and enforcement actions to eliminate the misuse of poisons.

TDA's program will include several components. First, TDA will establish a predatory management program using personnel who will research and analyze livestock predation problems, provide assistance and training on all available management techniques, and evaluate the associated risks and effectiveness.

Second, TDA will train field staff on the identification of the causes of livestock

losses and the proper use of lethal and nonlethal control techniques. These personnel will provide information to ranchers and affected communities, gather detailed data on the effectiveness and risks of alternative management techniques, investigate and monitor the use of chemicals and devices, and strictly enforce state pesticide laws regulating the proper and safe use of chemicals for predator control.

Third, TDA is issuing regulations that revise the current M-44 program. The major change is the retraining requirement for all currently licensed M-44 users in order to provide more current and expanded education on the identification of the causes of livestock losses, the alternative lethal and nonlethal management techniques, and the restrictions on the use of M-44.

Fourth, the department is issuing regulations to allow the use of the Livestock Protection Collar (LPC) filled with the chemical Compound 1080. After banning the use of Compound 1080 in the early 1970s, the U.S. Environmental Protection Agency (EPA) established in 1985 a national program to allow the use of Compound 1080 in a collar on sheep and goats based on extensive use restrictions and monitoring requirements. EPA has recently approved such programs for Wyoming and Montana.

For the past year, TDA has carefully reviewed this program and concluded that, if used correctly and under proper conditions, the collar can be used as a selective method of controlling those coyotes that prey on sheep and goats. The collar cannot be a substitute for all other management techniques, but rather one tool when other techniques fail. As with all pesticides, TDA is dedicated to ensuring that Compound 1080 is used as safely as possible and only when necessary. Given the grave health risks involved with the use of this pesticide, TDA will require intensive certification and training of dealers and applicators, stringent use restrictions, monitoring, and strict enforcement of all regulations. TDA will monitor closely all use of the LPC as part of an ongoing evaluation of predation and the effectiveness of all predator management techniques.

TDA recognizes the controversial nature of the use of Compound 1080 or any poi-

son for predator control and the particularly serious risks associated with Compound 1080. By the same token, TDA is concerned about use of illegal pesticides such as Temik, which can create risks for and adverse effects on non-target animals. TDA will use the predator management program to monitor the use of these practices and will take enforcement action when necessary.

In response to requests for specific changes in the proposed regulations, the Texas Department of Agriculture adopts §7.32 and §7.33 with the following changes.

Section 7.32(b)(3), the definition of an agent, is changed to clarify the fact that agents must be licensed dealers and licensed commercial or noncommercial Livestock Protection Collar applicators.

Section 7.32(c)(2) is changed to clarify the fact that LPCs may only be sold to certified LPC applicators and that the registrant and agents must be licensed pesticide dealers.

Section 7.32(d)(3) and (4) are changed to require that all LPC applicators go through the recertification process every three years.

Section 7.32(e)(3) is changed to address emergency treatment in cases of accidental exposure. This change was required by EPA.

In §7.32(g)(1)(C), the word "quarterly" is changed to the word "monthly", so that site review and sales data reports will be submitted to the department more frequently. This change was because of EPA's concerns about the adequacy of the state's enforcement and monitoring programs.

Section 7.32(g)(2) is changed by the addition of a new recordkeeping requirement (H). Under this requirement, LPC users must also report the number of collars in storage. This change was required by EPA. In addition, under §7.32(g)(2), the dates for quarterly reporting are modified.

Section 7.32(i) is added to require that verifiable instructions be given by certified LPC applicators to noncertified persons before the noncertified person may handle LPC collars without the direct physical supervision of the LPC applicator. Verification is to be kept by the LPC applicator for at least two years.

Section 7.32(g)(4) is changed to require that any poisoning of nontarget species be reported immediately (within one working day) by telephone with a follow-up written report within 30 days. This change was made to improve TDA's ability to respond to poisoning incidents. In addition, the list of species is modified so that it conforms to the list set forth in the use restrictions.

Section 7.32(h) is changed to clarify that only the registrant or the collar manufacturer are authorized to fill the collars with the 1080 solution.

The date until which private applicators may continue to purchase and use M-44 sodium cyanide without retraining, given in §7.33(d), has been changed to November 1, 1988, to allow reasonable time for retraining.

In §7.33(d)(1), which describes the content 44 training program, TDA changes the word "treatment" to the word "placement." In that same section under (e)(1), the wording is changed to make it clear that there is only one capsule per device.

The commissioner has considered all comments filed and testimony given in response to each proposed section in the regulations and has determined that the adopted rules provide a balanced step toward addressing livestock predation problems in Texas. Further regulatory measures may be needed if additional problems controlling predators develop or if the lethal predator control methods authorized by these regulations are misused.

Sections 7.8, 7.11, 7.16, 7.24, 7.32, and 7.33 will enable the department to adopt a comprehensive and balanced predator control program using both lethal and nonlethal methods. Through the program, the department will assess appropriate techniques, enforce the stringent regulations to ensure safe and proper use of lethal control methods, monitor closely the use and efficacy of different control tools, and emphasize those techniques that do not pose risks to human health, nontarget species, and the environment.

The regulations have been revised as follows. The amendment to §7.8 is adopted in order to create new §7.32 and §7.33, which prohibit the sale of the Livestock Protection Collar or sodium cyanide by dealers to other dealers.

The amendment to §7.11 provides for the issuance of a separate license for those applicators and dealers who qualify to use or sell the Livestock Protection Collar.

The amendment to §7.16 emphasizes that private applicators may not be certified for the use of the Livestock Protection Collar. Livestock producers who wish to use the collars on their own property must seek licenses in a special new category of noncommercial applicators that requires training and certification.

The amendment to §7.24 adds sodium fluoroacetate (Compound 1080) and sodium cyanide (M-44 device) to the list of existing state-limited-use pesticides.

New §7.32 classifies all pesticides and devices using sodium fluoroacetate (Compound 1080) as the active ingredient as state-limited-use pesticides, and provides state-limited-use requirements, including definitions to be used in this section, sale or transfer requirements, training and requirements for the licensing of Livestock Protection Collar applicators, recordkeeping and reporting requirements, use restrictions, and a provision that the loading of Compound 1080 into collars may be done only by the registrant or a collar manufacturer.

New §7.33 classifies all pesticides and devices using sodium cyanide as the active ingredient as a state-limited-use pesticide, including the M-44 device used for livestock predator control, and provides for state-limited-use requirements, including definitions to be used in this section, sale or transfer requirements, requirements for M-44 applicators, recordkeeping requirements, and more extensive training.

The Texas Department of Agriculture received numerous comments on the proposed amendments to permit the use of the 1080 Livestock Protection Collar and the M-44 devices (§7.32 and §7.33, respectively). No comments on §§7.8, 7.11, 7.16, and 7.24 were received.

Comments submitted in response to §7.32 were wide ranging and covered many different points of view, including those of environmental organizations, animal rights organizations, concerned citizens, ranchers, current and former government officials working on livestock protection and others.

Many of the individuals or groups expressing their objections to the 1080 Livestock Protection Collar made general points that can be grouped in several categories.

Many commenters were concerned about the health risks of Compound 1080 and objected to its use because a small amount can be fatal to humans and animals and because there is no known antidote. Many people urged that TDA inform the public, physicians, and veterinarians of the symptoms of Compound 1080 poisoning. Commenters also asked that TDA require specific safety equipment, like eye protection, for Compound 1080 users.

Many commenters objected in general to the use of poisons to kill predators. Commenters stated that Compound 1080 is not the best method for controlling coyotes.

Other commenters noted that Compound 1080 is an indiscriminate poison that can cause injury and death in non-target spe-

cies. Other commenters suggested that pets could be poisoned by 1080 when feeding on contaminated carcasses.

Another general concern addressed by many commenters relates to the effectiveness of the 1080 Livestock Protection Collar. Individuals pointed out that poisons such as Compound 1080 and other pesticides have been used for forty years and have not eliminated the problem of livestock loss. Non-chemical alternatives were strongly recommended.

Some commenters said coyotes will learn that collared animals are different and will avoid them. Others said sheep and goats will chew each other's collars, killing themselves and contaminating the area. Other commenters believed that the collars might break, exposing applicators to Compound 1080.

A number of comments noted the collars will be ineffective if the predator attacks anywhere but the throat of the sheep or goat.

Many commented that ranchers could solve their predator problems without resorting to the use of Compound 1080 or other lethal chemicals with improved animal husbandry techniques such as increased flock observation, well-maintained fences, birthing sheds, and prompt removal of carrion from pastures.

Many commenters referred to studies that indicated that coyotes were being blamed for a majority of livestock deaths when other causes such as disease, weather, birthing, starvation, natural causes, and other predators are just as important. Several commenters felt that the record did not sufficiently or accurately document livestock losses, the number of ranchers experiencing predator problems, or methods of identifying the causes of the livestock losses. Commenters cited studies that indicate that sheep and goat losses to coyotes are low in comparison to other losses.

Some commenters challenged the decision to allow 1080 on the basis of cost-benefit analysis questioning the cost of livestock loss due to predation compared to the cost of TDA implementing a comprehensive predator control program involving licensing, monitoring, and enforcement.

Other commenters expressed concern that the extensive use requirements involved with the program, including completing monitoring reports, reporting accidents and burying damaged collars, posting warning signs, etc., would not be carried out adequately in part because of the small number of TDA field enforcement staff.

The department received a great many comments emphasizing the effectiveness of alternate, nonlethal methods of predator control such as guard animals, shed lambing, fencing, supervision of birthing,

removal of carrion, and taste aversion techniques using lithium chloride. Commenters urged that these methods are proven and reliable alternatives which should be tried before allowing the use of the Livestock Protection Collar.

Other commenters recommended the use of a less toxic pesticide than Compound 1080 if collars are approved by TDA.

Some general comments in favor of the Livestock Protection Collar were received.

The sheep and goat industry submitted numerous reports and studies to demonstrate the importance of sheep and goat ranching to the Texas economy and the effect of predation on the economic viability of ranching. According to these studies and reports, Texas leads the nation in sheep and angora goat production.

In a recent study of Texas sheep and goat death loss and marketing submitted by producers, the Texas Agricultural Statistics Service concluded that predation of sheep and lambs accounted for over 1/2 of all deaths in 1978 compared to 1/4 in 1967. These data also indicated that coyotes were the largest single cause of death losses during 1978, accounting for 24% of all sheep and lamb deaths.

Texas producers estimated in their testimony that they lost \$21 million in market value due to sheep, lamb, goat, and kid death losses from all causes during 1978. Producers claimed that approximately \$13 million or 62% of the total market value lost was due to predators. In oral and written testimony, producers maintained that they are increasingly being forced out of sheep and goat production because of predation.

A number of commenters noted that alternatives suggested, such as the penning of flocks, produce inferior quality and quantity mohair and cause erosion and sickness among animals. Others stated that they had tried alternatives and under correct conditions the collar proved to be the most economical control.

It was also reported that Compound 1080 did not represent a threat to non-target species based on an experiment on a Texas ranch in which 5,000 manhours were spent trying to find non target species harmed by Compound 1080 and none were located.

Many commenters submitted specific language to be used in §7.32, the new section that adds sodium fluoroacetate (1080) to the state-limited-use category.

One commenter recommended that §7.32(b)(2) be changed to indicate that a 1.0% solution of Compound 1080 will be used in the LPCs. Another commenter suggested that under §7.32(d)(3) the applicators should be retested each year.

Other commenters said that under §7.32(g)(1) and (3), all records should be kept for five years and that under

§7.32(g)(4), all accidents with Compound 1080 should be reported within 24 hours. Those commenters also recommended that written reports of those accidents should be submitted to TDA within three days.

Along with a number of individuals, twelve organizations registered their opposition to the LPC. Those commenting against adoption of the amendments and new sections were the Humane Society of the United States; the John Phillip Sousa Foundation; the National Audubon Society; the Texas Center for Rural Studies; the Lone Star Chapter of the Sierra Club; the Animal Rights Kinship; the Houston Animal Rights Team; the humane Society of the Permian Basin; the Sierra Club, Houston Regional Group; and Defenders of Wildlife.

Likewise, a number of individuals and eight organizations submitted comments in support of the use of sodium fluoroacetate and sodium cyanide in a predator control program. Those commenting in favor of adoption of the amendments and new sections were the Animal Damage Control Association; the Texas Farm Bureau; the United States Department of Agriculture Animal Damage Control Program; the Texas Sheep and Goat Raisers Association; the Menard County Game and Livestock Protective Association; the Mason County Predator Control Association; the Texas Agricultural Extension Service; and the Texas Veterinary Medical Association, Sheep and Goat Practice Committee.

Many of the suggestions for clarification or changes in the regulations are constructive and have been added as appropriate either to the regulations or to the applicator training program. Some suggestions, however, could not be incorporated because they were in conflict with the federal use requirements for the LPC and M-44 device. The stringent use restrictions and enforcement plan for Compound 1080 and M-44 device cannot be changed without jeopardizing EPA's approval of the state's Predatory Control Program. This need for stringency has been confirmed most recently by various key EPA officials.

The department disagrees that Compound 1080 is an ineffective means of predator control in all cases. The department believes that no one method of livestock protection is universally effective and that various methods should be available to fit a rancher's specific situation and predator problem as long as the methods are effective and used safely. Under certain circumstances, however, the use of a lethal device like the Live-stock Protection Collar may be the most effective measure, while under other conditions other less toxic measures may be more appropriate. The department is committed to creating a livestock protection program that promotes the safest and most effective methods available. One of the major goals

of the predator control training program is to offer training and education sessions to ranchers so that they will be able to identify the cause of their livestock problem, choose an appropriate control measure, and carry out the control measures properly. The department supports and will promote the use of effective and less hazardous alternatives whenever possible.

One of the principal objectives of TDA's applicator training program is to encourage more natural predation through better range and wildlife management. The department will also assess and promote, through its training program, improved livestock husbandry techniques including the use of guard animals, fencing, shed-lambing, supervision during birthing, and removal of carrion from lambing and kidding pastures, etc.

Based on the training and use restrictions, lethal methods should be used only as a last resort after other control measures have failed. It is the long-term goal of the department to implement an environmentally sound livestock protection program that minimizes adverse effects on both domestic and wild animals and that strictly regulates all lethal control methods involving pesticides.

The department disagrees that Compound 1080 cannot be used in a manner that will not pose a threat to humans and nontarget species. However, the department shares the concerns of many organizations and individuals that humans and other nontarget species may fall victim to secondary Compound 1080 poisoning. Thus, TDA will emphasize selective and proper use of Compound 1080 during its training sessions and monitor use of collars in the field. The department believes that the stringent use restrictions, such as weekly checking of collars, required by EPA will provide protection for nontarget species.

Humans and domestic animals are further protected by the notification and posting requirements. Ranchers will be required to check all fences and post a notice stating that Compound 1080 is in use before using the collar. To minimize the potential hazard to scavengers, livestock carcasses, predator carcasses, collars, and any other contaminated collar must be promptly disposed.

The department is concerned about Compound 1080 and its history of misuse. TDA will conduct a thorough licensing and training program and enforce the use and record-keeping requirements set forth in the regulations. The training program will include the testing and certification of applicator-users, and will emphasize the hazards and the safe use practices of the Livestock Protection Collar and the use of other appropriate alternatives. Applicator training will be reinforced by TDA's monitoring of the use of the Livestock Protection Collar and by enforcement of the regulations when violated.

This approach is part of a program that includes ongoing planning to improve the safety of lethal methods, the efficiency of nonlethal methods and the research of new control measures. If any documentable pattern of misuse of Compound 1080 or sodium cyanide develops, the use of these toxic chemicals in the predator control program will be cancelled by TDA.

The amendments and new sections are adopted under the Agricultural Code, §76.003, which provides the Texas Department of Agriculture with the authority to classify a pesticide as state-limited-use (SLU) if the department has determined that the pesticide requires additional restrictions to prevent unreasonable risks to humans and the environment and authorizes the department to regulate the time and purchase of a SLU pesticide; §76.004, which authorizes the department to establish rules to carry out Chapter 76; §76.04, which authorizes the department to adopt rules regarding the manner and method of pesticide application; and §76.108 and 76.109, which authorize the department to set a license fee for commercial and noncommercial applicators.

§7.32. Sodium Fluoroacetate (Compound 1080) Livestock Protection Collar State-Limited-Use Requirements.

(a) Purpose. Any and all pesticides and devices using the active ingredient sodium fluoroacetate for livestock predation control shall be classified as state-limited-use, pursuant to the Agriculture Code, §76.003.

(b) Definitions. In addition to the definitions set out in the Texas Agriculture Code, §76.001 (1981), and §7.1 of this title (relating to Definitions), the following terms, when used in this section, shall have the following meanings.

(1) LPC applicator—A person who has obtained a license from the department as a commercial or noncommercial certified livestock protection collar applicator for the use of the livestock protection collar. Private applicator authorization will not be given by the department for use of the livestock protection collar. Persons desiring a license to use the livestock protection collar on their property should apply for a noncommercial LPC applicator license.

(2) Livestock protection collar—A collar-like device which has been filled with the active ingredient sodium fluoroacetate (Compound 1080) to control predation.

(3) Agent—A representative of a registrant. Each agent must be a licensed pesticide dealer, a licensed commercial or noncommercial livestock protection collar applicator and approved by the department to distribute livestock protection collars to approved LPC applicators.

(c) Sale or transfer requirements. Registrants and agents selling or transferring livestock protection collars must meet the following requirements.

(1) Each registrant must obtain a license under the Agriculture Code, §76.071,

and comply with the provisions of §7.8 of this title (relating to Pesticide Dealers).

(2) Each registrant and agent who sells or transfers livestock protection collars must obtain a license as a commercial or noncommercial LPC applicator and a pesticide dealer license. Collars shall be sold or transferred only by registrants or their agents and only to certified Livestock Protection Collar applicators.

(3) Livestock protection collars may not be sold or transferred by registrants or agents to persons other than registrants or agents for the purpose of resale or transfer.

(4) Each registrant may have no more than 15 agents at any one time. Each registrant shall file with the department written notice of the name, home address, address of distribution site, and telephone number of each agent. The registrant shall notify the department of any change in this information within 10 days.

(5) Each livestock protection collar shall have a unique serial number clearly and firmly affixed to it.

(6) Registrants and agents shall dispose of livestock protection collars strictly in accordance with label directions.

(7) Registrants and agents shall distribute the forms prescribed by the department for use by LPC applicators with each sale or transfer of livestock protection collars.

(8) Registrants and agents may sell or transfer livestock protection collars only to LPC applicators for whom a site review and sales data report has been executed.

(9) Registrants and agents shall report to the department any incident or complaints of misuse involving a livestock protection collar.

(d) Licensing of LPC applicators.

(1) A person may obtain an LPC applicator license as either a commercial or noncommercial applicator. An LPC applicator license is separate from other pesticide licenses and will require the payment of a separate license fee.

(2) In order to obtain a commercial LPC applicator license, a person shall comply with the licensing requirements of §7.13 and §7.14 of this title (relating to Commercial Applicator License and Commercial Applicator Proof of Financial Responsibility), complete training, pass a test prescribed by the department, and pay the fee prescribed by §7.13 of this title (relating to Commercial Applicator License).

(3) In order to obtain a noncommercial LPC applicator license, a person shall complete training, pass a test prescribed by the department, and obtain a license. All LPC applicators must be recertified every three years. Pursuant to §7.12 of this title (relating to Classification of Commercial and Noncommercial Licenses), a testing fee will be collected. In addition, an initial licensing fee of \$50 shall be paid within 12 months of passing the test or retesting will be required. An annual renewal fee of \$50 shall

be paid prior to the time of the annual license renewal on March 1 of each year.

(4) Each LPC applicator is responsible for giving written notice to the department of any change of address. All LPC Applicators may renew their licenses for three consecutive years after which recertification is required. Retraining and retesting may be required by the department for any LPC applicator who fails to comply with the use, recordkeeping, or other requirements of the department.

(e) LPC applicator training. LPC applicators must undergo training, including training in the following areas:

(1) the proper use of the livestock protection collar;

(2) the proper method of repairing the collar and disposing of collars and contaminated materials;

(3) health and safety hazards, safe handling techniques, and emergency treatment in cases of accidental exposure;

(4) record keeping and reporting requirements;

(5) proper methods of identifying causes of predation; and

(6) approved methods of control of predation.

(f) LPC applicator use restrictions. All LPC applicators shall comply with the label, including the use restrictions, when using the livestock protection collar. Copies of the label and reporting forms shall be obtained with the purchase of any collar from a registrant or agent. Additional copies of the label and reporting forms may be obtained from the Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

(g) Recordkeeping and reporting.

(1) Each registrant shall maintain records for the registrant and all agents on forms prescribed by the department for at least two years which include:

(A) an inventory of Compound 1080 and an inventory of livestock protection collars including the serial number, size, type of strap, number of straps, and configuration for each collar. An annual production report shall be filed on forms prescribed by the department by each registrant by January 31 for the previous calendar year reporting on the number and type of livestock protection collars produced and distributed and on the quantity of Compound 1080 purchased and used;

(B) the information required on the department's site review and sales data report, including:

(i) the date of sale or transfer;

(ii) the name, telephone number, address, and applicator license number of each LPC applicator who purchased or received a collar;

(iii) the number of livestock protection collars sold or transferred; and

(iv) the serial number of each collar.

(C) One copy of each site review and sales data report that is completed by

registrant or an agent shall be submitted by the registrant to the department monthly.

(2) Each LPC applicator shall file with the department records on the use of the collar on forms prescribed by the department quarterly by the tenth day of January, April, July, and October for each quarter when collars have been used. The records shall include:

(A) the serial number of the collar attached to livestock;

(B) the pasture(s) where collared livestock were placed;

(C) the dates of each attachment, inspection, and removal;

(D) the number and locations of livestock found with ruptured or punctured collars and the apparent cause of the damage;

(E) the number, dates, and approximate location of collars lost;

(F) the species, locations, and dates of all animals suspected to have been killed by collars; and

(G) all suspected poisonings of humans, domestic animals, or nontarget wild animals resulting from collar use and all other accidents involving the release of Compound 1080; and

(H) number of collars in storage.

(3) Each LPC applicator shall maintain a copy of the reports that are required to be submitted to the department for at least two years.

(4) Each registrant, agent, or LPC applicator shall report accidents involving a livestock protection collar to the department on forms prescribed by the department within 30 days of the accident. In addition, accidents involving any suspected or actual poisoning of threatened or endangered species, humans, domestic animals or nontarget wild animals must be reported to the department immediately (within one working day) by telephone.

(h) Loading Compound 1080 into collars. Only the registrant or the collar manufacturer is authorized to fill collars with Compound 1080 solution. Only Compound 1080 purchased from the registrant of Compound 1080 after November 1, 1986, and containing a distinguishing dye, may be used in the livestock protection collar.

(i) Instructions to noncertified applicators working under the supervision of a LPC applicator. The LPC applicator shall give appropriate verifiable instructions on the use of the collar to a noncertified person before he/she may handle the collar without the direct physical supervision of the LPC applicator. At a minimum, such instruction shall include the reading of the label by the noncertified person. To verify that appropriate instructions have been given, the LPC applicator and the noncertified person shall sign and date a copy of the LPC label. The LPC applicator shall maintain the signed and dated label for at least two years.

§7.33. M-44 Sodium Cyanide—State Limited Use Requirements.

(a) Purpose. Any and all pesticides and devices using sodium cyanide as the active ingredient, including the M-44 device for livestock predation control, shall be classified as state-limited-use pesticides, pursuant to Agriculture Code, §76.003.

(b) Definitions. In addition to the definitions set out in the Agriculture Code, §76.001 (1981) and §7.1 of this title (relating to Definitions), the following terms, when used in this section, shall have the following meanings.

(1) Authorized dealer—A dealer licensed under Agriculture Code, §76.071, and specifically approved by the department for sale of M-44 sodium cyanide.

(2) M-44 applicator—A person who has obtained authorization from the department for the use of M-44 sodium cyanide.

(3) M-44 sodium cyanide—Includes the active ingredient sodium cyanide, sodium cyanide capsules, and any device loaded with sodium cyanide for use in livestock predation control.

(c) Sale or transfer requirements. Dealers selling or transferring M-44 sodium cyanide must meet the following requirements.

(1) All dealers who wish to sell or transfer M-44 sodium cyanide must obtain written approval by the department. In order to obtain approval to handle M-44 sodium cyanide from the department, dealers must obtain from the department a pesticide dealer's license to handle restricted pesticides and complete special agreement forms to become an authorized dealer for the purpose of selling or transferring M-44 sodium cyanide. All applicators must meet the dealer requirements of the Agriculture Code, §§76.071-76.077, the requirements of §7.8 of this title (relating to Pesticide Dealers), and any additional federal requirements of the use restriction bulletin (label) for M-44 sodium cyanide under EPA Registration 33858-1.

(2) A dealer may sell or transfer M-44 sodium cyanide only if approved as an authorized dealer and only to M-44 applicators or registrants of M-44 sodium cyanide. M-44 sodium cyanide may not be sold or transferred by dealer to any person for the purpose of resale or transfer with the exception of registrants.

(3) The department will keep list of approved dealers and make it available to all certified applicators. Only dealers whose names appear on the list are authorized to receive, sell, or distribute M-44 sodium cyanide.

(4) Each authorized dealer must be or employ a person certified under this section.

(5) Each dealer must maintain for a period of two years complete records on forms prescribed by the department of all transactions involving M-44 sodium cyanide, including:

(A) the amount of materials purchased by dealer and date of purchase;

(B) the following information for each sale or transfer;

(i) the date of sale or transfer,

(ii) the name, address, applicator number, county, and telephone number of any M-44 applicator to whom M-44 sodium cyanide was sold or transferred; and

(iii) the amount sold to the approved applicator.

(6) Dealers must make sure that any sale or transfer of M-44 sodium cyanide is accompanied by a complete label. Authorized dealers must also provide to M-44 applicators the recordkeeping forms prescribed by the department. Authorized dealers may sell sodium cyanide capsules only in boxes of 10 each or in boxes of 50 each.

(7) Authorized dealers must obtain the department's approval prior to purchasing any M-44 sodium cyanide.

(8) Each authorized dealer must report to the department any incident or complaint of misuse involving M-44 sodium cyanide.

(d) M-44 applicators. After the effective date of this section, any person seeking to qualify as an M-44 applicator must undertake training prescribed by the department and obtain a certificate. Those private applicators approved for use of M-44 sodium cyanide as of the effective date of this section may continue to purchase and use M-44 sodium cyanide until November 1, 1988. After that date, any such private applicator must have completed retraining and have obtained a new certificate from the department in order to purchase M-44 sodium cyanide or use M-44 sodium cyanide regardless of when the M-44 was purchased.

(1) Training for M-44 applicators will include the following:

(A) the proper use and treatment of the M-44 sodium cyanide;

(B) the proper method of disposing of M-44 sodium cyanide and related contaminated materials;

(C) safe handling techniques designed to reduce health and injury risks;

(D) recordkeeping requirements;

(E) proper methods of identifying causes of predation; and

(F) approved methods of control of predation.

(2) All M-44 applicators must comply with the label including the use restrictions bulletin on M-44 sodium cyanide issued by the department (EPA Registration 33858-1) when using M-44 sodium cyanide. Copies of the use restrictions must be obtained with the purchase of each box of M-44 sodium cyanide. Additional copies of the bulletin and recordkeeping forms may be obtained from the Texas Department of Agriculture, P.O. Box 12847, Capitol Station, Austin, Texas 78711.

(e) Recordkeeping. Each applicator shall maintain records on forms prescribed by the department dealing with the placement of the device and the results of each

placement. Such records shall include, but may not be limited to:

- (1) the number of M-44 sodium cyanide devices in place;
- (2) the location of each M-44 sodium cyanide device;
- (3) the dates of each placement, inspection, and removal;
- (4) the number and location of M-44 sodium cyanide devices which have been discharged and the apparent reason;
- (5) species of animals taken; and
- (6) all accidents or injuries involving humans, domestic animals, wildlife, or bodies of water.

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 November 19, 1987.

TRD-8710402 Dolores Alvarado Hibbs
Director of Hearings
Texas Department of
Agriculture

Effective date: December 10, 1987
Proposal publication date: May 19, 1987
For further information, please call
(512) 463-7583.



TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

★7 TAC §109.13

The State Securities Board adopts an amendment to §109.13, without changes to the proposed text published in the July 31, 1987, issue of the *Texas Register* (12 TexReg 2498).

The amendment reflects the fees for filing forms that are sometimes required to be filed in order to claim the exemptions. The fees are set forth in House Bill 875, 70th Legislature, 1987.

The amendment includes within the section itself the requirement to file the fees along with the notices.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8710429 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: July 31, 1987
For further information, please call
(512) 474-2233.



Chapter 115. Dealers and Salesmen

★7 TAC §115.4

The State Securities Board adopts an amendment to §115.4, without changes to the proposed text published in the July 31, 1987, issue of the *Texas Register* (12 TexReg 2499).

The amendment reflects fee changes set forth in House Bill 875, 70th Legislature, 1987, and House Bill 61, 70th Legislature, 2nd Called Session.

The amendment sets forth accurately several dealer-related fee increases made by the 70th Legislature, 1987.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8710430 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: July 31, 1987
For further information, please call
(512) 474-2233.



Chapter 117. Administrative Guidelines for Registration of Real Estate Programs

★7 TAC §§117.1, 117.3, 117.6-117.9

The State Securities Board adopts amendments to §§117.1, 117.3, and 117.6-117.9, without changes to the proposed

text published in the September 4, 1987, issue of the *Texas Register* (12 TexReg 3009).

The amendments reflect provisions that were included in the most recent amendments to the North American Securities Administrators Association's real estate guidelines.

The amendments provide continued uniformity with other states in applying standards for the registration of real estate program offerings.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8710431 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 4, 1987
For further information, please call
(512) 474-2233.



Chapter 123. Administrative Guidelines for Registration of Open-End Investment Companies

★7 TAC §123.2

The State Securities Board adopts an amendment to §123.2, without changes to the proposed text published in the September 4, 1987, issue of the *Texas Register* (12 TexReg 3012). The proposed amendment to §123.3 is withdrawn elsewhere in this issue, since House Bill 875, 70th Legislature, 1987, amended the Securities Act in such a way that the cites contained in the section are now correct.

The amendment modernizes the standards applicable to the registration of securities of open-end investment companies by eliminating those regulations that have become outdated given the common (and sound) usage today of investment techniques such as hedging. The amendment also eliminates duplicative requirements.

The amendment eliminates certain unnecessary and unduly restrictive require-

ments for the registration of securities of open-end investment companies.

The Investment Company Institute commented for the amendment, and pointed out that it is a good idea to eliminate the restrictions on writing put options and investing in commodities.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8714033 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 4, 1987
For further information, please call
(512) 474-2233.



Chapter 133. Forms

★7 TAC §133.5

The State Securities Board adopts an amendment to §133.5, with changes to the proposed text published in the September 4, 1987, issue of the *Texas Register* (12 Tex-Reg 3013). The change reflects that the adoption occurred in November, rather than in September, as set forth in the proposal.

The amendment reflects the new filing fee that is set forth in House Bill 875, 70th Legislature, 1987.

The amendment includes within the form itself the registration fee enacted by the 70th Legislature, 1987.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.5. *Secondary Trading Exemption Notice.* The State Securities Board adopts by reference the secondary trading exemption notice, as amended in November 1987. This form is available from the State Securities

Board, P.O. Box 13167, Austin, Texas 78711.

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 November 20, 1987.

TRD-8710437 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 4, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.6

The State Securities Board adopts an amendment to §133.6, with changes to the proposed text published in the September 4, 1987, issue of the *Texas Register* (12 Tex-Reg 3013). The change reflects that the adoption occurred in November, rather than in September as set forth in the proposal.

The amendment reflects the new filing fee that is set forth in House Bill 875, 70th Legislature, 1987.

The amendment includes within the form itself the registration fee enacted by the 70th Legislature, 1987.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.6. *Secondary Trading Exemption Renewal Notice.* The State Securities Board adopts by reference the secondary trading exemption renewal notice, as amended in November, 1987. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711.

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 November 20, 1987.

TRD-8710438 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 4, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.25

The State Securities Board adopts an amendment to §133.25, with changes to the proposed text published in the July 31, 1987, issue of the *Texas Register* (12 Tex-Reg 2500). The change reflects that the adoption occurred in November, rather than in September, as set forth in the proposal.

The amendment reflects the increased fee for transferring a salesman's registration, which fee is set forth in House Bill 875, 70th Legislature, 1987.

The amendment includes within the form itself the increased transfer fee.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe difference requirements for different classes.

§133.25. *Application for Transfer of Securities Salesman's Registration.* The State Securities Board adopts by reference the application for transfer of securities salesman's registration, as amended in November, 1987. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711.

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 November 20, 1987.

TRD-8710439 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: July 31, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.29

The State Securities Board adopts an amendment to §133.29, with changes to the proposed text published in the July 31, 1987, issue of the *Texas Register* (12 Tex-Reg 2501). The change reflects that the adoption occurred in November, rather than in September, as set forth in the proposal.

The amendment reflects the new fee set forth in House Bill 875, 70th Legislature, 1987, and clarifies several items on the form.

The amendment includes within the form itself the new fee required to be submitted

when the form is filed, and clarifies several items on the form.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.29. Intradate Exemption Notice for Sales Under Regulation 109.13(i). The State Securities Board adopts by reference the intradate exemption notice for sales under regulation 109.13(i), as amended in November, 1987. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711.

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 November 20, 1987.

TRD-8710440 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: July 31, 1987
For further information, please call
(512) 474-2233.



★7 TAC §133.31

The State Securities Board adopts an amendment to §133.31, with changes to the proposed text published in the September 4, 1987, issue of the *Texas Register* (12 TexReg 3014). The change reflects that the adoption occurred in November rather than in September, as set forth in the proposal.

The amendment reflects amendments to the administrative guidelines for the registration of real estate programs, which amendments are adopted simultaneously.

The amendment enables the review of real estate program offerings to be quicker than would otherwise be the case since the cross reference sheet enables securities analysts to review such programs and process such applications more efficiently.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons,

and matters within its jurisdiction, and prescribe different requirements for different classes.

§133.31. Real Estate Guidelines Cross Reference Sheet. The State Securities Board adopts by reference the State Securities Board real estate guidelines cross reference sheet, as amended in November, 1987. This form is available from the State Securities Board, P.O. Box 13167, Austin, Texas 78711-3167.

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 November 20, 1987.

TRD-8710441 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 4, 1987
For further information, please call
(512) 474-2233.



Chapter 141. Administrative Guidelines for Registration of Equipment Programs

★7 TAC §§141.1-141.8

The State Securities Board adopts amendments to §§141.1-141.5, and new §§141.6-141.8, without changes to the proposed text published in the September 18, 1987, issue of the *Texas Register* (12 TexReg 3249). Existing §§141.6-141.9 are simultaneously repealed elsewhere in this issue.

The amendments and new sections provide continued uniformity with other states in applying standards for the registration of equipment programs.

The sections reflect provisions that were included in the most recent amendments to the North American Securities Administrators Association equipment programs guidelines.

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

The amendments and new sections are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8710434

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 18, 1987
For further information, please call
(512) 474-2233.



★7 TAC §§141.6-141.9

The State Securities Board adopts the repeal of §§141.6-141.9, without changes to the proposed text published in the September 18, 1987, issue of the *Texas Register* (12 TexReg 3254).

The repeals allow for the continued uniformity with other states in applying standards for the registration of equipment programs.

The repeals allow for the simultaneous adoption of provisions that are included in the most recent amendments to the North American Securities Administrator's Association's equipment programs guidelines.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8710435 Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988
Proposal publication date: September 18, 1987
For further information, please call
(512) 474-2233.



Chapter 143. Administrative Guidelines for Registration of Real Estate Investment Trusts

★7 TAC §143.14

The State Securities Board adopts an amendment to §143.14, without changes to the proposed text published in the September 4, 1987, issue of the *Texas Register* (12 TexReg 3014).

The amendment reflects a phrase in the North American Securities Administrators

Association's real estate investment trust guidelines, which was inadvertently omitted when the guidelines were first adopted by the board.

The amendment provides increased uniformity with other states in applying standards for the registration of real estate investment trusts.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 581, §28-1, which provide that the board may make or adopt rules or regulations governing registration statements, applications, notices, and reports, and in the adoption of rules and regulations, may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

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 November 20, 1987.

TRD-8710436

Richard D. Latham
Securities Commissioner
State Securities Board

Effective date: January 1, 1988

Proposal publication date: September 4, 1987

For further information, please call
(512) 474-2233.

TITLE 22. EXAMINING BOARDS

Part V. State Board of Dental Examiners Chapter 101. Pertaining to Dentistry

Conduct-Grading

★22 TAC §101.33

The Texas State Board of Dental Examiners adopts the repeal of §101.33, without changes to the proposed text published in the May 22, 1987, issue of the *Texas Register* (12 TexReg 1654).

The board is adopting the repeal because it will save time and make the examination process more efficient.

Examination applicants will no longer have the opportunity to be critiqued during the actual examining process. After the examination is completed, an applicant who failed the examination may request in writing specific reasons for his or her's failing. The board will then furnish the applicant an analysis of their performance.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4551d, which provide the

board with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of the State as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

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 November 18, 1987.

TRD-8710417

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

Effective date: December 10, 1987

Proposal publication date: May 22, 1987

For further information, please call
(512) 834-6021.

Chapter 115. Extension of Duties of Auxiliary Personnel

Dental Hygiene

★22 TAC §115.2

The Texas State Board of Dental Examiners adopts an amendment to §115.2, without changes to the proposed text published in the May 22, 1987, issue of the *Texas Register* (12 TexReg 1654).

Prior to the amendment, dental hygienists were permitted to perform 15 functions under general supervision and five functions could be performed under direct supervision.

The amendment requires that all of the 20 permitted duties be done under direct supervision. The Texas State Board of Dental Examiners feels that the amendment provides better protection of the health and safety of the public and improves the quality of care for the following reasons. The dentist will be on the premises for diagnostic and treatment planning purposes which will include acute periodontal problems and recognition of mucosal changes. The dentist will be in the office in the event of an emergency or to respond to needs of patients on medications or with serious medical problems. Malpractice has increased significantly (50% in the past five years) involving failure to diagnose and treat periodontal disease. This is the number one reason for malpractice suits against dentists. Under general supervision, a patient may go for 12 months being seen by the dental hygienist during which time severe dental problems may develop.

Following the effective date of the amendment, any permitted duty performed by a dental hygienist may only be done under the direct supervision of the supervising dentist.

The following is a summary of comments in favor of the amendment. General supervision is inadequate. The dentist is better trained and direct supervision better provides for the needs of the public. The dental hygienist is not trained in diagnostic matters and is not trained to deal with the increasing number of patients who are on medication or suffering from long-term medical problems and cannot respond as well to emergencies that may arise. The dentist can only make decisions and be responsible for treatment by being in the office. Less than direct supervision of dental hygienists leads to an increase to the quantity of care and a decrease in the quality of care. There is no evidence available that proves that less than direct supervision results in lower patient fees for dental hygienists. Professional liability problems, lack of training of dental hygienists in areas such as diagnosis and treatment planning, necessitates the need for direct supervision. The health and safety of patients is best protected with direct supervision of dental hygienists. There is increased malpractice litigation as a result of failure to adequately diagnose and treat periodontal disease.

The following is a summary of comments received in opposition to the amendment. Requiring direct supervision will work a hardship on public health and nonprofit agencies. The dentist's physical presence on the premises does not insure that the patient will receive an examination, diagnosis, and treatment plan by the dentist. There have been no problems documented as a result of general supervision. The cost and availability of services will be adversely affected by changing the section to require direct supervision. The trend in all health professions is to use licensed persons to perform those tasks which will assist in expanding access to care and treatment. Legislative history indicates that the board should provide two levels of supervision. The section imposing direct supervision will be difficult to enforce. Dental hygienists are highly educated and trained to do their job under general supervision. Changing the section will increase the cost to consumers and state agencies.

The Texas Dental Association, Permian Basin Dental Society, Houston Society of Periodontists, Texas Society of Periodontists, Smith County Dental Society, East Texas Dental Society, and San Antonio District Dental Society commented for the amendment. The Oral Health Association of San Antonio, Texas Dental Hygienists' Association, Senior Political Action Committee, Tarrant County Consumers Union, and Gray Panthers of Austin commented against the amendment.

The board took oral and written comments for four meetings and over approximately a 10-month period prior to adopting this amendment. One of the principal comments opposing the section was that

it placed a hardship on public health agencies. Attorney General Jim Mattox advised that the board could make exceptions in the public health sector. A second comment was the increased cost to consumers. The board did not feel that there was documentation presented to indicate an increase in cost in the private sector. Following the review of all of the comments and information received, the board felt that the testimony presented indicated the need to adopt the section for the reasons set forth in the justification section. It is felt that this section will provide better quality dental care and better protection for the health and safety of the public.

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

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 November 20, 1987.

TRD-8710422

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

Effective date: February 1, 1988

Proposal publication date: May 22, 1987

For further information, please call
(512) 834-6021.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office Chapter 3. Energy Resources

★31 TAC §3.15

The General Land Office adopts new §3.15, with changes to the proposed text published in the September 25, 1987, issue of the *Texas Register* (12 TexReg 3346).

The section conforms the General Land Office administrative rules to statutory changes enacted by the 70th Legislature, 1987, which created new §52.036 of the Natural Resources Code, Title 2, Chapter 52, in House Bill 2056. The changes from the text as proposed are the result of internal comments and discussions.

The new section defines the criteria lessees need to meet to apply for the temporary reduction of gas royalty rates.

No comments were received from outside the School Land Board or the General Land

Office. The comments received from within the agency consisted of suggestions for better procedural implementation of the statute. Seeing the merit of these suggestions, the General Land Office incorporates them as changes.

The new section is adopted under the Natural Resources Code, Title 2, Chapter 31, §31.051, which instructs the commissioner of the General Land Office to make and enforce suitable rules consistent with the law.

§3.15. *Temporary Reduction of Gas Royalty Rates.*

(a) Prerequisites. Any lessee who has leased state land through the School Land Board based on a royalty bid and at a royalty rate exceeding 25%; and which lease covers land that has not been pooled or unitized by the School Land Board; and said land is an island, saltwater lake, bay, inlet, marsh, or reef owned by the state within tidewater limits, or a portion of the Gulf of Mexico within the jurisdiction of the state, may request the School Land Board to temporarily reduce its gas royalty rates, if the value of the gas is at or below \$3.00 for each 1,000 cubic feet. The value of the gas is defined as the highest market price paid or offered for gas of comparable quality in the general area where produced or when run, or the gross price paid or offered to the producer, whichever is greater.

(b) Request for reduction. A lessee seeking the approval of the School Land Board for a temporary reduction in gas royalty rates must first make an oral or written request for an application to the Pooling Committee. The application for reduction in gas royalty rates may pertain to any number of wells on a lease. The application should be sent to the Petroleum and Minerals Division, Pooling Committee, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

(1) The applicant must submit an affidavit and documentation in support of its request in the form and manner required by the Pooling Committee. The affidavit will attest to the fact that the statutory requirements for a royalty reduction have been met. The accompanying documentation will contain pertinent lease data, production and reserve data, gas price data, development data (if an application is made on a lease that is currently nonproductive), and other information which may be required to support the application, including the reason for requesting a royalty reduction.

(2) The School Land Board may give approval of the temporary reduction in gas royalty rates based on the lessee's affidavit, documents in support thereof, and the recommendation of the Pooling Committee.

(3) The School Land Board may re-evaluate the temporary reduction in gas royalty at any time.

(c) Verification of gas valuation. The gas valuation information submitted by the

lessee will be subject to verification by the Royalty Audit Division. The lessee will be entitled to the presumption stated under §3.10(e) of this title (relating to Basis for Computing Royalties) that proceeds received under a non-affiliated arms-length contract are equal to market value. However, this presumption is subject to review in accordance with §3.10 of this title (relating to Basis for Computing Royalties).

(d) Reporting requirements. The lessee will be held responsible for making reports and adjusting royalty payments within or outside of the sliding scale set out in the Natural Resources Code, §52.036(b).

(e) Effective dates for reduced royalty rates. The reduced royalty rates will be effective for production during the month in which the approval is given by the School Land Board. Royalty rates on gas produced after the month of August, 1990, will not be subject to reduction under this section.

(f) No retroactive effect. The reduced royalty rates will not be applied retroactively for previous months' production.

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 November 18, 1987.

TRD-8710389

Garry Mauro
Commissioner
General Land Office

Effective date: December 8, 1987

Proposal publication date: September 25, 1987

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

Chapter 13. Land Resources Rules, Practice, and Procedure for Land Leases and Trades

★31 TAC §13.1

The General Land Office adopts an amendment to §13.1, without changes to the proposed text published in the October 6, 1987, issue of the *Texas Register* (12 TexReg 3587).

The amendment conforms the section to statutory changes enacted by the 70th Legislature, 1987.

The amendment redefines types of improvements, imposes penalties on late rental payments, addresses refunds, and gives to the commissioner of the General Land Office the authority to grant to a lessee certain money for construction of improvements on the lease.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Natural Resources Code, §31.051, which provides the commissioner of the General Land Office with the authority to execute and perform all acts relating to public

land and to make and enforce rules which are consistent with the law.

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

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

TRD-8710370

Garry Mauro
Commissioner
General Land Office

Effective date: December 10, 1987

Proposal publication date: October 6, 1987

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

★31 TAC §13.11

The General Land Office adopts an amendment to §13.11, without changes to the proposed text published in the July 17, 1987, issue of the *Texas Register* (12 TexReg 2331).

The amendment brings the section into conformity with statutory changes enacted by the 70th Legislature, 1987, in Senate Bill 478, as the bill amended the Natural Resources Code.

The amendment removes the restriction that easements be limited to 10-year terms.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Natural Resources Code, §31.051, which gives the commissioner of the General Land Office the authority to make and enforce suitable rules consistent with the law.

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

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

TRD-8710371

Garry Mauro
Commissioner
General Land Office

Effective date: December 8, 1987

Proposal publication date: July 17, 1987

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



Part IV. School Land Board Chapter 153. Exploration and Development

★31 TAC §153.71

The School Land Board adopts an amendment to §153.71, with changes to the proposed text published in the July 31, 1987, issue of the *Texas Register* (12 TexReg 2504).

The amendment achieves uniformity between the administrative rule and the sta-

tutory changes promulgated by amendments to the Natural Resources Code as enacted by the 70th Legislature, 1987, in House Bill 2056. A change to the proposed text occurs in subsection (b)(3) where the word "may" is changed to the word "shall," to conform to statute. Another change to subsection (b)(2) is made to refer to a final judgment rather than the judgment. Another change to subsection (b) is made by inserting relating to, to clarify the basis for litigation.

The section governs suspensions of oil and gas leases issued by the School Land Board and administered by the General Land Office. The amendment clarifies the liability of lessee for delay rentals and royalties accruing during suspensions due to litigation.

Marathon Oil Company submitted written comments against the amendment to provide for a change in location of the clause "before the expiration of the primary term of the lease," and suggested that subsection (b)(3) be changed to provide that the lessee shall continue to be liable for all delay rentals and royalties accruing during the period of litigation except as may be provided by court order.

Written comments were submitted by ARCO Oil and Gas Company and Texas Independent Producers and Royalty Owners Association against the amendment, suggesting that the word "may" in subsection (b)(3) be changed to the word "shall."

The agency does not totally disagree with the comments received from Marathon Oil Company; however, the proposed changes do not materially affect the understanding or interpretation of the rule. The agency believes that the changes suggested are not critical to the equitable enforcement of the section.

The agency agrees with the comments received from ARCO Oil and Gas Company and Texas Independent Producers and Royalty Owners Association and has changed the section as suggested.

The amendment is adopted under the Texas Natural Resources Code, §32.062, which provides the School Land Board with the authority to adopt rules and procedures for the sale and lease of land under its authority.

§153.37. *Suspension of Oil and Gas Leases (Except Leases Under the Natural Resources Code, Chapter 52, Subchapter F).*

(a) (No change.)
(b) Litigation. If litigation relating to the validity of a lease issued by the commissioner of the General Land Office or relating to his authority to issue such a lease has been filed before the expiration of the primary term of the lease, the lease will be suspended under the following terms.

(1) (No change.)
(2) After final judgment is rendered, the primary term commences again

for the remainder of the term. However, if the suit was filed during the last six months of the primary term, and the lease is not being held by production or otherwise, the lease will be terminated on the date a final judgment is rendered or the last day of the primary term, whichever is later.

(3) The lessee shall continue to be liable for and shall pay all delay rentals and royalties accruing during the period of litigation. If the lease is held invalid by the court, rentals shall be refunded to the lessee.

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

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

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

TRD-8710372

Garry Mauro
Chairman
School Land Board

Effective date: December 10, 1987

Proposal publication date: July 31, 1987

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



★31 TAC §153.71

The School Land Board adopts new §153.71, with changes to the proposed text published in the September 25, 1987, issue of the *Texas Register* (12 TexReg 3346).

The new section conforms the School Land Board's administrative rules to statutory changes enacted by the 70th Legislature, 1987, which created new §52.036 of the Natural Resources Code, Title 2, Chapter 52, in House Bill 2056. The changes from the text as proposed are the result of internal comments and discussions.

The new section defines the criteria lessees need to meet to apply for the temporary reduction of gas royalty rates.

No comments were received from outside the School Land Board or the General Land Office. The comments received from within the agency consisted of suggestions for better procedural implementation of the statute. Seeing the merit of these suggestions, the School Land Board incorporates them as changes.

The new section is adopted under the Natural Resources Code, Title 2, Chapter 32, §32.062, which instructs the School Land Board to adopt rules of procedure and rules for the sale and lease of land that are consistent with Chapter 32 and with the laws of the state.

§153.71. *Temporary Reduction of Gas Royalty Rates.*

(a) Prerequisites. Any lessee who has leased state land through the School Land Board based on a royalty bid and at a royalty rate exceeding 25%; and which lease covers

land that has not been pooled or unitized by the School Land Board; and said land is an island, saltwater lake, bay, inlet, marsh, or reef owned by the state within tidewater limits, or a portion of the Gulf of Mexico within the jurisdiction of the state, may request the School Land Board to temporarily reduce its gas royalty rates, if the value of the gas is at or below \$3.00 for each 1,000 cubic feet. The value of the gas is defined as the highest market price paid or offered for gas of comparable quality in the general area where produced or when run, or the gross price paid or offered to the producer, whichever is greater.

(b) Request for reduction. A lessee seeking the approval of the School Land Board for a temporary reduction in gas royalty rates must first make an oral or written request for an application to the Pooling Committee. The application for reduction in gas royalty rates may pertain to any number of wells on a lease. The application should be sent to the Petroleum and Minerals Division, Pooling Committee, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

(1) The applicant must submit an affidavit and documentation in support of its request in the form and manner required by the Pooling Committee. The affidavit will attest to the fact that the statutory requirements for a royalty reduction have been met. The accompanying documentation will contain pertinent lease data, production and reserve data, gas price data, development data (if an application is made on a lease that is currently nonproductive), and other information which may be required to support the application, including the reason for requesting a royalty reduction.

(2) The School Land Board may give approval of the temporary reduction in gas royalty rates based on the lessee's affidavit, documents in support thereof, and the recommendation of the Pooling Committee.

(3) The School Land Board may reevaluate the temporary reduction in gas royalty rates at any time.

(c) Verification of gas valuation. The gas valuation information submitted by the lessee will be subject to verification by the Royalty Audit Division. The lessee will be entitled to the presumption stated under §3.10(e) of this title (relating to Basis for Computing Royalties) that proceeds received under a non-affiliated arms-length contract are equal to market value. However, this presumption is subject to review in accordance with §3.10 of this title (relating to Basis for Computing Royalties).

(d) Reporting requirements. The lessee will be held responsible for making reports and adjusting royalty payments within or outside of the sliding scale set out in the Natural Resources Code, §52.036(b).

(e) Effective dates for reduced royalty rates. The reduced royalty rates will be effective for production during the month in

which the approval is given by the School Land Board. Royalty rates on gas produced after the month of August, 1990, will not be subject to reduction under this section.

(f) No retroactive effect. The reduced royalty rates will not be applied retroactively for previous months' production.

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 November 18, 1987.

TRD-8710373 Garry Mauro
Chairman
School Land Board

Effective date: December 20, 1987
Proposal publication date: September 25, 1987
For further information, please call
(512) 463-5009.

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 adopts an amendment to §1.122, without changes to the proposed text published in the October 16, 1987, issue of the *Texas Register* (12 TexReg 3829).

The amendment allows an option for the individual of having their name deleted from a driver's license record mailing list that was obtained by a company purchasing the entire basic history file.

The section title is amended to properly identify the License Issuance and Vehicle Inspection Bureau. Subsection (a) is amended by adding and deleting language 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's license basic history file to agree to delete the name, address, and date of birth of any person who desires to be eliminated from a mailing list.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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 necessary to effectively administer the Act relating to driver's license.

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

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

TRD-8710386 Leo Gossett
Director
Texas Department of
Public Safety

Effective date: December 8, 1987
Proposal publication date: October 16, 1987
For further information, please call
(512) 465-2000.

Part IX. Texas Commission on Jail Standards Chapter 253. Definitions

★37 TAC §253.1

The Texas Commission on Jail Standards adopts an amendment to §253.1, without changes to the proposed text published in the October 2, 1987, issue of the *Texas Register* (12 TexReg 3538).

The amendment clarifies terminology dealing with direct supervision jails, which is necessary for planning purposes.

The amendment instructs interested agencies in the different types of jail design and assists in the determination of staffing needs.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5115.1, Title 81, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

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 November 18, 1987.

TRD-8710393 Robert O. Viterna
Executive Director
Texas Commission on
Jail Standards

Effective date: December 9, 1987
Proposal publication date: November 2, 1987
For further information, please call
(512) 463-5505.

Chapter 259. New Construction Rules

★37 TAC §259.345

The Texas Commission on Jail Standards adopts an amendment to §259.345,

without changes to the proposed text published in the October 2, 1987, issue of the *Texas Register* (12 TexReg 3538).

The amendment clarifies the number of inmates housed in dormitories which is consistent with recent legislation.

The amendment permits the congregating of 48 inmates in a dormitory when direct supervision is used as the form of construction and management.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5115.1, Title 81, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

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 November 18, 1987.

TRD-8710394

Robert O. Viterna
Executive Director
Texas Commission on
Jail Standards

Effective date: December 10, 1987
Proposal publication date: November 18, 1987
For further information, please call
(512) 463-5505.



★ 37 TAC §259.346

The Texas Commission on Jail Standards adopts an amendment to §259.346, without changes to the proposed text published in the October 2, 1987, issue of the *Texas Register* (12 TexReg 3538).

The amendment clarifies the number of inmates housed in dayrooms which is consistent with recent legislation.

The amendment permits the congregating of 48 inmates in a dayroom when direct supervision is used as the form of construction and management.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 5115.1, Title 81, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

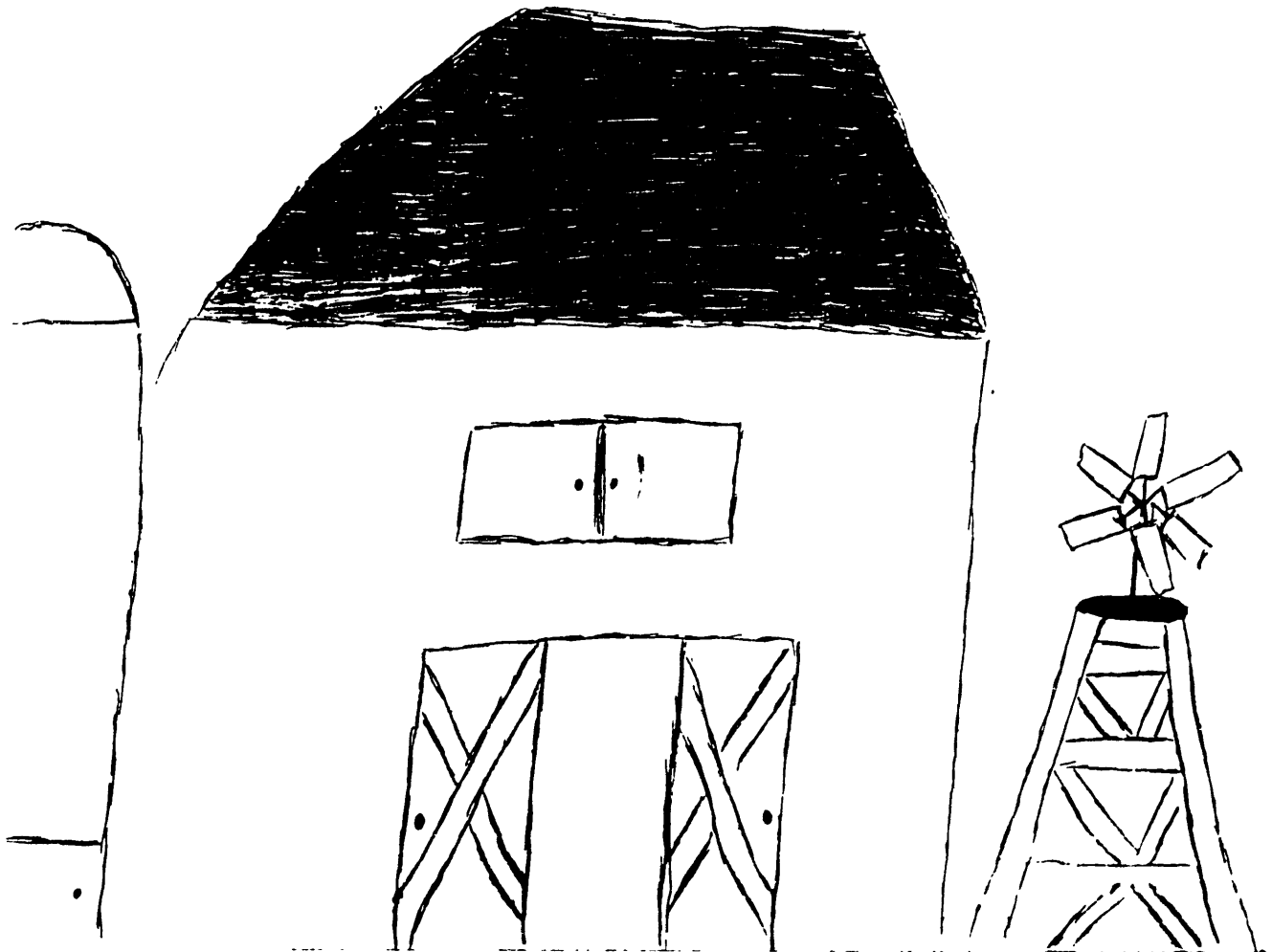
This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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

TRD-8710395

Robert O. Viterna
Executive Director
Texas Commission on
Jail Standards

Effective date: December 10, 1987
Proposal publication date: November 2, 1987
For further information, please call
(512) 463-5505.



Name: Chris
Grade: 3
School: Maedgen Elementary, Lubbock

Open Meetings

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

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

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

Texas Department on Aging

Thursday, December 10, 1987, 10 a.m. The Texas Board on Aging and State Citizens Advisory Council of the Texas Department on Aging will meet in the Sunflower and Marigold Rooms, Holiday Inn-Town Lake, 20 North IH-35, Austin. According to the agenda summary, the board will meet to approve the minutes of the Texas Board on Aging, September 17, 1987, meeting; confirm the citizens advisory council member-South East Texas area; approve the minutes of the Citizens Advisory Council, August 13, 1987, meeting; hear annual report on the Texas Association of regional councils; state of elder affairs address; appropriations and other legislation; consider minority/elderly participation; collaborative elder abuse prevention project; program reports; and hear full-time area agency on aging directorship issue and TDoA's funding formula.

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

Filed: November 19, 1987, 10:47 a.m.
TRD-8710399



Texas Department of Agriculture

Wednesday, December 9, 1987, 1:30 p.m. The Texas Department of Agriculture will meet in the District Office, 4502 Englewood Avenue, Lubbock. According to the agenda, the department will consider alleged violation of Texas Agriculture Code §103.001 by Dennis Seal, Jack Hales, Kenneth Hood, and Seal Produce, Inc., as petitioned by Phil Dunavant.

Contact: Margo P. Wilton, P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 23, 1987, 1:58 p.m.
TRD-8710523



State Board of Barber Examiners

Tuesday, December 8, 1987, 8 a.m. The State Board of Barber Examiners will meet

in Suite C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will approve minutes of the previous meeting; interview out-of-state applicants; sign teacher certificates; propose new rule for emergency adoption in compliance with House Bill 5 regarding the time limit for processing licenses and permits; and consider letters and reports to board by executive director. The board will also meet in executive session.

Contact: Jo King McCrorey, 1300 East Anderson Lane, C-275, Austin, Texas 78752, (512) 835-2040.

Filed: November 20, 1987, 8:51 a.m.
TRD-8710418



Texas Commission for the Blind

Thursday, January 21, 1988, 10:30 a.m. The Texarkana District Office of the Texas Commission for the Blind will meet in the Sheraton Conference Room, Sheraton Hotel, Texarkana. According to the agenda summary, the district will hear comments from concerned citizens on the state plan for vocational rehabilitation services in Texas during 1987-1988. Such meetings are required in the Rehabilitation Act amendments of 1986. Those who are unable to attend may send comments to the Public Information Office of the Texas Commission for the Blind, 4800 North Lamar Boulevard, Suite 320, Austin, Texas 78756, (512) 459-2612.

Filed: November 20, 1987, 3:46 p.m.
TRD-8710464



Texas Cancer Council

Tuesday, December 8, 1987, 9 a.m. The Board of the Texas Cancer Council will meet in Room 106, John H. Reagan Building. According to the agenda summary, the board will recognize new appointment to TCC, review minutes, hold a discussion of information, and consider old and new business.

Contact: D.L. Moore, 105 West Riverside Drive, Suite 112, Austin, Texas 78711, (512) 463-3190.

Filed: November 23, 1987, 1:52 p.m.
TRD-8710525



State Board of Canvassers

Tuesday, December 1, 1987, 2 p.m. The State Board of Canvassers will meet in the Speakers Committee Room, Second Floor, State Capitol, Austin. According to the agenda, the board will canvass the returns of the November 3, 1987, constitutional amendment election.

Contact: Donnette Smith, Sam Houston Building, Room 908, Austin, Texas 78701, (512) 463-5650.

Filed: November 23, 1987, 4:08 p.m.
TRD-8710540



Texas State Board of Dental Examiners

Saturday, December 5, 1987, 9 a.m. The Texas State Board of Dental Examiners will meet in the Embassy Suites Hotel, 5901 North IH-35, Austin. According to the agenda, the board will discuss disciplinary hearings and procedures, and examination procedures and materials for dentistry and dental hygiene.

Contact: William S. Nail, 8317 Cross Park Drive, Suite 400, Austin, Texas 78754, (512) 834-6021.

Filed: November 19, 1987, 2:02 p.m.
TRD-8710407



Texas Education Agency

The Texas Education Agency will meet in the William B. Travis Building, 1701 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Friday, December 4, 1987, 10:30 a.m. The Price Differential Index Advisory Committee will meet in Room 1-109, to discuss data items to include in the model for the Price Differential Index and hear a report by the agency staff on proposed data items to include in a market basket.

Contact: Joe Wisnoski, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: November 20, 1987, 4:25 p.m.
TRD-8710469

Wednesday, December 9, 1987, 10 a.m. The Committee for Long-Range Planning of the State Board of Education will meet in Room 1-109, to meet with representatives of three other state education agencies doing work in education technology and with representatives of the Public Broadcasting System on their plan for education technology, and conduct a work session on technology plans.

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

Filed: November 20, 1987, 4:25 p.m.
TRD-8710470

Thursday, December 10, 1987, 10:30 a.m. The Accountable Costs Advisory Committee will meet in Room 1-109, to discuss tentative description of the minimum basic costs, model definitions for districts, facilities needs assessment, report of the facilities standards subcommittee, Coopers & Lybrand Consultants Compensatory Education Study, and other studies on public school finance.

Contact: Joe Wisnoski, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9704.

Filed: November 20, 1987, 4:25 p.m.
TRD-8710471

Thursday, December 10, 1987, 10:30 a.m. The Investment Advisory Committee and the State Board of Education Committee for Finance and Programs will hold a joint meeting in Room 1-110, to discuss the investment of the permanent school fund.

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

Filed: November 20, 1987, 4:25 p.m.
TRD-8710472

Texas Funeral Services Commission

Tuesday-Thursday, December 1-3, 1987, 8:30 a.m. daily. The Texas Funeral Services Commission will meet at the Austin Airport Marriott, 6121 IH-35 North, Austin. According to the agenda summary, the commission will hold a public hearing to gather information for consumer brochure and interviews for outside legal counsel and contract private in-

vestigator; requests for rule changes, review complaints, hear committee reports, executive director's report, and update on court appeals; review requests for retired licenses and approval of foreign education; hold formal hearings on actions of licensees. The commission will also meet in executive session.

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

Filed: November 20, 1987, 3:41 p.m.
TRD-8710463

Texas Department of Human Services

Wednesday, December 2, 1987, 9 a.m. The Services to Aged and Disabled Advisory Committee of the Texas Department of Human Services will meet in Conference Room 5W, Fifth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda summary, the committee will hear the deputy's report; consider development schedule for fiscal year 1990-1991, subcommittee on delivery of services, hospice care program, in-home and family support project, respite care for aged and disabled clients, adult protective services support services, age limits on emancipated minors, waiver program for medically dependent children, medical assistance liens, tele-assistance services program, link-up America, contractig for adult foster care, family care contracting requirements, memorandum of understanding on hospital and long-term care facility services, other business, and plans for the next meeting.

Contact: Mary Ann Harvey, P.O. Box 2960, Austin, Texas 78701, (512) 450-3194.

Filed: November 23, 1987, 9:06 a.m.
TRD-8710509

Texas Industrial Accident Board

Monday, November 23, 1987, 9:30 a.m. The Texas Industrial Accident Board met in Room 107, First Floor, Bevington A. Reed Building, 200 East Riverside Drive, Austin. According to the agenda summary, the board approved minutes of the previous meeting; discussed and considered Crime Victims Compensation Advisory Committee, paralegal services, and prehearing examiner conflicts of interest; discussed and considered renewing Fort Worth, Corpus Christi, Weslaco, and Tyler leases; discussed and considered language on orders using maximum medical recovery, additional office space, and medical examination order rules-issue of emergency implementation; and reviewed and discussed board activities. The board also met in executive session to review board files.

Contact: Inez "Tippy" Foster, 200 East Riverside Drive, Austin, Texas 78704, (512) 448-7960.

Filed: November 19, 1987, 3:42 p.m.
TRD-8710412

State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

Tuesday, November 24, 1987, 10 a.m. The board made an emergency agenda revision to a meeting held in Room 414, to consider emergency revision of effective date of rate revisions and optional additional deductible to insurance agents errors and omissions liability program. The emergency status was necessary to allow insurance carriers sufficient time to incorporate rate revisions into renewal policies.

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

Filed: November 23, 1987, 2:42 p.m.
TRD-8710527

Monday, November 30, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 140, to consider Docket 9656—Acquisition of Americana Life Insurance Company, Houston, by Great Southwest Life Insurance Company, Houston.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 20, 1987, 3:49 p.m.
TRD-8710462

Tuesday, December 1, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9696—Whether disciplinary action should be taken against Anthony Clendenin Cantrell, Arlington, who holds a group II, health and accident insurance agent's license (0255600).

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:17 a.m.
TRD-8710497

Tuesday, December 1, 1987, 2 p.m. The board will meet in Room 414, to consider amendments to Rule 120 of the *Texas Automobile Manual*; consider personnel matters concerning state fire marshal, statistical and rate development, research and information services, and commissioner; consider litigation matters concerning state fire marshal and commissioner; consider proposed rule exempting surplus lines insurance from capital and surplus requirements; and emergency and proposed action on 28 TAC §1.406, assessment of maintenance taxes, 1988.

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

Filed: November 23, 1987, 1:28 p.m.
TRD-8710521

Tuesday, December 1, 1987, 2 p.m. The board will meet in Room 414, to consider personnel matters concerning state fire marshal, statistical and rate development, research and information services, and commissioner; consider litigation matters concerning state fire marshal and commissioner, proposed rule exempting surplus lines insurance from capital and surplus requirement, and emergency action on 28 TAC §1.406 concerning assessment of maintenance taxes, 1987.

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

Filed: November 23, 1987, 4 p.m.
TRD-8710528

Wednesday, December 2, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9701—Whether disciplinary action should be taken against Haley Lemuel Sowell, Greenville, who holds a group II, health and accident insurance agent's license (092258).

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:17 a.m.
TRD-8710498

Wednesday, December 2, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9722—Application for group I, legal reserve life insurance agent and local recording agent licenses should be issued to Lauris Franklin Lee, Graham, by the State Board of Insurance.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:17 a.m.
TRD-8710499

Wednesday, December 2, 1987, 2 p.m. The board will meet in Room 414, to consider possible adoption of 28 TAC §21.704 and §21.705 concerning trade practices, unfair discrimination and nondiscriminatory testing for human immunodeficiency virus.

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

Filed: November 20, 1987, 8:52 a.m.
TRD-8710419

Wednesday, December 2, 1987, 2 p.m. The board made an agenda revision to a meeting in Room 414, to consider extension of emergency effectiveness and possible emergency amendment of a rule under 28 TAC §21.705 or possible emergency adoption of a new rule under 28 TAC §21.706, con-

cerning trade practices, unfair discrimination, and nondiscriminatory testing for the presence of the human immunodeficiency virus (HIV).

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

Filed: November 23, 1987, 1:29 p.m.
TRD-8710520

Thursday, December 3, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9703—Whether disciplinary action should be taken against John Richard Weber, doing business as All Texas Insurance Agency, the Woodlands, Houston, who holds a local recording agent's license.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:18 a.m.
TRD-87104500

Thursday, December 3, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9703—Whether disciplinary action should be taken against John Richard Weber, doing business as All Texas Insurance Agency, the Woodlands, Houston, who holds a local recording insurance agent's license.

Contact: O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 12:23 p.m.
TRD-8710516

Thursday, December 3, 1987, 1:30 p.m. The Commissioner's Hearings Section will meet in Room 353, to consider Docket 9700—Whether disciplinary action should be taken against Randell James Stacks, Teague, who holds a group I legal reserve life insurance agent's license, a variable contract agent's license, and a local recording insurance agent's license.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:18 a.m.
TRD-87104501

Friday, December 4, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9671—Whether disciplinary action should be taken against James Russell Bigham, Lubbock/Crosbytown/Amarillo, who holds a group II, health and accident insurance agent's license and a group I legal reserve life insurance agent's license, and consider the renewal application for the local recording agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:18 a.m.
TRD-8710502

Friday, December 4, 1987, 10 a.m. The board will meet in Room 414, to consider adoption of rates for a non-resident automobile liability insurance policy and adoption of related manual rules, rating plans, classification plans, and policy and endorsement forms, after public hearing under the Insurance Code, Articles 1.04, 5.01, 5.03, 5.06, 5.10, and 5.96.

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

Filed: November 20, 1987, 8:52 a.m.
TRD-8710420

Friday, December 4, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9720—Whether disciplinary action should be taken against Joseph A. Gunter, Houston, who holds a local recording insurance agent's license.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:18 a.m.
TRD-8710503

Friday, December 4, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 140, to consider Docket 9741—Approval of the articles of agreement of Preferred Risk Lloyds Insurance Company, Dallas.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:18 a.m.
TRD-8710504

Monday, December 7, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9750—Reinsurance agreement whereby Mangum Funeral Benefit Association, Center, will be reinsured by Southern Medical Life Insurance Company, Waco.

Contact: James W. Norman, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:19 a.m.
TRD-8710505

Monday, December 7, 1987, 9 a.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9721—Whether disciplinary action should be taken against Jorge M. Delgado, Houston, who holds a group I, legal reserve life insurance agent license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:19 a.m.
TRD-8710506

Monday, December 7, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 342, to consider Docket 9697—Whether disciplinary action should be taken

against Steven C. Abbott, Houston, who holds a group I, legal reserve life insurance agent's license.

Contact: Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:19 a.m.
TRD-8710507

Monday, December 7, 1987, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 353, to consider Docket 9745—Application of Tom Jerry Luera, Snyder, for a group I, legal reserve insurance agent's license.

Contact: J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: November 23, 1987, 8:19 a.m.
TRD-8710508



Texas Municipal Retirement System

Friday-Saturday, December 11-12, 1987, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System will meet at 1200 North IH-35, Austin. According to the agenda summary, the board will approve minutes of the September 12, 1987, meeting; receive, consider, and act on the investment report of Duff-Phelps, Inc., consultants; review and approve service retirements, disability retirement, supplemental death benefits, and financial statements; consider and approve transfer of inactive accounts and unclaimed refunds, changes in procedures regarding domestic relations orders, adoption of new prescribed forms and amendment of certain existing prescribed forms, budget for 1988, adoption of funds, and adoption of resolution granting distributive benefits to annuitants and supplemental interest of certain funds and accounts; consider appointment of new member to medical board; hear report by actuary, legal counsel, and director; consider election of officers for 1988, and any other business to come before the board.

Contact: Jimmie L. Mormon, P.O. Box 2225, Austin, Texas 78768, (512) 476-7577.

Filed: November 23, 1987, 8:52 a.m.
TRD-8710493



Board of Pardons and Paroles

Monday-Friday, November 30-December 4, 1987, 1:30 p.m. daily Monday-Thursday and 11 a.m. Friday. A three-member panel of the Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the panel will receive, review, and consider information and reports concerning prisoners and inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate action.

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

Filed: November 20, 1987, 10:29 a.m.
TRD-8710424

Tuesday, December 1, 1987, 1:30 p.m. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider executive clemency recommendations and related actions, other than out-of-country conditional pardons, including full pardons and restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentence; and other reprieves, remissions, and executive clemency actions.

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

Filed: November 20, 1986, 10:30 a.m.
TRD-8710423



Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

Tuesday, December 1, 1987, 10 a.m. The Hearings Division will consider Docket 7785—Complaint of Jim Benner against Pedernales Electric Cooperative, Inc.

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

Filed: November 19, 1987, 2:41 p.m.
TRD-8710410

Tuesday, December 1, 1987, 1:30 p.m. The Hearings Division will consider Docket 7790—Petition of the General Counsel for an evidentiary proceeding to determine market dominance among interexchange telecommunications carriers.

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

Filed: November 19, 1987, 2:42 p.m.
TRD-8710411



Railroad Commission of Texas

Monday, November 23, 1987 The Office of General Counsel made an emergency adjustment agenda revision to a meeting held in Room 12-126, 12th Floor Auditorium, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the counsel considered Docket 037082A3L—Application of Bobby McCrary, doing business as B and C Trucking, to lease specialized motor carrier Certificate 37082 to K.T.C. Transport Inc. The emergency status was necessary because the commission needed to take action on this matter

on November 23, 1987, as a matter of urgent public necessity. The unavailability of K.T.C. Transport Inc. to move equipment and materials to Houston and Austin construction sites constitutes a reasonably unforeseen situation that required immediate action by the government body.

gress Avenue, Austin, Texas 78701, (512) 463-7095.

Filed: November 20, 1987, 4:49 p.m.
TRD-8710491



Texas Rehabilitation Commission

Friday, December 4, 1987, 9:30 a.m. The Texas Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will hold the quarterly council meeting in the Bluebonnet Room, Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda, the council will approve minutes of the previous meeting; hear the chairmans report, executive director's report, Executive Committee report, Planning and Evaluation Committee report, Advocacy and Planning Information Committee report, and public comments.

Contact: Roger A. Webb, 118 East Riverside Drive, Austin, Texas 78704, (512) 445-8867.

Filed: November 23, 1987, 9:08 a.m.
TRD-8710510



Employees Retirement System of Texas

Wednesday, December 2, 1987, 9 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in the Auditorium, Texas Air Control Board, 6330 US Highway 290 East, Austin. According to the agenda summary, the committee will approve minutes of the previous meeting; consider dental presentations and employees retirement system staff update; and discuss related insurance matters.

Contact: James W. Sarver, 18th and Brazos Streets, Austin, Texas 78701-3207, (512) 476-6431 ext. 217.

Filed: November 20, 1987, 2:26 p.m.
TRD-8710460



Texas Savings and Loan Department

Monday, November 30, 1987, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will accumulate a

record of evidence in regard to the application of Great West Savings Banc, Austin, application for a loan office to be located in the Espirit Office Building, 515 Capital of Texas Highway, Austin, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1250.

Filed: November 19, 1987, 4:04 p.m.
TRD-8710413

Tuesday, December 1, 1987, 9 a.m. The Texas Savings and Loan Department will meet in Suite 201, 2601 North Lamar Boulevard, Austin. According to the agenda summary, the department will accumulate a record of evidence in regard to the application of Columbia Savings Association, Webster, for a loan office at 1300 West Mockingbird Lane, Dallas, from which record the commissioner will determine whether to grant or deny the application.

Contact: Laura M. Hale, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705, (512) 479-1250.

Filed: November 19, 1987, 4:03 p.m.
TRD-8710414



School Land Board

Tuesday, December 1, 1987, 10 a.m. The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous meeting; consider pooling applications and applications to lease highway right for oil and gas; consider ratification of settlement agreement entered in HECI Exploration Company Inc. v. Peters, Fayette County; consider final adoption of proposed repeal of 31 TAC §155.8(f) and proposed adoption of 31 TAC §155.11, concerning protection and limitation of development on certain coastal public lands; consider note modification on blind school annex, Travis County; consider coastal public lands renewal of lease in J.P. Luby Park, Nueces County; and consider lease applications and easement application.

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

Filed: November 23, 1987, 4:26 p.m.
TRD-8710240



State Committee of Examiners for Speech-Language Pathology and Audiology

Monday, December 14, 1987, 9 a.m. The State Committee of Examiners for Speech-

Language Pathology and Audiology will meet in Room T-507, 1100 West 49th Street, Austin. According to the agenda summary, the committee will approve minutes of the previous meeting; consider educational advisory to be sent to the Texas Nurses Association, misleading and/or wrongful advertising, use of the title "Certified Hearing Aid Audiologist," pending complaints and complaint investigations, status of newsletter contract, printing/ mailing of director, committee's budget, proposed rules to implement Texas Civil Statutes, Article 6252-13 b(1), final rules concerning speech language pathology and audiology, rules concerning inactive status, and correspondence; hear the executive secretary's report; consider other matters relating to licensing and regulation of speech-language pathologists and audiologists, and set next meeting date.

Contact: June Robertson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7502.

Filed: November 23, 1987, 1:58 p.m.
TRD-8710524



Structural Pest Control Board

The Structural Pest Control Board will meet in Suite 250, Building C, 1300 East Anderson Lane, Austin. Dates, times, and agendas follow.

Monday, December 14, 1987, 9:30 a.m. The board will elect chairman and vice-chairman; approve minutes of the previous meeting; hear Larry Novy; discuss conflict rules and overlapping licensing authority; hear the executive director's report; and consider Antonio E. Suarez doing business as Di-Tone Inspection Service.

Contact: David A. Ivie, 1300 East Anderson Lane, Suite 250, Austin, Texas 78752, (512) 835-4066.

Filed: November 23, 1987, 9:09 a.m.
TRD-8710512

Tuesday, December 15, 1987, 8:30 a.m. The board will consider miscellaneous items and William J. Cunningham, doing business as Allied Exterminators. The board will also meet in executive session.

Contact: David A. Ivie, 1300 East Anderson Lane, Suite 250, Austin, Texas 78752, (512) 835-4066.

Filed: November 23, 1987, 9:09 a.m.
TRD-8710513



Board of Tax Professional Examiners

Wednesday, December 9, 1987, 9:30 a.m. The Board of Tax Professional Examiners will meet in the Conference Room-SPTB, 9501 North IH-35, Austin. According to the

agenda summary, the board will conduct oath of office by Cora B. Viescas; hold announcement meeting posted and quorum present; approve minutes of the August 27, 1987, meeting; introduce guests; consider action items including certification and recertification of qualified registrants; discuss items including recertification requirements; consider board guidance on professional ethics, registration of collectors when persons in law firms are collecting current and delinquent taxes for taxing units, and requirements in the assessing/collecting field; request board approval of a private course as an elective for Class III assessor/collectors; consider information items, including revision of exams, acquisition of grading hardware and software, budget and fund 160 status, examination statistics, registration statistics, activities since last meeting, planning calendar, and open meeting. The board will also meet in executive session.

Contact: Sam H. Smith, P.O. Box 15920, Austin, Texas 78701, (512) 834-4982.

Filed: November 20, 1987, 3:38 p.m.
TRD-8710421



Texas County and Retirement System

Friday, December 11, 1987, 9 a.m. The Board of Trustees of the Texas County and Retirement System will meet in the Four Seasons Hotel, 98 San Jacinto Boulevard, Austin. According to the agenda summary, the board will approve minutes of the September 25, 1987, meeting; consider and pass on applications for service retirement benefits and disability retirement benefits; review and act on reports from actuary, investment counsel, and director; consider adoption of rules and procedures regarding domestic orders, proposed budget for the year 1988, election of officers for the year 1988, and set date for March meeting.

Contact: J. Robert Brown, 400 West 14th Street, Austin, Texas 78701, (512) 476-6651.

Filed: November 24, 1987, 9:19 a.m.
TRD-8710544



Texas Southern University

Thursday, December 3, 1987, 4 p.m. The Personnel and Academic Affairs Committee of the Board of Regents of Texas Southern University will meet in Room 203, Sterling Student Life Center, 3100 Cleburne Avenue, Texas Southern University, Houston. According to the agenda, the committee will consider personnel actions and hear a report on progress of academic activities and programs.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: November 23, 1987, 8:59 a.m.
TRD-8710511

Thursday, December 3, 1987, 5 p.m. The Building and Grounds Committee will meet in Room 203, Sterling Student Life Center, 3100 Cleburne Avenue, Houston. According to the agenda, the committee will consider construction change orders, payment to architects contractors and engineers, authorization and ratification of contracts and awards, and review of ongoing construction and current contractual relations.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: November 24, 1987, 9:17 a.m.
TRD-8710545



Texas State Technical Institute

Monday, December 7, 1987, 11 a.m. The Search Committee of the Board of Regents of Texas State Technical Institute will meet on the 12th Floor, Meeting Room 3265, Hyatt Regency D-FW, Dallas. According to the agenda, the committee will consider items on the attached agenda.

Contact: Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913.

Filed: November 23, 1987, 9:07 a.m.
TRD-8710514



Texas Tech University Health Science Center

Tuesday, December 1, 1987, 2 p.m. The Board of Regents (Special Meeting) of the Texas Tech University Health Science Center will meet in the Conference Room, Jesse H. Jones Library Building, fourth Floor, 1133 M.D. Anderson Boulevard, Houston. According to the agenda, the board will meet to approve minutes of the November 20, 1987, meeting; and to hear the report on the mission, goals, components, and other facets of the Texas Medical Center.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: November 19, 1987, 11:01 a.m.
TRD-8710401



Texas Water Commission

The Texas Water Commission will meet at Stephen F. Austin Building, 1700 North Congress Avenue, Austin, unless otherwise noted. Dates, times, rooms, and agendas follow.

Tuesday, December 1, 1987, 10 a.m. The commission will meet in Room 118, to con-

sider water district use of surplus funds, release from escrow, water rate matters, proposed water quality permits, amendments and renewals, and water use application for final decision.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: November 20, 1987, 11:39 a.m.
TRD-8710443

Tuesday, December 1, 1987, 2 p.m. The commission will meet in Room 118, to consider complaint against Jo Ann Smith, Kenneth Tuck, Marian McWhorter, and Vernon Tuck, Jr., owners of Tuck Lake Dam; and consideration of executive director's preliminary enforcement report and petition for order assessing administrative penalties and requiring certain actions of City of McGregor (Permits 10219-01 and 10219-02).

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: November 20, 1987, 11:38 a.m.
TRD-8710444

Wednesday, December 2, 1987, 2 p.m. The commission will meet in Room 118, to consider Docket 7158-W—Application by Willow Run Public Service, Inc. for increase in rates for retail water and sewer service; consider order assessing administrative penalties of Safety-Kleen Corporation; and consider Permit 10812-01—Petition for order assessing administrative penalties and enforcement order of High Meadows Company.

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

Filed: November 20, 1987, 11:39 a.m.
TRD-8710445

Thursday, December 3, 1987, 10 a.m. The commission will meet in Room 123, to consider the executive director's report on agency administration, policy, budget, procedures, and personnel matters.

Contact: Karen A. Phillips, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

Filed: November 20, 1987, 11:38 a.m.
TRD-8710446

Wednesday, January 6, 1988, 9 a.m. The Office of Hearings Examiner will meet in the County Commissioners Courtroom, Grimes County Courthouse Annex Building, Main Street, Anderson. According to the agenda summary, the office will consider Proposed Permit 13408-01—Application for a permit by Anderson-Shiro Consolidated Independent School District, P.O. Box 289, Anderson, Texas 77830, to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 12,000 gallons per day from the Anderson-Shiro Senior High School wastewater treatment facilities. The facilities will serve a new high school.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 20, 1987, 11:35 a.m.
TRD-8710447

Wednesday, January 6, 1988, 9 a.m. The Office of Hearings Examiner will meet in the Study Room, Southwest Center, 3222 West Seventh Street, Highway 67, Texarkana. According to the agenda summary, the office will consider proposed permit 13392-01—Application for a permit by Red Lick Independent School District, Route 5, Box 395, Texarkana, Texas 75501, to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 13,000 gallons per day. The district is requesting the permit because the existing septic tank system can no longer handle the district needs.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 20, 1987, 11:36 a.m.
TRD-8710448

Thursday, January 7, 1988, 9 a.m. The Office of Hearings Examiner will meet in the Study Room, Southwest Center, 3222 West Seventh Street, Highway 67, Texarkana. According to the agenda summary, the office will consider Proposed Permit 02917—Application for a permit by Conoco, Inc., Mount Pleasant Products Terminal, West First Street, Mount Pleasant, Texas 75455, to authorize a discharge of stormwater at a volume variable with rainfall. The applicant operates a petroleum products storage terminal.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 20, 1987, 11:36 p.m.
TRD-8710449

Thursday, January 7, 1988, 10 a.m. The Office of Hearings Examiner will meet in the City Council Chambers, El Paso City Hall, corner of Santa Fe and Missouri Streets, El Paso. According to the agenda summary, the office will consider renewal of Permit 10795-01—Application by El Paso County Water Authority, 1539 Pawling Street, El Paso, Texas 79927, to discharge treated domestic wastewater effluent at a volume not to exceed an average flow of 500,000 gallons per day from the Horizon City Sewage Treatment Plant. This facility consists of two aerated lagoons, a sand filter, and chlorine contact chamber. The permittee shall utilize effluent for irrigation of a golf course to the maximum extent possible. Application rates for the irrigated land shall not exceed 5.6 acre-feet/acre/year.

Contact: Alex Schmandt, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: November 20, 1987, 11:38 a.m.
TRD-8710450



Regional Agencies Meetings Filed November 19

The Burnet County Appraisal District, Board of Directors Emergency Meeting, met

in emergency session at 215 South Pierce Street, Burnet, on November 22, 1987, at 3 p.m. Information may be obtained from Alvin C. Williams, Drawer E, Burnet, Texas 78611, (512) 756-8291.

The Leon County Central Appraisal District, Board of Directors, met in the Leon County Central Appraisal District Office, Centerville, on November 23, 1987, at 7 p.m. Information may be obtained from Robert Winn, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

The Pecan Valley Mental Health Mental Retardation Region, Board of Trustees, met at the Pecan Valley MHMR Region Life Skills Center, 1811 Tin Top Road, Weatherford, on November 25, 1987, at 8 a.m. Information may be obtained from Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

The Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, on December 1, 1987, at noon. The Appraisal Review Board will meet at the same location, on December 21, 1987, at 9 a.m. Information may be obtained from Deborah Reneau, 124 South Crockett, Sherman, Texas 75090, (214) 893-9673.



Meetings Filed November 20

The Burnet County Appraisal District, Board of Directors, will meet at 215 South Pierce Street, Burnet, on December 10, 1987, at 6:30 p.m. Information may be obtained from Alvin C. Williams, P.O. Drawer E, Burnet, Texas 78611.

The Dallas Area Rapid Transit, Operations Committee, Board of Directors, and Audit Committee, Board, and Audit Committee, met at 601 Pacific Avenue, Dallas, on November 24, 1987, at 2 p.m., 3 p.m., and 6 p.m., respectively. 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 November 23, 1987, at 7 p.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Grayson Appraisal District, Board of Directors, will meet at 205 North Travis, Sherman, on December 1, 1987, at noon. Information may be obtained from Deborah Reneau, 205 North Travis, Sherman, Texas 75090, (214) 893-9673.

The San Patricio County Appraisal District, Appraisal Review Board, will meet in the Courthouse Annex, Sinton, on December 4,

1987, at 2 p.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402

The Upshur County Appraisal District, Appraisal Review Board will meet in the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, on November 30, 1987, at 8 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644, (214) 843-3041.

The Lavaca County Central Appraisal District, Appraisal Review Board, will meet in the Lavaca County Central Appraisal District, 113 North Main, Hallettsville, on November 30, 1987, at 9 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396.

The Ellis County Tax Appraisal District, will meet at 406 Sycamore Street, Waxahachie, on December 1, 1987, at 10 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.
TRD-8710416



Meetings Filed November 23

The Brown County Appraisal District, Board of Directors, met at 403 Fisk Avenue, Brownwood, on November 24, 1987, at 7 p.m. Information may be obtained from Linda Meeks, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Dawson County Appraisal District, Board of Directors, will meet at 514 South First Street, Lamesa, on December 1, 1987, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Education Service Center, Region I, Board of Directors, will meet in the Marrs Room, Embassy Suites, McAllen, on December 8, 1987, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611.

The Education Service Center, Region IV, Board of Directors, will meet in the Boardroom, 7145 West Tidwell, Houston, on December 8, 1987, at 5 p.m. Information may be obtained from Tom Pate Jr., 7145 West Tidwell, Houston, Texas 77001, (713) 462-7708.

The Education Service Center, Region VII, Board of Directors, will meet at Johnny Cace's Restaurant, Longview, on December 10, 1987, at 7 p.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, on November 10, 1987, at

7 p.m. Information may be obtained from Don J. Peters, 818 East Main Street, Kilgore, Texas, (214) 984-3071.

The Sabine Valley Regional Mental Health and Mental Retardation Center, Board of Trustees, will meet at Cace's Seafood and Steak House, 1501 East Marshall Avenue, Longview, on December 7, 1987, at noon. Information may be obtained from Ron Cookston, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

The San Antonio River Industrial Development Authority, Board of Directors, will meet at 100 East Guenther Street, San Antonio, on December 7, 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 Tyler County Tax Appraisal District, Board of Directors, will meet at 103 Pecan, Woodville, on December 1, 1987, at 4 p.m. Information may be obtained from Mary F. Mann, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.
TRD-8710494



Meetings Filed November 24

The Dallas Area Rapid Transit, Board of Directors, met at 601 Pacific Avenue, Dallas, on November 24, 1987, at 4 p.m. The Minority Affairs Committee and Budget and Finance Committee will meet at the same location on December 1, 1987, at 2 p.m. and 4 p.m., respectively. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

The Heart of Texas Council of Governments, Board of Directors, will meet at the Holiday Inn, IH-35 and Lake Brazos Drive, Waco, on December 3, 1987, at 6:15 p.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701-2297, (817) 756-6631.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the Boardroom, 4801 King Street, Greenville, on December 2, 1987, at 11 a.m. Information may be obtained from Joe Pat Davis or Jeanette Jordan, P.O. Box 1339, Greenville, Texas 75401, (214) 454-3510.
TRD-8710546



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 November 9-13, 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.

City Public Service of San Antonio, San Antonio; calaveras lake power plant Number 5; San Antonio, Bexar County; 18426; new

City Public Service of San Antonio, San Antonio; calaveras lake power plant Number 6; San Antonio, Bexar County; 18427; new

City Public Service of San Antonio, San Antonio; coal handling facility Number 5/6; San Antonio, Bexar County; 18428; new

City Public Service of San Antonio, San Antonio; limestone handling facility Number 5/6; San Antonio, Bexar County; 18429; new

City Public Service of San Antonio, San Antonio; ash handling facility Number 5/6; San Antonio, Bexar County; 18430; new

Southwest Foam Moulding, Inc., Waxahachie; expandable polystyrene; Waxahachie, Ellis County; 18431; new

Patterson Truck Line, Inc., Channelview; pipe coating facility; Channelview, Harris County; 18433; new

NGS Inc., Houston; trench burner; Houston, Harris County; 18434; new

Matlach Inc., Houston; tank truck cleaning facilities; Houston, Harris County; 18447; new

Exxon Company, Baytown; FCCU 3 cat efficiency project; Baytown, Harris County; 18448; new

Arrow Industries, Inc., Farmers Branch; flexographic printing press; Farmers Branch, Dallas County; 18449; new

Warren Petroleum, Breckenridge; I-C compressor engine; Breckenridge, Stephens County; 18450; new

Warren Petroleum, Orchard; two I-C compressor engines; Orchard, Fort Bend County; 18451; new

Anadite, Inc., Hurst; chem-mill masking facility; Hurst, Tarrant County; 18452; new

Lapinus Corporation, Belton; rockwood manufacturing facility; Belton, Bell County; 18453; new

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

TRD-8710398 Bill Ehret
Director of Hearings
Texas Air Control Board

Filed: November 19, 1987
For further information, please call (512) 451-5711, ext. 354.



State Banking Board Notice of Hearing

The hearing officer of the State Banking Board will conduct a hearing on Tuesday, January 5, 1988, at 9 a.m., 2601 North Lamar Boulevard, Austin, on the charter application for Bank of Longview, Longview. Application is a conversion application from Bank of Longview, N.A., Longview, to a state-chartered bank.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, State Banking Department, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

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

TRD-8710495 William F. Aldridge
Director of Corporate Activities
State Banking Board

Filed: November 23, 1987
For further information, please call (512) 479-1200.



Banking Department of Texas Application to Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, require any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On November 17, 1987, the banking commissioner received an application to acquire control of Fayetteville Bancshares, Inc., Fayetteville, by James C. Baker, Michael E. Aldredge, Lynn E. Smith, and W.C. Fancher of Sugar Land; Gaston E. Heffington, Alvin Minarick, Jerry F. Kubala, and Richard A. Sodek of Fayetteville; and W. H. Royal, W. J. Rafferty, William E. Ladin, Jr., Walter A. Schroeder, and Leona F. W. Schroeder of Houston.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

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

TRD-8710408 William F. Aldridge
Director of Corporate Activities
Banking Department of Texas

Filed: November 19, 1987
For further information, please call (512) 479-1200.



Notice of Application

Texas Civil Statutes, Article 342-401a, requires 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 November 18, 1987, the banking commissioner received an application to acquire control of Commercial State Bank, Palmer, by Harold T. Crum, Houston; Franklin D. Sapp, Austin; Robert E. Lee, Dallas; Sam Bond, Mansfield; and Gary H. Lee, Shawnee, Oklahoma.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

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

TRD-8710409 William F. Aldridge
Director of Corporate Activities
Texas Department of Banking

Filed: November 19, 1987
For further information, please call (512) 479-1200.



Comptroller of Public Accounts Gasoline and Alcohol Mixture Determination of Credits Allowable for January, February, and March 1988

Pursuant to the Tax Code, §153.123, the comptroller of public accounts is required to publish the credit against the gasoline tax allowable for the first sale or use of gasoline and alcohol mixture blended from products produced in a state allowing a reciprocal credit for Texas-produced products.

The comptroller of public accounts has determined that \$0.04 per gallon credit for the first sale or use of gasoline and alcohol mixture blended with alcohol produced in Texas from Texas products will be available for the months of January, February, and March 1988.

The maximum credit allowed to be claimed for the first sale or use in January, February, and March 1988, of a gasoline and alcohol mixture blended from alcohol produced outside Texas and not from Texas-produced products will be \$0.01 per gallon if from one of the following states: Alaska, North Dakota, Nebraska, South Dakota, Alabama, Washington, Tennessee, Ohio, Kentucky, Illinois, Nevada, Florida, and Iowa.

No credit will be allowed for mixtures containing alcohol produced outside the United States, or those states which do not allow credit or exemptions for Texas-produced alcohol.

Inquiries should be directed to Tax Policy Division, Comptroller of Public Accounts, Austin, Texas 78774, (512) 463-4600, or toll free anywhere in Texas at 1-800-252-5555.

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

TRD-8710456 Bob Bullock
Comptroller of Public Accounts

Filed: November 20, 1987
For further information, please call (512) 463-4004.



Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer ⁽³⁾ Agricultural/Commercial ⁽⁴⁾ thru \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 11/23/87-11/29/87	18.00%	18.00%
Monthly Rate— Article 1.04(c) ⁽¹⁾ 11/01/87-11/30/87	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 10/01/87-12/31/87	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 ⁽³⁾ 10/01/87-12/31/87	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽³⁾ 10/01/87-12/31/87	14.00%	N/A
Standard Annual Rate—Article 1.04(a)(2) ⁽²⁾ 10/01/87-12/31/87	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 ⁽³⁾ 10/01/87-12/31/87	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 10/01/87-12/31/87	18.00%	N/A

Judgment Rate—Article

1.05, §2

12/01/87-12/31/87

10.00%

10.00%

- (1) For variable rate commercial transactions only.
- (2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).
- (3) Credit for personal, family, or household use.
- (4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on November 16, 1987.

TRD-8710368

Al Endsley
Consumer Credit
Commissioner

Filed: November 18, 1987

For further information, please call (512) 479-1280.



Texas Department of Health Current Schedule of Controlled Substances

The Texas Controlled Substances Act, Texas Civil Statutes, Article 4476-15, §2.16, requires the Texas Commissioner of Health to file with the Office of the Secretary of State a copy of the schedules of all substances controlled under the Act. On November 17, 1987, the commissioner filed a copy of the current schedule with the Statutory Filings Division of the Office of the Secretary of State. This schedule contains all changes made since the effective date of the Act.

Copies of the schedule are filed and are available for public inspection in the Food and Drugs Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756. Information may be obtained from the Food and Drugs Division regarding the schedule.

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

TRD-8710457

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

Filed: November 20, 1987

For further information, please call (512) 458-7248.



Intent to Revoke Certificates of Registration

The Bureau of Radiation Control, Texas Department of Health, filed a complaint against the following registrants, pursuant to *Texas Regulations for Control of Radiation* (TRCR) 13.8. The agency intends to revoke the certificates of registration, order the registrants to cease and desist use of radiation machine(s), and order the registrants to divest themselves of such equipment, presenting evidence satisfactory to the Bureau of Radiation Control that they have complied with the order and the provisions of Texas Civil Statutes, Article 4590f. The complaints are as shown following this notice.

This notice affords the opportunity for a hearing to show cause why the certificates of registration should not be revoked. A written request for a hearing must be received within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control, (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public

hearing be timely filed, the certificates of registration will be revoked at the end of the 30-day period of notice.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, 8 a.m.-5 p.m. (except holidays).

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against Hubert Lee Risinger, D.D.S., M.S.D., Inc., 715 Hill Country Drive, Kerrville, Texas 78028 (the registrant), holder of Certificate of Registration Number 9-10216.

Texas Regulations for Control of Radiation (TRCR) 42.8 requires that the registrant shall notify the agency, in writing, within 30 days of any changes which would render the information contained in the application for registration and/or the certificate of registration no longer accurate. Contrary to this, an inspection conducted by the agency determined that a Siemens Dental unit, Model Number 8191231X1682, Serial Number 0172502, had been deleted from the current inventory. This rendered the information on the application from registration submitted to this agency on December 16, 1986, no longer accurate. A copy of this application for registration is enclosed.

TRCR 12.11(b) requires that a nonrefundable fee shall be paid annually for each radioactive material license and/or for each certificate of registration, and TRCR 12.1(b) states that failure to pay the described fee is in violation to these rules. Contrary to this, the registrant has failed to pay the fee in the amount of \$82 submitted by this agency on May 15, 1986, for the period of June, 1986, through May, 1987, and the fee in the amount of \$82 submitted by this agency on May 18, 1987, for the period of June, 1987, through May, 1988.

A notice of violation was issued to the registrant on June 8, 1987, requesting a written reply providing steps taken to correct the violations and results achieved, steps taken to avoid repeating the violations, and the date full compliance would be achieved. No response was received by the agency. On July 21, 1987, the agency issued a second notice by certified mail requiring a written notification of corrective actions within 10 days of receipt of the notice. This notice was received by the registrant on July 23, 1987. No response was received by the agency. On August 4, 1987, the agency issued a third notice by certified mail, advising the registrant that if written notification of corrective actions was not received within 10 days of the notice, the agency must consider issuing a complaint, requesting an order for revocation of the certificate of registration, requiring the registrant to cease and desist radiographic operations and the registrant divest himself of the radiographic equipment. This notice was received by the registrant on August 7, 1987. No response was received by the agency.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with the Texas Radiation Control Act, §13, Texas Civil Statutes, Article 4590f, either disable the machine(s) or divest himself of it, presenting evidence satisfactory to the Bureau of Radiation Control that he has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If these items are corrected within 30 days of the date of this complaint, no order will be issued.

Comes now the Division of Compliance and Inspection, Bureau of Radiation Control, Texas Department of Health (the agency), through its division director, and makes the following complaint against Boon Road Animal Clinic, 11209 Beechnut, Houston, Texas 77072 (the registrant), holder of Certificate of Registration Number 11-07269.

Texas Regulations for Control of Radiation (TRCR) 32.10(a)(2) requires that diaphragm or cones shall be provided for collimating the useful beam to the area of clinical interest. Contrary to this, the inspection conducted by the agency on April 24, 1987, determined that the circular x-ray field of the Fischer x-ray unit, Model Number 55-75, Serial Number P10156, was not collimated to the area of clinical interest.

A notice of violation was issued to the registrant on May 15, 1987, requesting a written reply providing steps taken to correct the violation and results achieved, steps taken to avoid repeating the violation, and the date full compliance would be achieved. No response was received by the agency. On June 25, 1987, the agency issued a second notice by certified mail requiring a written notification of corrective actions within 10 days of receipt of the notice. This notice was received by the registrant on July 2, 1987. No response was received by the agency. On July 28, 1987, the agency issued a third notice by certified mail, advising the registrant that if notification of corrective actions was not received within 10 days of receipt of the notice, the agency must consider issuing a complaint, requesting an order for revocation of the certificate of registration, requiring that the registrant cease and desist radiographic operations, and that the registrant divest itself of the radiographic equipment. This notice was received by the registrant on July 30, 1987. No response was received by the agency.

Therefore, the agency, as provided in *Texas Regulations for Control of Radiation* 13.8(b), requests that an order be issued revoking the certificate of registration of the registrant and ordering the registrant to cease and desist use of such machine(s), and further that the registrant, in order to be in compliance with the Texas Radiation Control Act, §13, Texas Civil Statutes, Article 4590f, either disable the machine(s) or divest itself of it, presenting evidence satisfactory to the Bureau of Radiation Control that it has complied with this order and the provisions of Texas Civil Statutes, Article 4590f.

If the items are corrected within 30 days of the date of this complaint, no order will be issued.

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

TRD-8710397 Robert A. MacLean
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: November 19, 1987
For further information, please call (512) 835-7000.



Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive

material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Throughout Texas	ACCO Perforators Inc.	L04121	Corpus Christi	0	10/28/87
Throughout Texas	Bowers Tubular Service Inc.	L04135	Hughes Springs	0	10/29/87
Throughout Texas	Del Monte USA	L04128	Crystal City	0	10/29/87

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Arlington	Metroplex Hematology Oncology Assoc.	L03211	Arlington	22	11/06/87
Beaumont	North Star Steel Texas	L02122	Beaumont	11	10/23/87
Brenham	Bohne Memorial Hospital	L03334	Brenham	8	11/02/87
Carrollton	Trinity Medical Center	L03765	Carrollton	4	11/10/87
Dallas	Southwest Dallas Hospital	L03046	Dallas	6	10/30/87
Dallas	Avacare Inc.	L03842	Dallas	1	10/30/87
Deer Park	Fina Oil and Chemical Company	L00302	Deer Park	22	11/02/87
Gatesville	Coryell Memorial Hospital	L02391	Gatesville	13	10/27/87
Georgetown	Georgetown Hospital	L03152	Georgetown	8	11/12/87
Hebbronville	Caithness Mining Corporation	L02922	Hebbronville	7	11/04/87
Houston	West Houston Medical Center	L02224	Houston	14	10/30/87
Houston	Mallinckrodt, Inc.	L03008	Houston	15	10/29/87
Houston	Parkway Hospital	L01964	Houston	20	10/30/87
Houston	University of Texas System Cancer Center	L00466	Houston	39	11/10/87
Kingsville	Texas A & I University	L01821	Kingsville	14	10/26/87
La Porte	Dow Chemical Company U.S.A.	L00510	La Porte	39	11/04/87
Lubbock	Methodist Hospital	L00483	Lubbock	51	10/23/87
Missouri City	Flow Control Division	L00061	Houston	16	10/26/87
Odessa	University of Texas of the Permian Basin	L02695	Odessa	5	11/10/87
Pasadena	G. E. Smith and Associates	L00991	Pasadena	21	10/21/87
Point Comfort	Aluminum Company of America	L00032	Point Comfort	32	10/26/87
Richardson	Richardson Medical Center	L02336	Richardson	16	10/26/87
San Antonio	Santa Rosa Medical Center	L02237	San Antonio	21	10/29/87
Texarkana	Wadley Regional Medical Center	L01437	Texarkana	13	10/30/87
Texarkana		L02578	Texarkana	7	10/23/87
Texas City	Texas City Refining, Inc.				

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Three Rivers	Exxon Corporation	L01431	Houston	19	11/04/87
Throughout Texas	Maxim Engineers	L02653	Dallas	10	11/09/87
Throughout Texas	Syncor International Corporation	L01999	El Paso	60	10/26/87
Throughout Texas	R/A Services, Inc.	L03010	Odessa	23	10/28/87
Throughout Texas	Component Sales and Service	L02243	Houston	11	10/23/87
Throughout Texas	Scientific Measurement Systems, Inc.	L02696	Austin	21	10/26/87
Throughout Texas	Conam Inspection	L00478	Houston	56	10/28/87

Throughout Texas	Reinhart and Associates, Inc.	L03189	Austin	5	10/29/87
Throughout Texas	Basin Industrial X-Ray, Inc.	L02280	Corpus Christi	19	10/29/87
Throughout Texas	ITL Manlift Services, Inc.	L03795	Searcy, AR	9	11/06/87
Throughout Texas	Technical Welding Laboratory, Inc.	L02187	Pasadena	39	11/09/87
Throughout Texas	East Texas Testing Laboratory	L01423	Tyler	21	11/02/87
Throughout Texas	Radiation Safety Services	L04027	Arlington	2	11/05/87
Throughout Texas	Ex Cel Perforators, Inc.	L03114	Robstown	4	11/02/87
Throughout Texas	Tennessee Gas Pipeline Company	L00180	Houston	15	11/04/87
Webster	Humana Hospital Clear Lake	L01680	Webster	23	10/29/87
Webster	Diagnostic Systems Laboratories, Inc.	L03084	Webster	7	11/02/87
Woodville	S & T International, Inc.	L03652	Woodville	8	11/06/87

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Ablene	Hendrick Medical Center	L00021	Ablene	20	11/06/87
Arlington	The University of Texas at Arlington	L00248	Arlington	23	11/12/87
Belville	Belville General Hospital	L03295	Belville	7	11/02/87
Brenham	Texas Department of Agriculture	L00934	Austin	17	10/28/87
Cheek	Metalforms, Inc.	L02261	Beaumont	12	11/06/87
Corpus Christi	Koch Refining Company	L00322	Corpus Christi	16	10/28/87
Fort Worth	Stephen Eppstein, M.D.	L01891	Fort Worth	4	10/26/87
Fort Worth	George G. Janik	L03319	Fort Worth	2	10/30/87
Houston	Baylor College of Medicine	L00587	Houston	20	10/26/87
Houston	M-I Drilling Fluids	L02761	Houston	3	10/28/87
Linden	Linden Municipal Hospital	L02721	Linden	6	10/26/87
San Antonio	Charles R. Leone, Jr., M.D., P.A.	L01483	San Antonio	6	10/26/87
Sunnyvale	City of Garland	L02230	Sunnyvale	5	10/23/87
Throughout Texas	David B. Hammond	L03325	Midland	4	11/06/87
Throughout Texas	Radiographic Specialists, Inc.	L02742	Houston	9	11/02/87
Throughout Texas	McClelland Engineers, Inc.	L00058	Houston	25	11/09/87
Victoria	Citizens Medical Center	L01544	Victoria	13	11/06/87

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Hearne	Robertson County Community Hospital	L03564	Hearne	4	10/26/87
Pecos	Pennzoil Sulphur Company	L03857	Pecos	3	11/09/87
Victoria	R. A. Stevenson, Jr., M.D.	L00616	Victoria	11	10/29/87

In issuing new licenses and amending and renewing existing licenses, the Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed

equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or "person affected" within 30 days of the date of publication of this notice. A "person affected" is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or "person affected" may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Texas Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, 1212 East Anderson Lane, Austin, from 8 a.m. to 5 p.m. Monday through Friday (except holidays).

Issued in Austin, Texas, on November 23, 1987.

TRD-8710458 Robert A. MacLean
Deputy Commissioner
Texas Department of Health

Filed: November 23, 1987

For further information, please call (512) 465-2640

Texas Higher Education Coordinating Board Notice of Meeting

The Teacher Education Advisory Committee will meet on Wednesday, December 2, 1987, 1 p.m., in the Coordinating Board's Conference Room 209, 200 East Riverside Drive, Austin. The Commissioner's Conference Planning Subcommittee will also meet at 9 a.m. of that same day in Conference Room 209. For additional information, contact Glenda Barron at (512) 462-6492.

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

TRD-8710396 James McWhorter
Assistant Commissioner for Planning
and Administration
Texas Higher Education Coordinating Board

Filed: November 19, 1987

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

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration.

(1) Application for a name change by New Security Life Insurance Company, a domestic life insurance com-

pany. The home office is in Houston. The proposed new name is American Southwest Life Insurance Company.

(2) Application for admission to do business in Texas of CIGNA Life Insurance Company, a foreign life insurance company. The home office is in Bloomfield, Connecticut.

(3) Application for Cumberland Casualty and Indemnity Insurance Company, a domestic fire and casualty insurance company. The home office is in Pasadena.

(4) Application for incorporation of Cumberland Casualty and Surety Company, a domestic fire and casualty insurance company. The home office is in Pasadena.

(5) Application for incorporation of Cumberland Casualty Insurance Company, a domestic fire and casualty insurance company. The home office is in Pasadena.

(6) Application for a name change by American Eagle Insurance Company, a foreign casualty insurance company. The home office is in Monterey, California. The proposed new name is Eagle West Insurance Company.

(7) Application for incorporation of Environmental Casualty and Indemnity Insurance Company, a domestic fire and casualty insurance company. The home office is in Pasadena.

(8) Application for incorporation of Environmental Casualty Insurance Company, a domestic fire and casualty insurance company. The home office is in Pasadena.

(9) Application for admission to do business in Texas of MultiPlus Insurance Company, a foreign casualty insurance company. The home office is in White Plains, New York.

(10) Application for admission to do business in Texas of Redland Insurance Company, a foreign fire and casualty insurance company. The home office is in Council Bluffs, Iowa.

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

TRD-8710485 Nicholas Murphy
 Chlef Clerk
 State Board of Insurance

Filed: November 20, 1987
For further information, please call (512) 463-6326.



Texas Advisory Board of Occupational Therapy Examination Notices

Pursuant to §373.1(c) of the rules of the Texas Advisory Board of Occupational Therapy, public notice is given of the next scheduled examination of occupational therapist to be administered by the American Occupational Therapy Association on January 23, 1988. The scores are scaled ranging from 300 to 600, with 450 being the passing score.

The examination standards of performance are those used by the American Occupational Therapy Association.

The examination will be held in various locations across the state. Any eligible person interested in taking the examination should contact the American Occupational Therapy Association, 1383 Piccard Drive, Suite 300, Rockville, Maryland 20850, (301) 948-9626.

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

TRD-8710384 Charles Schlessner
 Assistant Commissioner
 Texas Rehabilitation Commission

Filed: November 18, 1987
For further information, please call (512) 445-8368.



Pursuant to §373.1(c) of the rules of the Texas Advisory Board of Occupational Therapy, public notice is given of the next scheduled examination of occupational therapy assistant to be administered by the American Occupational Therapy Association on January 23, 1988. The scores are scaled ranging from 300 to 600, with 450 being the passing score.

The examination standards of performance are those used by the American Occupational Therapy Association.

The examination will be held in various locations across the state. Any eligible person interested in taking the examination should contact the American Occupational Therapy Association, 1383 Piccard Drive, Suite 300, Rockville, Maryland 20850, (301) 948-9626.

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

TRD-8710385 Charles Schlessner
 Assistant Commissioner
 Texas Rehabilitation Commission

Filed: November 18, 1987
For further information, please call (512) 445-8368.



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 Horizon Savings Association, for approval to establish and operate remote service unit(s) at the following location(s)—all Convenient Food Mart Store locations: 8213 Brodie Lane, Austin, Travis County; 12518 Research, Austin, Travis County; 12400 Amherst, Austin, Travis County; 11815 North FM Road 620, Austin, Travis County; 1006-B Yager Lane, Austin, Travis County; 2113 Wells Branch Parkway, Austin, Travis County; 100 12th Street, Pflugerville, Williamson County; 2701 Highway 183 South, Leander, Williamson County; 1100 Gatties School Road, Round Rock, Williamson County; 1201 Leander Highway, Georgetown, Williamson 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 the above 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 November 19, 1987.

TRD-8710415 H. Earl Hall, Jr.
 Deputy Commissioner
 Texas Savings and Loan Department

Filed: November 19, 1987
For further information, please call (512) 479-1250.



Office of the Secretary of State Correction of Error

The Office of the Secretary of State submitted a proposal new §81.71 which was automatically withdrawn in the October 20, 1987, issue of the *Texas Register* (12 TexReg 3874). The automatic withdrawal contained errors as published.

The withdrawal should read: "Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed new §81.71, submitted by the Office of the Secretary of State has been automatically withdrawn, effective October 13, 1987..."

Texas Water Commission Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, information regarding an enforcement order was issued to Parkans International, Inc., as published in the November 13, 1987, issue of the *Texas Register*. That notice is hereby corrected to read as follows:

An enforcement order was issued to Parkans International, Inc., on October 30, 1987, assessing \$1,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Michelle McFaddin, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

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

TRD-8710467 Karen A. Phillips
 Chief Clerk
 Texas Water Commission

Filed: November 20, 1987
For further information, please call (512) 463-7898.

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Pioneer Aggregates, Inc., on November 17, 1987, assessing \$4,450 in administrative penalties, and imposing stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting Michelle McFaddin, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

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

TRD-8710468 Karen A. Phillips
 Chief Clerk
 Texas Water Commission

Filed: November 20, 1987
For further information, please call (512) 463-7898.



Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to the City of Texarkana, on November 17, 1987, assessing stipulated penalties.

Information concerning any aspect of this order may be obtained by contacting William Thompson, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas, 78711-3087, (512) 463-8069.

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

TRD-8710468 Karen A. Phillips
 Chief Clerk
 Texas Water Commission

Filed: November 20, 1987
For further information, please call (512) 463-7898.



1988 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the 1988 issues of the *Texas Register*. For reference, monthly deadline schedules will also be published during the year. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. A star beside a publication date indicates that the deadlines have been moved because of state holidays. Please note that issues published on February 2, April 26, August 2, and November 1 are indexes; no other material will be published in these issues. The *Texas Register* will not be published on May 6, September 9, November 29, and December 30.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
Friday, January 1	Monday, December 28	Tuesday, December 29
Tuesday January 5 Friday, January 8 Tuesday, January 12 Friday, January 15 Tuesday, January 19 Friday, January 22 Tuesday, January 26 Friday, January 29	Wednesday, December 30 Monday, January 4 Wednesday, January 6 Monday, January 11 Wednesday, January 13 Monday, January 18 Wednesday, January 20 Monday, January 25	Thursday, December 31 Tuesday, January 5 Thursday, January 7 Tuesday, January 12 Thursday, January 14 Tuesday, January 19 Thursday, January 21 Tuesday, January 26
Tuesday, February 2 Friday, February 5 Tuesday, February 9 Friday, February 12 Tuesday, February 16 ★ Friday, February 19 Tuesday, February 23 Friday, February 26	1986 CUMULATIVE INDEX Monday, February 1 Wednesday, February 3 Monday, February 8 Wednesday, February 10 Friday, February 12 Wednesday, February 17 Monday, February 22	Tuesday, February 2 Thursday, February 4 Tuesday, February 9 Thursday, February 11 Tuesday, February 16 Thursday, February 18 Tuesday, February 23
Tuesday, March 1 Friday, March 4 Tuesday, March 8 Friday, March 11 Tuesday, March 15 Friday, March 18 Tuesday, March 22 Friday, March 25 Tuesday, March 29	Wednesday, February 24 Monday, February 29 Wednesday, March 2 Monday, March 7 Wednesday, March 9 Monday, March 14 Wednesday, March 16 Monday, March 21 Wednesday, March 23	Thursday, February 25 Tuesday, March 1 Thursday, March 3 Tuesday, March 8 Thursday, March 10 Tuesday, March 15 Thursday, March 17 Tuesday, March 22 Thursday, March 24
Friday, April 1 Tuesday, April 5 Friday, April 8 Tuesday, April 12 Friday, April 15 Tuesday, April 19 Friday, April 22 Tuesday, April 26 Friday, April 29	Monday, March 28 Wednesday, March 30 Monday, April 4 Wednesday, April 6 Monday, April 11 Wednesday, April 13 Friday, April 18 Monday, April 25	Tuesday, March 29 Thursday, March 31 Tuesday, April 5 Thursday, April 7 Tuesday, April 12 Thursday, April 14 Tuesday, April 19 1ST QUARTERLY INDEX Tuesday, April 26
Tuesday, May 3 Friday, May 6 Tuesday, May 10	Wednesday, April 27 Wednesday, May 4	Thursday, April 28 NO ISSUE PUBLISHED Thursday, May 5

Friday, May 13
Tuesday, May 17
Friday, May 20
Tuesday, May 24
Friday, May 27
Tuesday, May 31

Monday, May 9
Wednesday, May 11
Monday, May 16
Wednesday, May 18
Monday, May 23
Wednesday, May 25

Tuesday, May 10
Thursday, May 12
Tuesday, May 17
Thursday, May 19
Tuesday, May 24
Thursday, May 26

★ Friday, June 3
Tuesday, June 7
Friday, June 10
Tuesday, June 14
Friday, June 17
Tuesday, June 21
Friday, June 24
Tuesday, June 28

Friday, May 27
Wednesday, June 1
Monday, June 6
Wednesday, June 8
Monday, June 13
Wednesday, June 15
Monday, June 20
Wednesday, June 22

Tuesday, May 31
Thursday, June 2
Tuesday, June 7
Thursday, June 9
Tuesday, June 14
Thursday, June 16
Tuesday, June 21
Thursday, June 23

Friday, July 1
Tuesday, July 5
★ Friday, July 8
Tuesday, July 12
Friday, July 15
Tuesday, July 19
Friday, July 22
Tuesday, July 26
Friday, July 29

Monday, June 27
Wednesday, June 29
Friday, July 1
Wednesday, July 6
Monday, July 11
Wednesday, July 13
Monday, July 18
Wednesday, July 20
Monday, July 25

Tuesday, June 28
Thursday, June 30
Tuesday, July 5
Thursday, July 7
Tuesday, July 12
Thursday, July 14
Tuesday, July 19
Thursday, July 21
Tuesday, July 26

Tuesday, August 2
Friday, August 5
Tuesday, August 9
Friday, August 12
Tuesday, August 16
Friday, August 19
Tuesday, August 23
Friday, August 26
Tuesday, August 30

Monday, August 1
Wednesday, August 3
Monday, August 8
Wednesday, August 10
Monday, August 15
Wednesday, August 17
Monday, August 22
Wednesday, August 24

2ND QUARTERLY INDEX

Tuesday, August 2
Thursday, August 4
Tuesday, August 9
Thursday, August 11
Tuesday, August 16
Thursday, August 18
Tuesday, August 23
Thursday, August 25

Friday, September 2
Tuesday, September 6
Friday, September 9
Tuesday, September 13
Friday, September 16
Tuesday, September 20
Friday, September 23
Tuesday, September 27
Friday, September 30

Monday, August 29
Wednesday, August 31
Wednesday, September 7
Monday, September 12
Wednesday, September 14
Monday, September 19
Wednesday, September 21
Monday, September 26

NO ISSUE PUBLISHED

Tuesday, August 30
Thursday, September 1
Thursday, September 8
Tuesday, September 13
Thursday, September 15
Tuesday, September 20
Tuesday, September 22
Tuesday, September 27

Tuesday, October 4
Friday, October 7
Tuesday, October 11
Friday, October 14
Tuesday, October 18
Friday, October 21
Tuesday, October 25
Friday, October 28

Wednesday, September 28
Monday, October 3
Wednesday, October 5
Monday, October 10
Wednesday, October 12
Monday, October 17
Wednesday, October 19
Monday, October 24

Thursday, September 29
Tuesday, October 4
Thursday, October 6
Tuesday, October 11
Thursday, October 13
Tuesday, October 18
Thursday, October 20
Tuesday, October 25

Tuesday, November 1
Friday, November 4
Tuesday, November 8

3RD QUARTERLY INDEX

Monday, October 31
Wednesday, November 2

Tuesday, November 1
Thursday, November 3

Friday, November 11
Tuesday, November 15
Friday, November 18
Tuesday, November 22
Friday, November 25
Tuesday, November 29

Monday, November 7
Wednesday, November 9
Monday, November 14
Wednesday, November 16
Monday, November 21

Tuesday, November 8
Thursday, November 10
Tuesday, November 15
Thursday, November 17
Tuesday, November 22

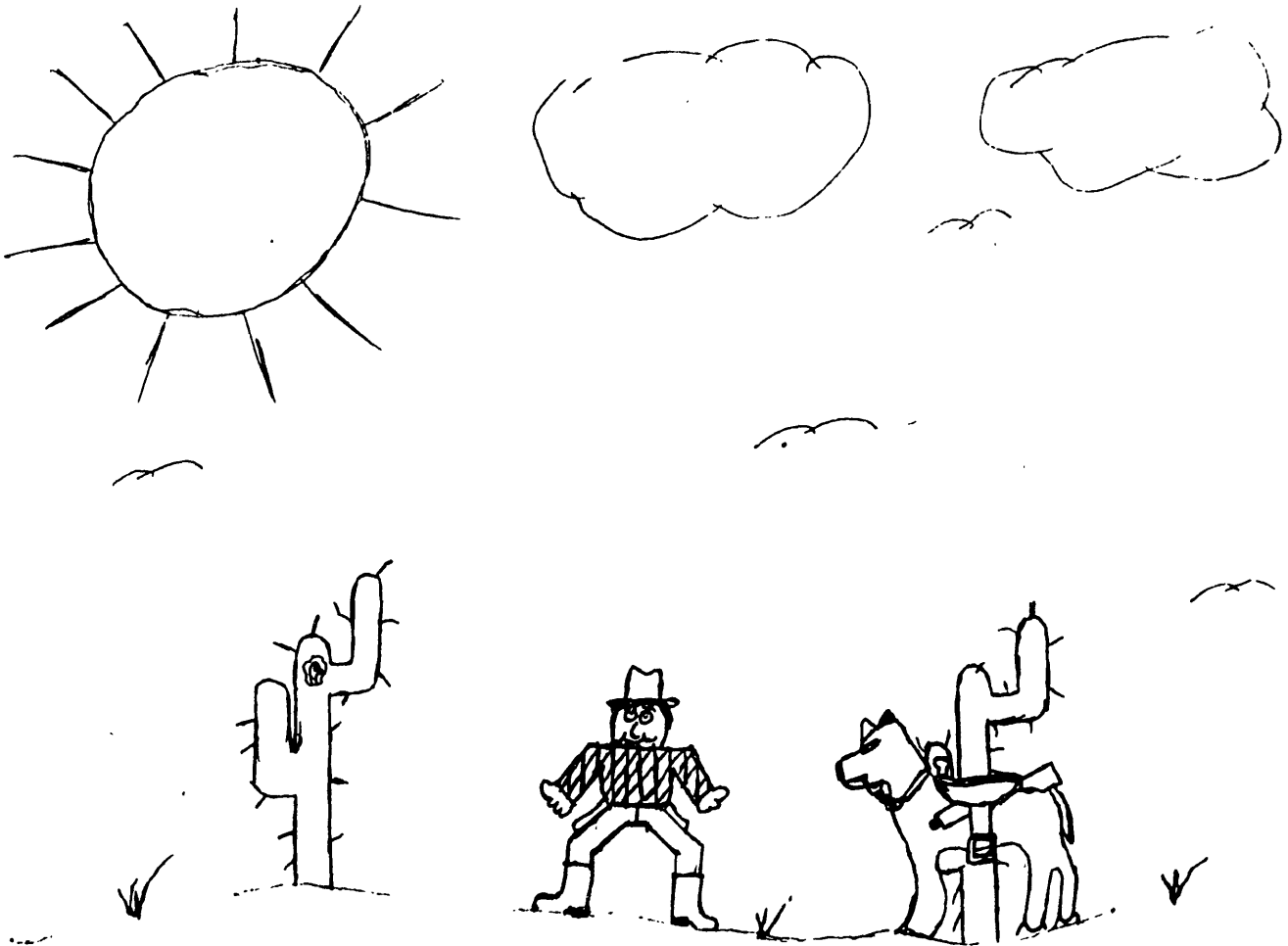
NO ISSUE PUBLISHED

Friday, December 2
Tuesday, December 6
Friday, December 9
Tuesday, December 13
Friday, December 16
Tuesday, December 20
Friday, December 23
Tuesday, December 27
Friday, December 30

Monday, November 28
Wednesday, November 30
Monday, December 5
Wednesday, December 7
Monday, December 12
Wednesday, December 14
Monday, December 19
Wednesday, December 21

Tuesday, November 29
Thursday, December 1
Tuesday, December 6
Thursday, December 8
Tuesday, December 13
Thursday, December 15
Tuesday, December 20
Thursday, December 22

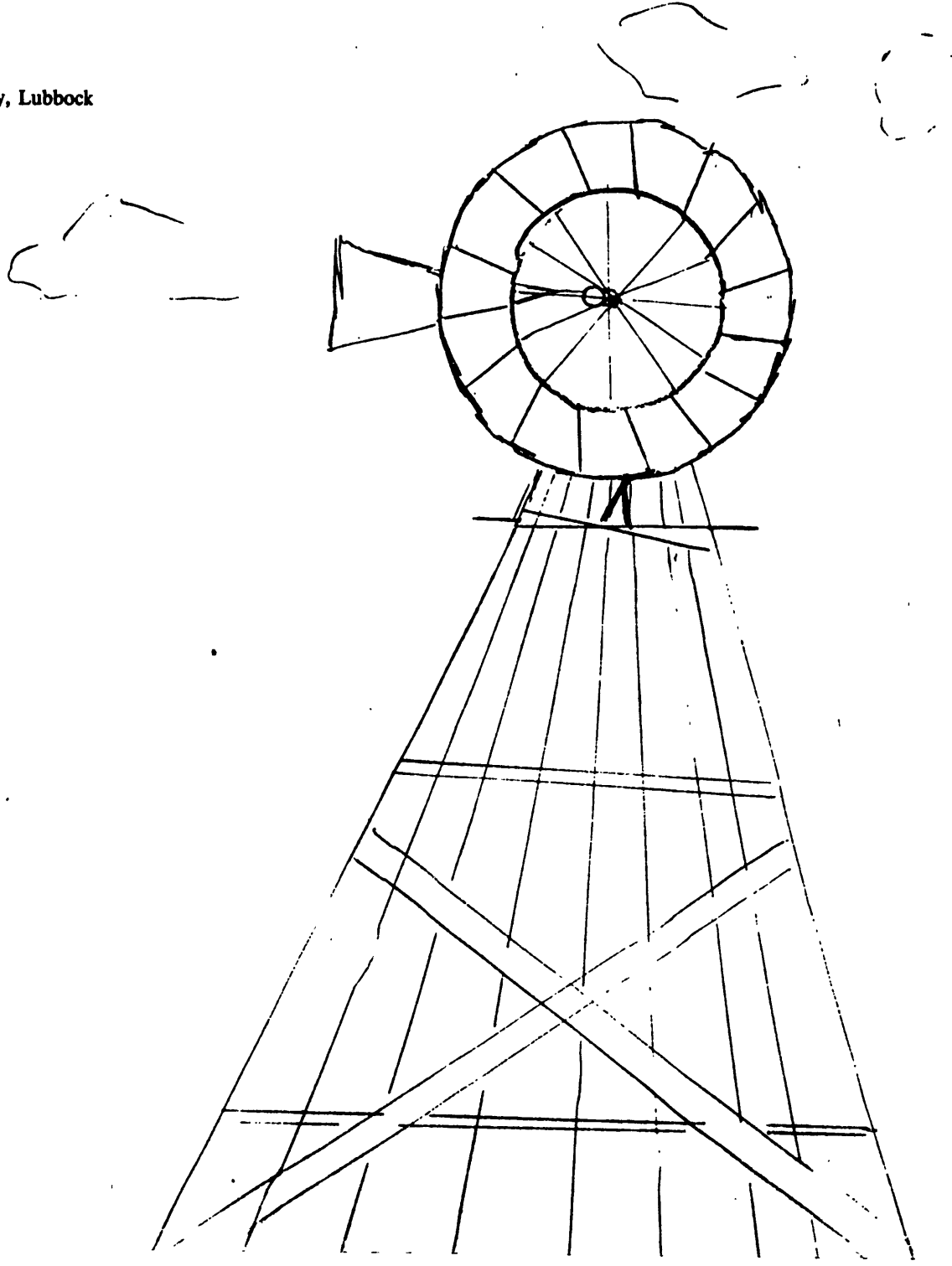
NO ISSUE PUBLISHED

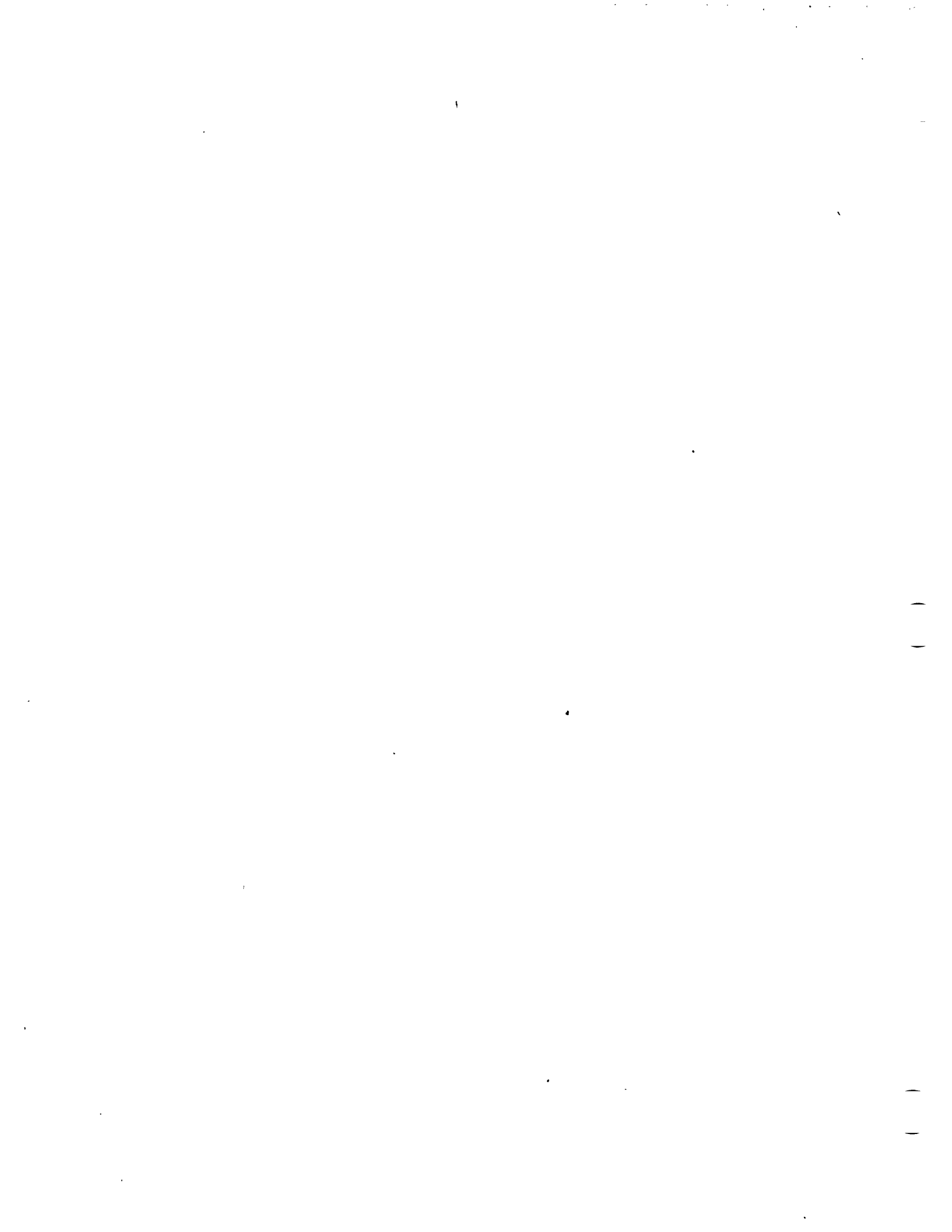


Name: Allan Hull
Grade: 6
School: Maedgen Elementary, Lubbock



Name: Elizabeth Wyatt
Grade: 6
School: Maedgen Elementary, Lubbock

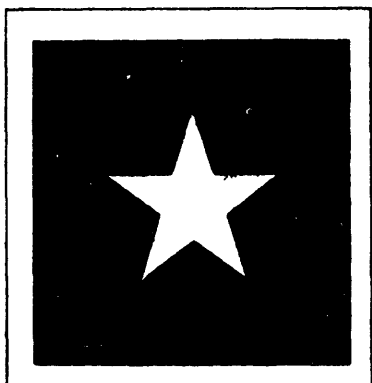




Second Class Postage

PAID

Austin, Texas
and additional entry offices



Please enter my subscrip-
tion to the *Texas Register*
as indicated below. (I will
look for my first issue in
about two weeks.)

- ★ 1 year (100 issues) \$80
- ★ 6 months (50 issues) \$60
- ★ Payment enclosed
- ★ Bill me

For information concerning the
Texas Register, please call (512)
463-5561, or write to P.O. Box
13824, Austin, Texas 78711-3824.

Please make checks payable to
the Secretary of State. Subscrip-
tion fees are not refundable.

To order a new subscription, or to indicate a change
of address, please use this form. When notifying us
of an address change, please attach the mailing
label from the back of a current issue. Questions
concerning existing subscriptions should also in-
clude the subscription number from the mailing
label.

You may also use this form to request back issues
of the *Texas Register*. Please specify the exact dates
and quantities of the issues requested. Each copy of
a back issue is \$3.00.

★ Change of Address
(Please attach mailing label)

★ Back issues requested
(Please specify dates)

Name

Organization

Occupation

Telephone

Address

City

State

Zip Code

For office use only