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Volume 6, Number 72, September 25, 1981
Pages 3553 - 3616

TEXAS REGISTER

In This Issue...

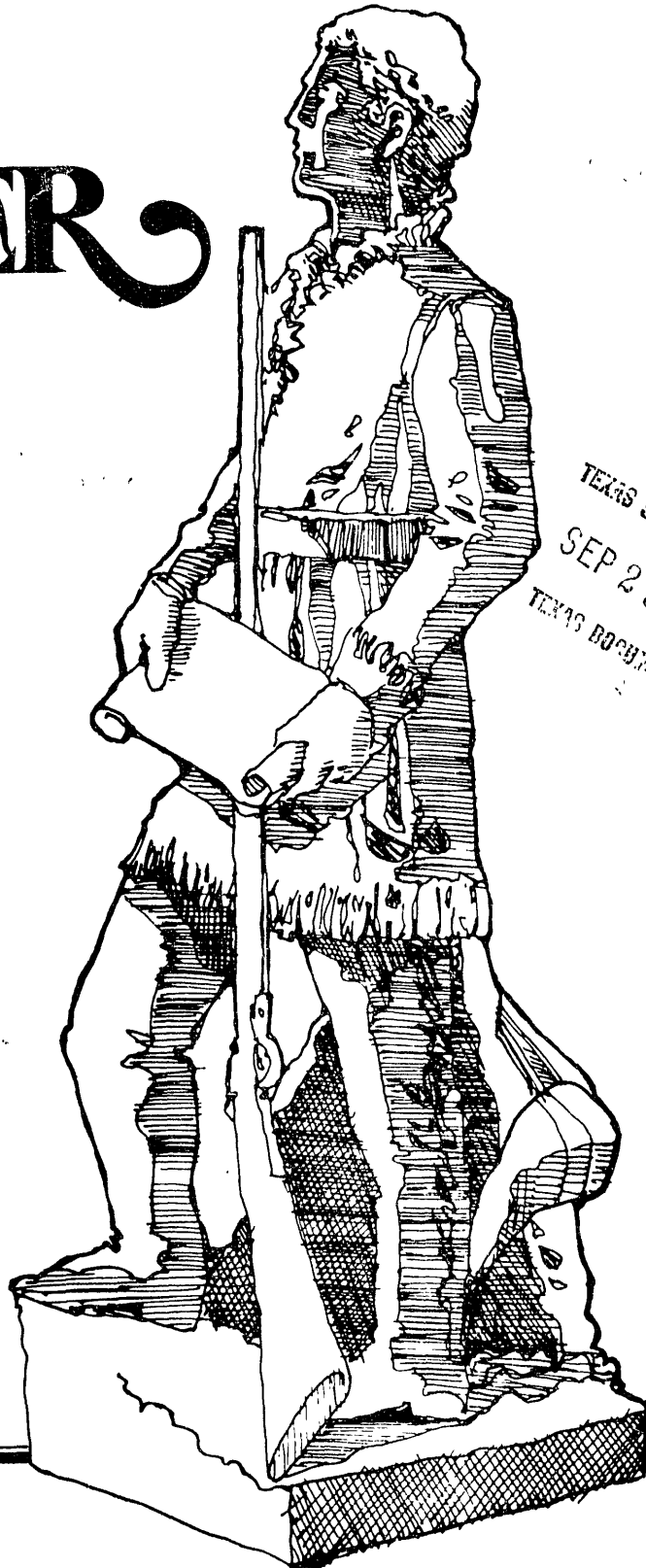
Texas Water Development Board adopts, on an emergency basis, new sections pertaining to radio broadcasts of notices of hazardous waste applications; effective date—September 21 3560

Texas Department of Health proposes new sections concerning laboratory testing and milk and dairy standards; proposed date of adoption—November 23 3561

Texas Parks and Wildlife Department proposes for adoption amendments to its wildlife chapter concerning statewide hunting and fishing proclamations; proposed date of adoption—October 19 3576

Texas Education Agency adopts new sections, amendments, and repeals spanning several chapters pertaining to the education system; effective date—October 9 3580

Teacher Retirement System of Texas adopts new sections relating to membership credit; effective date—October 9 3599



TEXAS STATE LIBRARY
SEP 25 1981
TEXAS DOCUMENTS

Office of the Secretary of State

The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 16, 19, 22, 25, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 6, July 81

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 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.

TEXAS REGISTER

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George W. Strake, Jr.
Secretary of State

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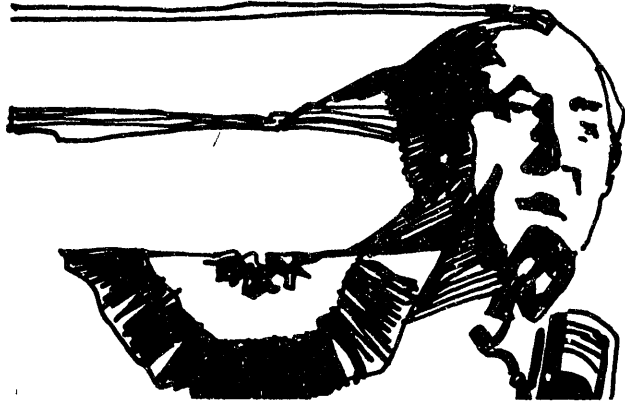
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Texas Civil Statutes, Article 6252-13a, §6, requires that executive orders issued by the Governor of Texas be published in the *Register*. Appointments made and proclamations issued by the governor are also published. Appointments are published in chronological order. The certification information, which includes a telephone number for additional information, follows each published submission.



Executive Orders

WPC-11, as Amended September 14, 1981

Executive Order WPC-11 is amended as follows and shall be known as WPC-11, as Amended September 14, 1981.

Establishing the Emergency Management Council.

WHEREAS, the State of Texas recognizes its responsibilities to provide services to meet the needs of its citizens in case of disaster; and

WHEREAS, advance planning for coordination of activities relating to disaster prevention, preparedness, response, and recovery is necessary to meet those needs; and

WHEREAS, the governor is authorized to appoint the director of the Division of Emergency Management; and

WHEREAS, the Texas Disaster Act of 1975 (Acts, 1975, 64th Legislature), as amended, authorizes the governor to establish an Emergency Management Council, to advise and assist him in all matters relating to disaster preparedness, emergency services, energy emergencies, and disaster recovery;

NOW, THEREFORE, I, William P. Clements, Jr., Governor of Texas, under the authority vested in me do hereby create and establish the Emergency Management Council, hereinafter referred to as council.

The director of the Department of Public Safety shall serve as director of the Governor's Division of Emergency Management and as chairman of the council. The director of the Division of Emergency Management shall serve as the governor's designated agent in the administration and supervision of the provisions of the Texas Disaster Act of 1975, as

amended, and may exercise the powers granted to the governor therein. The director of the Governor's Division of Emergency Management may accept from the federal government, any public or private agency, and any individual any offer of services, equipment, supplies, materials, or funds as gifts, grants, or loans for the purposes of civil defense or disaster relief and may dispense such gifts, grants, or loans for the purpose for which they were made.

The council shall be comprised of the chief executive officers of the following state agencies, boards, commissions, and representatives of organized volunteer groups. Additional chief executive officers of state agencies may be added to the membership of the council as deemed necessary by the governor.

- The Adjutant General's Department
- Texas Aeronautics Commission
- Texas Department of Agriculture
- Texas Air Control Board
- Attorney General
- State Auditor
- The Banking Department of Texas
- Comptroller of Public Accounts
- State Purchasing and General Services Commission
- Texas Education Agency
- Texas Employment Commission
- Texas Energy and Natural Resources Advisory Council
- Texas Department of Health
- State Department of Highways and Public Transportation
- General Land Office
- State Board of Insurance
- Texas Industrial Commission
- Texas Department of Mental Health and Mental Retardation
- Texas Parks and Wildlife Department
- Department of Public Safety
- Public Utility Commission of Texas
- Texas Department of Human Resources
- Railroad Commission of Texas
- Texas Department of Water Resources
- Texas Forest Service
- Governor's Division of Emergency Management
- Texas Department of Community Affairs
- American Red Cross
- Texas Engineering Extension Service

The duties and responsibilities of each agency or group represented shall be delineated in the State Emergency Management Plan and annexes thereto. The chief executive officer of each designated state agency, board, commission, and organized volunteer group, may delegate a member of his staff to represent him on the council.

The Division of Emergency Management shall establish emergency operations areas to be known as disaster districts which shall correspond to the boundaries of the Texas Highway Patrol districts and subdistricts and shall arrange for a district disaster committee for each disaster district to be composed of representatives of each state agency, board, or commission having membership on the council. The highway patrol commanding officer of each highway patrol district or subdistrict shall serve as chairman of the district disaster committee and report to the director on matters relating to disasters and emergencies. The chairman shall be assisted

by the Division of Emergency Management representatives assigned to that district who shall provide guidance, counsel, and administrative support as may be required.

The council is hereby authorized to issue such directives as may be necessary to effectuate the purpose of the Texas Disaster Act of 1975, as amended, and is further authorized and empowered to exercise the specific powers enumerated in the Act.

In accordance with the Texas Disaster Act of 1975, §8, as amended, and because of the disaster vulnerability of all areas of the state, I, William P. Clements, Jr., Governor of Texas, hereby designate the mayor of each municipal corporation, and the county judge of each county as the emergency management director for their respective political subdivision. This authority may be delegated to an emergency management coordinator who shall serve as an assistant to the presiding officer of the political subdivision for emergency management purposes.

In accordance with the Texas Disaster Act of 1975, §4(2) and §8(d), as amended, a municipality or municipalities and the county in which they are sited may establish, by ordinance and commissioner's court order, an interjurisdictional agency.

In all instances, and in accordance with §8(f) of the Act, the presiding officer of the political subdivision shall promptly notify the Division of Emergency Management of the person named to head the program.

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

Issued in Austin, Texas, on September 14, 1981.

Doc. No. 816619 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.

WPC-25

Prescribing the Texas Manual for Courts-Martial (revised edition, 1981).

WHEREAS, the Constitution of the State of Texas, Article 4, §7, designates the governor as the commander in chief of the military forces of the state; and

WHEREAS, Texas Civil Statutes, Article 5788, §36, states that the governor may prescribe the procedures including modes of proof, in cases before military courts and other military tribunals.

NOW, THEREFORE, I, William P. Clements, Jr., Governor of Texas, under the authority vested in me, do hereby prescribe the Texas Manual for Courts-Martial (revised edition, 1981), Executive Order DB 24 and all previous manuals for courts martial for the state military forces are rescinded

This manual shall be in force and effect in the state military forces of Texas on and after November 1, 1981, with respect to all military justice proceedings taken on or after that date. Provided, however, that nothing contained in this manual shall be construed to invalidate any investigation, trial in

which arraignment has been made, or other action begun prior to that date; and any such investigation, trial, or other action begun prior to that date may be completed in accordance with the applicable laws and manual provisions pertaining to state military forces in the same manner and with the same effect as if this manual had not been prescribed.

This executive order is effective on and after November 1, 1981, or until modified, amended, or rescinded by me.

Issued in Austin, Texas, on September 14, 1981.

Doc. No. 816620 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.

Proclamations

41-1837

WHEREAS, Sybil Dickinson, former director of the Administrative Division of the Texas Secretary of State's Office served 17 secretaries of state constituting over 30 years of public service; and

WHEREAS, Sybil Dickinson was a valued and trusted advisor to the 17 secretaries of state; and

WHEREAS, throughout her public service career, Sybil Dickinson exemplified the qualities of dedication and concern to her position and those persons she encountered in the performance of her duties; and

WHEREAS, Sybil Dickinson was a revered and respected public servant; and

WHEREAS, Sybil Dickinson's ancestors traced back to Stephen F. Austin and she was a devoted student of Texas heritage; and

WHEREAS, Sybil Dickinson's thirst and appreciation of Texas history were recognized and she participated as an active member of the Texas Arts Alliance, the Austin Heritage Society, the Texas Historical Foundation, and the Texas Heritage Council; and

WHEREAS, Sybil Dickinson was appointed, on April 28, 1977, and confirmed on May 5, 1977, as a member of the Texas Historical Commission; and

WHEREAS, Texas Civil Statutes, Article 678, vests the governor of the State of Texas with the authority to issue special proclamations permitting interment in the State Cemetery of persons other than public officials.

NOW, THEREFORE, I, William P. Clements, Jr., Governor of Texas, do hereby proclaim Sybil Dickinson eligible for burial in the State Cemetery of Texas at Austin, Travis County, Texas, and request that proper arrangements be made with the State Purchasing and General Services Commission of the State of Texas

Issued in Austin, Texas, on September 14, 1981.

Doc. No. 816621 William P. Clements, Jr.
Governor of Texas

For further information, please call (512) 475-3021.

Texas Civil Statutes, Article 4399, requires the Attorney General of Texas to give written opinions to certain public officials. The Texas Open Records Act, Texas Civil Statutes, Article 6252-17a, §7, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of opinion requests may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78711, telephone (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the File Room, Fourth Floor, P.O. Box 12548, Austin, Texas 78711, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

Requests for Opinions

Summary of Request for Opinion RQ-699

Request from Bob Armstrong, commissioner, General Land Office, Austin.

Summary of Request: Under the provisions of state leases on lands dedicated to the permanent school funds and permanent university fund, are state lessees required to pay royalty on state severance tax reimbursements?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816589 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-700

Request from Ernie W. Tullis, administrator, Texas Employment Commission, Austin.

Summary of Request: After exhaustion of funds appropriated in the 1979-81 Appropriations Act, Article III, to reimburse the unemployment compensation benefit account for unemployment benefits paid former state employees, does Article V, §57, require the comptroller to make additional funding available?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816590 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-701

Request from Oscar H. Mauzy, Committee on Jurisprudence, Texas Senate, Austin.

Summary of Request: Do the duties of the office of chief tax appraiser of a county conflict with the duties of a member of

the board of the Texas Property Tax Board? In other words, if a person holds both positions, is there a conflict of interest?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816591 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-702

Request from Oscar H. Mauzy, Committee on Jurisprudence, Texas Senate, Austin.

Summary of Request: Does Joe N. Pyle serving as a board member of the Texas Department of Health constitute a conflict of interest with his being a partner in the consulting engineer firm (Seligmann and Pyle) which prepared the landfill permit application for BFI in Bexar County for presentation to the Health Department?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816592 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-703

Request from Henry Wade, criminal district attorney, Dallas County.

Summary of Request: May an individual serve as deputy district clerk at the same time he serves as deputy county clerk?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816593 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-704

Request from Henry Wade, criminal district attorney, Dallas County.

Summary of Request: May county law library funds be used to implement a computerized information system for legal research?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816594 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-705

Request from Jim Mapel, criminal district attorney, Brazoria County.

Summary of Request:

(1) Can the governing bodies of two political subdivisions discuss the formation of an industrial district which would involve the deannexation of lands owned by one of the subdivisions in a joint executive session?

(2) Can the governing bodies of two political subdivisions discuss the annexation by one subdivision of land owned by or under the control of the other?

(3) Does the annexation or deannexation of land qualify as "land acquisition" and therefore an exemption under the Texas Open Meetings Law?

(4) Should a joint executive session of two political subdivisions to discuss the matters mentioned in questions (1) and (2) above be considered a matter which should be mentioned in the public notice of the respective meetings?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816595 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-706

Request from Alex Huddleston, Skaggs and Huddleston, Harlingen.

Summary of Request:

(1) Is a copy of an approved application submitted by the City of Rio Hondo to the Department of Housing and Urban Development for funds for a water treatment plant excepted from public disclosure by the Open Records Act, §§3(a)(4) and (5)?

(2) Is the city required to provide access to an original document or to provide copies in response to repeated requests from the same individual after it has furnished a copy of the document to that individual?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816596 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-707

Request from Richard Davis, criminal district attorney, Van Zandt County.

Summary of Request: May the county judge reconvene the salary grievance committee established under Texas Civil Statutes, Article 3912k, so that it may reconsider and change its prior unanimous recommendation in favor of salary increases for stated county officials?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816597 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-708

Request from Lois M. Smith, executive director, Texas State Board of Physical Therapy Examiners, Austin.

Summary of Request: May the Board of Physical Therapy Examiners require candidates for the October 1981 examination who have paid exam fees required by prior statute to pay increased fees effective September 1, 1981?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816598 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-709

Request from Kenneth E. Graeber, executive director, State Property Tax Board, Austin.

Summary of Request: Does House Bill 30, §115, enacted by the first called session of the 67th Legislature violate the "equal and uniform" provision of the Texas Constitution, Article VIII, §1?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816599 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

Summary of Request for Opinion RQ-710

Request from Senator Ray Farabee, chairman, State Affairs Committee, Texas Senate, Austin.

Summary of Request: Does the maximum interest rate of 15%, at which a public agency is authorized to issue and sell any issue or series of its public securities, as authorized by Texas Civil Statutes, Article 717k 2, as amended by House Bill 629, Acts of the 67th Texas Legislature, 1981, Texas Session Law Service, Chapter 61 at 135 (Vernon), repeal and supercede the 8.0% maximum interest rate at which Texas housing authorities may issue and sell public securities, as specified in Texas Civil Statutes, Article 1269k, §15?

Issued in Austin, Texas, on September 15, 1981.

Doc. No. 816600 Susan L. Garrison, Chairwoman
Opinion Committee
Office of the Attorney General

For further information, please call (512) 475-5445.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(d), allows an agency to take emergency action on a rule after determining what it considers to be an imminent peril to the public health, safety, or welfare. The rule may become effective immediately on filing with the Texas Register Division, or on a stated date less than 20 days after filing, for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for emergency action on a rule. The notice of emergency action must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency action, in compliance with the rules of the Texas Register Division. The certification information, which includes the effective date of the emergency action and the expiration date, follows each published submission of emergency action. A telephone number for further information is also published.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

Symbology—Changes to existing material are indicated in ***bold italics***. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 5. Quarantines

Mediterranean Fruit Fly Quarantine

The Texas Department of Agriculture is renewing the effectiveness of the emergency adoption of new §5.211, effective September 23, 1981. The text of the new section was originally published in the August 28, 1981, issue of the *Texas Register* (6 TexReg 3157).

Issued in Austin, Texas, on September 17, 1981.

Doc. No. 816626 Macy Ramsey
 Agency Liaison
 Texas Department of Agriculture

Effective Date September 23, 1981

Expiration Date November 22, 1981

For further information, please call (512) 475-6346

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part X. Texas Water Development Board

Channer 341. Consolidated Permits

Actions, Notice, and Hearing

The Texas Water Development Board on September 15, 1981, adopted emergency §341.287 (156.25.36.027) relating to radio broadcasts of notices of hazardous waste applications filed pursuant to Texas Civil Statutes, Article 4477-7. The rule provides that the department will provide summaries of public notices to local radio stations for broadcast as a public service. The rule also encourages the radio stations to broadcast the summaries to assist the department in informing local affected communities of pending applications.

The board finds that an urgent need exists to adopt this rule on an emergency basis in order to complete the department's application for program approval by the U. S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act. Recent federal regulations require that states have public notice provisions which include radio broadcasts before a state hazardous waste permitting program may be approved.

This section is promulgated under the authority of Texas Water Code, §5.131 and §5.132.

§341.287 (156.25.36.027). *Radio Broadcasts.* For an application to store, process, or dispose of hazardous waste under Texas Civil Statutes, Article 4477-7, the commission shall mail a summary of the public notice prepared by the commission to one or more local radio stations listed in the latest edition of the Texas Broadcasters Directory in the affected area to be available to such stations for broadcast as a public service. For purposes of this section, affected area is an area to be determined by the commission on each application which includes the county in which the site is to be located and may include contiguous counties at the discretion of the commission. Local radio stations are encouraged to broadcast the summary of the notice to assist the department in informing the affected community of the pending hazardous waste application. The failure to mail the summary of the notice, the failure to show evidence of radio broadcasts, or the failure of a radio station to broadcast the summary of the notice will not affect the commission's jurisdiction to consider the application.

Issued in Austin, Texas on September 18, 1981..

Doc. No. 816691 M. Reginald Arnold II
 General Counsel
 Texas Department of Water Resources

Effective Date September 21, 1981

Expiration Date January 19, 1982

For further information, please call (512) 475-7845.

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency must give at least 30 days notice of its intention to promulgate certain action on a rule. The purpose of proposing rule action is to give interested persons an opportunity to review the proposal and make oral or written comments. "Opportunity for public hearing must be granted if requested by at least 25 persons, by a governmental subdivision or agency, or by an association having at least 25 members." Proposed action is effective as notice on the date published in the *Register*. Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposed date of adoption is 30 days after publication. The notice must include a brief explanation of the proposed action; a fiscal impact statement; a request for comments on the proposed action from any interested person; the text of the proposed action, in compliance with the rules of the Texas Register Division; and a statement of the legal authority under which the proposed action is to be promulgated. The certification information, which includes the earliest possible date that the agency may file notice to adopt the proposal, follows each published submission of proposed action. A telephone number for further information is also published.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 73. Laboratories

Approved Laboratories Performing Premarital and Prenatal Syphilis Serology

The Texas Department of Health proposes the repeal of §§73.1-73.9 (301.37.01.001-.009) and the adoption of new §§73.1-73.6 (301.37.01.010-.015) concerning approved laboratories performing premarital and prenatal syphilis serology. The proposed new rules will update and replace the rules proposed for repeal. The reason for the revised set of rules is that the Bureau of Laboratories will no longer carry out the

proficiency testing for premarital and prenatal syphilis serological procedures; instead, testing conducted by approved agencies will be accepted as the basis for approval. This procedure is in accordance with current national trends.

Stephen Seale, chief accountant III, Program Budgetary Services Division, Texas Department of Health, has determined that for the first five-year period the rules will be in effect, there will be fiscal implications as a result of enforcing or administering the rules.

Effect on state government:

	1982	1983	1984	1985	1986
Estimated additional cost	\$44,393	\$47,480	\$48,924	\$50,531	\$52,326
Estimated reduction in cost	\$61,030	\$66,119	\$69,793	\$73,904	\$78,504
Estimated loss or increase in revenue	0	0	0	0	0

There will be no effect on local government.

Stephen Seale, chief accountant III, Program Budgetary Services Division, Texas Department of Health, has determined that for each year of the first five years the rule as proposed is in effect:

(A) The public benefits anticipated as a result of enforcing the rules as proposed will be that the cost due to duplication in proficiency testing in independent and hospital laboratories will be eliminated, and that reduction, in theory at least, can be passed on to the public. The cost in tax dollars for some supplies and inflation in the state laboratory will be reduced.

(B) The possible economic cost to individuals who are required to comply with the rules as proposed will be:

	1982	1983	1984	1985	1986
Independent laboratories already in a commercial proficiency testing program (\$60/laboratory x 1400)	\$60	\$67	\$75	\$84	\$94
Independent laboratories not already in a commercial proficiency testing program (\$150/laboratory x 200)	\$150	\$168	\$188	\$211	\$236

Comments on the proposal may be submitted to Charles E. Sweet, Dr.P.H., chief, Bureau of Laboratories, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication.

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

Robert A. MacLean
September 21, 1981

The repeal is proposed under Texas Civil Statutes, Article 4445a, §2, and Texas Family Code, §§1.23-1.34, which provide the Texas Department of Health with the authority to conduct an approval program for laboratories performing

serological tests for syphilis on premarital and prenatal patients.

- §73.1 (301.37.01.001). *Introduction.*
- §73.2 (301.37.01.002). *Application.*
- §73.3 (301.37.01.003). *Testing.*
- §73.4 (301.37.01.004). *Reporting.*
- §73.5 (301.37.01.005). *Grading.*
- §73.6 (301.37.01.006). *Approval.*
- §73.7 (301.37.01.007). *Disapproval.*
- §73.8 (301.37.01.008). *Changes.*
- §73.9 (301.37.01.009). *Forms Adopted by Reference.*

Issued in Austin, Texas on September 21, 1981.

Doc. No. 816697 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed Date of Adoption: November 23, 1981

For further information, please call (512) 458-7318.

New sections §§73.1-73.6 (301.37.01.010-.015) are proposed under Texas Civil Statutes, Article 4445a, §2; and Texas Family Code, §§1.23-1.34, which provides the Texas Department of Health with the authority to conduct an approval program for laboratories performing serological tests for syphilis on premarital and prenatal patients.

§73.1 (301.37.01.010). *Introduction.* The Texas Department of Health is responsible for conducting an approval program for those laboratories performing serological tests for syphilis on premarital and prenatal patients. Any standard serological test for syphilis may be used by a laboratory as an aid to diagnosis, but only an approved test performed by an approved laboratory satisfies premarital and prenatal serology requirements under the law. The approval program described in these rules is designed to accommodate all recognized proficiency testing programs in syphilis serology.

§73.2 (301.37.01.011). *Application.* For approval under this program, laboratory must first file an application form. See Form G 62, mentioned in §73.6(a) (301.37.01.015(a)) of this title (relating to Forms), obtainable from the Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Completion of an application form is necessary only when entering the approval program, provided the laboratory remains approved. If for any reason a laboratory is removed from the approved list, reapplication is necessary.

§73.3 (301.37.01.012). *Approval.*

(a) New applicant laboratories must indicate the one or two serological procedures for which approval is desired. No more than two procedures will be approved for each laboratory for these purposes, at least one of which must be a standard test from among the following: the Venereal Disease Research Lab (VDRL) Slide Test, the Rapid Plasma Reagin (RPR) Circle Card (18mm) Test, the Fluorescent Treponema Antibody Absorbed (FTA ABS) Test, the Automated Reagin (ART) Test, the Plasmacrit (PCT) Test, the Reagin Screen Test, the Microhemagglutination Treponema Pallidum (MHA TP) Test, the Rapid Plasma Reagin (RPR) Slide Test,

or other tests as approved by the Texas Department of Health.

(b) New applicant laboratories must identify the agency from which proficiency testing in syphilis serology is being received. Enrollment in an accepted proficiency testing program is necessary before an application can be processed. Acceptable programs include but are not restricted to those conducted by the Centers for Disease Control, College of American Pathologists, and American Association of Bioanalysts. Other programs must be approved by the Texas Department of Health on an individual basis. Military installations may participate in government conducted programs. Proficiency testing and control specimens are not provided by the Texas Department of Health.

(c) Once a laboratory has gained "approved" status, it must test all evaluation "unknowns" with all tests for which it is approved and must provide to the health department each quarter documentation of satisfactory performance. A grade of 75% or better on three out of four evaluation specimen sets distributed by the proficiency testing agency is the minimum satisfactory performance. There is no minimum or maximum number of specimens required for annual testing. However, the full number distributed by the proficiency testing agency employed must be tested.

(d) Approved laboratories will be issued a laboratory identification number by the health department. This number must be shown on all certificates to county clerks and on all reports and correspondence with the health department.

(e) When a laboratory enters the approval program, the county clerk in the county involved will be sent instructions to place the new laboratory on the list of those approved. Thereafter, certificates from that laboratory will be accepted by the county clerk for the issuance of marriage licenses.

(f) Once each quarter, a complete list of approved laboratories will be mailed to all county clerks.

(g) Approval is given to a laboratory, not to serologists or to the laboratory director. A worker moving from an approved laboratory to one not on the approved list will not confer approval on the new laboratory.

§73.4 (301.37.01.013). *Disapproval.* An approved laboratory that fails in performance on proficiency testing specimens or fails to provide evidence of satisfactory performance in any 12 month period will be dropped from the list of approved laboratories. Notification of that fact will be sent to county clerks. Reapplication will not be permitted for two months unless the laboratory director certifies in writing that there has been a change in staff or that pertinent training has been provided to the staff.

§73.5 (301.37.01.014). *Changes.* It is required that any change in address, location, and test be made known to the Texas Department of Health. Changes in personnel need not be reported. It is up to each laboratory director to satisfy himself/herself as to the ability of new workers before they are permitted to run premarital and prenatal specimens and evaluation specimens.

§73.6 (301.37.01.015). *Forms.*

(a) Form G 62, copy attached, is the syphilis serology approval program registration form. See §73.2 (301.37.01.011) of this title (relating to Application) for requirements on use of the form.

(b) Form G 44a, copy attached, is the medical examination certificate required for each applicant to obtain a mar-

riage license in Texas. One part of the form is for the laboratory's statement and the second part of which is for the physician's statement. The certificate is supplied on request by the Bureau of Laboratories, Texas Department of Health, or may be printed by any office.

(c) It is necessary for each laboratory to obtain its own individual test result reporting forms. Copies of these reports are to be sent to the physician, copies of reactive reports on patients must be sent weekly to the Venereal Disease Control Program, Bureau of Communicable Disease Services, Texas Department of Health. Report forms showing a patient's name and the results of laboratory testing are confidential

and must never be attached to the "Medical Examination Certificate" when it goes to the county clerk.

(Editor's note: See slicks pages 3564-3566.)

Issued in Austin, Texas, on September 21, 1981.

Doc. No. 816698

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

Proposed Date of Adoption: November 23, 1981

For further information, please call (512) 458-7318.

TEXAS DEPARTMENT OF HEALTH
BUREAU OF LABORATORIES
1100 WEST 49TH STREET
AUSTIN, TEXAS 78756

**SYPHILIS SEROLOGY
APPROVAL PROGRAM
REGISTRATION FORM**

FORM NO. G-62
REV. 8/81

ENTER EXACT NAME OF LABORATORY
(Street address MUST be shown.)

LAB. NAME _____

STREET ADDRESS _____

P.O. BOX _____

CITY _____ TEXAS _____

(Zip Code)

Lab. Telephone No. _____
(Area Code)

Source of proficiency testing: _____

Approval will be given for only two serological tests for premarital and prenatal purposes, at least one of which must be from the following list. (Indicate by check mark, the test/s for which approval is requested.)

_____ VDRL Slide Test

_____ PCT

_____ RPR Circle Card
(18 mm) Test

_____ RPR Slide

_____ FTA-ABS

_____ MHA-TP

_____ ART

_____ Reagin Screen Test

All survey specimens must be examined with the test/s for which approval is desired, as indicated above.

This application must be signed with the legal signature or a rubber-stamped facsimile of the signature of the Laboratory Director. If not, the form will be returned to you for proper signature.

LABORATORY DIRECTOR'S SIGNATURE

**MEDICAL EXAMINATION CERTIFICATE
REQUIRED FOR EACH APPLICANT
TO OBTAIN A MARRIAGE LICENSE IN TEXAS**

PART I - LABORATORY STATEMENT

LABORATORY IDENTIFICATION NUMBER: _____

This is to certify that the result of a _____ test, a standard serologic test for syphilis
(Name of Test)
as defined in H. B. No. 53 of the Sixty-First Legislature of the State of Texas performed
_____ on a blood specimen submitted in the name of
(Date)

(Exact Name of Applicant) (Must be Name in Full Without any Initials)

Street City State
has been reported to _____
(Name of Physician)

Street City State

(Signature of Person Authorized to Sign for Laboratory)

PART II - PHYSICIAN'S STATEMENT

This is to certify that on _____ I performed a thorough examination for infectious
(Date)
venereal disease on the applicant named below.

(Exact Name of Applicant) (Must be Name in Full Without any Initials)

Street City State
This examination included a standard serologic test for syphilis. The results of the examination, test,
and history showed that, in the opinion of the examining physician, the applicant is free from any infec-
tious condition of syphilis or other venereal disease.

I further certify that I hold an unrevoked license to practice medicine in _____
(State or Territory)

(Signature of Examining Physician)

Physician's Street Address City State

The marriage license issued under this certificate will expire at the end of the 21 day period following the date of the medical
examination (or the earlier of the two examinations if they were conducted on different days), if the marriage ceremony has
not been conducted within that period.

Form No. G-44-A
Rev. 1-1-80

TEXAS DEPARTMENT OF HEALTH

PROCEDURE FOR COMPLYING WITH PREMARITAL MEDICAL EXAMINATION REQUIREMENTS IN TEXAS

USUAL CASE

- ### EXCEPTION

EXAMINATIONS OUTSIDE OF STATE

PENALTIES

Volume 6, Number 72, September 25, 1981

Chapter 217. Milk and Dairy

Definitions and Standards of Identity of Frozen Desserts

The Texas Department of Health proposes the repeal of §§217.41-217.50 (301.72.04.001-.010) and new §§217.41-217.56 (301.72.04.011-.026) concerning frozen dessert manufacturers. The new rules are being proposed because they are required by Texas Civil Statutes, Article 4476-2a (House Bill 1107, 67th Legislature) which became effective September 1, 1981. The new rules will incorporate the information contained in the rules proposed for repeal. The purpose or intended effect of these rules is to prescribe standards or related requirements for the operation of establishments for the manufacture of frozen desserts, imitation frozen desserts, §§217.41-217.50 (301.72.04.001-.010), which are being proposed for repeal in this same issue of the Register.

Stephen Seale, chief accountant III, Program Budgetary Services Division, has determined that for the first five-year period the rules will be in effect, there will be fiscal implications as a result of enforcing or administering the rules.

(A) Effect on state government:

	1982	1983	1984	1985	1986
Estimated additional cost	\$99,174	\$104,326	\$104,326	\$104,326	\$104,326
Estimated reduction in cost	N/A	N/A	N/A	N/A	N/A
Estimated increase in revenue	\$4,500	\$4,500	\$4,500	\$4,500	\$4,500

(B) Effect on local government:

	1982	1983	1984	1985	1986
Estimated additional cost	0	0	0	0	0
Estimated reduction in cost	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
Estimated loss in revenue	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000

Mr. Seale has also determined that for each year of the first five years the rules as proposed are in effect:

(A) The public benefits anticipated as a result of enforcing the rules as proposed will be uniformity of inspections of premises of frozen desserts manufacturers, increased consumer health and safety by preventing the manufacture or distribution of frozen desserts which do not meet standards, and assistance to manufacturers in meeting standards.

(B) The possible economic cost to individuals who are required to comply with the rules as proposed will be an annual permit fee of \$100 for years 1982-1986.

Comments on the proposal may be submitted to Kirmon C. Smith, director, Milk and Dairy Products Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas

78756. Comments will be accepted for 30 days after publication. In addition, there will be a public hearing on the proposed rules in the Texas Department of Health auditorium, 1100 West 49th Street, Austin, Texas, beginning at 9 a.m. on Wednesday, October 14, 1981.

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

Robert MacLean
September 21, 1981

This repeal is proposed under Texas Civil Statutes, Article 4476-2a, §§5, 8, and 10, which provide the Texas Board of Health with the authority to adopt rules relating to the regulation of frozen dessert manufacturers.

- §217.41 (301.72.04.001). *Ice Cream.*
- §217.42 (301.72.04.002). *Frozen Custard, French Ice Cream, French Custard Ice Cream.*
- §217.43 (301.72.04.003). *Ice Milk.*
- §217.44 (301.72.04.004). *Fruit Sherbets.*
- §217.45 (301.72.04.005). *Water Ices.*
- §217.46 (301.72.04.006). *Mellorine.*
- §217.47 (301.72.04.007). *Lorine.*
- §217.48 (301.72.04.008). *Fruit Sherbine.*
- §217.49 (301.72.04.009). *Frozen Yogurt.*
- §217.50 (301.72.04.010). *Yogurt Sherbet.*

Issued in Austin, Texas on September 21, 1981.

Doc. No. 816699 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed Date of Adoption: November 23, 1981

For further information, please call (512) 458-7281.

The new sections are proposed under Texas Civil Statutes, Article 4476-2a, §§5, 8, and 10, which provide the Texas Board of Health with the authority to adopt rules relating to the regulation of frozen dessert manufacturers.

§217.41 (301.72.04.011) *Introduction.* The provisions of this chapter provide for uniformity of inspections of the premises of frozen desserts manufacturers, to protect the health and safety of consumers by preventing the manufacture or distribution of frozen desserts, imitation frozen desserts, products sold in semblance of frozen desserts, or mixes for those products that do not meet state requirements or related requirements of purity or labeling and to assist manufacturers in meeting state standards or related requirements.

§217.42 (301.72.04.012) *General Definitions.* The following words and terms when used in this section shall have the following meanings, unless the context clearly indicates otherwise:

CIP or Cleaned In Place - The procedure by which sanitary pipelines or pieces of equipment are mechanically cleaned in place by circulation.

Dairy plant or plant - Any place, premise, or establishment where milk or milk products are received or handled for

processing or manufacturing. When "plant" is used in connection with the production, transportation, classifying, or use of milk, it means any plant that handles or purchases milk for manufacturing purposes; when used in connection with specifications for plants or licensing of plants, it means only those plants that manufacture mix and/or frozen desserts covered by this regulation.

Dairy products—Butter, cream (fluid, dry, or plastic), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, whey protein concentrates, evaporated milk (whole or skim), condensed whole milk and condensed skim milk (plain or unsweetened), and such other products derived from milk, as may be specified under the federal standards of identity for frozen desserts (21 Code of Federal Regulations, Part 135).

Freezer—A piece of equipment which converts mix and/or other ingredients to a hardened or semihardened state using the technique of freezing during processing or manufacturing of those products commonly known as ice cream, ice cream mix, frozen dessert, frozen dessert mix, nondairy frozen dessert, nondairy frozen dessert mix, imitation frozen dessert, and imitation frozen dessert mix.

Frozen desserts—Any of the following: ice cream, ice milk, fruit sherbet, water ice, nonfruit sherbet, nonfruit water ice, frozen dietary dairy desserts, frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, mellorine, lorine, parevine, freezer-made milk shake, freezer-made shake, or nondairy frozen dessert. The term includes the mix used in the freezing of one of those frozen desserts.

Goat milk—The normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats. The word "milk" used herein includes only goat milk for manufacturing purposes in frozen desserts plants.

Health authority—The city, county, or state health officer or his representative. The term includes the appropriate agency having jurisdiction or control over the matters embraced within these specifications and requirements.

Milk—The normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The word "milk" used herein includes only milk for manufacturing purposes in frozen desserts plants.

Multiuse container—Any container having a frozen dessert product contact surface and used in the packaging, handling, storing, or serving of frozen desserts and/or mix, which if it remains in good repair and is properly washed and sanitized, may be utilized for multiple usage.

Novelties—Frozen desserts, either alone or in combination with other foods such as cookies, wafers, cones, coating, confections, etc., which are packaged in single serving units.

Officially designated laboratory—A commercial laboratory authorized to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade A raw milk for pasteurization.

Other freezers—Other types of freezers which may be used to process or manufacture ice cream, ice cream mix, frozen dessert, or frozen dessert mix having a hard or a soft consistency, for the purposes of this article shall be considered as continuous or batch freezers.

Overrun—The trade expression used to reference the increase in volume of the frozen product over the volume of the mix. This increase in volume is due to air being whipped

into the product during the freezing process. It is expressed as percent of the volume of the mix.

Pasteurization—Also called "pasteurization," "pasteurized," or a similar term, is the process of heating, in approved and properly operated equipment, every particle of mix to any of the following temperatures for the specified time: 155°F and holding at such temperature for at least 30 minutes; 175°F and holding at such temperature for at least 25 seconds; provided, that nothing contained in this definition shall be construed as barring any other method or process, or combination of times and temperatures as may be demonstrated to be equally efficient.

Permit—When it appears in this chapter shall mean license.

Safe and suitable—Ingredients which perform an appropriate function in the food in which they are used, and are used at a level no higher than necessary to achieve their intended purpose in the food.

Sanitization—The application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the frozen desserts product, or the health of the consumers, and shall be acceptable to the health authority.

Single service container—Any container having a frozen dessert in contact with the container's surface and used in the packaging, handling, storing, or serving of frozen desserts and/or mix, which is intended for one usage only.

Standard methods—Reference to the latest edition of "Standard Methods for the Examination of Dairy Products," a publication of the American Public Health Association, Washington, D.C.

3—A sanitary standards and accepted practices—Reference to the standards for dairy equipment and accepted practices formulated by the 3 A sanitary standards committees representing the International Association of Milk, Food, and Environmental Sanitarians, the U.S. Public Health Service, and the Dairy Industry Committee that are published by the International Association of Milk, Food, and Environmental Sanitarians, Box 437, Shelbyville, Indiana 46176.

§217.43 (301.72.04.013). Specific Definition of Frozen Desserts. The following words and terms when used in this section shall have the following meanings, unless the context clearly indicates otherwise.

Frozen dietary dairy dessert and frozen dietary dessert—A food for any special dietary use, prepared by freezing with or without agitation, composed of a pasteurized mix which may contain fat, protein, carbohydrates, flavoring, stabilizers, emulsifiers, vitamins, and minerals.

Frozen lowfat yogurt (also called lowfat frozen yogurt)—Complies with the provisions of frozen yogurt, except that:

(A) the milk fat content of the finished food is not less than 0.5%, but not more than 2.0%.

(B) the name of the food is "frozen lowfat yogurt."

Frozen lowfat yogurt mix—The unfrozen dry powdered combination of ingredients which, when combined with potable water and when frozen while stirring, will produce a product conforming to the definition of frozen lowfat yogurt. No pasteurization is required for dry frozen lowfat yogurt mix.

Frozen skim milk yogurt—Complies with the provision of frozen yogurt, except that:

(A) the milkfat content of the finished food is less than 0.5%;

(B) the name of the food is either "frozen skim milk yogurt" or "frozen nonfat yogurt."

Frozen yogurt—

(A) Frozen yogurt is the food which is prepared by freezing, while stirring, a mix composed of one or more of the optional dairy ingredients provided for in ice cream and frozen custard and which may contain other safe and suitable ingredients.

(B) The dairy ingredient(s), with or without other ingredients, is (are) pasteurized and subsequently cultured with bacterial cultures acceptable to the state health authority.

(C) The titratable acidity of the cultured frozen yogurt is not less than 0.5%, calculated as lactic acid, except if the frozen yogurt is flavored by the addition of a nonfruit characterizing ingredient(s).

(D) The milkfat content of frozen yogurt is not less than 3.25% by weight, except that when bulky characterizing ingredients are used the percentage milkfat is not less than 2.5%.

(E) The finished frozen yogurt shall weigh not less than five pounds per gallon.

(F) The name of the food is "frozen yogurt."

Ice cream and frozen custard—The foods defined in 21 Code of Federal Regulations, 135.110(a)-(f).

Ice milk—Is the food defined in 21 Code of Federal Regulations, 135.120, except that the label statement of optional ingredients is not required.

Imitation frozen dessert mix—The unfrozen dry powdered combination of ingredients which, when combined with potable water and when frozen while stirring, will produce a product conforming to the definition of imitation frozen dessert. No pasteurization is required for dry powdered imitation frozen dessert mix.

Lorine—The food prepared from the same ingredients and in the same manner prescribed for mellorine and complies with all the provisions for mellorine except that:

(A) Its content of fat is at least 2.0%, but less than 6.0%.

(B) Its content of milk solids not fat is not less than 10%.

(C) Caseinates may be added when the content of total milk solids is not less than 10%.

(D) The provision for reduction in fat and milk solids not fat from the addition of bulky ingredients in mellorine does not apply.

(E) The quantity of food solids per gallon is not less than 1.2 pounds.

(F) The names of the food is "lorine."

Mellorine—The food defined in 21 Code of Federal Regulations, 135.130(a)-(d).

Nondairy frozen dessert—

(A) Nondairy frozen desserts is the food which is prepared by freezing, while stirring, a nondairy frozen dessert mix composed of one or more of the optional characterizing ingredients specified in subparagraph (B) of this paragraph, sweetened with one or more of the optional sweetening ingredients specified in subparagraph (C) of this paragraph. The nondairy product, with or without water added, may be seasoned with salt. One or more of the ingredients specified in subparagraph (D) of this paragraph may be used. Pasteurization is not required. The optional casei-

nates specified in subparagraph (D) (i) of this paragraph are deemed not to be dairy products.

(B) The optional flavoring ingredients referred to in subparagraph (A) of this paragraph are natural and artificial flavorings and characterizing food ingredients.

(C) The optional sweetening ingredients referred to in subparagraph (A) of this paragraph are: sugar (sucrose), dextrose, invert sugar (paste or syrup), glucose syrup, dried glucose syrup, corn sweetener, dried corn sweetener, malt syrup, malt extract, dried malt syrup, dried malt extract, maltose syrup, and dried maltose syrup.

(D) Other optional ingredients referred to in subparagraph (a) of this paragraph are:

(i) casein prepared by precipitation with gums, ammonium caseinate, calcium caseinate, potassium caseinate, or sodium caseinate;

(ii) hydrogenated and partially hydrogenated vegetable oil;

(iii) dipotassium phosphate;

(iv) coloring, including artificial coloring;

(v) monoglycerides, diglycerides, or polysorbates;

(vi) thickening ingredients such as agar-agar, algin (sodium alginate), egg white, gelatin, gum acacia, guar seed gum, gum karaya, locust bean gum, oat gum, gum tragacanth, hydroxypropyl, methyl cellulose, carrageenan, salts of carrageenan, furcelleran, salts of furcelleran, propylene glycol alginate, pectin, psyllium seed husk, sodium carboxymethylcellulose.

(E) Such nondairy frozen desserts are deemed "processed" when manufactured as a dry powdered mix. The addition of water is merely the manner in which such nondairy frozen desserts are served.

(F) The label shall comply with labeling requirements for frozen desserts with the additional clear and concise statement that the product is nondairy.

Quiescently frozen confections—A clean and wholesome frozen, sweetened, flavored product in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). This confection may be acidulated with food grade acid, may contain water, may be made with or without added natural or artificial flavoring, with or without harmless coloring. The finished product shall contain not less than 17% by weight of total food solids. In the production of this food, no processing or mixing shall be used that develops in the finished food mix any physical expansion in excess of 10%.

Quiescently frozen dairy confections—A clean and wholesome frozen product made from water, milk products and sugar with added harmless natural or artificial flavoring, with or without added coloring, with or without added stabilizer and with or without added emulsifier, and in the manufacture of which freezing has not been accompanied by stirring or agitation (generally known as quiescent freezing). It contains not less than 13% by weight of total milk solids, not less than 33% by weight of total food solids. In the production of quiescently frozen dairy confections, no processing or mixing prior to quiescently freezing shall be used that develops in the finished confection mix any physical expansion in excess of 10%.

Sherbert—The food defined in 21 Code of Federal Regulations, 135.140(a) (h).

Sherbine—The foods which comply in all respects with sherbert, except that:

(A) they contain edible animal and/or vegetable fat or oil, or both, only part of which may be milkfat.

(B) the name of the food is "sherbine."

Water ices—Defined in 21 Code of Federal Regulations, 135.160 except that the label statement of optional ingredients is not required.

§217.44 (301.72.04.014) Permits

(a) Issuance of permits. Every frozen desserts manufacturer, located in the State of Texas and every frozen desserts manufacturer that exports frozen desserts into the State of Texas shall secure a permit. Only a person who complies with the requirements of these rules shall be entitled to receive and retain such a permit. Permits shall not be transferrable with respect to persons, vehicles, and or locations.

(b) Suspension or revocation of permit.

(1) A permit may be suspended or revoked by the department upon violation by the permit holder of the provisions of these rules.

(2) The suspension or revocation shall take place only after the permit holder has had an opportunity for a hearing in accordance with the department's formal hearing procedures.

(c) Reinstatement of permit.

(1) Any frozen desserts manufacturer whose permit has been suspended or revoked may make application at any time for the reinstatement of his permit.

(2) Upon receipt of a satisfactory application for the reinstatement of the permit based upon correction of a violation of any of the bacteriological coliform or cooling temperature standards, the health authority shall take further sample within one week and shall approve the application upon compliance with the appropriate standard as determined in accordance with §217.47 (301.72.04.017) of this title (relating to the Examination and Standards for Frozen Desserts) provided that if samples are not available because of the suspension of the permit to operate, or for other reasons, the health authority may issue a temporary permit upon satisfying himself, by inspection of the facilities and operating methods, that the conditions responsible for the violation have been corrected, with the final reinstatement of the permit conditional upon compliance with the requirements of §217.47 (301.72.04.017) of this title (relating to The Examination and Standards for Frozen Desserts) and §217.48 (301.72.04.018) of this title (relating to Sanitation Standards for Frozen Desserts Plants).

(3) When the permit suspension has been due to a violation of a requirement other than bacteriological or cooling-temperature standards, the said application shall contain a written statement, signed by the applicant, to the effect that the violated regulation has been corrected. Within one week of the receipt of such an application, the health authority shall make an inspection of the applicant's establishment as he may deem necessary, to assure himself that the applicant is complying with the provisions of this regulation, and, in case the findings justify, shall reinstate the permit.

§217.45 (301.72.04.015) Labeling.

(a) The labeling on all packages or containers of frozen desserts or mix designed for sale at retail shall clearly and conspicuously include:

(1) the name of the food as provided for in the definitions and standards established by this article.

(2) quantity of contents;

(3) name and address of manufacturer, packer, or distributor, provided that, in addition, the manufacturer's plant code number shall appear if the manufacturer's name and address are not included on the label;

(4) flavor labeling, if the food contains any added characterizing ingredients.

(b) The label information shall be in letters of a size, style, and color which are approved by the state health authority and shall contain no marks or words which are misleading. The label may contain ingredient and/or nutrition information, provided the information is in compliance with 21 Code of Federal Regulations.

§217.46 (301.72.01.016) Inspection of Frozen Desserts or Imitation Frozen Desserts Plants.

(a) Prior to the issuance of a permit, and at least once every six months thereafter, the health authority shall inspect all frozen desserts plants within the State of Texas, the products of which are intended for consumption within the State of Texas or its police jurisdiction, and shall make as many additional inspections as are necessary for the enforcement of these rules and regulations. If the health authority discovers the violation of any sanitation requirements, he shall make a second inspection after a lapse of such time as he may deem necessary for the defect to be remedied, but not before the lapse of three days, and the second inspection shall be used in determining compliance with the requirements of these regulations. Any violation of the same sanitation requirements of these regulations on two consecutive inspections shall call for immediate suspension of permit.

(b) The original copy of the inspection report shall be posted by the health authority in a conspicuous place upon an inside wall of the frozen desserts plant and said inspection report shall not be defaced or removed by any person except the health authority. Another copy of such inspection report shall be filed with the records of the health authority.

(c) Every processor or manufacturer of mix frozen desserts or imitation frozen desserts shall, upon the request of the health authority, permit him access to all parts of the frozen dessert or mix establishment; and shall furnish the health authority, upon his request, for official use only, a true statement of the actual quantities of mix or frozen desserts used or produced, sources of such frozen dessert ingredients or mix, imitation frozen desserts or imitation frozen desserts mix, records of health authority inspections and tests, pasteurization time and temperature records, if applicable, and pertinent information as to persons employed.

§217.47 (301.72.04.017) The Examination and Standards for Frozen Desserts.

(a) Samples of raw milk, raw cream, or raw milk products intended for use in the manufacture of mix shall be taken and examined by the health authority at a frequency to be established by the health authority. In addition, the health authority may collect and examine frozen dessert ingredients, frozen dessert, or frozen dessert mix. Samples of frozen desserts or imitation frozen desserts from dairy retail stores, food service establishments, grocery stores, and other places where frozen desserts or imitation frozen desserts are sold may be examined periodically as determined by the health authority. Proprietors of such establishments shall furnish the health authority, upon his request, with the names of all distributors from whom frozen desserts, frozen desserts mix, imitation frozen desserts, or imitation frozen

desserts mix are obtained. The examination of samples of milk, cream, and milk products intended for use in the manufacture of mix shall be performed as directed by the health authority in an official or officially designated laboratory. The examination of samples of pasteurized mix, frozen desserts, unpasteurized imitation frozen desserts, and/or imitation frozen desserts, shall be performed in an official laboratory or in an officially designated laboratory under contract to do all of the official laboratory work of the health authority.

(b) Bacterial counts, coliform determinations, phosphatase tests, and other laboratory and screening tests shall conform to the procedures in the latest edition of "Standard Methods for the Examination of Dairy Products" of the American Public Health Association. Examination and tests shall include such other biological, chemical, and physical determinations as the health authority shall deem necessary for the detection of adulteration.

(c) Whenever two of the last four consecutive bacteria counts, coliform determinations, or cooling temperatures taken on separate days exceed the limit of the standard for the milk, cream, milk products, mix, or frozen desserts, im-

itation frozen desserts or imitation frozen desserts mix, the regulatory agency shall send a written notice thereof to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standards. An additional sample shall be taken within 21 days of the sending of such notice, but not before the lapse of three days. Immediate product suspension or other appropriate department of court action shall be instituted whenever the standards is violated by three of the last five bacteria counts, coliform determinations or cooling temperatures of samples collected within the six-months period.

(d) The health authority shall establish the frequency of sampling pasteurized mix or frozen desserts during each six-month period for adequate pasteurization as determined by a phosphatase test. In the case of a confirmed positive result, the probable cause shall be determined and corrected to the satisfaction of the health authority before the mix is frozen or the frozen dessert is sold.

(e) No process or manipulation other than pasteurization, processing methods integral therewith, and appropriate refrigeration shall be applied to milk and milk products for the purpose of removing or deactivating organisms.

(f) Frozen desserts and mix shall comply with the following standards:

BACTERIAL, COLIFORM AND TEMPERATURE STANDARDS FOR
PASTEURIZED MIX AND FROZEN DESSERTS

Pasteurized			
	MAXIMUM BACTERIA LIMITS	MAXIMUM COLIFORM LIMITS	TEMPERATURE LIMITS
Mix	50,000/ml	40/ml	45°F.
Frozen Dessert	50,000/ml	40/ml	45°F.

BACTERIAL, COLIFORM, AND TEMPERATURE STANDARDS FOR
UNPASTEURIZED IMITATION FROZEN DESSERTS, IMITATION FROZEN DESSERTS
MIX, NONDAIRY FROZEN DESSERTS AND NONDAIRY FROZEN DESSERTS MIX

Unpasteurized			
	MAXIMUM BACTERIA LIMITS	MAXIMUM COLIFORM LIMITS	TEMPERATURE LIMITS
Imitation Frozen Desserts	50,000/ml	40/ml	45°F.
Imitation Frozen Desserts Mix (Dry)	1,000/ml	10/ml	-----
Nondairy Frozen Desserts	50,000/ml	40/ml	45°F.
Nondairy Frozen Desserts Mix (Dry)	1,000/ml	10/ml	-----

\$217.48 (301.72.04.018). Sanitation Standards for Frozen Dessert Plants.

(a) Floors. The floors of all rooms in which mix, frozen desserts, imitation frozen desserts, or imitation frozen desserts mix, or their ingredients are manufactured, processed or frozen, or in which containers and utensils are washed, shall be constructed of concrete or other equally impervious and easily cleaned material, and shall be smooth, properly drained, provided with trapped drains, and kept clean and in good repair; provided, that cold storage rooms used for storing frozen desserts, and cold storage rooms used for storing milk, cream or milk products, frozen fruits, frozen eggs, and comparable ingredients need not be provided with floor drains but the floors shall be sloped to drain to one or more exits, and shall be kept clean and in good repair; provided that, dry storage rooms need not be drained and tight wood floor construction is optional. Provided further, that the construction requirements of this item shall be waived in the case of frozen desserts establishments, if that portion of the room in which the freezer is installed and the room in which containers or utensils are washed have floors of metal, durable grades of linoleum or plastic, or tight wood impregnated with plastic in lieu of concrete.

(b) Walls and ceilings. Walls and ceilings of room in which mix, frozen desserts, or their ingredients are manufactured, processing or frozen, or in which containers or utensils are washed, shall have easily cleanable, washable light-colored surfaces and shall be kept clean and in good repair.

(c) Doors and windows. Unless other effective means are provided to prevent the access of flies, all openings to the outer air shall be effectively screened, and all doors shall be self-closing.

(d) Lighting and ventilation.

(1) All rooms shall be well lighted.

(2) All rooms shall be well ventilated.

(e) Miscellaneous protection from contamination.

(1) The various frozen desserts plant operations shall be located and conducted as to prevent any contamination of the ice cream, ice cream mix, frozen desserts, frozen desserts mix or their ingredients, or of cleaned equipment.

(A) All milk, milk products, cream, mix, or frozen desserts that have been spilled, overflowed, or leaked shall be discarded.

(B) All milk, milk products, cream, or mix drained from equipment at the end of a run shall be handled in a sanitary manner and shall be repasteurized.

(C) All necessary and appropriate means shall be used for the elimination of flies, other insects, and rodents.

(D) Rooms shall be free of flies.

(E) There shall be separate rooms for:

(i) pasteurization, processing, cooling, freezing, and packaging operations; and

(ii) the washing and bactericidal treatment of multiuse containers.

(F) Unless all milk, cream, mix, or milk products are received in bulk transport tanks, a receiving room separate from rooms as defined in subparagraph (E) (i) and (ii) of this paragraph shall also be required; provided that the requirement in subparagraph (E) (i) of this paragraph shall be satisfied when a frozen dessert manufacturer blends, freezes, and packages in a manner to prevent contamination; provided further, that frozen desserts, milk, milk products and ingredients shall not be unloaded directly into the room or rooms used for pasteurizing.

(G) Pasteurized mix or frozen desserts shall not be permitted to come in contact with equipment or containers with which unpasteurized mix, frozen desserts, cream, milk, or milk products have been in contact, unless such equipment has first been thoroughly cleaned and subjected to a bactericidal treatment.

(H) Rooms in which milk or milk products, cream, mix, or frozen desserts are handled or stored shall not open into any stable or living quarters.

(I) The milk plant, frozen dessert plant, containers, utensils, and equipment shall be used for no purpose other than the processing of milk, cream, milk products, mix, and frozen desserts, and the operation incident thereto, except as may be approved by the health authority.

(2) The pump-out of the transport tank shall be done in an area where a cover extends over the complete transport tank or, where climatic and operating conditions require, in a completely enclosed area. Pump-out operations must be protected in such a manner as to prevent product contamination. If the area is not completely enclosed or doors of the unloading area are open during unloading, a suitable filter is required for the manhole or the air inlet vent.

(3) The agitating and sampling of the transport tank milk shall be accomplished in such a manner as to provide maximum protection against product contamination. In no instance shall this be done at a place other than an approved unloading station.

(4) The frozen dessert plant shall record the following information on each load of milk received, and maintain these records for a period of not less than 90 days:

(A) date the load was received;

(B) time received;

(C) number of pounds in the load;

(D) temperature of the milk or milk products;

(E) the permit number of the truck delivering the

milk;

(F) the name of the station operator receiving the

milk;

(G) the transport tank cleaning tag should be removed and kept with the other records for a period of 30 days.

(5) In no case, shall milk or milk products be received from a transport tank that appears to be damaged, dirty, or does not have a cleaning tag attached without the permission of the health authority.

(f) Toilet facilities. Every frozen desserts plant shall be provided with conveniently located toilet facilities conforming with the local and county ordinance and Texas Department of Health. Toilet rooms shall not open into any room in which mix is processed or handled. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well ventilated. A sign directing employees to wash their hands before returning to work shall be posted in all toilet rooms used by employees.

(g) Water supply. The water supply shall be easily accessible, adequate, and of a safe sanitary quality.

(h) Handwashing facilities. Convenient handwashing facilities shall be provided, including hot and cold running water, soap, and approved sanitary towels. Handwashing facilities shall be kept clean. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without having washed his hands.

(i) Sanitary piping and fittings. All piping and fittings used to conduct milk, cream, milk products, mix, or frozen

desserts shall be of sanitary design and construction which meets 3-A sanitary standards and accepted procedures. Mix, frozen desserts, fluid milk products, and ingredients shall be conducted from one piece of equipment to another only by sanitary piping and fittings.

(j) Construction and repair of containers, utensils, and equipment.

(1) All multiuse containers, utensils, and equipment with which mix, frozen desserts, milk, cream, and milk products and ingredients come in contact shall be of smooth, impervious, noncorrodible, nontoxic, relatively low absorbent material; shall be easily cleanable and shall be kept in good repair.

(2) All single-service containers, closures, gaskets, and other articles shall be manufactured, packaged, transported, and handled in a sanitary manner.

(k) Disposal of wastes. All wastes shall be disposed of in a sanitary manner. All plumbing and appurtenances thereto shall be so designed and installed as to prevent the contamination of frozen desserts or any ingredient, utensil, container, or equipment by drip, condensation, or backflow.

(l) Cleaning and bactericidal treatment of multiuse utensils, containers, and equipment. All multiuse utensils, containers, and equipment shall be thoroughly cleaned before each usage. All product-contact surfaces of utensils, containers, and equipment shall be subjected effectively to an approved bactericidal process prior to use. Multi-use containers used for the transportation of mix shall be thoroughly rinsed immediately after emptying.

(m) Storage of multiuse utensils, containers, and equipment. After cleaning, all multiuse utensils, containers, and equipment shall be stored to drain dry, and in such a manner as not to be contaminated before usage.

(n) Storage of single-service containers, utensils and materials. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts, mix, or their ingredients shall be purchased and stored only in sanitary tubes, wrappings, or cartons; shall be kept therein in a clean, dry place until used; and shall be handled in a sanitary manner. Reuse of single-service articles is prohibited.

(o) Handling of containers and equipment. Between bactericidal treatment and usage, and during usage, containers and equipment shall not be handled or operated in such a manner as to permit contamination of the mix, frozen desserts, or their ingredients. Pasteurized mix and frozen desserts shall not be permitted to come into contact with equipment with which unpasteurized mix, milk, cream, or milk products have been in contact, unless the equipment has been thoroughly cleaned and effectively subjected to an approved bactericidal process.

(p) Pasteurization of mix.

(1) Every particle of the combined milk, cream, milk product, or other ingredients used in the manufacture of a frozen dessert mix shall be heated and held at temperatures of not less than 155°F for not less than 30 minutes; or 175°F for not less than 25 seconds; or any other equally efficient time/temperature process.

(2) All pasteurization equipment and related appurtenances shall meet construction and operational requirements outlined in the latest edition of the U.S. Public Health Service Pasteurized Milk Ordinance.

(q) Cooling and handling. All milk, cream, milk products in fluid form received at the frozen desserts plant for

use in frozen desserts mix shall be cooled to a temperature of 45°F or less and maintained at that temperature until pasteurized; and all pasteurized mix shall be cooled in approved equipment to a temperature of 45°F or less and shall be maintained thereat until frozen.

(r) Packaging and dispensing. Packaging, cutting, molding, dispensing, and other preparation of mix, frozen desserts, imitation frozen dessert mix, or imitation frozen desserts, or their ingredients shall be done in a sanitary manner. Containers shall be completely covered immediately after filling unless dispensed to the patron. Closures, covers, and wrappers shall be handled in such a manner as to prevent contamination of the package content.

(s) Returns. Mix, frozen desserts, imitation frozen desserts mix, or imitation frozen desserts in broken and opened containers may, after delivery, be returned to the plant for inspection, but shall not be sold or used for making mix, frozen desserts, imitation frozen desserts mix, or imitation frozen desserts.

(t) Overflow and spillage. Product drip or overflow, or spilled mix, frozen desserts, imitation frozen desserts, or imitation frozen desserts mix, or their ingredients, shall not be sold for human consumption.

(u) Personnel health. No person while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall engage in pasteurizing, handling of ingredients, filling, packaging of freezing operations, or in any capacity in which there is a likelihood of such person contaminating mix and frozen desserts, imitation frozen desserts mix, and imitation frozen desserts or mix, and frozen dessert contact surfaces with pathogenic organisms, or transmitting disease to other individuals; and no person known or suspected of being affected with any such disease or condition shall be employed in such a capacity. If the management of the frozen desserts plant has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health authority immediately.

(v) Personnel cleanliness. All persons who come in contact with milk, cream, milk products, mix, frozen desserts, imitation frozen desserts, and imitation desserts mix containers or equipment, shall wear clean outer garments, hair restraints, and shall keep their hands clean at all times while engaged in such work.

(w) Vehicles.

(1) All vehicles used for the transportation of mix, frozen desserts, imitation frozen desserts, imitation frozen desserts mix, cream, milk, and milk products shall be constructed and operated so as to protect their contents from the sun and contamination. Such vehicles shall be kept clean, and no substance capable of contaminating mix, frozen desserts, imitation frozen desserts, imitation frozen desserts mix, cream, milk, and milk products shall be transported therein. Such vehicles shall have the name of the distributor prominently displayed thereon.

(2) Tank cars and tank trucks used for transporting mix, cream, milk, and milk products shall comply with the construction, cleaning, bactericidal treatment, storing and handling requirements of subsections (e), (j), (l), and (m) of this section. Each shipment shall be sealed and labeled in an approved manner.

(x) Ingredients. All mix and frozen dessert ingredients

shall be clean, have a fresh wholesome flavor and odor and normal appearance, be of satisfactory quality, and shall be stored, handled, and processed in a sanitary manner.

§217.49 (301.72.04.019). Frozen Desserts which May Be Sold. From the date on which this regulation takes effect, no mix frozen desserts, imitation frozen desserts, or imitation frozen desserts mix shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, dairy stores, or similar establishments within the State of Texas or its police jurisdiction, unless it has been manufactured and frozen in a plant conforming with the requirements of the regulation; provided, that when any frozen desserts plant fails to qualify, the health authority is authorized to suspend, revoke the permit, and/or to institute court action.

§217.50 (301.72.04.020). Transferring and Dispensing Frozen Desserts. Except as permitted by the health authority, no person shall transfer frozen desserts or imitation frozen desserts from one container to another on the street, or in any vehicle or store, or in any place except under sanitary conditions.

§217.51 (301.72.04.021). Mix and Frozen Desserts from Points beyond the Limits of Routine Inspection.

(a) Generally. Mix, frozen desserts, imitation frozen desserts, and imitation frozen desserts mix from points beyond the limits of routine inspection of the State of Texas may be sold in the State of Texas or its police jurisdiction, provided they are manufactured and/or pasteurized under provisions which are substantially equivalent to the requirements of this regulation as determined by the health authority.

(b) Provisions for inspection. This section is intended to permit the health authority to bar frozen desserts, imitation frozen desserts, and imitation frozen desserts, and their mixes shipped in from beyond the normal limits of routine inspection, unless he can assure himself that they meet the provisions of this regulation. Under no conditions shall the health authority authorize the receipt of such shipments when arrangements cannot be made for supervision.

(c) Approval of supplies. Subject to laboratory tests upon arrival, the health authority should approve, without his inspection, supplies mix, frozen desserts, imitation frozen desserts, and imitation frozen dessert mix from an area not under his routine inspection:

- (1) when they are manufactured and/or pasteurized under regulations equivalent to those of this regulation and
- (2) when they are under routine official supervision.

§217.52 (301.72.04.022). Future Frozen Desserts Plants.

(a) All frozen desserts plants from which mix or frozen desserts are manufactured in the State of Texas, which are hereafter constructed, reconstructed, or extensively altered shall be submitted to the health authority for approval before work is begun and signed approval shall be obtained from the health authority.

(b) Future construction.

(1) This section is designed to insure that all new frozen desserts plants applying for a permit subsequent to the adoption of this regulation, and all new construction, reconstruction or extensive alterations made will comply with the requirements of this regulation.

(2) The purpose for requiring properly prepared plans for new or reconstructed plants to be submitted for approval is to insure compliance with sanitary requirements.

§217.53 (301.72.04.023). Notification of Disease. No person with any disease in a communicable form, or who is a carrier of such disease, shall work at any mix or frozen desserts plant in any capacity which brings him into contact with the production, handling, storage, or transportation of mix, frozen desserts, their ingredients, containers or equipment; and no mix or frozen desserts plant shall employ in any capacity any such person, or any person suspected of having any disease in a communicable form or of being a carrier of such disease. Any manufacturer or distributor in whose establishment any communicable disease occurs, or who suspects that any employee has contracted a disease in a communicable form or has become a carrier of such disease, shall notify the health authority immediately.

§217.54 (301.72.04.024). Procedure when Infection Is Suspected. When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of mix, frozen desserts, or their ingredients, the health authority is authorized to require any of all of the following measures:

- (1) the immediate exclusion of that person from handling mix, frozen desserts, or their ingredients.
- (2) the immediate exclusion of the mix or frozen desserts concerned from distribution and use; and
- (3) adequate medical and bacteriological examination of the person, or his associates, and of his and their body discharges.

§217.55 (301.72.04.025). Penalties. The penalties for violating these rules are found in Texas Civil Statutes, Article 4476-2a, §11.

§217.56 (301.72.04.026). Unconstitutionality Clause. Should any section, paragraph, sentence, clause, or phrase of these rules be declared unconstitutional or invalid for any reason, the remainder of the rules shall not be affected thereby.

Issued in Austin, Texas, on September 21, 1981.

Doc. No. 816700 Robert A. MacLean, M.D., Deputy
Commissioner
Professional Services
Texas Department of Health

Proposed Date of Adoption, November 23, 1981

For further information, please call (512) 458-7281.



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter A. Statewide Hunting and Fishing

The Texas Parks and Wildlife Commission proposes amendments to §§65.6, 65.16, 65.17, 65.24, 65.33-65.35, 65.38, 65.45, 65.46, 65.62, 65.63, and 65.91, concerning the Statewide Hunting and Fishing Proclamation. The proposed amendments primarily concern the application of enabling legislation passed by the 67th Texas Legislature which provides additional authority to the commission to regulate wildlife resources of a county to which the Uniform Wildlife Regulatory Act applies. Restrictive bag, possession, and minimum size limits for bass and hybrid striped bass in two newly opened reservoirs are also proposed. The proposal also amends the subchapter title, changing it from Statewide Hunting, Fishing, and Trapping to Statewide Hunting and Fishing. The Texas Parks and Wildlife Commission in a public hearing on September 2, 1981, adopted the above amendments on an emergency basis.

Jim Dickinson, director of finance, has determined that for the first five-year period the amendments will be in effect, there will not be any fiscal implications to state or local units of government as a result of enforcing or administering them.

The director of finance has also determined that for each year of the first five years the amendments as proposed are in effect:

(A) The public benefits anticipated as a result of enforcing the amendments as proposed will be increased hunting and fishing opportunity consistent with optimum wildlife resource management.

(B) There will not be any possible economic cost to individuals who are required to comply with the amendments as proposed.

Comments on the amendments may be submitted to Philip Evans, regulatory coordinator, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4974, or (800) 252-9688.

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

Boyd M. Johnson
September 14, 1981

The amendments are proposed under the authority of Texas Parks and Wildlife Code, Chapter 61, which provides the Texas Parks and Wildlife Commission with the authority to provide flexible regulations to deal effectively with changing conditions to prevent depletion and waste of wildlife resources.

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

(Game animals—Include the following:

(A) Wild deer, [wild elk.] wild antelope, wild desert bighorn sheep, wild black bear, wild gray or cat squirrels,

wild fox squirrels or red squirrels, and collared peccary or javelina (Texas Parks and Wildlife Code, §63.001).

(B)-(C) (No change.)

(D) *In Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, and Terrell Counties wild elk are game animals (Texas Parks and Wildlife Code, §63.001).*

Game birds—Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens, wild pheasants of all varieties, wild partridge, wild bobwhite quail, wild scaled quail, wild Mearns' quail, wild Gambel's quail, wild red-billed pigeons, wild band-tailed pigeons, wild mourning doves, wild white-winged doves, *wild white-fronted doves*, wild snipe of all varieties, wild shore birds of all varieties, chachalacas, wild plover of all varieties, and wild sandhill cranes (Texas Parks and Wildlife Code, §64.001).

§65.16. Hunting from Vehicle.

(a) *Regulations concerning hunting from vehicles are prescribed by Texas Parks and Wildlife Code, §62.003.* [It is unlawful to shoot at any game bird or game animal from any boat under sail or power or from any aircraft or airborne device.]

(b) Game animals and game birds (except migratory game birds) may be taken from an automobile by a person who is within the boundaries of private property and who is legally on the property for the purpose of hunting. Such person may not hunt from any public road in the state.]

(b)(c) It is unlawful to hunt pheasant with the aid of a cable, chain, rope, or other device connected between moving objects.

§65.17. Hunting Deer with Dogs.

(a) (No change.)

(b) It is lawful to use not more than two dogs in trailing a wounded deer in all regulatory counties, except Bowie, Camp, Fannin, Franklin, Harts, Harrison (north of Interstate Highway 20 and west of State Highway 43), Houston, Hunt, Jefferson, Lamar, Liberty, Montgomery, *Morris*, Nacogdoches, Red River, Rockwall, Rusk, San Augustine, *Shelby*, Titus, Trinity, Walker, Washington, Winkler, and Wood Counties.

(c) (No change.)

§65.24. Elk Permits.

(a) The department shall designate the number of elk to be harvested from a tract of land *in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves, and Terrell Counties*, and shall issue a like number of permits to the owner or authorized agent of such tract.

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

§65.33. Deer. The general statewide bag and possession limit is no more than four deer, no more than two mule deer, only one of which may be a buck mule deer, no more than two white-tailed bucks, and no more than three antlerless deer of all species combined (see §65.6 of this title (relating to Definitions) and §65.26(d) and (e) of this title (relating to Buck Deer Permits for Maverick, Webb, and Zapata Counties), for definition of buck deer).

(1) White-tailed deer. Regular open seasons, bag, and possession limits shall be as follows:

(A) In Anderson, Aransas, Bandera, Bee, Bosque, Brazoria, Brooks, Brown, Calhoun, Callahan, Cameron, Coleman, Comal, Comanche, Coryell, DeWitt, *Duval*, Eastland,

Ector, Edwards, Erath, Fort Bend, Freestone, Frio, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe, Hamilton, Hardin, Harris, Hays, Hidalgo, Jackson, Jasper, Jefferson, Jim Wells, Karnes, Kimble, Kleberg, Lampasas, LaSalle, Liberty, Limestone, Live Oak, Llano, Mason, Matagorda, Maverick, Midland, Montgomery, Nacogdoches, Newton, *Nueces*, Orange, Panola, Polk, Reagan, Real, Refugio, Runnels, Rusk, San Augustine, San Patricio, San Saba, *Shelby*, Somervell, Starr, Sutton, Taylor, Travis, Tyler, Upton, Victoria, Walker, Ward, Webb, Wharton, Willacy, Wilson, and Zapata Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January. The bag limit is three white-tailed deer, no more than two bucks, antlerless by permit only.

(B) In Atascosa, Bell, Bexar, Blanco, Burnet, Coke, Concho, Irion, McCulloch, Menard, Mills, Mitchell, Nolan, Schleicher, Sterling, Tom Green, and Williamson Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January.

(i) The bag limit is three white-tailed deer, no more than two bucks.

(ii) Antlerless deer may be taken without an antlerless deer permit required by §65.21 of this title (relating to Permits) and §65.23 of this title (relating to Antlerless Deer Permits).

(C)-(F) (No change.)

(G) In Camp, Franklin, Lamar, *Morris*, Smith, and Titus Counties, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through November 30. The bag limit is three white-tailed deer, no more than one buck, antlerless by permit only.

(H) In *Chambers (west of the Trinity River)* [Duval] County, there is an open season for white-tailed deer beginning the Saturday nearest November 15 through the first Sunday in January [and the bag limit is two white-tailed buck deer only].

(I)-(V) (No change.)

(2) White-tailed deer. Archery only open seasons, bag, and possession limits shall be as follows:

(A) (No change.)

(B) In Bowie, Duval, Ector, Glasscock, Harris, Jefferson, Karnes, Limestone, Midland, Montgomery, Nacogdoches, Newton, *Nueces*, Orange, Panola, Robertson, Rusk, San Augustine, *Shelby*, Upton, and Ward Counties, there is an open season during which white-tailed buck deer may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is two white-tailed buck deer.

(C) (No change.)

(D) In Archer, Armstrong, Austin, Bastrop, Baylor, Borden, Brazos, Briscoe, Caldwell, Camp, Carson, Childress, Clay, Collingsworth, Cooke, Cottle, Crosby, Denton, Donley, Ellis, Falls, Fannin, Fayette, Fisher, Floyd, Franklin, Garza, Gray, Hall, Hansford, Hardeman, Haskell, Hemphill, Hill, Howard, Hutchinson, Jack, Johnson, Jones, Kent, Knox, Lamar, Lee, Lipscomb, Madison, Milam, Montague, Moore, *Morris*, Motley, Navarro, Ochiltree, Parker, Potter, Randall, Roberts, Scurry, Sherman, Smith, Stonewall, Swisher, Tarrant, Titus, Waller, Wheeler, Wichita, Wilbarger, Wise, Wood, and Young Counties, there is an open season during which white-tailed buck deer may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days. The bag limit is one white-tailed buck deer.

(E)-(F) (No change.)

(G) In *Chambers (west of the Trinity River)* County, there is an open season during which white-tailed deer may be taken with longbow and arrows beginning the first Saturday in October for 30 consecutive days.

(H)[(G)] In Andrews, Bailey, Castro, Cochran, Collin, Dallam, Dallas, Dawson, Deaf Smith, Dimmit, Edwards, El Paso, Gaines, Grayson, Hale, Hartley, Hockley, Hudspeth, Hunt, Kaufman, Kendall, Lamb, Lubbock, Lynn, Martin, Oldham, Parmer, Real, Rockwall, Terry, Winkler, and Yoakum Counties, there is no archery only open season for white-tailed deer.

(I)[(H)] The archery bag limit is not in addition to the regular open season bag limits for white-tailed deer.

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

§65.34. Javelina: Open Seasons and Bag Limits.

(a) (No change.)

(b) In Aransas, Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, El Paso, Hidalgo, Hudspeth, Jeff Davis, Jim Wells, Karnes, Kimble, Kinney, Kleberg, LaSalle, Live Oak, Maverick, Menard, *Nueces*, Pecos, Presidio, Reeves, San Patricio, Schleicher, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, there is no closed season and a bag limit of two javelina per season. The possession limit is two javelina.

(c) (e) (No change.)

§65.35. Squirrel: Open Seasons, Bag, and Possession Limits.

(a) (No change.)

(b) In Anderson, Bowie, Brazoria, Camp, Fannin, Fort Bend, Franklin, Freestone, Hardin, Harris, Harrison, Henderson, Houston, Hunt, Jasper, Jefferson, Lamar, Liberty, Montgomery, *Morris*, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Red River, Robertson, Rusk, San Augustine, *Shelby*, Titus, Trinity, Tyler, Walker, and Wood Counties, there is an open season for squirrel beginning May 131, and October 1 through January 15. The bag and possession limits are 10 squirrels per day and 20 in possession.

(c) (f) (No change.)

§65.38. Elk: Open Seasons and Bag Limits. Elk may be taken in *Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Presidio, Reeves, and Terrell Counties* [all regulatory counties] by permit only. There is no closed season on elk and the bag limit is one.

§65.45. Quail: Open Seasons, Bag, and Possession Limits.

(a) In Andrews, Aransas, Armstrong, Atascosa, Bailey, Bee, Bexar, Borden, Brewster, Briscoe, Cameron, Carson, Castro, Childress, Cochran, Coke, Crockett, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dimmit, Donley, Duval, Ector, El Paso, Fisher, Floyd, Frio, Gaines, Garza, Glasscock, Gray, Hale, Hall, Hansford, Hartley, Haskell, Hemphill, Hidalgo, Hockley, Howard, Hudspeth, Hutchinson, Irion, Jeff Davis, Jim Wells, Jones, Karnes, [Kent.] Kinney, Kleberg, [Knox.] Lamb, LaSalle, Lipscomb, Live Oak, Lubbock, Lynn, Martin, Maverick, Medina, Midland, Mitchell, Moore, Motley, Nolan, *Nueces*, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reagan, Reeves, Roberts, Runnels, Scurry, Sherman, Starr, Sterling, [Stonewall.] Swisher, Taylor, Terrell, Terry, Tom Green, Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Yoakum, Zapata, and Zavala Counties, there is an open season for quail beginning the last Saturday in October through the Sunday nearest

January 31. The commission has deferred adopting quail daily bag and possession limits until annual late summer production surveys are evaluated.

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

§65.46. Turkey.

(a) (c) (No change.)

(d) Exceptions to general open season, archery only season, or bag limits.

(1) In Anderson, Andrews, Austin, Bailey, Bastrop, Bowie, Brazoria, Brazos, Brewster, Burleson, Caldwell, Cameron, Camp, Castro, Cochran, Collin, Colorado, Cooke, Culberson, Dallas, Deaf Smith, Denton, DeWitt, Ellis, El Paso, Falls, Fannin, Fayette, Fort Bend, Franklin, Freestone, Gaines, Gonzales, Grayson, Grimes, Guadalupe, Hale, Hardin, Harris, Harrison, Henderson, Hidalgo, Hill, Hockley, Houston, Hudspeth, Hunt, Jackson, Jasper, Jeff Davis, Jefferson, Johnson, Kaufman, Lamar, Lamb, Lavaca, Lee, Liberty, Limestone, Lubbock, Madison, McLennan, Milam, Montgomery, **Morris**, Nacogdoches, Navarro, Newton, Orange, Panola, Parker, Parmer, Polk, Presidio, Red River, Reeves, Robertson, Rockwall, Rusk, San Augustine, **Shelby**, Starr, Tarrant, Terry, Titus, Trinity, Tyler, Victoria, Walker, Waller, Ward, Washington, Wharton, Winkler, Wise, Wood, Yoakum, and Zapata Counties, there is no general or archery only season on turkey.

(2) (8) (No change.)

(e) (No change.)

§65.62. Freshwater Fish: Bag, Possession, and Size Limits.

(a) Provisions relating to bass shall be as follows:

(1) (4) (No change.)

(5) In the Fayette County power cooling pond in Fayette County, **in Squaw Creek (Comanche Peak) Reservoir in Hood and Somervell Counties, and in the Coletto Creek Reservoir in Goliad and Victoria Counties**, there is a daily bag limit of three largemouth bass; a possession limit of six, and a minimum size limit of 16 inches.

(6) (8) (No change.)

(b) (c) (No change.)

(d) The daily bag limit on striped bass is five and the possession limit is 10, and in the Toledo Bend Reservoir, no more than two striped bass over 30 inches in length may be retained per day. There is no daily bag or possession limit on hybrids of striped bass except in Calaveras Lake in Bexar County **and Squaw Creek (Comanche Peak) Reservoir in Hood and Somervell Counties**, where the daily bag limit is five and the possession limit is 10.

(e)-(k) (No change.)

(l) In [the Nueces River where it forms the boundary between Nueces and San Patricio Counties, in] Blanco Creek and the Sarco River where they form the boundary between Bee and Goliad Counties, bag and possession limits are as provided by Texas Parks and Wildlife Code, §66.106.

(m)-(p) (No change.)

§65.63. Freshwater Fish: Means and Methods.

(a) In regulatory counties, only the following means and methods may be used to take fish. It is unlawful to take or attempt to take fish by any means and methods, except as specifically allowed in this section.

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

(4) A wire loop or gig for taking rough fish, except [in the Nueces River from the parts of Lake Corpus Christi to which these sections apply, downstream to Nueces Bay and] in Colorado County, but when using a wire loop or gig, one may not possess crappie, bass, or catfish.

(5) (No change.)

(6) Any net set in public waters of this state in violation of the provisions of this subchapter shall be removed from the waters thereof. Any net used in public waters by sports fishermen shall be identified by a legible tag constructed of a material as durable as the net, bearing the name and address of the fisherman and the date it was set out. Trammel nets, gill nets, and drag seines may not be used, except as provided as follows:

(A)-(G) (No change.)

(H) In Coletto Creek (**except in Coletto Creek Reservoir in Goliad and Victoria Counties**) [in Victoria County] and in the San Antonio River between Goliad and Victoria Counties, set or drag nets or seines, the meshes of which are not less than three inches square, may be used for taking fish. **Coletto Creek Reservoir is defined as those public waters east of FM Road 2987 and south of FM Road 622 to the Coletto Creek Dam.**

(I) (No change.)

(J) In Bowie, **Morris (except Ellison Creek Reservoir and Daingerfield State Park)**, and Harrison Counties, hoop nets, trammel nets, and gill nets of nonmetallic construction with meshes not less than three inches square may be used for taking only rough fish, as defined, and catfish, except in Lake Tawakoni in Hunt, Rains, and Van Zandt Counties, Lake Palestine, and the Sabine River in Harrison County, they are unlawful.

(K)-(L) (No change.)

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

§65.91. Penalty for Violation. The penalties for violation of this subchapter are prescribed by §§61.901, [and] 61.902, **and 61.903**, Texas Parks and Wildlife Code, except shrimp violations which are prescribed by the Texas Parks and Wildlife Code, §77.020.

Issued in Austin, Texas, on September 17, 1981.

Doc. No. 816638

Maurine Ray

Administrative Assistant

Texas Parks and Wildlife Department

Proposed Date of Adoption: October 26, 1981

For further information, please call (512) 479-4974 or (800) 252-9688.

Pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, an agency may take final action on a rule 30 days after publication of the proposed action in the *Register*. Upon adoption of the action, "the agency, if requested to do so by an interested person either prior to adoption or within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement its reasons for overruling the considerations urged against its adoption." The action is effective 20 days after filing of the notice of final action with the Texas Register Division unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice. The notice includes whether the action is promulgated with or without changes to the action proposed; a statement of the legal authority under which the final action is promulgated; and the text of the final action, in compliance with the rules of the Texas Register Division. If an agency takes final action on a rule with no changes made to the text as proposed, only the preamble of the notice and statement of legal authority will be published. The text, as appropriate, will be published only if final action is taken with changes made to the proposed action. The certification information, which includes the effective date of the final action, follows each published submission of final action. A telephone number for further information is so published.

An agency may withdraw proposed action or the remaining effectiveness of emergency action by filing a notice of withdrawal with the Texas Register Division. The notice will appear in this section of the *Register* and is generally effective immediately upon filing with the Texas Register Division.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

CODIFIED

TITLE 19. EDUCATION

Part I. Coordinating Board, Texas College and University System

Chapter 25. Administrative Council

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

The Administrative Council of the Coordinating Board, Texas College and University System adopts amendments to §25.32 (251.20.02.002) with changes to the proposed text published

in the July 14, 1981, issue of the *Texas Register* (6 TexReg 2421).

The Administrative Council adopts amendments to this section to clarify the definition of a disabled retiree and further define eligibility for benefits. A change from the proposed text was made to clarify in subparagraph E(ii), that an occupational disability must have been caused by an on-the-job injury and must be covered by worker's compensation.

This amendment will provide for disabled retirees with occupational or nonoccupational disabilities through the continuation of benefits in their institution's group insurance program according to the number of years of service and whether disability retirement requirements are met.

No comments were received regarding the adoption of these amendments.

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.

James McWhorter
September 18, 1981

The Administrative Council, under Texas Insurance Code, Article 3.50-3, is authorized to adopt rules and regulations consistent with the Act, to provide health insurance and other group insurance benefits for employees eligible for retirement.

§25.32 (251.20.02.002). *Definitions.* The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Retired employee—Any former employee regardless of date of retirement who retires or has retired and who receives or is eligible to receive benefits under a retirement provision under the jurisdiction of

(A) (i) (No change.)

(E) In addition, retired employee shall mean any former employee who has not reached the age to apply for full formula service retirement benefits but who has reached a state of permanent and total disability, where the individual is unable to perform the assigned duties and.

(i) If the individual is approved for disability retirement benefits by the Teacher Retirement System of Texas, then that individual may continue in the institution's group insurance plan for the duration of the disability if the individual has at least 10 years of creditable service in TRS, or may continue in the institution's group insurance plan for a period of time equal to the number of months of creditable service in TRS if the individual has less than 10 years of creditable service in TRS and has a nonoccupational disability; or

(ii) If the individual is not a participant in the Teacher Retirement System but has been determined by the institution to be permanently and totally disabled as defined by TRS, then that individual may continue in the institution's group insurance plan for the duration of the disability if the individual has at least 10 years of state service creditable under either ORP, TRS, or ERS (including public community/junior college service), or may continue in the institution's group insurance plan for a period of time equal to the number of months of such state service if the individual has less than 10 years of such state service and has a nonoccupational disability, or

(iii) If the individual has an on-the-job injury causing a disability covered by workers' compensation statute applicable to the institution, that individual may continue in the institution's group insurance program for the duration of the disability, provided, however, that periodic certification of continued disability may be required at any time by the institution.

(iv) The employer shall contribute to the cost of the disabled retiree's premium an amount equal to the amount contributed by the employer on behalf of any other retiree.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816692 James McWhorter, Executive Secretary
Administrative Council
Coordinating Board, Texas College and
University System

Effective Date: October 12, 1981

Proposal Publication Date: July 14, 1981

For further information, please call (512) 475-2033.

The Administrative Council of the Coordinating Board, Texas College and University System adopts amendments to §25 (251.20.02.003) without changes to the proposed text published in the July 14, 1981, issue of the *Texas Register* (6 TexReg 2422).

The Administrative Council adopts amendments to this section to provide flexibility to the institutions in meeting the basic coverage standards.

These amendments will allow deviation from the basic coverage standards, provided Administrative Council approval of such deviation is received before it becomes effective.

No comments were received regarding the adoption of these amendments.

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.

James McWhorter
September 18, 1981

The Administrative Council, under Texas Insurance Code, Article 3.50-3, is authorized to determine if existing institutional programs meet, equate to, or exceed standards for such basic coverages.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816693 James McWhorter, Executive Secretary
Administrative Council
Coordinating Board, Texas College and
University System

Effective Date: October 12, 1981

Proposal Publication Date: July 14, 1981

For further information, please call (512) 475-2033

Part II. Texas Education Agency

Chapter 53. Regional Education Service Centers

Subchapter B. Administration and Operation

The Texas Education Agency adopts amendments to §53.30 (226.21 02.043) without changes to the proposed text published in the July 24, 1981, issue of the *Texas Register* (6 TexReg 2625).

The General Appropriations Act of 1981, Article III, §7, required the Texas Education Agency to develop a standardized reporting system for regional education service center budgets and personnel rosters, including salaries, consultant services, and fringe benefits.

Education service centers shall use the same budgeting, accounting, and financial reporting system as that used by the Texas Education Agency. To assist service centers in converting to the new system, the agency will provide a standard budget form with conversion tables for the 1981-1982 fiscal year.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of the General Appropriations Act of 1981, Article III, §7, which directed the Texas Education Agency to develop a standardized reporting system for regional education service center budgets and personnel rosters.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816659 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981

Proposal Publication Date: July 24, 1981

For further information, please call (512) 475-7077.

Chapter 61. School Districts

Subchapter F. Responsibilities and Powers for Operation

The Texas Education Agency adopts amendments to §61.163 (226.23 06 030) without changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2477).

The amendments require school districts to furnish a record of a student's results on the Texas Assessment of Basic Skills (TABS) test when students transfer from one school district to another. This will enable the receiving school district to use the TABS results to determine an appropriate educational program for the transfer student.

A record of each student's test results on the Texas Assessment of Basic Skills will be included with the student's academic record. A copy of this record is furnished each student transferring to another school district.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §11.52(c), which authorizes the commissioner of education to recommend to the State Board of Education such policies, rules, and regulations as he considers necessary to promote educational progress in the state, and Texas Education Code, §16.176, which directs the Texas Education Agency to administer criterion-referenced assessment instruments to students in the third, fifth, and ninth grades.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816660 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981
Proposal Publication Date: July 17, 1981
For further information, please call (512) 475-7077.

Chapter 77. Comprehensive Instruction

Subchapter C. Curriculum for General Education

The Texas Education Agency adopts new §77.47 without changes to the proposed text published in the July 24, 1981, issue of the *Texas Register* (6 TexReg 2626).

The new section will establish an advisory committee for the fine arts in education. The committee will advise the State Board of Education on the development of a fine arts curriculum framework for a comprehensive program for fine arts in education.

Members of the committee will be nominated by the Texas Commission on the Arts and approved by the State Board of Education. The committee will be composed of representatives of member organizations of the Texas Alliance for Arts Education.

No comments were received regarding the adoption of this section.

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.

Raymon L. Bynum
September 18, 1981

The new section is adopted under the authority of Texas Education Code, §11.25(f), which authorizes the State Board of Education to establish official commissions composed of

citizens of the state to advise the commissioner of education in the discharge of his duties.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816661 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981
Proposal Publication Date: July 24, 1981
For further information, please call (512) 475-7077.

Subchapter M. Adult Vocational Education

The Texas Education Agency adopts new §77.252 without changes to the proposed text published in the July 24, 1981, issue of the *Texas Register* (6 TexReg 2626).

The General Appropriations Act of 1981 provided \$3.2 million for each year of the biennium for vocational education in secondary schools. Section 35 of that Act states that \$1.2 million of that amount each year shall be for licensed vocational nurse programs in public school districts. The rule provides for the allocation of these funds.

Each existing licensed vocational nursing program will be eligible to receive funding for the 1981-1982 school year up to a maximum of 30% above the 1980-1981 actual cost per program. Thereafter, funding levels will be adjusted to reflect the percentage of salary increase provided by State Public Education Compensation Plan. Districts which did not have a program in 1980-1981 will be considered for funding within funds available. Schools desiring to receive these funds must submit a funding agreement to the Texas Education Agency for approval.

No comments were received regarding the adoption of this section.

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.

Raymon L. Bynum
September 18, 1981

The new section is adopted under the authority of Texas Education Code, §11.24, which designates the State Board of Education as the State Board for Vocation Education, and gives the board authority to make rules for carrying out the duties placed on it or on the Central Education Agency by the legislature; and the General Appropriations Act of 1981, §1, item 15.a.(1), which appropriated \$3.2 million for each year of the biennium for vocational education in secondary schools; and the General Appropriations Act of 1981, §35, which designated \$1.2 million each year of the appropriation in 15.a.(1) for licensed vocational nursing programs in secondary schools.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816662 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981
Proposal Publication Date: July 24, 1981
For further information, please call (512) 475-7077.

Chapter 81. Instructional Resources

Subchapter C. Media Service Program of the Education Service Centers

The Texas Education Agency adopts amendments to §81.41, §81.42, and §81.43 (226.33.22.010, .020, and .030) with changes to the proposed text published in the July 3, 1981 issue of the *Texas Register* (6 TexReg 2281). The title of §81.41 has been changed from the proposed version.

The amendments simplify the procedure for providing media services to school districts through regional education service centers.

Rather than requiring districts to submit an annual application for media services as in the past, the Texas Education Agency will provide a "turnaround" document on which the service centers can indicate any changes from the previous year's service. The new procedure will reduce paperwork for school districts.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §11.32(a), which directs the State Board of Education to provide by rules and regulations for the establishment and operation of regional education service centers and Texas Education Code, §11.33(a), which authorizes the State Board of Education to make rules for the media services program of the education service centers.

§81.41 (226.33.22.010). Authorization of the Media Service Program. A media services program shall be provided through education service centers. The program shall provide media services in accordance with law and rules of the State Board of Education.

§81.42 (226.33.22.020). Media Services for Public Schools.

(a) To receive media services from the regional education service center serving its particular geographic region, a Texas public school district shall agree to pay its proportionate share for the cost of the media services.

(b) Basic media services provided are:

(1) a materials lending library containing 16 millimeter and eight millimeter motion pictures or improvements thereof with provision for processing and servicing, 35 millimeter slides or improvements thereof, filmstrips, remedial and enrichment programmed instructional materials, and disc recordings;

(2) visual duplication service to reproduce transparencies, slides, filmstrips, and charts or improvements thereof;

(3) a magnetic tape duplicating service for audio and video tape;

(4) a delivery and dissemination system for materials and services;

(5) professional training services to the districts for coordination of media and curriculum; and

(6) acquisition and circulation of materials that will be coordinated with the curriculum of local school districts

(c) Optional media services may include but are not limited to:

(1) equipment repair service with local school districts paying for such service;

(2) evaluation of services of new equipment, materials and techniques;

(3) graphics staff to produce transparency masters and charts; and

(4) other services.

§81.43 (226.33.22.030). Discontinuing Participation for Media Services.

(a) Any school district that is participating in and contributing to the regional media services may elect to discontinue its participation in the services for a succeeding scholastic year with the provision that title to all educational materials and property purchased by the center shall remain with and in the center.

(b) The superintendent of the school district desiring to discontinue participation must notify the executive director of the service center to make the necessary arrangements for withdrawal.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816663 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981

Proposal Publication Date: July 3, 1981

For further information, please call (512) 475-7077.

Chapter 85. Student Services

Subchapter B. Guidance Services

The Texas Education Agency adopts new §85.22 with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2738). In the proposed version of this section the word "the" was omitted from §85.22(f)(2)(C) in the published text. The word appears in the adopted version of this section.

House Bill 354, 67th Legislature, authorized the establishment of school-community guidance centers in districts with at least 6,000 average daily attendance or cooperatives with a combined average daily attendance of at least 6,000.

The school-community guidance centers are an alternative setting, outside the regular school program, designed to locate and assist students with problems which interfere with their education, including but not limited to juvenile offenders and children with severe behavioral problems or character disorders. Schools interested in establishing such centers may apply to the Texas Education Agency for funds. The rule includes criteria for the evaluation of grant applications and authority for the commissioner of education to establish maximum grant awards and levels of funding. State funds allocated for this program may be used only for personnel salaries.

No comments on the new sections were received.

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

Raymon L. Bynum
September 18, 1981

The new section is adopted under the authority of Texas Education Code, §16.005, which authorizes the Texas Education Agency to make rules for the implementation and administration of the Foundation School Program; and Texas Education Code, Chapter 16, Subchapter I, which authorizes the establishment of school-community guidance centers in eligible school districts.

§85.22. School-Community Guidance Centers.

(a) A school-community guidance center is an alternative setting, outside the regular school program, designed to locate and assist students with problems which interfere with their education. Students served by the center may include, but need not be limited to, juvenile offenders and children with severe behavioral problems or character disorders.

(b) In accordance with Texas Education Code, Chapter 16, Subchapter I, a school-community guidance center may be established by:

(1) a school district with an average daily attendance of at least 6,000 students; or

(2) a cooperative of school districts with a combined average daily attendance of at least 6,000 students.

(c) Should the appropriation in any biennium be insufficient to fund all eligible districts, funds will be allocated on a competitive grant basis. The commissioner of education may establish a maximum grant award and a level of funding for any selected project. Guidelines for the submission of grant proposals shall be developed by the commissioner of education. The commissioner of education shall use the following criteria to evaluate grant applications:

- (1) quality of needs assessment;
- (2) quality of objectives;
- (3) quality of proposed activities;
- (4) quality of collaboration plan;
- (5) quality of project management;
- (6) quality of evaluation plan; and
- (7) efficiency of project budget

(d) Personnel units shall be allocated to school-community guidance centers in accordance with Texas Education Code, §16.403. A school district's total adjusted personnel units shall be reduced by an amount equal to one-half of the sum of the personnel unit values allocated for school-community guidance center personnel in accordance with Texas Education Code, §16.102(g).

(e) State funds allocated under this section shall be used only for salaries for school community guidance center personnel. All other expenses must be paid for from local district funds or other funding sources.

(f) Qualifications and pay grades for personnel in school-community guidance centers shall be as follows:

(1) School community guidance center teachers must have the following qualifications and abilities

(A) Bachelor's degree (pay grade seven) or master's degree (pay grades eight, nine, or ten), and valid Texas teacher certificate.

(B) the ability to assist students (including but not limited to juvenile offenders and those with severe behavioral problems or character disorders) with problems which interfere with their education;

(C) the ability to identify and correct factors which adversely affect the education of children;

(D) the ability to cooperate with guidance center staff and other community agency personnel;

(E) the ability to coordinate the instructional program to support and reinforce the services of guidance center staff and community agency personnel; and

(F) demonstrated competency in planning learning experiences for individual students based on identification of academic needs.

(2) Attendance consultants in a school-community guidance center must have the following qualifications and abilities:

(A) Bachelor's degree (pay grade seven) or master's degree (pay grades eight or ten) and valid Texas teacher certificate;

(B) ability to interpret academic and personal information and data to staff, parents, students, and community agents and to assist in program development and revision;

(C) demonstrated competence in developing effective working relationships with and among members of the guidance center staff and students, and the community;

(D) demonstrated competence in forming and maintaining effective working relationships with members of all populations served; and

(E) ability to assist parents in developing realistic perceptions of their children.

(3) Educational aides in a school-community guidance center may be placed on pay grades one, two, or three.

(g) As provided in Texas Education Code, §16.401(a), centers shall coordinate the efforts of school district personnel and personnel of other local agencies who work with the same student population. Centers may enter into contracts and develop cooperative programs with state youth agencies as provided by Texas Education Code, §16.402 and §16.403.

(h) While in attendance at a school-community guidance center, a student shall be counted only once in the average daily attendance of the school district.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816664 Raymon L. Bynum
Commissioner of Education

Effective Date, October 9, 1981

Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

Subchapter C. Health Services

School Health Services

The Texas Education Agency adopts amendments to §85.41 (226.34.13.010) with changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2478). In §85.41(b)(8), "follow-up" has been defined.

The principles and standards for the accreditation of school districts require districts to provide school health and health maintenance services. This section defines the school health

services program which shall be considered as part of the educational program of the school children of Texas. The amendments to the section specified that vision and hearing screening must be done. Previously the rule required only "health screening" with no further specification. The amendment also adds a requirement for follow-up after referral to ensure that parents know how to obtain needed services for their children.

School health services shall be provided to all children through local education agencies, in accordance with the provisions of Subchapter D of Chapter 97 of this title (relating to Principles, Standards, and Procedures for the Accreditation of School Districts), standards established by the Texas State Department of Health, applicable laws, and this section. Each district must establish local policies addressing the aspects of the health services program set out in subsection (b) of the section.

No comments on the amendments were received.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §11.52(c), which authorizes the commissioner of education to recommend to the State Board of Education such policies, rules, and regulations as he considers necessary to promote educational progress in the state, and Texas Education Code, §11.26(a)(5), which authorizes the State Board of Education to establish regulations for the accreditation of schools. Principle 5 of the Accreditation of School Districts requires school districts to provide school health and health maintenance services. This section sets the standards for the health services program.

§85.41 (226.34.13.010). Health Services Program.

(a) School health services shall be considered as part of the educational program of the school children of Texas. These services shall be provided to all children through local education agencies, in accordance with the provisions of Subchapter D of Chapter 97 of this title (relating to Principles, Standards, and Procedures for the Accreditation of School Districts), and standards established by the Texas State Department of Health and in accordance with applicable laws. The local education agency shall ensure appropriate coordination of school health services, other student services, and related instructional programs.

(b) School health services shall be addressed by policies of the local board of trustees. Local policies shall address the following functions:

- (1) planning, development, and evaluation;
- (2) health counseling;
- (3) screening.

(A) vision (Texas Civil Statutes, Article 4419f),
and
(B) hearing.

- (4) prevention and control of communicable diseases:

(A) immunization (Texas Education Code, §2.09);

and

(B) exclusion and reporting of students or employees who have communicable diseases (Texas Civil Statutes, Article 4477);

- (5) provision for emergency cases.

(6) consultation and coordination with other student services and related instructional programs to focus on the health-related needs of students and their families (including but not limited to special education and health education);

(7) liaison with community health resources;

(8) referral and follow-up to ensure that parents have been notified of identified problems and know how they can obtain needed services for their children;

(9) health appraisals of students;

(10) maintenance of pupil health records;

(11) reporting child abuse (Texas Civil Statutes, Article 3401 et seq.);

(12) administration of medication by school personnel (Texas Education Code, §21.914); and

(13) eye-injury reporting and eye-protective devices (Texas Education Code, §21.909).

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Doc. No. 816665

Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981

Proposal Publication Date: July 17, 1981

For further information, please call (512) 475-7077.

Subchapter H. Transportation Services

Student Eligibility for Transportation Services

The Texas Education Agency adopts amendments to §85.171 and §85.172 (226.34.62.010 and .020) with changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2479). In subparagraph (D), the word "purposes" which was proposed for deletion was not shown as such. In subsection (c)(2), subparagraphs (B) and (D) were reversed when the item was published in the *Texas Register*. The adopted rule keeps the paragraphs in the same order as was proposed, but amends the cross references in paragraph (2)(E) to be consistent with the new subparagraph designations.

The amendments were editorial changes for clarification. References to administrative procedures established by the commissioner of education have been deleted since all rules of the Texas Education Agency are now adopted by the State Board of Education.

Eligibility for regular students shall be determined as defined by law and rules of the State Board of Education. A handicapped student is eligible for special transportation when the student is eligible for special education and is unable to attend school without special transportation.

No comments on the amendments were received.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §16.005, which gives the Texas Education Agency the authority to adopt rules for the implementation and administration of the Foundation School Program; and Texas Education Code, §16.206, which provides that pupils are eligible for regular transportation if they reside two or more miles from their "campus of regular attendance." The amended portion of the rule addresses guidelines for certain transfer students whose eligibility status is not specifically addressed in the Texas Education Code.

§85.171 (226.34.62.010). Regular Student Eligibility.

(a) Eligibility for regular students shall be determined as defined by law and rules of the State Board of Education

(b) General requirements.

(1) The student must reside two or more miles from the assigned campus of regular attendance as measured by the shortest publicly traveled route from the student's home to his or her school.

(2) The student must reside in the district and attendance area (as designated by the district board of trustees); or be an approved transfer student.

(3) A transfer student is eligible when the school he or she would have attended in the home district, and the school he or she attends in the receiving district are both located two or more miles from his or her residence.

(4) A public school district operating a kindergarten program on a 1/2 day basis may make application for bus service to transport these students to or from school at mid-day. All such eligible bus students are expected to attend the same 1/2 day session. If the school district is unable to accommodate all eligible kindergarten bus students in the same 1/2 day, special approval must be secured from the commissioner of education.

(5) No student is eligible for transportation reimbursement for more than 175 days of any school year.

(c) Special requirements.

(1) To be eligible for private transportation, students must live two or more miles from an established school bus route in addition to other regular student eligibility requirements.

(2) Districts where unusual transportation situations exist as a result of a federal court order or a school district voluntary plan for desegregation approved by the Office of Civil Rights of the Department of Education, are provided the following guidelines:

(A) A student living less than two miles from a school teaching his or her grade in what had been his or her normal attendance zone becomes eligible for state transportation if he or she, as a result of a federal court order or a school district voluntary desegregation plan approved by the Department of Education, is assigned to attend another school that is two or more miles from his or her residence.

(B) A student who transfers voluntarily from the school in his or her normal attendance zone as a majority to minority transfer pursuant to the provisions of a federal court order shall be considered eligible for state transportation if the student meets all other eligibility requirements.

(C) A student who transfers voluntarily from a school in his or her normal attendance zone, and who is not a majority to minority transfer, but is a full time transfer to a "magnet school program" included in a federal court order, or implemented as part of a voluntary plan for desegregation

approved by the Office of Civil Rights of the Department of Education, shall be eligible for state transportation if the student meets all other eligibility requirements.

(D) A student who transfers voluntarily from the school in his or her normal attendance zone as a result of the provisions of a school district desegregation plan, or school district policy on transfers within the district shall not be considered eligible for state transportation.

(E) Transfer students not covered in subparagraphs (A), (B), and (C) of this paragraph shall not be considered eligible for state transportation.

(3) Students residing in hazardous areas shall be eligible if a hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(A) For students residing in hazardous areas to become eligible each board of trustees shall provide to the commissioner:

(i) the definition of hazardous conditions applicable to that district; and

(ii) identity of the specific hazardous area for which the allocation is requested.

(B) The legally designated authority shall identify the bus routes serving the specific hazardous areas.

(C) The maximum allowable mileage shall be computed based on the district's maximum allowable allocation for hazardous mileage divided by the district's group cost. Consideration shall not be given to the approval of mileage in excess of the maximum allowable.

§85.172 (226.34.62.020). Handicapped Student Eligibility.

(a) A handicapped student shall be eligible for special transportation when the student is eligible for special education and is unable to attend school without special transportation.

(b) Consideration for student eligibility is based upon the definitions for handicapped children as contained in §89.202 (226.35.71.020) of this title (relating to Definitions).

(c) Students may live within the school district, within one of the school districts in a cooperative program, or be transferred to a district where special education services are available. The child who is eligible for and placed in special education classes does not automatically qualify for special transportation reimbursement. Specific reasons why a child needs special transportation and the type of special transportation required and furnished shall be documented annually in the student's eligibility file.

(d) Handicapped children eligible for special education and who can utilize regular transportation shall be transported if eligible on regular routes (§85.171 (226.34.62.010) of this title (relating to Regular Student Eligibility)).

(e) Committee determination of transportation eligibility: the local special education admission, review and dismissal committee shall annually be responsible for:

(1) determining the need for special transportation; and

(2) determining the type of special transportation needed.

(f) The documented record of this determination shall then become a part of the handicapped student's eligibility file. The specific reason for special transportation shall be

written in the dated record of the committee's action above the committee members' signatures.

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Commissioner of Education

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For further information, please call (512) 475-7077.

The Texas Education Agency adopts amendments to §85.173 (226.34.62.030) with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2738). In paragraph (3) the word "allocated" has been changed to "allotted." The word "provided" has been deleted from the phrase "it shall be [provided] at the local district expense."

The section makes provision for the transportation of vocational and bilingual education or other special language program students. The amendment implements the transportation portion of Senate Bill 477, 67th Legislature, concerning bilingual education and other special language programs.

Students eligible for bilingual education or other special language program transportation must be assigned to a program offered under the provisions of Subchapter R, Chapter 77 of this title (relating to Bilingual Education and Other Special Language Programs).

No comments on the amendments were received.

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

Raymon L. Bynum
September 18, 1981

The amendment is adopted under the authority of Texas Education Code, §16.005, which authorizes the Texas Education Agency to make rules for the implementation and administration of the Foundation School Program; Texas Education Code, §16.206(g), which authorizes the agency to fund local school districts for the transportation of eligible vocational education students; and Texas Education Code, §21.460(b), which authorizes the agency to fund districts for the transportation of eligible students in bilingual education and other special language programs.

§85.173 (226.34.62.030). Vocational and Bilingual or Other Special Language Program Student Eligibility. Regulations for determining eligibility for transportation of students in vocational and bilingual education or other special language programs are as follows:

(1) (No change.)

(2) The student must be assigned under the provisions of Subchapter R of Chapter 77 of this title (relating to Bilingual Education and Other Special Language Programs) as a bilingual education or other special language program student to another campus within a district, to another district or area vocational school, or to an approved post-secondary institution under a contract for instruction approved by the Texas Education Agency; and

(3) No student shall be eligible for transportation for more than 175 days of any school year. If transportation for bilingual education summer school programs is provided, it shall be at local district expense or from funds allotted under §77.362 of this title (relating to Allotments for Operational Expenses).

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Doc. No. 816667 Raymon L. Bynum
Commissioner of Education
Texas Education Agency

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For further information, please call (512) 475-7077.

Transportation Special Provisions

The Texas Education Agency adopts the repeal of §85.201 (226.34.64.010) without changes to the proposed notice of repeal published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2481).

The section authorized the commissioner of education to establish procedures for special transportation programs. Since all transportation rules are now adopted by the State Board of Education §85.201 (226.34.64.010) has been repealed.

No comments were received regarding the adoption of this repeal.

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.

Raymon L. Bynum
September 18, 1981

The repeal is adopted under authority of the Texas Education Code, §16.005 which gives the Texas Education Agency the authority to make rules for the implementation and administration of Foundation School Program; and Texas Education Code, Chapter 16, Subchapter F, which makes transportation services a part of the Foundation School Program.

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Doc. No. 816668 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

The Texas Education Agency adopts amendments to §85.202 (226.34.64.020) without changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2481).

The amendment provides that students within a district attending a regional day school for the deaf in that district may be included with other students in the district's transportation funding. This change simplifies the funding procedures for these students. The amendment also requires that the

reimbursement rate for extracurricular and field trip travel be based on the previous year's cost per mile as determined by the annual transportation operation cost report. This change makes the calculation of the cost per mile more uniform for school districts across the state.

When special buses are used for field trips, the rate at which the district reimburses its handicapped children transportation fund must be based on the actual previous year's cost per mile as determined by the annual transportation operation cost report. This section also provides for the inclusion of students within a district attending a regional day school for the deaf in that district to be included with other students in the district's transportation funding. The regional day school program will provide funding for students transported from one district to another to attend a regional day school.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments to §85.202 are adopted under the authority of Texas Education Code, §16.005, which gives the Texas Education Agency the authority to make rules for the implementation and administration of the Foundation School Program; and Texas Education Code, §16.206(h), which authorizes the allocation of funds for the transportation of handicapped students.

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Doc. No. 816669 Raymon L. Bynum
Commissioner of Education

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Transportation Administration

The Texas Education Agency adopts the repeal of §85.211 (226.34.65.010) without changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2482).

This section gives authority to establish procedures for the administration of student transportation services to the commissioner of education. The authority to establish procedures for the administration of student transportation services now rests with the State Board of Education rather than the commissioner of education. Therefore, the section has been repealed.

No comments were received regarding the adoption of this repeal.

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.

Raymon L. Bynum
September 18, 1981

The repeal of §85.211 is effected under the authority of Texas Education Code, §16.005, which gives the Texas Education Agency the authority to make rules for the implementation and administration of the Foundation School Program; and Texas Education Code, Chapter 16, Subchapter F, which makes transportation services a part of the Foundation School Program.

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Doc. No. 816670 Raymon L. Bynum
Commissioner of Education

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The Texas Education Agency adopts amendments to §85.216 (226.34.65.060) without changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2482).

The amendment bases the reimbursement rate for extracurricular or field trip travel of the previous year's actual expenses as determined by the annual transportation operation cost report. Basing the rate on this report will help to insure a more uniform method of calculating the rate by school districts across the state.

The district or county transportation fund, regular or handicapped, must be reimbursed for all extracurricular and field trip travel. The rate of reimbursement shall be based upon the previous year's operation expenditure as determined by the annual transportation operation cost report. A trip ticket, with beginning and ending odometer readings, must be used in connection with each bus for each trip. The cost of extracurricular or field trip travel or a portion of that cost may be paid from the district's allocation in the district or county transportation fund only under the conditions in subsection (d) of the rule after all other operational costs and current school bus payments have been made.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §16.005, which gives the Texas Education Agency the authority to adopt rules for the implementation and administration of the Foundation School Program; and Texas Education Code, §16.204(a), which directs the State Board of Education to make rules for the use of buses for extracurricular activities.

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Commissioner of Education

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For further information, please call (512) 475-7077.

Chapter 89. Adaptations for Special Populations

Subchapter C. Gifted

The Texas Education Agency adopts the repeal of §89.51 (226.35.31.010) without changes to the proposed notice of repeal published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2739).

Section 89.51 concerned educational programs for gifted and talented students. New §§89.51 89.56 have been written to reflect the new state plan for education of the gifted and talented which was adopted by the State Board of Education in June 1981. Therefore, §89.51 is repealed.

No comments on the repeal were received.

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

Raymon L. Bynum
September 18, 1981

The repeal is adopted under the authority of Texas Education Code, §16.501 and §16.502, which direct the Texas Education Agency to establish exemplary programs for gifted and talented students, to establish criteria for identification of students, to plan for meeting the needs of gifted and talented students, and to administer funds allocated for programs for the gifted and talented. New sections addressing these areas have been adopted to replace this §89.51 (226.35.31.010), which is repealed.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816672 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981

Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

Subchapter C. Educational Programs for Gifted and Talented Students

The Texas Education Agency adopts new §§89.51 89.56 without changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2738).

The sections provide for educational programs for gifted and talented students in Texas public schools. These sections define gifted and talented students and address student identification, development and periodic revision of the state plan, and establishment and funding of exemplary programs.

All school districts are required to make every effort to ensure that gifted and talented students are provided educational opportunities commensurate with their abilities. Such opportunities may be provided in the regular classroom or through adaptations in the school organization or curriculum. Guidelines are provided for districts wishing to apply for state funds for exemplary programs for gifted and talented students.

No comments on the new sections were received.

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

Raymon L. Bynum
September 18, 1981

The new sections are adopted under the authority of Texas Education Code, §16.501 and §16.502, which direct the Texas Education Agency to establish exemplary programs for gifted and talented students; to establish criteria for identification of students, to plan for meeting the needs of gifted and talented students; and to administer funds allocated for programs for the gifted and talented.

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Doc. No. 816673 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

The Texas Education Agency adopts the repeal of §89.52 (226.35.32.011) without changes to the proposed notice published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2740).

This section concerned the advisory councils on education of gifted and talented students. Texas Education Code, §11.19, which authorized the establishment of state and regional advisory councils on the education of the gifted and talented, was repealed by the 66th Legislature in 1979. No funding was provided for such committees and no members were appointed. Since the law has been repealed, §89.52, which implemented the law is repealed.

No comments were received regarding the adoption of this repeal.

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.

Raymon L. Bynum
September 18, 1981

The repeal of §89.52 is effected under the authority of Acts 1979, 66th Legislature, page 1162, Chapter 562, §2, effective August 27, 1979. This action of the legislature repealed Texas Education Code, §11.19, the statutory authority under which the section was promulgated.

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Doc. No. 816674 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

Chapter 97. Planning and Accreditation

Subchapter D. Principles, Standards, and Procedures for the Accreditation of School Districts

Principles and Standards

The Texas Education Agency adopts amendments to §97.99 (226.37.15.280) with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2740).

In paragraph (3), the title in the cross reference to Chapter 77, Subchapter R has been corrected.

The amendment implements Senate Bill 477, 67th Legislature, concerning bilingual education.

Principle 8 of the principles, standards, and procedures for accreditation of school districts requires districts to provide instructional and related programs appropriate to special needs of students. The amendment adds a third standard which specifically addresses bilingual education and English as a second language programs.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under authority of Texas Education Code, §11.26(a)(5) which gives the State Board of Education authority to establish regulations for the accreditation of schools; and Texas Education Code, Chapter 21, Subchapter L, which provides for the establishment of bilingual education and other special language programs in public schools.

§97.99 (226.37.15.280). *Principle 8.* Principle—Instructional and related programs appropriate to special needs of students are provided.

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

(3). Standard C. The district provides bilingual education or English as a second language programs or both for limited English proficient students in accordance with Chapter 77, Subchapter R of this title (relating to Bilingual Education and Other Special Language Programs). Indicators:

(A) The district documents the use of the required procedures and criteria to identify and reclassify limited English proficient students.

(B) Curriculum documents and applicable school records demonstrate that dual language instruction is designed to accomplish the essential student learning objectives set out in paragraph (3) of §97.96 of this title (relating to Principle 5). The amount of use of the two languages is based on the proficiency of the student in each.

(C) Curriculum documents and school records demonstrate that English as a second language programs are specifically designed to develop listening, speaking, reading, and writing skills in English for limited English proficient students.

(D) Records of student participation indicate that

bilingual education and English as a second language programs develop students' fluency in English as quickly as practicable.

(E) Teachers in the bilingual or English as a second language programs are appropriately certified for their assignments or the district is actively training or attempting to secure such personnel or both.

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Doc. No. 816675 Raymon L. Bynum
Commissioner of Education

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Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

Chapter 101. Assessment

Student Assessment of Basic Skills

The Texas Education Agency adopts amendments to §101.7 (226.38.01.070) with changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2482).

This section concerns reporting of results of the Texas Assessment of Basic Skills. The amendment requires that a record of test results be furnished each student transferring to another school district. The transfer of this information will help insure that information from test results can be used to help determine an appropriate educational program for students who have transferred from one school to another.

The amendment requires results on the Texas Assessment of Basic Skills to be included in the student's academic achievement record and furnished each student transferring to another school district.

No comments were received on the amendment

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

Raymon L. Bynum
September 18, 1981

The amendment is adopted under the authority of Texas Education Code, §11.52(c) which authorizes the commissioner of education to recommend to the State Board of Education such policies, rules, and regulations as he considers necessary to promote educational progress in the state, and Texas Education Code, §16.176, which directs the Texas Education Agency to administer criterion-referenced assessment instruments to students in the third, fifth, and ninth grades.

§101.7 (226.38.01.070). *Reporting of Results.*

(a) Student performance data aggregated by campus and district, with appropriate interpretations, shall be reported at the first regularly scheduled meeting after June 1 of the local school board of trustees

(b) School districts should notify students and parents of test results, observing confidentiality requirements in Texas Education Code, §16.176(e).

(c) The Texas Assessment of Basic Skills results shall be included in each student's academic achievement record and shall be furnished each student transferring to another school district.

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Doc. No. 816676 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

The Texas Education Agency adopts the repeal of §101.8 (226.38.01.080) without changes to the proposed notice of repeal published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2740).

This section concerned funding for the Texas Assessment of Basic Skills. This section provided that the testing program would be paid from the per pupil allocation from state compensatory funds. The General Appropriations Act as passed by the 67th Legislature contains a separate line item appropriation for the administration of the Texas Assessment of Basic Skills. Therefore, §101.8(226.38.01.080) is no longer needed and is repealed.

No comments were received on the repeal.

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

Raymon L. Bynum
September 18, 1981

The repeal is adopted under authority of Texas Education Code, §16.005 which gives the Texas Education Agency authority to make rules for the implementation and administration of Foundation School Program; and the General Appropriations Act of 1981, Article III, §1, item 16, which provided funding for the Texas Assessment of Basic Skills, making it unnecessary to pay for the testing program from compensatory education funds.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816677 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981

Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

The amendments simplify the procedure for providing media services to school districts through regional education service centers.

Under the new procedure, rather than requiring an annual application from each district, the agency will provide a "turnaround" document to service centers on which they can indicate any changes from the previous year's service. The new procedure will reduce paperwork required of school districts.

No comments were received on the amendments.

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

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of the Texas Education Code, §11.32(a), which directs the State Board of Education to provide by rules and regulations for the establishment and operation of regional education service centers; and Texas Education Code, §11.33(a), which authorizes the State Board of Education to make rules for the media services program of the education service centers.

§105.292 (226.41.15.020). *Regional Media Services Funding.*

(a) Funds shall be allocated from the Foundation School Program fund for the support of regional media services to each regional education service center on the basis of an annual statement from the service center executive director which identifies school districts that have agreed to participate and which states that the participating districts will be billed for an amount that is not less than the amount to be paid by the state.

(b) Payment is made to the center on the basis of the per pupil rate set by the regional board of directors multiplied by the average daily attendance earned in each participating district. The per pupil rate may not exceed the amount specified in the appropriations act.

(c) Prior year's average daily attendance is used including that earned in special education classes before adjustments for transferred students have been made.

(d) If districts have consolidated, the combined prior year's average daily attendance of the consolidated districts is used.

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For further information, please call (512) 475-7077.

Chapter 105. Foundation School Program

Subchapter O. State Allocations to Regional Education Service Centers

The Texas Education Agency adopts amendments to §105.292 (226.41.15.020) with changes to the proposed text published in the July 17, 1981, issue of the *Texas Register* (6 TexReg 2483). In §105.292(b) (226.41.15.020(b)), the last sentence has been changed.

Chapter 109. Budgeting, Accounting, and Auditing

Subchapter A. Budgeting, Accounting, Financial Reporting, and Auditing for School Districts

The Texas Education Agency adopts amendments to §109.1 (226.42.01.010) with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg

2744). In §109.1(d), an "s" has been added to the word "school."

The amendments repeal the State Board of Education former rules on the subject of financial accounting for education service centers by deleting all references to education service centers used in this section. New rules concerning education service centers have been adopted as amendments to §53.30.

This section now defines the budgeting, accounting, and auditing systems to be used by school districts.

No comments on the amendments were received.

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

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §11.26(a)(3), which authorizes the State Board of Education to establish procedures for budgetary control, expending, auditing, and reporting on expenditures; and the General Appropriations Act of 1981, Article III, §7, which directed the Texas Education Agency to develop a standardized reporting system for regional education service center budgets and personnel rosters.

§109.1 (226.42.01.010). *Financial Accounting.*

(a) A uniform system of public school budgeting, accounting, and financial reporting shall be provided and employed throughout the state as required by law.

(b) The commissioner of education shall develop and administer the requirements for public school budgeting, accounting, and financial reporting and prescribe the necessary auditing requirements. The State Board of Education shall approve the budgeting, accounting, and reporting systems and the auditing procedures as determined by the commissioner of education. The school districts shall install the budgeting, accounting, and financial reporting system as required by law and meet the audit requirements as developed by the commissioner of education and approved by the state auditor when required by law.

(c) The requirements for budgeting, accounting, financial reporting, and auditing (including the annual audit report) shall be printed and made available to all school districts. (Reference Texas Education Code, Chapter 23, Subchapter C, and §4.03 and §21.256.)

(d) The requirements for budgeting, accounting, financial reporting, and auditing for the public schools are provided in the agency's Bulletin 679, Financial Accounting Manual.

Issued in Austin, Texas on September 18, 1981.

Doc. No 816679 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981
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For further information, please call (512) 475-7077.

Chapter 121. Public School Finance— Personnel

The Texas Education Agency adopts amendments to §§121.3, 121.6, and 121.7 (226.45.01.030, .060, and .070) without

changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2744).

The amendments concern credit for part-time teaching experience for salary increment purposes. The change allows credit for certain types of part-time employment in a Texas college or university. It will enable teachers who have eligible experience to have their experience recognized for salary increment purposes.

The amended sections give credit for part-time employment in a Texas college or university at the faculty status level beginning with the 1978-79 school year, provided the school was accredited by the Southern Association of Colleges and Schools. The part-time work must have constituted 50% or more of full-time employment for the regular academic year, with a salary paid equivalent to at least one-half of a full-time contract for the same position. Part-time work as a student assistant, teaching assistant, assistant instructor, or teacher fellow may not be credited under these sections.

No comments were received on the amendments.

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

Raymon L. Bynum
September 18, 1981

The amendments are adopted under authority of the Texas Education Code, §16.005, which gives the Texas Education Agency authority to adopt rules for the implementation and administration of Foundation School Program and Texas Education Code, §16.056(e), which directs the Texas Education Agency to develop policies for the implementation and administration of the Texas State Public Education Compensation Plan including provision for the placement of personnel with prior educational experience on the compensation plan.

Issued in Austin, Texas, on September 18, 1981.

Doc. No 816680 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

Chapter 129. Student Attendance

Subchapter A. Student Attendance Allowed

The Texas Education Agency adopts amendments to §129.1 (226.51.01.010) with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2747). In the last sentence of subsection (e), the word "appropriate" has been changed to "appropriated."

House Bill 1877, 67th Legislature, entitles certain high school students who are placed in foster care by the Texas Department of Human Resources to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition. The amendment implements the new law.

The section entitles certain high school students who are placed in temporary foster care by the Texas Department of Human Resources to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition. When 5th, 10th, 11th, or 12th grade students are temporarily placed in foster care by the Texas Department of Human Resources outside their home district, such students shall be permitted to finish high school in the school of their enrollment at the time of placement without paying tuition.

No comments on the section were received.

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

Raymon L. Bynum
September 14, 1981

The amendment is adopted under the authority of Texas Education Code §11.52(c), which authorizes the commissioner of education to recommend to the State Board of Education such rules as he considers necessary for educational progress in the state, and Texas Education Code §21.031(f), which permits high school students temporarily placed in foster care outside their home district to finish high school in the school where they were enrolled when placed without payment of tuition.

§129.1 (226.51.01.010). Free Attendance in General.

(a) A person who has not graduated from a high school and who is at least five years of age but not 21 or more years of age on September 1 of the school year for which admission is sought and who is a citizen of the United States or a legally admitted alien, shall be allowed free attendance in the school district of residence. Students in this country under a bona fide exchange program are eligible to attend school in the designated district of residence. Eligibility requirements for otherwise eligible nonresident pupils may be satisfied through the approved transfer process. (Concerning transfers, see Subchapter D of Chapter 61 of this title (relating to School District—Pupil Relationships).)

(b) A child is not eligible for enrollment in the first grade unless:

(1) he or she is at least six years of age at the beginning of the scholastic year (September 1), or

(2) he or she is at least five years of age on September 1 and has been enrolled in the public schools in another state prior to moving into a Texas public school district.

(c) A child not eligible under subsection (b)(2) of this section may be assigned to the first grade before age six, but the attendance of the child must be maintained in a kindergarten register. Likewise, a child may be assigned to kindergarten after age six, but the attendance of the child must be maintained in a first grade register. Such assignments are the decision of the local district, with the consent of the child's parent or guardian.

(d) In order for a person under the age of 18 years to establish a residence for the purpose of attending the public free schools separate and apart from his parent, guardian, or other person having lawful control of him under an order of a court, it must be established that his presence in the school district is not for the primary purpose of attending the public free schools. The board of trustees of each local district shall be responsible for determining whether an applicant for admission is a resident of the school district for purposes of attending the public schools.

mission is a resident of the school district for purposes of attending the public schools.

(e) A school age child of an employee of a facility of the Texas Youth Council is entitled to attend school in a school district adjacent to the district in which the child resides free of any charge to the child's parents or guardian. Any tuition charge required by the admitting school district shall be paid by the school district from which the student transfers out of any funds appropriated to the facility by the legislature.

(f) School-age children placed in foster care by an authorized agency of the state or a political subdivision shall be permitted to attend the public free schools in the district in which the foster parents reside free of any charge to the foster parents or the agency. No durational residence requirement may be used to prohibit such a child from fully participating in any activity sponsored by the school district. When 9th, 10th, 11th, or 12th grade students are temporarily placed in foster care by the Texas Department of Human Resources outside their home district, such students shall be permitted to finish high school in the school of their enrollment at the time of placement without paying tuition in accordance with the Texas Education Code, §21.031. Any agency of the state or political subdivision placing handicapped students eligible for special education instruction or related services authorized by Texas Education Code, §16.104, shall observe the rules of the State Board of Education.

(g) A child who is at least five years of age on September 1, and has been enrolled in the first grade in another state prior to moving into a Texas public school district is eligible for enrollment in the first grade in Texas. For purposes of this section, the term "enrolled" means actually receiving instruction rather than enrolled prior to receiving instruction.

(h) A five year old is not eligible for enrollment in the first grade if his or her parents or guardian enrolled the child in the first grade in an out of state public school and subsequently returned the student to Texas for enrollment, without the legal residence of the parent or guardian having been changed to the other state in the interim.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816681 Raymon L. Bynum
Commissioner of Education

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Proposal Publication Date, July 28, 1981

For further information, please call (512) 475-7077.

Subchapter B. Compulsory Student Attendance

The Texas Education Agency adopts amendments to §129.21 (226.51.02.010) with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2747). The first sentence of subsection (a) has been rearranged for greater clarity.

The amendments are occasioned by the passage of House Bill 357 by the 67th Legislature. The intent of the law is to provide for enforcement of the compulsory attendance laws for children who have been enrolled in first grade at age six but have poor attendance, under the provisions of the law that exclude children under seven, generally, from compulsory attendance. The amended section implements the new law.

Each child who is seven years of age and each child less than seven years of age who is not excused from attendance and who has previously been enrolled in first grade must be enrolled in and in attendance in a public school for a minimum of 165 days of the 175 days the child is eligible for attendance per school year.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 14, 1981

The amendments are adopted under the authority of Texas Education Code, §11.52(c), which authorizes the commissioner of education to recommend to the State Board of Education such rules as he considers necessary for educational progress in the state; and Texas Education Code §21.032, which makes the compulsory attendance law applicable to children less than seven years old who have been enrolled in the first grade.

§129.21 (226.51.02.010). General Provisions.

(a) Each child who is seven years of age and not more than 17 years of age, and each child less than seven years of age who has previously been enrolled in first grade and who is not excused from attendance must be enrolled in and in attendance in a public school for a minimum of 165 days of the 175 days the child is eligible for attendance per school year. (School district responsibility for compulsory attendance is found in Subchapter D of Chapter 61 of this title (relating to School District—Pupil Relationships).) A person between the ages of seven and 17 who is excused from attending the public schools is one who

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

(b) The provisions of the Texas Education Code concerning compulsory school attendance refer to a child's age on his or her birthday, whether the child reaches the age during or prior to the beginning of the scholastic year (September 1). (Reference Attorney General Opinion WW-1056, May 12, 1961; Texas Education Code, §21.032 and §21.033.)

Issued in Austin, Texas, on September 18, 1981.

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Commissioner of Education

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For further information, please call (512) 475-7077.

Chapter 141. Teacher Certification

Subchapter B. Certificate Issuance Procedures

The Texas Education Agency adopts amendments to §141.22 (226.62.04.020) with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2748). In the first sentence, the word "subchapter" has been changed to "chapter."

The amendments delete the specification of a \$2.00 fee for provisional teaching certificates and the \$3.00 fee for profes-

sional teaching certificates and also deletes postal money order or cashier's check for method of payment. These deletions have been made because a new schedule of fees has been adopted in §141.26.

Under the amended section, applicants for a teaching certificate will pay the fee established in §141.26 for the type of certificate for which they are applying.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 14, 1981

The amendments to §141.22 are adopted under the authority of Texas Education Code, §13.032(a), which authorizes the State Board of Education to make rules concerning the issuance of teaching certificates, and §13.032(d), which authorizes the State Board of Education to fix and require payment of a fee as a condition to the issuance of a teaching certificate.

§141.22 (226.62.04.020). Graduates from Texas Colleges and Universities. Appropriate certificates are issued to qualified individuals from Texas colleges and universities who meet the requirements identified in this chapter. The institution must, with the assistance of the applicant, submit to the Texas Education Agency.

- (1) (No change.)
- (2) the designated fee; and
- (3) (No change.)

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816683 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

The Texas Education Agency adopts new §141.26 with changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2748). Paragraph (1) has been expanded to further identify types of certificates for which a \$10 fee is required. In paragraph (2), language has been added to indicate that a fee is charged only for an initial emergency or special assignment permit or for a permit with a change in the target level of the certificate. Renewals of such permits occur at the local district level and require no action by the agency. A new paragraph (3) has been added to specify those permits for which no fee is necessary. Paragraph (4) covers the initial one-year certificate issued to out-of-state teachers. In the proposed section, the fee designated for certificates based on out-of-state certification was \$27. In the adopted section, the charge designated for an initial certificate based on an out-of-state certificate is \$17. This initial certificate requires staff time for review of credentials and recommendations for a temporary certificate. Following the temporary certification, if possible, the candi-

tions are met, the individual would qualify for a permanent certificate under the category of "conversion of certificate." The charge for a conversion is \$10. The total fee for certification based on out-of-state certification is thus equivalent to the \$27 fee in the proposed section.

Senate Bill 136 of the 67th Legislature authorized the State Board of Education to fix and require a fee as a condition for issuance of teaching certificates. This section implements the legislative mandate.

Section 141.26 specifies the amount of fees to be paid and how the fees should be paid (money order or cashier's check).

No comments were received regarding the adoption of this section.

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.

Raymon L. Bynum
September 14, 1981

The new section is adopted under the authority of Texas Education Code, §13.032(d) as amended by the 67th Legislature, Senate Bill 136, which authorizes the State Board of Education to fix and require payment of a fee as a condition for the issuance of a teaching certificate.

§141.26. Schedule of Fees for Teacher Certificates.

(a) An applicant for a certificate or permit shall pay whichever fee from the following list is applicable for the type of certificate or permit for which application is being made:

(1) Paraprofessional certificate, certificate based on college or university recommendation, additional endorsement or teaching field or both, change of name on certificate, duplicate of lost or destroyed certificate, extension of certificate, conversion of certificate, and certificate issued without college or university recommendation—\$10.

(2) Initial emergency teaching permit, initial special assignment permit, and reassignment on emergency teaching permit or special assignment permit with a change in level of target certificate—\$15.

(3) Renewal of emergency teaching or special assignment permit at the same target certificate level, and initial activation or renewal of temporary classroom assignment permit—no fee.

(4) Initial certificate based on certification from out of state—\$17.

(b) Fees shall be paid by money order or cashier's check.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816684 Raymon L. Bynum
Commissioner of Education

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Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

Subchapter D. Certificate for Teacher of Young Children, Ages Three Through Eight

The Texas Education Agency adopts the amendments to §141.61 (226.62.07.010) with changes to the proposed text

published in the July 28, 1981, issue of the *Texas Register* 16 TexReg 2749). In Paragraph (11), the words "or both" have been deleted.

The amendments to this section delete the specific \$2.00 fee amount and add the words "the designated" preceding fee. These amendments have been made because a new schedule of fees has been adopted in §141.26.

Under the amended section, applicants for the provisional certificate for teachers of young children, ages three through eight (prekindergarten; kindergarten; grades one through three) will pay the fee established in §141.26.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §13.032(a), which authorizes the State Board of Education to make rules concerning the issuance of teaching certificates; and §13.032(d), which authorizes the State Board of Education to fix and require payment of a fee as a condition to the issuance of a teaching certificate.

§141.61 (226.62.07.010). Requirements for the Provisional Certificate for Teachers of Young Children, Ages Three Through Eight (Prekindergarten; Kindergarten; Grades One through Three). An applicant must have a bachelor's degree including the following areas:

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

(10) Prior service provision. A person who held a valid Texas provisional elementary certificate and the kindergarten endorsement prior to September 1, 1979, had one year or more teaching experience in programs for children age three through grade three (must include preprimary or primary levels or both) in an accredited school, and at least 18 semester hours of early childhood development education, may be eligible to receive the certificate for teachers of young children, ages three through eight. To apply for this certificate based on prior experience, send a completed application, the designated fee, complete official transcripts of all college work and degrees, and verification of acceptable teaching experience to the Division of Teacher Certification.

(11) Out-of-state graduates. A person holding degrees or certificates or both from institutions or states other than Texas may apply for the certificate, teachers of young children, ages three through eight, by submitting to the Division of Teacher Certification the following:

(A) (No change.)

(B) the designated fee;

(C)-(F) (No change.)

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Doc. No. 816685 Raymon L. Bynum
Commissioner of Education

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Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

Subchapter G. Vocational Education Certificates

The Texas Education Agency adopts amendments to §141.121 (226.62.10.010) without changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2749).

The amendments add the words "the designated" preceding fee and delete the words "as recommended by the commissioner of education and approved by the State Board of Education." These changes have been made because a new schedule of fees has been adopted in §141.26 (226.62.10.010).

Under the amended rule, applicants for provisional vocational education certificates will pay the fee established in §141.26.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of the Texas Education Code, §13.032(a) which authorizes the State Board of Education to make rules concerning the issuance of teaching certificates; and §13.032(d) which authorizes the State Board of Education to fix and require payment of a fee as a condition to the issuance of a teaching certificate.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816686 Raymon L. Bynum
Commissioner of Education

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Proposal Publication Date: July 28, 1981

For further information, please call (512) 475-7077.

Subchapter J. Requirements for Issuance of Texas Certificate Based on Certificates and College Credentials from Other States

The Texas Education Agency adopts amendments to §141.182 (226.62.13.020) without changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2749).

The amendments add the words "the designated" preceding fee and delete the words "money order or cashier's check as recommended by the commissioner of education and approved by the State Board of Education." These changes have been made because a new schedule of fees has been adopted in §141.26.

Under the amended section, applicants for Texas certificates which may be issued based on certificates from other states will pay the fee established in §141.26.

No comments were received regarding the adoption of the amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §13.032(a), which authorizes the State Board of Education to make rules concerning the issuance of teaching certificates; and §13.032(d), which authorizes the State Board of Education to fix and require payment of a fee as a condition to the issuance of a teaching certificate.

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Doc. No. 816687 Raymon L. Bynum
Commissioner of Education

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For further information, please call (512) 475-7077.

Subchapter N. Emergency Teaching Permits, Special Assignment Permits, and Temporary Classroom Assignment Permits

The Texas Education Agency adopts amendments to §141.294 (226.62.22.040) without changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2750).

The 67th Legislature, Senate Bill 136, authorized the State Board of Education to fix and require a fee as a condition for issuance of teaching certificates. Section 141.26, concerning the schedule of fees for teacher certificates, specifies the amount of fees to be paid and how the fees should be paid. The amendment deletes the specification for method of payment from §141.294.

The amendments to §141.294 add the words "the designated" preceding fee, and delete the words "money order or cashier's check," since, under the amended rule, a person applying for a vocational education emergency teaching permit will pay the fee designated in §141.26.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments to §141.294 are adopted under the authority of Texas Education Code, §13.032(a), which authorizes the State Board of Education to make rules concerning the issuance of teaching certificates, and §13.032(d), which authorizes the State Board of Education to fix and require payment of a fee as a condition to the issuance of a teaching certificate.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816688 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981

Proposal Publication Date: July 24, 1981

For further information, please call (512) 475-7077.

The Texas Education Agency adopts amendments to §141.299 (226.62.22.090) without changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2750).

The amendments are needed so that school districts will be able to activate temporary classroom assignment permits for individuals assigned to teach in bilingual education or other special language programs. The number of fully certified bilingual education teachers in the state is not adequate to meet the need for teachers in these programs.

The amendments will enable districts to activate temporary assignment permits for teachers to be used in resource and tutorial arrangements, bilingual education, or other special language programs required under the agency's new bilingual education rules until an adequate supply of fully certified teachers is available.

No comments were received on the amendments.

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

Ramon L. Bynum
September 18, 1981

The amendments are adopted under the authority of the Texas Education Code, §13.032(d) which authorizes the State Board of Education to make rules concerning the issuance of teacher certificates and Texas Education Code, §21.453(h), which authorizes the State Board of Education to promulgate rules concerning the use of teaching personnel on permits for bilingual education when fully certified teachers are not available.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816689 Ramon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981
Proposal Publication Date: July 28, 1981
For further information, please call (512) 475-7077.

Subchapter Q. Paraprofessional Certification

The Texas Education Agency adopts amendments to §141.362 (226.62.25.020) without changes to the proposed text published in the July 28, 1981, issue of the *Texas Register* (6 TexReg 2751).

The amendments delete the words "a \$2.00" and add the words "the designated" preceding fee. The words "(money order or cashier's check)" have been deleted. These amendments have been made because a new schedule of fees has been adopted in §141.26.

Under the amended rule, applicants for paraprofessional certificates will pay the fee established in §141.26.

No comments were received regarding the adoption of these amendments.

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.

Raymon L. Bynum
September 18, 1981

The amendments are adopted under the authority of Texas Education Code, §13.032(a) which authorizes the State Board of Education to make rules concerning the issuance of teaching certificates; and §13.032(d) which authorizes the State Board of Education to fix and require payment of a fee as a condition to the issuance of a teaching certificate.

Issued in Austin, Texas on September 18, 1981.

Doc. No. 816690 Raymon L. Bynum
Commissioner of Education

Effective Date: October 9, 1981
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For further information, please call (512) 475-7077.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 65. Wildlife

Subchapter O. Late Season Migratory Game Bird

The Texas Parks and Wildlife Commission adopts amendments to §§65.331 and §§65.333-65.335 with changes to the proposed text published in the July 21, 1981, issue of the *Texas Register* (6 TexReg 2587).

The sections amend provisions of the Statewide Late Season Migratory Game Bird Proclamation which provides seasons and bag limits for migratory game birds consistent with established wildlife management principles.

The amended sections provide hunter opportunity to take migratory game birds for the length of time justified by the supply of the species in a zone or section of this state.

No comments were received via the *Texas Register*. A total of nine letters, four telephone calls, and two speakers at the public hearing offered comments. Comments requested higher bag limits, lower bag limits, additional protected species, earlier season, later season, permitting of hunting from floating craft, alteration of point values for black ducks and closure of woodcock season to coincide with quail season.

Barrow Ranch Hunting Enterprise submitted comments in favor of the amendments.

At the request of six respondents the department made three changes from the previous year's late season migratory game bird regulations. One request was impossible due to federal guidelines. Comments related to the selection of season dates

were either not allowable under federal guidelines or were not in the best interest of the majority of the hunters in the state.

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

Boyd M. Johnson
September 11, 1981

The amendments are adopted under authority of the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which requires the department to provide the open season and means, methods, and devices for the taking and possession of migratory game birds.

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

Migratory game birds—Wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, white-fronted doves, red-billed pigeons, band-tailed pigeons, shorebirds of all varieties, and sandhill cranes (Texas Parks and Wildlife Code, §64.021(1)).

Open seasons—Those periods of time during which migratory game birds may be lawfully taken. When given in dates, all dates are inclusive during the permitted shooting hours.

§65.333. Open Seasons.

(a) (No change.)

(b) The season is closed on migratory game birds on public roads and highways, or rights-of-way of public roads and highways, the state-owned riverbeds in Dimmit, Uvalde, and Zavala Counties, including but not limited to the Nueces and Frio Rivers, and state wildlife preserves and sanctuaries unless an open season is otherwise provided. The open seasons for the taking of migratory game birds on any federal wildlife refuge shall be in accordance with the special hunting regulations duly adopted and published by the U. S. Fish and Wildlife Service.

(1) Ducks and coots:

(A) High Plains Mallard Management Unit: October 27, 1981, through January 17, 1982, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from the international toll bridge at Del Rio, thence northward following U.S. Highway 277 through San Angelo to Abilene, thence along State Highway 351 from Abilene to Albany and U.S. Highway 283 from Albany to Vernon, thence easterly along U.S. Highway 183 to the point of intersection with the Texas-Oklahoma state line in Wilbarger County.

(B) Other portions of the state: November 7 through November 29 and December 12, 1981, through January 17, 1982, from one-half hour before sunrise to sunset.

(C) Special provision: The season is closed on black-bellied and fulvous whistling ducks and masked ducks in all counties.

(2) Geese.

(A) West of U.S. Highway 81: October 27, 1981, through January 17, 1982.

(B) East of U.S. Highway 81: snow, blue, and Ross' geese—November 7, 1981, through January 17, 1982.

Canada and white-fronted geese—November 7, 1981, through January 17, 1982.

(C) (No change.)

(3) Sandhill cranes.

(A) Zone A: October 31, 1981, through January 31, 1982, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from the international toll bridge at Del Rio, Val Verde County, thence northward following U.S. Highway 277 to its junction with U.S. Highway 87 at San Angelo, Tom Green County, thence northwesterly following U.S. Highway 87, and including all of Howard and Lynn Counties, to its junction with U.S. 287 at Dumas, Moore County; thence northwesterly following U.S. Highway 287 to the point of intersection with the Texas-Oklahoma state line in Dallam County.

(B) Zone B. December 5, 1981, through January 31, 1982, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from San Angelo along U.S. Highway 277 to Abilene, thence along State Highway 351 from Abilene to Albany and U.S. Highway 283 from Albany to Vernon, thence easterly along U.S. Highway 183 to the point of intersection with the Texas-Oklahoma state line in Wilbarger County; and east of a line from San Angelo along U.S. Highway 87 excluding all of Howard and Lynn Counties, to the junction of Highways 87 and 287 at Dumas, Moore County, and thence along U.S. Highway 287 from Dumas to the point of intersection with the Texas-Oklahoma state line in Dallam County.

(C) (No change.)

(4) Common snipe or Wilson's snipe or jacksnipe. November 1, 1981, through February 14, 1982, from one-half hour before sunrise to sunset.

(5) Woodcock. December 12, 1981, through February 14, 1982, from one-half hour before sunrise to sunset.

§65.334. Bag and Possession Limits.

(a) (No change).

(b) The bag and possession limits are as follows:

(1) Ducks and coots.

(A) Ducks. The daily bag limit is from one to 10 ducks in the aggregate, the specific daily limit depending upon the sexes and species taken as determined by the following 100-point system: Canvasbacks are 100 points. Hen mallards, Mexican-like ducks, mottled ducks, black ducks, wood ducks, hooded mergansers, and redheads are 70 points each. Blue-winged teal, green-winged teal, cinnamon teal, pintail, gadwalls, scaups, shoveler, wigeon (baldpate), and mergansers (except hooded), are 10 points. All other species and sexes of ducks are 20 points. The daily bag limit will be reached when the point value of any bird taken reaches or exceeds 100 points. Possession limit. Possession limit shall be the maximum number of birds or species and sex which could have legally been taken in two days.

(B) Coots. The daily bag limit on coots is 15. The possession limit is 30.

(2) Geese.

(A) West of U.S. Highway 81. Daily bag limit is five, not to include more than two Canada or white-fronted geese in the aggregate. Possession limit is 10, not to include more than four Canada or white-fronted geese in the aggregate.

(B) East of U.S. Highway 81. Daily bag limit is five light geese (Snow, blue, and Ross') and daily bag limit for dark geese is one Canada and one white-fronted goose. Possession limit is twice the daily bag.

(3) Sandhill (little brown) cranes. Bag limit—three; possession limit—six.

(4) Common snipe or Wilson's snipe or jacksnipe. Bag limit—eight; possession limit—16.

(5) Woodcock. Bag limit—five; possession limit—10.

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

(g) Identification requirements.

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

(3) Paragraph (2) of this subsection does not apply to doves except in those counties lying south and west of a line bounded by and including Culberson, Jeff Davis, Brewster, Terrell, Val Verde, Kinney, Uvalde, Medina, Bexar, Wilson, Karnes, Bee, San Patricio, and Nueces Counties.

(h) (No change.)

§65.335. *Extended Falconry Season.*

(a) (No change.)

(b) It is lawful to take migratory game birds during the following prescribed open seasons:

(1) Ducks, coots, and geese. October 3, 1981, through January 17, 1982, from one-half hour before sunrise to sunset.

(2) Sandhill cranes.

(A) Zone A: October 20, 1981, through January 31, 1982, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from the international toll bridge at Del Rio, Val Verde County, thence northward following U.S. Highway 277 to its junction with U.S. Highway 87 at San Angelo, Tom Green County, thence northwesterly following U.S. Highway 87 and including all of Howard and Lynn Counties, to its junction with U.S. Highway 287 at Dumas, Moore County, thence northwesterly following U.S. Highway 287 to the point of intersection with the Texas-Oklahoma state line in Dallam County.

(B) Zone B: November 22, 1981, through January 31, 1982, from one-half hour before sunrise to sunset in that portion of Texas lying west of a line from San Angelo along U.S. Highway 277 to Abilene, thence along State Highway 351 from Abilene to Albany and U.S. Highway 283 from Albany to Vernon, thence easterly along U.S. Highway 183 to the point of intersection with the Texas-Oklahoma state line in Wilbarger County; and east of a line from San Angelo along U.S. Highway 87 excluding all of Howard and Lynn Counties, to the junction of Highways 87 and 287 at Dumas, Moore County, and thence along U.S. Highway 287 from Dumas to the point of intersection with the Texas-Oklahoma state line in Dallam County.

(3) Common snipe or Wilson's snipe or jacksnipe. November 1, 1981, through February 15, 1982, from one-half hour before sunrise to sunset.

(4) Woodcock. November 1, 1981, through February 15, 1982, from one-half hour before sunrise to sunset.

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

Issued in Austin, Texas, on September 17, 1981.

Doc. No. 816639 Maurine Ray
Administrative Assistant
Texas Parks and Wildlife Department

Effective Date: October 9, 1981

Proposal Publication Date: July 21, 1981

For further information, please call (512) 479-4973.



TITLE 34. PUBLIC FINANCE

Part III. Teacher Retirement System of Texas

Chapter 25. Membership Credit Compensation

The Board of Trustees of the Teacher Retirement System of Texas adopts new §25.30 without changes to the proposed text published in the August 11, 1981, issue of the *Texas Register* (6 TexReg 2940).

The Acts of the 67th Texas Legislature, Chapter 296, §1, provided for the exclusion of "that part of salary or wages in the final years of a member's employment which can reasonably be attributed to a conversion of fringe benefits, maintenance, and other payments not includable in annual compensation to salary and wages in anticipation of retirement." This section implements that mandate given by the legislature.

The section provides that the system will compare the payments of noncreditable compensation received for the last eight years of a member's employment before retirement. The system will reduce a member's annual compensation for a particular year by the amount by which noncreditable compensation in a previous year of this period exceeds the later year's noncreditable compensation. "Noncreditable compensation" means payments and benefits for service with Texas public educational institutions for which no Teacher Retirement System of Texas contributions have been made. Members may prove by appropriate documentary evidence that the noncreditable compensation was not converted in order to avoid this reduction.

Employers and members are to cooperate with the system in identifying and evaluating noncreditable compensation. Members will receive refunds of deposits for amounts excluded under the section.

No comments were received regarding adoption of this section.

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.

William Baker
September 17, 1981

This section is adopted under the authority of the Acts of the 67th Texas Legislature, Regular Session, 1981, Chapter 296, §1, which explicitly requires the section.

Issued in Austin, Texas, on September 17, 1981.

Doc. No. 816636 Bruce Hineman
Executive Secretary
Teacher Retirement System of Texas

Effective Date: October 9, 1981
Proposal Publication Date: August 11, 1981
For further information, please call (512) 477-9711, ext. 213.

The Board of Trustees of the Teacher Retirement System of Texas adopts new §25.31 without changes to the proposed text published in the August 11, 1981, issue of the *Texas Register* (6 TexReg 2941).

This section, along with proposed §29.30, is designed to prevent disproportionate increases in compensation from resulting in a larger retirement benefit than would normally be paid considering a member's career earnings and contributions. These limits are a part of the program adopted by the 67th Texas Legislature upon the recommendation of the retirement system's actuary to make creditable compensation more predictable and less subject to sudden increases toward the end of a retiree's career. Because of these added restrictions on creditable compensation applicable in relatively few instances, the legislature was able to permit benefits to be based on members' best three years' average compensation.

This section would permit credited compensation in each of a member's last five years before retirement to increase by no more than 20% over the immediately preceding credited year if the member is employed in the same or similar position. Compensation for part-time employment can be converted into its full-time equivalent in determining the permissible amounts of salary increases under the proposed section. At the time of retirement the retirement system will make the necessary adjustments in annual compensation for years beginning with 1981-82 school year and will make refunds of excess contributions.

No comments were received regarding adoption of this section.

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.

William Baker
September 17, 1981

This section is adopted under the authority of the Acts of the 67th Texas Legislature, Regular Session, 1981, Chapter 296, §1, which explicitly authorizes the Teacher Retirement System of Texas to adopt rules setting percentage limits on

credited annual compensation in the final years of a member's service before retirement.

Issued in Austin, Texas, on September 17, 1981.

Doc. No. 816637 Bruce Hineman
Executive Secretary
Teacher Retirement System of Texas

Effective Date: October 9, 1981
Proposal Publication Date: August 11, 1981
For further information, please call (512) 477-9711, ext. 213.

Part V. Texas County and District Retirement System

Chapter 103. Calculation or Types of Benefits

The Texas County and District Retirement System adopts amendments to §103.1 (336.02.00.001) with changes to the proposed text published in the August 11, 1981, issue of the *Texas Register* (6 TexReg 2942).

The section sets forth the actuarial tables on the basis of which various types of benefits payable by the system are to be calculated. As the section existed prior to amendment, it assumed shorter life expectancies for retired members of the system and beneficiaries of retired members of the system than has actually been experienced by the system in recent years, and the amendment was therefore necessary to bring those tables more closely in line with the actual mortality experience of the system in recent years.

The effect of this amendment is functional. By changing the actuarial tables upon which benefits are based to more closely reflect the actual life expectancies of the persons to whom those benefits will be paid, it simply acknowledges the fact that the average life expectancy of those persons has increased in recent years, and that the benefits will therefore have to be paid over longer periods of time.

No comments were received regarding adoption of these amendments.

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.

Terrence Kendall
September 11, 1981

The section was amended under the provisions of Title 110B of the Texas Civil Statutes, 1925, Subtitle F, §55.102, as amended, which authorizes the board of trustees of the system to adopt rules that are necessary or advisable for the efficient administration of the system. Rules establishing the actuarial tables on the basis of which benefits are to be calculated are necessary for the efficient administration of the system.

§103.1 (336.02.00.001). Actuarial Tables.

(a) Service retirement benefits on service retirements on which the first benefit is payable on or after January 1, 1982, shall be calculated on the basis of the UP-1984 table with an age setback of two years for retired members and an

age setback of eight years for beneficiaries of retired members, with a 30% reserve refund assumption for the standard benefit.

(b) Disability retirement benefits on disability retirements on which the first benefit is payable on or after January 1, 1982, shall be calculated on the basis of 80% of the 1965 Railroad Retirement Board disabled annuitants mortality table, with a 35% reserve refund assumption for the standard benefit, and on the basis of the UP-1984 table with an age setback of eight years for beneficiaries of disabled annuitants.

(c) (No change.)

Issued in Austin, Texas, on September 14, 1981.

Doc. No. 816586 J. Robert Brown
Director
Texas County and District
Retirement System

Effective Date: October 7, 1981

Proposal Publication Date: August 11, 1981

For further information, please call (512) 470-6651.

Part VI. Texas Municipal Retirement System

Chapter 123. Calculation or Types of Benefits

The Texas Municipal Retirement System adopts amendments to §123.1 (337.02.00.001) with changes to the proposed text published in the August 14, 1981, issue of the *Texas Register* (6 TexReg 2964).

The section sets forth the actuarial tables on the basis of which various types of benefits payable by the system are to be calculated. As the section existed prior to amendment, it assumed shorter life expectancies for retired members of the system and beneficiaries of retired members of the system than has actually been experienced by the system in recent years, and the amendment was therefore necessary to bring those tables more closely in line with the actual mortality experience of the system in recent years.

The effect of this amendment is functional. By changing the actuarial tables upon which benefits are based to more closely reflect the actual life expectancies of the persons to whom those benefits will be paid, it simply acknowledges the fact that the average life expectancy of those persons has increased in recent years, and that the benefits will therefore have to be paid over longer periods of time.

No comments were received regarding adoption of these amendments.

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.

Terrence Kendall
September 17, 1981

The section was amended under the provisions of Title 110B of the Texas Civil Statutes, 1925, Subtitle G, §65.102, as

amended, which authorizes the board of trustees of the system to adopt rules that are necessary or advisable for the efficient administration of the system. Rules establishing the actuarial tables on the basis of which benefits are to be calculated are necessary for the efficient administration of the system.

§123.1 (337.02.00.001). Actuarial Tables.

(a) Service retirement benefits on service retirements on which the first benefit is payable on or after January 1, 1982, shall be calculated on the basis of the UP-1984 table with an age set back of two years for retired members and an age set back of eight years for beneficiaries of retired members.

(b) Disability retirement benefits on disability retirements on which the first benefit is payable on or after January 1, 1982, shall be calculated on the basis of 80% of the 1965 Railroad Retirement Board disabled annuitants mortality table, and on the basis of the UP-1984 table with an age set back of eight years for beneficiaries of disabled annuitants.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816634 Jimmie L. Mormon
Director
Texas Municipal Retirement System

Effective Date: October 9, 1981

Proposal Publication Date: August 14, 1981

For further information, please call (512) 476-7577.

Chapter 127. Miscellaneous Rules

The Texas Municipal Retirement System adopts new §127.2 (337.09.00.002) without changes to the proposed text published in the August 14, 1981, issue of the *Texas Register* (6 TexReg 2964).

The Acts of the 67th Legislature, First Called Session, 1981, House Bill 126, §67, added a new Subchapter F to the law governing the system, which new subchapter provides that municipalities participating in the system may authorize certain of their employees to establish credit in the system for active military service performed "during a period in which the United States is or was involved in a state of conflict with foreign forces." The new subchapter further provides that the board of trustees of the system "by rule shall determine the periods recognized for purposes of the subtitle as periods of organized conflict." The section as adopted determines those periods of time which are recognized by the system as periods of organized conflict.

The effect of this amendment is functional. It recognizes as "periods of organized conflict" the same periods of time so designated by other statewide retirement systems.

No comments were received regarding adoption of this section.

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.

Terrence Kendall
September 17, 1981

The section was adopted under the provisions of Title 110B of the Texas Civil Statutes, 1925, Subtitle G, §63.501, as amended, which authorizes the board of trustees of the system to adopt rules determining the periods of organized conflict which will be recognized by the system for establishing military service credit.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816635 Jimmie L. Mormon
Director
Texas Municipal Retirement System

Effective Date: October 9, 1981

Proposal Publication Date: August 14, 1981

For further information, please call (512) 476-7577.



The Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17, requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. An institution of higher education must have notice posted for at least 72 hours before the scheduled meeting time. Although some notices may be received and filed too late for publication before the meeting is held, all filed notices will be published in the *Register*. Each notice published includes the date, time, and location of the meeting; an agenda or a summary of the agenda as furnished for publication by the agency; where additional information may be obtained; and the date and time of filing.

A political subdivision covering all or part of four or more counties must have notice posted for at least 72 hours before the scheduled meeting time. Each notice published includes the date, time, and location of the meeting and where further information may be obtained. These notices are published under the heading "Regional Agencies," alphabetically by date filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency addition or amendment to an agenda, and the reason for such emergency, posted for at least two hours before the meeting is convened. Emergency notices filed by these entities will be published in the *Register*; however, notices of an emergency addition or amendment to an agenda filed by a regional agency will not be published in the *Register* since the original agendas for these agencies are not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

State Board of Barber Examiners

Tuesday, October 6, 1981, 8 a.m. The State Board of Barber Examiners will meet in Room H-111, 5555 North Lamar, Austin. According to the agenda, the board will consider the following: minutes of previous meeting; sign teachers' licenses, school permits, interview out-of-state applicants; interview applicants for barber inspector position for Harris County opening; adoption of amendments to Rules 378.01.03.007(b)(5), 378.01.03.031(a)(5), 378.01.02.010(d)(3)—to change the size of acceptable photographs; and to adopt new Rule 378.01.02.030 concerning all other businesses prohibited in a barber college; reports to the board; letters to board members; executive session.

Information may be obtained from Mary Jo McCrorey, 5555 North Lamar, H-111, Austin, Texas, (512) 458-2241.

Filed: September 21, 1981, 2:09 p.m.
Doc. No. 816714

Texas Department of Community Affairs

Wednesday, September 30, 1981, 9:30 a.m. The Drug Abuse Prevention Division of the Texas Department of Community Affairs and the Texas State Drug Abuse Advisory Council will meet in the TDCA Headquarters, 210 Barton Springs Road, Austin, to discuss block grants and recently passed legislation.

Information may be obtained from Dr. Donald J. Zappone, 210 Barton Springs Road, Austin, Texas 78704, (512) 475-6351.

Filed: September 21, 1981, 4:13 p.m.
Doc. No. 816716

East Texas State University

Friday, September 25, 1981, 7:30 p.m. The Presidential Search and Screening Committee and the ETSU Complex Board of Regents of East Texas State University will meet in Executive Room 1 of the Sheraton Inn-Mockingbird West, 1893 West Mockingbird Lane, Dallas, to review applications of individuals seeking the position of president and chief executive officer of the East Texas State University Complex. An executive session will also be held for the discussion of personnel matters.

Information may be obtained from Jack R. Gray, Jr., East Texas State University, Commerce, Texas 75428, (214) 886-5512.

Filed: September 18, 1981, 10:14 a.m.
Doc. No. 816633

Texas Employment Commission

Tuesday, September 29, 1981, 9 a.m. The Texas Employment Commission will meet in Room 644 of the Texas Employment Commission Building, 15th and Congress, Austin. According to the agenda summary, the commission will consider the following: prior meeting notes; report of general counsel, annual report to governor; fiscal year 1982 funding; E.S. program activities; U.I. program activities; discussion on calendar week versus flexible week for U.I. program; executive session on personnel, premises, and litigation; commissioner's report on services to handicapped; items for next commission meeting.

Information may be obtained from Pat Joiner, Texas Employment Commission Building, Austin, Texas, (512) 397-4514.

Filed: September 21, 1981, 3:22 p.m.
Doc. No. 816704

Texas Department of Health

Friday, October 16, 1981, 10 a.m. The Texas Emergency Medical Services (EMS) Advisory Council of the Texas Department of Health will meet in the Texas Department of Health auditorium, 1100 West 49th Street, Austin. Accord-

ing to the agenda summary, the council will consider the following matters: political relationship of council to Bureau of Emergency Management and Texas EMS Issues; introduction of council members; election of council chairman and chairman pro tem; Trauma Committee report on treatment protocols; Ambulance Provider Committee report on minimal ambulance equipment list; School Accreditation and Personnel Certification Committee report of statement on objectives; EMS division policy on skills testing; advanced level test development and statistical analysis; continuing education; EMS data systems; discussion of increased role of EMS organizations in disaster response planning; recognition of Dallas EMS designation by National Association of Emergency Medical Technicians as the nation's leading EMS system.

Information may be obtained from Charles H. Gregory, M.D., 1100 West 49th Street, Austin, Texas, (512) 458-7240.

Filed: September 17, 1981, 2:32 p.m.
Doc. No. 816625

The Division of Solid Waste Management of the Texas Department of Health will hold public hearings in two locations to consider the following applications:

Thursday, October 22, 1981, 9:30 a.m. Commissioner's courtroom, Nueces County Courthouse, 901 Leopard Street, Corpus Christi. The division will consider Application 1474 of Nueces County to operate a proposed Type I municipal solid waste disposal site to be located at the Agua Dulce east city limits, 2.8 miles southeast of the State Highway 44 and FM Highway 70 intersection in Agua Dulce, adjoining the east side of the existing county sanitary landfill and the south line of County Road 32, in Nueces County.

Tuesday, October 27, 1981, 11 a.m. Waco Savings and Loan, 511 Hewitt Drive, Meadows Center, Hewitt. The division will consider Application 1316 of J. W. Clifton to operate a proposed Type I municipal solid waste disposal site to be located midway between McGregor and Moody, adjacent to the north side of the McGregor disposal site, 1.75 miles southeast of the FM Highway 2671 and State Highway 317 intersection, and on the east side of the county road, in McLennan County.

Information may be obtained from Hector H. Mendieta, 1100 West 49th Street, Austin, Texas, (512) 458-7271.

Filed: September 21, 1981, 2:09 p.m.
Doc. No. 816715

Texas Health Facilities Commission

Friday, October 2, 1981, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

Certificate of Need

McAllen Methodist Hospital, McAllen
AH81-0430-025

St. Paul Hospital, Dallas

AH81-0518-018

Southeastern Methodist Hospital, Dallas

AH81-0417-025

Raleigh Hills Hospital, Houston

AH81-0203-019

Declaratory Ruling

Hermann Hospital, Houston

AH81-0727-027

Amendment of Certificate of Need

Cypress Fairbanks Medical Center, Houston

AH79-0702-041A(071481)

Information may be obtained from Linda E. Zatopek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: September 21, 1981, 9:59 a.m.
Doc. No. 816712

State Department of Highways and Public Transportation

Monday and Tuesday, September 28 and 29, 1981, 9 a.m. daily. The commission members of the State Department of Highways and Public Transportation will meet in the State Highway Building, 11th and Brazos Streets, Austin. According to the summarized agenda, the commission will consider presentations in the large hearing room (first floor), by the public for various highway, bridge, and FM road requests. Victoria, Dallas, Gonzales, Harris, Midland, Calhoun, Brazoria, Galveston, Fort Bend, Upshur, and Gregg Counties. (Docket is available in second floor commission office in the State Highway Building.) Upon completion of public presentations, the commission will reconvene in Room 207 (second floor) to execute contract awards and routine minute orders; consider decisions on presentations from public hearing dockets; and review staff reports relative to planning and construction programs and projects. (The agenda is available in the second floor office of the minute clerk in the State Highway Building.)

Information may be obtained from the office of the engineer-director, Room 203, State Highway Building, 11th and Brazos Streets, Austin, Texas, (512) 475-3525.

Filed: September 18, 1981, 2:02 p.m.
Doc. No. 816640

Texas Department of Human Resources

Wednesday-Thursday, September 30-October 1, 1981, 1 p.m. daily. The Council for Social Work Certification of the Texas Department of Human Resources will meet in the board room of the Ramada Inn, 1001 South IH 35, Austin, to discuss bylaws and proposed rules.

Information may be obtained from Michael O. Doughty, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355, ext. 6051.

Filed: September 21, 1981, 10:53 a.m.
Doc. No. 816711

State Board of Insurance

Tuesday, September 29, 1981, 10:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, to consider Docket 6541—cancellation or revocation of the certificate of authority issued to Lone Star Insurance Association, Dallas, due to Lone Star's failure to timely file its 1980 annual statement.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: September 21, 1981, 1:06 p.m.
Doc. No. 816705

Wednesday, September 30, 1981, 9:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance is rescheduling a public hearing to be held in Room 342, 1110 San Jacinto Street, Austin, to consider Docket 6310—alleged violations of the Texas Insurance Code by Agent Cecil D. Gaskamp.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: September 21, 1981, 1:06 p.m.
Doc. No. 816706

Wednesday, September 30, 1981, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6542—application for admission by American Patriot Health Insurance Company, New York, New York.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: September 21, 1981, 1:46 p.m.
Doc. No. 816707

Thursday, October 1, 1981, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto, Austin, to consider Docket 6528—charter of Mack H. Hannah Life Insurance Company, Houston, to increase the authorized shares and capital.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas, (512) 475-4345.

Filed: September 21, 1981, 1:06 a.m.
Doc. No. 816708

Friday, October 2, 1981, 1:30 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, to consider Docket 6525—application for approval of the articles of agreement of International Lloyds Insurance Company, Fort Worth.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: September 21, 1981, 1:06 p.m.
Doc. No. 816709

Monday, October 5, 1981, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, to consider Docket 6544—application for admission by Century Life Insurance Company, Waverly, Iowa.

Information may be obtained from J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

Filed: September 21, 1981, 12:47 p.m.
Doc. Nos. 816710

Texas Department of Mental Health and Mental Retardation

Friday, October 2, 1981, 8:30 a.m. The Personnel Committee of the board of the Texas Department of Mental Health and Mental Retardation will meet at 5000 Campus Drive, Fort Worth. According to the agenda summary, the board will consider the status report on applicants for the TDMH/MR commissioner position; and reappointment consideration of director of Texas Research Institute of Mental Sciences.

Information may be obtained from John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: September 21, 1981, 4:58 p.m.
Doc. No. 816721

Friday, October 2, 1981, 9 a.m. The board of the Texas Department of Mental Health and Mental Retardation will meet at 5000 Campus Drive, Fort Worth. According to the agenda summary, the board will consider the following: presentation by Volunteer Services State Council Chairman Jim Bertram; assessment of TRIMS by Medical Advisory Committee chairman; operational audits status report, ICF/MR status report; citizens comments, quarterly budget additions and revisions—fiscal year 1982; Houston Psychiatric Hospital status report, management information systems status report, allocations and budgeting procedures for Autism Program—fiscal year 1982-1983; status report on applicants for the TDMH/MR commissioner position; reappointment consideration of director of TRIMS, organization of TDMH/MR; status of litigation.

Information may be obtained from John J. Kavanagh, M.D., P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: September 21, 1981, 4:57 p.m.
Doc. No. 816722

Board of Pardons and Paroles

Monday-Friday, October 5-9, 1981, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole;

review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: September 21, 1981 11:30 a.m.
Doc. No. 816713

State Board of Pharmacy

Tuesday and Wednesday, September 29 and 30, 1981, 9 a.m. daily. The State Board of Pharmacy will meet in Suite 1221 of the Southwest Tower, 211 East Seventh Street, Austin. According to the agenda, the board will consider the following matters: Board Advisory Committees of clinic; Institutional and Nuclear Pharmacy Committees; pending adjudicative action concerning application for reinstatement of license of Daniel E. Hordge, *TSBP v. Roel Martinez and TSBP v. Roy's Pharmacy*; proposed agreed board orders; fraud in the provision of pharmacy services administered by third parties; submission of controlled substances inventory by pharmacies for licensure or relicensure; revised personnel policy; internship; regional educational seminar (TTCCPE) report; and old and new business. The board will also meet in executive session to discuss personnel matters.

Information may be obtained from Priscilla Jarvis, 211 East Seventh Street, Suite 1121, Austin, Texas, (512) 478-9827.

Filed: September 17, 1981, 2:32 p.m.
Doc. No. 816624

Public Utility Commission of Texas

Monday, October 19, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3994—application of Texas-New Mexico Power Company to revise its purchased power adjustment clause.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 21, 1981, 9:06 a.m.
Doc. No. 816717

Tuesday, October 20, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3774—complaint of Airco, Inc. against Houston Lighting and Power Company concerning rates.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 22, 1981, 8:47 a.m.
Doc. No. 816731

Monday, October 26, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4011—application of Western Hills Water System, Inc., for a certificate of convenience and necessity within McLennan County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 21, 1981, 9:07 a.m.
Doc. No. 816718

Tuesday, November 17, 1981, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, concerning the merits in Docket 4026—application of Kerrville South Water Company, Inc. for authority to increase rates within Kerr County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 21, 1981, 9:06 a.m.
Doc. No. 816719

Monday, December 14, 1981, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3333—application of Trinity Cove Improvement Association to amend its certificate of convenience and necessity for water utility service within Trinity County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: September 18, 1981, 8:57 a.m.
Doc. No. 816630

Railroad Commission of Texas

Monday, September 28, 1981, 9 a.m. The Administrative Services Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Information may be obtained from Roger Dillon, P.O. Drawer 12967, Austin, Texas, (512) 445-1211.

Filed: September 18, 1981, 2:27 p.m.
Doc. No. 816642

Monday, September 28, 1981, 9 a.m. The Automatic Data Processing Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division will consider the direc-

tor's report on division administration, budget, prodecures, and personnel matters.

Information may be obtained from Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: September 18, 1981, 2:27 p.m.
Doc. No. 816643

Monday, September 28, 1981, 9 a.m. The Flight Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35 South, Austin. According to the agenda, the division will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Information may be obtained from Ken Fossler, 1124 South IH 35, Austin, Texas 78704, (512) 445-1103.

Filed: September 18, 1981, 2:26 p.m.
Doc. No. 816644

Monday, September 28, 1981, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 IH 35 South, Austin. According to the summarized agenda, the division will consider Gas Utilities Dockets 2706, 1472, 2742, 3213, 3214, 3216, 3221, 2840, 3210, 3211, 3212, 3219, 3220, 3217, 3218, 3206, and the director's report.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1126.

Filed: September 18, 1981, 2:28 p.m.
Doc. Nos. 816645

Monday, September 28, 1981, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas has made an emergency addition to the agenda of a meeting to be held in Room 107, 1124 IH 35 South, Austin. The division will consider Gas Utilities Docket 2583—statement of intent filed by Rio Grande Valley Company to change rates for the unincorporated environs surrounding various cities in Texas. This item must be considered on less than seven days' notice as a matter of urgent public necessity because delay will cause unconscionable economic harm.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1126.

Filed: September 21, 1981, 3:48 p.m.
Doc. No. 816723

Monday, September 28, 1981, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from the agenda of a September 21, 1981, meeting, to the above date and time, in Room 107, 1124 IH 35 South, Austin. According to the agenda summary, the division will consider Gas Utilities Dockets 2820, 3020, 3064, and the director's report. These items are rescheduled on an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1126.

Filed: September 21, 1981, 3:50 p.m.
Doc. No. 816724

Monday, September 28, 1981 9 a.m. The Office of Information Services of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the commission will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Information may be obtained from Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1231.

Filed: September 18, 1981, 2:30 p.m.
Doc. No. 816646

Monday, September 28, 1981, 9 a.m. The Liquefied-Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division will consider the adoption of Rule §9.51(051.01.03.041), maximum vapor pressure and container working pressure, and to consider and act on the division director's report on division administration, budget, procedures and personnel matters.

Information may be obtained from Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1301.

Filed: September 18, 1981, 2:29 p.m.
Doc. No. 816647

Monday, September 28, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the summarized agenda, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Information may be obtained from Jan Burris, P.O. Box 12967, Austin, Texas 78711, (512) 445-1307.

Filed: September 18, 1981, 2:30 p.m.
Doc. No. 816648

Monday, September 28, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas has made an addition to the agenda of the meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns the consideration of category determinations under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Information may be obtained from Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273.

Filed: September 18, 1981, 2:25 p.m.
Doc. No. 816654

Monday, September 28, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas has made an addition of the agenda of the meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns consideration of category determination under §103 of the Natural Gas Policy Act of 1978, Docket F-03-024048, Gould Oil, Inc.

Information may be obtained from Priscilla M. Hubenak, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273.

Filed: September 18, 1981, 2:30 p.m.
Doc. No. 816653

Monday, September 28, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from a September 21, 1981, meeting, to the above date and time, in the first floor auditorium, 1124 IH 35 South, Austin. The division will consider interagency cooperation contract between Texas Petroleum Research Committee, a part of the Railroad Commission of Texas and the University of Texas at Austin for supplies, materials, computer services, and reproduction services. These items are rescheduled on an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from David M. Garlick, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1313.

Filed: September 21, 1981, 3:50 p.m.
Doc. No. 816725

Monday, September 28, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from a September 21, 1981, meeting, to the above date and time, in the first floor auditorium, 1124 South IH 35, Austin. The division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction. These items are rescheduled on an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: September 21, 1981, 3:50 p.m.
Doc. No. 816726

Monday, September 28, 1981, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from a September 21, 1981, meeting, to the above date and time, in the first floor auditorium, 1124 IH 35 South, Austin. According to the summarized agenda, the division will consider category determinations under §§102(c)(1)(b), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978. These items are rescheduled on an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273.

Filed: September 21, 1981, 3:51 p.m.
Doc. No. 816727

Monday, September 28, 1981, 9 a.m. The Personnel Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the commission will consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Information may be obtained from Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: September 18, 1981, 2:26 p.m.
Doc. No. 816649

Monday, September 28, 1981, 9 a.m. The Office of Special Counsel of the Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. According to the agenda, the commission will consider and act on the director's report relating to pending litigation, Sunset Review procedures, and other budget, administrative, and personnel matters.

Information may be obtained from Walter Earl Lilie, 1124 South IH 35, Austin, Texas 78704, (512) 445-1186.

Filed: September 18, 1981, 2:28 p.m.
Doc. No. 816650

Monday, September 28, 1981, 9 a.m. The Surface Mining and Reclamation Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin, to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Information may be obtained from J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 285-4074.

Filed: September 18, 1981, 2:29 p.m.
Doc. No. 816651

Monday, September 28, 1981, 9 a.m. The Surface Mining and Reclamation Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from a September 21, 1981, meeting, to the above date and time, in the first floor auditorium, 1124 IH 35 South, Austin. The division will consider the following: permit issuance to Texas Utilities Generating Company (TUGCO) for its big brown I and II lignite mining operation (Docket 3) in Freestone County; and the division director's report on division administration, budget, procedures, and personnel matters. These items are rescheduled on an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas 78711, (512) 475-8751.

Filed: September 21, 1981, 3:48 p.m.
Doc. No. 816728

Monday, September 28, 1981, 9 a.m. The Transportation Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the summarized agenda, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Information may be obtained from Owen T. Kinney, 1124 South IH 35, Austin, Texas 78704, (512) 445-1330.

Filed: September 18, 1981, 2:26 p.m.
Doc. No. 816652

Monday, September 28, 1981, 9 a.m. The Transportation Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from a September 21, 1981, meeting, to the above date and time, in the first floor auditorium, Room 107, 1124 IH 35 South, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction. These items are rescheduled on

an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from Owen T. Kinney, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: September 21, 1981, 3:49 p.m.
Doc. No. 816729

Monday, September 28, 1981, 9 a.m. The Transportation Division of the Railroad Commission of Texas has, on an emergency basis, rescheduled items from the agenda of a September 21, 1981, meeting, to the above date and time, in the first floor auditorium, Room 107, 1124 IH 35 South, Austin. The division will consider the following: protest/complaint of Armco, Inc., Middletown, Ohio, et al; Dockets 000133RIPR and 000134RIPR—gravel, sand, crushed asphalt rock, crushed stone, and related articles, Items 480 and 490 series, SWFB Tarrif 84-K—add note providing minimum rate for 100 miles when via MP; gravel, sand, crushed asphalt rock, crushed stone, and related articles, Items 480 and 490 series, SWFB Tarrif 84-K—increase rates 20%; 10 cars or more increase rates 10%, and final order. These items are rescheduled on an emergency basis because of reasons beyond the control of the commission and because delay will cause unconscionable economic harm.

Information may be obtained from Owen T. Kinney, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: September 21, 1981, 3:49 p.m.
Doc. No. 816730

Teacher Retirement System of Texas

Sunday, October 18, 1981, 10 a.m. The Medical Board of the Teacher Retirement System of Texas will meet in the board room, 1001 Trinity, Austin, to discuss members' files that are due a reexamination report, and files on which the Medical Board had differing opinions.

Information may be obtained from James Preston, 1001 Trinity, Austin, Texas 78701, (512) 477-9711, ext. 340.

Filed: September 22, 1981, 9:22 a.m.
Doc. No. 816733

Texas Water Commission

Monday, September 28, 1981, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin, regarding applications for bond issues, release from escrow and setting of hearing date for district creation, water quality permits, amendments and renewals, application for an extension of time, and the filing and setting of hearing dates on water right applications.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: September 17, 1981, 11:01 a.m.
Doc. No. 816622

Monday, September 28, 1981, 10 a.m. The Texas Water Commission has made an addition to the agenda of a meeting to be held in Room 118 of the Stephen F. Austin Building, 1700 North Congress, Austin. According to the revised agenda summary, the commission will consider the application of Bannworth's, Inc., to amend Certificate of Adjudication 23-138 for filing and setting of a hearing date.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: September 18, 1981, 3:25 p.m.
Doc. No. 816655

Friday, October 29, 1981, 10 a.m. The Texas Water Commission will conduct a hearing in Room 124A of the Stephen F. Austin Building, 1700 North Congress, Austin, on Application 4148 of Sulphur Bluff Realty, N.V., seeking a permit to construct an on-channel impoundment on Old South Sulphur River, Sulphur River Basin, and construct an off-channel reservoir with the diversion of water to be used for irrigation purposes in Hopkins, Delta, Lamar, Franklin, and Red River Counties.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: September 18, 1981, 3:26 p.m.
Doc. No. 816656

Friday, October 30, 1981, 10 a.m. The Texas Water Commission will conduct a hearing in the commissioner's courtroom, Comal County Courthouse, New Braunfels. According to the agenda summary, the commission will consider the application for a permit by New Braunfels Utilities, New Braunfels, to authorize a discharge of 3,100,000 gallons per day of treated domestic sewage effluent. The applicant proposes to construct a new treatment facility to be located adjacent to the Kuehler Road Plant and which will be known as the Kuehler Road North Plant in Comal County.

Information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: September 17, 1981, 4:11 p.m.
Doc. No. 816628

Friday, October 30, 1981, 10 a.m. The Texas Water Commission will conduct a hearing in the commissioner's courtroom, Comal County Courthouse, New Braunfels. According to the agenda summary, the commission will consider the application for a permit by Walter J. Sauder, 551 Randolph Boulevard, San Antonio, to authorize the discharge of 10,000 gallons per day of treated domestic sewage effluent during Phase I construction, and 75,000 gallons per day of treated domestic sewage effluent during Phase II construction of a wastewater treatment plant to serve the population of a new subdivision in Guadalupe County.

Information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: September 17, 1981, 4:12 p.m.
Doc. No. 816627

Wednesday, December 2, 1981, 10 a.m. The Texas Water Commission will conduct a hearing in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin, regarding the petition for creation of Harris County Municipal Utility District 212 containing 62.32466 acres.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: September 17, 1981, 4:12 p.m.
Doc. No. 816629

Texas Department of Water Resources

Tuesday, September 22, 1981, 10:30 a.m. The board of the Texas Department of Water Resources met in emergency session at 2750 Bryan Tower, Dallas. According to the agenda summary, the board considered adopting an emergency rule providing for conditional certification of construction grant applications; redistributing unobligated funds among the various population categories; and approving grant increases for the City of Pasadena in the amount of \$2,235,000, and grant increases and utilizing remaining funds in reserve account to fund remaining unfunded part of projects for the Cities of Denton and El Paso. To prevent any loss of construction grant funds allotted to Texas by a possible rescission, it was necessary to obtain board action to obligate the remaining funds allocated to Texas.

Information may be obtained from Harvey Davis, P.O. Box 13087, Austin, Texas, (512) 475-3187.

Filed: September 22, 1981, 8:28 a.m.
Doc. No. 816720

Regional Agencies

Meetings Filed September 17, 1981

The Coastal Bend Council of Governments will meet in the central jury room of the County Courthouse, 901 Leopard Street, Corpus Christi, on September 25, 1981, at 2 p.m. Information may be obtained from John Buckner, P.O. Box 9909, Corpus Christi, Texas 78408-1909, (512) 883-5743.

The Lower Colorado River Authority, Parks and Lands Committee, met at 3700 Lake Austin Boulevard, Austin, on September 23, 1981, at 9 a.m. The following committees also met at the same location on the same date, at the following times:

- Audit Committee—11 a.m.
- Finance and Administration Committee—1 p.m.
- Personnel, Compensation, Pension Trust, and Benefit Committee—2:15 p.m.
- Power and Energy Committee—3:30 p.m.

The Board of Directors will meet at 3700 Lake Austin Boulevard, Austin, on September 24, 1981, at 9 a.m. Information may be obtained from Eloy H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Lubbock Regional MH/MR Center, met at 3800 Avenue H, Lubbock, on September 22, 1981, at 4:30 p.m. Information may be obtained from Gene Meneffee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

The Tri-Region Health Systems Agency, Finance Committee, met in the Gold Room of the Petroleum Club of Abilene,

3806 North First, Abilene, on September 24, 1981, at 9 a.m. The Selections Committee will meet in the same location on the same day at 10 a.m. Information may be obtained from David Jackson and Susan Bennett, respectively, 2642 Post Oak Road, Abilene, Texas 79605, (915) 698-9481.

Doc. No. 816623

Meetings Filed September 18, 1981

The Amarillo MH/MR Regional Center, Executive Committee of the Board of Trustees, met in Room J-13 of the Psychiatric Pavilion, 7201 Evans Street, Amarillo, on September 24, 1981, at noon. The Board of Trustees met at the same place on the same day at 1 p.m. Information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, (806) 353-7235.

The Austin-Travis County MH/MR Center, Board of Trustees, met at 1430 Collier Street, Austin, on September 24, 1981, at 7:30 p.m. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 31.

The Comal County Appraisal District, Board of Directors, met at 130 East Mill Street, New Braunfels, on September 21, 1981, at 7 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1212, New Braunfels, Texas 78130, (512) 625-8597.

The Heart of Texas Region MH/MR Center, Board of Trustees, met in the second floor conference room, 110 South 12th Street, Waco, on September 22, 1981, at 11:30 a.m. Information may be obtained from Sue Richardson, P.O. Box 1277, or 110 South 12th Street, Waco, Texas 76703, (817) 752-3451.

The Middle Rio Grande Development Council, A-95 Project Review Committee, met in the city council chambers, city hall, Uvalde, on September 23, 1981, at 2 p.m. Information may be obtained from Paul Edwards, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

The North Central Texas Council of Governments, Executive Board, met in the board room of the NCTCOG offices, Arlington, on September 24, 1981, at 12:30 p.m. Information may be obtained from Linda Keithley, P.O. Drawer COG, Arlington, Texas 76011-3080, (817) 640-3300.

The Panhandle Regional Planning Commission, Board of Directors, met in the first floor conference room of the Amarillo Building, Third and Polk Streets, Amarillo, on September 24, 1981, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381.

Doc. No. 816631

Meetings Filed September 21, 1981

The Brazos Valley Region MH/MR Center, Executive Committee of the Board of Trustees, will meet in Suite 225-C, 707 Texas Avenue South, College Station, on September 30, 1981.

at 1 p.m. Information may be obtained from Ann Pye Shively, Ph.D., Suite 225-C, 707 Texas Avenue South, College Station, Texas 77840, (713) 696-8585.

The Deep East Texas Council of Governments, A-95 Committee, met at the Dogwood Country Club, Highway 190 West, Woodville, on September 24, 1981, at 1:30 p.m. Information may be obtained from Ivy Mays, P.O. Box 1170, Jasper, Texas 75951, (713) 384-5704.

The Education Service Center Region XV, Board of Directors, will meet in Room 310, 100 North Magdalen Street, San Angelo, on October 1, 1981, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 655-6551.

The Harris County Appraisal District, Board of Directors, met at 1702 Seamist, Houston, on September 24, 1981, at 2 p.m. Information may be obtained from Searcy German, P.O. Box 10975, Houston, Texas 77292, (713) 861-2530.

The Henderson County Appraisal District, Board of Directors, will meet in Room 202, 101 East Corsicana, Athens, on

October 1, 1981, at 7:30 p.m. Information may be obtained from A. K. Monroe, P.O. Box 430, Athens, Texas 75751, (214) 675-9296.

The Houston-Galveston Area Council, Project Review Committee, will meet in the large conference room, 3701 West Alabama, Houston, on October 6, 1981, at 9:30 a.m. Information may be obtained from Martha Pawley Grady, 3701 West Alabama, Houston, Texas, (713) 627-3200, ext. 336.

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on September 29, 1981, at 8:30 a.m. Information may be obtained from James L. Dunham, 218 East Richmond, Giddings, Texas, (713) 542-5027.

The MH/MR Regional Center of East Texas, Board of Trustees, met in the board room, 2323 West Front Street, Tyler, on September 24, 1981, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4359, Tyler, Texas 75712, (214) 597-1351.

Doc. No. 816695

The following documents are required to be published in the *Register*: applications to purchase control of state banks filed by the Banking Commissioner of Texas pursuant to Texas Civil Statutes, Article 342-401a(B)(6); changes in interest rate filed by the Savings and Loan Commissioner of Texas pursuant to Texas Civil Statutes, Article 5069-1.07; and consultant proposal requests and awards filed by state agencies, regional councils of government, and the Texas State Library pursuant to Texas Civil Statutes, Article 6252-11c. In order to allow agencies to communicate information quickly and effectively, other information of general interest to the public of Texas is published as space allows.

- (1) Dates set out above are inclusive.
- (2) Credit for personal, family, or household use.
- (3) Credit for business, commercial, investment, or other similar purpose.
- (4) Same as (1) above, except excluding credit for agricultural use.
- (5) Only for open end as defined in Texas Civil Statutes, Article 5069-1.01.

Issued in Austin, Texas, on September 21, 1981.

Doc. No. 816696

Sam Kelley

Consumer Credit Commissioner

Filed: September 21, 1981, 9:32 a.m.

For further information, please call (512) 475-2111.

Texas Department of Community Affairs

Correction of Error

An adoption submitted by the Texas Department of Community Affairs was assigned incorrect TAC numbers in the September 4, 1981, issue of the *Texas Register* (6 TexReg 3250). The adoption indicated the section numbers as §§161.1-161.14; the correct TAC numbers are §§13.1-13.14 (005.07.01.001-.014).

Office of Consumer Credit Commissioner

Correction of Error

The table for rate ceilings for the Office of Consumer Credit Commissioner contained an error as published in the September 18, 1981, issue of the *Texas Register* (6 TexReg 3521). The effective period for the indicated rate (weekly rate) should read 9/21/81-9/27/81.

Rate Ceilings

Pursuant to the provisions of the 67th Legislature of Texas, Regular Session, 1981, House Bill 1228, the Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Article 1.04, Title 79, as amended (Texas Civil Statutes, Article 5069-1.04).

Type of Rate Ceiling	Effective Period ⁽¹⁾	Type of Transaction	
		Consumer ⁽²⁾ / Commercial ⁽³⁾ through \$250,000	Commercial ⁽⁴⁾ over \$250,000
Indicated rate (weekly rate)	9/28/81-10/4/81	24%	28%
Monthly (variable commercial only)	9/1/81-9/30/81	24%	28%
Quarterly	10/1/81-12/31/81	24%	28%
Annual ⁽⁵⁾	10/1/81-12/31/81	24%	27.37%



Texas Education Agency

Public Hearings

The Texas Education Agency will conduct a series of public hearings prior to the development of the five-year state plan for vocational education for fiscal years 1983-1987. The purpose of these public hearings is to provide the opportunity for all segments of the population of the state to give their views on:

- (1) the goals which ought to be adopted in the state plan;
- (2) the programs to be offered under the state plan;
- (3) the allocation of responsibility for programs among various levels of education and among the various institutions of the state; and
- (4) the allocation of local, state, and federal resources to meet these needs

The proceedings of the public hearings will be recorded. Persons desiring to present testimony should limit their comments to 10 minutes. The hearings will be held at the locations, dates, and times listed below:

October 28, 1981, 9:30 a.m.-noon. Room 1, Region I Education Service Center, 1900 West Schunior, Edinburg.

October 29, 1981, 9:30 a.m.-noon. Room 128, Region II Education Service Center, 209 North Water Street, Corpus Christi.

October 30, 1981, 9:30 a.m.-noon. Meeting room, Region III Education Service Center, 1905 Leary Lane, Victoria.

October 26, 1981, 1:30-4 p.m. Meeting rooms C and D, Region IV Education Service Center, 7200 West Tidwell Road, Houston.

October 27, 1981, 9:30 a.m.-noon. Room A, Region V Education Service Center, 2295 Delaware Street, Beaumont.

October 30, 1981, 9:30 a.m.-noon. Auditorium, Region VI Education Service Center, 3332 Montgomery Road, Huntsville.

October 28, 1981, 9:30 a.m.-noon. Room 108, Region VII Education Service Center, 818 East Main Street, Kilgore.

October 29, 1981, 9:30 a.m.-noon. Room 204, Region VIII Education Service Center, 100 North Riddle Street, Mt. Pleasant.

October 29, 1981, 9:30 a.m.-noon. Rooms A and B, Region IX Education Service Center, 301 Loop 11, Wichita Falls.

October 27, 1981, 9:30 a.m.-noon. Auditorium, Region X Education Service Center, 400 East Spring Valley Road, Richardson.

October 30, 1981, 9:30 a.m.-noon. Room 1001, Region XI Education Service Center, 3001 North Freeway, Fort Worth.

October 30, 1981, 9:30 a.m.-noon. Room 1, Region XII Education Service Center, 401 Franklin Avenue, Waco.

October 29, 1981, 9:30 a.m.-noon. Room 101, Region XIII Education Service Center, 7703 North Lamar, Austin.

October 28, 1981, 9:30 a.m.-noon. Room 5, Region XIV Education Service Center, 1850 State Highway 351, Abilene.

October 27, 1981, 9:30 a.m.-noon. Administration Building board room, Region XV Education Service Center, 100 North Magdalen Street, San Angelo.

October 27, 1981, 9:30 a.m.-noon. Conference Centers A, B, and C, Region XVI Education Service Center, 1601 South Cleveland, Amarillo.

October 28, 1981, 9:30 a.m.-noon. Room 101, Region XVII Education Service Center, 4000 22nd Place, Lubbock.

October 29, 1981, 9:30 a.m.-noon. Rooms A and B, Region XVIII Education Service Center, LaForce Boulevard, Midland.

October 30, 1981, 9:30 a.m.-noon. Rooms 616-618, Region XIX Education Service Center, 6611 Boeing Drive, El Paso.

October 27, 1981, 9:30 a.m.-noon. Rooms A and D, Region XX Education Service Center, 1314 Hines Avenue, San Antonio.

Information may be obtained from Dr. Dan Bristow, 201 East 11th Street, Austin, Texas 78701, (512) 475-6205.

Issued in Austin, Texas, on September 18, 1981.

Doc. No. 816658 Raymon L. Bynum
Commissioner of Education

Filed: September 18, 1981, 3:43 p.m.

For further information, please call (512) 475-7077.



Texas Energy and Natural Resources Advisory Council

Consultant Contract Award

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Energy and Natural Resources Advisory Council furnishes this notice of contract award. The consultant proposal request appeared in the April 3, 1981, issue of the *Texas Register* (6 TexReg 1271).

Description of Study. The Mobile Home Project will develop and distribute a publication on energy efficient techniques for existing modular and manufactured housing. The contractor will provide the following services:

- (1) Research innovative areas of energy conservation for manufactured housing within the first 45 days of the contract.
- (2) Prepare a publication on energy efficiency improvement techniques for existing mobile homes. A draft of this publication will be delivered no later than 60 days from the designated contract start date.
- (3) Preparation of the graphics for the text and artwork will be delivered no later than 90 days from the designated contract start date.
- (4) Arranging for and subcontracting services including typesetting, printing, and distribution. Subcontracting services should comply with and assure lowest possible bids for services rendered. This will be completed within the first 90 days of the contract period.
- (5) Develop a written distribution plan which includes target population to be reached and strategy for follow up on energy savings. This will be delivered within the first 90 days of the contract period.

(6) Print and distribute a minimum of 24,000 copies of the printed publication and a maximum of 50 camera-ready copies. This will be accomplished within the last 10 weeks of the contract period.

Contractors; Total Value; Period of Contract. The contractor is Planergy, Inc., 901 West Martin Luther King Boulevard, Austin, Texas 78701. Total value of the contract is \$41,700. The beginning date of the contract is August 31, 1981, and the ending date of the contract is March 31, 1982.

Due Dates for Progress Reports. Progress reports are due on the 10th day of each month; a final report is due no later than April 30, 1982.

Issued in Austin, Texas, on September 17, 1981.

Doc. No. 816632 Gloria de Leon
Residential Program Coordinator
Conservation Division
Texas Energy and Natural Resources
Advisory Council

Filed: September 18, 1981, 10:10 a.m.

For further information, please call (512) 475-0957.

Texas Health Facilities Commission

Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; and NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission of P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of request to become party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in commission §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Thomas O'Shea and Associates, Fort Worth
AS81-0916-019

DR—Request for a declaratory ruling that a certificate of need is not required for the applicant to provide drug monitoring and emergency toxicology screening services for patients of Fort Worth Osteopathic Medical Center, as a continuation of services currently arranged for by the hospital with another outside provider. The applicant will lease space for the toxicology laboratory within the hospital

Hillcrest Baptist Hospital, Waco
AH80-0422-064A (091681)

AMD/CN—Request to extend the completion deadline in Certificate of Need AH80-0422-064, which authorized the upgrade and expansion of the hospital's data processing capabilities

St. Joseph Hospital, Houston
AH80-0707-015A (091481)

AMD/CN—Request to amend Certificate of Need AH80-0707-015 to include a four-story addition to the main building and revision of plans for the renovation of the ground floor of the main building; in conjunction with a construction project approved in Certificate of Need AH80-0818-040, with no increase in the scope of the project in either certificate of need

St Joseph Hospital, Houston
AH80-0818-040A (091481)

AMD/CN—Request to amend Certificate of Need AH80-0818-040 by constructing a smaller replacement women's building and the relocation of certain services from that new building to the addition to the main building which was approved in Certificate of Need AH80-0707-015; (No change in the scope of the project will be effected in either certificate of need)

Forrest S. Tatum, Hamilton
AN81-0916-017

NIEH—Request for a declaratory ruling that a certificate of need is not required prior to the lease of the existing, but presently closed, Hurley Nursing Home in Hamilton, from its legal owner, Gary Hurley

Lake Lodge, Inc., Lake Worth
AN80-0829-005A (091581)

AMD/EC—Request to extend the completion deadline in Exemption Certificate AN80-0829-005 which authorized the construction of a laundry, storage area, office, activity room, and outdoor recreation area

Southern Cameron County Clinic/Su
Clinica Familiar, Cameron County
AS79-0501-011A (091581)

AMD/CN—Request to extend the completion deadline in Certificate of Need AS79-0501-011 which authorized the construction and operation of a rural health initiative outpatient clinic in south Cameron County

The Driscoll Foundation Children's Hospital,
Corpus Christi

AH79-0712-019A (091481)

AMD/CN—Request to increase the project cost and extend the completion deadline in certificate of need AH79-0712-019 which authorized the replacement of the heating and air conditioning central plant with a new system

Texas Children's Hospital and St. Luke's
Episcopal Hospital, Houston

AH77-1103-010A (091781)

AMD/EC—Request to extend the project completion deadline and to increase the cost of the project in exemption certificate AH77-1103-010 which authorized modifications to the facility for correction of Life Safety Code deficiencies

Issued in Austin, Texas, on September 21, 1981.

Doc. No. 816701 Linda E. Zatopek
Assistant General Counsel
Texas Health Facilities Commission

Filed: September 21, 1981, 9:57 a.m.

For further information, please call (512) 475-6940.

Texas Industrial Commission

Consultant Contract Award

The Texas Industrial Commission is hereby filing this statement of award of consulting services under the provision of Texas Civil Statutes, Article 6252-11c. The consultant proposal request can be found in the July 24, 1981, issue of the *Texas Register* (6 TexReg 2714).

Consultant Services. The consultant will:

- (1) provide guidance and training to personnel of the Texas state office, and
- (2) provide assistance in developing contacts into actual sales of Texas products.

Consultant. The consultant is Barry Anderson, Apartado Postal 5 602, Mexico 5, DF, Mexico.

Value and Period of Contract. The total value of the contract is \$8,800. The beginning date for the contract is September 1, 1981; ending date is December 31, 1981.

Due Date. The due date for services is on a continuing basis throughout the contract period.

Issued in Austin, Texas, on September 16, 1981.

Doc. No. 816694 Gerald R. Brown
Executive Director
Texas Industrial Commission

Filed: September 21, 1981, 9:06 a.m.

For further information, please call (512) 472-5059.

Railroad Commission of Texas

Public Hearing

The Railroad Commission of Texas will conduct a public hearing regarding the following proposed new rules and proposed amendments to existing rules:

(1) \$5.40 (051.03.02.027). Common Carrier Obligation of Specialized Motor Carriers

(2) \$5.163 (051.03.10.003). Lease of Power Equipment with Operator

(3) \$5.164 (051.03.10.005). Lease of Operating Rights

(4) \$5.165 (051.03.10.006). Lease of Power Equipment

(5) \$5.166 (051.03.10.007). Trip Leasing

(6) \$5.167 (051.03.10.008). Lease-Related Activities

The public hearing will be held on Tuesday and Wednesday, October 6 and 7, 1981, at 9 a.m., in Room 309 of the Railroad Commission Building at 1124 IH 35, Austin.

This public hearing will be conducted in compliance with the General and Special Rules of Practice and Procedure before the Transportation Division. Cross-examination of witnesses will not be allowed, although the presiding examiner may ask questions of any person testifying.

For further information, please contact Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1130.

Issued in Austin, Texas, on September 21, 1981.

Doc. No. 816702 Owen T. Kinney, Director
Transportation Division
Railroad Commission of Texas

Filed: September 21, 1981, 9:34 a.m.

For further information, please call (512) 445-1186.

The University of Texas System

Consultant Proposal Request

Economic Feasibility Study of Housing Project

General. The University of Texas System is soliciting offers for consulting services to assess the economic feasibility of providing housing to accommodate outpatients of the M. D. Anderson Hospital and Tumor Institute in Houston, and such of their relatives or assistants as may accompany them to Houston for treatment. The objective in providing housing is to provide nearby convenient facilities in which outpatients can stay and at the same time hold costs of medical treatment to a minimum.

It is intended that as much of the capital costs of construction as is possible will be covered by charitable donations. The remainder of the capital costs would be financed through borrowing. When completed, the housing would have to be self-supporting, to include amortization of loans or bonds, operating costs, and maintenance costs. The housing should not only be comparable to commercial hotel or motel accommodations, including food service, but also be structured to meet certain medical needs of cancer patients receiving outpatient treatment.

Data for the study will be provided by M. D. Anderson Hospital and Tumor Institute concerning projected outpatient loads; surveys already done which document the needs and desires of cancer outpatients for housing; available construction sites; and estimated receipts of charitable donations.

The consultant can accept the data provided or modify the data, as his judgment advises.

Study Content. The study prepared by the consultant should include:

- (1) recommended site;
- (2) size, general configuration, and capacity of the recommended housing;
- (3) estimated total project cost to bring the housing on line;
- (4) recommended construction methods or building systems, if applicable;
- (5) recommended method of financing, if charitable donations are insufficient for entire project;
- (6) recommended staffing for operation and maintenance for the first two years of operation;
- (7) recommended budget for the first two years of operation;
- (8) projected annual costs over the period of time, if any, that financing is necessary;
- (9) recommendation as to whether the housing should be operated by M. D. Anderson Hospital or under contract with a commercial operator;
- (10) projected schedule of rental rates necessary to recover all costs;
- (11) overall recommendation as to whether it is desirable and economically feasible to proceed with a housing project.

Proposal Content. In this solicitation, the consultant should submit a proposal including the following information:

- (1) the firm's experience in conducting housing studies, especially of like or similar nature;
- (2) the names, qualifications, and past experience of the person(s) whom the firm would assign to the study;
- (3) the consultant's opinion of the factors which would influence the study and the decisions which would flow from it, together with the consultant's proposed approach to conducting the study;
- (4) time required for completion of the study, once it is assigned to the consultant;
- (5) proposed fee structure for performing the study, to include a maximum, not-to-exceed, price.

Evaluation Criteria. Each proposal received will be evaluated by the staff of The University of Texas System on the following criteria:

- (1) experience of the firm and the consultant(s) to be assigned to the study;
- (2) the description of the consultant's understanding of the factors influencing the study, and the consultant's approach to the study;
- (3) the firm's managerial and technical capability;
- (4) timeliness;
- (5) cost.

Submission of Proposals. Written proposals will be received until 5 p.m., October 23, 1981. They should be addressed to the director, Office of Facilities Planning and Construction, The University of Texas System, 210 West Sixth Street, Austin, Texas 78701.

Persons to Contact. R. S. Kristoferson or John Davis at the above address, (512) 471-1517.

Award of Contract. Selected consultants may be asked to make individual presentations to the evaluation staff, the chancellor, or the Board of Regents of The University of Texas System. The contract will be awarded to the firm which, in the opinion of the Board of Regents, can best perform the economic feasibility study. It is anticipated that the Board of Regents will consider award of a contract for this study at its meeting scheduled for December 11, 1981.

The Board of Regents of The University of Texas System reserves the right to refuse any or all proposals.

This request for proposals is made in accordance with Texas Civil Statutes, Article 6252-11c, as amended.

Issued in Austin, Texas, on September 21, 1981.

Doc. No. 816703

R. S. Kristoferson, Director
Office of Facilities Planning
and Construction
University of Texas System

Filed: September 21, 1981, 4:21 p.m.

For further information, please call (512) 471-1265

Each issue of the *Register* includes a conversion table of *Texas Administrative Code* titles affected for that issue. Once a month a guide to agency activity for the previous month is published, as well as a cumulation of TAC titles affected for the previous month. Quarterly and annual indexes to the *Texas Register* are published separately and bound in light blue for distinction.

TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §5.211 3560

TITLE 19. EDUCATION

Part I. Coordinating Board, Texas College and University System

19 TAC §25.32 (251.20.02.002) 3579
19 TAC §25.33 (251.20.02.003) 3580

Part II. Texas Education Agency

19 TAC §53.30 (226.21.02.043) 3580
19 TAC §61.163 (226.23.06.030) 3580
19 TAC §77.47 3581
19 TAC §77.252 3581
19 TAC §81.41-81.43 (226.33.22.010-.030) 3582
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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

31 TAC §§65.6, 65.16, 65.17, 65.24, 65.33-65.35,
65.38, 65.45, 65.46, 65.62, 65.63, 65.69 3576
31 TAC §§65.331, 65.333-65.335 3596

Part X. Texas Water Development Board

31 TAC §341.287 (156.25.36.027) 3560

TITLE 34. PUBLIC FINANCE

Part III. Teacher Retirement System of Texas

34 TAC §25.30 3598
34 TAC §25.31 3599

Part V. Texas County and District Retirement System

34 TAC §103.1 (336.02.00.001) 3599

Part VI. Texas Municipal Retirement System

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State Bar of Texas

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