Highlights

★ State Board of Registration for Professional Engineers adopts on an emergency basis amendments concerning board review of applications and takes final action to adopt amendments on registration; effective date - February 9 . page 642; effective date - March 2 . page 661

★ State Board of Insurance proposes amendments to its chapter on rating and policy forms and also adopts amendments to sections within the same chapter; proposed date of adoption - March 19 . page 642; effective date - March 1 . page 663

★ State Board of Medical Examiners proposes a new section regarding institutional permits; proposed date of adoption - March 19 . page 646
How To Use the Texas Register

The Texas Register (ISSN 0362-4701) is published twice a week at least 150 times a year. It is available to the public published on every Tuesday and Thursday in 1982, with the exception of January 5, April 27, November 16, November 30, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 18224, Austin, Texas 78711 3824, (512) 475 7886.

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

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- Withdrawn Rules - rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register Division six months after proposal publication date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

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

How To Cite: Material published in the Texas Register is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 2407 of Volume 6 (1981) is cited as follows: 6 TexReg 2407.

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

How To Research: The purpose of this guide is to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the Texas Register Division office, 4011 Sam Houston Building, Austin. Material can be found by using Register indexes, the Texas Administrative Code (explained below), rule number, or subject index.

Texas Administrative Code

The Texas Administrative Code (TAC) is the approved, collected volumes of Texas administrative rules currently being published by Shepard's/McGraw Hill, in cooperation with this office.

How To Cite: Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC 127.15:

1 indicates the title under which the agency appears in the Texas Administrative Code (a listing of all the titles appears below).

TAC stands for the Texas Administrative Code;

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

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February 16, 1982  TexReg  641
An agency may adopt a new or amended rule, or repeal an existing rule on an emergency basis, if it determines that such action is necessary for the public health, safety, or welfare of this state. The rule may become effective immediately upon filing with the Texas Register Division, or on a stated date less than 20 days after filing for no more than 120 days. The emergency action is renewable once for no more than 60 days.

An agency must submit written reasons, published in the Register, for emergency action on a rule. The submission must also include a statement of the legal authority under which the emergency action is promulgated and the text of the emergency adoption. Following each published emergency document is certification information containing the effective and expiration dates of the action and a telephone number from which further information may be obtained.

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

TITLE 22. EXAMINING BOARDS
Part VI. State Board of Registration for Professional Engineers
Chapter 131. Practice and Procedure
Board Review of Application
22 TAC §131.114
The State Board of Registration for Professional Engineers adopts, on an emergency basis, amend-
ments to §131.114 (383.01.08.004) concerning rejected applications. The board currently has under inquiry a complaint which involves the criminal conviction of a registrant which will have to be evaluated and acted upon pursuant to the provisions of Texas Civil Statutes, Articles 6252-13c and 6252-13d (Acts, 67th Texas Legislature, effective September 1, 1981).

Promulgation of the rule is considered in the best interests of the public and all registrants to be completely informed on matters which may affect their rights to licensure.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 3271a, §8, which provides the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.114 (383.01.08.004). Rejected Applications. An application for registration is rejected when, by quorum vote, the board decides that the applicant should not be registered for reasons other than failing to meet the requirements of §12(a) or (b), or §21 of the Act. If the rejection is based on prior convictions of certain crimes, the board will consider the criteria enumerated in Texas Civil Statutes, Article 6252-13c, and finalize such action as provided in Texas Civil Statutes, Article 6252-13d.

Issued in Austin, Texas, on February 9, 1982.

TRD-821273 Woodrow W. Maze, P.E.
Executive Director
State Board of Registration for Professional Engineers

Effective date: February 9, 1982
Expiration date: June 9, 1982
For further information, please call (512) 476-3141.
Thirty days before an agency intends to permanently adopt a new or amended rule or repeal an existing rule, it must submit a proposal detailing the action in the Register. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposal may not be adopted until 30 days after publication. The document, as published in the Register, must include a brief explanation of the proposed action, a textual statement indicating effect on state or local government, a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule, a request for public comments, a statement of legal authority under which the proposed rule is to be adopted (and the agency’s interpretation of the legal authority), the text of the proposed action, and a certification statement. The certification information which includes the earliest possible date that the agency may file notice to adopt the proposal, and a telephone to call for further information, follows each submission.

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

**Proposed Rules**

**TITLE 19. EDUCATION**

Part II. Texas Education Agency
Chapter 157. Hearings and Appeals
Subchapter D. Hearings Concerning Handicapped Students

19 TAC §§157.91-157.99

(Editor’s note: Proposed new §§157.91-157.99 were inadvertently omitted from the November 20, 1981, issue of the Texas Register. These same sections were adopted on an emergency basis, as published in the November 20, 1981, issue of the Register (6 TexReg 4265). The proposed date of adoption is March 19, 1982.)

The Texas Education Agency proposes new §§157.91-157.99 which address hearings concerning handicapped students. The proposed new rules replace the previous Subchapter D which is proposed for repeal. The new rules provide that in cases concerning the identification, evaluation, or educational placement of a handicapped student, a hearing will be held before an impartial hearing officer appointed by the commissioner of education. The impartial hearing officer may not be an employee of a public agency which is involved in the educator of care of the student and must have no personal or professional interest which would conflict with his or her objectivity as a hearing officer. The decision of the impartial hearing officer will be final unless a party brings a civil action under the provisions of Public Law 94-142.

Under the proposed new rules, cases concerning the identification, evaluation, or educational placement of a handicapped student will not be heard by the commissioner of education or the State Board of Education.

The decision rendered on October 2, 1981, by the Fifth Circuit Court in Helms v. McDaniel (81-7111) struck down Georgia’s hearing procedures for handicapped students. These procedures were very similar to the Texas procedures. The amendments to this subchapter concerning handicapped students, reflect the requirements of the fifth circuit decision.

Richard Bennett, associate commissioner for finance, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be that hearings concerning handicapped students will be held in accordance with procedures which are in compliance with the requirements of Public Law 94-142 and the recent decision of the Fifth Circuit Court. There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, director for policy development,
Public education agency—The local school districts, special education cooperatives, and any other agency or political subdivision of the state responsible for providing education to handicapped students.

§157.93. Applicability. These sections shall apply in any hearing involving the identification, evaluation, or educational placement of a handicapped student or the provision of a free appropriate public education to the student.

§157.94. Request for Hearing. A parent or eligible student may initiate a hearing on any matter described in §157.93 of this title (relating to Applicability). A public educational agency may initiate a hearing to determine if a student may be evaluated or initially provided special education and related services without parental consent. A public educational agency may also initiate a hearing to show that its evaluation is appropriate when the parent or eligible student disagrees with an evaluation obtained by the public agency and requests an independent educational evaluation at public expense. The request for hearing shall be in writing and filed with the commissioner of education, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701.

§157.95. Impartial Hearing Officer. Hearings shall be conducted by an impartial hearing officer appointed by the commissioner of education. The hearing officer selected by the commissioner shall not be a person who:

(1) is an employee of a public agency which is involved in the education or care of the student; or

(2) has a personal or professional interest which would conflict with his or her objectivity in the hearing.


(a) Any party to a hearing shall have a right to:

(1) be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped students;

(2) present evidence and confront, cross-examine, and compel the attendance of witnesses pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a;

(3) prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(4) obtain a written verbatim record of the hearing; and

(5) obtain written findings of fact, conclusions of law, and decision.

(b) Parents involved in hearings shall have the right to:

(1) have the student who is the subject of the hearing present; and

(2) open the hearing to the public.


(a) The hearing officer shall afford the parties an opportunity for hearing after reasonable notice of not less than 10 days, unless the parties have agreed otherwise.

(b) Each hearing shall be conducted at a time and place which is reasonably convenient to the parties involved.

(c) The rules of evidence as provided for in the Administrative Procedure and Texas Register Act, Texas
Civil Statutes, Article 6252-13a, §14(a), shall apply in hearings conducted under these sections.

(d) The hearing shall be recorded and transcribed by a reporter who shall immediately prepare and transmit a transcript of the evidence to the hearing officer with copies to the parties. The hearing officer shall instruct the reporter and the parties to delete all personally identifiable information from the transcription and from all evidence submitted.

(e) The hearing officer may issue subpoenas and commissions to take depositions pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §14. Subpoenas and commissions to take depositions shall be issued in the name of the Texas Education Agency.

(f) The hearing officer shall issue a final decision no later than 45 days after a request for hearing is filed. A final decision must be in writing and shall include findings of fact and conclusions of law, separately stated. Findings of fact must be based exclusively on the evidence and on matters officially noticed pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §14. The final decision shall be transmitted to each party by the hearing officer.

(g) A hearing officer may grant specific extensions of time beyond the period set out in subsection (f) of this section at the request of either party.

(h) The decision made pursuant to subsection (f) of this section is final, unless a party brings a civil action under 20 United States Code §1415(e).

(i) Hearings conducted under these sections will be open to the public unless the parent or eligible student requests that the hearing be open.

§157.98. Request for Hearing. The request for hearing shall be deemed filed only when actually received by the designated hearing officer.

§157.99. Student’s Status During Proceedings.

(a) During the pendency of any administrative proceeding regarding a complaint, unless the parties agree otherwise, the student involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application for initial admission to public school, the student, with the consent of the parents where appropriate, must be placed in the public school program until the completion of all proceedings.

Issued in Austin, Texas, on November 16, 1981.
TRD-818252 Raymon L. Bynum Commissioner of Education

Proposed date of adoption March 19, 1982
For further information, please call (512) 475-7077.

TITLE 22. EXAMINING BOARDS
Part I. Texas Board of Architectural Examiners
Chapter 3. Landscape Architects
Subchapter D. Certification and Annual Registration

16 TAC §3.69

The Texas Board of Architectural Examiners proposes to amend §3.69 (376.02.04.0409) concerning reinstatement

Philip D. Creer, FAIA, executive director, has determined that for the first five-year period the rule will be in effect there will not be fiscal implications to state or local government as a result of enforcing or administering the rule

Mr. Creer, has also determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will lie that the delay of this portion will comply with Attorney General Opinion MW-164. There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Philip D. Creer, FAIA, executive director, Board of Architectural Examiners, 5555 North Lamar, H-106, Austin, Texas 78751.

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

Philip D. Creer
January 27, 1982

The amendment is proposed under Texas Civil Statutes, Article 249c, which provides the Texas Board of Architectural Examiners with the authority to adopt rules and prescribe forms necessary to administer this Act.

§3.69 (376.02.04.0409). Reinstatement.

[a] Registration revoked, for any cause, may be reinstated only by board action, and only then in the manner determined by such board action.

[b] Requests for reinstatement of registration revoked should be addressed to the executive director within 30 days after notice is received to request a hearing before the board.

Issued in Austin, Texas, on January 27, 1982.
TRD-821261 Philip D. Creer, FAIA Executive Director Texas Board of Architectural Examiners

Proposed date of adoption March 19, 1982
For further information, please call (512) 458-4126.

February 16, 1982 7 TexReg 645
Part IX. Texas State Board of Medical Examiners
Chapter 171. Institutional Permits

22 TAC §171.6

The Texas State Board of Medical Examiners proposes new §171.6 (386.06.00.006) concerning permits for exchange interns, residents, and fellows. The section will be titled, "Exchange Intern, Resident, or Fellow," and will provide a mechanism whereby a permit may be issued to a physician qualifying under one of those conditions to practice medicine in Texas when appointed by a Texas medical school in an approved program under specified stipulations as outlined in the proposed new section. The proposed section follows very closely the section relating to visiting professor permits.

Florence Allen, accountant, has determined that for the first five year period the rule will be in effect, there will not be fiscal implications to state or local government as a result of enforcing or administering the rule.

Jean Davis, administrative technician, has determined that for each year of the first five years the rule as proposed is in effect the public benefits anticipated as a result of enforcing the rule as proposed will be that the general public will be essentially unaffected by this proposed rule. Physicians visiting in Texas from other areas are those most affected by the proposed rule if they qualify under the terms as outlined in the proposed rule. There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711.

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

Jean Davis
February 9, 1982

The new section is proposed under Senate Bill 5, the Medical Practice Act of Texas which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings and performance of duties.

§171.6 (386.06.00.006). Exchange Intern, Resident, or Fellow Permit. The board may issue a permit to practice medicine to a person appointed as an exchange intern, resident, or fellow by a Texas medical school, in a program approved by the board, under the following terms and conditions.

(1) The permit may be issued for a continuous one-year period. The permit is nonrenewable.

(2) If a permit is issued for less than one month for special instructional seminars, it can be renewed the next year for a similar period, if follow-up seminars are needed or felt to be essential. The permit shall be requested each year in the usual manner.

(3) The permit shall be issued to the institution authorizing the named exchange intern, resident, or fellow to practice medicine within the teaching confines of the applying medical school as a part of duties and responsibilities assigned by the school to the exchange intern, resident, or fellow. The exchange intern, resident, or fellow may participate in the full activities of the department in whichever hospital the appointee's department has full responsibility for clinical, patient care, and teaching activities.

(4) The permit shall automatically expire one year after date of issuance, unless a sooner expiration date is indicated at the time of issuance. The permit shall not be renewable, except as noted in paragraph (2) of this section.

(5) The permit shall be revocable by the board without notice and recourse to either the medical school or exchange intern, resident, or fellow.

(6) The exchange intern, resident, or fellow and the school shall file affidavits affirming acceptance of the terms, limitations, and conditions imposed by the board on the medical activities of the exchange intern, resident, or fellow.

(7) The application for exchange intern, resident, or fellow permit shall be presented to the secretary of the board at least six months prior to the effective date of the appointment of the exchange intern, resident, or fellow. The application shall be made by the chairman of the department in which the exchange intern, resident, or fellow will practice and shall provide any information and documentation to the board as may be requested. The application shall be endorsed by the dean of the medical school and the president of the health science center making application.

(8) The institution will be notified of approval upon completion of the application.

(9) The application shall state the date the exchange intern, resident, or fellow shall begin performance of duties and the date of termination of duties at the institution. The permit issued shall be effective only for that period of time.

Issued in Austin, Texas, on February 9, 1982.

TRD-821284 A. Byron Spires, Jr., M.D.
Secretary-Treasurer
Texas State Board of Medical Examiners

Proposed date of adoption: March 19, 1982
For further information, please call (512) 475-0741.

TITLE 28. INSURANCE
Part I. State Board of Insurance Rating and Policy Forms
Workers' Compensation Rates 059.05.55

(Editor's note: Because the State Board of Insurance rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will con-
The State Board of Insurance proposes amendments to Rule 059.05.55.001, which adopts by reference the Texas Workers' Compensation and Employers' Liability Manual. The amendments consist of the following:

- inserting additional language in Rule I, Administration, Rules and Regulations, Texas Workers' Compensation Assigned Risk Pool section of the manual, to include coverage provided by the special all states endorsement;
- inserting additional language in Rule II, Servicing Companies, Rules and Regulations, Texas Workers' Compensation Assigned Risk Pool section of the manual, regarding placement of risks and clarifying references to parties, described as servicing company and governing committee;
- adding paragraph to Rule III, Application by Employers, Rules and Regulations, Texas Workers' Compensation Assigned Risk Pool section of the manual, defining rejected risk and correcting a reference to the State Board of Insurance;
- adding paragraph (f) to Rule IV, Extension of Coverage and Examination of Employers, Rules and Regulations, Texas Workers' Compensation Assigned Risk Pool section of the manual, to include a reference to the all states endorsement and to clarify language; and
- amending Rule XI, Acquisition Cost, Rules and Regulations, Texas Workers' Compensation Assigned Risk Pool section of the manual, concerning the schedule of commissions paid and to clarify a reference to the State Board of Insurance.

Edward O. Kasper, Workers' Compensation Section director, has determined that for the first five-year period the rule will be in effect, there will not be fiscal implications to state or local government as a result of enforcing or administering these rules.

Mr. Kasper has also determined that for each of the first five years the rule as proposed is in effect the public benefits will be permitting employers insured through the pool to conduct operations incident to their Texas operations in other states and protecting against financial ruin which might result without this coverage. The possible economic cost to the public will be the premium paid by the insured and the losses reimbursed by the insurer to the insured if an assigned risk pool insured operates in other states and is covered by the all states endorsement. There will be a cost to insurance companies because of coverage provided under the all states endorsement and because of increased commissions to be paid under proposed Rule XI.

Comments on the proposal may be submitted to Edward O. Kasper, Workers' Compensation Section director, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786

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

James W. Norman
February 8, 1982

The amendment is proposed pursuant to the Texas Insurance Code, Articles 5.55 and 5.76, authorizing the State Board of Insurance to establish rating plans and to make rules necessary to carry out the provisions of the workers' compensation insurance statutes concerning the Texas Workers' Compensation Assigned Risk Pool and authorizing the board to promulgate, change, or amend policy forms and endorsements.

Texas Workers' Compensation and Employers' Liability Insurance Manual. The State Board of Insurance adopts by reference the Texas Workers' Compensation and Employers' Liability Insurance Manual as amended on May 1, 1982 (March 1, 1982), which contains rules, classifications, rates, and endorsement forms for workers' compensation and employers' liability insurance. This document is published by the National Council on Compensation Insurance and may be obtained from the Insurance Services Office, Product Distribution Division, 160 Water Street, New York, New York 10038, (212) 487-5000, or from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786, where it is also available for inspection.

Issued in Austin, Texas, on February 8, 1982.

TRD-821230  James W. Norman
Chief Clerk
State Board of Insurance

Proposed date of adoption March 19, 1982
For further information, please call (512) 475-2950.

Texas Workers' Compensation Assigned Risk Pool 059.05.76

The State Board of Insurance proposes amendments to Rule 059.05.76 001, which adopts by reference the bylaws of the Texas Workers' Compensation Assigned Risk Pool. The amendments consist of the following:

- Changing workmen's to workers' throughout the document. These changes are to conform with House Bill 455, 65th Legislature.
- Inserting additional phraseology in Articles II, III, IV, and VI. The additions indicate that member companies are authorized to write insurance under the Federal Coal Mine Health and Safety Act of 1969.
- Inserting additional language in Article II, Object. The additions authorize the assigned risk pool to provide coverage by use of a special all states endorsement.
- Inserting additional language in Article III, Powers of Agency. The additions correct a
reference to the State Board of Insurance, to include all-states endorsement coverage, and define rejected risk.

Edward O. Kasper, Workers’ Compensation Section director, has determined that for the first five-year period the rule will be in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Kasper has also determined that for each of the first five years the rule as proposed is in effect, the employers covered by the Texas Workers’ Compensation Assigned Risk Pool will be covered pursuant to the Federal Coal Mine Health and Safety Act of 1969 and pay a corresponding premium for the coverage, while insurance companies will provide coverage and will receive a corresponding premium for the coverage. The special all states endorsement coverage will permit employers insured through the pool to conduct operations incidental to their Texas operations in other states and will protect against financial ruin which might result without this coverage. The possible economic cost will be the premium paid by the insured and the losses reimbursed by the insurer to the insured if an assigned risk pool insured operates in other states.

Comments on the proposal may be submitted to Edward O. Kasper, Workers’ Compensation Section director, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78701.

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

James W. Norman
February 8, 1982

The amendments are proposed pursuant to the Texas Insurance Code, Article 5.76, authorizing the State Board of Insurance to establish rating plans and to make rules necessary to carry out the provisions of the workers’ compensation insurance statutes concerning the Texas Workers’ Compensation Assigned Risk Pool and authorizes the board to promulgate, change, or amend policy forms and endorsements.


Issued in Austin, Texas, on February 8, 1982.

TRD-821231
James W. Norman
Chief Clerk
State Board of Insurance

Proposed date of adoption: March 19, 1982
For further information, please call (512) 475-2950.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Resources
Legal Services
Contract Appeals 326.79.17

(Editor’s note: Definitions for these proposed rules can be found in the In Addition section of this issue.)

(Editor’s note: Because the Texas Department of Human Resources’ rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register Division numbers. However, the rules will be published under the agency’s correct TAC title and part.)

The Texas Department of Human Resources proposes to amend its rules about the contract appeals committee in its legal services rules. Rule 326.79.17.008 is being amended to specify that the committee membership is comprised of one member appointed by the deputy commissioner for support operations plus two members appointed by the deputy commissioner for programs. This is also amended to specify that once appointed, these members cannot be changed except by the appropriate deputy commissioner. Members in the position of reviewing their own or their supervisor’s decisions must request that someone else be appointed. Rules 326.79.17.006 and .007 are amended to update titles of the general counsel and deputy commissioner for medical specialties. Rule 326.79.17.005(c), and Rule 326.79.17.009(b), contain minor editorial clarifications.

David Hawes, director of programs budget and rate setting, has determined that for the first five-year period the amendments will be in effect, there will not be fiscal implications for the state or units of local government as a result of enforcing or administering the rule.

The director of programs budget and rate setting has also determined that for each year of the first five years, the amendments, as proposed, are in effect the public benefits anticipated as a result of enforcing the amendments will be clarification of the department’s contract appeals procedures.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division—202, Department of Human Resources, P.O. Box 290, Austin, Texas 78769, within 30 days of this publication.

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

J. B. McReynolds
January 25, 1982

The following amendments are proposed under the authority of the Human Resources Code, Title II, Chapters 22, 31, and 32, which authorize the depart-
003. Notice of Adverse Action.
(a)-(b) (No change.)
(c) If the department is unable to state the matters in detail at the time the initial notice of adverse action is served, the initial notice may be limited to a statement of the issues involved. Later, and with a timely application from the appellant, a more definite and detailed statement must be furnished by the department’s legal representative to the appellant not less than three days before [prior to] the date set for the hearing.

006. Request for Appeal.
(a) A contractor may appeal an adverse action by filing a written request within 10 days after receipt of the official notice of the action from the department. The request for an appeal hearing must be addressed to the general counsel [chief counsel], Legal Division. The request for the hearing may be in the form of a formal petition or a letter setting forth the reasons why the contractor considers he [she] was not in violation of the contract provisions as alleged by the department.
(b) (No change.)

007. Effective Dates of Contract Cancellation.
(a) When the department proposes to cancel a Title XIX contract with a provider of medical assistance and the contractor has asked for a hearing, the department may not carry out its proposed action before the completion of a hearing. This is true except when federal matching funds for continued contract payments are no longer available or when the contract expires on its own terms. If a nursing facility contract is to be denied, terminated, or not renewed before a requested hearing is completed, a designee of the deputy commissioner for [medical] programs must offer the facility an informal reconsideration of the action before the effective date of the action and attempt to resolve the dispute. Payment may be withheld pending the hearing, but must be reinstated retroactively if the hearing decision is favorable to the contractor.
(b) Contracts with contractors other than Title XIX providers may be canceled before [prior to] the completion of the hearing process as indicated in Rule 326.79.17.005, Notice of Adverse Action.

008. Contract Appeals Committee.
(a) A contract appeals committee has been established to hear appeals by contractors. It is composed of:
(1) A chairman without vote. This is to be the general counsel [chief counsel] of the department of [his/her] designee.
(2) Three department employees each with one vote. One member is appointed by the deputy commissioner for support operations and two members are appointed by the deputy commissioner for programs. Once appointed, these members cannot be changed except by the appropriate deputy commissioner. [Three department employees, each of whom shall have one vote, and who shall be the deputy commissioners responsible for medical services, financial and social services, and management, or the designees of such deputies]
(b) All three voting members of the committee [
(c) Members of the committee will not review any of their own decisions nor will they review any of their immediate supervisor’s decisions. Members in this position must notify the deputy commissioner who appointed them and request that someone else be appointed in their place. [A member of the committee or a designee sitting in a particular case will not later review any decision actually made by himself/herself. Neither will a designee review a decision made by his/her immediate supervisor.]

009. Hearing Guidelines.
(a) (No change.)
(b) Notice of hearing. Within 30 days after the department’s receipt of an appellant’s request for a hearing, the chairman of the committee selects [will select] a date for a hearing. The appellant must be notified of the hearing date set, at least 10 days before the date of hearing.
(c)-(d) (No change.)

Issued in Austin, Texas, on February 10, 1982.

Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Proposed date of adoption. March 19, 1982
For further information, please call (512) 441-3355, ext. 2037
Withdrawn Rules

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a rule by filing a notice of withdrawal with the Texas Register Division. The notice is generally effective immediately upon filing with the division.

If a proposal is not adopted or withdrawn within six months after the date of publication in the Register, it will automatically be withdrawn by the Texas Register Division. Notice of the withdrawal will appear in the next regularly scheduled issue of the Register. The effective date of the automatic withdrawal will appear immediately following the published notice.

No further action may be taken on a proposal which has been automatically withdrawn. However, this does not preclude a new proposal or an identical or similar rule following normal rulemaking procedures.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Resources
Nursing Facility Administration
General Policies 326.33.12

(Editor's note: Because the Texas Department of Human Resources' rules have not yet been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register Division numbers. However, the rules will be published under the agency's correct TAC title and part.)

The Texas Department of Human Resources has withdrawn from consideration for permanent adoption proposed new Rule 326.33.12.019(a), (b), (c), and (e), concerning nursing facility administration. The text of the new section as proposed appeared in the November 24, 1981, issue of the Texas Register (6 TexReg 4328).

Issued in Austin, Texas, on February 10, 1982.

TRD-821290  Susan L. Johnson
Administrator Policy Development Support Division Texas Department of Human Resources

Filed: February 10, 1982
For further information, please call (512) 441-3355, ext. 2037.
An agency may take final action on a rule 30 days after a proposal has been published in the Register. The rule becomes effective 20 days after the agency files the correct document with the Texas Register Division, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

The document, as published in the Register, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule with function; contain comments received on the proposal; list parties submitting comments for and against the rule; explain why the agency disagreed with suggested changes; and contain the agency's interpretation of the statute it adopted the action under.

If an agency adopts the rule without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. The text of the rule, as appropriate, will be published only if final action is taken with alterations to the proposal. The certification information, following the submission, contains the effective date of the final action, the proposal's publication date, and a telephone number to call for further information.

**TITLE 16. ECONOMIC REGULATION**

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

16 TAC §3.9

The Railroad Commission of Texas adopts amendments to §3.9 (1601.02.02.008), concerning disposal wells, with changes to the proposed text published in the June 9, 1981, issue of the Texas Register (8 TexReg 2052).

The amendments to §3.9 implement standards and permit application procedures for saltwater and other oil and gas waste disposal well operations in the State of Texas. The amendments are necessary in order to assure the protection of freshwater in the state from pollution, in order to comply with U.S. Environmental Protection Agency guidelines published pursuant to the Safe Drinking Water Act, and in order to comply with recent amendments to Chapter 27 of the Texas Water Code.

The amendments provide for increased notice of disposal permit applications to local governments and other interested persons pursuant to House Bill 1379 amending Chapter 27 of the Texas Water Code. The amendments define “affected person” and further provide that a hearing will be held on the application if an affected person or local government requests one, or if the director of underground injection control determines that a hearing is in the public interest.

Standards for transfer, revocation, amendment, or suspension of disposal well permits are included in the amendments, as well as technical standards. The technical standards include casing and cementing, tubing and packer, pressure observation valve, testing, monitoring, and plugging requirements, as well as establishment of an area of review for unplugged wells.

Comments on the proposed rules were generally favorable although various alternatives were suggested. Most of the changes made in the amendments finally adopted were as a result of comments received. Five persons were against the rule amendments in any form. The remainder were either in favor of the amendments or had alternative language to offer regarding particular points.

Many comments were received regarding the proposed §3.9(4) pertaining to notice and hearing. On August 21, 1981, the Railroad Commission scheduled a public hearing on the proposed rules and specifically solicited comments regarding implementation of recent amendments to the Injection Well Act, Texas Water Code, Chapter 27, which requires that “the commission’s rules for notice shall include provisions for giving notice to local governments and affected persons. The Railroad Commission shall define “affected person” by rule” (quoted in the notice of August 21, 1981, issue of the Texas Register (9 TexReg 113) from House Bill 1379).

Comments on the proposed rule as well as suggestions on implementation of House Bill 1379, originally published on June 9, 1981, issue of
the Texas Register (8 TexReg 2052), were received by the Railroad Commission through September 20, 1981. A few persons making comments were against any changes to the previous requirements. Several were against the requirement that published notice be given of the application and that any "interested person" could request a hearing. Most of those who objected to the proposal suggested that only "affected persons" be allowed to request and obtain a public hearing on an application. Several persons recommended broader notice requirements in accordance with House Bill 1379 amending Chapter 27 of the Texas Water Code, including notice to local governments and affected persons.

Several persons objected to the transfer provisions of §3.9(5)(B), stating that the commission should not interfere with the transfer of the "ownership" of the well. Several persons argued that the transfer of a well permit was a recordkeeping matter and should be automatic unless the director of underground injection control notified the operator of problems with the transfer of the well permit.

Section 3.9(6), pertaining to area of review, also drew several comments. Many persons making comments objected to having the burden of showing that all wells of record were properly plugged within ½-mile of the proposed well. Several suggested that only wells of public record be included within this review. Several felt the review of wells within the area of review was impossible or that the Railroad Commission of Texas should have this responsibility. Several suggested alternative computation methods to the ½-mile area of review.

The requirement of §3.9(8)(A) that existing wells be equipped with tubing and packer set no higher than 100 feet above the disposal zone by January 1, 1982, drew some comment. Generally, this requirement was well received, although extensions of time were requested because of rig and equipment shortages, and an exception procedure was requested for existing wells already equipped with tubing and packer set higher than 100 feet from the disposal zone. The requirement of §3.9(8)(B) that pressure observation valves be installed within six months from the date of rule adoption also caused several persons to request more time.

The testing requirements of §3.9(11) also were the subject of numerous comments. Most persons commenting suggested alternative tests such as pressure and rate monitoring or wanted the proposed exception for annulus pressure monitoring to be an alternative. Several persons opposed casing pressure testing at 500 psig or the maximum authorized injection pressure.

Many persons objected to the requirements of §3.9(12) pertaining to the confinement of fluids. These persons objected primarily to the cer-
The Railroad Commission of Texas agrees with many of the comments received on the proposed rules and has taken them into account in adopting this rule.

The published notice requirement of the proposed rule has been retained in §3.9(4) so as to give notice of the application to local governments and affected or interested persons other than the offset operator or surface owner. The offset operator and surface owner will continue to get notice of the application by mail or delivery as proposed.

As a result of House Bill 1379 and the comments received, county and city officials also must be given notice of the application. The commission believes these requirements are consistent with statutory requirements of the Texas Water Code as amended in 1981. As a result of comments, the rule has also been changed to make it clear that only "affected persons," as now defined in the adopted rule, or local governments, are entitled to a hearing on an application unless the director of underground injection control determines that a hearing is in the public interest.

The final rules adopt the suggestions in the comments regarding the transfer of permits. in §3.9(5)(B) of the final rules, the transfer of the permit is automatic upon notification, unless the director of underground injection control notifies the permittee within 15 days that there are problems with the permit or the operation which need to be corrected prior to transfer.

The commission believes that the applicant should have the burden of reviewing wells within the area of review to assure proper plugging of abandoned wells. Section 3.9(6), however, has been changed to make it clear that only "public" records must be reviewed by the applicant.

The proposed §3.9(8) required that tubing and packer be installed by January 1, 1982, and that pressure valves be installed within six months after adoption. Because of rig and equipment shortages and the time needed for necessary workovers, this section has been changed to require the setting of tubing and packer at the date of the first workover, but in no case later than January 1, 1984, and to allow until January 1, 1983, for the installation of pressure valves.

The testing requirements of §3.9(11) have been changed as a result of the comments. The basic testing now required is a pressure test at 500 psi or the maximum authorized injection pressure, whichever is lesser, but not less than 200 psi. Monthly monitoring of the annulus pressure is now an alternative method of mechanical integrity testing such that it does not require an exception, and additional alternatives such as injection rate/injection pressure relationship monitoring may be authorized by the director of underground injection control.

Finally, the commission agrees with the comments concerning proposed §3.9(12) pertaining to confinement of fluids. This section was designed to re-emphasize the fluid containment requirements contained in other sections of the rule. Because these sections adequately address the fluid containment requirements of the proposed section 3.9(12), the paragraph has been deleted.

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.

Walter Earl Lille
February 8, 1982

This amendment is adopted under the authority of Texas Water Code, §27.034, and Texas Natural Resources Code, §581.052, 91.101, and 141.012, which authorize the Railroad Commission of Texas to promulgate rules regarding oil and gas waste injection. §3.9 (051.02.02.009). Disposal Wells. Any person who disposes of saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources shall be responsible for complying with this rule, Chapter 27 of the Texas Water Code, and Title 3 of the Natural Resources Code.

(1) General. Saltwater or other oil and gas waste, as that term is defined in Chapter 27 of the Texas Water Code, may be disposed of, upon application to and approval by the commission, by injection into nonproducing zones of oil, gas, or geothermal resources bearing formations that contain water mineralized by processes of nature to such a degree that the water is unfit for domestic, stock, irrigation, or other general uses. Every applicant who proposes to dispose of saltwater or other oil and gas waste into a formation not productive of oil, gas, or geothermal resources, must obtain a permit from the commission authorizing the disposal in accordance with this rule. Permits from the commission issued before the effective date of this rule shall continue in effect until revoked, modified, or suspended by the commission.

(2) Geological requirements. Before such formations are approved for disposal use, the applicant shall show that the formations are separated from freshwater formations by impervious beds which will give adequate protection to such freshwater formations. The applicant must submit a letter from the Texas Department of Water Resources, Austin, Texas, stating that the use of the formations to be used for disposal are not freshwater bearing.

(3) Application. The application to dispose of saltwater or other oil and gas waste by injection into a porous formation not productive of oil, gas, or geothermal resources shall be filed with the commission in Austin. On the same date, one copy shall be filed with the appropriate district office.

(4) Notice and opportunity for hearing.

(A) The applicant shall give notice by mailing
or delivering a copy of the application to the surface owner of the tract on which the well is located, to each adjoining offset operator, to the county clerk of the county in which the well is located, and to the city clerk or other appropriate city official of any city where the well is located within the municipal boundaries of the city, on or before the date the application is mailed to or filed with the commission.

(B) In order to give notice to other local governments, interested, or affected persons, notice of the application shall be published once by the applicant in a newspaper of general circulation for the county where the well will be located in a form approved by the director of underground injection control (hereinafter "director"). The applicant shall file with the commission in Austin proof of publication prior to the hearing or administrative approval.

(C) Protested applications.

(i) If a protest from an affected person or local government is made to the commission within 15 days of receipt of the application or of publication, or if the director determines that a hearing is in the public interest, then a hearing will be held on the application after the commission provides notice of hearing to all affected persons, local governments, or other persons, who express an interest in writing to the application.

(ii) For purposes of this rule, "affected person" means a person who has suffered or will suffer actual injury or economic damage other than as a member of the general public and includes surface owners of property on which the well is located and adjoining offset operators.

(D) If no protest from an affected person is received by the commission, the director may administratively approve the application. If the director denies administrative approval, the applicant shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(5) Subsequent commission action.

(A) A permit for saltwater or other oil and gas waste disposal may be modified, suspended, or terminated by the commission for just cause after notice and opportunity for hearing, if:

(i) a material change of conditions occurs in the operation or completion of the disposal well, or there are material changes in the information originally furnished;

(ii) fresh water is likely to be polluted as a result of continued operation of the well;

(iii) there are substantial violations of the terms and provisions of the permit or of commission rules;

(iv) the applicant has misrepresented any material facts during the permit issuance process; or

(v) injected fluids are escaping from the permitted disposal zone.

(B) A disposal well permit may be transferred from one operator to another operator provided that:

(i) written notice of the intended permit transfer is submitted to the director at least 15 days prior to the date the transfer is to take place; and

(ii) the director does not notify the present permit holder of an objection to the transfer prior to the transfer date stated in the notification in clause (i) of this subparagraph.

(6) Area of review. The applicant shall review the data of public record for wells that penetrate the proposed disposal zone within a ¼-mile radius of the proposed disposal well to determine if all abandoned wells have been plugged in a manner that will prevent the movement of fluids from the disposal zone into freshwater strata. Alternatively, if the applicant can show by computation that a lesser area will be affected by pressure increases, then the lesser area may be used in lieu of the ¼-mile radius area of review. The applicant shall identify in the application any wells which appear from such review of public records to be unplugged or improperly plugged and any other unplugged or improperly plugged wells of which the applicant has actual knowledge.

(7) Casing. Disposal wells shall be cased and the casing cemented in compliance with §3.13 (051.02.02.013) of this title (relating to Casing) in such a manner that the injected fluids will not endanger oil, gas, geothermal resources, or freshwater resources.

(8) Special equipment.

(A) Tubing and packer. New wells drilled or converted for disposal after the effective date of this rule shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 100 feet above the top of the permitted interval. Existing disposal wells shall be so equipped at the time of the first workover but no later than January 1, 1984.

(B) Pressure valve. The wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well. Operators of existing disposal wells shall comply with this requirement by no later than January 1, 1983.

(C) Exceptions. The director may grant an exception to any provision of this paragraph upon proof of good cause. If the director denies an exception, the operator shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(9) Well record. Within 30 days after the completion or conversion of a disposal well, the operator shall file in duplicate in the district office a complete record of the well on the appropriate form which shows the current completion.

(10) Monitoring and reporting.

(A) The operator shall monitor the injection pressure and injection rate of each disposal well on at least a monthly basis.

(B) The results of the monitoring shall be reported annually to the commission on the prescribed form.

(C) All monitoring records shall be retained by the operator for at least five years.

(D) The operator shall report to the appropriate district office within 24 hours any significant pressure changes or other monitoring data indicating the presence of leaks in the well. The operator shall confirm this report in writing within five working days.

(11) Testing.

(A) Before beginning disposal operations, the operator shall pressure test the long string casing. The test pressure must equal the maximum authorized injec-
tion pressure or 500 psig, whichever is less, but must be at least 200 psig.

(B) Each disposal well shall be pressure-tested in the manner provided in subparagraph (A) of this paragraph at least once every five years to determine if there are leaks in the casing, tubing, or packer. The director may prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.

(C) As an alternative to the testing required in subparagraph (B) of this paragraph, the tubing-casing annulus pressure may be monitored and included on the annual monitoring report required by paragraph (10) of this section provided that there is no indication of problems with the well. The director may grant an exception for viable alternative tests or surveys such as monitoring of injection rate/injection pressure relationships.

(D) The operator shall notify the appropriate district office at least 48 hours prior to the testing. Testing shall not commence before the end of the 48-hour period unless authorized by the district office.

(E) A complete record of all tests shall be filed in duplicate in the district office on the appropriate form within 30 days after the testing.

(12) Plugging. Disposal wells shall be plugged upon abandonment in accordance with §3.14 (051.02.02.014) of this title (relating to Plugging).

(13) Penalties.

(A) Violations of this rule may subject the operator to penalties and remedies specified in Chapter 27 of the Texas Water Code and Title 3 of the Natural Resources Code.

(B) The certificate of compliance for any oil, gas, or geothermal resource well may be revoked in the manner provided in §3.68 (051.02.02.073) of this title (relating to Pipeline Connections and Severance) for violation of this rule.

(14) Effective date. This rule shall take effect on April 1, 1982.

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

TRD-821258 Mack Wallace and Buddy Temple Commissioners Railroad Commission of Texas

Effective date: April 1, 1982
Proposal publication date: June 9, 1981
For further information, please call (512) 445-1186.

16 TAC §3.46
The Railroad Commission of Texas adopts amendments to §3.46 (051.02.02.046) concerning fluid injection into productive reservoirs, with changes to the proposed text published in the June 9, 1981, issue of the Texas Register (6 TexReg 2054).

The amendments to §3.46 implement standards and permit application procedures for fluid injection operations in reservoirs productive of oil, gas, or geothermal resources. The amendments are necessary in order to assure the protection of fresh water in the state from pollution, in order to comply with U.S. Environmental Protection Agency guidelines published pursuant to the Safe Drinking Water Act, and in order to comply with recent amendments to Chapter 27 of the Texas Water Code.

The amendments provide for increased notice of injection well permit applications to local governments and other interested persons pursuant to House Bill 1379, amending Chapter 27 of the Texas Water Code. The amendments define “affected person” and further provide that a hearing will be held on the application if an affected person or local government requests one, or if the director of underground injection control determines that a hearing is in the public interest. Standards for transfer, revocation, amendment, or suspension of injection well permits are included in the amendments, as well as technical standards. The technical standards include casing and cementing, tubing and packer, pressure observation valve, testing, monitoring, and plugging requirements, as well as establishment of an area of review for unplugged wells.

Comments on the proposed amendments were generally favorable although various alternatives were suggested. Most of the changes in the amendments finally adopted were as a result of comments received. Six persons were against the rule amendments in any form. The remainder were either in favor of the amendments or had alternative language to offer regarding particular points.

Many comments were received regarding the proposed §3.48(c) pertaining to notice and hearing. On August 21, 1981, the Railroad Commission scheduled a public hearing on the proposed rules and specifically solicited comments regarding implementation of recent amendments to the Injection Well Act, Texas Water Code, Chapter 27, which requires that “the commission’s rules for notice shall include provisions for giving notice to local governments and affected persons. The Railroad Commission shall define ‘affected person’ by rule.” (Quoted in the notice of August 21, 1981, 6 TexReg 113 from House Bill 1379.)

Comments on the proposed rule as well as suggestions on implementation of House Bill 1379, originally published in the June 9, 1981, issue of the Texas Register (6 TexReg 2054), were received by the Railroad Commission through September 20, 1981. A few persons making comments were against any changes to the previous requirements. Several were against the requirement that published notice be given of the application and that any “interested person” could request a hearing. Most of those who objected to the proposal suggested that only “affected persons” be allowed to request and obtain a public hearing on the application. Several persons recommended broader notice requirements in accordance with House Bill 1379, amending Chapter 27 of the Texas Water Code, including notice to local governments and affected persons.

Several persons objected to the transfer provision of
§3.46(d)(2), stating that the commission should not interfere with the transfer of the "ownership" of the well. Several persons argued that the transfer of a well permit was a record-keeping matter and should be automatic unless the director of underground injection control notified the operator of problems with the transfer of the well permit.

Section 3.46(e), pertaining to area of review, also drew several comments. Many persons making comments objected to having the burden of showing that all wells of record were properly plugged within ¼-mile of the proposed well. Several suggested that only wells of public record be included within this review. Several felt this was impossible or that the Railroad Commission of Texas should have this responsibility. Several suggested alternative computation methods to the ¼-mile area of review.

The requirements of §3.46(g)(1) that new wells be equipped with tubing and packer set no higher than 100 feet above the injection zone drew several objections. Extentions of time and an exception procedure were requested.

The requirement of §3.46(g)(2) that pressure observation valves be installed within six months from date of rule adoption also caused several persons to request more time.

The testing requirements of §3.46(j) also were the subject of numerous comments. Most persons commenting suggested alternative tests such as pressure and rate monitoring or wanted the proposed exception for annulus pressure monitoring to be an alternative. Several persons opposed casing pressure testing at 500 psig or the maximum authorized injection pressure.

Many persons objected to the requirements of §3.48(k) pertaining to the confinement of fluids. These persons objected primarily to the certificate of compliance requirement and the lack of an extension of time provision.

The following parties made comments in favor of the amendments: Texas Independent Producers and Royalty Owners Association; Harmony Drilling, Inc.; East Texas Salt Water Disposal Company; Sun-Gas; Harry Brennan, Jr.; Valero Producing Company; O. H. Berry; Chevron U.S.A., Inc.; Mobil Oil Corporation; Mobil Oil Producing Texas and New Mexico, Inc.; Cities Service Company; Southwest Soil and Water Protection Association, Inc.; U. S. Environmental Protection Agency; Gulf Oil Corporation; Texas Mid-Continent Oil and Gas Association; Permian Basin Petroleum Association; North Texas Oil and Gas Association; West Central Texas Oil and Gas Association; Texas Consumer Association; Coastal Oil and Gas Corporation; State Representative Jerry L. Benedict; Terry Soil and Water Conservation District; W. M. Coats; ARCO Oil and Gas Company; Conoco, Inc.; Scott, Douglass, and Keeton; Marathon Oil Company; Exxon Pipeline; Houston Oil and Minerals Corporation; Delta Drilling Company; Superior Oil Company; Jake L. Hamon; Transpetco; Amoco Production Company; Santa Fe Energy Company; Union Oil Company of California; Texaco, U.S.A.; Gas Processors Association; Amerada Hess Corporation; Sun Oil Company; T. T. Summit; ATCO Producing Company, Radley Electric, Inc.; Radley Equipment Company; C. D. Allen; R and G Oil Company; Venture 9; R. R. Radley; Teftoi Corporation; and Parnoil, Inc.

The following parties made comments against the amendments: Texas Independent Producers and Royalty Owners Association; Harmony Drilling, Inc.; East Texas Salt Water Disposal Company; Riggs Petroleum Company; Sun-Gas; Harry Brennan, Jr.; Valero Producing Company; O. H. Berry; Chevron U.S.A., Inc.; Mobile Oil Corporation; Mobil Oil Producing Texas and New Mexico, Inc.; Cities Service Company; Southwest Soil and Water Protection Association, Inc.; Gulf Oil Corporation; Texas Mid-Continent Oil and Gas Association; Permian Basin Petroleum Association; North Texas Oil and Gas Association; West Central Texas Oil and Gas Association; Texas Consumer Association; Coastal Oil and Gas Corporation; Bruce Clark and Associates; ARCO Oil and Gas Company; Conoco, Inc.; Scott, Douglass, and Keeton; Marathon Oil Company; Exxon Pipeline; Houston Oil and Minerals Corporation; Delta Drilling Company; Superior Oil Company; Jake L. Hamon; Transpetco; Amoco Production Company; Santa Fe Energy Company; Union Oil Company of California; Tahoe Oil and Cattle Company; Cordova Resources, Inc.; Texaco, U.S.A.; Gas Processors Association; Amerada Hess Corporation; Sun Oil Company; T. T. Summit; Bass Enterprises Production Company; Lightning Oil Company; ATCO Producing Company; Radley Electric, Inc.; Radley Equipment Company; C. D. Allen; R and G Oil Company; Venture 9; R. R. Radley; Teftoi Corporation; and Parnoil, Inc.

The Railroad Commission of Texas agrees with many of the comments received on the proposed rules and has taken them into account in adopting this rule. The published notice requirement of §3.46(c) has been retained in this rule so as to give notice of the application to local governments and affected or interested persons other than the offset operator or surface owner. The offset operator and surface owner will continue to get notice of the application by mail or delivery as proposed.

As a result of House Bill 1379 and the comments received, county and city officials must also be given notice of the application. The commission believes these requirements are consistent with statutory requirements of the Texas Water Code as amended in 1981. The rule has been changed, however, to make it clear that only "affected persons," as now defined in the adopted rule, or local governments are entitled to a hearing on an application unless the director of underground injection control determines that it is in the public interest to hold a hearing.

The final rules adopt the suggestions in the comments regarding the transfer of permits. In §3.46(d)(2) of the final rules, the transfer of the permit is automatic upon notification, unless the director of Underground Injec-
tion Control notifies the permittee within 15 days that there are problems with the permit or the operation which need to be corrected prior to transfer.

The commission believes that the applicant should have the burden of reviewing wells within the area of review to assure proper plugging of abandoned wells. Section 3.46(e), however, has been changed to make it clear that only "public" records must be reviewed by the applicant.

Section 3.46(g)(1) has been changed to require that tubing and packer for new injection wells be set no higher than 200 feet below the known top of cement behind the long string casing, but no higher than 150 feet below the base of usable-quality water. An exception procedure is provided in §3.46(g)(3).

The testing requirements of §3.46(j) have been changed as a result of the comments. The basic testing now required is a pressure test at 500 psig or the maximum authorized injection pressure, whichever is lesser, but not less than 200 psig. Monthly monitoring of the annulus pressure is now an alternative method of determining mechanical integrity and does not require an exception, and additional alternatives such as injection rate/injection pressure relationship monitoring may be authorized by the director of Underground Injection Control.

Finally, the commission agrees with the comments concerning the proposed §3.46(k) pertaining to confinement of fluids. This subsection was designed to re-emphasize the fluid containment requirements contained in other subsections of the rule. Because these subsections adequately address the fluid containment requirements of the proposed §3.46(k), the language of the proposed subsection has been deleted and replaced with new language concerning plugging.

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.

Walter Earl Lille
February 8, 1982

The amendments are adopted under the authority of Texas Water Code, Chapter 27, and §§81.052, 85.051, 35.201-35.203, 88.011, 91.101, and 141.012 of the Texas Natural Resources Code, which authorize the Railroad Commission of Texas to promulgate rules to protect freshwater resources and to prevent the waste of oil, gas, and geothermal resources.

§3.46 (051.02.02.046). Fluid Injection into Productive Reservoirs.

(a) Permit Required. Any person who engages in fluid injection operations in reservoirs productive of oil, gas, or geothermal resources must obtain a permit from the commission. Permits may be issued when the injection will not endanger oil, gas, or geothermal resources or cause the pollution of freshwater strata unproductive of oil, gas, or geothermal resources. Permits from the commission issued before the effective date of this rule shall continue in effect until revoked, modified, or suspended by the commission.

(b) Filing of application. An application to conduct fluid injection operations in a reservoir productive of oil, gas, or geothermal resources shall be filed in Austin on the form prescribed by the commission. On the same date, one copy shall be filed with the appropriate district office. The form shall be executed by a party having knowledge of the facts entered on the form. The applicant shall file the freshwater injection data form if fresh water is to be injected.

(c) Notice and opportunity for hearing.

(1) The applicant shall give notice by mailing or delivering a copy of the application to the surface owner of the tract on which the well is located, to each adjoining offset operator, to the county clerk of the county in which the well is located, and to the city clerk or other appropriate city official of any city where the well is located within the corporate limits of the city, on or before the date the application is mailed to or filed with the commission.

(2) In order to give notice to other local governments, interested, or affected persons, notice of the application shall be published once by the applicant in a newspaper of general circulation for the county where the well will be located in a form approved by the director of underground injection control (hereinafter "director"). The applicant shall file with the commission in Austin proof of publication prior to the hearing or administrative approval.

(3) Protested applications.

(A) If a protest from an affected person or local government is filed with the commission within 15 days of receipt of the application or of publication, or if the director determines that a hearing is in the public interest, then a hearing will be held on the application after the commission provides notice of hearing to all affected persons, local governments, or other persons, who express an interest in writing in the application.

(B) For purposes of this rule, "affected person" means a person who has suffered or will suffer actual injury or economic damage other than as a member of the general public and includes surface owners of property on which the well is located and adjoining offset operators.

(4) If no protest from an affected person is received by the commission, the director may administratively approve the application. If the director denies administrative approval, the applicant shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(d) Subsequent commission action.

(1) At injection well permit may be modified, suspended, or terminated by the commission for just cause after notice and opportunity for hearing, if:

(A) A material change of conditions occurs in the operation or completion of the injection well, or there are material changes in the information originally furnished;

(B) fresh water is likely to be polluted as a result of continued operation of the well;

(C) there are substantial violations of the terms and provisions of the permit or of commission rules;

(D) the applicant has misrepresented any material facts during the permit issuance process; or
(E) injected fluids are escaping from the permitted injection zone.

(2) An injection well permit may be transferred from one operator to another operator provided that:

(A) written notice of the intended permit transfer is submitted to the director at least 15 days prior to the date the transfer is to take place; and

(B) the director does not notify the present permit holder of an objection to the transfer prior to the transfer date stated in the above notification.

(e) Area of review. The applicant shall review the data of public record for wells that penetrate the proposed injection zone within a 1/4-mile radius of the proposed injection well to determine if all abandoned wells have been plugged in a manner that will prevent the movement of fluids from the injection zone into freshwater strata. Alternatively, if the applicant can show by computation that a lesser area will be affected by pressure increases, then the lesser area may be used in lieu of the 1/4-mile radius area of review. The applicant shall identify in the application wells which appear from such review of public records to be unimplemented or improperly plugged and any other unimplanted or improperly plugged wells of which the applicant has actual knowledge.

(f) Casing. Injection wells shall be cased and the casing cemented in compliance with §3.13 (051.02.02.013) of this title (relating to Casing) in such a manner that the injected fluids will not endanger oil, gas, or geothermal resources and will not endanger freshwater formations not productive of oil, gas, or geothermal resources.

(g) Special equipment.

(1) Tubing and packer. New wells drilled or converted for injection after the effective date of this rule shall be equipped with tubing set on a mechanical packer. Packers shall be set no higher than 200 feet below the known top of cement behind the long casing string but in no case higher than 150 feet below the base of usable quality water.

(2) Pressure valve. The wellhead shall be equipped with a pressure observation valve on the tubing and for each annulus of the well. Operators of existing injection wells shall comply with this requirement by no later than January 1, 1983.

(3) Exceptions. The director may grant an exception to any provision of this paragraph upon proof of good cause. If the director denies an exception, the operator shall have a right to a hearing upon request. After hearing, the examiner shall recommend a final action by the commission.

(h) Well record. Within 30 days after the completion or conversion of an injection well, the operator shall file in duplicate in the district office a complete record of the well on the appropriate form which shows the current completion.

(i) Monitoring and reporting.

(1) The operator shall monitor the injection pressure and injection rate of each injection well on at least a monthly basis.

(2) The results of the monitoring shall be reported annually to the commission on the prescribed form.

(3) All monitoring records shall be retained by the operator for at least five years.

(4) The operator shall report to the appropriate district office within 24 hours any significant pressure changes or other monitoring data indicating the presence of leaks in the well. The operator shall confirm this report in writing within five working days.

(j) Testing.

(1) Before beginning injection operations, the operator shall pressure test the long string casing. The test pressure must equal the maximum authorized injection pressure or 500 psig, whichever is less, but must be at least 200 psig.

(2) Each injection well shall be pressure-tested in the manner provided in paragraph (j)(1) of this subsection at least once every five years to determine if there are leaks in the casing, tubing, or packer. The director may prescribe a schedule and mail notification to operators to allow for orderly and timely compliance with this requirement.

(3) As an alternative to the testing required in paragraph (j)(2) of this subsection, the tubing-casing annulus pressure may be monitored and included in the annual monitoring report required by subsection (i) of this section provided that there is no indication of problems with the well. The director may grant an exception for viable alternative tests or surveys such as monitoring of injection rate/injection pressure relationships.

(4) The operator shall notify the appropriate district office at least 48 hours prior to the testing. Testing shall not commence before the end of the 48-hour period unless authorized by the district office.

(5) A complete record of all tests shall be filed in duplicate in the district office within 30 days after the testing.

(k) Plugging. Injection wells shall be plugged upon abandonment in accordance with §3.14 (051.02.02.014) of this title (relating to Plugging).

(l) Penalties.

(1) Violations of this rule may subject the operator to penalties and remedies specified in Title 3 of the Natural Resources Code and any other statutes administered by the commission.

(2) The certificate of compliance for any oil, gas, or geothermal resource well may be revoked in the manner provided in §3.68 (051.02.02.073), of this title (relating to Pipeline Connection and Severance) for violation of this rule.

(m) Effective date. This rule shall take effect on April 1, 1982.
The Railroad Commission of Texas adopts new §3.71 (051.02.02.074) concerning underground hydrocarbon storage with changes to the proposed text published in the June 9, 1981, issue of the Texas Register (6 Tex Reg 2056).

The new rule is necessary in order to assure the protection of fresh water in the state, to prevent waste, to protect public health from activities associated with underground hydrocarbon storage, to comply with U.S. Environmental Protection Agency guidelines promulgated pursuant to the Safe Drinking Water Act, and in order to comply with Texas Natural Resources Code, Chapter 91, Subchapter G.

New §3.71 establishes permit requirements and standards for the creation, operation, maintenance, and abandonment of underground hydrocarbon storage facilities.

Several comments were received regarding proposed §3.71(d) pertaining to notice and hearing on permit applications. Comments were received objecting to the published notice of the application, objecting to the requirement that publication of notice be for three consecutive days in towns which do not have daily newspapers, and suggesting that complaints should be "justified" in order to merit a hearing. In addition, there were comments objecting to the proposal that there not be an administrative approval mechanism for new underground hydrocarbon storage facilities.

Several persons objected to the monitoring and reporting requirements of §3.71(h). Some persons objected to reporting product volumes withdrawn and to keeping records for five years. Several persons suggested that leaks be reported in writing within five days rather than 24 hours.

There were also some comments that suggested that mechanical integrity tests be required at least once every five years so as to comply with federal regulations promulgated pursuant to the Safe Drinking Water Act.

The names of those making comments for the rule are as follows: Old Ocean Fuel Company; O. H. Berry; XCEL Products Company; Texas Chemical Council; XRAL Storage and Terminating; Mobil Producing Texas and New Mexico, Inc.; Southwest Soil and Water Protection Association, Inc.; U.S. Environmental Protection Agency; Texas Independent Producers and Royalty Owners Association; Texas Mid-Continent Oil and Gas Association; Coastal Oil and Gas Corporation; ARCO Oil and Gas Company; Exxon Pipeline; Jake L. Hamon; Amoco Production Company; Gas Processors Association; ATCO Producing Company; Radley Electric, Inc.; Radley Equipment Company; C. D. Allen; R and G Oil Company; Venture 9; R. R. Radley; Teffoil Corporation; Pamoil, Inc.; and Warren Petroleum Company.

The names of those making comments against the rule are as follows: Old Ocean Fuel Company; O. H. Berry; XCEL Products Company; Texas Chemical Council; XRAL Storage and Terminating; Mobil Producing Texas and New Mexico, Inc.; Southwest Soil and Water Protection Association, Inc.; Texas Independent Producers and Royalty Owners Association; Texas Mid-Continent Oil and Gas Association; Coastal Oil and Gas Corporation; ARCO Oil and Gas Company; Exxon Pipeline; Jake L. Hamon; Amoco Production Company; Gas Processors Association; ATCO Producing Company; Radley Electric, Inc.; Radley Equipment Company; C. D. Allen; R and G Oil Company; Venture 9; R. R. Radley; Teffoil Corporation; Pamoil, Inc.; and Warren Petroleum Company.

The notice and hearing requirements of §3.71(d) have been retained, but have been reworded to make it clear that the newspaper publication does not have to be in a newspaper published in the county, although it must only be in a newspaper circulated in that county. No change in wording has been made to require that an interested person must justify his request in order for a hearing to be held, since §55.241 of the Texas Natural Resources Code effectively requires that such a person must have a real interest in the application.

Since underground hydrocarbon storage facilities can present unique public health and safety problems, administrative approval for new projects has not been authorized in the adopted rules. Instead, new projects will be approved or disapproved by the commission after notice and hearing. Applications for expansions to authorize projects may be approved administratively.

The commission believes it is necessary to require that monitoring records be kept for five years in order to coincide with the five-year testing requirement. Because of the proprietary concerns expressed, the final rule does not require that volumes withdrawn are to be reported to the commission, but such data will have to be kept available by the operator for commission inspection. The final rule has also been changed to allow written notification of leaks within five days provided that oral notice is given immediately.

The final rule also requires that mechanical integrity testing be performed at least once every five years. The addition of the mechanical integrity testing requirement is a result of comments received supporting such testing and pointing out that the requirement is necessary to comply with the Federal Safe Drinking Water Act and the regulations promulgated thereunder. The testing requirement is adopted in accordance with §10(a)(3) of the Administrative Procedure and Texas Register Act.

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

Walter Earl Lile
February 8, 1982

This rule is adopted under authority of Texas Natural Resources Code, §91.203 which authorizes the commission to supervise or monitor the construction,
operation, maintenance, and closure of storage facilities and adopt reasonable rules and standards.
§ 3.77 (051.02.02.074). Underground Hydrocarbon Storage.
(a) Permit required. No person may create, operate, or continue to use or maintain an underground hydrocarbon storage facility without obtaining a permit from the commission. Permits from the commission issued before the effective date of this rule shall continue in effect until revoked, modified, or suspended by the commission.
(b) Application.
(1) An application for a permit to dispose of salt water or other mineralized water arising out of or incidental to the creation, operation, or maintenance of the underground storage facility shall be filed with the commission in accordance with the appropriate commission rules.
(2) An application for a permit to create, operate, or maintain an underground hydrocarbon storage facility shall be filed in the Austin office of the commission and shall contain the necessary information to demonstrate compliance with the laws of Texas and the rules of the commission.
(c) Geologic requirement.
(1) Underground hydrocarbon storage facilities shall only be created, operated, or maintained in formations which are confined by impermeable strata so as to prevent the waste of hydrocarbons, the uncontrolled escape of hydrocarbons to the surface, and the escape of hydrocarbons into freshwater formations.
(2) The applicant must submit a letter from the Texas Department of Water Resources, Austin, Texas, with the application, stating the depth to which freshwater strata occurs at each storage facility.
(d) Notice and hearing.
(1) The applicant shall give notice by mailing or delivering a copy of the application to the surface owner of the tract under which the facility is located and to each adjoining offset operator, on or before the date the application is mailed to or filed with the commission.
(2) Notice of the application shall be published by the applicant in three consecutive publications in a newspaper of general circulation for the county where the facility will be located in a form approved by the director of underground injection control (hereinafter "director"). The applicant shall file in Austin proof of publication prior to the hearing or administrative approval.
(3) An application for a new underground hydrocarbon storage project will be considered for approval only after notice and hearing. After hearing, the examiner shall recommend a final action by the commission.
(4) An application for an expansion of a previously approved project may be considered for administrative approval if the commission receives no protest.
(5) If the commission receives a protest from a person notified pursuant to paragraph (1) of this subsection or other interested person within 15 days of receipt of the application or after publication that the proposed plan as contained in the application will cause damage to oil, gas, geothermal resources, freshwater resources, or otherwise cause harm, then a hearing will be held on the application after the commission provides notice of hearing to all interested persons.
(B) If the commission receives no protest, the director may administratively approve the application. If the director denies administrative approval, the applicant shall have a right to a hearing on the matter. After hearing, the examiner shall recommend a final action by the commission.
(e) Subsequent commission action. A permit may be modified, suspended, or terminated after notice and opportunity for hearing if:
(1) a substantial change of conditions occurs in the operation, maintenance, or construction of the facility, or there are substantial changes in the information originally furnished;
(2) freshwater is likely to be polluted as a result of continued operation of the facility;
(3) there are substantial violations of the terms and provisions of the permit or of commission rules;
(4) the applicant has misrepresented any material facts during the permit issuance process; or
(5) injected fluids or gases are escaping from the storage facility.
(f) Transfer. An underground hydrocarbon storage permit may be transferred only upon written approval. The permitted operator shall file an application with the director for approval of the transfer of the permit for the facility. The director may require a hearing on the matter. After hearing, the examiner shall recommend a final action by the commission.
(g) Casing. Wells used for injection and removal of hydrocarbons from the storage facility shall be cased and the casing strings cemented to prevent stored hydrocarbons from escaping to the surface, into freshwater strata, or otherwise escaping and causing waste or endangering the public health.
(h) Monitoring and reporting.
(1) All operators of hydrocarbon storage wells shall monitor the injection pressure and volumes of fluids or gases injected and removed for each storage well on at least a monthly basis. Injection pressure and volumes injected shall be reported annually to the commission on the prescribed form. All monitoring records, including volumes withdrawn, shall be retained by the operator for at least five years. Operators storing crude oil must also comply with other commission rules including the filing of reports required under those rules.
(2) The operator shall report immediately to the appropriate district office any significant loss of fluids or gases, any significant mechanical failure or any other significant problem. The operator shall confirm this report in writing within five days.
(i) Testing.
(1) Each storage well shall be tested for mechanical integrity at least once every five years. The testing shall be in a manner approved by the director.
(2) The operator shall notify the appropriate district office at least five days prior to testing. Testing shall not commence before the end of the five-day period unless authorized by the district director.
(3) A complete record of all tests shall be filed.
in duplicate in the district office within 30 days after the
testing.

(j) Pluging. Upon abandonment, all wells used for
the injection or removal of hydrocarbons from the facility
shall be plugged in accordance with §3.14 (051.02.02.014)
of this title (relating to Pluging).

(k) Penalties.
(1) Violations of this rule will subject the
operator to penalties and remedies specified in Title 3 of
the Texas Natural Resources Code.

(2) The certificate of compliance for any
underground hydrocarbon storage facility may be revoked
in the manner provided in §3.68 (051.02.02.073) of this
title (relating to Pipeline Connection and Severance) for
violation of this rule.

(l) Effective date. This rule shall take effect on
April 1, 1982.

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

TRD-821268
Mack Wallace
Buddy Temple
Commissioner
Railroad Commission of Texas

Effective date: April 1, 1982
Proposal publication date: June 9, 1981
For further information, please call (512) 445-1186.

TITLE 22. EXAMINING BOARDS
Part I. Texas Board of Architectural
Examiners
Chapter 1. Architects
Subchapter K. Table of Equivalents for
Education and Experience
22 TAC §1.211-1.215

The Texas Board of Architectural Examiners adopts
the repeal of §§1.211-1.215 (376.01.11.001-.019)
without changes to the proposed notice of repeal
published in the October 13, 1981, issue of the Texas
Register (6 TexReg 3795).

The repeal of these rules allows candidates for ex-
amination, applicant licensees from other states, and
the public to be advised more promptly of current
board policy.

No comments were received regarding adoption of the
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.

Philip D. Creer
January 22, 1982

The repeal is adopted under Texas Civil Statutes, Arti-
cle 249a, which authorizes the board to promulgate
rules.

Issued in Austin, Texas, on January 22, 1982.

TRD-821276
Philip D. Creer, FAIA
Executive Director
Texas Board of Architectural
Examiners

Effective date: February 25, 1982
Proposal publication date: October 13, 1981
For further information, please call (512) 458-1383.

Part VI. State Board of Registration
for Professional Engineers
Chapter 131. Practice and Procedure
Registration
22 TAC §131.137

The State Board of Registration for Professional
Engineers adopts amendments to §131.137
(383.01.09.007) with changes to the proposed text
published in the December 15, 1981, issue of the
Texas Register (6 TexReg 4665).

Prior to the 67th Legislature’s amendments to §8 and
§22 of the Texas Engineering Practice Act, the board
did not have authority to take any disciplinary actions
other than to suspend or revoke a license. The board
was therefore required to incorporate the other
disciplinary actions available to it in the rule.

The rule provides the board with the authority to issue
reprimands or to refuse to renew a license as alter-
native disciplinary actions available to it, and, in addition, the rule also provides for the due process procedures for such actions.

No comments concerning the adoption of 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.

Woodrow W. Mize, P.E.
February 9, 1982

The amendments are adopted under Texas Civil Statutes, Article 3271a, §8, which provides the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§131.137 (383.01.09.007). Disciplinary Actions.

(a) Under the authority and provisions of §8 and §22 of the Act, the board must take disciplinary action against a registrant who is found guilty of a violation of law, rules, or conduct. In such a case, the board may:

(1) revoke a certificate of registration;
(2) suspend a license;
(3) probate a suspended license;
(4) refuse to renew a certificate of registration;
(5) issue a formal or informal reprimand.

(b) An individual whose license has expired is not construed to be a registrant and subject to the disciplinary actions provided herein, unless and until such time as the board at its discretion accepts the fees required to renew his expired license.

(c) In defining misconduct in the practice of professional engineering, the board will consider among other things the Code of Responsibility for Professional Engineers, and conviction of certain crimes as provided in Texas Civil Statutes, Article 6252-13a and Article 6252-13d.

(d) If the board proposes not to renew a registrant’s unexpired license or to order a reprimand for conduct which has been examined and concluded to be in violation of the Act or board rules, such action must have been preceded by a notice through personal service or by registered or certified mail to the licensee of facts or conduct alleged to warrant the intended action, giving the licensee an opportunity to show cause why such action should not be taken.

(1) The licensee will be scheduled to make a personal appearance before the board at the earliest possible regular or specially called meeting to present further arguments and pertinent evidence on his behalf. Failure to appear as scheduled without prior, written approval of the executive director for a delay, will be considered as a default.

(2) In lieu of appearing at the scheduled time, the licensee may accept the board’s proposed action by written stipulation or consent agreement. Otherwise, failure to appear before the board will be considered as an acceptance by default.

(3) Any board action under this subsection, which is not informally disposed by stipulation, consent agreement, or default, may be contested as provided by the rules for public hearings to suspend or revoke a license.

Issued in Austin, Texas, on February 9, 1982.
TRD-821274 Woodrow W. Mize, P.E.
Executive Director
State Board of Registration for Professional Engineers

Effective date: April 1, 1982
Proposal publication date: December 15, 1981
For further information, please call (512) 475-3141.

Hearings—Contested Cases
22 TAC §131.224

The State Board of Registration for Professional Engineers adopts the amendment to §131.224 (383.01.12.044) without changes to the proposed text published in the December 15, 1981, issue of the Texas Register (6 TexReg 4666).

Prior to the 67th Legislature’s amendments to §8 and §22 of the Texas Engineering Practice Act, the board did not have authority to issue reprimands to its licensees; therefore, the board did not have other action available in lieu of a revocation or suspension.

The rule now provides the board with the authority to cite any person operating under its jurisdiction to appear before it in a public hearing and require him to show cause why his license should not be revoked or suspended for failure to comply with any applicable statute, or the rules or orders of the board.

No comments concerning the adoption of the amendment 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.

Woodrow W. Mize
February 9, 1982

The amendment is adopted under Texas Civil Statutes, Article 3271a, §8, which provides the board with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

Issued in Austin, Texas, on February 9, 1982.
TRD-821275 Woodrow W. Mize, P.E.
Executive Director
State Board of Registration for Professional Engineers

Effective date: March 2, 1982
Proposal publication date: December 15, 1981
For further information, please call (512) 475-3141.

Part XII. Board of Vocational Nurse Examiners
Chapter 235. Licensing
Issuance of Licenses
22 TAC §236.47

The Board of Vocational Nurse Examiners adopts new §236.47, relating to issuance of licenses, without
Adopted Rules

changes to the proposed text published in the January 8, 1982, issue of the Texas Register (7 TexReg 56).

The rule is adopted to establish a procedure for activating licenses placed on inactive status and sets out the criteria of requirements for activating licenses placed on inactive status for more than five years.

No comments were received regarding the adoption of the new 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.

Waldeen D. Wilson, R.N.
February 8, 1982

The new section is adopted under the authority of Texas Civil Statutes, Article 4528c, §8(g), which provides authority for the board to make such rules and regulations as may be necessary to govern its procedures and to carry in effect the purposes of the law.

Issued in Austin, Texas, on February 8, 1982.

TRD-821262
Waldeen D. Wilson, R.N.
Executive Director
Board of Vocational Nurse Examiners

Effective date: March 2, 1982
Proposal publication date: January 8, 1982
For further information, please call (512) 458-1203.

Standard Forms 059.05.36

The State Board of Insurance adopts amendments to Rule 059.05.36.001 without changes to the proposed text published in the December 22, 1981, issue of the Texas Register (6 TexReg 4762).

The State Board of Insurance has adopted a new endorsement, the special extended coverage optional amendatory endorsement, based on the need to provide certain coverages to individual owners of townhome units that could not previously be obtained under the standard policy and for which a potential exposure existed.

The new endorsement provides coverage, on an optional basis, for losses due to rain damaging the interior portions of a townhome unit (excluding personal property) with certain limitations as to the eligibility of the risk for this coverage as will be set forth in the rules of the Texas General Basis Schedules.

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.

James W. Norman
February 8, 1982

The amendments are proposed under Article 5.36 of the Texas Insurance Code which provides the State Board of Insurance with the authority to promulgate standard fire forms.

Issued in Austin, Texas, on February 8, 1982.

TRD-821233
James W. Norman
Chief Clerk
State Board of Insurance

Effective date: March 1, 1982
Proposal publication date: December 22, 1981
For further information, please call (512) 475-2950.
Multi-Peril Forms 059.05.81

The State Board of Insurance adopts amendments to Rule 059.05.81.001 without changes to the proposed text published in the December 22, 1981, issue of the Texas Register (6 TexReg 4784).

The State Board of Insurance has adopted a new endorsement, the TCMP-special condominium property form optional amendatory endorsement, based on the need to provide certain coverages to individual owners of condominium units that could not previously be obtained under the Texas commercial multi-peril policy and for which a potential exposure existed.

The new endorsement provides coverage, on an optional basis, for losses due to rain damaging the interior portions of a condominium unit (excluding personal property) with certain limitations as to the eligibility of the risk for this coverage as will be set forth in the rules of the Texas general basis schedules.

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.

James W. Norman
February 8, 1982

The amendments to Rule 059.05.81.001 are adopted under Article 5.81 of the Texas Insurance Code which provides the State Board of Insurance with the authority to promulgate standard multi-peril policy forms.

Issued in Austin, Texas, on February 8, 1982.

TRD-821235 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: March 1, 1982
Proposal publication date: December 22, 1981
For further information, please call (512) 475-2950.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources
Nursing Facility Administration
General Policies 326.33.12

(Editor's note: Because the Texas Department of Human Resources' rules have not been published in the Texas Administrative Code (TAC), they do not have designated TAC numbers. For the time being, the rules will continue to be published under their Texas Register Division numbers. However, the rules will be published under the agency's correct TAC title and part.)

The Texas Department of Human Resources adopts the following new rules about registration of information by retirement homes. These rules are adopted with changes to the proposed text published in the November 24, 1981, issue of the Texas Register (6 TexReg 4328). These rules were adopted on an emergency basis, effective September 4, 1981, according to House Bill 1812. Governor William P. Clements signed House Bill 1812 on June 16, 1981. The law authorizes the department to register facilities, to gather the required information, and, if requested, to provide that information to the public. The following rules include the policies and procedures for retirement homes to register information.

The department received one comment on the rules from Ms. Burt Kruger Smith, executive associate of the Hogg Foundation, who was for the adoption of the rules. Ms. Smith recommended that the department also require facilities to print on contracts and on all materials read or signed by potential applicants, a statement that the facility has registered with the department and complied with the law. Ms. Smith also recommended that the department require the facility to provide a copy of the registration information to each person who asks about care and/or signs a contract to receive care. The department agreed with Ms. Smith's recommendations, but, under Texas Civil Statutes, Article 695, can require only that facilities provide certain information to the department. To the extent authorized, the department incorporated Ms. Smith's recommendations in the rule about information the facility must provide. The department also made editorial changes to the rules for clarification and deleted subsections of the proposed rules which were internal operating procedures.

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

J. B. McReynolds
February 10, 1982

These rules are adopted under the Human Resources Code, Chapter 22, which authorizes the department to administer public assistance programs, and Texas Civil Statutes, Article 695, §6, which authorizes the department to establish rules for registering retirement facilities.

.016 Retirement Home.
(a) A person may not offer to sell or sell a life interest or long-term lease in Texas unless the facility files with the department a disclosure statement that includes:

1. The name and address of the facility and the name and address of the individual owner or the affiliated parent or subsidiary corporation or partnership.

2. Information about incorporation as follows:

(A) certificate of incorporation (Texas corporations only);
(B) articles of incorporation;
(C) certificate of authority to do business in Texas (for non-Texas corporations only);

(D) a copy of management contracts;
(E) the names, addresses, and titles of the officers and directors of the corporation;
(F) the names and addresses of individuals and organizations who own at least 5.0% of the facility.

3. A statement of whether the facility or an af-
inherit, parent, or subsidiary is a religious, nonprofit, or proprietary organization.

(4) A brief resume of the manager/administrator.

(5) A statement of whether any of the persons named in paragraphs (1) and (2) of this subsection:

(A) have been convicted of a felony or pleaded nolo contendere to a felony charge, or been held liable or enjoined in a civil action by final judgment if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(B) is under an injunctive or restrictive order or federal or state administrative order relating to business activity or healthcare because of an action by a public agency including actions affecting a license to operate a foster care facility, nursing home, retirement home, or home for the aged.

(6) Financial information of the facility, financial information of a parent or subsidiary corporation or partnership affiliated with more than two facilities in the United States, updated semiannually, including:

(A) a summary balance sheet for each entity;

(B) a narrative explaining the balance sheet;

(C) a statement of how the facility uses the proceeds;

(D) a pro forma balance sheet for each entity;

(E) a CPA audit may be sent instead of the items described in subparagraphs (A)-(D) of this paragraph.

(7) A feasibility study unless waived by the department.

(8) The level of participation in Medicare and/or Medicaid Programs by the facility and parent affiliate.

(9) A statement of all fees required by members, including the entrance fee, the monthly service charge, the facility's proposed application of the proceeds of the entrance fee, and the plans for determining the entrance fee and the monthly service charges if they are not the same in all cases.

(10) A policy statement for changes or increases in fees.

(11) The location and description of each physical property the facility proposes to use or uses in its agreements to provide care.

(12) A statement describing the services provided and how much medical care is provided.

(13) A statement describing the health and financial conditions the facility requires for a person to continue as a member.

(14) A statement describing the conditions for a facility to relet a member's room.

(15) A statement of the conditions for a member or a facility to cancel a life interest or long-term lease during the first six months of residence, and the basis for deciding the refund of the entrance fee.

(16) A statement of the conditions for a member or a facility to cancel a life interest or long-term lease after the first six months of residence, and the basis for deciding the refund of the entrance fee.

(17) A statement describing the reasons a facility permits a member to remain in the facility if he has financial difficulties.

(18) A statement of the facility's policies about marriage of a member while living at the facility, including:

(A) the fees that will be charged;

(B) the entry of the spouse into the facility;

(C) the consequences if the spouse doesn't meet entry requirements.

(19) A statement of the conditions for a facility to cancel a life interest or long-term lease, if a member dies, before or during occupancy, and, if this occurs, the basis for deciding the refund of the entrance fee.

(20) A statement that individuals have been informed of the facility's compliance with Texas Civil Statutes, Article 695r, and that copies of the disclosure statement are available on request.

(21) A copy of the lease or membership agreement that the facility uses and all amendments to that agreement.

(22) A statement in bold type, not less than 12 point, that registration does not include approval, recommendation, or endorsement by the department; it does not mean that the facility meets specified standards for the care provided; and it does not mean that the department has audited and verified the information in the disclosure statement.

(b) The facility's chief executive officer must sign and verify the disclosure statement.

.017. Amendments, Revised-Statements, and Financial Information.

(a) A facility must notify the department, in writing, of any change in the information originally sent or amended. The facility must send the notification within 30 days after the date the change occurred.

(b) A facility must file with the department semiannual financial statements as specified in Rule 326.33.12.016 and other financial information that the department requires.

.018. Providing Statement to Individual.

(a) If an individual requests, the department or a facility must give the individual a copy of the current disclosure statement that the facility filed with the department, including required amendments.

(b) The facility must give a copy of the facility's disclosure statement to individuals who ask about the facility's care or services.

.019. Administrative Procedures.

(a) Each facility sending registration information to the department is entitled to a receipt.

(b) If the department finds out about an unregistered facility, the department contacts the person and informs him of the requirements of Texas Civil Statutes, Article 695r, and the department's rules. The department requests the person to register or to document why the facility is not under the requirements of the law. The facility must send the information to the department within 30 days after notification by the department.

(c) If a facility is not in compliance with Texas Civil Statutes, Article 695r, the department reports the noncompliance to the local prosecuting attorney in the county in which the facility is located.

(d) The facility must update the financial information twice a year, starting 180 days after the date of original registration.
(e) The facility must send the disclosure statements and financial information to the following address: Texas Department of Human Resources, Provider Services Division (544-A), Institutional Care Services Branch, P.O. Box 2960, Austin, Texas 78769.

(f) The department maintains records of registration for five years after closure of a facility.

Issued in Austin, Texas, on February 10, 1982.

TRD-821289  Martin W. Johnston
Commissioner
Texas Department of Human Resources

Effective date: March 3, 1982
Proposal publication date: November 24, 1981
For further information, please call (512) 441-3355, ext. 2037.
Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the Register. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading “Regional Agencies” according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published. However, notices of emergency additions or revisions to a regional agency’s agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the Register.

**Anatomical Board of the State of Texas**

**Wednesday, March 10, 1982, 11:15 a.m.**
The Anatomical Board of the State of Texas will meet in Room 2B-152, the president’s conference room, Texas Tech Health Science Center, Fourth Street, Lubbock. Items on the agenda include: call of the roll; approval of 1981 minutes; report of executive secretary; report of treasurer; cadaver procurement and use report, 1980-1981; interim cadaver procurement and use report, 1981-1982; old business (reconsideration of boards duties re: last sentence of Texas Civil Statutes, Article 4587); new business (revision of Annotated Board Act and Annotated Gift Act and preparation for “Sunset”, and change in amount of registration fee); invitations for 1983 meeting; and a tour of the facilities.

**Contact:** Dr. Glenn V. Russell, Galveston, Texas 77550, (713) 765-1146.

**Filed:** February 11, 1982, 9:18 a.m. ANTR-821311

**Texas Alcoholic Beverage Commission**

**Monday, February 22, 1982, 10:30 a.m.**
The Texas Alcoholic Beverage Commission will meet in Suite 210, 1600 West 38th, Austin. Items on the agenda include: approval of the minutes of January 1982 meeting; administrator’s report of agency activity; approval of affidavit of destruction of tested alcoholic beverages; status report from Gilbert Bernal of the attorney general’s office concerning Civil Action A-79-CA-0079, United States of America v. The State of Texas, et al.; and status report from Arthur Andersen and Company concerning long-range systems plan for the Texas Alcoholic Beverage Commission.

**Contact:** W. S. McBeath, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 9, 1982, 1:26 p.m. TRD-821272

**Automated Information Systems Advisory Council**

**Friday, February 19, 1982, 9 a.m.**
The Automated Information Systems Advisory Council will meet in Room 100-D, John H. Reagan Building, Austin. Items on the agenda include: introduction of Darrel E. Hurt, chairman; procurement proposals (Highway Department, University of Texas, and Texas A&M); proposed guidelines (council consideration of final draft prior to adoption); and executive session (staff appointments).

**Contact:** John C. Musgrove, Room 419, John H. Reagan Building, Austin, Texas, (512) 475-2362.

**Filed:** February 10, 1982, 8:38 a.m. TRD-821280

**Texas Commission on the Arts**

**Friday, February 19, 1982, 10:30 a.m.**
The Texas Commission on the Arts will meet in Room 104, Texas Law Center, Austin. Items on the agenda include: approval of minutes, public discussion, chairman’s report, committee reports, and executive director report.

**Contact:** Margaret L. Dahl, P.O. Box 1306, Austin, Texas 78711, (512) 458-6593.

**Filed:** February 10, 1982, 11:10 a.m. TRD-821298

**Interagency Council on Early Childhood Intervention**

**Thursday and Friday, February 18 and 19, 1982, 9 a.m., respectively.** The Interagency Council on Early Childhood Intervention will meet in Room T-607, 1100 West 49th Street, Austin. The council will consider evaluation and award of grant applications.

**Contact:** James P. Rambin, 1100 West 49th Street, Austin, Texas, (512) 458-7241.

**Filed:** February 11, 1982, 4:21 p.m. TRD-821304
Texas Education Agency
Thursday, February 18, 1982, 10 a.m. The Governor's Advisory Committee of the Texas Education Agency will meet in Room 301, senate finance room, State Capitol. The committee will consider the Education Consolidation and Improvement Act of 1981, Chapter 2, and schedule future meetings.

Contact: Cis Myers, 201 East 11th Street, Austin 78701, (512) 475-4536.

Filed: February 9, 1982, 4:25 p.m.
TRD-821279

Texas Health Facilities Commission
Friday, February 19, 1982, 10 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street; Austin. According to the agenda summary, the commission will consider the following applications.

Amendment of Certificate of Need
Fort Bend Nursing Home, Rosenberg
AN79-0323-003A (123181)
Saint Joseph Hospital, Houston
AH80-0707-015A (091481)
Saint Joseph Hospital, Houston
AH80-0819-004A (091481)
Community Medical Supporters, Inc., Hempstead
A079-1220-022A (122181)
East Austin Multipurpose Health Center and Austin-Travis County Health Department, Austin
A079-0604-011A (101581)

Application for Declaratory Ruling
Casa de Amigos Health Center, Houston
AS81-1109-047

Notice of Intent To Acquire
Major Medical Equipment
Radiology Associates of Fort Worth, Arlington
AS82-0111-034

Notice of Intent To Acquire
Existing Health Care Facilities
Universal Health Services of Victoria, Inc., Victoria
AH82-0111-030
Universal Health Services of Victoria, Inc., Victoria
AH82-0111-032

Contact: Linda E. Zatopek, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: February 10, 1982
TRD-821287

Texas Food and Fertilizer Control Service
Tuesday, February 23, 1982, 10 a.m. The Texas Feed and Fertilizer Control Service will meet in Room 310, Reed McDonald Building, Texas A&M University, College Station. Items on the agenda include: review of proposed amendments to the feed rules concerning the procedures for paying the inspection fee (under the Texas Commercial Feed Control Act of 1957, Texas Civil Statutes, Article 3881e) 4 TAC §61.42 (178.01.04.002) concerning certificates.

Contact: I. J. Shenker, P.O. Box 3160, College Station, Texas 77841, (713) 845-1121.

Filed: February 10, 1982, 9:34 a.m.
TRD-821282

Tuesday, February 23, 1982, 10 a.m. The Texas Feed and Fertilizer Control Service will meet in Room 310, Reed McDonald Building, Texas A&M University, College Station. Items on the agenda include: review of proposed amendments to the fertilizer rules (under the Texas Commercial Fertilizer Control Act of 1961, Texas Civil Statutes, Article 108a), 4 TAC §65.5 (178.03.00.005) concerning reporting.

Contact: I. J. Shenker, P.O. Box 3160, College Station, Texas 77841, (713) 845-1121.

Filed: February 11, 1982, 8:52 a.m.
TRD-821308

Office of the Governor
Friday, February 19, 1982, 9 a.m. The Governor's Task Force on State Personnel Management of the Office of the Governor will meet at 512 East 11th Street, Texas Public Employees Building, Austin. Items on the agenda include: opening remarks; comments of agency board members—commissioners on state personnel management issues; briefing of the state classification system—compensation and salary administration, Dick Robertson, classification officer, state classification office; summary of state employee issues, Gary Hughes, executive director, Texas Public Employees Association; summary of 1980 Employee Questionnaire results, Dr. Martha Williams, The University of Texas at Austin; MBO Task Force on personnel progress report—relation to Governor's State Personnel Management Task Force, Charles Nemir, deputy director, Texas Department of Water Resources; assignment of identified issues to appropriate subcommittees; and subcommittee reports.

Contact: Mark Rigg, 2828 North Haskell Avenue, Dallas, Texas 75204, (214) 828-7191.

Filed: February 10, 1982, 11:02 a.m.
TRD-821300

Texas Historical Commission
Thursday, February 18, 1982, 9:30 a.m. The Texas Antiquities Committee of the Texas Historical Commission will meet in Room 104, Texas Law Center, 1414 Colorado, Austin. According to the agenda summary, the committee will consider the following: approval of minutes of meetings 52 and 53; industry report on the underwater cultural resource preservation rules; underwater archeology section activities; update on Sunset hearing; status of rule changes; nominations of SAL status; restoration permit form; designation of state archeological landmarks; and special permits category.
University of Houston System
Monday, February 15, 1982, 8 a.m. The University of Houston System Board of Regents met in Room 510, Houston United Bank Building, 4600 Gulf Freeway, Houston. The committees, times, and agendas follow.

8 a.m. According to the agenda, the Audit Committee considered the following: University of Houston System: Payroll Department auditing progress report: audit of W-2 forms issuance; audit of payroll checks; University of Houston/CC: audit of cash counts; University of Houston/CC: athletic ticket audits; University of Houston System: preparation of financial statements for corporation for public broadcasting; and other business. The committee also met in executive session.

9:30 a.m. According to the agenda, the Budget and Finance Committee considered: bank resolution; general endowment fund revenue bond project revenue account; gifts; University of Houston System: operating budget FY 1983 development guidelines; University of Houston/VC: lease of space for petroleum training institute; University of Houston/CC approval of acquisition of computer for computer science instruction and research; University of Houston System: monthly financial statement December 31, 1982; and other business. The committee also met in executive session.

11 a.m. According to the agenda, the Campus, Faculty, and Academic Affairs Committee considered the following: personnel recommendations; grants; University of Houston/CC: proposed academic programs (undergraduate certifications in dance and reading); cooperative arrangement: University of Houston and Texas Southern University; and other business. The board also met in executive session.

Contact: Deborah Selden, 4600 Gulf Freeway, Suite 500, Houston, Texas 77023, (713) 749-7545.

Filed: February 10, 1982, 1:20 p.m.
TRD-821301-821303

State Board of Insurance
Thursday, February 18, 1982, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto, Austin. According to the agenda, the following will be considered: workers' compensation rates (hearing held December 10, 1981); joint motion for dismissal in the appeal of Glenn McGehee and Carmen McGehee from action of the Texas Catastrophe Property Insurance Association; and title agents' statistical call for 1981 experience.

Contact: Pat Wagner, 1110 San Jacinto, Austin, Texas, (512) 475-2950.

Filed: February 10, 1982, 9:28 a.m.
TRD-821292

Texas Department of Labor and Standards
Thursday, February 25, 1982, 8 a.m. The Labor—Licensing and Enforcement Division of the Texas Department of Labor and Standards will meet in Room 100, John H. Reagan Building, East 14th Street and Congress, Austin. According to the agenda, a meeting will be held to accept oral and written testimony on proposed changes in the rules and regulations concerning boxing and wrestling, as covered under Texas Civil Statutes, Article 8501-1. The rules and regulations will be published in the Texas Register at a later date.

Contact: Larry E. Kosta, P.O. Box 12157, Austin, Texas 78711, (512) 475-8609.

Filed: February 9, 1982, 10:56 a.m.
TRD-821267

Texas State Board of Medical Examiners
Thursday, February 11, 1982, 3 p.m. The Texas State Board of Medical Examiners met in an emergency session via conference call at 1101 Camino La Costa, Austin. According to the agenda, the board considered motion of continuance; possible setting of new date and time if motion granted. Information concerning this motion was not received until late in the day on February 10, 1982. The meeting was held on an emergency basis because information required immediate board attention. This conference call and matters related to it will be referred to in later open meeting discussions.

Contact: Jean Davis, 1101 Camino La Costa, Suite 201, Austin, Texas 78704, (512) 475-0741.

Filed: February 11, 1982, 9:29 a.m.
TRD-821312

Texas Parks and Wildlife Department
Tuesday, February 23, 1982, 3 p.m. The Fisheries Division—Resource Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin. According to the agenda, the division will consider the following: hearing for application by Starrett Construction Company, 2220 Haines Drive, Suite 33, Harlingen, Texas 78550, (512) 425-6600, Agent: Fred LeBlanc, Espey, Huston, and Associates, Inc., P.O. Box 519, Austin, Texas 78767, (512) 327-6840 for a marl permit to remove approximately 344 cubic yards of marl (total) from Laguna Madre by means of dragline to construct a boat basin for pleasure boats. The dredged material would be placed on adjacent private property. The work site is located approximately 9-1/2 miles north of Queen Isabella Causeway near the western terminus of Constellation Drive, South Padre Island, Texas. Adjacent property owners are L. Guenzel and the City of South Padre Island. The department will also consider removing approximately 133 cubic yards of marl from Laguna Madre by means of dragline for the purpose of mitigative habitat creation. The dredged material would be trucked from the project area and placed on high ground. The work site is located approximately 275 yards southeast of the old causeway (Queen Isabella Fishing Pier), South Padre Island, Texas. The site is property of the State of Texas (Corps of Engineers Permit 15341).

Contact: Chester Harris, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4864, ext. 2310.

Filed: February 11, 1982, 9:09 a.m.
TRD-821310

State Property Tax Board
Friday, February 26, 1982, 9 a.m. The State Property Tax Board will meet in the agency conference room, 9501 IH 35 North, Austin. According to the agenda, the following will be considered: approval of minutes of December 11, 1981, board meeting; adoption of the proposed pipeline section of the General Appraisal Manual; adoption of rule amendment §161.1 (237.08.00.001) concerning revisions to the Guidelines for the Valuation of Agricultural Land; adoption of new rules concerning tax record requirements and practice and procedure; proposed rule on allocation of interstate personal property in accordance with Property Tax Code §21.03; division activity reports; and potential attorney general
opinion requests. An executive session for discussion of personnel and legal matters will also be held.

**Contact:** Kenneth E. Graeber, 9501 IH35 North, Austin, Texas 78761, (512) 837-8622.

**Filed:** February 9, 1982, 1:27 p.m. 
TRD-821271

**Public Utility Commission of Texas**

**Wednesday, February 24, 1982, 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, concerning Docket 4133—application of Leon Springs Villa Water System, Inc. subsidiary of Bulverde Utility Company, for authority to increase rates within Bexar County.

**Contact:** Carolyn E. Shellman, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 10, 1982, 9:30 a.m. 
TRD-821294

**State Purchasing and General Services Commission**

**Friday, February 19, 1982, 10 a.m.** The Advisory Planning Council for the Human Services Center Project of the State Purchasing and General Services Commission will meet in the second floor conference room, Central Services Building, 1711 San Jacinto Street, Austin. According to the agenda, the council will review the status of master planning on the Human Services Center.

**Contact:** Larry W. Gooch, P.O. Box 13047, Austin, Texas 78711, (512) 475-3560.

**Filed:** February 11, 1982, 9:20 a.m. 
TRD-821314

**Texas Real Estate Commission**

**Monday, February 22, 1982, 10 a.m.** The Texas Real Estate Commission will meet at 1101 Camino La Costa, Austin. According to the agenda summary, the following will be considered: election of officers; minutes of January 11, 1982, commission meeting; staff reports for the month of December 1981, motions for rehearing; proposed amendments to 16 TAC §537.11 (use of standard contract forms) and new 16 TAC §537.18-537.27 (standard contract forms Texas Real Estate Commission 7-0 to 16-0); sale of contract forms by commission office; school matters; executive session; fees for annual certification of real estate licensure; and fee for annual certification of real estate inspector registration.

**Contact:** Camilla S. Shannon, P.O. Box 12188, Austin, Texas 78711, (512) 459-1123.

**Filed:** February 10, 1982, 9:29 a.m. 
TRD-821293

**Texas State Technical Institute**

**Sunday and Monday, February 21 and 22, 1982, 1:30 p.m. and 9 a.m., respectively.** The Board of Regents of the Texas State Technical Institute will meet at Texas State Technical Institute, Waco. According to the agenda, the following will be considered: approval of minutes; confirmation of Dr. Beryl McKinnerney as campus general manager at TSTI—Sweetwater; increase in benefits of TSTI Group Insurance Plan; appreciation of services rendered by Thad Brown; declaration of Building 6-3 at TSTI—Waco as not needed for educational or training purposes; policies relating to instruction; fee schedule for Texas State Technical Institute effective September 1, 1982; schedule of fines and penalty charges; addition to student center at TSTI—Sweetwater; appropriation for modifications to Building 67 at TSTI—Sweetwater; letter of agreement for the use of the TSTI—Waco airfield as a collateral training facility by the department of the Air Force; request for budget changes; lease with inland container corporation for Building 921 at TSTI—Amarillo; award of contract for construction of Graphics Communication Technology Building at TSTI—Amarillo; contract for construction of the Industrial Trades Building, TSTI—Harlingen; award contract for construction of a combined vocational-technology and graphics communication technology building (D.A. Pevehouse Technology Center) at TSTI—Sweetwater; award of contract for construction of the technical studies building at TSTI—Waco; award of contract for construction of the building construction trades building at TSTI—Waco; award of contract for construction of the electrical trades building at TSTI—Waco; and other business. The board will also meet in executive session.

**Contact:** Theodore A. Tulbot, Waco, Texas 76705, (817) 799-3611, ext. 385.

**Filed:** February 10, 1982, 12:55 p.m 
TRD-821299

**Texas Water Commission**

**Thursday, March 25, 1982, 9 a.m., respectively.** The Texas Water Commission will meet in Lufkin City Hall, 300 East Shepherd, Lufkin. According to the agenda summary, Carriage Estates, Inc., P.O. Box 1803, Lufkin, Texas 75901, has applied to the Texas Department of Water Resources for a permit (proposed Permit 12483) to authorize a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 10,000 gallons per day. The applicant proposes construction of a new sewage treatment plant to serve a proposed subdivision. Farmers State Bank, P.O. Box 352, Center, Texas 75935, has applied to the Texas Department of Water Resources for a renewal of Permit 11432 which authorizes a discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 12,000 gallons per day from the treatment facilities. The permit, if renewed by the commission, will specify conditions and limitations generally the same as those currently enforced by the existing permit.

**Contact:** James Larkins, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

**Filed:** February 9, 1982, 11:04 a.m.
TRD-821268-821269

**West Texas State University**

**Tuesday, February 23, 2982, 10 a.m.** The Board of Regents of the West Texas State University will meet in Room 211, Activities Center, West Texas State University, Canyon. Items on the agenda include: approval of minutes; business and finance items; contracts, contract change orders, authority to sign checks, travel reimbursement, authority to approve reports for purchase and use of tax free alcohol for research and teaching purposes, $50 fee for international students to help defray costs of processing applications, preparation of 1982-83 intercollegiate athletic operating budget, demolishing and moving buildings, streets, and bids for paving contract on property exchange; recognition of distinguished contributions and presentation of award; authority for employment contract for president; ratification of appointment of acting executive vice president; faculty and staff and curriculum items: retirements, resignations, and employment. The board will also meet in executive session.

**Contact:** Texas Smith, P.O. Box 997, Canyon, Texas 79016, (806) 656-3962.

**Filed:** February 11, 1982, 9:05 a.m. 
TRD-821309
The Comal County Appraisal District, Board of Directors, met at 130 East Mill Street, New Braunfels, on February 15, 1982, at 7 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130, (512) 625-8597.

The Region VI Education Service Center, Board of Directors and Executive Committee, will meet at 3332 Montgomery Road, Huntsville, on February 18, 1982, at 5 p.m. Information may be obtained from M. W. Schlotter, 3332 Montgomery Road, Huntsville, Texas 77340, (713) 295-9161.

The Region X Education Service Center, Board of Directors, will meet in the board room, 400 East Spring Valley, Richardson, on February 17, 1982, at 12:30 p.m. Information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas, (214) 231-6301.

The Garza County Tax Appraisal District, Board of Directors, will meet at the county courthouse, on February 23, 1982, at 7 p.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3939.

The Gillespie County Appraisal District, Board of Directors, will meet in the county courtroom, county courthouse, Fredericksburg, on February 21, 1982, at 9 a.m. Information may be obtained from Gary Neffendorf, P. O. Box 111, Fredericksburg, Texas 78624, (512) 997-7521.

The Heart of Texas Council of Governments, Executive Committee, will meet in the conference room, 320 Franklin Avenue, Waco, on February 25, 1982, at 12:30 p.m. Information may be obtained from Mary A. McDow, 320 Franklin, Waco, Texas 76701, (817) 756-6631.

The Jack County Appraisal District, Board of Directors, will meet at 258 South Main, Los Creek Office Building, Jacksboro, on February 16, 1982, at 6:30 p.m. Information may be obtained from Doris G. Ray, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301.

Meetings Filed February 11

The Austin-Travis County Mental Health and Mental Retardation Center, Operations and Planning Committee—Finance and Control Committee, met at 1430 Collier Street, Austin, on February 11, 1982, at 7 p.m. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Limestone County Central Appraisal District, Board of Directors, will meet in Room 6, Mexia City Hall, Mexia, on February 17, 1982, at 7 p.m. Information may be obtained from Clydene Hyden, P.O. Box 266, Mexia, Texas 76667, (817) 562-5385, ext. 35.

February 16, 1982 7 TexReg 671.
The Mental Health and Mental Retardation Regional Center of East Texas, Board of Trustees, Executive Committee, met in the petroleum room, First Place Building, Tyler, on February 12, 1982, at noon. Information may be obtained from Richard J. DeSanto, P.O. Box 4359, Tyler, Texas 75712, (214) 597-1351.

The Panhandle Regional Planning Commission, A-95 Review Committee, will meet in the first floor conference room, Gibraltar Building, Eighth and Jackson, Amarillo, on February 18, 1982, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105.

The Panhandle Regional Planning Commission, Board of Directors, will meet in the first floor conference room, Gibraltar Building, Eighth and Jackson, Amarillo, on February 25, 1982, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105.

The San Patricio County Appraisal District, Board of Directors, will meet in Room 226, Courthouse Annex, Sinton, on February 23, 1982, at 9:30 a.m. Information may be obtained from Bennie L. Stewart, 313 North Rachal, Sinton, Texas 78387, (512) 364-5402.

The West Texas Health Systems Agency, Governing Body, will meet in the durango room, Granada Royale Homeotel, 6100 Gateway East, El Paso, on February 18, 1982, at 7:30 p.m. Information may be obtained from Cory Vaughan, 303 North Oregon, Suite 700, El Paso, Texas 79901, (915) 332-2910.

TRD-821313
In Addition

Texas Air Control Board
Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the period of February 1-5, 1982.

Information relative to the applications listed below, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the Executive Director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the Texas Air Control Board at the address stated above, and at the regional office for the air quality control region within which the proposed facility will be located.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

Conoco, Inc., Grapevine; bulk gasoline terminal modification; Box 308, Southlake Terminal; 9008; new source

Chemical Lime, Inc., Marble Falls; lime plant; Highway 281; 9009; new source

Sea Turtle Company, Houston; fabrication yard; 1721 Oak Tree; 9010; new source

South Texas Construction Company, Midland; portable rock crusher; (location not available); 5743B; new source

Fred E. Koricanek, Gonzales; egg production facility; off U.S. Highway 186, six miles north of Gonzales; 8396A; new source

Continental Carbon Company, Sunray; waste gas combustion; off Highway 119; 9011; new source

Issued in Austin, Texas, on February 8, 1982.

TRD-821272 Ramon Dasch Director of Hearings Texas Air Control Board

Filed: February 9, 1982, 1:26 p.m.
For further information, please call (512) 451-5711, ext. 354.

Extension of Time for Receipt of Written Comments Regarding Proposed New Rules for Regulation II

In view of the importance of the matter being considered and the extent of the interest demonstrated at the public hearing in El Paso, the date for the receipt of written comments regarding proposed new rules for Regulation II is hereby extended to February 19, 1982.

The proposed new §§112.9, 112.10 and 112.21, published in the December 25, 1981, issue of the Texas Register (6 TexReg 4896), would set a permanent net ground level concentration limit for sulfur dioxide from nonferrous smelting operations in El Paso County, and renumber previous §§112.9 to §§112.10, and previous §§112.10 to §§112.21.

Issued in Austin, Texas, on February 8, 1982.

THD-821210 Bill Stewart, P.E. Executive Director Texas Air Control Board

Filed: February 8, 1982, 9:47 a.m.
For further information, please call (512) 451-5711, ext. 354.
Banking Department of Texas
Notice of Application—Security
Financial Corporation of Fredericksburg

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On February 8, 1982, the banking commissioner received an application to acquire control of Security Financial Corporation of Fredericksburg, Fredericksburg, by James L. Hayne of San Antonio, Allen Keller, and Keith A. Keller of Fredericksburg, and James F. Kemp of Kerrville.

Additional information may be obtained from Robert E. Stewart, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on February 8, 1982.
TRD-821285 O. A. Cassity
Assistant General Counsel
Banking Department of Texas

Filed: February 10, 1982, 9:27 a.m.
For further information, please call: (512) 475-4451.

Office of Consumer Credit Commissioner
Summary of Rate Ceilings

Inasmuch as I, the Consumer Credit Commissioner of Texas, am charged with the responsibility of ascertaining the rate ceilings described in Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04), and am required to cause the rate ceilings to be published in the Texas Register, I find there is a need for a summary of the various rate ceilings utilized by creditors and the method by which the rate ceilings were determined for the calendar year 1981.

The following summary will provide information to all persons needing to have knowledge of the various rate ceilings previously established and the method by which they were computed for the period May 8, 1981, through December 31, 1981.

The first table shows the auction average rate for 26-week treasury bills beginning March 3, 1980, (needed for the first annual average) and the result of multiplying such average rate by two and rounding the result to the nearest one-quarter of one percent. Auction dates shown are the Mondays on which auctions are normally held. Auctions which for some reason were held on a day other than Monday are still shown here as occurring on Monday since it makes no difference in these computations. Indicated or weekly rates become effective each Monday following the auction date.

The various ceilings provided for in Article 1.04 may fluctuate from a low of 18% per annum to a high of 24% per annum except when applicable to commercial transactions in excess of $250,000 they may go as high as 28% per annum.

The "2X Rate" figures are used as shown in computing the three averages even when they are less than 18% or greater than 24% or 28%.

Monthly average rates are the average of the "2X Rates" for auctions in the prior month.

Quarterly average rates are the average of the "2X Rates" for auctions in the three months ending one month prior to the effective date of the quarterly average.

Annual average rates are the average of the "2X Rates" for the auctions in the twelve months ending one month prior to the effective date of the annual average.

Issued in Austin, Texas, on February 9, 1982.
TRD-821267 Sam Kelley
Consumer Credit Commissioner

Filed: February 9, 1982, 10:31 a.m.
For further information, please call (512) 475-2111.
### 26 Week Treasury Bill Rates 3-3-80 through 12-31-81

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### Monthly Average Rate - 1981

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<td>June</td>
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<td>Oct.</td>
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Quarterly and Annual Average Rates - 1981

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<td>May - June</td>
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*Previously published as 23.35% in error.

Texas Court Reporters Committee
Announcement of Meeting
The Texas Court Reporters Committee will meet at the Driskill Hotel, 117 East Seventh Street, Austin, on Saturday, February 20, 1982, at 8:30 a.m. The summarized agenda includes reports on staff activities; a status report on applications received; review of examinations administered; official complaint hearing; and consideration of proposed procedural policy.

For further information contact C. Raymond Judice, executive director, 1414 Colorado, Suite 600, Austin, Texas 78701, (512) 475-2421.

Issued in Austin, Texas, on February 4, 1982.

TRD-821281
Jim Hutcherson
Chief Counsel
Texas Court Reporters Committee

Filed: February 9, 1982, 9:34 a.m.
For further information, please call (512) 475-2421.

Texas Energy and Natural Resources Advisory Council
Advisory Committee Meeting
On Wednesday, February 17, 1982, at 10 a.m., the Natural Resources Committee of the Texas Energy and Natural Resources Advisory Council will meet in Room 119 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the committee will hear and consider legislative status report; a report from the Acid Rain Task Force; resolutions on OCS revenue sharing, the Clean Water Act, the transfer of Matagorda Island, and § 404 the Clean Water Act; a report on state responsibility in environmental regulation; and a status report on the coastal natural resources report.

Information may be obtained from J. Mark Lawless, 501 Employees' Retirement System Building, 200 East 18th Street, Austin, Texas, (512) 475-0773.

Issued in Austin, Texas, on February 8, 1982.

TRD-821266
J. Mark Lawless
Director
Natural Resources Division
Texas Energy and Natural Resources Advisory Council

Filed: February 8, 1982, 1:38 p.m.
For further information, please call (512) 475-0414.

Texas Health Facilities Commission
Notice of Show Cause Hearing
The Texas Health Facilities Commission has found that sufficient grounds exist to require a show cause hearing regarding the matter of Texas Outpatient Surgery, Inc., Houston. It has, therefore, been ordered that Texas Outpatient Surgery, Inc. appear before the commission at 305 Jefferson Building, 1600 West 38th Street, Austin, on Thursday, March 11, 1982, at 9 a.m., and show cause why Texas Outpatient Surgery, Inc. should not be found in violation of the Texas Health Planning and Development Act, Texas Civil Statutes, Article 4418h, and the commission rules for developing and operating a health care facility in Houston, prior to obtaining a certificate of need from the Texas Health Facilities Commission.

Issued in Austin, Texas, on February 10, 1982.

TRD-821286
John R. Neil
General Counsel
Texas Health Facilities Commission

Filed: February 10, 1982, 9:11 a.m.
For further information, please call (512) 475-8940.
Texas Historical Commission Guidelines for Grants to Texas Museums Honoring Fire Fighters and Their Work

The Texas Historical Commission (THC) announces the availability of grant funds up to $50,000 to assist Texas museums that honor fire fighters and their work.

Criteria. Applicant museums should meet the following criteria:
- be an organized and permanent nonprofit institution, either public or private, which is essentially educational or aesthetic in purpose;
- employ at least one person, either paid or unpaid, who devotes his time primarily to the acquisition, care, and exhibition to the public of objects owned or used by the institution;
- own, utilize, and care for tangible objects;
- exhibit these objects to the public on some regular schedule; and
- be open to the public on regular schedule at least 20 hours per week, 10 months a year.

Applications may be submitted for up to 50% of the project's cost. Applicant institutions must provide 50% of the cost of the project.

In part, this requirement may be met through documentation of volunteer time and institutional services contributed to the project. In-kind match may not exceed one half of the required match from applying institution. The Texas Historical Commission will favor applications that indicate strong community support by matching funds raised on the local level. Federal grants may be used as matching funds. None of the THC funds may be matched with other state funds nor may these funds be used as matching for other state funds. Projects involving construction of facilities are not eligible for funds. Grant funds may not be used as general operating support or to pay staff salaries.

Grant recipients must submit a narrative report and a complete financial report of expenditures and grant funds no later than 45 days following the completion of project. Projects must not require more than one year to complete. Quarterly financial reports are required. Grant use is subject to audit by THC auditors.

Project funding must come under the general categories of preservation, conservation, or interpretation of collections.

Special Project Support. Special projects may include, but are not limited to, the following:
- developing conservation methods;
- obtaining technical assistance;
- developing staff training;
- developing educational activities;
- developing security;
- developing climate control;
- developing interpretive exhibits; and
- installation of interpretive exhibits.

Applications for special project support may be submitted for up to 50% of the project cost. In-kind services may not exceed one half of the total match. Five copies of each grant request must be provided to the THC Museum Services Department.

Grants will be evaluated by considering the following factors:
- extent to which the objectives of the project are sharply defined, clearly stated, and capable of being achieved by the proposed procedure;
- the quality of the total operations of the museum;
- availability of alternative support;
- the appropriateness of size and scope of the subject;
- the reasonableness of estimated cost;
- extent to which provision is made for adequate evaluation;
- professional qualifications of staff and/or consultants involved in project (signed resumes required); and
- conditions that ensure a public purpose is served.

Deadline. Grant application deadline is March 9, 1982.

Application Proposals. Grant applications will be mailed upon request by contacting the Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 475-3750.

Contact. For further information regarding this notice, please contact Cindy Sherrill-Leo at (512) 475-3750.

TRD-82158 Carol Andrews Administrative Secretary Texas Historical Commission

Issued in Austin, Texas, on February 2, 1982.

Filed: February 9, 1982, 10:17 a.m.
For further information, please call (512) 476-3082.

Texas Department of Human Resources Definitions for Rules 326.33.12.016-019

Registration of Information by Retirement Homes

(Editor's note: The rules in which the following definitions apply can be found in the Proposed Rules section of this issue.)

These definitions are quoted from Texas Civil Statutes, Article 695c, §6.

(1) Care means furnishing shelter, food, clothing, medical attention, nursing services, medical services, entertainment, and/or other personal advantage or attention, except to an individual related by consanguinity or affinity.

(2) Department means the Texas Department of Human Resources.

(3) Entrance fee means an initial or deferred payment of a sum of money or property that assures the member a place in the facility for one or more years of life.

(4) Facility means an adult foster care facility, retirement home, retirement village, home for the aged, or a place that undertakes to provide care to one or more in-
individuals for one or more years, and requires an entrance fee. This does not include facilities or the parts of facilities regulated by Chapter 413, Acts of the 53rd Legislature, 1953, as amended (Texas Civil Statutes, Article 4442(c)), unless such facilities provide care for one or more years for an entrance fee to one or more individuals in a section of the facility that is not subject to licensure under Texas Civil Statutes, Article 4442(c).

(5) Life interest means a life lease, life membership, life estate, or other similar agreement between a purchaser and a facility by which the purchaser pays a fee for the right to occupy a space in the facility for life.

(6) Long-term lease means an agreement between a purchaser and a facility whereby the purchaser pays a fee for the right to occupy a space in the facility for at least one year, but less than the life of the purchaser.

(7) Member means a purchaser of, nominee of, or a subscriber to, a life interest or long-term lease in the facility, which may not be construed to give that individual a part ownership of the facility or voting rights in the operation of the facility.

(8) Offer or offer to sell includes an attempt to offer to dispose of, or solicitation of an offer to buy for value, a life interest or long-term lease.

(9) Person means an individual, corporation, partnership, joint venture, association, joint stock company, trust, or incorporated organization and any individual, firm, or entity employed by contract to manage a facility.

(10) Publish means publicly to issue or circulate by newspaper, mail, radio, or television, or to otherwise disseminate to the public.

(11) Sale or sell includes a contract of agreement of sale of, contract to sell, or disposition of, a life interest or long-term lease in a facility.

Definitions of an Offer or Sale. An offer or sale of a life interest or long-term lease is made in Texas when an offer to sell is made in this state, or an offer to buy is accepted in this state, or, if the purchase is made in Texas or the facility is or will be operated in this state.

An offer to sell is made in Texas when the offer either originates from this state or is directed by the offeror to this state and is received at the place to which it is directed. An offer to sell is accepted in Texas when acceptance is communicated to the offeror in this state. An acceptance is communicated to the offeror in Texas when the offeror directs it to the offeror in this state, reasonably believing the offeror to be in this state, and it is received at the place to which it is directed.

An offer to sell is not made in Texas merely because a publisher circulates, or there is circulated in his behalf, in this state, a bona fide newspaper or other publication of general, regular, and paid circulation that has had more than two-thirds of its circulation outside this state during the past 12 months, or a radio or television program originating outside this state is received in this state.

A person commits a violation of House Bill 1812, if the person:

(1) knowingly fails to file a disclosure statement as required by this section;

(2) knowingly makes an untrue statement of a material fact in a disclosure statement required by this section;

(3) knowingly omits a material fact required to be set forth in a disclosure statement required by this section;

(4) knowingly fails to notify the public of compliance with House Bill 1812.

Issued in Austin, Texas, on February 10, 1982.

TRD-821291  Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Filed: February 10, 1982, 10:06 a.m.
For further information, please call (512) 441-3356, ext. 2037.

Texas Judicial Council
Announcement of Meeting

The Texas Judicial Council will meet in the Texas Law Center, 1414 Colorado, Austin, on Friday, February 19, 1982, at 10 a.m. The summarized agenda includes reports on staff activities; reports on the committees on municipal judges continuing legal education and the county bail bond board; and discussion of proposed legislation.

For further information contact C. Raymond Judice, executive director, Texas Judicial Council, 1414 Colorado, Suite 600, Austin, Texas 78701, (512) 475-2421.

Issued in Austin, Texas, on February 9, 1982.

TRD-821297  Jim Hutcheson
Chief Counsel
Texas Judicial Council

Filed: February 10, 1982, 9:29 a.m.
For further information, please call (512) 475-2421.

State Purchasing and General Services Commission
Consultant Proposal Request
Request for Telecommunications Engineering Services To Provide Design and Cost Alternatives for the Texas State Telecommunications System

The following request for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

Invitation for Proposals. The State Purchasing and General Services Commission invites all interested parties to submit technical proposals to provide professional engineering services to the agency. The last day for receipt of offers shall be March 16, 1982. The contract shall become effective after being signed by the executive director of the State Purchasing and General Services Commission and the selected firm. The contract shall terminate on December 31, 1982. Funds expended under this contract for these services will not exceed $300,000.

Description of Services. The purpose of this contract is to determine cost effective alternatives to the existing
State Telecommunications System (STS). The selected consultant shall be required to recommend design and cost alternatives in four primary areas: switches; local exchange access; transmission system; and management system. The consultant's report and recommendations shall be used for preliminary design and budgetary considerations in determining the most cost effective system to meet the state's telecommunications needs.

Procedure for Selecting Consultant. The State Purchasing and General Services Commission shall select the consultant through recommendations of a telecommunications study review committee established for this purpose. Selection of consultant shall be based on the following criteria:

(1) demonstrated ability, identity of individuals selected to conduct study by name, education, and experience;
(2) methodology of approach to problem;
(3) performance of services at a fair and reasonable price;
(4) options offered beyond those identified in the statement of work;
(5) timeliness of work to be provided; and
(6) capability of consultant to demonstrate performance.

Respondents shall submit a proposal to provide the state a thorough and complete evaluation of its telecommunications system. The format for the proposal shall be as follows. All offers of proposals shall be divided into the four primary areas of concern: switcher, transmission system, management system, and local exchange access (CENTREX). The primary areas of concern shall then be subdivided into major tasks the respondents consider necessary to accomplish the study. In support of each major task the respondent shall provide the proposed cost and expected man hours, proposed methodology of approach, and examples of completed past studies similar to the task. This format will allow the study review committee to eliminate selected areas of the study if the total cost of the proposal exceeds $300,000.

Terms and Conditions of Contract. The following terms and conditions must be accepted by all respondents.

(1) The state reserves the right to reject any and all proposals.
(2) The selected consultant will not be eligible to participate in any subsequent equipment procurement contract arising out of the study.
(3) All information generated in the study is the exclusive property of the state.
(4) Cost for travel, lodging, telephone, and other services required by the selected consultant shall be included as part of overall cost.
(5) The selected consultant shall participate in at least two progress report meetings, time of meetings at discretion of the state, and a final review and summarization meeting concerning the content of the written documentation.
(6) Respondents shall not discuss the requirements of the statement of work with any organization other than the State Purchasing and General Services Commission.
(7) A prebid conference shall be held on Monday, March 1, 1982, at 10 a.m. in Room 916 of the LBJ Building, 17th and San Jacinto, Austin. This conference is intended to answer any questions respondents may have concerning the statement of work.

Contact. Any private consultant interested in providing the described services should contact A. F. Glavan, chief of operations, Telecommunications Services Division, State Purchasing and General Services Commission, P.O. Box 13047, Austin, Texas 78711, (512) 475-5421, for a statement of work.

Issued in Austin, Texas, on February 5, 1982.

TRD-821265 Horner A. Foerster Executive Director State Purchasing and General Services Commission

Filed: February 9, 1982, 9:41 a.m.
For further information, please call (512) 475-5986.

Office of the Secretary of State
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Correction of Error

The numbering of the issues in Volume 7 of the Texas Register is incorrect as of the January 26, 1982, issue. That issue, labeled Number 6, should have been labeled Number 7. Subsequent issues should be labeled as follows:

February 2, 1982—Number 8
February 5, 1982—Number 9
February 9, 1982—Number 10
February 12, 1982—Number 11

With this issue, February 16, 1982, the numbering of Volume 7 is correct.
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For more information please contact:

**In eastern Texas:** Gayle Carpenter
806-797-4878

**In western Texas:** Marc McKonic
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