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# Texas Register

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JUN 29 1983



## Highlights

- ★ The Criminal Justice Division of the Office of the Governor adopts on an emergency basis new rules and repeals concerning criminal justice; effective date - June 15.....page 2142
- ★ The Texas Education Agency proposes a new rule concerning Teacher Retirement System trustee appointments; proposed date of adoption - September 10.....page 2177
- ★ The Board of Tax Assessor Examiners proposes a new rule concerning a code of ethics for property tax professionals; earliest possible date of adoption - July 25 ..... page 2192

# How To Use the Texas Register

## Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1983 with the exception of January 25, March 8, April 26, and November 29, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

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

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

Specific explanations on the contents of each section can be found on the beginning page of the section. The division also publishes 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 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: page 2 in the lower left-hand corner of this page is written: "8 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 8 TexReg 3"

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

## 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 §27.15:

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

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 10, December 1982

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As required by Texas Civil Statutes, Article 6252-13a, §6, the *Register* publishes executive orders issued by the Governor of Texas. Appointments made and proclamations issued by the governor are also published. Appointments are published in chronological order.

Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 475-3021.

# The Governor

## Appointments Made May 18

### State Highway and Public Transportation Commission

To be chairman for a term to continue during the term of service of this governor pursuant to Texas Civil Statutes, Article 6664:

Robert C. Lanier  
1907 River Oaks Boulevard  
Houston, Texas 77019

Mr. Lanier is replacing Robert H. Dedman of Dallas, as chairman.

Issued in Austin, Texas, on May 18, 1983.

TRD-834422      Mark White  
Governor of Texas

### National Conference of States on Building Codes and Standards

To be the Texas delegate for a term to continue during the term of office of this governor:

John Philip Steele  
Director of Manufactured Housing  
Texas Department of Labor and Standards  
P.O. Box 12157  
Austin, Texas 78711  
(512) 475-5712

Mr. Steele will be replacing W. Roy Fewell of Austin.

Issued in Austin, Texas, on May 18, 1983.

TRD-834423      Mark White  
Governor of Texas

## Appointment Made May 19

### 52nd Judicial District

To be district attorney, 52nd Judicial District, Coryell County, until the next general election and until his successor shall be duly elected and qualified:

Phillip Harvey Zeigler  
309 South 10th Street  
Gatesville, Texas 76528

Mr. Zeigler is replacing Bobby L. Cummings of Gatesville, who resigned.

Issued in Austin, Texas, on May 19, 1983.

TRD-834424      Mark White  
Governor of Texas

## Appointment Made May 25

### Credit Union Commission

For a term to expire February 15, 1989:

Ada Williams  
1636 Indian Summer Trail  
Dallas, Texas 75241

Ms. Williams is replacing Charles A. Hallmark of Houston.

Issued in Austin, Texas, on May 25, 1983.

TRD-834425      Mark White  
Governor of Texas

## Executive Order MW-9

WHEREAS, the Federal Job Training Partnership Act of 1982, (Public Law 97-300), makes available funding for job training and retraining of the unemployed and the economically disadvantaged; and

WHEREAS, the Job Training Partnership Act (JTPA) of 1982 aforementioned authorizes the governor to designate sub-state service delivery areas (SDAs) each of which

- (1) is comprised of one or more units of general government;
- (2) will promote effective delivery of job training services; and
- (3) is consistent with labor market areas or standard metropolitan areas or is consistent with areas in which related services are provided under other state or federal programs.

WHEREAS, the governor has established the following criteria to be used in designating service delivery areas where such criteria is not in conflict with the federal Act.

- (1) The boundaries of an SDA should encompass one or more complete labor market areas.
- (2) The boundaries of an SDA should conform to the boundaries of other state and federal programs providing related services
- (3) The boundaries of an SDA should build upon existing job training systems having boundaries of one or more existing prime sponsors or program contractor areas wholly within the SDA
- (4) The total number of SDAs should be minimized in order to increase administrative efficiency and enhance program effectiveness
- (5) The SDA should be large enough to qualify for a formula allocation sufficient to administer a viable local job training program; and

WHEREAS, the State Job Training Coordinating Council (state council), after holding a public hearing, considered all requests for SDA designations and made recommendations to the governor.

NOW, THEREFORE, I, Mark White, Governor of Texas, having considered each SDA request and the recommendations of the state council, under the authority vested in me, do hereby designate the following service delivery areas for JTPA programs:

- (1) Panhandle
- (2) North Texas
- (3) North East Texas
- (4) East Texas
- (5) West Central Texas
- (6) Upper Rio Grande
- (7) South East Texas
- (8) Golden Crescent
- (9) Alamo
- (10) Texoma
- (11) Central Texas
- (12) Middle Rio Grande
- (13) City of Dallas
- (14) Balance of Dallas County
- (15) A consortium of Fort Worth, Arlington, Haltom City, Euless, and White Settlement
- (16) Balance of Tarrant County
- (17) City of Austin and Travis County
- (18) Balance of Capital Planning Region
- (19) City of Houston
- (20) Balance of Harris County
- (21) Balance of Gulf Coast Planning Region
- (22) City of Corpus and Nueces County
- (23) Balance of Coastal Bend Planning Region
- (24) Cameron County
- (25) Hidalgo and Willacy Counties
- (26) Concho Valley
- (27) Permian Basin
- (28) Brazos Valley
- (29) Deep East Texas
- (30) South Texas Planning Region
- (31) Balance of North Central Texas (14 counties) Planning Region
- (32) Heart of Texas
- (33) A consortium of the City of Lubbock, Lubbock and Garza Counties
- (34) Balance of South Plains Planning Region

This executive order shall be effective immediately and shall continue to be effective until modified or rescinded.

TRD-834429

Given under my hand this third day of June, 1983.

*Mark White*  
Governor of Texas

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

Requests for opinions, opinions, and open record decisions are summarized for publication in the *Register*.

Questions on particular submissions, or requests for copies of opinion requests should be addressed to Susan L. Garrison, Opinion Committee chairwoman, Office of the Attorney General, Supreme Court Building, Austin, Texas 78711, (512) 475-5445. Published opinions and open records decisions may be obtained by addressing a letter to the file room, fourth floor, P.O. Box 12548, Austin, Texas 78711-2548, or by telephoning (512) 475-3744. A single opinion is free; additional opinions are \$1.00 a copy.

# The Attorney General

## Requests for Opinions

**RQ-125.** Request from William H. Miller, executive director, Texas School for the Blind, Austin, concerning the following:

(1) Does the Texas Education Code, §11.061(m), authorize the Texas School for the Blind to lease its buildings, grounds, and other property to private profit making organizations?

(2) Are revenues generated by the lease appropriated for expenditure by the School for the Blind under the Texas Education Code, §11.063(c)?

TRD-834433

**RQ-126.** Request from Charles D. Travis, executive director, Texas Parks and Wildlife Department, Austin, concerning whether under Senate Bill 94, §37, which repealed numerous provisions of the Parks and Wildlife Code "effective as provided by §61.004," the repealer is applicable to provisions concerning "fur-bearing animals" regulated by the Parks and Wildlife Code, Chapter 71.

TRD-834434

**RQ-127.** Request from Jim Mapel, Brazoria County criminal district attorney, Angleton, concerning whether Brazoria County or the State of Texas is entitled to unclaimed funds in the custody of the district clerk.

TRD-834435

**RQ-128.** Request from Vernon M. Arrell, commissioner, Texas Rehabilitation Commission, Austin, concerning whether the Texas Rehabilitation Commission has

jurisdiction with regard to residents of certain facilities.

TRD-834436

**RQ-129.** Request from Mike Driscoll, county attorney, Houston, concerning whether a constable may charge the Industrial Accident Board fees for serving subpoenas issued in connection with administrative hearings.

TRD-834437

**RQ-130.** Request from Michael J. Guarino, criminal district attorney, Galveston, concerning whether the Galveston County auditor may employ deputies to discharge statutory duties regarding improvement districts.

TRD-834438

**RQ-131.** Request from Representative Gary Thompson, Austin, concerning whether an outgoing board of directors of Lavaca Hospital District may take any action after the annual election and prior to canvassing votes for the election.

TRD-834439

**RQ-132.** Request from Luther Jones, county attorney, El Paso, concerning whether a county may use excess bond funds for a water project not described in the bond issue.

TRD-834442

**RQ-133.** Request from Ron Jackson, executive director, Texas Youth Commission, Austin, concerning whether the Professional Services Procurement Act precludes an inquiry into architectural fees.

TRD-834443

**RQ-134.** Request from Gray Chamberlain, C.T.A., R.P.A., chief appraiser, Ellis County Appraisal District, Waxahachie, concerning whether tapes of hearings of an appraisal review board are excepted from disclosure.

TRD-834444

**RQ-135.** Request from Lloyd Criss, Texas House of Representatives, Austin, concerning the effect of failure to renew existence of the Texas Employment Commission.

TRD-834445

**RQ-136.** Request from Kenneth H. Ashworth, Coordinating Board, Texas College and University System, Austin, concerning whether a community college district may create a labor-management committee to conduct discussions where an individual grievance has been filed.

TRD-834505

**RQ-137.** Request from Lyndon L. Olson, Jr., chairman, State Board of Insurance, Austin, concerning whether the Texas Catastrophe Property Association is subject to the Administrative Procedure and Texas Register Act.

TRD-834506

**RQ-138.** Request from John W. Davidson of the firm Sawtelle, Goode, Davidson, & Troilo, San Antonio, concerning whether documents relating to the settlement of a lawsuit against a city public utilities board are excepted under the Open Records Act.

TRD-834507

**RQ-139.** Request from William H. Miller, executive director, Texas School for the Blind, Austin, concerning the personnel policies of the Texas School for the Blind.

TRD-834508

**RQ-140.** Request from Elof H. Soderberg, general manager, Lower Colorado River Authority, Austin, concerning the conflict of interest of the board members of the Lower Colorado River Authority.

TRD-834509

**RQ-141.** Request from Sam D. Millsap, Jr., Bexar County district attorney, San Antonio, concerning the constitutionality of Texas Rules of Civil Procedure Rule 747a.

TRD-834510

## Opinions

**JM-32 (RQ-83).** Request from Gibson D. Lewis, Speaker of the House, Texas House of Representatives, Austin, concerning whether a legislator may accept a teaching position at a public institution of higher education if the compensation paid therefor is derived from private funds donated to the university.

**Summary of Decision.** A member of the Texas House of Representatives may volunteer his services as a part-time instructor at a state-funded university without violating the Texas Constitution, Article XVI, §40.

TRD-834446

**JM-33 (RQ-74).** Request from Ed Emmett, chairman, Committee on Cultural and Historical Resources, Texas House of Representatives, Austin, concerning the constitutionality of provisions in Senate Bill 427, relating to race, creed, sex, religion, national origin, and geographical distribution of appointees to a state commission.

**Summary of Opinion.** The legislature may not, consistent with the Texas Constitution, Article I, §3a and §4, require consideration to be given to matters of sex, race, color, creed, or national origin in making appointments to the State Library and Archives Commission but is not prohibited from requiring that consideration be given to geographical distribution.

TRD-834447

**JM-34 (RQ-7).** Request from Clayton T. Garrison, executive director, Employees Retirement System of Texas, Austin, concerning the entitlement of a retired judge to continued retirement benefits when he

has been elected to serve a regular term as district judge.

**Summary of Opinion.** A retirement annuitant of the Judicial Retirement System who is elected or appointed to a court included in that system is entitled to the emoluments of the office to which he is elected or appointed but is not entitled to also receive a retirement annuity during the time that he holds the office. On resuming membership in the Judicial Retirement System while holding the office of a justice or judge included in the system, a person who formerly was a retired annuitant acquires again all the rights and obligations of that membership and is entitled to retire again with his retirement benefits and option unaffected by his previous retirement.

TRD-834448

**JM-35 (RQ-951).** Request from L. J. Lacina, Jr., Washington County attorney, Brenham, concerning whether a junior college district must provide funds to operate the county appraisal district pursuant to the Tax Code, §6.06.

**Summary of Opinion.** The Junior College District of Washington County, i.e. Blinn College, is required to contribute monies in accordance with the allocation formula set forth in the Tax Code, §6.06, to defray costs incurred by the appraisal district incident to its becoming operational on January 1, 1982, as required by law. The Junior College District of Washington County was empowered by statute to compel the county to assess and collect its taxes for it and was obligated to compensate the county for such services in 1980 and 1981. The county was required to provide such services even though it, in turn, contracted for such services with the appraisal district. The Junior College District of Washington County is required to compensate the appraisal district for appraisal services performed by the appraisal district after January 1, 1982, as required by law in accordance with the Tax Code, §6.06, unless an alternative allocation formula is adopted pursuant to §6.061.

TRD-834449

**JM-36 (RQ-55).** Request from Carl A. Parker, chairman, Senate Education Committee, Texas State Senate, Austin, concerning whether student evaluations of faculty members are open to the public if they are used to make promotion and salary decisions.

**Summary of Opinion.** Student evaluations of faculty members may be withheld from the public under the Open Records Act, §3(a)(14), if they identify individual students. Such evaluations may also be

withheld as intra-agency memoranda pursuant to §3(a)(11) under certain circumstances.

TRD-834450

**JM-37 (RQ-92).** Request from Carl Parker, chairman, Senate Education Committee, Texas State Senate, Austin, concerning whether oral history interviews acquired by an institution of higher education are public information under the Open Records Act.

**Summary of Opinion.** Oral history interviews acquired by an institution of higher education in connection with its official activities would as a general matter be available to the public under the Open Records Act. Certain portions of some interviews, or some interviews in their entirety, might be excepted from public disclosure if they fall within exceptions to the Open Records Act.

TRD-834451

## Open Records Decisions

**ORD-378 (RQ-81).** Request from Larry D. Toomey, first assistant city attorney, City of Amarillo, concerning whether the police department of the City of Amarillo may withhold from public disclosure photographs of accident scenes in which drunk drivers have been involved.

**Summary of Decision.** The City of Amarillo received a request under the Open Records Act for photographs of accident scenes involving drunk drivers. These photographs may be withheld in open investigatory police files. Such photographs may be withheld in closed files when the police department can demonstrate how and why their release would unduly interfere with law enforcement.

TRD-834452

**ORD-379 (RQ-65).** Request from Mike Driscoll, Harris County attorney, Houston, concerning whether a constable must provide access to files maintained in connection with writs of execution.

**Summary of Decision.** A constable in Harris County received a request under the Open Records Act for files maintained in connection with writs of execution. The files in question were not records of the judiciary and therefore not excluded from the coverage of the Open Records Act. None of the information relating to sales under writ of execution was excepted from public disclosure under the Open Records Act, §3(a)(4).

The constable was also requested to answer some factual questions, in addition to producing records. The Open Records Act does not require him to answer questions, and he may disregard that inquiry.

TRD-834453

**ORD-380 (RQ-32).** Request from Frank Kudlaty, Ed.D., superintendent, Waco Independent School District, Waco, concerning whether an opinion prepared by the Texas Association of School Boards' attorney for a school district is open to the public under the Open Records Act.

**Summary of Decision.** The Waco Independent School District received a request under the Open Records Act for a legal opinion prepared for it by a staff attorney of the Texas Association of School Boards. The letter containing the legal opinion was exempted from public disclosure under the Open Records Act, §3(a)(1), as information deemed confidential by the attorney-client privilege.

TRD-834454

**ORD-381 (RQ-47).** Request from Jonathan Day of the firm Mayor, Day, and Caldwell, Houston, concerning whether records of the Metropolitan Transit Authority of Harris County are available under the Open Records Act.

**Summary of Decision.** The attorney for the Metropolitan Transit Authority of Harris County received a request under the Open Records Act for copies of bids submitted by a corporation to which the con-

tract was awarded. One of the unsuccessful bidders filed suit to enjoin the Metro from entering into this contract. The portions of the bid which had not been previously released to the public are exempted from disclosure under the Open Records Act, §3(a)(3), as information relating to litigation.

TRD-834455

**ORD-382 (RQ-90).** Request from Leila G. Alvarado, general counsel, Dallas Housing Authority, Dallas, concerning whether records pertaining to a proposed sale of property by the Dallas Housing Authority are available to the public under the Open Records Act.

**Summary of Decision.** The Dallas Housing Authority received a request under the Open Records Act for information pertaining to the proposed sale of the Washington Place Public Housing Unit. The information in question was exempted from public disclosure by the Open Records Act, §3(a)(3), the litigation exception. The allegations in the lawsuit were numerous and covered a wide range of legal issues. It was highly likely that all of the requested information would be implicated in the lawsuit, and therefore it related to that litigation within the meaning of §3(a)(3).

TRD-834456

**ORD-383 (RQ-12).** Request from Mark G. Goode, engineer-director, State Department of Highways and Public Transportation, Austin, concerning the availability of records concerning a citizen's complaint

about highway design and highway department employees.

**Summary of Decision.** The State Department of Highways and Public Transportation received a request under the Open Records Act for a report concerning safety factors relating to a highway and performance of department personnel, as well as copies of statements of policy and rules of procedure or instructions to staff made as a result of the investigation reflected in the report. The information in question is exempted from public disclosure by §3(a)(3), the litigation exception.

TRD-834457

**ORD-384 (RQ-96).** Request from Robert Bernstein, M.D., FACP, commissioner, Texas Department of Health, Austin, concerning whether certain ambulance activity reports are available to the public under the Open Records Act.

**Summary of Decision.** The Texas Department of Health received a request under the Open Records Act for ambulance activity reports filed with the department by the Kerr County Emergency Medical Service. The portions of the reports containing information about illnesses or injuries of the persons transported are confidential within the meaning of the Open Records Act, §3(a)(1). Texas Civil Statutes, Article 4447d, makes confidential reports relating to the condition of any person to be used in any study for the purpose of reducing morbidity or mortality. These reports are confidential within Texas Civil Statutes, Article 4447d.

TRD-834458

# Emergency Rules

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

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 1. ADMINISTRATION Part I. Office of the Governor Chapter 3. Criminal Justice Division Subchapter A. Criminal Justice

The Criminal Justice Division of the Office of the Governor adopts on an emergency basis new rules and repeals concerning criminal justice.

The Criminal Justice Division (CJD) was created by Acts of the 67th Legislature, Texas Civil Statutes, Article 4413(32a), (6)-(8), and the Code of Criminal Procedure, Article 1083, was amended. The legislature further appropriated the funds collected under the provisions of the Code of Criminal Procedure, Article 1083, to the CJD for the funding of grants on and after September 1, 1981. Also effective September 1, 1981, rules were established for operation of the CJD in compliance with statutory requirements. These rules have not been revised since permanent adoption and publication in the January 8, 1982, issue of the *Texas Register* (7 TexReg 66).

It is imperative that grantee applicants be fully aware of new rules which reflect changes in the CJD structure, administrative and operating procedures, and necessary revisions in CJD procedures as a result of the standards developed under the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 4413(32a). Adherence to these standards by state agencies when administering grant funds is mandated by the Act. The new rules adopted

effective June 15, 1983, include extensive revisions in compliance with the statutory requirements. Consequently, the division simultaneously repeals old sections under which it operated and adopts new sections as replacements.

## Eligible Applicants and General Project Requirements

1 TAC §§3.61-3.72

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

- §3.61. *Local Applicants.*
- §3.62. *State Applicants.*
- §3.63. *Training, Education, and Information Projects.*
- §3.64. *Equipment.*
- §3.65. *Personnel Limitations.*
- §3.66. *Construction.*
- §3.67. *Uniform Crime Reporting.*
- §3.68. *Professional or Consultant Fees.*
- §3.69. *Consultant Procurement.*
- §3.70. *Travel.*

§3.71. *Project Income.*

§3.72. *Indirect Cost.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834362      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

1 TAC §53.61-3.86

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a) (11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.61. *Local Applicants.* Local general purpose units of government (counties or incorporated cities) are eligible to apply to the Office of the Governor, Criminal Justice Division, for projects to be funded from the Criminal Justice Planning Fund or from available federal criminal or juvenile justice funds. The application must be signed by the appropriate city or county officials. School districts and regional education service centers are eligible to apply to the Criminal Justice Division (CJD) for projects to be funded from criminal justice funds. Councils of government are eligible, if included in the program description as an eligible applicant, to apply to the CJD on behalf of a combination of counties or incorporated cities for projects to be funded from criminal justice funds.

§3.62. *State Applicants.* Recognizing the limited amount of criminal justice funds available for statewide programs, applications shall be considered based on merit and positive impact on the criminal justice system. Eligible applicants shall include, but shall not be limited to, state agencies with or without appropriations, universities and colleges, and statewide private nonprofit organizations.

§3.63. *Training, Education, and Information Projects.* In addition to state agencies, the following entities are eligible to apply to the Criminal Justice Division for criminal justice training, education, and information projects to be funded from criminal justice funds: nonprofit organizations for statewide projects, councils of government, universities, and colleges.

§3.64. *Equipment.*

(a) Beginning with fiscal year 1984 grants, grantee/applicants must provide a minimum of 50% of the cost of any "equipment purchases only" grants. Equipment necessary for an operational grant will be subject to a 25% cash match requirement. New state agencies with no state appropriations, programs affiliated with state universities for administrative purposes, and statewide private nonprofit corporations are excepted.

(b) Authorization by the Criminal Justice Division for equipment purchases for operational grants will be based on the grantee's demonstration that the requested equipment is necessary and essential to the successful operation of the grant project.

§3.65. *Obligation of Grant Funds.* Grant funds may not, without advance written approval by the Office of the Governor, be obligated prior to the effective date or subsequent to the termination date of the grant period. Obligations must be related to goods or services provided and utilized for approved purposes.

§3.66. *Title to Property.* Title to property acquired wholly or partly with grant project funds in accordance with approved budgets shall vest in the grantee, subject to divestment at the option of the Office of the Governor or the federal authorities (to the extent federal funds contributed to the acquisition thereof) exercisable on notice within 180 days after the end of the grant period or termination of the grant. The grantee shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of grantor interest.

§3.67. *Use of Property for Criminal Justice Purposes.* All property acquired with grant project funds or donated property representing a grantee contribution shall be committed to use for criminal justice purposes throughout its useful life.

§3.68. *Personnel Limitations.*

(a) No grant will be made to supplement salaries for existing positions.

(b) Salaries for funded positions shall comply with state, city, or county classification systems.

§3.69. *Construction.*

(a) No grant will be made for construction with the exception of regional juvenile detention centers.

(b) The Criminal Justice Division (CJD) will consider funding participation in the first \$25,000 of eligible renovation costs and the first \$100,000 of eligible construction or renovation costs for a regional juvenile detention center. The local grantee/applicant must match CJD funds on a 50-50 basis.

§3.70. *Uniform Crime Reporting.* Each criminal juvenile justice agency receiving funds from the Criminal Justice Division must comply fully with reporting requirements of the Texas Uniform Crime Reporting Program, Texas Department of Public Safety.

§3.71. *Criminal Justice Planning Fund.* Each agency receiving funds from the Criminal Justice Division shall, if applicable, comply fully with the requirements for collecting, reporting, and depositing monies to the Criminal Justice Planning Fund as stated in the Texas Code of Criminal Justice Planning Fund as stated in the Texas Code of Criminal Procedures, Article 1083.

§3.72. *Professional or Consultant Fees.* Consultant fees for an individual normally will not exceed \$135 per day or \$16.88 per hour. Under normal circumstances, up to \$200 per day may be paid to individual consultants. Any amounts exceeding \$135 per day must have prior Criminal Justice Division approval. The rate should be

based on the prevailing market rate for the type of work being performed. Fees for consulting firms and other agencies shall be determined in accordance with Office of Management and Budget Circular A-102, Attachment O.

§3.73. *Consultant Procurement.* Potential applicants requiring consulting fees in excess of \$5,000 must provide in the grant application a copy of the request for proposals, timetable for the procurement process, criteria for selection, method of selection to be used, and sample grading sheet. Award of notification by the applicant to the successful consultant must be withheld until, or conditioned upon, applicant's receipt of Criminal Justice Division approval of the procurement process.

§3.74. *Travel.*

(a) Local grantee's mileage and subsistence rates shall be limited to local grantee's unit of government travel and subsistence policy.

(b) State agencies and nonprofit grantees shall be governed by the provisions of the current appropriations bill on travel and subsistence.

(c) In regional law enforcement training projects, trainee travel and subsistence while attending academy courses within the region will not be funded. Trainee travel and subsistence while attending statewide or out-of-state courses may be funded, but shall not exceed the amount provided for in the state appropriations act.

§3.75. *Project Income.* Project related income earned during the grant period shall be retained by the grantee and deducted from the total project cost for the purpose of determining the net cost on which the Criminal Justice Division share of costs shall be based or shall be used by the grantee in accordance with the provisions of the grant. Project related income includes all funds seized under the provisions of law and all property seized under the provisions of law which has been converted into funds. Property seized under the provisions of law must be used for law enforcement purposes by the seizing agency or converted into funds for use in law enforcement.

§3.76. *Indirect Cost.* Criminal Justice Division funding of indirect cost will be allowed only to the maximum amount indicated in the schedule titled "Indirect Cost Computation Table," which may be reviewed at the Criminal Justice Division, Sam Houston Building, 201 East 14th Street, Austin. Indirect cost is not allowable unless specifically approved in the original grant application or requested and approved by a budget adjustment prior to the end of the grant. Grantees with cost allocation plans developed in accordance with Office of Management and Budget Circular A-87 are excepted. Equipment costs in excess of \$50,000 shall not be included in determining total project cost in calculating indirect cost from the schedule.

§3.77. *Maintenance of Records.* Financial records, supporting documents, statistical records, required reports, and all other records pertinent to the grant project or any component part thereof shall be retained for three years from the date of the grantee's submission of the final expenditure report, except that records for nonexpendable property acquired with state and/or federal grant funds shall be retained for three years after final

disposition. The records shall be retained beyond the three-year period if audit findings have not been resolved. Provisions to this effect must be included in all contracts, subcontracts, or other arrangements for implementation of this project or any component thereof.

§3.78. *Publications.* Grantees shall comply with Texas Civil Statutes, Article 4413(33a), Subsection 5-8, in the same manner as state agencies.

§3.79. *Copyrights.* Where activities supported by grant funds produce original books, manuals, films, computer programs (including executable computer programs and supporting data in any form), or other copyrightable material, the grantee may copyright such, but the Office of the Governor reserves a royalty-free, nonexclusive, and irrevocable license to produce, publish, and use such materials and to authorize others to do so. Disposition of royalties will be determined by the Office of the Governor. Provisions appropriate to effectuate the purposes of this condition must be in all employment contracts, consultants' agreements, and other contracts.

§3.80. *Patents.* If any discovery or invention arises or is developed in the course of or as a result of work performed under any Criminal Justice Division (CJD) grant, by the grantee or contractor, the grantee shall refer the discovery or invention to the Office of the Governor, which will determine whether or not patent protection will be sought; how any rights therein, including patent rights, will be disposed of and administered; and the need for other action required to protect the public interest in work supported with state and/or federal funds, all in accordance with the presidential memorandum of October 10, 1963, on government patent policy. In the final narrative report, the grantee shall identify any discovery or invention arising under or developed in the course of or as a result of work performed under any CJD grant or shall certify that there are no such inventions or discoveries.

§3.81. *Allowable Costs.* The allowability of costs incurred under any grant shall be determined in accordance with the general principles of allowability and standards for selected cost items set forth in Federal Management Circular 74-4, "Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments," Circular 74-7, "Uniform Administrative Requirements for Grants-In-Aid to State and Local Governments," and Federal Management Circular 73-8, "Principles in Determining Costs Applicable to Research and Development Under Grants and Contracts with Educational Institutions."

§3.82. *Expenses Not Allowable.* Grant funds may not be expended for items not part of the approved budget or subsequently approved by the Office of the Governor; purchase of land and/or payment of real estate mortgages or taxes; construction of buildings or implementation of improvements thereon unless specifically provided for in the grant agreement; entertainment, amusements, or social activities, or incidental costs related thereto; and purchase of automobiles or other automotive vehicles unless provided for in the grant agreement.



**§3.83. Proposed Costs.** Grant funds may not be committed or expended for costs of preparing proposals without prior approval from the Office of the Governor.

**§3.84. Third Party Participation.** No contract or agreement not incorporated in the approved proposal or approved in advance by the Office of the Governor may be entered into by the grantee for execution of project activities or provision of services to a grant project (other than purchase of supplies or standard commercial or maintenance services less than \$5,000). Any such arrangements shall provide that the grantee will retain ultimate control and responsibility for the grant project and that the contractor shall be bound by these grant conditions any any other requirements applicable to the grantee in the conduct of the project.

**§3.85. Nonsupplanting Requirement.** Federal funds made available under Public Law 93-415, as amended, or state funds made available under Texas Civil Statutes, Article 4413(32a), cannot be used to supplant state or local funds.

**§3.86. Nonlobbying Certification.** Each grantee shall certify that none of the grant funds, regardless of their source or character, including local cash assumption of cost funds, shall be used in any manner to influence the outcome of any election or the passage or defeat of any legislative measure. A finding that a grantee has violated this certification shall result in the immediate termination of funding of the project, and the grantee shall not be eligible for future funding from the Office of the Governor, Criminal Justice Division.

Issued in Austin, Texas, on June 15, 1983.

TRD-834363      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

### **Local Project Development and Implementation**

**1 TAC §§3.91, 3.92, 3.95, 3.96, 3.99, 3.100-3.102, 3.105, 3.107-3.109**

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules and procedures as may be necessary.

**§3.91. Applicability.**

**§3.92. Inclusion in Regional Plan.**

**§3.95. Multiregion Projects.**

**§3.96. Multiagency Organized Crime Control Projects.**

**§3.99. Administrative Requirements for Submission of Regional Plans**

**§3.100. Administrative Requirements for Presentation to Criminal Justice Division Advisory Board.**

**§3.101. Administrative Requirements for Project Implementation**

**§3.102. Revisions of Grant Application.**

**§3.105. Consideration for State Advisory Board Recommendation.**

**§3.107. Implementation of Projects.**

**§3.108. Cancellation of Projects.**

**§3.109. Contracts.**

Issued in Austin, Texas, on June 15, 1983.

TRD-834364      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules and procedures as may be necessary.

**§3.91. Applicability.** This rule is applicable to all eligible local entities applying for funds from the Governor's Office, Criminal Justice Division (CJD).

**§3.92. Inclusion in Regional Plan.** To be eligible for Criminal Justice Division funding, a local project must be included in the appropriate regional council's annual criminal justice plan, or must comply with §§3.211-3.216 of this title (relating to Procedures for Application for Grants for Supplemental Funds)

**§3.95. Multiregion Projects.** In order to receive Criminal Justice Division funding, proposed projects that serve governments in more than one region must be included in the plan of each participating region and prioritized within the scope of each region's RBE. Each region's share of the costs of the project shall be determined by percentage, which shall be based on the region's population served by the project relative to the total population served by the project.

**§3.96. Multiagency Organized Crime Control Projects.** Multiagency organized crime control projects make critical contributions to the statewide effort to control organized crime and narcotics trafficking. Any existing and newly created multiagency organized crime control projects approved by the governor may be funded from state and/or local Criminal Justice Planning funds.

**§3.99. Administrative Requirements for Submission of Regional Plans.** Submission of the regional plan must be accompanied by:

(1) an executed grant application which complies with the Uniform Grant and Contract Management Standards, with original signatures for each proposed project included in the regional plan.

(2) a copy of the regional advisory committee resolution or minutes recommending submission of the regional plan, and

(3) a copy of regional council's executive committee resolution or minutes authorizing submission of the regional plan. If the project is a continuation project, a copy of the latest grantee progress report shall be included with the application.

**§3.100. Administrative Requirements for Presentation to Criminal Justice Division Advisory Board.** Prior to consideration by the Criminal Justice Division Advisory Board, an applicant must submit to the Criminal Justice Division, Attention: Grant Administration:

(1) a review of and comments on each project from the appropriate clearinghouse; and

(2) the full names, titles, addresses, and telephone numbers of the authorized official, financial officer, and project director of each grant submitted for consideration.

**§3.101. Administrative Requirements for Project Implementation.** At least 60 days preceding the beginning date of each project, the participating local grantee must submit to the Criminal Justice Division (CJD) a resolution from the local governing body endorsing the project. Within 30 days after issuance of the grant award, the grantee must accept in writing on the grantee's acceptance notice, the grant award, and any special conditions imposed by the CJD.

**§3.102. Revisions of Grant Application.** The Criminal Justice Division, before issuing a statement of grant award, may require revisions to the programmatic or budgetary portions of the grant application to comply with all state and federal guidelines, rules, regulations, appropriate clearinghouse review and comments, advisory board or executive committee resolutions, and the applicable Criminal Justice Plan for Texas.

**§3.105. Consideration for State Advisory Board Recommendation.** The Criminal Justice Division Advisory Board will consider grant applications recommended by the Criminal Justice Division staff for approval or disapproval of the Executive Funding Committee.

**§3.107. Implementation of Projects.**

(a) All projects must be implemented (awarded) by Criminal Justice Division (CJD) within 45 days of the designated start date as indicated in the grant period, but no later than August 31 of the budget year. If a project is not awarded within this time frame due to administrative deficiencies by the applicant/grantee, the project shall be deleted from the list of approved projects, and the funds shall revert to the CJD for redistribution in accordance with §§3.211-3.216 of this title (relating to Procedures for Applications for Grants for Supplemental Funds). A project cannot begin earlier than September 1, nor later than August 31, of the budget year from which it is funded. Any exceptions to this rule will require CJD review and approval.

(b) If a grantee does not commence project operations within 45 days after grant award, the CJD may withhold funds in accordance with §§3.271-3.274 of this title (relating to Withholding Funds for Grantees). Any exceptions to this rule will require CJD review and approval.

**§3.108. Cancellation of Projects.** The participating local grantee shall notify the Criminal Justice Division (CJD), Attention: Grant Administration, by letter of cancellation of any approved project immediately on the determination to cancel the project. The project shall be dropped from the list of approved projects and the project's funds shall revert to the CJD for redistribution throughout the state for rebudgeted project requests in accordance with §§3.211-3.216 of this title (relating to Procedures for Applications for Grants for Supplemental Funds).

**§3.109. Contracts.** Contracts in excess of \$5,000 must be approved in writing by the Criminal Justice Division prior to the release of any funds under the contracts.

Issued in Austin, Texas, on June 15, 1983

TRD 834365

Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

## State Criminal Justice Project Development and Implementation

1 TAC §§3.131, 3.132, 3.135, 3.136, 3.138,  
3.141, 3.143-3.145

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

**§3.131. Applicability.**

**§3.132. Inclusion in State Agency Plan.**

**§3.135. Administrative Requirements for Submission of State Agency Plans.**

**§3.136. Administrative Requirements for Presentation to State Criminal Justice Division Advisory Board.**

**§3.138. Revisions of Grant Application.**

**§3.141. Consideration for State Advisory Board Recommendation.**

**§3.143. Implementation of Projects.**

**§3.144. Cancellation of Projects.**

**§3.145. Contracts.**

Issued in Austin, Texas, on June 15, 1983.

TRD-834366      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

**§3.131. Applicability.** This rule is applicable to all entities applying for funds for projects of statewide significance from the Office of the Governor, Criminal Justice Division. For the purposes of this rule, all applicants for statewide projects will be referred to as state agencies.

**§3.132. Inclusion in State Agency Plan.** To be eligible for Criminal Justice Division funding, a state project must be included in the state agency's annual criminal justice plan or comply with §§3.211-3.216 of this title (relating to Procedures for Applications for Grants for Supplemental Funds).

**§3.135. Administrative Requirements for Submission of State Agency Plans.** Submission of the state agency plan must be accompanied by:

(1) an executed grant application which complies with the Uniform Grant and Contract Management Standards, with original signatures for each proposed project included in the state agency plan; and

(2) a letter from the administrative head of the agency approving the contents and submission of the plan.

**§3.136. Administrative Requirements for Presentation to State Criminal Justice Division Advisory Board.** Prior to consideration by the State Criminal Justice Division Advisory Board, an applicant must submit to the Criminal Justice Division, attention: Grant Administration:

(1) a review of and comments on each project from the appropriate clearinghouse; and

(2) the full names, titles, addresses, and telephone numbers for the authorized official, financial officer, and project director of each grant submitted for consideration.

**§3.138. Revisions of Grant Application.** The Criminal Justice Division, before issuing a statement of grant award, may require revisions to the programmatic or budgetary portions of the grant application to comply with all state and federal guidelines, rules, regulations, appropriate clearinghouse review and comments, advisory board or executive committee resolutions, and the applicable Criminal Justice Plan for Texas.

**§3.141. Consideration for State Advisory Board Recommendation.** The Criminal Justice Division Advisory Board will consider all eligible grant applications recommended by the Criminal Justice Division staff for recommendation for approval or disapproval of the Executive Funding Committee.

**§3.143. Implementation of Projects.**

(a) All projects must be implemented (awarded) by the Criminal Justice Division (CJD) within 45 days of the designated start dates as indicated in the grant period, but no later than August 31 of the budget year. If a project is not awarded within this time frame due to administrative deficiencies by the applicant/grantee, the project shall be deleted from the list of approved projects, and the funds shall revert to the CJD for redistribution in accordance with §§3.211-3.216 of this title (relating to Procedures for Applications for Grants for Supplemental Funds). A project cannot begin earlier than September 1, nor later than August 31, of the budget year from which it is funded. Any exceptions to this rule will require CJD review and approval.

(b) If a grantee does not commence project operations within 45 days after grant award, the CJD may withhold funds in accordance with §§3.271-3.274 of this title (relating to Withholding Funds from Grantees).

**§3.144. Cancellation of Projects.** The participating state agency shall notify the Criminal Justice Division, Attention: Grant Administration, by letter of cancellation of any approved project immediately upon the determination to cancel the project. The project shall be dropped from the list of approved projects and the project's funds shall revert to the Criminal Justice Division for redistribution in accordance with §§3.211-3.216 of this title (relating to Procedures for Applications for Grants for Supplemental Funds).

**§3.145. Contracts.** Contracts in excess of \$5,000 must be approved in writing by the Criminal Justice Division prior to the release of any funds under the contracts.

Issued in Austin, Texas, on June 15, 1983.

TRD-834367      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

**Continuation Funding Policy for Local  
Projects**

1 TAC §§3.171, 3.172, 3.174-3.176

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(321), 6(a)(11).

which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

- §3.171. *Applicability.*
- §3.172. *Criminal Justice Funds.*
- §3.174. *Base for New Projects.*
- §3.175. *Level of Funding for New Projects.*
- §3.176. *Local Commitment.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834368      Gilbert Pena  
 Executive Director  
 Criminal Justice Division  
 Office of the Governor

Effective date: June 15, 1983  
 Expiration date: October 13, 1983  
 For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a) (11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

- §3.171. *Applicability.*
  - (a) This policy applies to local units of government, independent school districts, and regional education service centers.
  - (b) This policy does not apply to a local unit of government which is the applicant for a multiagency organized crime control project or an adult or juvenile purchase of services project.
  - (c) This policy does not apply to regional councils of government.
  - (d) This policy does not apply to projects solely for the purchase of equipment.

§3.172. *Criminal Justice Funds.* Criminal justice funds include state criminal justice planning funds and any federal funds for criminal or juvenile justice purposes.

§3.174. *Base for New Projects.* The base for computation of the criminal justice funds and local cash contribution for the second through the fifth year of new projects shall be the first year of the Office of the Governor, Criminal Justice Division (CJD) funding with the following modifications:

- (1) equipment costs funded by the CJD shall be deducted from the CJD amount before the calculation of subsequent year funding;
- (2) documented increases in project cost that required CJD funding may be allowed and the criminal justice funds and local cash contribution shall share in this cost at their respective percentages for the year of funding;
- (3) local cash contributions may include costs for audit of projects; and
- (4) allowable CJD funded indirect costs are excluded from base computation.

§3.175. *Level of Funding for New Projects.* Level of funding for projects receiving Criminal Justice Division

(CJD) funding will be at the following ratios of maximum criminal justice funds and minimum local cash contributions (CJD funded indirect costs excluded):

Year	CJD Funds (maximum)	Local Cash Contribution (minimum)
First	100%	0%
Second	80%	20%
Third	60%	40%
Fourth	40%	60%
Fifth	20%	80%

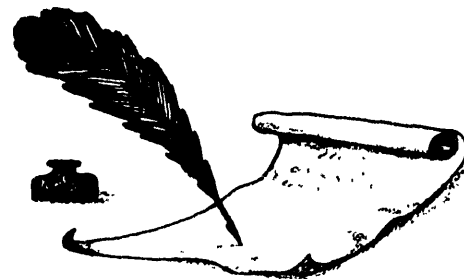
Projects which have been previously funded through federal or other private sources may apply for CJD funding as continuation grants. CJD will assume funding of the project at a ratio level commensurate with the project's funding history.

§3.176. *Local Commitment.* Any projects by their nature or design to be funded for one year only, including such projects as equipment grants, and approved as one-year projects by the governing body of the regional council of government and the executive director of the Criminal Justice Division, will not be subject to §3.175 of this title (relating to Level of Funding for New Projects).

Issued in Austin, Texas, on June 15, 1983.

TRD-834369      Gilbert Pena  
 Executive Director  
 Criminal Justice Division  
 Office of the Governor

Effective date: June 15, 1983  
 Expiration date: October 13, 1983  
 For further information, please call (512) 475-4444.



**Funding for the Purchase, Lease, Operation, and Maintenance of Vehicles**

1 TAC §§3.201, 3.202, 3.204

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Of-

Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

- §3.201. *Funding for Vehicles: Approved.*
- §3.202. *Funding for Vehicles: Not Approved.*
- §3.204. *Individual Travel and Per Diem Expense.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834370      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

**1 TAC §3.201, §3.202**

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(1)), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.201. *Funding for Vehicles.* Funding for the lease of vehicles is limited to undercover, unmarked, or other vehicles normally associated with organized crime or other specialized units with similar functions. Funding for purchase of vehicles is limited to organized crime control units and narcotics units only.

§3.202. *Guidelines for Funding.* The Office of the Governor, Criminal Justice Division, will consider funding the maintenance and operation of the vehicles, when used for grant purposes, according to the following guidelines:

- (1) at actual documented cost when reliable records are systematically kept for that purpose;
- (2) reimbursement for use of personal vehicle is permitted on a properly documented mileage basis at established grantee rates or state rates in the absence of established grantee rates.

Issued in Austin, Texas, on June 15, 1983.

TRD-834371      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

**Procedures for Applications for Grants for Supplemental Funds**

**1 TAC §§3.211-3.213, 3.215**

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th*

*Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

- §3.211. *Application for Rebudgeted Funds.*
- §3.212. *Submission of Application.*
- §3.213. *Acceptance for Review.*
- §3.215. *Decision on Application.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834372      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.211. *Application for Supplemental Funds.* An application for a grant for supplemental funds will not be accepted for review by the Office of the Governor, Criminal Justice Division, unless it has been approved for submission as provided for by §§3.212-3.216 of this title (relating to Procedures for Applications for Grants for Supplemental Funds).

§3.212. *Submission of Application.* An application for supplemental funds must be submitted on a grant application form and shall be addressed to Criminal Justice Division, Attention: Planning, Evaluation, and Program Audit. Local applicants for supplemental funds also must submit a copy of the grant application to the appropriate regional planning council.

§3.213. *Acceptance for Review.* Acceptance of an application for supplemental funds for review by the Criminal Justice Division will not imply any commitment to provide funding for the proposed project.

§3.215. *Decision on Application.* A decision by the executive director to consider the proposal for funding shall not be construed as a waiver of any requirement or procedure relating to processing of the application. If the executive director determines that the project should be considered for funding, then a more intensive staff review will be conducted to identify any administrative, programmatic, or financial deficiencies requiring resolution prior to a final determination by the executive director to

recommend the project to the Criminal Justice Division Advisory Board.

Issued in Austin, Texas, on June 15, 1983.

TRD-834373      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

### **Audits of Criminal Justice Division Projects**

#### **1 TAC §§3.231-3.233, 3.238**

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.231. *Audit Requirements.*

§3.232. *Funding.*

§3.233. *Audit Objectives.*

§3.238. *Termination of Funds.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834374      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

#### **1 TAC §§3.231-3.233**

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provides the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.231. *Audit Requirements.*

(a) Each city, county, council of government, and school district awarded grant applications in excess of a total of \$50,000 during a calendar year shall have an independent, annual CPA financial audit of grant applica-

tions whose grant period expired during the preceding calendar year.

(b) Each nonprofit corporation awarded a grant application shall be audited annually by the Office of the Governor, Criminal Justice Division (CJD), or by an independent CPA firm.

(c) Anti-fencing, sting, and similar grants shall be audited only by the CJD.

§3.232. *Audit Objectives.* The Criminal Justice Division grants are awarded subject to conditions of fiscal and program requirements to which the grantee expressly agrees. The audit objective is to review the recipient's administration of grant funds and required matching contributions for the purpose of determining whether the recipient has:

(1) established an accounting system and procedures integrated with adequate internal fiscal and management controls to provide full accountability over the receipt, expenditure, and use of the program funds.

(2) expended and used program funds in accordance with the requirements set forth in state laws, regulations and procedures, and the terms and conditions of the award.

(3) prepared financial reports containing accurate, reliable, and useful financial data, which are fairly presented.

(4) managed its financial operations in accordance with sound management procedures.

§3.233. *Audit Standards and Guidelines.* Examinations for financial and Office of the Governor, Criminal Justice Division (CJD), compliance are to be conducted in accordance with:

(1) Office of Management and Budget Circular(s):

(A) A-87, *Cost Principles Applicable to Grants and Contracts with State and Local Governments;*

(B) A-102, *Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments;* and

(C) A-110, *Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-profit Organizations.*

(2) Office of the Governor, Criminal Justice Division:

(A) *Criminal Justice Plan for Texas* (annual); and

(B) *Uniform Grant and Contract Management Standards.* This guide was developed under the directive of the Uniform Grant and Contract Management Act of 1981, Texas Civil Statutes, Article 4413(32g).

(C) Special grant conditions to comply with federal rules or regulations.

Issued in Austin, Texas, on June 15, 1983.

TRD-834375      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

## Exceptions to Audit Report

1 TAC §§3.251, 3.253, 3.254

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.251. *Grantee's Response to Audit Exceptions.*

§3.253. *Audit Review Board.*

§3.254. *Report of Audit Review Board.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834376      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.251. *Grantee's Response to Audit Exceptions.* A grantee may, within a reasonable time not to exceed 10 days, give notice of intent to submit documentation to respond to exceptions in an audit report by or forwarded to the Office of the Governor, Criminal Justice Division (CJD).

§3.253. *Audit Review Board.* The Audit Review Board will consist of the assistant director for program management, assistant director for administration, and the Criminal Justice Division comptroller, who will review the documentation for legal, financial, and program acceptability under state rules, regulations, and guidelines.

§3.254. *Report of Audit Review Board.* The Audit Review Board will make recommendations to the executive director for approval, disapproval, or approval as modified. The determination by the executive director will be transmitted in writing to the grantee within 30 days.

Issued in Austin, Texas, on June 15, 1983.

TRD-834377      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

## Grant Extensions and Adjustments

1 TAC §§3.261, §3.262

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.261. *Grant Extensions.*

§3.262. *Grant Adjustments.*

Issued in Austin, Texas, on June 15, 1983.

TRD-834378      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

1 TAC §§3.261-3.263

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.261. *Project Completion.* With the exception of the final project report, final financial report, and liquidation of goods or services encumbered before the termination date, grants must be completed no later than the termination date set forth in the statement of grant award or any approved extension thereof. Grantees should keep in mind the grant condition prohibiting the obligation of funds beyond such termination dates, the requirement for liquidation of obligations within 90 days after the termination date, and the requirement for the return of unobligated grant funds within such period.

§3.262. *Grant Extensions.* A grantee may submit a written application for a grant extension prior to the last 60 days of the project grant period. An application for an extension of the project grant period will be considered by the executive director of the Office of the Governor, Criminal Justice Division only in instances of extraordinary or unique circumstances. The grantee will be notified in writing of the executive director's approval, disapproval, or approval as modified of the application for extension of grant period.

§3.263. *Grant Adjustments.* Grantees must obtain prior written approval from the Office of the Governor for major project changes. These include changes of substance in project activities, design, or research plans set

forth in the approved application; changes in the project director, financial officer, or official authorized to sign the application; prior approval of transfers of funds among direct cost categories when the amount transferred exceeds 5.0% of the total budget, all additions to or deletions of approved equipment purchases. For further details see Office of Management and Budget Circular A-102, Budget Revision Procedures, Uniform Grant and Contract Management Standards, Attachment K.

Issued in Austin, Texas on June 15, 1983

TRD-834379      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

### **Withholding Funds from Grantees**

1 TAC §§3.271, 3.273, 3.276

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.271. *Applicability.*

§3.273. *Conditions for Withholding Funds from Grant.*

§3.276. *Appeals to the Criminal Justice Division.*

Issued in Austin, Texas, on June 15, 1983

TRD-834380      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.271. *Applicability.* These rules are applicable to all entities which are in receipt of a grant awarded by the Office of the Governor, Criminal Justice Division (CJD), or one awarded by the federal government which provides for administration of the grant by the CJD.

§3.273. *Conditions for Withholding Funds from Grant.* Funds may be withheld for reasons pertinent to a grant which include but are not limited to:

(1) the grantee's failure to submit reports of expenditures, grantee's progress reports, or special required reports at the times and in the form established for such reporting

(2) when audit or monitoring reports of the Criminal Justice Division (CJD) show significant deficiencies or irregularities in records maintained by the grantee or its agent for operation and/or administration of the grant project

(3) when audit or monitoring reports of the CJD show a failure to conduct the grant project according to the terms of the application for grant, the statement of grant award, the grantee acceptance notice, or a grant adjustment notice.

(4) when the grantee fails to comply with any standard or special condition which has been made a part of the statement of grant award by reference or inclusion therein, or through the issuance of a grant adjustment notice.

(5) when the grantee fails to commence project operations within 45 days of the project start date.

§3.276. *Appeals to the Criminal Justice Division.* The grantee may request a reconsideration of the notification to withhold funds in writing to the executive director of the Criminal Justice Division. The grantee may submit documentation in support of the reconsideration. The executive director will reconsider the determination to withhold funds based on the documentation submitted. The determination of the executive director will be transmitted in writing to the grantee within a reasonable time.

Issued in Austin, Texas, on June 15, 1983.

TRD-834381      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983

Expiration date: October 13, 1983

For further information, please call (512) 475-4444.

### **State-Federal Relations**

1 TAC §§3.292-3.294

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

§3.292. *Federal Guidelines Adopted by Reference.*

§3.293. *Criminal Justice Division State Plans Adopted by Reference.*



**§3.294. Financial Management Guide Adopted by Reference.**

Issued in Austin, Texas, on June 15, 1983

TRD-834382      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a) 6(a) (11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

**§3.292. Federal Guidelines Adopted by Reference.** The Criminal Justice Division adopts by reference the documents listed in subsections (a)-(c) of this section.

(a) OMB Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

(b) OMB Circular A-87, Cost Principles Applicable to Grants and Contracts With State and Local Governments.

(c) OJARS Guideline Manual, Financial and Administrative Guide for Grants applicable to Juvenile Justice and Delinquency Prevention Act funds.

(d) Information regarding these documents may be obtained by contacting the Criminal Justice Division, Attention: Planning, Evaluation, and Program Audit, P.O. Box 12428, Austin, Texas 78711, (512) 475-3001.

**§3.293. Criminal Justice Division State Plans Adopted by Reference.**

(a) The Criminal Justice Division adopts by reference the *Criminal Justice Plans for Texas*, 1981-1983.

(b) Information regarding these plans may be obtained by contacting the Criminal Justice Division, Attention: Planning, Evaluation and Program Audit, P.O. Box 12428, Austin, Texas 78711, (512) 475-3001.

**§3.294. Uniform Standards Adopted by Reference.**

(a) The Criminal Justice Division adopts by reference the uniform grant and contract management standards developed under the directive of the Uniform Grant Contract Management Act of 1981, Texas Civil Statutes, Article 4413(32g).

(b) Information regarding these plans may be obtained by contacting the Criminal Justice Division, Attention: Planning, Evaluation, and Program Audit, P.O. Box 12428, Austin, Texas 78711, (512) 475-3001.

Issued in Austin, Texas, on June 15, 1983.

TRD-834383      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

**Forms**

**1 TAC §3.311, §3.312**

*(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the Office of the Governor, Room 208, Sam Houston Building, 201 East 14th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, Austin.)*

The repeals are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a)(11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

**§3.311. Use of Forms.**

**§3.312. Adoption of Forms by Reference.**

Issued in Austin, Texas, on June 15, 1983.

TRD-834384      Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 475-4444.

The new rules are adopted on an emergency basis under Texas Civil Statutes, Article 4413(32a), 6(a) (11), which provide the Criminal Justice Division of the Office of the Governor with the authority to adopt rules, regulations, and procedures as may be necessary.

**§3.311. Use of Forms.** Each of the forms listed in §3.312 of this title (relating to Adoption of Forms by Reference) shall be completed by the applicant or grantee unless otherwise stated. Forms may be obtained from the Office of the Governor, Criminal Justice Division (CJD), P.O. Box 12428, Austin, Texas 78711.

**§3.312. Adoption of Forms by Reference.** The Criminal Justice Division (CJD) adopts the following forms by reference.

(1) Application for grant. The CJD is utilizing the standard grant application forms (Exhibit M-3, Attachment M, Uniform Grant and Contract Management Standards) in its grant application process. The standard grant application shall be used by applicant for submitting a project proposal. The grant application shall be submitted to the CJD through a regional or state agency annual criminal justice plan. When applicants are applying for funds which have not been budgeted in the regular CJD fiscal year budgeting process, applications should be submitted in accordance with §§3.211-3.216 of this title, (relating to Procedures for Applications for Grants for Supplemental Funds).

(2) Grantee's quarterly progress report.

(A) Quarterly progress reports shall be completed and submitted by the grantee to the CJD, Attention: Grant Administration, before the 20th day of the month following the calendar quarters ending March 31,

June 30, September 30, and December 31. One copy shall be submitted. The quarterly report submitted at the end of the calendar quarter in which the project was completed shall be marked as a "final" progress report. For equipment purchase grants the progress report submitted subsequent to purchase and commencement of use of the equipment may be marked "final," regardless of the number of quarterly reports previously submitted.

(B) Project directors are required to use the CJD progress reporting form to note the status of each indicator of goal achievement for each month of the reporting quarter. The progress report also must include a narrative analysis of the project to include the following items:

(i) major accomplishments of the project  
(ii) significant problems encountered that require special consideration or may impede progress of the project.

(iii) deviations from the original approved plan of operations

(iv) any other comments deemed to be of managerial value to the CJD.

(3) Statement of grant award. The statement of grant award shall be used by the CJD to notify the grantee applicant of the Executive Funding Committee's approval of the release of funds for grantee applicant's grant application. It must be formally accepted in writing by the grantee in a form prescribed by the CJD and sent to the CJD, Attention: Grant Administration.

(4) Grantee's request for funds. The grantee's request for funds shall be completed by the designated project financial officer prior to submitting to the CJD, Attention: Comptroller.

(5) Grant adjustment notice. The grant adjustment notice shall be completed by the CJD. A completed grant adjustment notice formally modifies the grant application and statement of grant award as set out in the body of the grant adjustment notice. No grant adjustment shall be considered which modifies the goals and objectives of the original grant application.

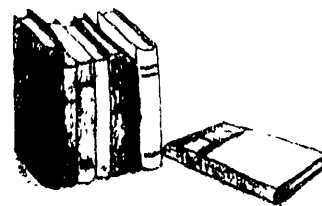
(6) Report of expenditure and status of action grant. The report of expenditure and status of action grant shall be completed and submitted by the grantee to the CJD, Attention: Comptroller, before the 20th day of the month following March, June, September, and December. The final expenditure report shall be due the 20th day after the end of the calendar quarter in which the project was closed. For equipment purchase grants, the expenditure report for the quarter in which the equipment is received and paid for may be marked "final," regardless of the grant period.

(7) Property inventory. A property inventory report shall be completed and submitted by the grantee to the CJD, Attention: Comptroller, with the final report of expenditures and status of action grant.

Issued in Austin, Texas, on June 15, 1983.

TRD-834385 Gilbert Pena  
Executive Director  
Criminal Justice Division  
Office of the Governor

Effective date: June 15, 1983  
Expiration date: October 13, 1983  
For further information, please call (512) 476-4444.



## TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 77. Comprehensive Instruction

### Subchapter V. Adoptions by Reference 19 TAC §77.453

The Texas Education Agency adopts on an emergency basis an amendment to §77.453 (226.32.91.080), concerning the adoption by reference of the Texas State Plan for Vocational Education. In May, the State Board of Education amended the administrative provisions of the plan, Subpart 3, Program Improvement and Supportive Services, §3.11, Contracting, by deleting "eligible recipients" and inserting "local education agencies, post secondary institutions, and contingent upon passage of appropriate state law, accountable 501(c)(3), nonprofit organizations." The amendment incorporates this change into the plan.

This amendment is adopted on an emergency basis to ensure that the plan officially on file conforms with that submitted to the federal government.

This amendment is adopted on an emergency basis under the authority of the Texas Education Code, §11.02(c), which authorizes the Central Education Agency to enter into agreements with respect to educational undertakings with an agency of the federal government, Texas Education Code, §11.24(a), which designates the State Board of Education as the State Board for Vocational Education, and Public Law 94-482, which requires states receiving funding for vocational education to develop a five-year state plan and annual program plans for vocational education.

§77.453 (226.32.91.080). *Texas State Plan for Vocational Education*. The rules for occupational education and technology are described in Part I of the five-year state plan and annual program plans for vocational education for fiscal years 1983-1987, as amended June 1983, which was developed as a requirement under Public Law 94-482. The plan is adopted by this reference as the Texas Education Agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency (headquarters) Building, 201 East 11th Street, Austin.

Issued in Austin, Texas, on June 17, 1983

TRD 834486 Raymon L. Bynum  
Commissioner of Education

Effective date: June 17, 1983  
Expiration date: October 15, 1983  
For further information, please call (512) 475-7077.

## Chapter 113. Federal Funds to Support Public Education in Texas

### Subchapter C. Complaint Procedures for Federal Programs

19 TAC §§113.41-113.45

The Texas Education Agency adopts on an emergency basis new §§113.41-113.45. This new subchapter establishes a complaint procedure for investigation and resolution of complaints concerning federal programs.

Under the adopted rules, complaints concerning federal programs may be filed in writing with the commissioner of education. The complaint must include a statement that the agency, a local school district, or other fund recipient has violated or is violating a federal or state constitutional provision, statute, or regulation. The complaint must specify the requirement concerned and set forth the pertinent facts. Complaints received under this section must be reviewed and resolved within 60 days.

Section 113.44 provides for hearings relating to programs financed in whole or in part by federal funds and establishes timelines for such hearings in accordance with federal requirements.

This subchapter is adopted on an emergency basis to comply with the federal requirement that states have such a written procedure. Although the federal regulations require a complaint procedure only for certain programs, for consistency and ease of administration, the rules apply to all federal programs.

This new subchapter is adopted on an emergency basis under the authority of the Texas Education Code, §11.24(b), which gives the State Board of Education authority to make rules to carry out the duties placed on it or on the Central Education Agency by the legislature; Texas Education Code, §11.02, which, with certain exceptions, directs that the Central Education Agency shall be the sole agency of the State of Texas empowered to enter into agreements with respect to education undertakings with an agency of the federal government; and 34 Code of Federal Regulations §76.780, which requires states to adopt written complaint procedures for complaints concerning federal programs funded or administered through the agency.

#### §113.41. Nature of Complaints.

(a) Any person or organization may file a written, signed complaint with the commissioner of education under the provisions of this subchapter. The complaint must include a statement that the Texas Education Agency, a school district, or any person or entity which receives funds directly or indirectly from the Texas Education Agency has violated or is violating a federal or state constitutional provision, statute, or regulation. The complaint shall specify the requirement at issue and shall set forth the pertinent facts.

(b) Any person who has filed with a school district or with any other person or entity receiving funds directly or indirectly from the Texas Education Agency a complaint which complies with the requirements of this

subsection may, in addition to any other available procedures, file a complaint which is in the nature of an appeal from the decision reached concerning the initial complaint. The complaint shall expressly identify the document as a "complaint" rather than simply as an "appeal."

#### §113.42. Resolution of Complaints Concerning Federal Programs.

(a) When the commissioner receives a complaint which complies with §113.41 of this title (relating to Nature of Complaints) and which relates to a program supported by federal funds, the commissioner shall review and resolve the complaint within 60 days.

(b) The commissioner shall promptly notify the person or entity against whom the complaint is made and shall, if practicable, resolve the complaint on the basis of written submissions. If necessary, the commissioner shall carry out an independent on-site investigation.

(c) The commissioner may extend the time for resolving a complaint only if exceptional circumstances exist with respect to a particular complaint.

(d) The commissioner shall resolve the complaint by issuing a written communication finding in favor of or against the complainant as to each issue presented. In the event the commissioner finds in favor of a complainant in whole or in part, the communication shall specify the corrective action which will be required.

(e) Any person who files a complaint may request that the U.S. Secretary of Education review the action of the commissioner concerning that complaint.

(f) In the event that the commissioner orders corrective action and the person or entity which is the subject of the complaint fails to take such action, the commissioner shall give notice that the commissioner intends to take one or more of the following actions:

- (1) suspend assistance for the applicable program;
- (2) terminate further assistance for the applicable program; or
- (3) disapprove the application for funds for the applicable program.

§113.43. Complaints Concerning Programs Not Financed in Whole or in Part by Federal Funds. The commissioner may, in the commissioner's discretion, investigate and resolve complaints which relate to programs which are not financed in whole or in part by federal funds. The commissioner shall notify the person or organization filing the complaint whether action will be taken concerning such a complaint. Any complaints accepted under this provision shall be resolved within a reasonable time. In the event that a complaint is resolved against a school district the matter shall be reviewed through the accreditation process (see §97.74 of this title (relating to Establishment and Modification of a District's Accreditation Status)).

#### §113.44. Hearings.

(a) Any person or entity which receives a notice from the commissioner under subsection (f) of §113.42 of this title (relating to Resolution of Complaints Concerning Federal Programs), who is otherwise denied financial assistance in whole or in part under any program financed by state or federal funds, who is notified of the

commissioner's intent to disapprove an application for such assistance or otherwise deny such assistance, or who is ordered to repay state or federal funds pursuant to a final audit determination issued by the commissioner, may request a hearing before the commissioner. The rules contained in Chapter 157 of this title (relating to Hearings and Appeals) are applicable to such hearings except as provided in subsection (b) of this section.

(b) When a hearing relates to a program financed in whole or in part by federal funds, the following requirements shall apply.

(1) The hearing must be requested within 30 days of the receipt of the notice, decision, or order of the commissioner of education.

(2) A hearing of record must be conducted within 30 days of receipt by the commissioner of education of the request for a hearing unless a later date is agreed to by the parties.

(3) Within 10 days of the close of the hearing, the commissioner of education shall issue a decision which includes findings of fact and reasons for the ruling

(4) Any party to a hearing may appeal the final decision of the commissioner of education to the U.S. Secretary of Education by filing an application for review within 20 days of receipt of the decision

*§113.45. Delegation of Authority* The commissioner of education may delegate the performance of any function required by this chapter to an employee of the Texas Education Agency or to an independent hearing officer.

Issued in Austin, Texas, on June 17, 1983.

TRD-834485      Raymon L. Bynum  
Commissioner of Education

Effective date: June 17, 1983  
Expiration date: October 15, 1983  
For further information, please call (512) 475-7077.

Before an agency may permanently adopt a new or amended rule, or repeal an existing rule, a proposal detailing the action must be published in the *Register* at least 30 days before any action may be taken. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. 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

The proposal, as published in the *Register*, must include a brief explanation of the proposed action; a fiscal 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 statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority); the text of the proposed action; and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number 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 1. ADMINISTRATION Part V. State Purchasing and General Services Commission Chapter 111. Executive Administration Division Administration

### 1 TAC §111.3

The State Purchasing and General Services Commission proposes amendments to §111.3, concerning hearing appeals and resolving disputes, and adding a more expeditious procedure for handling appeals in situations where a contract has been awarded.

Homer A. Foerster, executive 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. Foerster also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a more expeditious means of processing appeals in situations where a contract has been awarded by the commission. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to James H. Quick, General Counsel, State Purchasing and General Services Commission, P.O. Box 13047, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 601b, §2, which provide the commission with the authority to manage the affairs of the commission through the executive director, with final authority resting with the three commissioners. Appeals from actions of the staff in contract matters are in appropriate exercise of this authority.

#### §111.3. *Hearing Appeals: Resolving Disputes.*

(a) **Where a contract has already been awarded:**

(1) **Any request to consider an existing contract void because of rule or statute violations should be made in writing to the executive director. The written request shall state the alleged violation with particularity.**

(2) **The executive director shall obtain the written opinion of the general counsel concerning whether or not a violation of applicable rules or the statute has occurred as alleged.**

(3) **If the general counsel is of the opinion that no violation has occurred and the executive director agrees, the executive director shall so inform the requesting party in writing. An appeal to the courts will be the only remedy following receipt of this letter. If he does not agree, the question shall be referred to the commission under the same procedure as set out in paragraph (5) of this subsection.**

(4) **If the general counsel is of the opinion that a violation has occurred and the executive director agrees, the executive director, after consultation with the commission's attorney general representative, shall order the Purchasing Section to void the contract. An appeal to the courts will be the only remedy following issuance of the order voiding the contract.**

(5) If the general counsel is of the opinion that a violation has occurred and the executive director either does not agree or is not certain, the executive director shall refer the question to the commissioners to consider at open meeting. All affected parties may be given an opportunity to appear and give oral and/or written testimony. The decision of the commissioners shall be final.

(b){(a)} Except as provided in subsections (a) and (f) [subsection (e)] of this section, the commissioners will resolve all disputes arising in the following cases:

- (1) where the staff has not been able to achieve agreement between a user agency and a vendor;
- (2) where a user agency disagrees with a staff decision;
- (3) where there is disagreement between the staff and vendor; and
- (4) where the staff and a using agency and/or a vendor jointly seek the commissioners' determination that a purchasing request is in compliance with the law.

(c){(b)} Appeals to the commissioners in any of the matters referred to in subsection (b) [(a)] of this section shall be presented by the appealing party in writing to the executive director not less than 10 days prior to the commission meeting where the matter will be heard, and notice of the appeal given to the other bidders, the using agency, and other known interested parties. Four copies of the written appeal shall be submitted and shall include at least the following:

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

(d){(c)} The staff will present a written response to the appeal within five working days following receipt of the notice of appeal described in subsection (c){(b)} of this section. Copies of this response will be sent to the commissioners, the party appealing, the using agency, and any other interested parties.

(e){(d)} A duly adopted resolution by the commissioners deciding the appeal shall be set out in the minutes of the meeting and shall be the final administrative action to be taken in the matter insofar as the appeal is concerned.

(f){(e)} In the event an appeal as described in subsections (a)-(e) of this section is not filed at least 10 days prior to the commission meeting, and the chairman, after receiving notice of an appeal, does not approve placement of the appeal on the agenda as an emergency matter, the party appealing may be considered to have exhausted all administrative remedies available and may cite this section for that purpose.

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834528      Homer A. Foerster  
 Executive Director  
 State Purchasing and General  
 Services Commission

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-5966  
or STS 822-5966.

## Part VII. Texas Merit System Council Chapter 161. Merit System of Personnel Administration

### 1 TAC §161.25

The Texas Merit System Council proposes new §161.25, concerning appointment and operation of the Interagency Advisory Committee.

F. Kemp Dixon, executive 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. Dixon has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be increased effectiveness in the operation of the Merit System Program and creation of an avenue through which agencies under merit system jurisdiction may address mutual concerns. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to F. Kemp Dixon, Executive Director, P.O. Box 13566, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 6252-11d, which provide the Texas Merit System Council with the authority to adopt rules governing the appointment and operation of the Interagency Advisory Committee.

#### §161.25. Interagency Advisory Committee.

(a) Purpose. The Interagency Advisory Committee is created in accordance with Texas Civil Statutes, Article 6252-11d, to advise the Texas Merit System Council and review its rules and policies.

(b) Appointment. The administrative head of each agency using the services of the council shall appoint one representative to serve on the committee at the pleasure of the administrative head.

(c) Operation.

(1) Presiding officer. The executive director of the Texas Merit System Council shall represent the council and shall serve as presiding officer at all meetings of the committee.

(2) Alternate representative. An agency representative unable to attend a meeting of the committee may designate an alternate representative who shall be fully authorized to represent the agency.

(3) Meetings. The committee shall meet at least twice a year. The presiding officer shall prepare an agenda for each meeting. Each agency representative shall be given an opportunity to place items for discussion on the agenda.

(4) Minutes. Each agency's response to an issue before the committee shall be reflected in the minutes of the meetings.

(5) Council decisions. The executive director shall inform each agency representative of council decisions relating to issues before the committee.

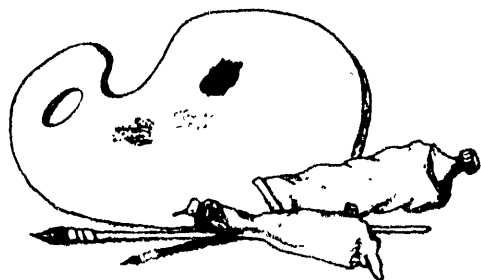
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 14, 1983.

TRD-834504 F. Kemp Dixon  
Executive Director  
Texas Merit System Council

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 477-9665.



**TITLE 16. ECONOMIC  
REGULATION**  
**Part I. Railroad Commission of  
Texas**  
**Chapter 5. Transportation Division**  
**Subchapter M. Motor Bus Companies**  
**16 TAC §5.236**

The Railroad Commission of Texas proposes amendments to §5.236, concerning rates, fares, and charges for motor bus companies. Existing provisions are carried forward, except where inconsistent with the Bus Regulatory Reform Act of 1982. Provision is made for the establishment of lawful rates applicable to the intrastate transportation of express package shipments pursuant to 49 United States Code §11501(e). The provisions have also been changed to delete the requirement that motor bus companies serve notice of a proposed rate reduction on all connecting and competing carriers. Certain typographical and formatting changes of an insubstantial nature were also made.

Rory K. McGinty, Transportation Division assistant 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. McGinty has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be compliance with the Bus Regulatory Reform Act of 1982. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Walter Wendlandt, Acting Director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

These amendments are proposed under Texas Civil Statutes, Article 911a, §4, which provide the Railroad Commission of Texas with the authority to adopt rules and regulations for the regulation of motor bus companies.

**§5.236. Rates, Fares, and Charges for Motor Bus Companies.**

(a) (No change.)  
(b) Assessment of unauthorized rates, fares, and charges prohibited. Motor bus companies are prohibited from charging, collecting, demanding, or receiving any rate, fare, charge, or other compensation other than the lawful rates, fares, and charges prescribed by order of the commission or otherwise made lawful under 49 United States Code §11501(e) and on file with the commission.

(c) [Changes in] Rates, fares, and charges for regular route passenger service.

(1) Rate increases.

(A) (No change.)

(B) Procedures.

(i) (No change.)

(ii) Notice of increases prescribed by the Interstate Commerce Commission on appeal from an order of the commission pursuant to 49 United States Code §11501(e). Each motor bus company shall, within 15 days of receipt of notice that the Interstate Commerce Commission has prescribed an intrastate regular route motor bus passenger service rate increase applicable via such carrier pursuant to 49 United States Code §11501(e) but prior to the effective date of such rate, file with the commission a copy of the Interstate Commerce Commission decision prescribing the rate increase together with a tariff or tariff supplement reflecting the level of rates prescribed by the Interstate Commerce Commission. Such tariff or supplement shall comply, in all respects, with the provisions 49 Code of Federal Regulations §1300 and §1301 concerning tariff specifications, except that references therein to the "commission" or the "Interstate Commerce Commission" shall be construed to be references to the Railroad Commission of Texas (RCT).

(2) Rate decreases.

(A) (No change.)

(B) Procedures.

(i) Service of notice. Notice of a proposed rate reduction must be served on the Railroad Commission of Texas [as well as on all connecting and competing carriers. Notice must be served on connecting and competing carriers at the same time and in the same manner as notice is served on the Railroad Commission of Texas]. Notice shall be deemed to have been served on the Railroad Commission of Texas upon receipt.

(ii)-(iii) (No change.)

(3) Application of subsection. The provisions of this subsection apply to the intrastate transportation of passengers in regular route service. The provisions of this subsection do not apply to the transportation of passen-

gers in charter or special party service, or to the transportation of express package shipments.

(d) Rates, fares, and charges for express package service.

(1) Requirements. Rates, fares, and charges applicable to express package service by motor bus companies shall be effective only when prescribed by order of the commission or when prescribed by order of the Interstate Commerce Commission pursuant to 49 United States Code §11501(e) and on file with the commission.

(2) Procedures.

(A) Application to the Railroad Commission of Texas for a rate change. Applications to establish or change rates, fares, and charges applicable to express package service by a motor bus company shall be filed with the commission on forms prescribed by the director. Each application shall include a verified statement of facts in support of the application, together with a copy of all exhibits to be presented at hearing.

(B) Notice of changes prescribed by the Interstate Commerce Commission on appeal from an order of the commission pursuant to 49 United States Code §11051(e). Each motor bus company shall, within 15 days of receipt of notice that the Interstate Commerce Commission has prescribed an intrastate express package service rate change applicable via such carrier pursuant to 49 United States Code §11501(e) but prior to the effective date of such rate, file with the commission a copy of the Interstate Commerce Commission decision prescribing the rate change together with a tariff or tariff supplement reflecting the level of rates prescribed by the Interstate Commerce Commission. Such tariff or supplement shall comply, in all respects, with the provisions of 49 Code of Federal Regulations §1300 and §1301 concerning tariff specifications, except that references therein to the "commission" or the "Interstate Commerce Commission" shall be construed to be references to the Railroad Commission of Texas (RCT).

(e)(d) Application of section. The provisions of this section apply to the intrastate transportation of passengers in regular route, charter, or special party service, and to the intrastate transportation of express package shipments by motor bus companies. [The provisions of this section do not apply to the transportation of property, other than passengers' baggage, by a motor bus company.]

(f)(e) Conflicting provisions. The provisions of this section shall govern, notwithstanding any [and] conflicting provisions in §5.304 of this title (relating to Rates, Charges, and Fares) or any other conflicting provisions in the commission's regulations.

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

Issued in Austin, Texas, on June 13, 1983.

TRD-834463 Walter Wendlandt  
Acting Director  
Transportation Division  
Railroad Commission of Texas

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 445-1186.

Part IV. Texas Department of Labor and Standards  
Chapter 61. Labor/Licensing and Enforcement

Subchapter A. Boxing

16 TAC §§61.1, 61.3-61.7, 61.10

The Texas Department of Labor and Standards proposes to amend §61.1, and 61.3-61.7, and proposes new §61.10, concerning the regulation of professional boxing in Texas as defined by the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8501.

Larry Kosta, Labor/Licensing and Enforcement Division director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Kosta also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be increased safety in the sport of professional boxing through the use of safer equipment and greater regulation of the health aspects of individual boxers in the sport of professional boxing. There is minimal economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Larry Kosta, Texas Department of Labor and Standards, Labor/Licensing and Enforcement Division, P.O. Box 12157, Austin, Texas 78711, (512) 475-0721.

In compliance with the Boxing and Wrestling Act, Texas Civil Statutes, Article 8501, the Texas Department of Labor and Standards will meet on August 2, 1983, in Room 100B, Reagan Building, 105 West 15th Street, Austin. At the hearing the department will consider any objections to the proposed rule change. All interested persons shall be afforded the opportunity to submit written data, views, or arguments on the rules as proposed.

The rules are proposed under the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8501(4) (b), which provides the Texas Department of Labor and Standards with the authority to adopt rules and regulations for the boxing industry.

§61.1. Applications and Licensing.

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

(e) License application requirements.

(1) (No change.)

(2) Requirements for boxer applicants:

(A) No one under the age of 17 will be issued a license. Minors over the age of 16 [17] applying for a boxer's license must submit written consent from parent or guardian. No boxer over the age of 35 will be issued a license without a hearing by the department. Before any license is issued to any boxer over the age of 35, the department may require physical testing including, but not limited to, CAT scan, EEG, EKG, and stress tests.

(B) Anyone who applies for a boxer's license and has no recent or previous significant professional or



amateur boxing experience will be required to show proof of proper training and must appear to be physically competent as a boxer. Physical competence may include, but is not limited to, competence in the elements of offense, defense, clean hitting, ring generalship, and physical capability of boxing at least four three-minute rounds. **A boxer without previous ring experience will be required to furnish to the department certification of his training routine for four weeks prior to fight date.**

(C) Boxer applicants must submit medical records required by §61.5 of this title (relating to Safety), as well as any other certification as is required by the department. The manager, as well as the boxer, will be responsible for medical and boxing records of each boxer that the manager manages.

(D) (No change.)

(3) Requirements for promoter applicants:

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

(D) A promoter's license is valid only within the incorporated limits of the city for which it is granted, but a promoter may apply for a license in each city in which he desires to operate. If the promotion should occur in a nonincorporated area, the size of the nearest incorporated city shall determine the license fee. No promoter shall hold a boxing contest in any city [location] other than that city [location] on his license [without notification to the commissioner].

(E) (No change.)

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

(h) Referees and judges. Referees and judges will be required to take written examinations, physical examinations, and/or attend seminars **and shall hold an active CPR card.**

#### §61.3. Tickets.

(a) Printing tickets.

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

(5) **If a promoter is using a computerized and bonded ticket service then paragraphs (2) and (4) of this section may be waived by the commissioner.**

(b)-(e) (No change.)

(f) Exchanges. A purchaser may present their ticket half to the promoter for a refund at face value if the advertised main event or special added attraction is postponed or does not take place as advertised. No tickets shall be refunded after the show has taken place. Tickets in the hands of agencies must be returned to the promoter not later than 12 hours [one hour] after the show has started.

(g) (No change.)

#### §61.4. Ring and Equipment:

(a) The ring. The ring must be a square and not less than 16 feet nor more than 24 feet on a side within the ropes, and the ring floor must extend beyond the ropes at least 24 [12] inches on all sides. The ring floor shall be of at least ¾ inch material and shall be adequately supported and padded with a fine closed cell foam with two pound density one inch thick with a compression factor 25% which yields six pounds density. [padded with felt matting or other soft material, approved by the commissioner of the Texas Department of Labor and Standards or his authorized representative and shall extend over the edge of the ring platform with a top covering

of canvas, duck, or similar material] **It must maintain these characteristics in a temperature range of 150° to 0°F. Any variance to this must be approved in writing by the commissioner of the Texas Department of Labor and Standards. The padding shall extend over the edge of the ring platform with a top covering of canvas, duck, or similar material approved by the commissioner or his authorized representative, tightly stretched and laced to the ring platform. Material that tends to gather in lumps may not be used. The mat and coverings shall be kept clean and free from disagreeable odors at all times. The corners must be protected inside the ring with urethane pad at least six inches wide and covered with a material similar to the ring floor material [covered by a pad] long enough to cover all the rope joints. The urethane shall have a three pound density. The ring platform shall not be more than 54 inches above the floor of the building and shall be provided with at least three sets of steps into the ring during a contest, one set for each boxer's corner and one set in the neutral corner of the department side. These will be used for the ringside physician and the department. [suitable steps used by the contestants.] Ring posts shall be made of some strong material, preferably steel, [metal pipe,] three inches in diameter, extending from the floor of the building to a height of at least 58 inches above the ring floor.**

(b) Ring ropes. Ring ropes shall be [three or] four in number, at least one inch in diameter, the lower rope 18 inches above the ring floor, [and the second rope 35 inches above the ring floor, and the third rope 52 inches above the ring floor. When four ropes are used the bottom and top ropes shall be the same as required in this subsection and the two others will be evenly spaced. Ropes shall be wrapped in soft material ] **the top rope 52 inches above the ring floor and the two others will be evenly spaced. The ropes shall be reinforced by a nonabrasive rope on each side in the center of the ropes. The ropes shall attach to the ring posts with turnbuckles. The ropes shall be taut and firm during all contests.**

(c) (No change.)

(d) Ring equipment. **The promoter shall furnish [Each ring shall be equipped with] two funnels with a hose and bucket attached to each funnel. These must be used by the contestants when washing out their mouths, and it will be the trainer or manager's responsibility to see that they do so. The promoter shall provide a sufficient number of water buckets for the use of all contestants. Each bucket shall be sterilized before being used. Promoters also shall provide resin, stools, and other such articles as are required for the conduct of contests. Excess use of water by a corner on a fighter will result in one warning by the commission; violation after that will result in disciplinary action on the manager. The corners must be kept clean, dry, and free from objects. The ring must be set up at least two hours prior to fight time, regardless of TV or any other commitments.**

(e)-(f) (No change.)

(g) Bandages. Contestants may use six inches of **medical diachylon tape, one inch [adhesive tape, two inches] in width across the back of each hand before bandaging the hands. Sur tape cannot be put across the knuckles. Bandages shall be of soft surgical bandage not more than 10 yards long or two inches in width, held in**

place by not more than six feet of one inch medical diachylon tape [surgeon's tape] for each hand. These bandages shall be adjusted in the dressing room no sooner than 45 minutes before fight time under the examination of a representative from the Texas Department of Labor and Standards and in the presence of a representative of both contestants. Hands shall be wrapped dry, and no liquid may be applied to any bandage. If any other material or substance is used on the hands of the boxer other than that mentioned in this paragraph, the boxer and manager shall face disciplinary action by the department. Only the tape and gauze described in this subsection furnished by the department will be allowed.

(h) **Gloves.** No gloves will be used unless approved by the Texas Department of Labor and Standards. The department shall set certain minimum standards for all gloves used in contests in the State of Texas. Gloves shall be examined and approved by the referee and the representative of the Texas Department of Labor and Standards prior to the start of the matches. All gloves will be laced with the knot on the back of the wrist. The promoter shall furnish new gloves for all main events. [Gloves may not be broken or twisted, nor may the padding be misplaced or lumpy. Gloves shall be examined and approved by the referee and the representative of the Texas Department of Labor and Standards prior to the start of the matches. All gloves will be laced with the knot on the back of the wrist. The promoter shall furnish new gloves for all main events. These gloves shall be adjusted in the ring under the supervisions of the referee.]

(i) **Ring apron.** The ring apron shall be kept clear at all times. This includes articles such as cameras, microphones, advertisements, etc.

(j) **Ring apron seats.** No seats may be sold at the ring apron.

(k) **Barrier.** There should be a barrier between the ringside and first row seats.

(l) **Ringside physicians.** The ringside physicians shall have an unobstructed view of the ring at all times.

(m) **Emergency equipment.** There shall be a resuscitator and stretcher at ringside for all contests, and it is the promoter's responsibility to insure compliance.

(n) **Seats for judges and physician.** The judges shall be furnished chairs high enough that their shoulders shall be even with the ring floor. Similar height may be required by the ringside physician.

#### §61.5. Safety.

(a) **Medical staff.** Qualified medical doctor(s) shall be named as the medical consultant(s) for the Texas Department of Labor and Standards, and the commissioner may appoint any additional personnel necessary. All appointed medical consultant(s) will serve at the pleasure of the commissioner. [Medical examination. All applicants for a boxer's license must have a physician complete the medical information form prepared by the department.]

(1) The medical consultant(s), when required by the department, shall be paid actual traveling and per diem expenses incurred while performing official duties.

(2) Duties of the medical consultant(s) are to:

(A) act as medical consultant(s) to the Texas Department of Labor and Standards;

(B) attend and participate in boxing seminars;

(C) recruit and train ringside physicians;

(D) update and write safety policies;

(E) attend hearings if needed;

(F) develop safety bulletins for the department;

(G) obtain specialty consultation for the department when needed; and

(H) represent Texas in national and international boxing seminars and meetings.

(3) When performing medical duties for the state, medical consultant(s) shall have the authority as vested by the commissioner of the Texas Department of Labor and Standards.

(b) **Consultant neurologist.** The commissioner, with the advice of the medical consultant(s), may appoint a neurologist to act as a consultant for the Texas Department of Labor and Standards. [Eye examination. All applicants for a boxer's license must have an ophthalmologist complete the eye medical form prepared by the department.]

(c) **Ringside physicians.** The department in consultation with the medical consultant(s) shall appoint qualified physicians throughout the state to serve as ringside physicians, and their duties are to: [Pre-fight examination. At the time of weigh-in, all contestants must pass a complete pre-fight medical examination and have a physician complete the pre-fight medical examination form prepared by the department.]

(1) serve as ringside physicians in their area;

(2) perform annual and comprehensive medical examinations;

(3) solve medical problems in their area;

(4) recruit other physicians for boxing;

(5) participate in seminars around the state;

(6) attend ongoing education by the department; and

(7) be considered to be acting on behalf of the Texas Department of Labor and Standards and shall have such authority as vested by the commissioner, when performing the duties of a ringside physician.

(d) **Medical examination forms.** There shall be medical forms supplied by the Texas Department of Labor and Standards, and these can be obtained from the local ringside physician, the medical consultant(s), area Texas Department of Labor and Standards offices, or the department office in Austin. [Medical reports. The examining physician shall deliver reports of examinations to the department immediately after the weigh-in.]

(1) **Comprehensive medical form** (Texas Department of Labor and Standards Medical Examination Form 1). This examination is in two parts: medical and boxing history, and physical. It shall be given by only state-appointed medical examiners. All applicants for a boxing license in Texas must have passed this medical examination before applying for a boxing license in Texas.

(2) **Annual renewal medical form** (Texas Department of Labor and Standards Medical Examination Form 2). This examination shall only be given by a state-appointed medical examiner and must be completed and passed before renewal of boxer's license annually.

(3) **Weigh-in medical form** (Texas Department of Labor and Standards Medical Examination Form 3).

This examination will be given at time of weigh-in, and forms will be furnished by the department.

(4) Post-bout injury and recommendation form (Texas Department of Labor and Standards Medical Examination Form 4). This examination will be given by the ringside physicians. This form will be in triplicate. The form contains ringside physicians' physical recommendations, suspension time, and referee recommendations. It is the responsibility of the boxer and manager to obtain a copy of this form before leaving the arena, and it is also their joint responsibility to comply with all recommendations before his boxer may compete again.

(5) Ophthalmologist medical form (Texas Department of Labor and Standards Medical Examination Form 5). These forms may be obtained from the commission offices. All applicants for a boxer's license shall be examined by an ophthalmologist before he is given a comprehensive medical examination. Any boxer renewing his license shall be examined by an ophthalmologist before he is given his annual physical.

(e) Medical examinations. [Additional medical examination. The department may require boxers to have an additional medical examination at any time].

(1) Comprehensive medical examination. All applicants for a boxer's license must pass a comprehensive medical examination as well as an ophthalmologist's examination prior to a contest. These examinations will be given only by commission-approved physicians. A list of physicians will be furnished by the commission. Out-of-state boxers may obtain Texas Department of Labor and Standards Medical Examination Form 1 and have it completed by an out-of-state physician approved by the department. Laboratory data such as CAT scan, EEG, or EKG's may be required by the examining physician if he so indicates. Compliance with this regulation is the responsibility of the boxer and manager jointly. In the event a boxer who is applying for a license is licensed by another state whose medical requirement is at least equivalent to the State of Texas, the pre-licensing medical requirements may not be required if written proof is furnished.

(2) Annual renewal examination. Any boxer's renewal application must be accompanied by a renewal medical exam. The boxer and manager should expect certain laboratory expense based on certain conditions such as won/lost record, number of TKO's, age, etc. Such laboratory requests may be required by the examining physician. This medical examination should be submitted at least 14 days prior to renewal date, and compliance is the responsibility of the boxer and manager jointly.

(3) Eye examination. All applicants for a boxer's license in Texas must submit a complete medical eye exam (Texas Department of Labor and Standards Medical Examination Form 5) by an ophthalmologist. Any boxer renewing a license must also submit a complete eye examination annually.

(4) Weigh-in physical examination. The pre-fight medical examinations will be given at the time of the weigh-in.

(A) The manager or his authorized agent shall accompany the boxer to weigh-in.

(B) The boxer's manager or agent shall be at any rules meeting preceding the physicals.

(C) The medical and boxing history on the physical exam form will be completed before a boxer is examined. Such information will be attested to by both boxer and manager. Falsification of form will result in disqualification, suspension, or fine of both boxer and manager.

(D) If a boxer is late to weigh-in, disciplinary action may result to both the boxer and the manager.

(E) If a boxer appears at the weigh-in, and his body weight is 5.0% or more over his contracted weight, he will be disqualified for the bout, and his manager may receive disciplinary action by the department.

(F) Only the boxer and his manager will be allowed in the examination room while the physical is given.

(G) If, in an attempt to make weight, the boxer shows evidence of dehydration, having taken diuretics or other drugs, or having used any other harsh modality, the examining physician can disqualify and recommend disciplinary action by the department.

(H) If a boxer has engaged in a contest in Texas previously, his post-bout injury form must be presented to the department. If he has fought out of the State of Texas, and that state has pass books, they shall be presented to the department.

(I) The boxer and manager will make full disclosure of all information required by the department and conduct themselves in a professional manner at all times.

(5) Post-bout medical exams. At the conclusion of a contest, the ringside physician and commission will issue to the boxer or the boxer's manager a post-bout medical and recommendation form. The boxer or manager must obtain such form and comply with recommendations, and present such form at next weigh-ins. Suspensions may result from:

(A) Cut—up to six weeks, depending on severity.

(B) TKO—a minimum of 30 days.

(C) KO—after first KO, there shall be a 60-day suspension; after second KO, there shall be a 120-day suspension. After the third KO, a CAT scan, EKG, or other medical testing may be required before the boxer is allowed to enter any further contests.

(D) Underconditioned fighter—six weeks.

(E) Hard fought contest may result in a 30 to 60-day suspension.

(F) If a fighter shows lack of ability, he may be suspended after a hearing by the department.

(G) If a boxer exhibits any neurological symptoms as a result of a blow during any contest, the ringside physician can request neurological testing and consultation before that boxer is allowed to spar or compete in any further contest.

(6) Medical disqualification. Medical disqualification of a boxer is for his own safety and may be made at the discretion of the examining physician or the department after a hearing.

(A) General.

(i) any boxer who has lost six consecutive bouts.

(ii) any boxer who has sustained three consecutive knock-outs.

(iii) body deformity (arms, legs, obesity, etc.) that would tend to promote injury.

**(B) Neurological.**

(i) a boxer who has sustained a knock-out within 60 days.

(ii) a boxer who has sustained a TKO within 30 days.

(iii) any boxer who has comparative change in CAT scan or E.E.G.

(iv) epilepsy or convulsive disorder.

(v) previous cervical disc or brain surgery.

(vi) ataxia, spastic, or cerebellar gaits.

(vii) history of cerebral hemorrhage, repeated concussions, or serious head injury.

(viii) intracerebral aneurysms.

(ix) labyrinthine disturbances.

(x) laminectomy for tumor or ruptured disk.

(xi) vascular malformations.

**(C) Eye.**

(i) visual acuity of less than 20/100.

(ii) retinal detachment (repaired or unpaired).

(iii) the presence of only one eye or useful vision in only one eye.

(iv) congenital glaucoma.

(v) recent periorbital lacerations.

(vi) severe myopia.

**(D) Respiratory.**

(i) active tuberculosis.

(ii) chronic obstructive lung disease (active).

(iii) asthma precipitated by exertion.

(iv) absence of one lung.

**(E) Abdomen.**

(i) any hernia.

(ii) enlarged liver.

(iii) enlarged spleen.

(iv) undescended testes.

**(F) Cardiovascular.**

(i) heart disease.

**(I) absolute disqualifications.**

(-a-) aortic stenosis or regurgitation.

(-b-) mitral stenosis or significant regurgitation.

(-c-) cyanotic congenital heart disease.

(-d-) aortic coarctation, unoperated.

(-e-) Ebstein's anomaly.

(-f-) pulmonary venous obstruction.

(-g-) cardiomyopathy or active myocarditis.

(-h-) prosthetic heart valves.

(-i-) congenital complete heart block.

**(II) allowed with cardiologist report.**

(-a-) paroxysmal atrial tachycardia.

(-b-) premature ventricular contraction.

(-c-) post repair of aortic coarctation.

(-d-) mild mitral regurgitation.

(-e-) mild pulmonary stenosis.

(ii) hypertension (150/90 on three or more occasions). A boxer is allowed to participate with diagnosis of essential hypertension if:

(I) controlled with diet and salt.

(II) controlled with thiazide drugs.

**(G) Genito-urinary.**

(i) absence of one kidney.

(ii) acute or chronic kidney disease.

(iii) active venereal disease.

(iv) one testicle (relative contraindication).

**(H) Musculoskeletal.**

(i) absolute contraindications.

(I) navicular fractures.

(II) apophyololysis and spondylolysis

(only if there is back pain).

(III) hip disease (leg perthes, slipped epiphysis, septic arthritis, chronic osteomyelitis).

(IV) active epiphysitis of spine.

(V) spina bifida occulta.

(ii) relative contraindications.

(I) joint instability.

(II) recurrent dislocation of shoulder.

(III) tendency to develop myositis ossificans.

(IV) metabolic bone disease.

(V) "long" neck.

**(I) Other.**

(i) diabetes if under poor control.

(ii) bleeding dyscrasias.

(iii) active staph skin infection.

(iv) alcohol addiction.

(v) drug addiction.

(vi) poorly conditioned.

(vii) mononucleosis—contraindicated until spleen returns to normal size and liver enzymes normal.

(viii) hepatitis—contraindicated until liver enzymes return to normal.

(J)(f) Unfit for competition. Should a boxer's examination show that he is unfit for competition because of any weakness or disability discovered by the physician, the boxer may not participate in a match and an immediate report of the facts must be made to the promoter and the commissioner of the Texas Department of Labor and Standards.

(K)(g) Illness or injury. Whenever a boxer, because of injuries or illness is unable to take part in a contest for which he is under contract, he or his manager must immediately report the fact to the promoter and to the Texas Department of Labor and Standards.

(L)(h) Medical suspensions by other states. Medical suspensions by other states may be recognized and honored by the department.

(M)(i) Reports of out-of-state contests. Any resident boxer licensed by the department who participates in a boxing match or contest outside the State of Texas shall report the results to the department within 72 hours of returning to the state of Texas.

(N)(j) Drugs prohibited. The administration or use of any drugs, alcohol, stimulants, or injections in any part of the contestant's body either prior to or during a match is prohibited unless administered by a physician with the approval of the department. The department may order drug screens at any time at the expense of the boxer.

(O) Referees shall be required to pass a pre-fight physical by the ring physician.

(P) CPR.

(i) All referees and judges shall be required to complete a CPR course.

(ii) All managers and trainers who own or operate training gyms shall complete a CPR course.

(iii) Seconds and handlers should be encouraged to complete such training.

(Q) Ringside and other emergency equipment.

(i) Resuscitator, stretcher, and oxygen shall be present at ringside before the start of each contest, and the obligation to furnish such equipment is that of the promoter.

(ii) An ambulance will be available within five minutes of where the contest is to be held if so directed by the department.

(iii) There must be a pre-fight plan and route to remove an injured fighter from the ring and arena. The promoter shall inform the department of such plans. This includes local hospital emergency room. No contest shall begin without a ringside physician in his assigned position.

(R)(k) Time between bouts. There shall be a 30-day period between contests of a boxer who participates in bout of 10 or more rounds, 21-day periods for boxers who participate in 6 to 10 rounds, and 14 days for six rounds or less. [No main event boxer shall be permitted to engage in more than one contest or exhibition every seven days. Preliminary event boxers may fight every third day subject to their recent record and with approval of a physician.]

(S)(1) Head injury. When a boxer suffers a knockout, concussion, or other serious head injury, he should be examined immediately by the ring physician. The physician shall report to the commissioner on the severity of the injury. Boxers who are knocked out may not compete for 30 days.

(T) Promoters' safety responsibility. It shall be the promoters' responsibility to insure safety for the boxers, officials, and fans.

(i) Security shall be sufficient to maintain order.

(ii) The promoter shall provide insurance for the participants, covering medical, surgical, and hospital care with a minimum limit of \$1,000 for injuries sustained while participating in said program and of \$10,000 to the estate of any boxer should death occur from injuries received while participating in said contest.

(iii) The promoter shall follow all safety standards required by the department.

(iv) The promoter will provide a ring that passes certification by the department.

(v) The promoter shall compensate the ringside physician.

(vi) The promoter shall furnish gloves that shall pass department certification.

(vii) The promoter shall provide for ambulance service if directed by the department.

(viii) He shall, if possible, provide a private dressing room for the officials.

(ix) He shall provide a private area for weigh-in examinations.

(U) Between-round care. Between-round care of a boxer will be strictly enforced by the department.

(i) Only one person will be allowed in the ring with the boxer between rounds and two people allowed on the apron.

(ii) The only substances and materials allowed in the corner are:

(I) ice;

(II) water;

(III) cotton swabs;

(IV) gauze pads;

(V) clean towels;

(VI) adrenalin 1:1000;

(VII) vaseline or surgical lubricant approved by department.

(VIII) medical diachylon tape;

(IX) enswell;

(X) any variance to subparagraph (U)(ii) must be requested in writing to the department after consultation with the medical consultant.

(iii) Substances such as Monsell's solution, other iron or bismuth compounds, collodion, silver nitrate, ammonia, or smelling salts will not be used, and the use of such modalities will result in disqualification, suspension, or fine of the boxer, manager, and or trainer.

(iv) The use of excessive lubricant on the body, arms, or face of a boxer will not be tolerated.

(v) Only water will be permitted for dehydration of a boxer between rounds. Honey, electrolyte solutions, glucose, sugar, or any other substance mixed with water is prohibited.

(vi) When the ringside physician enters a boxer's corner, the second in the ring will yield to the physician's examination. The department may disqualify a boxer, manager, and or trainer for unprofessional conduct in failing to cooperate with the ringside physician.

(v) Physical disqualification of fighter. Should a fighter be disqualified during a pre-fight physical examination, the physician shall notify the department immediately.

(W) Seminars. The department shall require periodic seminars for referees, judges, trainers, ringside physicians, and any other person licensed by the department, and the department shall require attendance at such seminar(s) as a prerequisite to the issuance or renewal of any license issued by the department.

(X) Terminating contests. The referee or ringside physician, acting by and through the referee, may terminate any contest where there is any reason to believe that a continuation of the contest may result in serious injury to either boxer.

(Y) Rules meeting. The department shall conduct a rules meeting before each contest.

#### §61.6 Conduct of Promotion

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

(e) Dressing rooms. The only people allowed in the boxer's dressing room are the boxer, manager, seconds, press, and a representative of the Texas Department of Labor and Standards [ , a physician, news media representatives, and promoters. Promoters are required to post a guard at the entrance to the dressing rooms to aid in enforcement. If possible, a separate dressing area should be provided for all referees and judges.]

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

- (h) Contests and exhibitions must be approved.
- (1)-(2) (No change )
- (3) Requests for approval of cards must be received by the department at least 10 [seven] days prior to the date of the contest. Said request must contain full legal names and addresses of contestants, ring names, weights, previous records, the number of rounds to be fought, and amount of purse or guarantee
- (4)-(7) (No change )
- (i)-(m) (No change )

**§61.7. Conduct of Bout**

- (a) (No change )
- (b) Boxers
  - (1)-(3) (No change )
  - (4) Boxers shall box in proper ring costume including protection cup, which shall be firmly adjusted previous to entering the ring. The felt of the trunks shall extend above the waistline, and the hem may not extend below the knee. Boxers must wear different color trunks. Mouthpieces shall be worn at the beginning of each round. Shoes shall be of soft material and shall not be fitted with spikes, cleats, hard soles, or hard heels.
  - (5) Requirements for female contestants
    - (A) A negative pregnancy test will be obtained the day prior to or day of the fight.
    - (B) Evidence of fibrocystic disease, nipple discharge, or other evidence of breast disease may result in disqualification. Mammography may be requested by examining physician.
    - (C) The examining physician may request a buccal smear if any doubt of sex. [Contestants must sign a statement indicating that to the best of their knowledge they are not pregnant and that the contest will not take place during the menstrual period.]
    - (D) A pelvic exam will be required, and any evidence of ovarian disease will result in disqualification.
    - (E) If the female boxers are a main event or billed as such, they will be required to be examined seven days prior to the fight because of higher risk for disqualification.
    - (F)[(A)] A mouthpiece must be used.
    - (G)[(B)] Ten ounce gloves will be worn.
    - (H)[(C)] Breast protection is mandatory.
    - (I)[(D)] The promoter must provide adequate separate dressing rooms.
  - (6)-(7) (No change )
  - (8) Any boxer injured while training in a gym shall report the injury to the department within 24 hours. The boxer's legitimate manager also shares the responsibility for reporting.
  - (9) Passports. All boxers and managers shall be required on each contest to provide certification and any and all information required by the department as to past contests, medical, and injury history.
    - (c)-(d) (No change )
    - (e) Referees and judges
      - (1)-(3) (No change.)
      - (4) General provisions for referees.
        - (A) (No change )
        - (B) If an assigned official is unable to officiate, he shall notify the commissioner of the Texas Department of Labor and Standards five hours before the contest [before 2 p.m. on the day of the contest].

- (C)-(D) (No change.)
- (5) Referee's power
  - (A) The referee may stop a fight during or between rounds because of an injury or the poor physical condition of a contestant
  - (B)-(C) (No change )
- (6) (No change )
- (f)-(g) (No change )

**§61.10. Effective Date of Rules**

- (a) Ring and equipment. All promoters will be given six calendar months from the effective date of these rules to comply with §61.4 of this title (relating to Ring and Equipment), excluding subsection (h)
- (b) Gloves. All promoters will be given six calendar months after the department specifies the gloves under §61.4(h) of this title, (relating to Ring and Equipment) to comply
- (c) Other rules. All other rules are effective on filing

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

Issued in Austin, Texas, on June 15, 1983.

TRD 834389 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and Standards

Earliest possible date of adoption  
July 25, 1983

For further information, please call (512) 475-0155.

**16 TAC §61.8**

*(Editor's note The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Labor and Standards, E. O. Thompson Building, 920 Colorado Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Labor and Standards proposes to repeal §61.8, concerning the regulation of professional boxing in Texas as defined by the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8501. The Texas Department of Labor and Standards simultaneously is proposing new §61.8

Larry Kosta, Labor Licensing and Enforcement Division director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal

Mr. Kosta also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be increased safety in the sport of professional boxing through the use of safer equipment and greater regulation of the health aspects of individual boxers in the

sport of professional boxing. There is minimal economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Larry Kosta, Texas Department of Labor and Standards, Labor/Licensing and Enforcement Division, P.O. Box 12157, Austin, Texas 78711, (512) 475-0721

In compliance with the Boxing and Wrestling Act, Texas Civil Statutes, Article 8501, the Texas Department of Labor and Standards will meet on August 2, 1983, in Room 100B of the Reagan Office Building, 105 West 15th Street, Austin. At the hearing the department will consider any objections to the proposed rule change. All interested persons shall be afforded the opportunity to submit written data, views, or arguments on the rules as proposed.

This repeal is proposed under the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8501(4) (b), which provides the Texas Department of Labor and Standards with the authority to adopt rules and regulations for the boxing industry.

**§61.8. Amateur Contests**

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

Issued in Austin, Texas, on June 15, 1983

TRD-834426      Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and  
Standards

Earliest possible date of adoption  
July 25, 1983

For further information, please call (512) 475-0155.

The Texas Department of Labor and Standards proposes new §61.8, concerning the regulation of amateur boxing in Texas defined by the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8501.

The rules were previously adopted on an emergency basis as published in the April 5, 1983, issue of the *Texas Register* (8 TexReg 1107). They are now proposed for official adoption.

Larry Kosta, Labor/Licensing and Enforcement Division 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. Kosta also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be increased safety in the sport of amateur boxing through the use of safer equipment and greater regulation of the health aspects of individual boxers in the sport of amateur boxing. There is minimal economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Larry Kosta, Texas Department of Labor and Standards, Labor/Licensing and Enforcement Division, P.O. Box 12157, Austin, Texas 78711, (512) 475-0721.

In compliance with the Boxing and Wrestling Act, Texas Civil Statutes, Article 8501, the Texas Department of Labor and Standards will meet on August 2, 1983, in Room 100B, Reagan Building, 105 West 15th Street, Austin. At the hearing, the department will consider any objections to the proposed rule change. All interested persons shall be afforded the opportunity to submit written data, views, or arguments on the rule as proposed.

This new rule is proposed under the Texas Boxing and Wrestling Act, Texas Civil Statutes, Article 8510(4) (b), which provides the Texas Department of Labor and Standards with the authority to adopt rules and regulations for the boxing industry.

**§61.8. Amateur Boxing.**

(a) Amateur contestant. An amateur contestant is one who engages in sport solely for the pleasure and physical, mental, or social benefits he derives therefrom and to whom sport is nothing more than an avocation, and:

- (1) has never been issued a professional boxing or wrestling license;
- (2) has never been issued a professional referee, second, or promoter's license;
- (3) has never accepted money in excess of legitimate expenses for participating in any sport;
- (4) has never been convicted of a felony, and;
- (5) has never committed fraud, including entering any match or tournament under a name other than his legal name.

(b) Insurance coverage.

(1) Sponsors of all amateur boxing contests must provide insurance coverage for medical, surgical, and hospital care in excess of \$1,000 to \$10,000; and a maximum dental expense of \$2,000; and up to \$10,000 accidental death. It is the sole responsibility of the sponsor to process all claims until the coverage indicated in this paragraph has been completely exhausted.

(2) It will be the responsibility of the sponsor to provide liability insurance for the facility in which the contests are conducted.

(3) Proof of the insurance required in paragraph (1) of this subsection must be in the Texas Department of Labor and Standards Austin office no later than three working days prior to the event.

(c) Accountability.

(1) Each sponsor, where an admission fee is charged, shall submit to the department within five days of the contest a complete accounting of all revenues.

(2) A sponsor will be allowed to pay the actual expenses of all contestants.

(3) A sponsor may compensate referees, judges, timekeepers, and ring physician.

(4) A sponsor may compensate an employee of the association at a reasonable rate.

(5) Under no circumstances may a contestant receive any money prize, purse, or compensation, ex-

cluding a participation award not to exceed \$25 in intrinsic value, for their participation in a tournament or match.

(d) Ring and equipment

(1) The ring shall be not less than 16 nor more than 20 feet square within the ropes, and the apron of the ring floor shall extend beyond the ropes not less than two feet. The ring shall not be more than four feet above the floor of the building or grounds of an outdoor arena and shall be provided with three sets of suitable steps for the use of contestants, coaches, and officials, one in each contestant's corner and one in a neutral corner for use by doctors and referees.

(2) The ring shall be equipped with at least three ropes. The rope shall not be less than one inch in diameter. Such ropes shall be manila rope, synthetic, plastic rope, or any similar material and shall not be made of metal of any type. All ropes shall be wrapped securely in soft material. If three ropes are used, they shall extend in triple parallel line two, three, and four feet above the ring floor. If four ropes are used, the lower rope shall be 18 inches above the ring floor, the second rope 30 inches, the third rope 42 inches, and the fourth rope 54 inches above the ring floor. The floor and apron shall be padded with a fine closed cell foam with two pounds density one inch thick with a compression factor 25% which will yield six pounds density. It must maintain these characteristics in a temperature range of 150° to 0°F. The padding shall be covered with canvas, duck, or similar material tightly stretched and laced securely in place, preferably under the apron.

(3) Ring posts shall not be less than three inches or more than four inches in diameter, extending from the floor to the height of 58 inches above the ring floor. The ropes shall be connected to posts with the extension not shorter than 18 inches. The turn buckles must be covered with a protective padding.

(4) Organizations conducting amateur boxing contests shall provide a sufficient number of sanitary water buckets, sponges, and drinking bottles for contestants, also rock resin, two tools with short legs, extra laces for gloves, and such other articles as are required in the conduct of the contests. Resin should not be sprinkled on the ring canvas but should be placed in trays near each corner. Resin is forbidden where ensolite padding is the ring floor covering.

(5) Competitive headgear

(A) The use of competitive protective headgear is optional in all classifications.

(B) The competitive headgear should be so constructed that it is adjustable to all head sizes. The adjustment features should include a lacing effect in the rear and on top composed of webbed canvas, two one inch by 1.8 inch strips sewn at the lowest point of the back of the helmet and sewn again at the highest point of the back, one from each side at the top and one from the front at the top. There should be adjustable elastic webbing at four areas, two in front and two in back.

(C) The total weight should not exceed 10 ounces.

(D) The outer casing of the headgear should be constructed of full chrome tanned sheepskin of not

less than two nor more than three ounces in weight. Colors are optional.

(E) Padding back of head, ears, and temple area should consist of 1/4 inch thickness of closed cell ensolite.

(F) Padding for the area above the eyes should consist of a combination padding of 1/4 inch ensolite and 3/8 inch latex foam rubber cemented together.

(G) Ear protection should consist of a semi-circular earpad with 1/2 inch flat foam rubber on the outside.

(H) Lace tips or any exposed metal is prohibited. The metal buckle under the chin must be thoroughly protected.

(I) Pattern measurements should be:

(i) front section, vertical measurements: 4 1/4 inches;

(ii) front section, horizontal measurements from side seam to side seam: 6 1/2 inches;

(iii) vertical side measurements: 10 inches from top of crown to the end of the leather under the chin;

(iv) horizontal side measurements: seam 6 1/4 inches;

(v) back adjustable vertical measurements: four inches; and

(vi) back horizontal measurement from side seam to side seam: five inches.

(J) The inner casing of the headgear should be lined with 2 1/4 ounces tanned unfinished sheepskin.

(K) All padding shall be cemented to either the outer or inner casing to avoid shifting.

(e) Safety

(1) One or more physicians must be in attendance at all times during the tournament or contest.

(2) Contestants shall be thoroughly examined at the weigh ins and immediately before and after each bout. One physician must be in attendance at all boxing contests at ringside. It is preferred if possible that two physicians be in attendance, the second to be in or near the boxer's dressing room.

(3) The attending physician may enter the ring between rounds, and at the request of the referee during the round, for the purpose of examining an injured contestant. If in the opinion of the physician a contestant is in danger of further physical injury, he shall notify the referee to terminate the bout. In the event of a knockout or if a boxer is seriously injured, the referee will immediately request the physician to check the boxer's condition and/or to render first aid as may be necessary, before the boxer is permitted to rise from the floor or leave the ring.

(4) A referee, before officiating in a boxing contest, must be examined and approved by the attending physician.

(5) No boxer shall be allowed to take part in any contest if he wears a dressing on a cut, wound, abrasion, laceration, or blood swelling on his face or scalp including the nose and ears. The decision shall be made by the doctor examining the boxer on the day of his competing. Dressing is interpreted as items such as cocoon, tape bandages, gauze, etc., material such as New Skin, Collodion, and other liquid substances which solidify are permitted.



The referee will examine the boxer prior to commencement of the bout.

(A) A boxer who has been knocked out in a contest as a result of head blows, or where the referee has stopped the contest due to a boxer receiving hard blows to the head, shall be examined by a doctor immediately after the tournament or contest and accompanied to his home or suitable accommodation by one of the officials on duty at the event. The official accompanying the boxer shall give a head injury slip to a responsible adult at the home or accommodation and explain its use clearly and thoroughly. The referee in the bout will notify the jury and all judges that the knockout was caused by head blows or that he stopped the contest due to the boxer receiving hard blows to the head. Judges must annotate their score cards "KO-H" or "RSC-H," respectively, the "H" in each case indicating head blow.

(B) A boxer who has been knocked out as a result of head blows during a contest, or where the referee has stopped the contest due to a boxer having received hard blows to the head, making him defenseless or incapable of continuing, shall not be permitted to take part in competitive boxing or sparring for a period of at least four weeks after he has been knocked out.

(C) A boxer who has been knocked out as a result of head blows twice in a period of three months, or where the referee has stopped two contests consecutively due to a boxer having received hard blows to the head, making him defenseless or incapable of continuing, shall not be permitted to take part in competitive boxing or sparring during a period of three months from the second knockout.

(D) A boxer who has been knocked out as a result of head blows three times consecutively in a period of 12 months, or where the referee has stopped three contests consecutively due to a boxer having received hard blows to the head, making him defenseless or incapable of continuing, shall not be allowed to take part in competitive boxing or sparring for a period of one year from the third knockout.

(E) Before resuming boxing after any of the periods of rest prescribed in subparagraphs (A)-(D) of this paragraph, a boxer must be given a special examination by a qualified doctor of medicine and certified by the examining physician as fit to take part in competitive boxing.

(F) Before resuming boxing after any of the periods of rest prescribed in subparagraphs (A)-(D) of this paragraph, a boxer must, in addition to submitting to the special examination described in subparagraph (E) of this paragraph, also have an EEG and/or a CAT scan at the discretion of the examining physician.

(G) A boxer who loses a bout which ends in RSC or KO due to body blows shall not be subject to a layoff as prescribed under the provisions of this rule. However, any boxer suffering an injury from any cause may not train or compete against the advice of the ringside or attending physician.

(F) Conduct of a tournament or match

(1) The department must be notified at least seven days in advance of any amateur boxing event where an admission fee is charged. If there is a sponsoring body or association, it will be its responsibility to notify the

department immediately upon its approval of the event. This notice will include the name of the club, date of the contest, location, name of the local official in charge, and any other information requested by the department.

(2) At each amateur boxing event (excluding those under direct supervision of the department), a representative of the sponsoring or sanctioning association shall be present to insure compliance with rules. A form shall be provided by the department which may include, but is not limited to, name and address of club, names of contestants, results of contest, names of officials, number of tickets sold, gross gate receipts, name of doctors in attendance, and affidavits that all boxers were examined prior to participating in the event.

(3) In amateur boxing events supervised by the department, a representative of the department will be in attendance, and all officials and the ringside physician will be appointed on approval by the department.

(4) Weigh-in.

(A) The contestants shall weigh in within four hours of competition in one-day meets.

(B) Weigh-ins shall take place in each class before the drawing for bouts in that class commences. Weigh-ins shall cease when the drawing begins in each class.

(C) In tournaments other than regional or national championships which last more than one day, contestants shall be required to weigh in each day of the tournament in which the boxer competes at a time and place as designated by the tournament director.

(D) If, upon weighing in, it is found that a contestant is over the maximum limit for the class in which he is entered, his name shall be withdrawn from the list of entries.

(E) No contestant shall be allowed to compete in more than one weight class in a tournament.

(g) General.

(1) Each contestant must enter and compete under his legal name; use of a ring name is strictly prohibited.

(2) A contestant must be clean, present tidy appearance, and be cleanly shaved. A thin-line mustache on the lip, to the edge of the outer corners of the mouth, is authorized. Hair shall be cut in such a manner as to not interfere with a contestant's vision. A contestant must box in proper costume, including approved foul-proof protective cup, which shall be firmly adjusted before boxer leaves the dressing room. Each contestant shall wear a pair of loose fitting trunks made of light material and may wear a sleeveless athletic shirt. The belt line of the trunks shall not extend above the waistline (the waistline is defined as the horizontal line covering the navel.) The wearing of tights is prohibited. Shoes shall be of soft material without spikes, cleats, or heels. Socks may be of any color. No apparel other than as specified may be worn in the ring. Robes, towels, etc. must be discarded before a contestant enters the ring. A mouthpiece, preferably one that is individually fitted to the contestant, is mandatory and must be in place in the contestant's mouth at the beginning of each round.

(3) The use of grease or other like substance is prohibited.

(4) If before the start of a bout, the referee calls the boxers to the center of the ring for instructions, the boxers will shake hands. When instructions in the center of the ring have been omitted, the contestants will not shake hands at the start of the bout. There will be no shaking of hands until the final bell. Touching gloves at the start of the first or last rounds is prohibited and considered a dangerous practice.

(5) A boxer who has been knocked out, or who in the opinion of the referee is incapable of defending himself, shall be examined by a physician immediately, and if recommended by the physician, the boxer must be accompanied to his home or a hospital by his coach or an official.

(6) The athlete who fails to compete after entering an event shall furnish a satisfactory excuse or be liable to censure and suspension. A contestant failing to appear when his bout is called automatically disqualifies himself.

(7) No contestant will be allowed to compete more than twice in each 24-hour period.

(8) The boxing gloves must be approved by a representative of the department, but under no circumstances are they to be less than 10 ounces in all classes.

(9) Bouts shall be three rounds of no more than two minutes duration with one minute rest between rounds in the open class. All other classes shall use three rounds of one minute duration with one minute rest between rounds.

(10) The following are recognized weight classes:

- (A) light flyweight—106 pounds,
- (B) flyweight—112 pounds,
- (C) bantamweight—119 pounds,
- (D) featherweight—125 pounds,
- (E) lightweight—132 pounds,
- (F) light welterweight—139 pounds,
- (G) welterweight—147 pounds,
- (H) light middleweight—156 pounds,
- (I) middleweight—165 pounds,
- (J) light heavyweight—178 pounds,
- (K) heavyweight—200 pounds,
- (L) super heavyweight—201 pounds and over,
- (M) no weight allowance

(11) No championship will be declared in any weight class unless there are two or more entries in that weight. This applies to all classifications. If there is only one entry in any weight class in any division, that contestant may box either the next higher or lower weight class, if he qualifies for either weight.

(12) One roll of two-inch gauze bandage, not to exceed 10 yards in length, may be used on each hand. Tape may be used only to bind gauze firmly at wrists.

(13) Scales must be of a standard make and must be tested and approved.

(14) At conclusion of the last round the judges and referee must make a decision in favor of one of the contestants, which decision shall be final.

(15) One or more physicians must be in attendance at all times. They shall examine each contestant before the contest and after each knockout or technical knockout.

(16) No amateur may have a manager.

(h) Classification of contestants, restrictions. The following are constant classifications:

(1) Open class (16 years old or over) and had six or more bouts.

(2) Novice class (16 to 21 years old) and no more than five prior bouts.

(3) Junior open (14 to 16 years old) and a proven record in Junior Olympics.

(4) High school (16 to 20 years old) and a high school student.

(5) College (18 to 25 years old) and a college student.

(6) Any variance to the classification of contestants in paragraphs (1)-(5) of this subsection shall be granted only by written permission from the commissioner.

(i) Ring officials.

(1) Qualifications for a ring official.

(A) To qualify as a boxing official, the candidate must attend clinics conducted by amateur boxing organizations recognized by the state boxing commissioner. Each official must attend a minimum of one clinic each year and be approved by the amateur boxing organizations or the department.

(B) No professional boxing promoter, manager, or any other person identified with professional boxing in any manner shall be allowed to promote amateur contests solely for personal profit.

(C) No amateur boxing shall be conducted in connection with a public theatrical performance.

(D) Boxers, coaches, officials (judges, timers, clerks, seconds, sponsors, promoters) who participate or serve in any capacity in Toughman, Wildman, Bar Room Brawl, Professional Kick-Boxing, or any similar competition cannot participate in any capacity in amateur boxing competition.

(E) All officials must be approved by the commissioner or an amateur association recognized by the commissioner.

(2) The judges.

(A) There should be at least three judges and a referee for every bout.

(B) Judges should be familiar with boxing fundamentals, skills, and technique.

(C) Judges should know the official State of Texas boxing rules.

(D) Judges should be familiar with the method of scoring a bout.

(E) Judges should score by use of marks and points and should determine the score at the end of each round.

(F) Judges must be consistent, entirely impartial, and cannot let the crowd affect them in any manner. They must score as they see them and realize that a definite scoring system, plus a better seat from which to observe the bouts, plus a definite knowledge of the rules will make the decision a just one.

(G) Judges must always stand by their decision. They should not discuss the decision with anyone or indicate the way they voted. Under no circumstances should a judge express disapproval of a decision.

(H) To judge correctly is not an easy task. It requires constant attention and concentration, continuously keeping the eyes upon the contestants. There is no time to relax while judging a boxing bout.

(I) Judges should not judge more than 10 to 12 bouts without a rest

(3) The referee

(A) The referee should be considerate, sympathetic, and interested in the boys

(B) He must be fully aware of his own powers and limitations. He should execute up to the fullest measure of his powers, but never exceed them.

(C) He must have the ability to control himself at all times.

(D) He should know the rules and their full interpretation and should never hesitate to act according to the rules.

(E) He should abide by the established rules at all times; never make one up.

(F) He should know who is winning at all times and be ready to give his decision instantly.

(G) He must be absolutely impartial, and his only words to the contestants should be box, stop, and break.

(H) He should always stop a bout too soon, never too late. The primary concern of a referee is the welfare of the boxer.

(I) The referee should examine all cuts. If the cut is more than superficial, the bout should be stopped immediately and a physician called to the ring apron to examine the cut before permitting the bout to continue.

(J) The referee should protect a boy from an unnecessary blow.

(K) If one of the contestants is knocked out, the referee should never walk away and leave a boy.

(L) When a contestant is knocked down, the referee should see that fighting does not resume for eight seconds. The rules allow nine seconds rest, yet only experienced boxers are inclined to take advantage of the rest.

(M) If a boy is knocked out cold, a referee should not go through the formality of counting but wave the winning boxer to his corner and assist the other boy.

(N) When a foul is committed, the bout should be stopped, the boxer causing the foul should be clearly indicated, and the judges informed. A referee can warn of an infraction of a rule only twice, the third time meaning disqualification. Each warning means that the judges automatically subtract two marks off the score of the one committing the foul.

(O) In case of a low blow, the referee must use his full discretionary powers. A recommended procedure, in case of doubt as to the severity of the blow, is to order a rest. After a sufficient length of time has been allowed for recuperation, the bout should proceed. The referee, if undecided as to the ability of the boy to continue, may call for the opinion of a physician.

(P) Referees should not officiate more than 10 to 12 bouts without a rest.

(Q) The referee should be careful to check all ring equipment before the matches are started and ascertain that all officials are present and ready.

(4) The seconds.

(A) Each competitor has a right to only one second and one assistant. During the boxing, the seconds may not be on the outside edge of the ring. During the boxing, no assistance, advice, or encouragement shall be given.

(ii) The competitor is responsible for any infringement of the rules by his second or assistant, and in the event of such an infringement, may be warned by the referee and on a repetition of same (or even at the first infringement) may be disqualified. The second shall not throw a towel or sponge into the ring. To have a match stopped, he may appear on the apron of the ring and request the bout be stopped.

(iii) Seconds shall leave the ring enclosure 10 seconds before the beginning of each round. They shall leave the ring platform and remove all obstructions, buckets, stools, etc., promptly when the signal sounds for the beginning of each round.

(B) The primary job of the second is to provide his boxer with the maximum amount of rest between rounds and to refresh and revitalize the contestant so that he can put forth his best effort.

(C) The second should know boxing styles and techniques.

(D) The second should have a good working knowledge of first aid.

(E) The second should have the following items:

(i) water pail and hand sponge, to refresh boxer;

(ii) cold water, to stimulate circulation;

(iii) water bottles, to rinse mouth; and

(iv) towels, to wipe off and keep boxer dry.

(F) The second should be ready with the stool when the bell rings; see that his boxer is seated correctly on the stool, with his feet under him and his hands in his lap; wipe the boxer dry with towel, using water only when necessary to wash the boxer off; have the boxer breathe deeply, and when the bell rings, help the boxer off the stool. At the end of a bout, the second should wipe the boxer dry, then help him on with his robe.

(j) The scoring system.

(1) Twenty points are awarded to the winner of a round or to each boxer if the round is even. It must be noted that an even round in amateur boxing should be a rarity. Judges are advised that in scoring a round, a winner should be named except in rare cases.

(2) A proportionate number of points less than 20 are awarded to the boxer who loses the round:

(A) Winner—20 points—very close, winner by shade. Loser—19 points.

(B) Winner—20 points—clear advantage. Loser—18 or 17 points.

(C) Winner—20 points—one-sided, bout could be stopped. Loser—16 or 15 points.

(3) For major infractions deduct two points; for minor infractions deduct one point. If a judge observes a foul that is unnoticed by the referee he may impose a suitable penalty against the offender and should mark it on his scoring paper.

(4) An eight-count is mandatory and must be given after each knockdown or any time a referee deems a boxer defenseless. In the event the point totals are even at the termination of the bout, the judge shall indicate the boxer he determines is the winner by circling the name of the boxer who, in his opinion, won the bout on the basis of the following three points:

(A) Who was the more effective aggressor?

(B) If still equal, who had the best defense?  
and

(C) If still equal, who boxed the cleanest and exhibited outstanding sportsmanship?

(5) A winner must be named. There can be no draw. After each bout, the scoring papers should be collected by the referee, the announcer and, after announcing the result, they shall be handed to the official designated by the tournament director, to be kept in safe custody. They shall be available for inspection only on an appeal in writing by an accredited representative of the club making the appeal and then at the convenience of the tournament director. Only copies of the cards may be shown by the tournament director.

(6) Each blow to have scoring value must, without being partially blocked, land directly with the knuckles part of the closed glove of either hand on any part of the front or sides of the head or body above the belt. Swings landing as described in this paragraph are scoring blows.

(7) The value of hits scored in a rally of infighting shall be assessed at the end of such a rally and shall be credited to the boxer who has had the better of the exchanges according to the degree of his superiority.

(8) The following blows struck by a boxer are not scoring blows and do not count.

(A) infringing on any of the rules;

(B) hitting with the side, the heel, the inside, the back of the glove, or with the open glove, or with any part of the glove other than the knuckle part;

(C) blows which land on the arms, the shoulder or back; or

(D) blows which merely connect, without the weight of the body or shoulder.

(9) The competitor who does not obey the instructions of the referee, acts against the boxing rules, boxes in any unsportsmanlike manner, or commits fouls, can at the discretion of the referee be cautioned, warned, or disqualified without warning.

(10) Only two warnings may be given to the same boxer in one contest. The third offense brings prompt disqualification.

(11) Each boxer is responsible in the same way for his second.

(12) A referee may without stopping a contest caution a boxer at some safe opportunity.

(13) If the referee intends to warn a boxer, he shall stop the contest and will demonstrate the infringement. He will then point to the boxer and to each of the judges. Before issuing a warning, the referee should remember that a warning may carry a heavy penalty and that a warning should not be lightly given.

(14) The following are fouls:

(A) hitting or holding below the belt, tripping, kicking, and butting with foot or knee;

(B) hitting with head, shoulder, forearm, elbow; throttling the opponent, pressing with arm or elbow in opponent's face, pressing the head of the opponent back over the ropes;

(C) hits landing on the back of the opponent, and especially any blow on the back of the neck or head and kidney punch;

(D) hitting with open gloves, the inside of the glove, wrist, or side of the hand,

(E) pivot blows,

(F) attacking while holding the ropes or making any unfair use of the ropes;

(G) lying on, wrestling, and throwing in the clinch;

(H) attacking an opponent who is down or who is in the act of rising,

(I) holding,

(J) holding or locking of the opponent's arm or head, or pushing an arm underneath the arm of the opponent;

(K) holding and hitting, or pulling and hitting;

(L) ducking below the belt of the opponent in a manner dangerous to his opponent;

(M) completely passive defense by means of double cover and intentionally falling to avoid a blow;

(N) useless, aggressive, or offensive utterances during the round,

(O) not stepping back when ordered to break; and

(P) attempting to strike an opponent immediately after the referee has ordered break and before taking a step back.

(Q) If a boxer has received a low blow (punch below the belt line) the referee shall, if he has seen the foul blow delivered, use his discretion and may permit, if the blow was of damaging effect, a rest period to the victim, not to exceed five minutes. No boxer will be named as a winner as the result of a low blow. If the offended boxer refuses to box after a live-minute rest period, his opponent will be named the winner by retirement.

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

Issued in Austin, Texas, on June 15, 1983.

TRD-834390 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and Standards

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-0155.

## Chapter 69. Manufactured Housing Division Mobile Home Installations

16 TAC §69.105

*(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Labor and Standards, E. O. Thompson Building, 920 Colorado Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Labor and Standards proposes to repeal §69.105, concerning the procedures for retailer alterations as defined by the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f.

John P. Steele, Manufactured Housing Division director, has determined that for the first five year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Steele also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal will be the prevention of air conditioning installers from installing components which are not listed for or compatible to units for which they are installed. There is minimal economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John P. Steele, Texas Department of Labor and Standards, Manufactured Housing Division, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712.

In compliance with the Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, the Texas Department of Labor and Standards will meet on August 2, 1983, in Room 100B, Reagan Building, 105 West 15th Street, Austin. At this hearing the department will consider any objections to the proposed rule change. All interested persons shall be afforded the opportunity to submit written data, views, or arguments on the rules as proposed.

This repeal is proposed under the Texas Manufactured Housing Standards Act, Article 5221f, which provides the Texas Department of Labor and Standards with the authority to adopt rules for the manufactured housing industry.

**§69.105. Procedures for Retailer Alterations.**

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

Issued in Austin, Texas, on June 15, 1983.

TRD-834409      Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and  
Standards

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-0155.

The Manufactured Housing Division of the Texas Department of Labor and Standards proposes new §69.105, concerning procedures for retailer alterations.

There are installers who install noncompatible and nonlisted components. The changes from existing §69.105 will prevent air conditioning installers from

installing components which are not listed for or compatible to the units for which they are installed. Such faulty installations will result in an air conditioning system that will not meet the required efficiency rating paid for by the consumer. The new rule provides the procedures which are to be used by a retailer when alterations are to be made for manufactured housing. The new rule will include forms to be used by the retailer to document alterations on manufactured housing.

The Texas Manufactured Housing Association and the air conditioning industry agree the rule is necessary to protect the consumer against unscrupulous installers of air conditioning in manufactured housing, including both mobile and modular housing. This new rule is completely rewritten from existing §69.105, which is simultaneously being proposed for repeal. The new rule adds subsections (e), (f), and (g) to the rule and provides the form to be used by the retailer. No change is made to the definition in current §69.105(a).

John P. Steele, Manufactured Housing Division 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. Steele also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a statewide uniform code for air conditioning installations, which through improved enforcement will provide better service to the owners of manufactured housing. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John P. Steele, Texas Department of Labor and Standards, Manufactured Housing Division, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712.

In compliance with the Manufactured Housing Act, Texas Civil Statutes, Article 5221f, §9, the Texas Department of Labor and Standards will meet at 1 p.m. on August 2, 1983, in Room 100B, Reagan Building, Austin. At this meeting the department will consider any objections to the proposed rule change. All interested persons shall be afforded the opportunity to submit written data, views, or arguments on the rule as proposed.

The new rule is proposed under Texas Civil Statutes, Article 5221f, §9, which provide the commissioner of the Texas Department of Labor and Standards with the authority to promulgate rules.

**§69.105. Procedures for Retailer Alterations.**

(a) "Alteration" means the replacement, addition, and modification or removal of any equipment or its installation after sale by the manufacturer to a retailer but prior to sale and installation to a purchaser which may affect the construction, fire safety, occupancy plumbing, heat-producing, or electrical system. It includes any modification made in the manufactured home which may

affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug-in" to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

(b) No alteration shall be made by a retailer without prior approval of the department. A written request for any alteration approval shall be filed with the department, except for the alterations which are preapproved as described in this section.

(1) If the alteration is not approved, the department will notify the retailer in writing of the reason for the refusal. If additional information is necessary to complete the evaluation of the request for approval, the retailer shall furnish any additional information deemed necessary by the department.

(2) If the alteration is approved, the alteration shall be completed in accordance with the department's approval and any requirements made as a condition of the approval. Following completion of an approved alteration, the retailer shall notify the department in writing, and the department may accept the certification of the retailer that the alteration was made as approved. The department may inspect the home, as altered, to assure compliance with the applicable standards.

(c) The installation of self-contained or split system ("A coil") comfort cooling equipment and devices shall not be considered an alteration, if the installation is performed in accordance with the specific instructions of the manufacturer of the home as approved by the manufacturer's design approval primary inspection agency or design review agency for Texas, and if the specific equipment and devices used have been expressly approved by the manufacturer's design approval primary inspection agency or design review agency for Texas.

(d) Other than as set forth in subsection (c) of this section, the installation of split system ("A" coil) comfort cooling equipment and devices is an alteration; however, the installation of split system ("A" coil) comfort cooling equipment devices is an approved alteration if a pre-approved system is installed. A pre-approved system consists of a combination of furnace, blower, controls, condensing unit, and evaporator coil which have been approved by a nationally recognized third-party testing/certification agency to be compatible for installation as a complete system; additionally, the outdoor condenser and indoor coil must be performance-tested as meeting applicable state or federal efficiency standards and be listed in combination by a nationally recognized testing agency recognized by the department. Additionally, it is required that:

(1) third-party approvals and the performance listing shall be furnished in writing to the department prior to installation; and

(2) the Btu per hour rating of installed air conditioners pursuant to this section shall be no greater than 115% of the rated capacity of the duct system.

(e) Other than as set forth in subsection (c) of this section, the installation of self-contained comfort cooling equipment and devices is an alteration, however, the installation of self-contained comfort cooling equipment is an approved alteration provided that the system is installed under the following conditions:

(1) the return air boxes and duct connecting collars are installed without cutting any floor joists, wall studs, or other structural members, and any openings in the home are made rodent proof by the appropriate use of foil, duct tape, collars, or other approved materials, and

(2) the duct collar is installed at a location that is approximately the same register area fore and aft of the duct collar as there is fore and aft of the furnace for each unit, and

(3) the Btu per hour rating of the installed air conditioning system is no greater than 115% of the rated air capacity of the duct system, and

(4) dampers shall be installed to prevent cold air from flowing to the furnace and heated air from flowing into the air conditioner, and the thermostat shall not allow the heating and cooling system to operate simultaneously; and

(5) the air conditioner is wired directly to electrical service and not through the electrical distribution panel in the home, or if the air conditioner is wired into the circuitry of the home through the distribution panel, the aggregate ampacity of the panel box shall not be exceeded due to the additional ampacity of the equipment installed.

(f) If additional air duct cooling capacity is needed, the capacity may be obtained by installing additional air supply registers to the duct system. Installing additional air supply registers to the duct system is an approved alteration provided that:

(1) the air supply registers which are added shall be of the same size (outlet area) as the registers installed by the home manufacturer; and

(2) each additional air supply register may add air duct cooling capacity at the rate of up to 1,500 Btu's per hour each; provided that the total additional cooling capacity obtained shall not exceed 6,000 Btu's per hour; and

(3) registers shall be added as equally as possible to both sides of the cool air entry locations of the main supply duct(s); and

(4) the air supply registers and duct connecting coolers are installed without cutting any floor joists, wall studs, or other structural members, and any openings in the home or duct system are made rodent-proof by the appropriate use of foil, duct tape, collars, or other approved materials.

(g) If the alteration, pursuant to subsections (c), (d), (e), or (f) of this section, is a part of the contract of the manufactured home and is to be installed by the retailer or an agent of the retailer, the retailer shall maintain in the sales file a sworn statement on a form prescribed by the department:

AIR CONDITIONING INSTALLATION REPORT

(Please Type or Print Very Plainly)

A. Air Conditioner Contractor (if other than Retailer) name and address.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

B. Name of Home Manufacturer \_\_\_\_\_

Model designation of home (name and/or number) \_\_\_\_\_

Label (Decal) No.(s) \_\_\_\_\_

C. Name of Purchaser and address where home is to be sited:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

D. 1. Maximum cooling capacity of duct system as per home manufacturer's

compliance label \_\_\_\_\_ Btuh

2. Manufacturer and Model number of furnace in home \_\_\_\_\_

E. Was additional cooling capacity added to duct system by installing additional air registers?  Yes  No

If "Yes": No. of registers added \_\_\_\_; total additional capacity obtained \_\_\_\_\_ Btuh.

F. Manufacturer name and model number of air conditioner and all equipment and components installed:

	<u>Component</u>	<u>Manufacturer</u>	<u>Model No.</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

G. 1. EER or SEER of equipment installed \_\_\_\_\_

2. ARI rated cooling capacity of system as installed \_\_\_\_\_ Btuh







the Texas Administrative Code. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeals are proposed under the authority of the Texas Education Code, §11-23, which authorizes the State Board of Education to adopt rules of procedure.

- §37.1 (226 91 01 010) *Composition and Term of Office*
- §37.2 (226 91 01 020) *Flexibility*
- §37.3 (226 91 01 030) *Election Requirements*
- §37.4 (226 91 01 040) *Oath and Bond*
- §37.5 (226 91 01 050) *Vacancies*
- §37.6 (226 91 01 060) *Orientation of New Members*
- §37.9 (226 91 01 090) *Standards of Conduct*
- §37.10 (226 91 01 100) *Press and Public Relations*

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

Issued in Austin, Texas, on June 17, 1983.

TRD 834488      Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption  
September 10, 1983

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

### **Subchapter B. Officers of the Board** 19 TAC §§37.21-37.24

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §§37.21-37.24 (226 91 02 010-040), concerning officers of the State Board of Education. The rules concerning officers of the State Board of Education will be contained in the internal operating rules for the board. Therefore, the rules as codified in the Texas Administrative Code are proposed for repeal.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will be that material which is internal only and does not meet the definition of a rule in the Administrative Procedure and Texas Register Act will be removed from the Texas Administrative Code. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeals are proposed under the authority of the Texas Education Code, §11-23, which authorizes the State Board of Education to adopt rules of procedure.

- §37.21 (226 91 02 010) *Selection*
- §37.22 (226 91 02 020) *Duties*
- §37.23 (226 91 02 030) *Executive Secretary*
- §37.24 (226 91 02 040) *Recording Secretary*

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

Issued in Austin, Texas, on June 17, 1983.

TRD 834489      Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption  
September 10, 1983

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

### **Subchapter D. Meetings** 19 TAC §§37.61-37.71

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §§37.61-37.71 (226 92 01 010-110), concerning meetings of the State Board of Education. The rules concerning meetings of the State Board of Education will be contained in the internal operating rules for the board. Therefore, the rules as codified in the Texas Administrative Code are proposed for repeal.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will be that material which is internal only and does not meet the definition of a rule in the Administrative Procedure and Texas Register Act will be removed from the Texas Administrative Code. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701 (512) 475 7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeals are proposed under the authority of the Texas Education Code, § 11.23, which authorizes the State Board of Education to adopt rules of procedure.

- §37.61 (226.92.01.010) *Regular Meetings of the Board*
- §37.62 (226.92.01.020) *Special Meetings of the Board*
- §37.63 (226.92.01.030) *Open Meetings*
- §37.64 (226.92.01.040) *Executive Sessions*
- §37.65 (226.92.01.050) *Notice of Meeting*
- §37.66 (226.92.01.060) *Agendas*
- §37.67 (226.92.01.070) *Quorum*
- §37.68 (226.92.01.080) *Opening of Meetings*
- §37.69 (226.92.01.090) *Official Transaction of Business*
- §37.70 (226.92.01.100) *Rule of Order*
- §37.71 (226.92.01.110) *Minutes*

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

Issued in Austin, Texas, on June 17, 1983.

TRD 834490 Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption  
September 10, 1983

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

### Subchapter E. Appointment of Trustees to Teacher Retirement System

19 TAC §§37.91

*(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Education Agency proposes the repeal of §37.91 (226.92.02.010), concerning appointment

of trustees to the Teacher Retirement System. The rule is being revised and moved to Chapter 33, since the rest of the rules in the chapter are being repealed.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be greater clarity in procedure established for appointment of trustees to the Teacher Retirement System. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475 7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The repeal is proposed under the authority of the Texas Education Code, § 11.23, which authorizes the State Board of Education to adopt rules of procedure.

§37.91 (226.92.02.010) *Policy*

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

Issued in Austin, Texas, on June 17, 1983.

TRD 834491 Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption  
September 10, 1983

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

### Chapter 77. Comprehensive Instruction

#### Subchapter V. Adoptions by Reference 19 TAC §77.453

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

The Texas Education Agency proposes an amendment to §77.453 (226.32.91.080), concerning the adoption by reference of the Texas State Plan for Vocational Education. In May, the State Board of Educa-



and that school districts may report results of the assessment exams prior to June 1 if they so desire. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701 (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the authority of the Texas Education Code, § 16.176, as amended by House Bill 723, 68th Legislature, which directs the Central Education Agency to adopt and administer appropriate criterion-referenced assessment instruments designed to assess minimum basic competencies of students at third, fifth, and ninth grade levels.

**§101.1 General Provisions.** The State Board of Education [Texas Education Agency] shall adopt assessment objectives and [administer] criterion-referenced assessment instruments and shall direct the commissioner of education to administer such instruments in accordance with Texas Education Code, §16.176.

#### §101.2 Participation

(a) [Policy.] Each school district shall [will] assist in the administration of the criterion-referenced tests to its students in accordance with procedures established by the commissioner of education.

(b) [Administrative procedure.]

(1) The superintendent or chief administrative officer in each school district shall be responsible for coordinating all local test activities including:

(1)(A) scheduling testing dates and times on all affected campuses;

(2)(B) administering or training personnel to administer the basic skills examination to the appropriate students;

(3)(C) training maintenance of security; and

(4)(D) ensuring that all test materials are returned as directed by [to] the commissioner of education [Texas Education Agency].

(c)(2) The superintendent or chief administrative officer of each school district shall certify in writing to the commissioner of education [Texas Education Agency] that:

(1)(A) all reasonable efforts have been made to ensure that all nonexempt students at the designated grades have been tested;

(2)(B) any exemptions granted were granted in accordance with Texas Education Code, §16.176, and this chapter [all exempt students have been properly excluded from the examination] and

(3)(C) all security provisions of the program have been maintained (see §101.5 (226-38-01-050) of this title (relating to Security)), [.] and]

(D) Beginning with the 1980-1981 school year, that all students eligible to retake the test were given an opportunity to do so.]

#### §101.3 Exemptions

(a) [Policy.]

(1) All handicapped students who are in a residential placement, a nonpublic day school program, a special education campus, a homeroom special education departmentalized instructional arrangement, or in special education classes for all academic areas, may [shall] be exempted [exempt] from the student assessment of basic skills.

(b)(2) Any eligible handicapped student who is in a regular class placement for either language arts (reading or writing) or mathematics shall be required to participate in the assessment of basic skills for that area. Modifications of regular classroom procedures which are provided by the local district as specified in the student's individual educational plan shall also be provided during the assessment process in accordance with guidelines developed by the commissioner of education.

(c)(3) Districts shall make every reasonable effort to ensure that all nonexempt students are tested.

(d)(b) [Administrative procedure.] The superintendent or chief administrative officer of each school district shall report to the commissioner of education the number of exempt and nonexempt students who were not tested and shall certify that the exemptions were granted in accordance with Texas Education Code, §16.176, and this section.

#### §101.4 Retesting [Opportunity to be Retested]

(a) [Policy.] The State Board of Education shall establish annually the criteria for mastery of basic skills.

(b)(1) All ninth grade students who fail to demonstrate adequate mastery of basic skills shall [be given the opportunity to] retake the assessment instrument each year the assessment instrument is administered until adequate mastery of such skills is demonstrated (Texas Education Code, §16.176(c)).

(2) School districts shall make provisions for retesting of students, in accordance with procedures developed by the commissioner of education.

(3) The State Board of Education shall establish annually the criteria for mastery of basic skills.

(b) [Administrative procedure.]

(c)(1) School districts shall notify in writing the parent of each ninth grade student who fails to pass the basic skills examination that the student will be required [provided an opportunity] the following year to retake the examination and each year thereafter until mastery of such skills is demonstrated by the student.

(d)(2) School districts shall notify the commissioner of education [Texas Education Agency] by September 30 [December 31] each year of the number of students who will retake the examination.

#### §101.5 Security

(a) [Policy.] The superintendent of each school district shall certify to the Texas Education Agency that assessment instruments and test items have been kept secure.]

(b) [Administrative procedure.] The superintendent or chief administrative officer of each school district

shall certify in writing to the commissioner of education that assessment instruments and test items have been kept secure and that:

(1) no unauthorized person inspected or viewed [ , copied, or in any way reproduced] any part of the basic skills examination;

(2) no person in any way copied or reproduced any part of the basic skills examination or student responses to it;

(3)(2) no person revealed [test administrators did not reveal] any of the contents of the examination;

(4)(3) only the examinee or test administrator was allowed to view or mark on any of the student answer documents.

(b) School districts shall ensure that test administrators follow the procedures for test administration established by the commissioner of education and included with test materials. Departures from prescribed testing procedures by teachers, test administrators, or any other person shall be prohibited.

§101.6. Confidentiality of Individual Results. Results of individual student performance shall be confidential in accordance with Texas Education Code, §16.176(e).

§101.7. Reporting of Results.

(a) Student performance data aggregated by campus and district, with appropriate interpretations, shall be reported no later than [at] the first regularly scheduled school district board of trustees meeting after June 1 [of the local school board of trustees].

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

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834493 Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption:  
September 10, 1983

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



### Chapter 113. Federal Funds to Support Public Education in Texas Subchapter C. Complaint Procedures for Federal Programs

19 TAC §§113.41-113.45

*(Editor's note: The Texas Education Agency proposes for permanent adoption the new rules it adopts on an emergency basis in this issue. The text of the new*

*rules is published in the Emergency Rules section of this issue.)*

The Texas Education Agency proposes new §§113.41-113.45, concerning complaint procedures for federal programs. This proposed new subchapter establishes a complaint procedure for investigation and resolution of complaints concerning federal programs. This subchapter has been simultaneously adopted on an emergency basis to comply with the federal requirement that states have such a written procedure. Although the federal regulations require a complaint procedure only for certain programs, for consistency and ease of administration, the proposed rules apply to all federal programs. Under the proposed rules, complaints concerning federal programs may be filed in writing with the commissioner of education. The complaint must include a statement that the agency, a local school district, or other fund recipient has violated or is violating a federal or state constitutional provision, statute, or regulation. The complaint must specify the requirement concerned and set forth the pertinent facts. Complaints received under this section must be reviewed and resolved within 60 days.

Proposed §113.44 provides for hearings relating to programs financed in whole or in part by federal funds and establishes timelines for such hearings in accordance with federal requirements.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be a clarification of complaint procedures for investigation and resolution of complaints concerning federal programs. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The new sections are proposed under the authority of the Texas Education Code, §11.24(b), which gives the State Board of Education authority to make rules to carry out the duties placed on it or on the Central Education Agency by the legislature; Texas Education Code, §11.02, which, with certain exceptions, directs that the Central Education Agency shall be the sole agency of the State of Texas empowered to enter into agreements with respect to education undertakings

with an agency of the federal government; and 34 Code of Federal Regulations §76.780, which requires states to adopt written complaint procedures for complaints concerning federal programs funded or administered through the agency.

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834495 Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption:  
September 10, 1983

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

### 19 TAC §101.8

The Texas Education Agency proposes new §101.8, concerning mastery of minimum exit level competencies.

The new rule reflects House Bill 723, which recently passed the 68th Legislature. The bill requires, as §101.8 is written to reflect, that school districts shall be allowed to require minimum competency achievement on exit level tests as a condition for graduation.

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.

Dr. 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 benefit anticipated as a result of enforcing the rule as proposed will be that school districts will have the option of requiring students to achieve mastery of minimum competency skills on exit level tests as a condition for graduation. There is no anticipated 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, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This new section is proposed under the authority of the Texas Education Code, §16.176, as amended by House Bill 723, 68th Legislature, which directs the Central Education Agency to adopt and administer appropriate criterion referenced assessment instruments designed to assess minimum basic competencies of students at third, fifth, and ninth grade levels.

**§101.8. Mastery of Minimum Exit Level Competencies.** In accordance with Texas Education Code, §16.176(c), the board of trustees of a school district may require that students master minimum exit level competencies as a condition for graduating from high school.

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834494 Raymon L. Bynum  
Commissioner of Education

Proposed date of adoption:  
September 10, 1983

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



## TITLE 22. EXAMINING BOARDS Part XXVII. Board of Tax Assessor Examiners

### Chapter 621. Administration

#### 22 TAC §621.1

The Board of Tax Assessor Examiners proposes amendments to §621.1, concerning administration of a professional registration program, incorporating amendments to the Property Taxation Professional Certification Act made by the 68th Legislature.

Sam H. Smith, executive 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. Smith also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be improved administration and accountability in conduct of the statewide professional registration and certification program. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The amendments are proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Tax-

ation Professional Certification Act of the 68th Legislature, which provides the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

§621.1. Administration.

(a) The following powers and duties authorized by statute to be bestowed upon and performed by the Board of Tax Professional [Assessor] Examiners are hereby delegated to the executive director of the Board of Tax Professional [Assessor] Examiners:

- (1)-(3) (No change.)
- (4) make records of all proceedings available to the public;
- (5)[(4)] maintain roster of registrants;
- (6)[(5)] accept [and/] or deny applications and register and classify and reclassify applicants accepted;
- (7)[(6)] mail notices to all registrants regarding renewal.
- (8)[(7)] establish reinstatement procedure for nonpayment of renewal fee;
- (9) establish enforcement procedures for violations of applicable laws and rules;
- (10)[(8)] design and determine the content of application forms; [and
- [(9) answer questions regarding complaints or policy determined jointly by chairman of the board and the executive director.]
- (11) initiate proceedings to ensure compliance with law and these rules;
- (12) examine registrants with testing instruments approved by the board; and
- (13) issue certificates to persons certified by the board.

(b) (No change.)  
(c) Should this agency be without an executive director at any time, then the powers and duties listed in subsection (a) of this section shall be performed by the chairperson [chairman] of the Board of Tax Professional [Assessor] Examiners.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834517 Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.

Chapter 623. Registration and Certification

22 TAC §§623.1-623.5

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Board of Tax*

Assessor Examiners, 9501 IH 35 North, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Board of Tax Assessor Examiners proposes the repeal of §§623.1-623.5, concerning registration and professional certification procedures, so that new registration and professional certification procedures which are fully consistent with the Property Taxation Professional Certification Act of the 68th Legislature may be adopted.

Sam H. Smith, executive director, has determined that for the first five-year period the repeals will be in effect there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Smith also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will be education and certification of property tax officials in the specialized fields in which they are employed and periodic recertification to ensure maintenance of professional skills and knowledge of current property tax laws and rules. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The repeals are proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

- §623.1. Persons Required to Register.
- §623.2. Qualification for Classified Registrants.
- §623.3. Education, Testing, and In-Service Training—Precertification.
- §623.4. Education, Testing, and In-Service Training Required for Certification as a Registered Professional Assessor.
- §623.5. Fees.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834518 Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.

22 TAC §§623.1-623.18

The Board of Tax Assessor Examiners proposes new §§623.1-623.18, concerning registration and profes-



sional certification procedures, to implement the Property Taxation Professional Certification Act of the 68th Legislature.

Sam H. Smith, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Smith also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be increased efficiency of property tax professionals due to separate, comprehensive education and testing programs for appraisers, assessors, and collectors working in property taxation. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The new rules are proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

**§623.1. Registration: General.**

(a) Persons required by law to register with the board shall register by proper application submitted to the administrative office of the board in Austin, on a form provided by the board, or on an exact copy of the board form. The applicant's signature on the form shall be notarized.

(b) Persons required by law to register with the board shall be responsible for submitting an application to the board directly or for ensuring that their employer submits the application.

(c) Employers of persons required by law to register with the board shall be responsible for informing those employees of that requirement and assisting employees in registering.

(d) All applications for registration shall be accompanied by the code of ethics sworn to and signed by the applicant, and the application shall contain a check or money order sufficient to pay the application fee and the registration fee set by statute.

**§623.2. Eligibility to Register.** To be registered, an applicant must be:

- (1) at least 18 years of age;
- (2) a resident of the State of Texas;
- (3) a person of good moral character;
- (4) a graduate of an accredited high school or holder of high school graduation equivalency; and
- (5) actively engaged in appraisal, assessing/collecting, or collecting for an appraisal district, tax office, or private firm working for an appraisal district.

**§623.3. Persons Required to Register.** Persons required to register or permitted to register shall be those required by law to register. Those required to register are:

(1) all chief appraisers, appraisal supervisors and assistants, property tax appraisers, appraisal engineers, and other persons with authority to render judgment on, recommend, or certify appraised values to an appraisal review board;

(2) all persons engaged in appraisals of real or personal property for ad valorem tax purposes for an appraisal district. This includes consultants or representatives of private firms which provide appraisal services to appraisal districts under contract;

(3) the tax assessor/collector or collector or other person designated by the governing body of the taxing unit that is responsible for either assessment functions or collection functions, or both, and other persons responsible for assessment or collections functions as determined by the chief administrator of the unit's tax office.

(A) Each political subdivision of the state (county, city, school district, special district) which levies a property tax or is empowered to levy a property tax shall have at least one individual (normally the assessor/collector) who shall be required to register. If a taxing unit designates another official as the one primarily responsible for performing functions described in Texas Property Tax Code, Title I, Chapter 26, then the chief administrator of the taxing unit (county judge, mayor, superintendent, director, or other) shall notify the board of the position and the name of the substituted official, and that individual shall register.

(B) The chief administrator of the tax office shall determine which additional persons in the office are responsible to exercise judgment and to ensure the use of proper methods and compliance with state law in regard to either assessment functions (Texas Property Tax Code, Title I, Chapter 26) or collections functions (Texas Property Tax Code, Title I, Chapters 31 and 33). Persons in these categories, in addition to the chief administrator of the tax office, shall register with the board.

(C) If a political subdivision which is empowered to levy a property tax has no official performing appraisal functions by virtue of establishment of appraisal districts, and no official performing either assessment or collections functions because both types of functions are performed by another governmental unit(s), then no person in that political subdivision will be required to register. However, the chief administrator of that political subdivision shall provide the board with a copy of the contract(s) which indicate that the political subdivision has no official who is responsible for assessing or collections functions.

**§623.4. Persons Permitted to Register.** No person shall be permitted to register who is not required to register. There shall be no registration categories involving associates, nonparticipating, etc. Registrants must be actively engaged in appraising, assessing/collecting, or collecting only for an appraisal district or taxing unit in the state.

§623.5. *Use of Titles.*

(a) Titles assigned to persons in classifications established by board rules are assigned for purposes of administering the law. The final or certification titles assigned are:

- (1) Registered Professional Appraiser (RPA);
- (2) Registered Texas Assessor/Collector (RTA);
- (3) Registered Texas Collector (RTC).

(b) Persons who lose eligibility to register shall not be assigned a title and shall not use any title which has been previously assigned by the board; except that a person who has been certified RPA, RTA, or RTC and who has retired from the property tax profession under an official retirement plan or arrangement may use the title "RPA (ret)," "RTA (ret)," or "RTC (ret)" in any manner in which titles, degrees, certifications, etc. are normally used. Retirees shall not use one of these titles in connection with post-retirement employment which involves actual or potential conflict of interest between duties involved in that employment and the duties of persons active in the property tax profession.

(c) Former registrants may cite the classifications assigned to them when they were registered for any legitimate purpose.

§623.6. *Classification of Registrants.*

(a) The classification of the registrant shall be stamped or printed in large letters on the registration card required to be carried by each registrant. The classifications shall be as follows:

- (1) Class I—Appraiser;
- (2) Class I—Assessor/Collector;
- (3) Class I—Collector;
- (4) Class II—Appraiser;
- (5) Class II—Assessor/Collector;
- (6) Class II—Collector;
- (7) Class III—Appraiser;
- (8) Class III—Assessor/Collector;
- (9) Registered Texas Collector (RTC);
- (10) Registered Professional Appraiser (RPA);
- (11) Registered Texas Assessor/Collector (RTA).

(b) The date of expiration of the registration shall appear on the registration card.

(c) Classification and reclassification shall be based on field of work and on experience, education, examination, and testimony.

§623.7. *Field of Work.* Each applicant shall be classified into either the field of appraisal, assessment/collections, or collections only based on duties and responsibilities in an appraisal district or tax office.

§623.8. *Qualification for Certification as Registered Professional Appraiser (RPA).*

(a) The person accepted and registered in the field of appraisal will be initially designated as Class I—Appraiser and must qualify for Class II—Appraiser at one year following registration. To qualify for Class II—Appraiser, the registrant must:

- (1) complete one year of experience in appraising for property tax purposes;
- (2) pass an approved education course in the Texas property tax system and pass a board examination on introduction to appraisal, or pass an approved educa-

tion course on introduction to appraisal and pass a board examination on the Texas property tax system;

(3) submit supervisor's statement attesting to job skills on a form and at a time prescribed by the board.

(b) The registrant who is designated as Class II—Appraiser must qualify for Class III—Appraiser at two years following designation as Class II—Appraiser. To qualify for Class III—Appraiser, the registrant must:

(1) complete three years of experience in appraising for property tax purposes;

(2) pass three approved education courses in any three of the following subjects:

- (A) cost approach to value,
- (B) market approach to value,
- (C) income approach to value, or
- (D) appraisal of personal property;

(3) pass a Class III—Appraisal examination on basic appraisal theory, methods, and techniques;

(4) submit a statement from the chief administrator of the agency where employed attesting to appraisal skills, on a form and at a time prescribed by the board.

(c) The registrant who is designated as Class III—Appraiser must qualify for Class IV (certification as Registered Professional Appraiser) at two years following designation as Class III—Appraiser. To qualify for Class IV (RPA), the registrant must:

(1) complete five years of experience as an appraiser for property tax purposes;

(2) pass an approved education course in mass appraisal;

(3) submit two demonstration appraisals acceptable to the board, which shall be written following an outline provided by the board, one being for a residential property and one for a commercial or industrial property, except that a personal property appraisal may be substituted for one of the real property appraisals on prior specific approval of the board or in lieu of submitting two demonstration appraisals may submit one demonstration appraisal (on real or personal property) and pass an approved education course in Texas property tax law;

(4) pass a Class IV (RPA) comprehensive examination on appraisal and related aspects of property taxation in Texas.

§623.9. *Qualification for Certification as Registered Texas Assessor/Collector (RTA).*

(a) The person accepted and registered in the field of assessment/collections will be initially designated as Class I—Assessor/Collector and must qualify for Class II—Assessor/Collector at one year following registration. To qualify for Class II—Assessor/Collector, the registrant must:

(1) complete one year of experience in assessing/collecting;

(2) pass an approved education course in the Texas property tax system and pass a board examination on introduction to appraisal, or pass an approved education course on introduction to appraisal and pass a board examination on the Texas property tax system;

(3) submit supervisor's statement attesting to job skills on a form and at a time prescribed by the board.

(b) The registrant who is designated as Class II—Assessor/Collector must qualify for Class III—Asses-

sor/Collector at two years following designation as Class II—Assessor/Collector. To qualify for Class III—Assessor/Collector, the registrant must:

- (1) complete three years of experience in assessing/collecting;
- (2) pass an approved education course in basics of property tax collections;
- (3) pass an approved education course in Texas property tax law;
- (4) pass an approved education course covering the Tax Code, Chapter 26;
- (5) pass a Class III—Assessment examination on basic assessment and collections law, methods, techniques, and state rules;
- (6) submit a statement from the chief administrator of the agency where employed attesting to the registrant's skills in assessing and collecting property taxes, on a form and at a time prescribed by the board.

(c) The registrant who is designated as Class III—Assessor/Collector must qualify for Class IV—Assessor/Collector (certification as Registered Texas Assessor/Collector) at two years following designation as Class III—Assessor/Collector. To qualify for Class IV (RTA), the registrant must:

- (1) complete five years of experience as an assessor/collector;
- (2) pass an approved education course in advanced property tax collections;
- (3) submit a professional report on assessment/collections using a title, concept, outline, and methodology approved by the board in advance of report preparation or pass two approved education courses in property taxation or in subjects related to property tax administration.
- (4) pass a Class IV (RTA) comprehensive examination on assessment and collections and related aspects of property taxation in Texas.

**§623.10. Qualification for Certification as Registered Texas Collector (RTC).**

(a) The person who is accepted and registered as a collector will be initially designated as Class I—Collector and must qualify for Class II—Collector at one year following registration. To qualify for Class II—Collector, the registrant must:

- (1) complete one year of experience in collecting property taxes;
- (2) pass an approved education course in the Texas property tax system and pass a board examination on introduction to appraisal, or pass an approved education course on introduction to appraisal and pass a board examination on the Texas property tax system;
- (3) submit supervisor's statement attesting to job skills, on a form and at a time prescribed by the board.

(b) The registrant who is designated as Class II—Collector must qualify for Class III (certification as Registered Texas Collector (RTC)) at two years following designation as Class II—Collector. To be certified as Registered Texas Collector (RTC), the registrant must:

- (1) complete three years of experience in collecting property taxes;
- (2) pass an approved education course in basics of property tax collections;

(3) pass an approved education course in either the cost approach, the market approach, or the income approach to value;

(4) pass an approved advanced education course in property tax collections;

(5) submit two statements attesting to professional skills;

(6) pass a Class III (RTC) comprehensive examination on collections and related aspects of property taxation in Texas.

**§623.11. Reclassification.**

(a) Registrants shall be reclassified on the basis of meeting requirements for higher classifications or certification in their particular fields (appraising, assessing/collecting, collecting).

(b) Registrants shall also be considered for reclassification whenever their duties at their places of employment change from one of the three property tax fields to another.

(1) Registrants shall advise the board whenever their duties and responsibilities change from one field to the other, stating the date of the change, the new job title and duties, responsibilities, and the field to which these duties and responsibilities are related.

(2) On receipt of change information, the board shall evaluate the registrant's file and assign the registrant to the proper classification in the appropriate field and advise the registrant who submitted the change information of the new field, the classification assigned in that field, and the requirements for advancing to certification in the new field.

(3) Board policies and procedures shall be based on recognition of the close relationship between the three major fields in property taxation and shall assist registrants in maintaining the classification and achieving the certification which is directly related to their duties and responsibilities.

(c) Registrants who change fields after being certified in one field shall advise the board of the change in duties and responsibilities and the current field of endeavor. The board shall evaluate information in the registrant's file, reclassify the registrant to the appropriate field if necessary and advise the registrant of the classification assigned in that field and the requirements, if any, for advancing to certification in the new field.

**§623.12. Recertification.**

(a) Certification as a Registered Texas Collector (RTC), for persons engaged in collections only, and not in assessing or property tax appraising, is continued so long as the registrant works in property tax collections (only) and renews registration with the board annually.

(b) Certification as a Registered Professional Appraiser (RPA) or as a Registered Texas Assessor/Collector (RTA) must be renewed on the fifth anniversary date of certification and on each fifth anniversary of renewal so long as the registrant is employed under conditions which require registration with the board. To renew certification as an RPA or an RTA, the registrant must:

- (1) be active in the field of appraising or assessing/collecting and renew registration with the board for a period of five years (or periods totaling five years) from the date of certification or the date of the last renewal;

(2) be awarded not less than 40 continuing education units (CEUs) during the five-year period. One CEU shall be one class hour in an approved and examined education course which is within or related to a field of property taxation. For unexamined courses, workshops, seminars, institutes, conferences, conventions involving work sessions, property tax related board and committee work for the government or private associations, publication of property tax related books or articles, teaching property tax education courses, or other property tax activities of an educational nature, the board shall assign a number of CEUs to be awarded and advise registrants who report participation in such activities of the number of points awarded;

(3) no sooner than six months before and no later than six months after the five year anniversary date, pass an open-book recertification examination which shall test the registrant's familiarity with current property tax law, rules, methods, and procedures. The registrant shall have access to all available references during the completion of this examination. There shall be a recertification examination on appraisal and one on assessing/collecting.

(c) A registrant who has been accepted or programmed for retirement shall not be subject to recertification requirements within 18 months of the projected retirement date.

(d) Registrants seeking recertification shall file with the board evidence of course completions, attendance at educational activities, publication, participation, teaching, or other activity for which they feel they should be granted CEU credits. The board shall advise registrants who submit such evidence of the number of CEUs awarded or of reasons for not awarding CEUs. In so far as possible the board shall advise registrants and registrants should inquire of the board concerning the number of CEUs to be awarded for particular events before these events occur.

(e) All evidence of completion or attendance must be in the form of a certificate pertaining to the individual registrant. Rosters or lists will not be accepted by the board.

(f) Recertification examinations shall be prepared by the board in coordination with the State Property Tax Board and other state agencies as appropriate and shall be revised at least bi-annually or whenever the board considers revision to be necessary

**§623.13. Base Date Adjustment in Classification.**

(a) Each person registering with the board shall be assigned a base date by the board, which shall normally be the beginning date of employment with an appraisal district or tax office. The board may adjust this date backward to give experience credit for closely related experience or education; but in no case shall a person be certified as RPA or RTA who has less than three years actual experience in property taxation in Texas, or certified as an RTC with less than two years experience in a collections office in Texas; with the exception that a person certified by another state may be certified by the board with one year of experience in property taxation in Texas.

(b) Beginning September 1, 1983, no person shall be given a base date adjustment for experience gained after January 1, 1978, in a Texas appraisal district, in

a Texas tax office, or in a private capacity under contract to a Texas appraisal district or tax office; that is, in any position for which a person was required by law to register with the board and in which the person failed to register.

(c) Activity for which experience credit may be granted includes, but is not limited to, appraisal or appraisal review for a state or federal agency; independent fee appraisal, fee appraisal with an appraisal firm not under contract to perform property tax appraisals; receiving a college degree or associate degree in a property tax or closely related subject; receiving a college degree or associate degree in a generally related subject; receiving a college degree or associate in any subject; experience in real estate or accounting which required education or job performance closely related to appraising for tax purposes or assessing; appraising, assessing, or collecting in the property tax field in other states of the United States or another country; work experience or professional designations in closely related fields such as accounting, economics, real estate, business, or financial management.

**§623.14. Special Certification**

(a) The board shall issue certificates attesting to professional skills in specialized areas of property taxation to registrants who have been certified as Registered Professional Appraiser (RPA) or Registered Texas Assessor/Collector (RTA). To be given a special certification a registrant must first be certified as RPA or RTA, and must meet the following additional requirements:

(1) complete a minimum of three years working directly in the area of specialization for an appraisal district or taxing unit after being certified as an RPA or RTA;

(2) be awarded 40 continuing education units (CEUs) for educational activities directly related to the area of specialization (over and above CEUs required for certification as RPA or RTA);

(3) submit and have approved by the board a proposal for a professional report on a matter of current interest in the area of specialization and prepare a professional report acceptable to the board which shall be based on research and shall be a contribution to knowledge in the registrant's field and area of specialization;

(4) pass a comprehensive examination administered by the board in the area of specialization after completing all of requirements in paragraphs (1)-(3) of this subsection.

(b) A special certification program shall be undertaken only on the initiative of the registrant and only for a registrant in good standing. The board shall have the right to verify employment and performance information concerning the registrant.

(c) The board shall publicize the availability of special certification and distribute a special certification application form to interested registrants.

(d) Application for special certification shall be made on the board form or a copy of this form. Recognition of special certification shall be by award of a board certificate.

(e) Standard special certifications shall be as listed in paragraphs (1)-(9) of this subsection. Special certifica-

tion titles will be awarded only when the registrant already holds the basic certification title indicated.

- (1) Residential Appraisal Specialist (Registered Professional Appraiser);
- (2) Commercial Appraisal Specialist (Registered Professional Appraiser);
- (3) Industrial Appraisal Specialist (Registered Professional Appraiser);
- (4) Land Appraisal Specialist (Registered Professional Appraiser);
- (5) Personal Property Appraisal Specialist (Registered Professional Appraiser);
- (6) Productivity Valuation Specialist (Registered Professional Appraiser);
- (7) Mass Appraisal Specialist (Registered Professional Appraiser);
- (8) Property Tax Data Processing Specialist (Registered Professional Appraiser) or (Registered Texas Assessor/Collector);
- (9) Assessment Specialist (Registered Texas Assessor/Collector).

(f) Unique special certifications shall be as determined by the board. The board shall be open to and shall carefully review requests from individuals or groups to establish additional areas of specialization, and may establish such areas without further promulgation of rules so long as the standards for special certifications remain unchanged.

**§623.15. Certification and Recertification: General.**

(a) The award or crediting of CEUs shall be at the discretion of the board or the executive director acting for the board and shall not be subject to appeals of registrants or other parties

(b) The evaluation of completed examinations or of any papers, demonstration appraisals, projects, or any instrument used by the board to classify or certify registrants is the prerogative of the board or the executive director acting for the board and shall not be subject to appeals of registrants or other parties.

(c) For the purposes of awarding CEUs, the board shall approve only those education courses which have been approved by the State Property Tax Board. Additionally, if a course approved by the State Property Tax Board does not meet the standards desired by the Board of Tax Professional Examiners then the executive director may disapprove that course for the purposes of awarding CEUs and shall report that disapproval and the reasons therefore to the board.

(d) Continuing Education Units awarded for unexamined courses, workshops, seminars, and similar educational activities shall be as determined by the executive director under general guidance from the board as expressed in board policies and administrative procedures.

(e) The board may require that an individual pass specified courses prior to re-examination. Re-examination of registrants shall be permitted as listed in paragraphs (1)-(4) of this subsection.

(1) Required examinations on texts. A registrant who fails an examination the first time must be re-examined within 90 days of the date of the examination. A registrant who fails the second time shall have the registration canceled for six months and may apply for registration at the end of that period as a new applicant.

(2) Class III examination (appraisal) or Class III examination (assessment/collections). A registrant who fails the first time must be re-examined within 90 days of the date of examination. A registrant who fails the second time shall have the registration canceled for six months and may apply for registration at the end of that period and, if accepted for registration, classified as a Class II registrant.

(3) Class III examination (collections). This is a certification examination for the collections (only) field. A registrant who fails the first time must be re-examined within 90 days of the date of the examination. A registrant who fails the second time shall be examined upon the registrant's request in writing, accompanied by a plan of study, not more than 60 days after the date of the second examination. A registrant who fails the second time or who fails to request the second examination shall have the registration canceled for six months and may apply for registration at the end of that period and if accepted for registration, classified as a Class II registrant.

(4) Class IV examination (appraisal), Class IV examination (assessment/collections) and special certification examinations. These are certification examinations. A registrant who fails the first time shall submit a plan of study to the board within 30 days following the date of the examination and be re-examined within six months of the date of the examination. A registrant who fails the second time shall again submit a plan of study to the board within 30 days following the date of the second examination and be re-examined within six months of the second examination. A registrant who fails a Class IV examination the third time shall have the registration canceled for six months and may apply for registration at the end of that period and, if accepted for registration, classified as a Class III registrant and assigned special requirements by the board for being reclassified to Class IV, which requirements shall exceed and not duplicate the standard requirements for Class IV designation. A registrant who fails a special certification examination the third time may repeat the program beginning three years from the date of the third failure.

(f) All examinations except recertification examinations shall be closed book and shall be completed without reference to any material other than the material included in the examination document itself. The use of any other written material, or verbal communication with any party, as an aid in answering the examination questions (as determined by the proctor of the examination) shall be grounds for dismissal from the examination and cancellation of registration.

(g) Each registrant who sits for an examination administered by the board, after completing the examination shall be afforded the opportunity of comparing an answer key with his or her examination paper in such a manner as to preclude the transposition of answers in the key to the examination paper.

(h) Under no circumstances shall a registrant be certified or reclassified until all requirements expressed in these rules and in written board policy for certification or reclassification have been met.

(i) The board file of examinations shall be maintained by the executive director in the board offices. The executive director shall maintain a system of accounting

for numbered copies of each examination so that numbered and master copies may be accounted for at all times. The only parties authorized access to examinations shall be proctors and students in the examination process, board members for review and approval purposes, the executive director, and those persons directly assisting the executive director in preparing or revising examinations.

(j) All examinations shall be proctored by the executive director or a member of the board staff designated by the board chairperson.

(k) A person who has been certified or similarly recognized as competent to practice in property taxation by another state of the United States may request certification from the board. The board shall, upon application for registration, evaluate the applicant's qualifications and determine his or her classification, except that no applicant in this category shall be certified as a Registered Professional Appraiser or a Registered Texas Assessor/Collector unless they are administered and pass an examination on Texas tax law and the Class IV (appraisal) or Class IV (assessment/collections) examination, as appropriate, and complete at least one year of experience in property taxation in Texas. The executive director shall assist such registrants in developing plans of study to be followed in preparation for the appropriate examination.

**§623.16. Adjustment of Time Requirements.**

(a) The board shall grant time extensions to registrants who fail to meet requirements for reclassification or certification in specified times only for good cause, this consisting generally of causes or conditions which are beyond the control of the registrant; for example: serious, prolonged illness. Requests for extensions of time limits shall be submitted to the board in writing and shall be considered by the board on an individual basis. Registrants who fail to meet time requirements and who are not granted extensions by action of the board shall have the registration canceled for failure to meet classification requirements.

(b) The length of extensions of time requirements may vary with individual cases, but in no case shall an extension or extensions exceed one year over the five years in which the registrant should achieve certification or recertification as Registered Professional Appraiser (RPA) or Registered Texas Assessor/Collector (RTA), or exceed six months over the three years in which the registrant should achieve certification as Registered Texas Collector (RTC).

(c) If the registrant does not meet requirements for reclassification or certification within the time granted by an extension or extensions then the registration shall be canceled.

**§623.17. Education Course Examination in Lieu of Attendance.**

(a) The board may, upon recommendation of the executive director, permit registrants to receive credit for having taken an approved education course by passing an examination which tests the registrants on the course material. This option to permit registrants to exercise the so-called "challenge" to the course and take a so-called "credit examination" shall be exercised only under the following circumstances and conditions:

(1) challenges shall not be allowed on an individual basis and any course for which credit is given on the basis of passing an examination based on the course material shall be open to any registrant either for attendance or for taking the examination in lieu of attendance;

(2) courses shall be designated as open to examination in lieu of attendance only when the board deems such policy necessary due to either one or a combination of the following:

(A) the course will not be offered a sufficient number of times over the next year to satisfy the student demand;

(B) the locations at which the course will be offered during the next year will impose undue hardship or expense of registrants in particular parts of the state;

(C) the board disapproves of the course based on the failure of agencies offering the course to meet minimum educational standards (not on the basis of course materials);

(D) a large number of registrants will be seriously and adversely affected by the standard requirement to attend the course.

(b) The board may, upon recommendation of the executive director, discontinue the policy of permitting registrants to take the examination for a particular education course in lieu of attending that course

(c) Course examinations shall be prepared by the executive director in coordination with the Education Section, State Property Tax Board (SPTB), and shall be based on the SPTB text which is normally used by instructors in presenting the course, on SPTB rules and Texas property tax and related law, and on generally accepted methods and techniques.

(d) A registrant who fails a course examination in lieu of course attendance shall not be re-examined, but shall be required to attend that course in order to be awarded credit for classification or certification.

(e) The board shall announce and shall disseminate information regarding courses which have been approved for examination only credit and courses which are no longer approved for examination only credit. Such announcement will be made not less than 60 days before the effective date of the action.

**§623.18. Notification Responsibilities of Registrant.**

(a) Each registrant is responsible for notifying the board in writing of any changes in status which affect registration, classification, or recertification. The registrant shall notify the board of the following:

(1) change in property tax field;

(2) change in place of employment or business address;

(3) change in occupation, i.e., leaving property tax profession;

(4) resignation, separation, or retirement from appraisal district office, tax office, or appraisal firm working for an appraisal district office;

(5) education courses completed and, if certified, other educational activities completed;

(6) degrees or certificates awarded in college programs;

(7) any other change which affects the registrant's status as to registration, classification, certification, recertification, or special certification.

(b) Evidence of education course completion shall consist of an individual certificate attesting to successful completion of the course by the registrant, signed by the instructor.

(c) The board shall not be responsible for errors in registration, classification, certification, recertification, or special certification when the errors are caused by failure of a registrant to timely notify the board of changes in the status of the registrant.

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

Issued in Austin, Texas, on June 8, 1983

TRD-834519 Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.

## Chapter 625. Standards of Professional Practice

### 22 TAC §625.1

The Board of Tax Assessor Examiners proposes amendments to §625.1, concerning standards of professional practice. Changes in terminology and classifications of registrants in the Property Taxation Professional Certification Act of the 68th Legislature necessitate amendment of this rule.

Sam H. Smith, executive 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. Smith also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be high standards of professional practice for persons who are appraising property for property tax purposes and who are assessing and collecting property taxes. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The amendments are proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Ex-

aminers with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983

§625.1. *Standards of Professional Practice.* The Board of Tax Professional [Assessor] Examiners hereby adopts the following standards of practice for the appraisers, assessors, and collectors in the property tax [assessing] profession in Texas [Said standards shall not be operative or effective until approved by a majority of registered professional assessors practicing in Texas.]

(1) Persons registered shall not [practice assessing or appraisal of property for ad valorem tax purposes in a manner which] violate [violates] any provision of the Property Taxation [Assessors Registration and] Professional Certification Act nor shall they advocate the violation of, or induce another to violate, said Act.

(2) Persons registered shall not violate the Property Tax Professional's [Assessors] Code of Ethics prescribed and adopted by rule of this board nor shall they aid or encourage another to violate such code of ethics.

(3) Should a complaint be filed with the Board of Tax Professional [Assessor] Examiners against a registrant [registered assessor or license holder,] and notice of complaint has been properly communicated by the board to the party being complained against, it shall be the duty of the professional against whom the complaint is made to answer said complaint, fully in writing, and without undue delay. The [Said] answer or response shall be filed with the Board of Tax Professional [Assessor] Examiners.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834520 Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.

## Chapter 627. Assessor's Code of Ethics

### 22 TAC §627.1

*(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Board of Tax Assessor Examiners, 9501 IH 35 North, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Board of Tax Assessor Examiners proposes the repeal of §627.1, concerning a code of ethics for property tax professionals. The board proposes the repeal so that a new code of ethics which is fully consistent

with the Property Taxation Professional Certification Act of the 68th Legislature may be adopted.

Sam H. Smith, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Smith also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be a clear expression of the ethical principles to be followed by persons appraising property for property tax purposes or assessing or collecting property taxes. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The repeal is proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

**§627.1. Code of Ethics.**

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

Issued in Austin, Texas, on June 8, 1983

TRD-834521      Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.

The Board of Tax Assessor Examiners proposes new §627.1, concerning a code of ethics for property tax professionals. The board proposes a new rule and new code of ethics because the present code of ethics pertains almost exclusively to property tax assessors. Under the new act pertaining to certification, the code of ethics must cover appraisers, assessors, and collectors.

Sam H. Smith, executive 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. Smith also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a code of ethics which is en-

forceable and which is applicable to those professionals in all phases of levying and collecting property taxes. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The new section is proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983, under the law as amended by the Property Taxation Professional Certification Act of the 68th Legislature.

**§627.1. Statement of Code.** The Board of Tax Professional Examiners adopts the following code of ethics to be sworn and subscribed to by all those registered with the board. The code of ethics shall be printed on a form prescribed by the board and, after being sworn and subscribed to by each applicant seeking registration, shall be filed as a permanent portion of the record of each applicant for registration.

(1) I will be guided by the principle that property taxation should be fair and uniform, and I will apply all laws, rules, methods, and procedures, in a uniform manner, to all taxpayers.

(2) I will not accept anything of value from any party other than my employer unless acceptance of something of value is totally unrelated to my performance of duties as an appraiser, assessor, or collector.

(3) I will not use information received in connection with my duties as an appraiser, assessor, or collector for my own purposes or for my own gain, unless such information can be known by ordinary means to any ordinary citizen.

(4) I will not accept an assignment for which it is expected by any party that I will report a predetermined appraised value or that I will report other predetermined findings.

(5) I will not speak or act in any manner or engage in any practice that is dishonest, fraudulent, deceptive, or in violation of law or generally accepted standards of morality.

(6) I will uphold the honor and dignity of the property tax profession.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834522      Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.



## Chapter 629. Penalties, Sanctions, and Hearings

22 TAC §§629.1-629.7, 629.10-629.14,  
629.16-629.18

The Board of Tax Assessor Examiners proposes amendments to §§629.1-629.7, 629.10-629.14, and 629.16 and new §§629.17 and §629.18, concerning penalties, sanctions, and hearings, so that terminology and prescribed procedures relating to penalties, sanctions, and hearings for property tax professionals will be consistent with Texas Civil Statutes, Article 7244(b), as amended by the Property Taxation Professional Certification Act of the 68th Legislature.

Sam H. Smith, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Smith also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be a clear statement of the rights of all parties and the procedures to be followed in enforcement of Texas Civil Statutes, Article 7244(b), as amended by the Property Taxation Professional Certification Act of the 68th Legislature. There will be economic costs to individuals who are required to comply with §629.16 and §629.17 as proposed. Under §629.16, a complainant would incur the expense of a hearing outside Austin, the amount of this expense would vary with a number of factors. Under §629.17, a complainant could incur the expense of a transcript, which would also vary.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The amendments and new rules are proposed under Texas Civil Statutes, Article 7244(b), as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

### §629.1. Preservation of Rights.

(a) The Board of Tax Professional [Assessor] Examiners will extend a fair hearing process to all parties when complaints have been filed or when on its own initiative the board brings a complaint.

(b) (No change.)

(c) The following rights shall be recognized and preserved during the hearing process in cases involving suspension or revocation of registration:

(1) complainant's opportunity to file a written complaint;

(2) right of all parties to assistance of their counsel;

(3)[(2)] timely and full notice of the nature of the complaint delivered by certified mail to all parties [the defendant];

(4)[(3)] reasonable opportunity to amend written complaint or written response by all parties filing same;

(5)[(4)] timely and adequate notice of hearing date (notice shall be by certified letter mailed at least 10 days before hearing).

(6)[(5)] right to an open hearing on the part of the party defending,

(7)[(6)] right of confrontation and cross-examination of witnesses and evidence,

(8)[(7)] a hearing before an impartial tribunal;

(9)[(8)] full opportunity to present evidence and to rebut same,

(10)[(9)] a decision in writing detailing the reasons for any action taken by the board.

(d) The applicant or registrant may request a non-adversarial hearing before the board, and the board in its discretion may grant a hearing. If a hearing is granted, then the applicant or registrant will receive a decision in writing detailing the reasons for refusal of registration or the reasons for cancellation of registration. [In situations where the board may refuse registration or deny qualification to an applicant, the following rights shall be recognized and preserved.

[(1) right to a hearing before the board, a quorum present,

[(2) right to receive a decision in writing detailing the reasons for refusal of registration or denial of qualification.]

### §629.2. Refusal To Register and Cancellation of Registration [or Issue Certification].

[(a)] The Board of Tax Professional [Assessor] Examiners may refuse registration or deny qualification for certification for any one or more of the following reasons:

(1) failure to pay [annual fee, penalty, or] application fee, annual renewal fee, or penalty fee;

(2) failure to meet any eligibility, experience, education, examination, or testimony requirement [testing or in-service training standard];

(3) failure to submit completed application form or completed renewal form as required [violation of standards of professional practice].

[(4) violation of the Assessors Code of Ethics;

[(5) a felony conviction involving moral turpitude.]

[(b) In certain situations involving a refusal to register or issue a certification, the existing registration, if any, may continue, and the date of refusal may become effective at the date of annual renewal. Such decision is at the reasonable discretion of the board.]

§629.3. Suspension of Registration. The Board of Tax Professional [Assessor] Examiners may suspend registration of any classified registrant for [a period of] up to one year for the following reasons:

(1) (No change.)

(2) violation of the [Assessors] Code of Ethics;

(3) (No change.)

§629.4. *Revocation of Registration*

(a) The Board of Tax **Professional** [Assessor] Examiners may revoke the privilege of practicing the profession of appraising and assessing property for ad valorem taxation or collecting property taxes upon complaint filed by any person or upon complaint and investigation initiated by the board. When revocation of registration or [and] certification is the penalty exacted by judgment of the board, no person receiving such penalty shall be eligible to **re-apply for registration** [ make re-application as a registrant] prior to **three** [two] years from the effective date of revocation.

(b) Revocation of **registration** [any classified registrant] may be the judgment of the board only by an affirmative vote of four of its members. Such penalty may be assessed for the following reasons:

- (1) (No change )
- (2) serious or repeated violation of the [Assessors] Code of Ethics,
- (3) (No change )

§629.5. *Complaint Procedure*

(a) Complaints against registrants under the **Property Taxation** [Assessors Registration and ] Professional Certification Act must be filed in writing with the office of the executive director of the Board of Tax **Professional** [Assessor] Examiners [or with the chairman of that board or his designee]. Each complaint must include

- (1)-(2) (No change )
- (3) a succinct statement(s) of the nature of the complaint with specific reference to any alleged violation of professional practices, Code of Ethics, or other matter thought sufficient to warrant [denial, refusal,] suspension or revocation of a **person's** [the] registration [or classification of the person being complained of];

(4) (No change )

(b) [To the complaint,] The complaining party **shall** [is requested to] **attach to the complaint** the name and address of any witnesses who may have testimony or may give evidence to any material issue made the basis of the complaint.

(c) Upon receipt of a complaint, valid as to form and content, the Board of Tax **Professional** [Assessor] Examiners will cause notice, with copy of complaint attached, to be delivered by certified mail to the party against whom the complaint is made. The party against whom the complaint is made shall have 20 days from notification to file a written response with the board.

(d) (No change.)

(e) After reasonable opportunity for amendment has occurred the **chairperson** [chairman] of the Board of Tax **Professional** [Assessor] Examiners shall set a date for hearing with notice to all parties in interest at least 10 days before the date set for hearing.

(f) (No change.)

§629.6. *Hearing Procedure (Suspension or Revocation).*

(a) The Board of Tax **Professional** [Assessor] Examiners finds and acknowledges that substantial property and liberty rights may exist in controversies where suspension or revocation of registration results from a complaint filed. Because of this, it is the intent of the board that any registered, qualified, and practicing **property tax professional** [assessor or appraiser] be afforded a full ad-

ministrative due process hearing before the board prior to consideration of the penalties of suspension or revocation.

(b) To afford recognition of these rights, §629.1 of this title (relating to Preservation of Rights), adopted by the Board of Tax **Professional** [Assessor] Examiners, specifies the procedural rights required to be recognized prior to suspension or revocation of registration.

(c)-(g) (No change )

(h) Revocation or [and or] suspension of registration shall [not] be imposed on [except upon] the affirmative vote of four members of the board. Other penalties may be imposed by a majority vote with a quorum being present.

(i) All suspension **and** [and/or] revocation hearings shall be closed to the public, subject to the right of the party complained against to open the hearings at any time by motion offered in writing.

§629.7. *Filing and Notices*

(a) (No change )

(b) Time of filing is determined by when the documentation is **marked as** [actually] received in the office of the executive director.

(c) (No change )

§629.10. *Matters before the Board [Agency].*

(a) Motions for postponement, continuance, withdrawal, or dismissal or other matters which have been duly set for hearing, shall be in writing, shall be filed with the executive **director** [secretary], and distributed to all interested persons, under a certificate of service, not less than 10 days prior to the designated date that the matter is to be heard. The motion shall set forth, under oath, the specific grounds upon which the moving party seeks the action and shall make reference to all prior motions of same nature filed in the same proceeding.

(b)-(c) (No change )

§629.11. *Place and Nature of Hearing*

(a) All hearings conducted in any proceeding, **other than proceedings which could result in suspension or revocation of registration**, shall be open to the public. All hearings shall be held in Austin, unless for good and sufficient cause the board shall designate another place of hearing in the interest of the public. The **chairperson** [chairman] of the board or **the vice-chairperson** [his designee] shall preside at hearings, and issue final orders, decisions, and recommendations for the board concerning the issuance, refusal, **cancellation**, revocation, or suspension of registration [and certificates]. **The person presiding** [He] also shall have the authority to rule upon the admissibility of evidence and amendments to pleadings, and by quorum vote of the board may recess any hearing from day to day.

(b) The executive director, **chairperson** [chairman], (or **vice-chairperson**) or hearing officer shall have authority to administer oaths and examine witnesses.

(c) **The executive director may serve as hearing officer or the board may employ a hearing examiner.** If a hearing examiner is employed by the board and designated to hear the adjudication, **the examiner** [he] shall prepare a proposal for decision to be submitted to the board, however, such proposal shall be served on all parties in interest, and the board herewith recognizes the right of

all parties to file exceptions and present briefs to the board prior to final decision

(d) Exceptions and briefs are to be filed within 20 days after copy of proposal for decision has been served. Persons seeking to reply to exceptions or briefs shall be granted only 20 additional days to file such replies. Upon motion made in writing and for good cause, extensions of time may be granted by the board chairperson [chairman], or by the hearing officer to any party requiring it.

**§629.12. Notice and Hearing.**

[(a)] An applicant or license holder is entitled to at least 20 days' notice and a hearing prior to any adverse action affecting him.]

[(a)](b) Notice of hearing for [refusal,] suspension [,] or revocation of registration [permit] may be served personally by the board or its authorized representative or sent by certified mail addressed to the applicant or license holder at his last known address.

[(b)](c) In the event that notice cannot be effected by either of these methods after due diligence, the board may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence in the conduct of his affairs.

[(c)](d) The board shall publish notice of a hearing in a newspaper of general circulation in the area in which the registrant is or was most recently employed [license holder conducts his business activities].

[(d)](e) The board may, upon motion formally adopted, convene a preliminary informal hearing, with each party of interest to a complaint in actual attendance, for the purpose of investigation, clarification, or mediation of any complaint filed with the board.

[(e)](f) The board may seek counsel or guidance from the attorney general of Texas or from any other source to research, investigate, prosecute, or proceed in any lawful manner to expedite the handling of a complaint in the interest of justice.

**§629.13. Dismissal without Hearing.** The chairperson [chairman] of the board with the advice of the executive director may entertain motions for dismissal without a hearing for the following reasons:

- (1) failure to prosecute;
  - (2) unnecessary duplication of proceedings or *res judicata* [*res judicata*];
  - (3) withdrawal;
  - (4) moot questions;
  - (5) **the complaint involves a disagreement on the matter of the appraised value of a property and that matter has not been resolved in the complainant's favor by an appraisal review board or court; [lack of jurisdiction.]**
- [(b)] **complaint is invalid as to form or content.**

**§629.14. Rules of Evidence.**

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

(d) The officer conducting the hearing shall give effect to the rules of [the] privilege recognized by law.

[(e)-(f)] (No change.)

**§629.16. Costs Pertaining to Hearings.**

[(a)] The complainant shall be responsible for providing, at his or her expense, an adequate facility for the hearing when the hearing is scheduled outside of the

Austin area. The hearing shall take place in a neutral setting approved by the hearing officer.

[(b)] Each hearing shall be recorded by an official court reporter unless all parties to the hearing agree in writing that a transcript will not be necessary, then the board shall record the proceedings by tape recording. The cost of the original transcript shall be borne by the complaining party. Costs of copies of the transcript shall be provided to and paid by the party requesting copies. The original transcript shall be delivered to the executive director or hearing officer not more than 15 days after the close of the hearing.

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

**§629.17. Hearing Record.** Each hearing shall be recorded by an official court reporter unless all parties to the hearing agree in writing that a transcript will not be necessary, then the board shall record the proceedings by tape recording. The cost of the original transcript shall be provided to and paid by the party requesting copies. The original transcript shall be delivered to the executive director or hearing examiner not more than 15 days after the close of the hearing.

**§629.18. Corrections to Transcript.** Suggested corrections to the transcript of the record may be offered within 10 days after the transcript is filed in the proceeding, unless the hearing officer or the board shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record, the official reporter, and the hearing officer. If suggested corrections are not objected to, the hearing officer will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the hearing officer, who shall then determine the manner in which the record shall be changed, if at all.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834523

Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption.

July 25, 1983

For further information, please call (512) 837-9800.

## Chapter 631. Administrative Procedures

### 22 TAC §631.1

*(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Board of Tax Assessor Examiners, 9501 IH 35 North, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Board of Tax Assessor Examiners proposes the repeal of §631.1, concerning administration of the professional registration program. The board proposes repeal of this section because it addresses the same matters as, and is proposed for consolidation with, amended §621.1. The board simultaneously proposes new §§631.1-631.3.

Sam H. Smith, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal

Mr. Smith also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be greater clarity of rules through consolidating rules which address the same matter (administration of professional registration program). There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The repeal is proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

#### §631.1. Administrative Procedures.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834524 Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption  
July 25, 1983

For further information, please call (512) 837-9800.

## Chapter 631. Effect of Change

### 22 TAC §§631.1-631.3

The Board of Tax Assessor Examiners proposes new §§631.1-631.3, concerning effects of revision of the

Registration and Professional Certification Act on present registrants. The board proposes the new rules to establish procedures for adjusting registrant classifications which were assigned under the original Act (Texas Civil Statutes, Article 7244(b)) to the requirements and conditions under the law as amended by the Property Taxation Professional Certification Act of the 68th Legislature.

Sam H. Smith, executive director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Smith also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the smooth transition to a new system of registration and professional certification with minimum disruption to activities of tax professionals who are serving the public. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Sam H. Smith, Executive Director, Board of Tax Assessor Examiners, P.O. Box 15920, Austin, Texas 78761, (512) 837-9800.

The new sections are proposed under Texas Civil Statutes, Article 7244b, as amended by the Property Taxation Professional Certification Act of the 68th Legislature, which provide the Board of Tax Assessor Examiners with the authority to adopt rules and forms before September 1, 1983, to be effective on and after September 1, 1983.

**§631.1. General.** The Property Taxation Professional Certification Act of the 68th Legislature is a general revision of the Registration and Professional Certification Act of 1977 (Texas Civil Statutes, Article 7244b). As of September 1, 1983, persons who registered under Article 7244b remain registered with the board but are no longer subject to the registration and certification requirements of Article 7244b but are subject to the registration and certification requirements of the new Act (the Property Taxation and Professional Certification Act of 1983). Section 631.2 and §631.3 of this chapter relate to the status of persons who registered under the original Act and who will remain registered under the revised Act.

#### §631.2. Persons Certified as Registered Professional Assessor under Article 7244b.

(a) Any person who was certified as Registered Professional Assessor (RPA) under the original Act, before September 1, 1983, and who has retained that designation and maintained registration with the board, will retain that certification with the following conditions and requirements.

(b) The title "Registered Professional Assessor" shall become "Registered Professional Appraiser" for those persons currently employed in the property tax appraisal field and "Registered Texas Assessor/Collector" for those persons currently engaged in property tax assessment and collections. Determination as to category or

field of endeavor shall be made by the board on the basis of information in registrant records. Further, the board shall publicize the changes brought about by the revisions to the original act and shall request that certified persons notify the board as to their current duties and responsibilities in the event that those duties and responsibilities are not reflected accurately in their records; and the board shall advise each certified person of his or her classification as to property tax field.

(c) Initial recertifications for those persons certified under the original Act shall be required not later than the dates indicated in paragraphs (1)-(6) of this subsection:

(1) persons certified during 1978—not later than September 1, 1985;

(2) persons certified during 1979—not later than September 1, 1986;

(3) persons certified during 1980—not later than September 1, 1986;

(4) persons certified during 1981—not later than September 1, 1987;

(5) persons certified during 1982—not later than September 1, 1987;

(6) persons certified during 1983 and after—on fifth anniversary of certification.

(d) After the initial recertifications in subsection (c) of this section, subsequent recertification shall be required each five years after certification or recertification on the anniversary date of that action.

#### §631.3. Classification Actions by Board.

(a) On September 1, 1983, the effective date of the revision of the original Act, the requirements for classification of registrants as Class I, Class II, Class III, or Class IV (as these classes are defined in the revision) change. On this date the classification which has been assigned to each registrant remains unchanged. For example, a Class II registrant will still be a Class II registrant. However, to be reclassified as a Class III registrant, the person must meet the requirements for advancing from Class II to Class III as written in rules based on the revision to the original Act. The board will not adjust classifications of registrants downward on the basis of provisions of the Property Taxation Professional Certification Act. The board may adjust registrant classifications upward if a person presently classified at a particular level does in fact meet the requirements for the next higher classification. This upward adjustment shall be from Class I to Class II and from Class II to Class III only.

(b) The board shall not adjust classifications in any manner which would deprive a registrant of credit earned in good faith to meet requirements of the original Act. Likewise the board shall not compromise the standards in rules based on the revision which the registrant must meet in order to advance to the classification higher than the classification held by the registrant on September 1, 1983.

(c) On September 1, 1983, each registrant's classification is by property tax field as well as by classification level. A registrant shall be classified as being in either the field of appraising, assessment/collections, or collections (only). Determination as to category or field of endeavor shall be made by the board on the basis of information in registrant records, and the board shall advise registrants of these determinations.

(d) Classification as to property tax field made necessary by the revision and announced by the board is subject to correction by any registrant who can reasonably justify the correction.

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

Issued in Austin, Texas, on June 8, 1983.

TRD-834525 Sam H. Smith  
Executive Director  
Board of Tax Assessor  
Examiners

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 837-9800.

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

*(Editor's note: Because the State Board of Insurance's 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 numbers. However, the rules will be published under the agency's correct TAC title and part. The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

#### Rating and Policy Forms

#### Miscellaneous Casualty Lines, Dividend Classes, General Casualty Law

059.05.20.001

The State Board of Insurance proposes the repeal of Rule 059.05.20.001, concerning the distribution of dividends under the Texas Insurance Code, Subchapter B. This rule is out-of-date. New Rule 059.05.20.011 is being proposed simultaneously to promulgate up-to-date classifications for general casualty insurance and fidelity, guaranty, and surety bonds. The repeal of this rule will not alter any present practice or requirement of the board.

G. J. Jones, deputy insurance commissioner, property group, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Jones also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be the elimination of an out-of-date rule. There is no an-

anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to G. J. Jones, Deputy Insurance Commissioner, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under authority of the Texas Insurance Code, Article 5.20, which specifies requirements for the payment of dividends for the insurance addressed in the rule and authorizes the State Board of Insurance to regulate such dividend payments, and under the board's authority to repeal any rule that has been previously promulgated.

*.001. Dividend Classes, General Casualty Law.*

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834514 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-2950.

## Dividends, under Texas Insurance Code, Chapter 5, Subchapter B

### 059.05.20.011-.013

The State Board of Insurance proposes new Rules 059.05.20.011-.013, concerning permissible classes for the payment of dividends on the lines of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B. Rule 059.05.20.011 replaces repealed Rule 059.05.20.001, which specified certain dividend classes. Rule 059.05.08.012 specifies certain procedures and limitations in connection with the payment of dividends. Rule 059.05.08.013 adopts by reference an application form to be completed by insurers making application to pay dividends. No present agency practice or requirement will be altered as a result of the adoption of these rules.

Willis McVey, deputy insurance commissioner, casualty group, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. McVey also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the updating of rules and the adoption of longstanding board practices in rule form. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Willis McVey, Deputy Insurance Commissioner, Casualty

Group, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The new rules are proposed under the Texas Insurance Code, Article 5.20, which specifies requirements and prohibitions for, among other things, the payment of dividends on the lines of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B; and the Texas Insurance Code, Article 21.31, which requires dividends to be paid from the surplus profits of a company.

*.011. Permissible Dividend Classes, Texas Insurance Code, Chapter 5, Subchapter B.* The permissible classes for the payment of dividends for the lines of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B, are the same as the duly approved rating classifications for those lines of insurance. No insurer may declare or pay any dividend on any line of insurance regulated under the Texas Insurance Code, Chapter 5, Subchapter B, unless the dividend is declared and paid on a class which is the same as one of the approved rating classifications for that line of insurance.

*.012. Other Restrictions on the Payment of Dividends, Texas Insurance Code, Chapter 5, Subchapter B.*

(a) No dividend shall take effect or may be paid until approved by the State Board of Insurance.

(b) A dividend may only be paid out of earned surplus.

(c) A pro rata earned dividend must be paid on a participating policy which is terminated prior to its expiration date, if a dividend is otherwise declared and paid for that class of policies.

(d) A dividend may not be paid until the policy expires.

(e) A dividend may not be promised or guaranteed to policyholders.

(f) Dividends shall be disbursed uniformly by classes.

(g) The policy contract must contain the standard participation language approved by the State Board of Insurance.

(h) Earned dividends may not be used by the company to extend or renew policies without the insured's consent. A company may extend or renew policies by application of earned dividends on individual company forms or billings which meet the following minimum requirements:

(1) the insured must be given written notice of his or her right to either accept his earned dividend or agree to the application of his earned dividend to an extension or renewal policy;

(2) the amount of the earned dividend and the number of days the policy is to be extended must be shown in the notice.

(i) Participating companies shall submit a dividend application to the commissioner of insurance at least annually.

(j) If, after a company receives approval to pay dividends, it wishes to discontinue dividend payments, change its rate of dividend, or change the classes for which dividend approval was previously granted, it shall notify the commissioner of insurance by letter. If additional

funds will be needed to pay dividends covering policies expiring during the period approved, the company must file an amended application requesting approval of the additional amount.

.013. *Dividend Application Form, Texas Insurance Code, Chapter 5, Subchapter B.* The State Board of Insurance adopts by reference Texas casualty dividend disbursement application, as applicable to Texas Insurance Code, Chapter 5, Subchapter B. This form may be obtained from the Deputy Insurance Commissioner, Casualty Group, State Board of Insurance, 1110 San Jacinto Street, 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.

Issued in Austin, Texas, on June 17, 1983.

TRD-834516 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-2950.

### Fire and Marine Companies Details of Annual Statement, Admitted Assets

#### 059.06.12.001

The State Board of Insurance proposes the repeal of Rule 059.06.12.001, concerning requirements for an electronic machine, data processing system, or other office equipment or labor saving device to qualify as an admitted asset of a property and casualty insurance company. This rule is substantially a duplicate of Rule 059.01.15 225. No agency procedure or requirement will be changed as a result of this repeal.

Charles T. Ramsey, Examination Division chief examiner, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Ramsey has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be the elimination of a duplicate rule. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Charles T. Ramsey, Chief Examiner, Examination Division, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

The repeal is proposed under authority of the Texas Insurance Code, Articles 6.12 and 8.07, pursuant to which office equipment systems machines and other labor saving devices may qualify as admitted assets of property and casualty insurance companies, and

pursuant to the board's authority to repeal any rule it has previously adopted.

#### .001. *Admitted Assets.*

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834516 James W. Norman  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-2950.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Texas Parks and Wildlife Department

#### Chapter 53. Finance Commercial Fishing Boat Numbers

##### 31 TAC §53.41, §53.42

The Texas Parks and Wildlife Commission proposes amendments to §53.41 and §53.42, concerning the issuance of commercial fishing boat licenses. These amendments are proposed to replace the current decal required for commercial fishing boats with a metal plate and to change the location where the commercial fishing boat number must be displayed so that the number is not adjacent to the Texas boat registration number. The proposed amendments will comply with the provisions of Senate Bill 1023 passed by the 68th Legislature

Jim Dickinson, finance director, has determined that for the first five year period the rules are in effect there will be fiscal implications to state government as a result of enforcing or administering the rules. The metal plates will cost the department approximately \$3,750 per year or \$3,000 more than the decals. There is no anticipated effect on local government.

Mr. Dickinson also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing or administering the rules as proposed will be the durability of the metal plate which reduces the possibility of license replacement. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to W. C. Walker, Texas Parks and Wildlife Department, 4700 Smith School Road, Austin, Texas 78744, (512) 479-4846.





- (1)-(10) (No change.)
- (11) Las Palomas Wildlife Management Area:
  - (A)-(I) (No change.)
  - (J) Anacua Unit in Cameron County; and
  - (K) Baird Unit in Hidalgo County.
- (12)-(13) (No change.)

(14) **Alabama Creek Wildlife Management Area in Trinity County, a National Forest Wildlife Management Area.**

(15) **Bannister Wildlife Management Area in San Augustine County, a National Forest Wildlife Management Area.**

(16) **Matagorda Island Wildlife Management Area in Calhoun County.**

**§65.194. Consent.**

(a) None of the wildlife resources of the wildlife management areas may be taken except by holders of permits that have been issued by the Texas Parks and Wildlife Department or by persons who have obtained permission by registration. **No permit is required to hunt waterfowl or to fish in the designated marsh unit within the boundaries of the Matagorda Island Wildlife Management Area.** No permit is required for taking fish except on the Black Gap, Sheldon, and Engeling Wildlife Management Areas where permission by registration is required.

- (b) (No change.)
- (c) The permit fees are:
  - (1) white-tailed deer—\$25 [\$20];
  - (2)-(3) (No change.)
  - (4) squirrel—\$5.00 [\$4.00];
  - (5)-(8) (No change.)
  - (9) waterfowl—\$5.00 [\$4.00];
  - (10) (No change.)
  - (11) chachalacas—\$10.

**§65.195. Open Seasons: General Rules.**

- (a)-(c) (No change.)
- (d) Hours during which migratory birds may be taken may be further restricted by the migratory game bird proclamation. Hours during which migratory birds may be taken are set out in **§65.214** [§65.213] of this title (relating to Migratory Birds).
- (e) (No change.)

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

**Consumptive user**—A person who takes or attempts to take wildlife resources.

**Designated road**—Any roadway on a wildlife management area not specifically closed to the public by posting of a sign.

**Executive director**—The executive director of the Texas Parks and Wildlife Department.

**Forest service or U.S. Forest Service**—United States Department of Agriculture, forest service, or a specifically authorized employee of the forest service.

**Hunt**—Includes take, kill, pursue, trap, and the attempt to take, kill, or trap.

**National Forest Wildlife Management Area (NFWMA)**—Land in the National Forest System and managed for multiple use by the U.S. Forest Service under cooperative agreement with the Texas Parks and Wildlife Department.

**Nonconsumptive user**—A person who does not take or attempt to take wildlife resources.

**Permission by registration**—The registering at designated places on wildlife management areas by consumptive and nonconsumptive users [hunters and fishermen, to be allowed to hunt certain wildlife species or fish on designated areas during open seasons].

**§65.197. General Regulations.**

(a) Camping will be limited to authorized hunters and fishermen on designated campsites, **except that on NFWMA's anyone may camp in designated campsites and no permit or permission by registration is required.** Camping on Dam "B" Unit of the Eastern Wildlife Management Area will be by permit only. Permits will be available at the U.S. Corps of Engineers office at the reservoir site.

(b) All vehicles shall be restricted to designated roads. Parking will be permitted only in designated areas **on the Granger, Las Palomas, and Somerville Wildlife Management Areas. On other areas parking is permitted on the shoulders of or immediately adjacent to designated roads as long as traffic is not blocked.**

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

(g) **Hunters engaged in hunting activities on wildlife management areas shall not be under the influence of alcohol, or consume or possess alcoholic beverages.** [No person may possess or consume alcoholic beverages within the areas.]

(h) (No change.)

(i) A person hunting any wildlife, except migratory birds, [and] turkey, **and deer during the archery only season** on a wildlife management area must visibly wear a minimum of 400 square inches of daylight fluorescent orange material with 144 square inches appearing on both the chest and back.

(j) Business concessions such as selling, renting, leasing, or peddling goods, merchandise, or services to the public may not be conducted on any area unless specifically authorized in writing by the executive director[.], **and the forest supervisor on NFWMA's.**

(k)-(m) (No change.)

(n) **Water skiing is prohibited except on those leased or licensed wildlife management areas when allowed by the leasing or licensing authority, and on NFWMA's.**

(o) (No change.)

(p) Boats, skiffs, or floating craft of any type may not be left overnight, except by authorized campers on Dam "B" and NFWMA's.

(q) **Swimming is prohibited except on those leased or licensed wildlife management areas when allowed by the leasing or licensing authority and on NFWMA's.**

(r) Sheldon Wildlife Management Areas shall be closed [open] for fishing until **June 1, 1984**, [from 5 a.m. to 9:30 p.m. each day, except Mondays when the area will be closed unless a federal or state legal holiday occurs on Monday. In that event, the area shall open Monday and close on the following Tuesday].

(s) (No change.)

or shotgun capable of and designed for being shot from the shoulder.

(b)-(e) (No change.)

(f) On the Eastern Wildlife Management Area (Dam "B," Toledo Bend, Granger, Pat Mayse, and Somerville Units), shotguns only may be used for **hunting** [the taking of game birds and animals], except that rifles may be used for hunting deer during the regular open deer seasons.

§65.202. *Hunting Permits.*

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

(c) A special permit is required for the hunting of deer, javelina, feral hogs, turkey, and exotic animals on the following wildlife management areas: Gene Howe, Walter Buck, Gus Engeling, James E. Daughtrey, Matador, Kerr, Black Gap, Sierra Diablo, Chaparral, **Alabama Creek, Bannister, Matagorda Island**, and the Somerville and Pat Mayse Units of the Eastern Wildlife Management Area except during the deer archery only season on Somerville and Pat Mayse Units of the Eastern Wildlife Management Area and NFWMA's. A special permit is also required to hunt white-winged doves and **chachalacas** on the [Penitas Unit of the] Las Palomas Area and pheasants on the Granger Unit of the Eastern Wildlife Management Area.

(d) A regular permit (issued on a first-come-first-served basis at the area) is required for the taking of quail, squirrel, and waterfowl on the Gene Howe, James E. Daughtrey, Matador, **Matagorda Island**, Gus Engeling, [Black Gap,] Chaparral, and J. D. Murphree Areas, and for mourning dove on the Chaparral Area, and the [Penitas and] Longoria Unit [Units] of the Las Palomas area.

(e) Permission by registration is required of all hunters not required to have a special permit or regular permit, and for nonhunting visitors on management areas, **except that no permit is required to hunt waterfowl or to fish in the designated marsh unit within the boundaries of the Matagorda Island Wildlife Management Area, and nonconsumptive users on NFWMA's are not required to have permission by registration.**

§65.203. *Checking Game.* All game birds, game animals, exotic mammals, predatory animals, other non-protected species, and furbearers taken or killed on the wildlife management areas, except the NFWMA's and the Eastern Wildlife Management Area (Pat Mayse, Somerville, Granger, Toledo Bend, and Dam "B" Units), [and] doves on the Gene Howe, Matador, and Black Gap Areas, and **quail on the Black Gap Wildlife Management Area**, must be checked at designated check stations before the hunter or trapper leaves the premises. On the **Alabama Creek, Bannister, Pat Mayse, and Somerville Units** during the regular deer season, hunters must check in at check stations.

§65.205. *Tagging of Game.*

(a) (No change.)

(b) The carcass of deer or turkey in possession of a person shall have attached to it a tag issued to the person from his or her valid hunting license; in addition, a special tag issued from the wildlife management area must be attached to each deer or turkey until the deer or turkey is processed for consumption, except no special tag is re-

quired for deer [or turkey] killed on the Eastern Area (Dam "B," Pat Mayse, and Somerville Units) or on NFWMA's during the deer archery only season or Dam "B" during the regular gun season.

(c) (No change.)

§65.207. *Deer and Exotic Mammals.*

(a) (No change.)

(b) Archery only season—open season.

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

(5) **Alabama Creek (permission by registration): to conform with deer archery season set in Trinity County.**

(6) **Bannister (permission by registration): to conform with deer archery season set in San Augustine County.**

(7){(5)} Other areas: no open season.

(c) Regular season—open season.

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

(9) **Alabama Creek (special permit): during the period from the Saturday nearest October 15 through the third Sunday in January.**

(10) **Bannister (special permit): during the period from the Saturday nearest October 15 through the third Sunday in January.**

(11) **Matagorda Island (special permit): during the period from the Saturday nearest September 1 through the third Sunday in January.**

(12){(9)} Other areas: no open season.

(d) (No change.)

§65.209. *Squirrel.*

(a) Open season.

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

(3) **Alabama Creek (permission by registration): season to conform to the season set in Trinity County except no squirrel hunting on days when deer hunting by special permit is conducted.**

(4) **Bannister (permission by registration): season to conform to season set in San Augustine County except no squirrel hunting on days when deer hunting by special permit is conducted.**

(5){(3)} Other areas: no open season.

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

§65.211. *Quail.*

(a) Open season.

(1) (No change.)

(2) **Black Gap (permission by registration) [(regular permit)]: during the period from October through February.**

(3)-(6) (No change.)

(7) **Alabama Creek (permission by registration): to conform to the season set in Trinity County except no quail hunting on days when deer hunting by special permit is conducted.**

(8) **Bannister (permission by registration): to conform to the season set in San Augustine County except no quail hunting on days when deer hunting by special permit is conducted.**

(9) **Matagorda Island (regular permit): during the period from October through February.**

(10){(7)} Other areas: no open season.

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

§65.213. *Chachalaca.*

- (a) Open season.
  - (1) Longoria unit of Las Palomas Wildlife Management Area (special permit): during the chachalaca season set in Cameron County.
  - (2) Other areas: no open season.
- (b) Bag limit: five chachalaca per day.
- (c) Possession limit: 10 chachalaca.

§65.214. [§65.213.] *Migratory Birds.*

- (a) Mourning doves.
  - (1) Open season.
    - (A)-(F) (No change.)
    - (G) [Penitas and Longoria Units of the] Las Palomas Wildlife Management Area (special [regular] permit): during the season provided in the migratory bird proclamation [set for the south zone].
    - (H) Alabama Creek (permission by registration): to correspond to season set in Trinity County.
    - (I) Bannister (permission by registration): to correspond to season set in San Augustine County.
    - (J) Matagorda Island (regular permit): during the season set in Calhoun County.
    - (K)[(H)] Other areas: no open season.
  - (2)-(4) (No change.)
- (b) White-winged doves.
  - (1) Open season.
    - (A) (No change.)
    - (B) [Penitas Unit of] Las Palomas Area (special permit): during the season provided in the migratory bird proclamation [set for Hidalgo County.]
    - (C) (No change.)
  - (2)-(4) (No change.)
- (c) Waterfowl.
  - (1) Open season.
    - (A)-(D) (No change.)
    - (E) Alabama Creek (permission by registration): within the season set by the migratory bird proclamation, except no waterfowl hunting allowed on days when deer hunting by special permit is conducted.
    - (F) Bannister (permission by registration): within the season set by the migratory bird proclamation, except no waterfowl hunting allowed on days when deer hunting by special permit is conducted.
    - (G) Matagorda Island (regular permit): within the season set by the migratory bird proclamation.
    - (H)[(E)] Other areas: no open season.
  - (2)-(5) (No change.)
- (d) (No change.)

§65.215. [§65.214.] *Other Nonprotected Species: Rabbits and Hares—Eastern:*

- (a)-(e) (No change.)
- (f) Alabama Creek (permission by registration): no closed season except that only persons possessing a special permit may take rabbits and hares during the regular deer season. No bag or possession limit.
- (g) Bannister (permission by registration): no closed season except that only persons possessing a special permit may take rabbits and hares during the regular deer season. No bag or possession limit.
- (h) Other areas: No open season.

§65.216. [§65.215.] *Furbearing Animals.* No open season.

§65.217. *Predatory Animals.* There is no open season on predatory animals; however, they may be taken by valid permit holders only during deer and javelina open seasons, except that feral house cats may be taken during any open season, and on the Gus Engeling Area, feral hogs, European wild boars, and crosses thereof may be taken during the seasons provided.

- (1) Open season.
  - (A) Gus Engeling (special permit): during the month of February and March.
  - (B) (No change.)
- (2)-(3) (No change.)

§65.219. *Fishing Seasons.*

- (a) General. No closed season except that the Black Gap Area will be closed from June 16 of each year through March 14 of the succeeding year, and there shall be no open season on the Chaparral, James E. Daughtrey, Gene Howe, Las Palomas, or Matador Wildlife Management Areas. Sheldon Reservoir shall be closed to fishing until June 1, 1984.
- (b) Black Gap. Impoundments are closed to fishing. [Access to the Rio Grande and camps on the Rio Grande are closed to fishermen during the deer and javelina seasons.]
- (c) J. D. Murphree.
  - (1) In that portion of Big Hill Bayou and Keith Lake which lies within the J. D. Murphree Area and in outside borrow ditches running adjacent to Big Hill Bayou and Keith Lake fishing shall be permitted from the Monday following the closing of waterfowl season [January 16] through October 31, both days inclusive, from 30 minutes before sunrise to 30 minutes after sunset.
  - (2) (No change.)
  - (3) Powered skiffs, powered boats, or powered floating craft of any type with motor not to exceed 35 [25] horsepower shall be permitted within compartments during the period from March 1 through August 31.
  - (4) (No change.)
- (d) (No change.)
- (e) Alabama Creek. No fishing permitted during regular deer season except on Neches River.
- (f) Bannister. No fishing permitted during regular deer season.

§65.220. *Means and Methods.*

- (a) (No change.)
- (b) J. D. Murphree.
  - (1)-(2) (No change.)
  - (3) Means and methods of fishing in that portion of Big Hill Bayou and Keith Lake which lies within the J. D. Murphree Area shall be the same as provided by general and special laws and proclamations issued by the Parks and Wildlife Commission for Jefferson County except seines and nets other than 20-foot minnow seines are prohibited.
- (c) Sheldon.
  - (1) Fishing is permitted in accordance with fishing regulations in Harris County, except handlines and trotlines are prohibited.
  - (2) Fishing is closed to boat and wade fishermen between the period October 1 through February 1, both days inclusive.

[(3) Boat motors over 10 horsepower are prohibited.]

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834497 Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 479-4972  
or (800) 792-1112.

### Subchapter L. White-Winged Dove Sanctuaries

31 TAC §§65.271-65.274

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Parks and Wildlife Commission proposes the repeal of §§65.271-65.274, concerning white-winged dove sanctuaries. The commission is simultaneously proposing new rules which will combine the white-winged dove sanctuary rules with the early season migratory game bird rules.

Jim Dickinson, finance director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Dickinson also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will be the clarification of the migratory game bird rules. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Ronnie R. George, Program Leader, Migratory Shore and Upland Game Birds, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112.

The repeals are proposed under the authority of the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the commission with authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

§65.271. *Sanctuary A.*  
§65.272. *Sanctuary B.*

§65.273. *Open Season.*

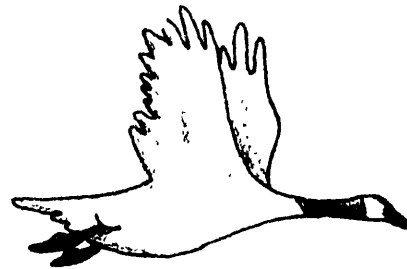
§65.274. *Penalty.*

Issued in Austin, Texas, on June 17, 1983.

TRD-834498 Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 479-4806  
or (800) 792-1112.



### Subchapter N. Early Season Migratory Game Bird

31 TAC §§65.311-65.316

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Parks and Wildlife Commission proposes the repeal of §§65.311-65.316, concerning the early season for migratory game birds. The commission is simultaneously proposing new rules which will combine the early season migratory game bird rules with the white-winged dove sanctuary rules.

Jim Dickinson, finance director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Dickinson also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will be the clarification of the migratory game bird rules. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Ronnie R. George, Program Leader, Migratory Shore and Upland Game Birds, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112.

The repeals are proposed under the authority of the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the commission with authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

- §65.311. *Definitions*
- §65.312. *Means and Methods.*
- §65.313. *Open Seasons*
- §65.314. *Bag and Possession Limits.*
- §65.315. *Extended Falconry Season.*
- §65.316. *Penalties.*

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

Issued in Austin, Texas, on June 17, 1983

TRD-834499      Maurine Ray  
                         Administrative Assistant  
                         Texas Parks and Wildlife  
                         Department

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 479-4806,  
or (800) 792-1112.

The Texas Parks and Wildlife Commission proposes new §§65.311-65.316, concerning the early season for migratory game birds. The proposed sections eliminate reference to specific years, increase the number of mourning dove hunting zones from two to three, establish dove hunting zone boundaries based on highways, reduce the season length but increase the bag limit for mourning dove hunting in the proposed Panhandle Zone, establish an aggregate daily bag limit including no more than two white-winged doves during the fall and winter mourning dove hunting seasons in the proposed Rio Grande Zone and part of the proposed Panhandle Zone, and delete reporting requirements for falconers.

The commission is responsible for establishing seasons, bag limits, means, methods, and devices for taking and possessing migratory game birds. Regulations for hunting migratory game birds may be set by the state only within a framework established by the U.S. Fish and Wildlife Service. The general framework issued by the Fish and Wildlife Service allows states within major flyway systems to adjust seasons and bag limits to take into consideration their localized circumstances.

The proposals for migratory species are based upon the most current data available. The seasons, bag limits, means, and methods are tentative and subject to modification. The proposed rules may be modified by Texas Parks and Wildlife Commission action as a result of changes in migratory game bird populations as determined by annual surveys, public hearings concerning regulation frameworks held by the Fish and Wildlife Service in Washington, D.C., public hearings held by the Texas Parks and Wildlife Commission, and comments solicited from this proposal

Jim Dickinson, finance director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local

government as a result of enforcing or administering the rules

Mr. Dickinson also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the taking of migratory wildlife resources consistent with their populations and the clarification of the migratory game bird rules. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposed rules may be submitted to Ronnie R. George, Program Leader, Migratory Shore and Upland Game Birds, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4979 or (800) 792-1112.

The new rules are proposed under the authority of the Texas Parks and Wildlife Code, Chapter 64, Subchapter C, which provides the commission with authority to regulate seasons, means, methods, and devices for taking and possessing migratory game bird wildlife resources.

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

**Baiting**--The placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed so as to constitute for such birds a lure, attraction, or enticement to, on, or over areas when hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and the area shall remain a baited area for 10 days following complete removal of all such corn, wheat, or other grain, salt, or other feed.

**Daily bag limit or bag limit**--The maximum number of the indicated species which may be legally killed, taken, or possessed during the permitted shooting hours in one calendar day.

**Migratory game birds**--Wild ducks of all species, wild geese and wild brant of all species, wild coot, wild rail, wild gallinules, wild plovers, Wilson's snipe or jacksnipe, woodcock, mourning doves, white-winged doves, white-fronted doves, red-billed pigeons, bank-tailed pigeons, shorebirds of all varieties, and sandhill cranes (Texas Parks and Wildlife Code, §64.021(1)).

**Open seasons**--Those periods of time during which migratory game birds may be lawfully taken. When given in dates, all dates are inclusive during the permitted shooting hours.

**Possession limit**--The maximum number of the indicated species permitted to be possessed by one person when lawfully taken in the United States.

**Sinkbox**--Any type of low floating device having a depression which affords the hunter a means of concealing himself below the surface of water.

**Take**--Includes the terms pursue, hunt, shoot, capture, collect, or kill, or the attempt to pursue, hunt, shoot, capture, collect, or kill.

Texas Parks and Wildlife Department or department—As the context requires, the Texas Parks and Wildlife Department or a specifically authorized employee of the department.

Waterfowl—Wild ducks of all species, wild geese, brant, and coots.

§65.312. *Means, Methods, and Special Requirements.*

(a) The following means and methods are lawful, subject to control of subsection (b) of this section, in the taking of migratory game birds:

(1) dogs, artificial decoys, manual or mouth-operated birdcalls, longbow and arrows, shotgun not larger (in barrel diameter) than 10 gauge and incapable of holding more than three shells, which includes one in the firing chamber, fired from the shoulder, and by means of falconry;

(2) positions in the open or from a blind or other place of concealment except a sinkbox and except by use of livestock as a means of concealment, on land or water;

(3) taking from floating craft (other than a sinkbox) which is beached, at anchor, or tied within or alongside a fixed hunting blind, except that rails may be taken from a craft unaffected at the time of taking by any source of propulsion other than paddle, oars, or pole;

(4) taking on or over unbaited areas;

(5) taking by the use of power boats, sailboats, or other craft when used solely as a means of picking up dead or injured birds; and

(6) paraplegics and single or double amputees of the legs may take migratory game birds from any stationary motor vehicle or motor-driven land conveyance.

(b) The following means and methods are unlawful in the taking of migratory birds:

(1) trap, snare, crossbow, rifle, pistol, swivel gun, or machine gun;

(2) shotgun larger in diameter than 10 gauge, or a shotgun not permanently plugged to three shell or less capacity, including both magazine and chamber;

(3) from, or by means, aid, or use of sinkbox, motor-driven conveyance, motor vehicle, or aircraft of any kind;

(4) from or by means of sailboat or floating device having a motor attached unless such device is beached, resting at anchor, or fastened within or immediately alongside a fixed hunting blind, or is used solely as a means of picking up dead or injured birds;

(5) by the use of livestock as a means of concealment,

(6) by the use of recorded or electrically amplified birdcalls or sounds;

(7) by the use of live birds as decoys;

(8) by the means or aid of motor-driven land, water, or air conveyance or sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of waterfowl or coots; and

(9) by baiting, or taking on or over baited areas; however, nothing in this subsection shall prohibit:

(A) the taking of migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(B) the taking of migratory game birds, except waterfowl, on or over lands where shelled, shucked, or unshucked corn, wheat, or other grain, salt, or other feed that has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes; provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

(c) Nothing in these rules applies to persons taking birds pursuant to lawful collection or depredation permits when operating within the terms of such permits.

(d) Identification requirements.

(1) One fully feathered wing must remain attached to all migratory birds while being transported by any means from Mexico into Texas.

(2) One fully feathered wing must remain attached on dressed migratory game birds while being transported between the place where taken and one's abode or a commercial preservation facility.

(3) Paragraph (2) of this subsection does not apply to doves except in the Rio Grande Zone and the Special White-Winged Dove Area at all times.

(e) Tagging requirements.

(1) No person shall possess more than one daily bag limit of freshly killed migratory game birds while in the field or while returning from the field to one's hunting camp, automobile, or other motor driven land conveyance, aircraft, temporary commercial lodging facility, or home

(2) No person shall give, put, or leave any migratory game birds at any place or in the custody of another person or receive, possess, or give to another any freshly killed migratory game bird as a gift, except at the permanent residence of the donor or donee, unless the birds are tagged by the hunter with the following information:

(A) the hunter's signature;

(B) the hunter's address;

(C) the total number of each species of birds involved; and

(D) the dates such birds were killed.

(3) Tagging is required if the birds are being transported by another person for the hunter, or if the birds have been left for cleaning, storage (including temporary storage), shipment, or taxidermy services.

§65.313. *Open Seasons, Shooting Hours, Bag and Possession Limits.*

(a) No person shall take migratory game birds except during the open season as provided herein or at any time except during the hours as provided herein. All dates are inclusive.

(b) No person may take or have in possession more than the bag and possession limits of each species of migratory game birds except as provided herein

(c) No person may possess migratory game birds, on the opening day of the season in excess of the applicable daily bag limit.

(d) No person may possess freshly killed migratory game birds during the closed season.

(e) No person shall kill or wound a migratory game bird without making a reasonable effort to retrieve it.

(f) Every migratory game bird wounded by hunting and retrieved by the hunter shall be immediately killed and become a part of the bag limit.

(1) Rails. Statewide:

(A) Dates: September 1 through November 9.

(B) Shooting hours: from one-half hour before sunrise to sunset.

(C) Bag and possession limits:

(i) large rails (king and clapper rails): 15 in the aggregate per day; 30 in the aggregate in possession.

(ii) small rails (sora and Virginia rails): 25 in the aggregate per day; 25 in the aggregate in possession.

(2) Mourning doves.

(A) Panhandle Zone: that portion of the state north of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20, thence west along State Highway 20 to State Highway 148; thence north along State Highway 148 to IH 10 at Fort Hancock; thence east along IH 10 to IH 20; thence northeast along IH 20 to IH 30 at Fort Worth; thence northeast along IH 30 to the Texas-Arkansas state line.

(i) Dates: September 1 through October 15.

(ii) Shooting hours: from one-half hour before sunrise to sunset.

(iii) Bag and possession limits: 15 per day; 30 in possession (except for that portion of the state south and west of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20; thence west along State Highway 20 to State Highway 148, thence north along State Highway 148 to IH 10 at Fort Hancock; thence west along IH 10 to the Texas-New Mexico state line where the bag limit is 15 mourning doves and white-winged doves in the aggregate including no more than two white-winged doves per day, and the possession limit is 30 mourning doves and white-winged doves in the aggregate including no more than four white-winged doves).

(B) Central Zone: that portion of the state east of a line beginning at the junction of the Texas-Arkansas state line and IH 30; thence southwest along IH 30 to IH 20 at Fort Worth; thence southwest along IH 20 to IH 10; thence southeast along IH 10 to IH 37 in San Antonio; thence south along IH 37 to U.S. Highway 181; thence southeast along U.S. Highway 181 to State Highway 361 at Gregory; thence along State Highway 361 to the Corpus Christi Channel; thence east along the Corpus Christi Channel to the Gulf of Mexico.

(i) Dates: beginning on the first Saturday in September for 60 consecutive days and beginning on the first Saturday in January for 10 consecutive days.

(ii) Shooting hours: from one-half hour before sunrise to sunset.

(iii) Bag and possession limits: 12 per day; 24 in possession.

(C) Rio-Grande Zone: that portion of the state south and west of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20; thence west along State Highway 20 to State Highway 148; thence north along State Highway 148 to IH 10 at Fort Hancock; thence east

along IH 10 to IH 37 in San Antonio; thence south along IH 37 to U.S. Highway 181; thence southeast along U.S. Highway 181 to State Highway 361 at Gregory; thence east along State Highway 361 to the Corpus Christi Channel; thence east along the Corpus Christi Channel to the Gulf of Mexico.

(i) Dates: beginning on the first Saturday after September 16, for 54 consecutive days (50 consecutive days for that portion in the Special White-Winged Dove Area listed in paragraph (3)(A) of this subsection) and beginning on the first Saturday in January, for 16 consecutive days.

(ii) Shooting hours: from one-half hour before sunrise to sunset.

(iii) Bag and possession limits: 12 mourning doves and white-winged doves in the aggregate including no more than two white-winged doves per day; 24 mourning doves and white-winged doves in the aggregate including no more than four white-winged doves in possession. (Note: mourning doves may also be taken during the four-day white-winged dove season in the Special White-Winged Dove Area listed in paragraph (3)(A) of this subsection)

(3) White winged doves. Special White-Winged Dove Area: that portion of the state south and west of a line beginning at the International Bridge south of Fort Hancock; thence north along FM 1088 to State Highway 20; thence west along State Highway 20 to State Highway 148; thence north along State Highway 148 to IH 10 at Fort Hancock; thence east along IH 10 to U.S. Highway 277 at Sonora; thence south along U.S. Highway 277 to State Highway 55; thence southeast along State Highway 55 to U.S. Highway 83 at Uvalde; thence south along U.S. Highway 83 to State Highway 44; thence east along State Highway 44 to State Highway 16 at Freer; thence south along State Highway 16 to State Highway 285 at Hebbronville; thence east along State Highway 285 to FM 1017; thence southeast along FM 1017 to State Highway 186 at Linn; thence east along State Highway 186 to the Mansfield Channel at Port Mansfield; thence east along the Mansfield Channel to the Gulf of Mexico.

(A) Dates: the first two complete weekends (both Saturday and Sunday) in September.

(B) Shooting hours: noon to sunset.

(C) Bag and possession limits: 10 white-winged doves and 12 mourning doves per day; 20 white-winged doves and 24 mourning doves in possession.

(4) Gallinules. Statewide:

(A) Dates: September 1 through November 9.

(B) Shooting hours: from one-half hour before sunrise to sunset.

(C) Bag and possession limits: 15 per day; 30 in possession.

(5) Teal ducks. All species (blue-winged, green-winged, and cinnamon). Statewide:

(A) Dates: beginning on the second Saturday in September, for nine consecutive days.

(B) Shooting hours: from sunrise to sunset.

(C) Bag and possession limits: four in the aggregate per day; eight in the aggregate in possession.

(6) White-fronted doves, red-billed pigeons, and band-tailed pigeons. No open season

(7) Shorebirds. No open season.

§65.314. Closed Areas.

(a) The season is closed on migratory game birds on public roads and highways, or rights-of-way of public roads and highways, the state-owned riverbeds in Dimmit, Uvalde, and Zavala Counties, including but not limited to the Nueces and Frio rivers, and state wildlife preserves and sanctuaries unless an open season is otherwise provided. The open season for the taking of migratory game birds on any federal wildlife refuge shall be in accordance with the special hunting regulations duly adopted and published by the U.S. Fish and Wildlife Service.

(b) The White-Winged Dove Sanctuary Area designated as Sanctuary A is closed to all dove hunting during the Special White-Winged Dove Season in even-numbered years and is that area of Texas south of a line extending north from the International Bridge at Brownsville along State Highway 415 to U.S. Highway 281, thence north and west along U.S. Highway 281 to FM 1015 and south along FM 1015 to the International Bridge near Progreso; and that area of Texas south of a line extending north along U.S. Highway 281 from the International Bridge at Hidalgo; thence north along Spur 115 to FM 1016; thence west and north along FM 1016 to U.S. Highway 83 at Mission, thence west along U.S. Highway 83 to Loop 374; thence west along Loop 374 to FM 2062, thence south along FM 2062 to the entrance of Bentsen State Park; and thence along the east boundary of Bentsen State Park to the Rio Grande, and that area of Texas south of a line extending north from the Rio Grande at Los Ebanos along FM 886 to U.S. Highway 83; thence west along U.S. Highway 83 to FM 755 at Rio Grande City, and thence south along FM 755 to the Rio Grande.

(c) The area designated as Sanctuary B is closed to all dove hunting except during the Special White-Winged Dove Season in odd-numbered years and is that area of Texas west and south of a line extending north along FM 1015 from the International Bridge near Progreso to State Highway 281, and west along U.S. Highway 281 to the International Bridge at Hidalgo, and that area of Texas south of a line extending north from the Rio Grande along the east and north boundaries of Bentsen State Park to its junction with FM 2062, thence along FM 2062 to Loop 374; thence west along Loop 374 to U.S. Highway 83, thence west along U.S. Highway 83 to FM 886, and thence south along FM 886 to the Rio Grande at Los Ebanos; and that area of Texas south of a line extending north from the Rio Grande at Rio Grande City along FM 755 to U.S. Highway 83; thence west along U.S. Highway 83 to first junction of FM 2098, thence north and west along FM 2098 to the Rio Grande.

§65.315. Extended Falconry Season.

(a) It is lawful to hunt and take migratory game birds by means of falconry, but the hunting or taking is limited to persons holding valid falconry permits issued by the department.

(b) It is lawful to take migratory game birds by means of falconry during the following prescribed open seasons.

(1) Rails: September 1 through December 16, from one-half hour before sunrise to sunset.

(2) Mourning doves: September 1 through December 16, from one-half hour before sunrise to sunset.

(3) White-winged doves: September 1 through December 16, from one-half hour before sunrise to sunset.

(4) Gallinules: September 1 through December 16, from one-half hour before sunrise to sunset.

(c) The daily bag and possession limits for all permitted migratory game birds shall not exceed three and six birds respectively, singly or in the aggregate.

(d) No person may possess a firearm or longbow and arrow or be accompanied by a person possessing a firearm or longbow and arrow while hunting by means of falconry.

§65.316 Penalties. The penalty provided by law for violation of these sections is prescribed by the Texas Parks and Wildlife Code, §64.026.

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

Issued in Austin, Texas, on June 17, 1983.

TRD 834500 Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption  
July 25, 1983.

For further information, please call (512) 479-4972  
or (800) 792-1112.

**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**  
**Part IX. Texas Commission on Jail Standards**  
**Chapter 265. Admission of Inmates to County Jails**

**37 TAC §265.12**

The Texas Commission on Jail Standards proposes amendments to §265.12, concerning searches of inmates upon admission to county jails.

Robert O. Viterna, executive 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. Viterna also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be an administrative clarification of an existing rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.



Comments on the proposal may be submitted to Robert O. Viterna, Executive Director, 411 West 13th Street, Suite 900, P.O. Box 12985, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails

**§265.12. Search. All persons in custody shall be thoroughly searched for weapons and contraband upon entry into the jail and prior to booking. [All inmates upon admission shall be thoroughly searched for weapons and any contraband.]**

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

Issued in Austin, Texas, on May 25, 1983.

TRD-834459 Mrs. William Cree  
Chairman  
Texas Commission on Jail  
Standards

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-2716.

### 37 TAC §265.16

The Texas Commission on Jail Standards proposes amendments to §265.16, concerning strip searches of inmates upon admission to county jails.

Robert O. Viterna, executive 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. Viterna also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be an administrative clarification of an existing rule. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Robert O. Viterna, Executive Director, 411 West 13th Street, Suite 900, P.O. Box 12985, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Title 18, Article 5115.1, which provide the Texas Commission on Jail Standards with the authority to promulgate rules affecting county jails.

**§265.16. Strip Search. Inmates should undergo a thorough strip search when jail personnel reasonably believe it to be necessary to maintain the security of the facility. The strip search will be conducted in a reasonable manner. [Inmates should have a thorough strip search which should include a check for body vermin, cuts, bruises, needle scars, and other injuries. Only females**

shall conduct such a search of female inmates. Only males shall conduct such a search of male inmates.]

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

Issued in Austin, Texas, on May 25, 1983.

TRD-834460 Mrs. William Cree  
Chairman  
Texas Commission on Jail  
Standards

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 475-2716.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 15. Medicaid Eligibility

The Texas Department of Human Resources proposes to amend, add, and repeal rules in its Medicaid eligibility rules. Sections 15.3201, 15.3203, and 15.3218 are being repealed and replaced by new §§15.3201, 15.3203, and 15.3218. New §15.3201 defines liquid and nonliquid resources, specifies the types of necessary verification, and specifies that the equity value of nonliquid resources, except automobiles, is considered. New §15.3203 defines the resource limitations and includes policy about ownership, accessibility, trusts, guardianships, and conversion of resources. New §15.3218 specifies the policy about disposition of excess nonliquid resources. Section 15.3204 is being amended to delete a reference to community property as community property is discussed in new §15.3203. Section 15.3223 is being amended to delete references to co owned property as co owned property is also discussed in new §15.3203. Section 15.5506 is being amended to specify that resources are redetermined every six months if an individual's countable resources plus monthly gross income exceed the program resource limit. Section 15.5001 is being repealed as it contains internal department operating procedures.

David Hawes, Programs Budget and Statistics director, has determined that for the first five-year period the rules as proposed will be in effect there will be no fiscal implications as a result of enforcing or administering the rules as proposed.

Mr. Hawes also has determined that for each year of the first five years that the rules as proposed are in effect the public benefit anticipated as a result of enforcing or administering the rules as proposed will be that by defining and clarifying the department's policies about resources, the policies will be uniformly applied statewide and result in a reduction in staff er-

rors. There is no anticipated economic cost to individuals required to comply with the rules as proposed.

Comments may be submitted to Susan L. Johnson, Administrator, Policy Development Support Division, 515, Texas Department of Human Resources 153 B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

### **Subchapter GG Resources for Individuals Related to the SSI Program**

**40 TAC §§15.3201, 15.3203, 15.3218**

*(Editor's note: The text of the following rules being proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 206 Barvester Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeals are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs.

**§15.3201. Definition of Resources.**

**§15.3203. Resource Limitations.**

**§15.3218. Disposition of Excess Nonliquid Resources.**

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

Issued in Austin, Texas, on June 16, 1983.

TRD-834420      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

The new rules are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs.

**§15.3201. Resources.** Resources are defined as cash or other liquid assets or any real or personal property an individual or spouse owns and could convert to cash to use for support and maintenance. If the individual has the right, authority, or power to liquidate the property or his share of it without legal restrictions, the caseworker considers it a resource. If a property right may not be liquidated, the caseworker does not consider the property a resource to the individual or spouse, as long as legal restrictions apply. If the individual would be required to seek court action to access or dispose of a resource, the caseworker does not consider the resource available to the individual.

(1) Liquid resources.

(A) Liquid resources are cash or financial instruments which can be converted to cash within 20 work-

days (excluding holidays). Liquid resources include cash in savings accounts and the cash value of stocks, bonds, promissory notes, and mortgages.

(B) The caseworker must accept the individual's statement of the amount of cash on hand, regardless of the amount, without verification. The caseworker must verify deposits and withdrawals to determine if the individual's statements about his income are consistent with his bank accounts.

(C) Stocks are shares of ownership in a corporation. To establish value, the caseworker must use the closing price on the last day of the month before the month of application or recertification.

(D) Whether the caseworker considers a resource liquid depends upon its convertibility to cash within 20 workdays. Certain types of U.S. savings bonds and savings certificates are nonliquid resources if they have been held for less than the time required in the agreement between the individual and the financial institution. The value of any U.S. savings bond is based on the time elapsed since the issue date.

(2) Nonliquid resources

(A) Nonliquid resources include all other property, both real and personal. Nonliquid resources also include financial instruments which may not be converted to cash within 20 workdays. Real property is land and includes houses or other immovable objects permanently attached to the land. Real property also includes mineral rights in which the individual has ownership rights or interest.

(B) Ownership of real property consists of an interest in or sole possession of the property.

(C) The caseworker evaluates nonliquid resources, with the exception of some automobiles, according to their equity value. Equity is the market value of the resource minus any amount owed on it.

**§15.3203. General Principles Concerning Resources.**

(a) Resource limitations.

(1) An individual or couple meets SSI resource criteria if the value of all countable resources does not exceed the following limitations:

(A) Individual—\$1,500.

(B) Eligible couple—\$2,250 (combined resources of the couple).

(C) Individual with ineligible spouse living in the same household—\$2,250 (combined resources of the individual and spouse).

(D) Individual with ineligible spouse not living in the same household—\$1,500 (individual's own resources).

(E) Child—\$1,500 (child's own resources plus certain deemed resources of parents with whom child lives).

(2) The caseworker determines resources as of 12:01 a.m. on the first day of the month. Changes in the amount of countable resources after the first day of the month do not affect eligibility for that month. If countable resources exceed the statutory limit on the first day of the month, an individual is not eligible for Medicaid for the entire month. The earliest he may establish eligibility based on resources is the first day of the next month, if his resources are below the limit.

(b) Ownership and accessibility.

(1) The caseworker generally establishes ownership based on the individual's statement and other verification. If the individual has co-owned resources, the caseworker determines whether the consent of the co-owner is required for the individual to dispose of his interest. If consent is required, the caseworker only considers the resource to the extent the co-owner agrees to make it available. If the co-owner agrees to make the resource available or if a co-owner's consent is not required for the individual to dispose of the resource, the caseworker must consider the resource available to the individual.

(2) For co-owned, undivided real property, each co-owner usually has the legal right to sell his undivided individual interest with or without the consent of the co-owners. The caseworker must establish the resource value of the individual's interest in co-owned real property by contacting a knowledgeable source.

(3) Texas law prohibits the sale of community real property without the consent of both spouses. If an ineligible spouse is unwilling to dispose of community real property, the caseworker does not consider it an available resource to the individual.

(c) Conversion. A recipient may convert one type of resource to another. The caseworker considers the new resource according to the policy governing that resource. The caseworker considers any cash received from the sale of a resource as a resource, not as income.

(d) Trusts. The caseworker considers resources maintained in a trust as countable resources if the individual is the trustee and has the legal right to revoke the trust and use the money for his own benefit. If the individual's access to the trust is restricted, that is, only the trustee (other than the individual) or the court may withdraw the principal, the funds are not a resource to the individual. The caseworker does not count the funds as a resource even if the legal guardian is the trustee, the trust provides a regular, specified payment to the individual, or the trust provides for discretionary withdrawals by the trustee. Although the trust is not a resource, the caseworker considers as income payments actually made to or on behalf of the individual. The caseworker does not consider as income payments used to purchase medical or social services for the individual.

(e) Guardianships.

(1) Resources, both liquid and nonliquid, are generally considered to be available resources to the individual if they are managed and controlled by:

- (A) a representative payee,
- (B) legal guardian,
- (C) individual with power of attorney, or
- (D) fiduciary on behalf of an individual.

(2) The caseworker, however, must exclude the resources if a legal guardian's access to or use of the individual's resources is specifically prohibited by the court which established the guardianship. A guardian's routine petitioning of the court to dispose of an individual's resources is not considered a prohibition. The caseworker considers the resources available only at the time and to the extent the court makes them available for the individual's benefit.

*§15.3218. Disposition of Excess Nonliquid Resources*

(a) If an individual has a countable, nonliquid resource which, if added to the individual's countable liquid resources, exceeds the applicable resource limitation, the individual may attempt to convert the resource into cash. If the individual prefers not to convert the resource, the caseworker must not certify or continue medical assistance.

(b) If the individual decides to convert the resource, the caseworker may certify or continue medical assistance if all of the following conditions are met:

(1) The equity value of total countable resources (including the nonliquid resource which the individual wishes to convert) does not exceed \$3,000 for an individual or \$4,500 for a couple.

(2) The total countable liquid resources do not exceed three times the monthly federal payment standard.

(3) The individual agrees in writing to dispose of excess nonliquid resources within six months after the agreement for real property and three months after the agreement for other resources.

(c) The caseworker only applies this policy to applications and to situations in which a resource is acquired or a previously excluded resource becomes available. The caseworker does not apply this policy to homes of institutionalized individuals which have been excluded but are no longer excluded because the individual is unable or does not intend to return home.

(d) During the period of disposition, the individual is expected to exert every reasonable effort to sell the resource at the highest market price possible, using normal community resources to effect the sale. Minimum resources to be used include newspaper "for sale" ads or listing property with realtors. A firm, reasonable offer sufficient to make the individual ineligible constitutes a basis for denial.

(e) At the end of the period of disposition, if no offer has been received, the caseworker:

- (1) evaluates the efforts made to sell the resource,
- (2) reconsiders the potential marketability of the resource and the resource's effect on continued eligibility, and

(3) continues medical assistance for three months if the individual has made a bona fide effort to sell the resource and continues to do so.

(f) Every three months and at each periodic review, the caseworker redetermines the equity value of the resource and its marketability if the value continues to potentially affect eligibility.

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

Issued in Austin, Texas, on June 16, 1983.

TRD-834419      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

40 TAC §15.3204, §15.3223

The following amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs.

§15.3204. *Deeming of Resources.*

(a) (No change.)

(b) **The caseworker does not apply deeming** [deeming does not apply] if the individual is not living in a household with the ineligible spouse. **Living** [Residing] together in a nursing facility does not constitute "living in a household" for deeming purposes. **The caseworker** [In this situation,] only counts the individual's own resources [are counted] against the \$1,500 resource limit. The individual's own resources include the total amount of checking and savings accounts to which the individual has access[, and half of any community property obtained during the marriage]. **The caseworker excludes any separate resources of the ineligible spouse** [are excluded from consideration].

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

§15.3223. *Special Resource Consideration.* There are certain types of resources which create questions about countability. This rule explains resources which are non-excludable, but need clarification.

(1) Mineral rights.

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

(C) Individuals may own a divided or undivided interest in a piece of property. Surface rights ownership is frequently divided, in that an individual's portion can be specifically identified and is not shared with another. Mineral rights ownership is generally undivided, meaning identification of portions is not possible and that the individual owns a fractional interest with several other people. The lack of division of ownership is frequently a barrier to sale of surface rights because the other owners may not be willing to sell or agree to division of the property. If a sale is barred in this manner, the resource value is excluded. The lack of a division of ownership does not generally affect the sale of mineral rights because they are more intangible than land. Thus, an individual may sell his undivided interest without affecting other mineral owners. It must be emphasized, however, that each case must be evaluated individually. The best source of information for these issues are deeds and lease agreements.]

(2) (No change.)

(3) Life estates and remainder interests.

(A) **The caseworker may exclude a life estate or remainder interest** [may be excluded] if **the property is** [it meets the characteristics of] a homestead. **The caseworker may also exclude a life estate or remainder interest** [or] if there is a contract restriction which prevents the holder of the life estate or remainder interest from disposing of his interest. If neither exclusion applies, **the caseworker considers the life estate or remainder interest** [is] an available nonliquid resource.

(B) If the resource value of the life estate or remainder interest, combined with other countable resources, **causes** [cause] the applicant/recipient to be ineligible, he has the right to rebut the decision. To rebut,

the applicant/recipient or **responsible party** [person acting on his behalf] must get a statement from a knowledgeable source that the [market] value of the interest held in the property is less than the value **determined** [decided] by the department [DHR]. If the value **determined** [decided] by the knowledgeable source is less than the value **determined** [decided] by the department [DHR], the rebuttal value is used

(C) (No change.)

(4) (No change.)

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

Issued in Austin, Texas, on June 16, 1983

TRD-834417 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption  
July 25, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

## Subchapter YY. System for Determining Medicaid Eligibility

### 40 TAC §15.5001

*(Editor's note: The text of the following rule being proposed for repeal will not be republished. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

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

#### §15.5001. *Simplified Eligibility Determination System.*

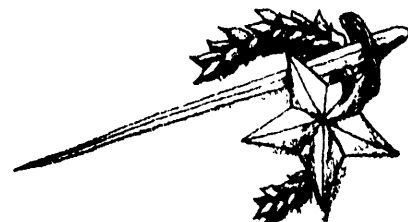
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 16, 1983.

TRD-834421 Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 441-3355,  
ext. 2037.



**Subchapter DDD. Intrastate Requests for Assistance**

**40 TAC § 15.5506**

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

**§15.5506. Redetermination of Eligibility for Medical Assistance.**

(a) If [When] an individual is eligible for medical assistance, the caseworker redetermines his eligibility [is redetermined by department staff]:

(1)-(3) (No change )

(4) at least every six months if the individual has earned income. The caseworker only verifies and documents [The individual must provide verification of] the earnings

(5) at least every six months if the individual's countable resources plus monthly gross income exceed the program resource limit. The caseworker only verifies and documents resources.

(b) (No change.)

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

Issued in Austin, Texas, on June 16, 1983.

TRD-834418      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

**Chapter 29. Purchased Health Services**

The Texas Department of Human Resources proposes to amend §29.604, concerning authorized outpatient hospital services, and §29.1112, concerning exclusions and limitations, in its purchased health services rules, regarding outpatient services through the Texas Medical Assistance (Medicaid) Program.

The proposed amendments establish a requirement that hospital providers must obtain prior authorization from the department's health insuring agent to receive reimbursement for parenteral hyperalimentation provided on an outpatient basis. Outpatient parenteral hyperalimentation administered as a nutritional supplement would be excluded from reimbursement.

The Medicaid Program provides coverage of parenteral hyperalimentation necessary to sustain life when administered in an inpatient or outpatient hospital setting.

David Hawes, Programs Budget and Statistics director, has determined that for the first five year period the rules as proposed are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules as proposed.

Mr. Hawes also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing or administering the rules as proposed will be improved administration of the program through clearer policies.

Comments may be submitted to Susan L. Johnson, Administrator, Policy Development Support Division-251, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

**Subchapter G. Hospital Services**

**40 TAC §29.604**

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

**§29.604. Authorized Outpatient Hospital Services.** Outpatient hospital services include diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician, except that no payment is made for:

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

(4) Parenteral hyperalimentation therapy unless prior authorization is received from the department's health insuring agent. These services must be considered medically necessary in order to sustain life. Coverage does not extend to hyperalimentation administered as a nutritional supplement.

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

Issued in Austin, Texas, on June 17, 1983.

TRD-834502      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
July 25, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

**Subchapter L. General Administration**

**40 TAC §29.1112**

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

§29.1112 Exclusions and Limitations

(a) Benefits do not extend to:

(1)-(18) (No change)

(19) any parenteral hyperalimentation provided on an outpatient hospital basis without prior authorization by the department's health insuring agent, nor to any outpatient hyperalimentation administered as a nutritional supplement.

(b) (d) (No change)

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

Issued in Austin, Texas, on June 17, 1983

TRD 834503 Marlin W. Johnston  
Commissioner  
Texas Department of Human Resources

Earliest possible date of adoption  
July 25, 1983

For further information, please call (512) 441-3355, ext. 2037.

### Chapter 47. Primary Home Care Claims Payment

#### 40 TAC §47.3903

The Texas Department of Human Resources proposes to amend §47.3903, concerning records, in its primary home care rules. Section 47.3903 is being amended to specify that provider agencies must make records available to the Texas attorney general's personnel.

David Hawes, Programs Budget and Statistics 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. Hawes also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the availability of provider agency records to state and federal agencies responsible for Primary Home Care Program administration and fiscal control. There is no anticipated economic cost to individuals required to comply with the rule as proposed.

Comments may be submitted to Susan L. Johnson, Administrator, Policy Development Support Division-510, Texas Department of Human Resources 153-B, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

#### §47.3903. Records.

(a) The provider agency must keep records related to the filing of a claim. These include:

(1) the client intake [and service authorization (referral)] form,

(2)-(10) (No change.)

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

(d) The provider agency must make these records available, upon request, during regular business hours, to the: [for use by Texas Department of Human Resources' and Department of Health and Human Resources' staff, upon request, during regular business hours.]

(1) department's personnel and representatives,

(2) Texas attorney general's personnel, and

(3) Department of Health and Human Services' personnel.

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

Issued in Austin, Texas, on June 16, 1983

TRD 834413 Marlin W. Johnston  
Commissioner  
Texas Department of Human Resources

Earliest possible date of adoption  
July 25, 1983

For further information, please call (512) 441-3355, ext. 2037.

### Chapter 85. General Licensing Procedures

#### Subchapter YY. Child Care Administrators' Licensing

The Texas Department of Human Resources proposes to amend and add rules concerning general licensing procedures. Section 85.5011 is being amended to specify that an applicant must not have been convicted within the preceding 10 years of any felony or certain misdemeanors. The director of licensing, however, may rule that proof of rehabilitation has been established. Section 85.5011 is also being amended to specify the experience requirements necessary for a child care administrator's license. Section 85.5012 is being amended to specify the contents of the application. Section 85.5013 is being amended to clarify the notification requirement and opportunity to appeal. Section 85.5014 is being amended to specify that, to renew a license, an administrator must currently comply with all requirements and qualifications for the issuance of a license. New §85.5016 describes the policy for invalidating a child care administrator's license.

Clifton Martin, Licensing Branch assistant commissioner, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications as a result of enforcing or administering the rules as proposed.

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



§85.5016 *Invalidation of License*

(a) The department may invalidate a child care administrator's license if the department receives information that, at the time the license was issued, the administrator

- (1) did not meet the qualifications, or
- (2) had not satisfied all of the licensing requirements

(b) The department may invalidate the license at any time during the term of the license.

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

Issued in Austin, Texas on June 16 1983

TRD 834416

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption  
July 25, 1983

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*, 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 will 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 under which the rule was adopted.

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.

# Adopted Rules

## TITLE 19. EDUCATION Part II. Texas Education Agency Chapter 105. Foundation School Program

### Subchapter C. Allocation of Personnel Units

19 TAC § 105.44

The Texas Education Agency adopts an amendment to § 105.44 (226.41.03.014), without changes to the proposed text published in the May 6, 1983, issue of the *Texas Register* (8 TexReg 1481).

This section concerns personnel unit adjustments for personnel in special programs. The amendment adds a provision for the personnel unit adjustment for school-community guidance center personnel, as required by law, and includes correct cross-references to the proposed new special education regulations.

Personnel units for special education, vocational education, and school-community guidance center personnel will be adjusted as specified in Texas Education Code, § 16.102(g) and (h).

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Education Code, § 16.005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program; and the Texas Education Code, § 16.102(g) and (h), which di-

rects that a district's total personnel units be adjusted for special education, vocational education, and school-community guidance center personnel, taking into account cooperative programs and contract services.

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

Issued in Austin, Texas, on June 17, 1983

TRD-834496 Raymon L. Bynum  
Commissioner of Education

Effective date: July 8, 1983

Proposal publication date: May 6, 1983

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

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 9. Food Stamps

##### Subchapter NNNN. Support Documents 40 TAC § 9.9801

The Texas Department of Human Resources adopts an amendment to § 9.9801, which adopts by reference the federal regulations that establish the basis

of issuance tables for the Food Stamp Program. These regulations, issued by the United States Department of Agriculture (USDA), appear in the *Federal Register* Document 83-13561, with a federally mandated effective date of July 1, 1983. These regulations incorporate new gross and net income limits into the food stamp issuance tables. By adjusting the income eligibility limits, the USDA takes into account changes in the cost of living. There are no changes to the amounts of the maximum allotments or deductions.

This amendment is adopted under the Human Resources Code, Title 2, Chapter 33, which authorizes the department to administer public assistance programs. This amendment is adopted under federal requirements effective July 1, 1983.

**§9.9801.** *Federal Register Document 83-13561.* The Texas Department of Human Resources adopts by reference the food stamp rules and appendix contained in *Federal Register* Document 83-13561, Volume 48, Number 99, page 22765, which amends 7 Code of Federal Regulations Parts 272 and 273.

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

Issued in Austin, Texas, on June 17, 1983

TRD-834501      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Effective date: July 1, 1983  
Proposal publication date: N/A  
For further information, please call (512) 441-3355,  
ext. 2037

## Chapter 47. Primary Home Care Eligibility Requirements

40 TAC §47.1906

The Texas Department of Human Resources adopts an amendment to §47.1906, without changes to the proposed text published in the March 25, 1983, issue of the *Texas Register* (8 TexReg 991).

The amendment to §47.1906 is necessary to delete the restriction specifying that services provided and eligibility standards used under the waiver are available only in selected sites. The amendment allows the department to provide primary home care services state wide to individuals who meet institutional medical assistance only criteria but who do not live in an institution.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 32, which authorizes the department to administer public assistance programs.

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

Issued in Austin, Texas, on June 16, 1983

TRD-834414      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Effective date: July 7, 1983  
Proposal publication date: March 25, 1983  
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*.

## Open Meetings

### **Texas Antiquities Committee**

**Tuesday, June 28, 1983, 9:30 a.m.** The Texas Antiquities Committee will meet in Room 202, Texas Law Center, 1414 Colorado Street, Austin. According to the agenda summary, the committee will approve the minutes; consider a proposed pilot project to study local state archaeological landmark management committees; state archaeological landmark nominations and designations; a request for guidance from Texas museums concerning pre-Columbian artifacts imported prior to the passage of the United Nations Educational, Scientific, and Cultural Organization agreements; House Resolution 3194; an agency activities update; and a request for an attorney general's opinion.

**Contact:** Cindy Smetak, 105 West 16th, Austin, Texas 78711.

**Filed:** June 20, 1983, 3:53 p.m.  
TRD-834560

### **State Banking Board**

**Tuesday, June 21, 1983, 2 p.m.** The State Banking Board made an emergency addition to the agenda of a meeting held at 2601

North Lamar Boulevard, Austin. The addition concerned an interim charter application for new Dickinson State Bank, Dickinson. The emergency status was necessary so that the affected application could be efficiently and economically implemented.

**Contact:** O. A. Cassity III, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

**Filed:** June 17, 1983, 10:08 a.m.  
TRD-834431

### **State Bar of Texas**

**Monday, June 27, 1983, 1 p.m.** The Executive-Budget Committee of the State Bar of Texas will meet in the Continental Room, Hyatt Regency Hotel, 815 Main Street, Fort Worth. According to the agenda summary, the committee will hear reports of the president concerning general items, the Federal Trade Commission, and interest on lawyers' trust accounts matters; the executive director concerning general information and personnel matters, the proposed staff for the State Bar College, and a consulting agreement with Texas Lawyers Care; the president-elect concerning general matters and organization of the Bar; the

Supreme Court liaison member; the immediate past president; the general counsel concerning general and grievance matters; the director of the Professional Development Program concerning consideration of the Texas Probate System and the work of Mr. Brill; the associate executive director concerning in-house computerization, a historical marker for the Texas Law Center, and the Texas Embassy Project; budgetary reports concerning amendments, if any, and approval of capital expenditures; a final report on the 1983 legislative package; and consideration of staff and support for law focused education and citizens legal education.

**Contact:** Evelyn Avent, 1414 Colorado Street, Austin, Texas, (512) 477-4746.

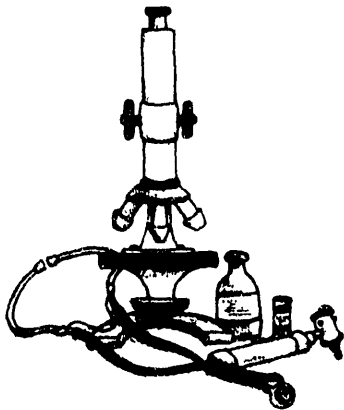
**Filed:** June 17, 1983, 3:03 p.m.  
TRD-834512

**Tuesday, June 28, 1983, 9 a.m.** The Board of Directors of the State Bar of Texas will meet in the Grand Crystal "A" Room, Hyatt Regency Hotel, 815 Main Street, Fort Worth. According to the agenda summary, the board will hear reports of the president concerning general items, the Federal Trade Commission, and interest on lawyers' trust accounts matters, ratification of actions of

the Executive Committee, and the American Bar Association position on private clubs; the executive director concerning general and personnel matters and consideration of convention and courtesy resolutions, the president-elect concerning general matters, organization of the Bar and committee appointments, and a resolution regarding the Special Committee on Minorities in the Legal Profession, the immediate past president, the Supreme Court liaison; the general counsel concerning general and grievance matters and the status of Grievance Committees by directors, the Judicial Section, the Texas Young Lawyers Association, the Executive Committee composition, board committees; standing and special committees, a final report on the legislative program, a report on budgetary matters concerning budget amendments and approval of capital expenditures, and a presentation of the outgoing director.

**Contact:** Evelyn Avent, 1414 Colorado Street, Austin, Texas 78701, (512) 475-4746.

**Filed:** June 20, 1983, 3:01 p.m.  
TRD 834552



### Texas State Board of Examiners of Professional Counselors

**Saturday, June 25, 1983, 9 a.m.** The Texas State Board of Examiners of Professional Counselors will meet in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin. According to the agenda summary, the board will consider approval of the April 23, 1983, minutes; reports of the executive secretary; areas for specialty designation; final approval of proposed rules relating to the licensure of persons with criminal backgrounds and a revision of the fee schedule; development of licensure examination; licensure applications and procedures including reviews of disapproved files (applicants with disapproved

files may appear for review of their applications); continuing education requirements for renewal of licensure; other matters relating to the licensure and regulation of professional counselors, and the next meeting.

**Contact:** Daniel L. Boone, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7511.

**Filed:** June 17, 1983, 7:27 a.m.  
TRD-834427

### Texas School for the Deaf

**Saturday, June 18, 1983, 9:30 a.m.** The Governing Board of the Texas School for the Deaf made an emergency addition to the agenda of a meeting held in the board room, 1102 South Congress Avenue, Austin. The addition concerned approval to host the 1984 track and field trials, world games for the deaf. The emergency status was necessary because the invitation to host the event was not received until after the agenda had been set, and there will be no board meeting in July.

**Contact:** Sheila O'Leary, 1102 South Congress Avenue, Austin, Texas 78704.

**Filed:** June 16, 1983, 10:15 a.m.  
TRD-834407

### State Depository Board

**Monday, June 20, 1983, 2:30 p.m.** The State Depository Board met in emergency session in the conference room, 2601 North Lamar Boulevard, Austin. According to the agenda, the board met to implement Senate Bill 100, which was signed by the governor on June 19, 1983. The emergency status was necessary to grant the treasurer authority to purchase treasury bills pursuant to passage of Senate Bill 100.

**Contact:** Jorge Gutierrez, P.O. Box 12608, Austin, Texas 78711, (512) 475-2794.

**Filed:** June 20, 1983, 10:18 a.m.  
TRD-834534

### Interagency Council on Early Childhood Intervention

**Tuesday, June 28, 1983, 9 a.m.** The Interagency Council on Early Childhood Intervention will meet in the annex dining room, Texas Department of Mental Health and Mental Retardation, 45th Street and Lamar Boulevard, Austin. Items on the agenda summary include approval of the

April 14, 1983, minutes, public comments in which no council action is required; and reports of the staff, Early Childhood Intervention (ECI) Program monitoring, the Advisory Committee, the Grant Review Committee, the Policies and Procedures Committee, the ECI Program surveys on medical needs, fee schedule, waiting list, and transportation, the ECI conference proposal, fiscal year 1983 status, the proposed budget for fiscal years 1984-1985, and the rules and guidelines on hearing and appeal process and the complaint procedure.

**Contact:** Pam Farley, 1100 West 49th Street, Austin, Texas, (512) 458-7342.

**Filed:** June 17, 1983, 7:27 a.m.  
TRD-834428

**Wednesday and Thursday, June 29 and 30, 1983, 9 a.m. daily.** The Interagency Council on Early Childhood Intervention will meet in Room 295, Texas Department of Mental Health and Mental Retardation, 909 West 45th Street, Austin. Items on the agenda include public comments and council evaluation and award of grants.

**Contact:** Pam Farley, 1100 West 49th Street, Austin, Texas, (512) 458-7342.

**Filed:** June 20, 1983, 2:17 p.m.  
TRD-834536

### Texas Employment Commission

**Tuesday, June 28, 1983, 9 a.m.** The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider and act on higher level appeals in unemployment compensation cases listed on Docket 26 and set the date of the next meeting.

**Contact:** Courtenay Browning, TEC Building, Room 608, Austin, Texas, (512) 397-4415.

**Filed:** June 20, 1983, 3:19 p.m.  
TRD-834553

### Office of the Governor

**Wednesday, June 29, 1983, 10 a.m.** The Juvenile Justice and Delinquency Prevention Advisory Board of the Criminal Justice Division of the Office of the Governor will meet in Room 304T, Texas Employment Commission Annex, 11th and Trinity

Streets, Austin. Items on the agenda include approval of the November 18, 1982, minutes and staff presentation and recommendations of fiscal year 1983 supplemental grant applications.

**Contact:** Gilbert Pena, Sam Houston Building, 201 East 14th Street, Room 300, Austin, Texas 78701, (512) 475-3001

**Filed:** June 20, 1983, 4:41 p.m.  
TRD-834563

**Wednesday, June 29, 1983, 1:30 p.m.** The Advisory Board of the Criminal Justice Division of the Office of the Governor will meet in Room 3041, Texas Employment Commission Annex, 11th and Trinity Streets, Austin. Items on the agenda include approval of the November 19, 1982, minutes and staff presentation and recommendations of fiscal year 1983 supplemental grant applications.

**Contact:** Gilbert Pena, Sam Houston Building, 201 East 14th Street, Room 300, Austin, Texas 78701, (512) 475-3001

**Filed:** June 20, 1983, 4:42 p.m.  
TRD-834564

**Wednesday, July 6, 1983, 1:30 p.m.** The Coordinating Council of the Criminal Justice Division of the Office of the Governor will meet at the Texas Employment Commission, 12th and Trinity Streets, Austin. Items on the agenda include approval of the April 27, 1983, minutes, subcommittee reports on drug abuse, the Criminal Justice Administrative Building, and public education and awareness; and development of policy statements.

**Contact:** Beth Arnold, P.O. Box 12428, Austin, Texas 78711.

**Filed:** June 20, 1983, 9:38 a.m.  
TRD-834530

### Texas Health Facilities Commission

**Friday, July 1, 1983, 9:30 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.

#### Certificates of Need

Polly Ryon Memorial Hospital,  
Richmond  
AH82-0823-095

Fort Bend Medical Center Foundation,  
Rosenberg  
AH82-0629-062

Chillicothe Hospital, Chillicothe  
AH82-1231-325

Winnsboro Memorial Hospital,  
Winnsboro  
AH83-0131-100

All Saints Episcopal Hospital, Fort  
Worth  
AH83-0214-114

Motion for Rehearing Reconsideration  
Angelo Community Hospital, San  
Angelo  
AH82-1014-099

The commission will also consider for final adoption the previously proposed amendment to 25 TAC §505.1, relating to definitions—ambulatory surgical facility.

**Contact:** John R. Neel, P.O. Box 50049, Austin, Texas 78763

**Filed:** June 20, 1983, 9:34 a.m.  
TRD-834531

### State Board of Insurance

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, June 28, 1983, 9 a.m.** In Room 353, a public hearing in Docket 7204—application for original charter of Equity Services Life Insurance Company, San Antonio.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 20, 1983, 2:24 p.m.  
TRD-834537

**Tuesday, June 28, 1983, 9 a.m.** In Room 342, a public hearing in Docket 7179—application for original charter of Equity Services Life Insurance Company, San Antonio.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 20, 1983, 2:25 p.m.  
TRD-834538

**Tuesday, June 28, 1983, 10:30 a.m.** In Room 342, a public hearing in Docket 7206—approval of the articles of agreement of Domestic Lloyds of Texas Insurance Company, Bedford.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 20, 1983, 2:25 p.m.  
TRD-834539

**Tuesday, June 28, 1983, 3 p.m.** In Room 342, a public hearing in Docket 7202—whether the title insurance agent's license held by Gulf Coast Title Company, Inc., Houston, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834540

**Wednesday, June 29, 1983, 9 a.m.** In Room 342, a public hearing in Docket 7140—whether Guaranty County Mutual Insurance Company has complied with Commissioner's Order 83-0960, dated April 8, 1983.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834541

**Thursday, June 30, 1983, 9 a.m.** In Room 342, a public hearing in Docket 7198—whether the title insurance agent's license held by Freestone County Title & Abstract Company, Inc., Fairfield, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834542

**Thursday, June 30, 1983, 10:30 a.m.** In Room 353, a public hearing in Docket 7199—whether the title insurance agent's license held by Eastland County Abstract Company, Eastland, should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834543

**Thursday, June 30, 1983, 10:30 a.m.** In Room 342, a public hearing in Docket 7209—whether the certificate of authority to do business in Texas held by Providence Life Insurance Company, Johnston, Rhode Island, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834544

**Thursday, June 30, 1983, 1:30 p.m.** In Room 342, a public hearing in Docket 7197—whether the title insurance agent's license held by Grayson County Abstract

Company, Denison, should be canceled or revoked

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834545

**Thursday, June 30, 1983, 3 p.m.** In Room 353, a public hearing in Docket 7195—whether the title insurance agent's license held by Farwell Abstract Company, Farwell, should be canceled or revoked

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834546

**Thursday, June 30, 1983, 3 p.m.** In Room 342, a public hearing in Docket 7210—whether the certificate of authority to do business in Texas held by Copenhagen Reinsurance Company of America, New York, New York, should be canceled or revoked

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834547

**Friday, July 1, 1983, 9 a.m.** In Room 342, a public hearing in Docket 7211—whether the certificate of authority to do business in Texas held by Colonial Assurance Company, Melrose Park, Pennsylvania, should be canceled or revoked

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834548

**Friday, July 1, 1983, 9 a.m.** In Room 353, a public hearing in Docket 7213—application for original charter of Pacific Security Life Insurance Company, El Paso

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 20, 1983, 2:26 p.m.  
TRD-834549

**Friday, July 1, 1983, 3 p.m.** In Room 342, a public hearing in Docket 7205—whether the title insurance agent's license held by Adams Titles and Abstracts, Inc., Fairfield, should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 20, 1983, 2:27 p.m.  
TRD-834550

### **Texas Department of Labor and Standards**

**Tuesday, August 2, 1983, 1 p.m.** The Manufactured Housing Division of the Texas Department of Labor and Standards will meet in Room 100B, Reagan Building, 1500 Congress Avenue, Austin. According to the agenda, the division will conduct a public hearing on proposed adoption of 16 FAC §69.105

**Contact:** Booker T. Morris III, P.O. Box 12157, Austin, Texas 78711, (512) 475-3499

**Filed:** June 16, 1983, 1:31 p.m.  
TRD-834411

### **Texas Board of Land Surveying**

**Thursday and Friday, July 7 and 8, 1983, 8 a.m. daily.** The Texas Board of Land Surveying will meet in Suite 210 West, 1106 Clayton Lane, Austin. Items on the agenda include approval of the previous minutes, new applications, reconsideration of old applications, correspondence, examination procedures, questions, calculators, committee reports, a report of the complaints officer, an interview, and old and new business

**Contact:** Betty J. Pope, 1106 Clayton Lane, Suite 210 West, Austin, Texas 78723, (512) 452-9427

**Filed:** June 20, 1983, 10:28 a.m.  
TRD-834535

### **State Board of Morticians**

**Tuesday-Thursday, June 28-30, 1983, 9 a.m. daily.** The State Board of Morticians will meet at 1513 IH 35 South, Austin, on Tuesday, June 28, 1983, and at 4200 Smith School Road, Austin, on Wednesday and Thursday, June 29 and 30, 1983. According to Tuesday's agenda summary, the board will consider applicants for reinstatement of apprenticeships and licenses; review reciprocal applications and funeral director apprentice applications; set a date and procedures for the embalmer practical examination; discuss the fee schedule; review an order on the Murray-Orwosky Funeral Home; and discuss funeral director apprenticeships, reports of the committee, investigators, and the executive secretary. On Wednesday, the board will conduct a public hearing on a petition for repeal of 22 TAC 203.20, concerning minimum standards for embalming. On Thursday, the board will

conduct a public hearing on the recodification of all rules

**Contact:** John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721

**Filed:** June 20, 1983, 9:51 a.m.  
TRD-834533

### **Board of Pardons and Paroles**

**Tuesday-Friday, July 5-8, 1983, 9 a.m. daily.** The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and inmate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by the agency; and take action upon gubernatorial directives

**Contact:** John W. Byrd, Stephen F. Austin Building, Room 711, Austin, Texas, (512) 475-3363

**Filed:** June 21, 1983, 9:12 a.m.  
TRD-834565

### **Texas Board of Private Investigators and Private Security Agencies**

**Tuesday and Wednesday, June 28 and 29, 1983, 9:30 a.m. daily.** The Texas Board of Private Investigators and Private Security Agencies will meet in Room 100B, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda summary, the board will approve the November 11, 1982, minutes and staff actions

**Contact:** Clema D. Sanders, P.O. Box 13509, Austin, Texas 78711, (512) 475-3944.

**Filed:** June 17, 1983, 10:51 a.m.  
TRD-834441

### **State Property Tax Board**

**Wednesday, July 13, 1983, 9 a.m.** The State Property Tax Board will meet in the conference room, 9501 IH 35 North, Austin. Items on the agenda include approval of the March 18, 1983, minutes; consideration of protest determinations on intangible values made pursuant to the Property Tax Code,

§24.08, revisions and revised sections of the *General Appraisal Manual*, approval of the transfer of funds between cost centers, the fiscal year 1983 operating budget, adoption of the fiscal year 1984 operating budget, discussion of property tax legislation as enacted by the 68th Legislature, the proposed project calendar for conducting the 1983 market value study of school districts, and a ratio study of appraisal districts. The board will also meet in executive session to discuss personnel and legal matters.

**Contact:** Kenneth E. Graeber, 9501 IH 35 North, Austin, Texas 78751, (512) 837-8622

**Filed:** June 21, 1983, 9:47 a.m.  
TRD 834581

### Public Utility Commission of Texas

**Monday, June 27, 1983, 8:30 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will conduct a prehearing conference in Docket 5196—application of Rio Grande Electric Cooperative, Inc., for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** June 17, 1983, 10:25 a.m.  
TRD-834464

**Wednesday, June 29, 1983, 2:30 and 5:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will meet in the council chambers, 555 Walnut, Abilene. According to the agenda, the commission will consider Docket 5204—application of West Texas Utilities for authority to change electric rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 17, 1983, 10:26 a.m.  
TRD-834465

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and dockets follow.

**Friday, July 1, 1983, 10 a.m.** A prehearing in Docket 4802—petition of Dow Chemical Company regarding Houston Lighting and Power Company's interruptible power rate for cogenerators, Docket 5050—application

of Houston Lighting and Power Company for approval of a proposed interruptible service tariff, and Docket 5062—inquiry into the rates and tariffs of Houston Lighting and Power Company.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** June 21, 1983, 9:11 a.m.  
TRD 834566

**Friday, July 15, 1983, 9 a.m.** A prehearing conference in Docket 5178—application of Green Pastures Water Company to amend a certificate of convenience and necessity.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** June 17, 1983, 10:26 a.m.  
TRD 834466

**Wednesday, July 20, 1983, 10 a.m.** A prehearing conference in Docket 5120—complaint of Texas Interconnect Association, Inc., and Rolm Corporation of Texas against Southwestern Bell Telephone Company.

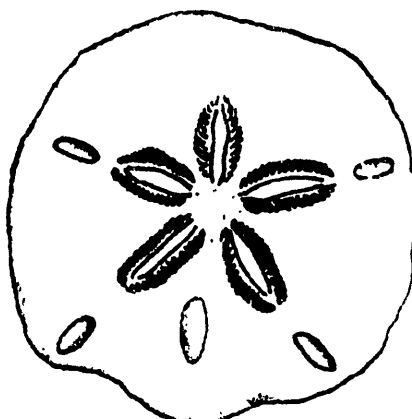
**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** June 21, 1983, 9:12 a.m.  
TRD 834567

**Friday, August 1, 1983, 10 a.m.** A hearing on the merits in Docket 5113—petition for an inquiry concerning the effects of the modified final judgment and the access charge order upon Southwestern Bell Telephone Company and the independent telephone companies of Texas.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

**Filed:** June 20, 1983, 2:16 p.m.  
TRD-834551



### Railroad Commission of Texas

**Monday, June 27, 1983, 9 a.m.** Divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. Divisions, meeting rooms, and agendas follow.

The Administrative Services Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211

**Filed:** June 17, 1983, 10:41 a.m.  
TRD 834471

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

**Contact:** Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

**Filed:** June 17, 1983, 10:45 a.m.  
TRD 834472

The Flight Division will meet in Room 107 to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Ken Fessler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

**Filed:** June 17, 1983, 10:46 a.m.  
TRD-834473

The Gas Utilities Division will meet in Room 107 to consider Dockets 2645 consolidated, 4006, 4012, 4014, 4042, 4068, 4069, 4073, 4047, 4067, 4072, 4074, 4075, 4076, 4078, 4079, 4080, 4081, 4082, 4083, 4084, 4085, 4086, 4087, 4088, 4089, 4090, 4091, 4092, 4065, 4066, 4094, and the director's report.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

**Filed:** June 17, 1983, 10:43 a.m.  
TRD-834474

The Office of Information Services will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711.

**Filed:** June 17, 1983, 10:44 a.m.  
TRD-834475

The LP-Gas Division will meet in the first floor auditorium to consider and act on the

## Texas Register

division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711.

**Filed:** June 17, 1983, 10:42 a.m.  
TRD-834476

The Oil and Gas Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the commission's oil and gas regulatory jurisdiction.

**Contact:** Jan Burriss, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

**Filed:** June 17, 1983, 10:45 a.m.  
TRD 834477

Additions to the above agenda:

Consideration of whether or not to institute legal action against Carl E. Schkade, Winchester Oil Company, and S & H Production, Inc.

**Contact:** Glenn Jordan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1229.

**Filed:** June 17, 1983, 10:45 a.m.  
TRD-834478

Consideration of whether to initiate rule-making proceedings to adopt 16 TAC §3.72, concerning manifest to accompany each transport of liquid hydrocarbons by vehicle.

**Contact:** Patrick Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

**Filed:** June 17, 1983, 10:44 a.m.  
TRD-834479

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

**Contact:** Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273.

**Filed:** June 17, 1983, 10:44 a.m.  
TRD-834480

The Personnel Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Herman I. Wilkins, P.O. Drawer 12967, Austin, Texas 78711.

**Filed:** June 17, 1983, 10:43 a.m.  
TRD-834481

The Office of the Special Counsel will meet in the third floor conference room to consider and act on the division director's report relating to pending litigation, Sunset

Commission review, and other budget, administrative, and personnel matters.

**Contact:** Walter Earl Lille, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

**Filed:** June 17, 1983, 10:46 a.m.  
TRD-834482

The Surface Mining and Reclamation Division will meet in the first floor auditorium to consider the motion(s) for rehearing in the permit application of the Lower Colorado River Authority in Docket 16; the issuance of a permit to the Lower Colorado River Authority in Docket 16; and the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

**Filed:** June 17, 1983, 10:42 a.m.  
TRD-834483

The Transportation Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the commission's transportation regulatory jurisdiction.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704.

**Filed:** June 17, 1983, 10:42 a.m.  
TRD-834484

**Monday, June 27, 1983, 3:30 p.m.** The Transportation Division of the Railroad Commission of Texas will meet in Room 107, first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division will consider oral arguments in Docket 007143E1D—application of Allied Van Lines, Inc., to divide SMC Certificate 7143 to create a new certificate to be numbered 36367; Docket 036367A1S—application of Allied Van Lines, Inc., to sell SMC Certificate 36367 to Graebel/Dallas Movers, Inc.; Docket 036367A2TR—application of Graebel/Dallas Movers, Inc., to transfer SMC Certificate 36367 to Bekins Moving & Storage Company of Texas; Docket 007143E2D—application of Allied Van Lines, Inc., to divide SMC Certificate 7143 to create a new certificate to be numbered 36368; Docket 0363681S—application of Allied Van Lines, Inc., to sell SMC Certificate 36368 to Graebel/Houston Movers, Inc.; Docket 036368A2TR—application of Graebel/Houston Movers, Inc., to transfer SMC Certificate 36368 to Bekins Moving & Storage Company of Texas; Docket 005580A9C—application of Bekins Moving & Storage Company to consolidate SMC Certificate 5580 and SMC Certificates

36367 and 36368 into one certificate to be numbered 5580 as set out more fully in Notice 7987.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** June 17, 1983, 1:55 p.m.  
TRD-834513

### Teachers' Professional Practices Commission

**Tuesday, June 28, 1983, 9 a.m.** The Teachers' Professional Practices Commission will meet in the hearing room, Texas Education Agency North Building, 1200 East Anderson Lane, Austin. According to the agenda, a three-member panel of the commission will hear a complaint filed by an active certified member of the teaching profession against another active certified member of the teaching profession pursuant to the Texas Education Code, §§13.201-13.218. The hearing will be closed.

**Contact:** James A. Salmon, 201 East 11th Street, Austin, Texas 78701, (512) 834-4091.

**Filed:** June 17, 1983, 1:50 p.m.  
TRD-834511

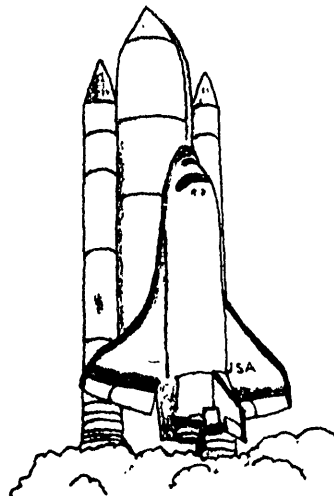
### Texas Turnpike Authority

**Monday, June 27, 1983, 10:30 a.m.** The Board of Directors of the Texas Turnpike Authority will meet in the Regency II Room, Executive Inn, 3232 West Mockingbird Lane, Dallas. According to the agenda summary, the board will consider approval of the January 20, 1983, minutes; the results of the Hardy Tollway—Metro Rail Compatibility Study; proposals from consulting engineers and traffic engineers for final feasibility studies and any further action regarding the proposed Hardy—Tollway project; a construction progress report, ratification of Supplemental Agreement 2 to Contract DNT-106, ratification of Contract DNT-111, and approval of the right-of-way agreement regarding the Dallas North Tollway extension project; and ratification of Contract HSC-55 regarding the Houston Ship Channel bridge project. The board will also meet in executive session to consider pending or contemplated litigation, personnel matters, the purchase or value of real property, and the election of officers.

**Contact:** Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

**Filed:** June 17, 1983, 10:50 a.m.  
TRD-834440





### Texas Water Commission

**Monday, June 27, 1983, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider water district bond issues, use of surplus funds, release from escrow, change in plans, petition for creation of water district, water quality proposed permit, amendment and renewal, water use permit applications and amendments, a certificate of adjudication matter, withdrawal of a water use application, extension of time, and the filing and setting of hearing dates.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 16, 1983, 11:41 a.m..  
TRD-834412

**Wednesday, August 3, 1983, 9:30 a.m.** The Texas Water Commission will meet in the Emergency Medical Services Training Building, 7411 Park Place, Houston. According to the agenda summary, the commission will consider the application of Memorial Villages Water Authority, 8955 Gaylord, Houston, Texas 77024, to the Texas Department of Water Resources for an amendment to Permit 10584-01 to authorize the construction of a new treatment facility capable of handling an increase in discharge of treated wastewater effluent from a volume not to exceed an average flow of 1.5 million gallons per day to 3.05 million gallons per day and to revise limitations for biochemical oxygen demand from 20 milligrams per liter to 10 milligrams per liter daily average and total suspended solids from 20 milligrams per liter to 15 milligrams

per liter daily average and to produce a higher quality effluent.

**Contact:** David Hume, P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

**Filed:** June 17, 1983, 11:09 a.m..  
TRD-834469

### Regional Agencies Meetings Filed June 16

**The Region X Education Service Center,** Board of Directors, met in the board room, 400 East Spring Valley, Richardson, on June 23, 1983, at 12:30 p.m. Information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas 75080, (214) 231-6301.

**The Lower Colorado River Authority,** Parks and Lands Committee, met at 3700 Lake Austin Boulevard, Austin, on June 22, 1983, at 8 a.m. The following committees met at the same location on the same date, at the following times:

- Water and Flood Control Committee--9 a.m.
- Environmental, Safety, and Security Committee--10 a.m.
- Audit Committee--11 a.m.
- Personnel, Compensation, Pension Trust, and Benefit Committee--1 p.m.
- Finance and Administration Committee--2 p.m.
- Power and Energy Committee--3 p.m.

The Board of Directors met at the same location on June 23, 1983, at 9 a.m. Information may be obtained from Eloy H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

**The Lower Neches Valley Authority,** Board of Directors, revised the agenda of a meeting held at 7850 Eastev Freeway, Beaumont, on June 21, 1983, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011.  
TRD-834408

### Meetings Filed June 17

**The Central Texas Council of Governments,** Criminal Justice Advisory Committee, met at 302 East Central, Belton, on June 21, 1983, at 2 p.m. Information may be obtained from Lindell Bishop, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. The Executive Committee met at the same

location on June 23, 1983, at 12:45 p.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1801.

**The Central Texas Manpower Consortium,** Board of Directors, met in the county commissioners courtroom, Bell County Courthouse, Belton, on June 23, 1983, at 2:30 p.m. Information may be obtained from Alvin Ornstein, Central Texas College, Highway 190 West, Killeen, Texas 76542, (817) 526-1251.

**The Coastal Bend Council of Governments** will meet in the central jury room, Nueces County Courthouse, 901 Leopard, Corpus Christi, on June 24, 1983, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

**The Region III Education Service Center,** Board of Directors, will meet at 1905 Leary Lane, Victoria, on June 27, 1983, at 1 p.m. Information may be obtained from Dennis Grizzle, 1905 Leary Lane, Victoria, Texas 77901, (512) 575-1471.

**The Region VI Education Service Center,** Board of Directors, met at the Briarcrest Club, Bryan, on June 23, 1983, at 5 p.m. Information may be obtained from M. W. Schlotter, 3332 Montgomery Road, Huntsville, Texas, (409) 295-9164.

**The Region XI Education Service Center,** Board of Directors, will meet at 3001 North Freeway, Fort Worth, on June 28, 1983, at noon. Information may be obtained from R. P. Campbell, Jr., 3001 North Freeway, Fort Worth, Texas 76106, (817) 625-5311, ext. 102.

**The Region XVII Education Service Center,** Board of Directors, will meet at 4000 22nd Place, Lubbock, on July 5, 1983, at 10 a.m. Information may be obtained from Ray Lanier, 4000 22nd Place, Lubbock, Texas 79410, (806) 792-4000.

**The Heart of Texas Council of Governments,** Executive Committee, met at 320 Franklin Avenue, Waco, on June 23, 1983, at 12:30 p.m. Information may be obtained from Mary McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

**The Jack County Appraisal District,** Board of Directors, met at the district office, Los Creek Office Building, 258 South Main, Jacksboro, on June 21, 1983, at 7 p.m. Information may be obtained from Doris G.

Ray, 258 South Main, Jacksboro, Texas 76056, (817) 567-6301.

**The Central Appraisal District of Johnson County**, Appraisal Review Board, will meet at 109 North Main Street, Cleburne, on July 6 and 7, 1983, at 9 a.m. daily. Information may be obtained from Don Gilmore, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3987.

**The Lower Rio Grande Valley Development Council**, Board of Directors, met at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, on June 23, 1983, at 1 p.m. Information may be obtained from Robert A. Chandler, 207 Texas Commerce Bank Building, McAllen, Texas 78501, (512) 682-3481.

**The Sabine Valley Regional Mental Health and Mental Retardation Center**, Board of Trustees, met at 1500 West Grand Avenue, Marshall, on June 23, 1983, at 7:30 p.m. Information may be obtained from Frances H. Willis, P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

**The San Antonio River Authority**, Board of Directors, met in a rescheduled meeting in the conference room, 100 East Guenther Street, San Antonio, on June 22, 1983, at 2 p.m. The Board of Trustees of the Employees Retirement Trust met at the same location on the same day immediately following the Board of Directors meeting. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, San Antonio, Texas 78204, (512) 227-1373.

**The San Patricio County Appraisal District**, Appraisal Review Board, will meet in Room 226, courthouse annex, Sinton, on June 30, 1983, at 9 a.m. Information may be obtained from Bennie L. Stewart, P.O. Box 938, 313 North Rachal, Sinton, Texas 78387, (512) 364-5402.

**The South Texas Development Council**, Government Application Review Committee, will meet at the Zapata Community Center, Highway 83, Zapata, on June 24, 1983, at 9:30 a.m. The Board of Directors will also meet at the same location on the same day at 1 p.m. Information may be obtained from Julieta V. Saldana, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

**The Tarrant Appraisal District**, Board of Directors, met in Suite 300, 1701 River Run, Fort Worth, on June 23, 1983, at 10 a.m. Information may be obtained from Cecil Mae Perrin, Suite 200, 1701 River Run, Fort Worth, Texas 76107, (817) 332-3151.

**The Trinity River Authority of Texas**, Basin Planning Committee, will meet via conference call originating at 5300 South Collins, Arlington, on June 27, 1983, at 9 a.m. Information may be obtained from Geri Elliott, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

**The Tyler County Tax Appraisal District**, Board of Directors, met at the Woodville Inn, Highway 69 North, Woodville, on June 23, 1983, at 11:30 a.m. Information may be obtained from Leslie J. Silva, P.O. Drawer 9, Woodville, Texas, (409) 283-3736.

**The Upshur County Appraisal District**, Appraisal Review Board, will meet in the district office, Warren and Trinity Streets, Gilmer, on June 24, 27, and July 8, 1983, at 8 a.m. daily. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas 75644, (214) 843-5401.

**The Wheeler County Appraisal District**, Appraisal Review Board, met in the commissioners courtroom, Wheeler County Courthouse, Wheeler, on June 23, 1983, at 9 a.m. Information may be obtained from Marilyn Copeland, Box 349, Wheeler, Texas 79096, (806) 826-5900.

TRD-834430

#### Meetings Filed June 20

**The Austin-Travis County Mental Health and Mental Retardation Center**, Finance and Control Committee, met in the E. D. Conference Room, 1430 Collier Street, Austin, on June 23, 1983, at 5:30 p.m., and the Board of Trustees met in the board room, at the same location on the same day at 6:30 p.m. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

**The Brazos River Authority**, Lake Management Committee, will meet in the supervisor's office, Possum Kingdom Lake, on June 24, 1983, at 9 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441.

**The Comal County Appraisal District**, Board of Directors, met in emergency session at 130 East Mill Street, New Braunfels, on June 20, 1983, at 7 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130.

**The Deep East Texas Regional Mental Health and Mental Retardation District**,

Executive Committee, will meet and conduct a board workshop in Room 308, staff conference room, Austin Building, Stephen F. Austin University, Nacogdoches, on June 28, 1983, at 2 p.m. The Board of Trustees will also meet in Room 307, Board of Regents meeting room, at the same location on the same day, at 5:30 p.m. Information may be obtained from Wayne Lawrence, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

**The Central Appraisal District of Erath County**, Appraisal Review Board, met at 1191 South Loop, Stephenville, on June 23, 1983, at 10 a.m. Information may be obtained from Trecia Perales, 1191 South Loop, Stephenville, Texas 76401, (817) 965-5434.

**The Gregg County Appraisal District**, Board of Review, met at 2010 Gilmer Road, Longview, on June 23, 1983, at 1:30 p.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

**The Henderson County Appraisal District**, Board of Directors, will meet at 101 East Corsicana, Athens, on June 30, 1983, at 7:30 p.m. Information may be obtained from Linda Hagar, 101 East Corsicana, Athens, Texas 75751, (214) 675-9296.

**The Kendall County Appraisal District**, Board of Review, will meet at the Boerne Professional Building, 207 East San Antonio Street, Boerne, on June 24, 1983, at 2 p.m., and on June 27, 1983, at 9 a.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

**The Lampasas County Appraisal District**, Appraisal Review Board, will meet at 403 East Second Street, Lampasas, on June 24, 1983, at 2 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

**The Leon County Central Appraisal District**, Board of Directors, will meet in the Leon County Courtroom, Centerville, on June 27, 1983, at 7 p.m., and on June 30, 1983, at 9 a.m. Information may be obtained from Mabel Watson, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

**The Lower Neches Valley Authority**, Board of Directors, met at 7850 Eastex Freeway, Beaumont, on June 21, 1983, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas 77704, (713) 892-4011.

**The Northeast Texas Municipal Water District**, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on June 27, 1983, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The Panhandle Regional Planning Commission**, Board of Directors, met in the conference room, first floor, Briercroft Building, Eighth and Jackson Streets, Amarillo, on June 23, 1983, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O.

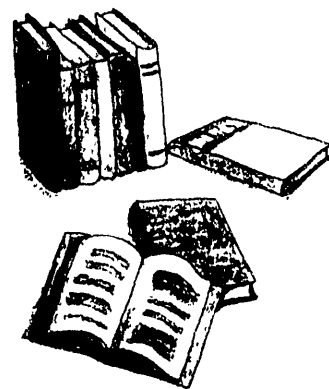
Box 9257, Amarillo, Texas 79105, (806) 372-3381.

TRD-834526

**Meeting Filed June 21**

**The Jasper County Appraisal District, Appraisal Review Board**, will meet in the courthouse annex, 102 North Austin, Jasper, on June 27-29, July 1, and July 6-8, 1983, at 9 a.m. daily. Information may be obtained from David W. Luther, Jasper County Annex, Jasper, Texas 77612, (409) 384-2544.

TRD-834568



# The Legislature

For the purpose of public information, the *Register* publishes a listing of the bills that have been submitted to the governor and the status of these bills.

A bill will be listed after the bill has passed both the House and the Senate and again when the Governor acts upon the bill.

## Bill Signed by the Governor

June 17

**HB 1200** Relating to a United States foreign-trade zone and subzones at or near the customs port of entry of Corpus Christi.

Effective Date: June 17, 1983



The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

## In Addition

### Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of June 6-10, 1983.

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 names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Continental Can Company, Inc., Houston; can manufacturing facility; (location not available); 9331; new source

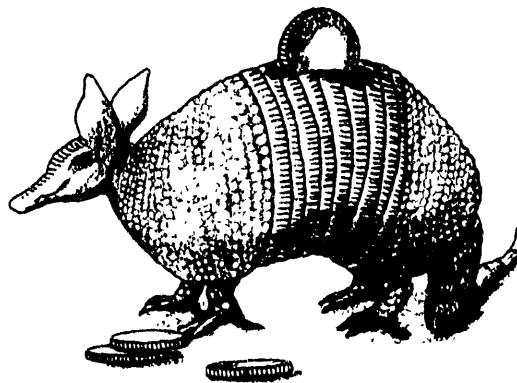
Owens-Illinois, Inc., Orange; multifuel power boiler; Old Highway 87; 9332; modification

Ventech Engineers, Inc., Deer Park; petrochemicals; Tidal Road; 9333; new source

Issued in Austin, Texas, on June 13, 1983.

TRD-834405 Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: June 16, 1983  
For further information, please call (512) 451-5711;  
ext. 354.



### Banking Department of Texas Applications To Acquire Control of a State Bank

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 June 6, 1983, the banking commissioner received an application to acquire control of the First State Bank, Granger, by Donald R. Grobowsky of Temple.

On June 14, 1983, notice was given that the application would not be denied.

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

Issued in Austin, Texas, on June 14, 1983.

TRD-834361 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: June 15, 1983  
For further information, please call (512) 475-4451.

On May 26, 1983, the banking commissioner received an application to acquire control of Iredell State Bank of Iredell, by Richard Don Harris of Brownwood and Billy C. Freeman of Bryson.

On June 16, 1983, notice was given that the application would not be denied.

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

Issued in Austin, Texas, on June 16, 1983.

TRD-834467 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: June 17, 1983  
For further information, please call (512) 475-4451.

On June 14, 1983, the banking commissioner received an application to acquire control of Security State Bank, Navasota, by Pirtlaw Properties in Houston and Betty Jane Burlin of Navasota.

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

Issued in Austin, Texas, on June 14, 1983.

TRD-834360 Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: June 15, 1983  
For further information, please call (512) 475-4451.

### Comptroller of Public Accounts Decision 10,317

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

**Summary of Decision.** The taxpayer contended that its sales and installation of a hot oil and vacuum unit on a bare cab and chassis was a sale of a motor vehicle subject to motor vehicle tax, rather than sales tax, and that it therefore had no duty to collect tax, since the obligation to pay motor vehicle tax falls solely on the purchaser. The comptroller held that when the taxpayer sells and installs hot oil or vacuum units where the customer has previously purchased the cab and chassis of the vehicle from another person, the charge is subject to sales tax, and the taxpayer is required to collect and remit the amount of tax due thereon.

Issued in Austin, Texas, on June 17, 1983.

TRD-834432 Bob Bullock  
Comptroller of Public Accounts

Filed: June 17, 1983  
For further information, please call (512) 475-1938.



### Office of Consumer Credit Commissioner Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(1)</sup> Agricultural Commercial <sup>(1)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 6/27/83-7/03/83	18.00%	18.00%
Monthly Rate— Article 1.04(c) <sup>(1)</sup> 6/01/83-6/30/83	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 7/01/83-9/30/83	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11 <sup>(3)</sup> 7/01/83-9/30/83	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d) <sup>(3)</sup> 7/01/83-9/30/83	16.69%	N/A
Standard Annual Rate— Article 1.04(a)(2) <sup>(2)</sup> 7/01/83-9/30/83	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11 <sup>(3)</sup> 7/01/83-9/30/83	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 7/01/83-9/30/83	18.31%	N/A
Judgment Rate— Article 1.05		Becomes effective 9/01/83

- (1) For variable rate commercial transactions only
- (2) Only for open end credit as defined in Texas Civil Statutes, Article 5069 1 01(f).
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment, or other similar purpose

Issued in Austin, Texas, on June 20, 1983.

TRD-834527 Sam Kelly  
Consumer Credit Commissioner

Filed: June 20, 1983  
For further information, please call (512) 475-2111.

## Texas Department of Health Uranium By-Product Material License Amendments

The Texas Department of Health gives notice that three radioactive material licenses issued to Mobil Oil Corporation have been amended to change the mailing address to Mobil Oil Corporation, Uranium Minerals Division, P.O. Box 17772, Denver, Colorado 801217:

(1) Radioactive Material License 8-2436 issued to Mobil Oil Corporation for its Holiday-El Mesquite project located near Brun, Duval County (mailing address: Mobil Oil Corporation, Uranium Minerals Division, P.O. Box 17772, Denver, Colorado 80217).

(2) Radioactive Material License 8-2485 issued to Mobil Oil Corporation for its Piedre-Lumbre-Brelum Project located near Freer, Duval County (mailing address: Mobil Oil Corporation, Uranium Minerals Division, P.O. Box 17772, Denver, Colorado 80217)

(3) Radioactive Material License 8-2600 issued to Mobil Oil Corporation for its Nell Project located near Pawnee, Live Oak County (mailing address: Mobil Oil Corporation, Uranium Minerals Division, P.O. Box 17772, Denver, Colorado 80217).

The Texas Department of Health, Bureau of Radiation Control, has determined that the amendments have no significant impact on the human environment, and the licensees are qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health, safety, and the environment. The licensees' equipment, facilities, and procedures are adequate to minimize danger to public health, safety, and the environment. The issuance of the license amendments will not be inimical to public health and safety or have a detrimental impact on the environment. The licensees satisfy any applicable special requirements in the Texas Regulations for Control of Radiation (TRCR) Parts 41 and 43.

This notice affords the opportunity for a public hearing upon written request by a person affected as required by Texas Civil Statutes, Article 4590F, §11(b), as amended. A written hearing request must be received within 30 days from the date of this notice by David K. Lacker, Director, Radiation Control Program, 1100 West 49th Street, Austin, Texas 78756. Should no request for a public hearing be filed on time, the license amendments will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Texas. Information relative to the amendments of these specific radioactive material licenses may be obtained by contacting Mr. Lacker. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on June 16, 1983.

TRD-834461 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: June 17, 1983  
For further information, please call (512) 835-7000.

## Texas Health Facilities Commission Application Accepted for Amendment, Declaratory Ruling, and Notice of Intent

Notice is hereby given by the Texas Health Facilities Commission of an application accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance, NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to the above-stated application, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to the application must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

North Wheeler County Hospital District,  
doing business as Parkview Hospital, Wheeler  
AH82-0427-001A(061583)  
CN/AMD—Request for an extension of the completion deadline from April 30, 1983, to October

1, 1984, in Certificate of Need AH82-0427-001, which authorized the certificate holder to add 12 medical/surgical beds through the construction of 9,224 square feet and renovation of 1,905 square feet; ancillary and support services and/or areas will be expanded and/or relocated and will include the addition of one radiographic room.

Issued in Austin, Texas, on July 20, 1983

TRD-834532      John R. Neel  
                         General Counsel  
                         Texas Health Facilities  
                         Commission

Filed: June 20, 1983

For further information, please call (512) 475-6940.

24, 1983, at 10 a.m. According to the agenda summary, the council will hear reports on staff activities and from the Committee on Municipal Judges Continuing Legal Education and discussion of legislation passed by the 68th Legislature.

Contact C. Raymond Justice, Executive Director, Texas Judicial Council, 1414 Colorado Street, Austin, Texas 78711, (512) 475-2421.

Issued in Austin, Texas, on June 14, 1983.

TRD-834354      C. Raymond Justice  
                         Administrative Director  
                         Texas Judicial Council

Filed: June 15, 1983

For further information, please call (512) 475-2421.

## State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration:

(1) Application for incorporation of Alpha International Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Dallas.

(2) Application for admission to do business in Texas of the Harvest Life Insurance Company, a foreign life insurance company. The home office is in Columbus, Ohio.

(3) Application for incorporation of American General Insurance Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Houston.

(4) Application for incorporation of Commodore Lloyd's of Texas, to be a domestic lloyds insurance company. The home office is proposed to be in Dallas.

(5) Application for admission to do business in Texas of Tower Insurance Company of Connecticut, a foreign fire and casualty insurance company. The home office is in Hartford, Connecticut.

(6) Application for incorporation of Heritage Life Insurance Company of Texas, to be a domestic life insurance company. The home office is proposed to be in Richardson.

Issued in Austin, Texas, on June 15, 1983.

TRD-834468      James W. Norman  
                         Chief Clerk  
                         State Board of Insurance

Filed: June 17, 1983

For further information, please call (512) 475-2950.

## Texas Judicial Council Open Meeting

The Texas Judicial Council will meet in the Texas Law Center, 1414 Colorado Street, Austin, on Friday, June

## Public Utility Commission of Texas Correction of Error

A proposed rule by the Public Utility Commission of Texas contained an error as published in the June 17, 1983, issue of the *Texas Register* (8 TexReg 2061). The entire text of the rule is being republished for clarification.

§23.23. *Rate Structure.*

(a) (No change.)

(b) Rate design.

(1) (No change.)

(2) **The provisions of this section apply to all investor-owned and river authority electric generating utilities. Beginning September 1, 1983, no automatic fuel adjustment clause shall be allowed. Any revision of a utility's billings to its customers to allow for the recovery of additional fuel costs may be made only upon a public hearing and order of the commission. [An adjustment for recovering the cost of fuel used in the generation of electric power may be allowed in the tariff of electric utilities when approved by the commission provided that:]**

**(A)[(B)] For purposes of determining whether fuel costs are to be recoverable through a fuel cost recovery factor, the utility shall have the burden of showing that such costs are subject to volatility caused by market conditions, sales volumes, unit availability, or other factors reasonably beyond the control of the utility. If the utility fails to make such a showing, the utility's fuel costs shall be recovered through base rates. [The total cost of fuel per kilowatt-hour (fuel cost factor) and/or purchased power (purchased power adjustment factor) is shown on the bill (provided that the utility shall have the option of showing on the bill the total cost of fuel);]**

**(B)[(A)] Generating utilities which have met the requirements of subparagraph (A) of this paragraph may request, through their tariffs, approval of a fuel cost recovery factor expressed in cents per kilowatt-hour, which shall include only the commission-approved cost of fuel. Until a general rate case occurs, the commission may approve recovery of such fuel-related expenses as utility company salaries or other expenses associated with fuel procurement through the fuel cost recovery pro-**



cedures established by this section. Upon commission approval in a general rate case, all such utility company salaries or other expenses associated with fuel procurement, other than commission-approved cost of fuel, shall be included in base rates. [At the time of a rate hearing, the utility shall have filed with the commission all requested fuel contracts and cost data upon which such total fuel costs are predicated with a schedule showing any adjustments anticipated under current contracts;]

(C) In determining allowable fuel costs the commission may consider the cost of fuel used in generating energy by the utility, the cost of economy energy, hydroelectric energy, purchased power (excluding capacity charges), and other costs, such as wheeling, associated with generated or purchased power as approved by the commission. In making such determination, the commission shall also consider revenues from these or other activities, such as off-system sales, to assure that ratepayers receive an appropriate portion of benefits associated with such revenues. [The items included in the cost of fuel are approved by the commission;]

(D) Fuel cost recovery procedures shall consist of two steps. The first step shall be the establishment of the cost of fuel on a dollars per million Btu basis for the fuel recovery period. The second step shall be the establishment of a monthly fuel cost recovery factor expressed in cents per kilowatt-hour to remain in effect for at least 12 months unless explicitly changed by an order of the commission. [Fuel costs billed shall be for fuel consumed in the generation of electric energy in the calendar month that most closely corresponds to the billing period; and]

(i) The commission shall fully investigate all fuel purchases under third-party, nonaffiliated fuel contracts, to establish the dollars per million Btu cost of such fuel. The utility shall have the burden of demonstrating in each general rate case that contract negotiations have produced the lowest reasonable cost of fuel to ratepayers. If the commission finds that negotiations have been deficient, it may penalize the utility for deficient management practices. Among the tests of appropriate management practices, the commission shall consider contract provisions secured in similar negotiated fuel contracts in the unregulated industrial sector. Each generating utility shall demonstrate that the estimated dollars per million Btu cost is reasonable, necessary, and consistent with contract provisions and with the reasonably expected fuel requirements for the fuel recovery period.

(ii) For fuels acquired from or provided by affiliates of a generating utility which qualifies for a fuel cost recovery factor, the commission shall hold a full evidentiary hearing to establish the estimated dollars per million Btu cost of fuel by fuel type to be used in the utility's fuel cost recovery tariffs. The utility shall be required to demonstrate that all fuel-related expenses are reasonable and necessary for each item or class of items as determined by the commission, and that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions for the same item or class of items, or to unaffiliated persons or corporations. Within 12 months of the implementation of this subsection, the commission and/or its designated appointee shall have completed a full operational investiga-

tion of all affiliated fuel suppliers and fuel supply services. The commission will use the results of this investigation and other appropriate information in establishing future fuel factors. The affiliate fuel price shall be "at cost;" no return on equity or equity profit may be included in the affiliate fuel price. Such profit, if any, may be presented for the commission's consideration in rate of return and rate base portions of the utility's general rate case. To assure that affiliate fuel transactions are "at cost," the commission, in setting the price of the affiliate fuel, shall review any previous revenues and expenses of the affiliate and may reconcile any over or under recovery, including interest at the utility's appropriate cost of capital, if the commission finds such reconciliation to be appropriate. The affiliated companies shall establish, maintain, and provide for commission audit all books and records related to the cost of fuel. These records shall explicitly identify all salaries, contract expenses, or other expenses paid or received among any affiliated companies, their employees, or contract employees. Once the affiliate fuel price is established, it shall be considered along with any third-party, nonaffiliated fuel costs according to this subsection.

(E) The second step of the fuel cost recovery procedure shall establish a cents per kilowatt-hour fuel cost recovery factor for a period of at least 12 months. The fuel cost recovery factor shall be based on the cost of fuel as established by the commission, using estimated kilowatt-hour sales, and a system operating plan consistent with efficient, reliable operations and the lowest cost of energy to ratepayers. [The total fuel cost is applied equitably to each customer's bill and is proportional to the number of kilowatt-hours used. This shall be done by determining a fuel cost factor ]

(i) The initial fuel cost recovery tariffs of generating utilities shall be established after a hearing by commission order. Such tariffs may be modified only by commission order. The commission may consider a change in the fuel cost recovery tariff for the purpose of equalizing fuel costs and fuel revenues collected from ratepayers. Such modifications shall attempt to reconcile over or under collection of fuel costs from previous periods, with interest at the utility's appropriate cost of capital, if the commission finds such reconciliation appropriate. In determining whether such reconciliation is appropriate, the commission shall consider such factors as management efficiency, whether any under recovery was caused by events beyond the control of the utility, the effectiveness of negotiations for the purchase or acquisition of fuel, and the effectiveness of cost controls of any fuel-producing affiliates.

(ii) Generating utilities shall file monthly fuel reports, in a format specified by the commission, that show monthly and cumulative fuel revenues and expenses, kilowatt-hour sales, and system operating efficiency as compared to forecasted levels. The commission shall perform or require audits to assure that each utility is in full compliance with all provisions of this subparagraph at all times.

(iii) In each general rate case, the commission may consider penalties or incentives based on generation efficiency standards. Such standards shall be composed of efficiency criteria deemed appropriate by the

commission. If the commission finds that appropriate operating standards have not been met, under normal operating conditions, it may impose a penalty in the general rate case equivalent to the additional ratepayer fuel costs resulting from the operational deficiency. Such penalty shall not be recoverable by the utility. If the commission determines that the utility has exceeded established operating standards, it may authorize a sharing of fuel cost savings between ratepayers and the utility. The utility's operational efficiency incentive shall be limited to the lesser of 50% of the fuel cost savings or 25 basis points (0.25%) additional return on average equity during the fuel cost recovery period.

(F) In the event an electric utility experiences fuel curtailments, equipment failure, strikes, embargoes, sanctions, or other reasonably unforeseeable circumstances which would substantially change its estimated operating conditions and fuel recovery factors, such utility may submit an emergency request for commission approval, stating the reason for the requested change and the magnitude of change in fuel costs that these circumstances will cause. The commission shall issue an interim order on an emergency request under this section within 30 days. If within 120 days after implementation, after a full investigation of the emergency condition, the interim factor is found by the commission to have been excessive, the utility shall refund, with interest at its allowed appropriate cost of capital, all excessive collections. If after full investigation the commission determines that no emergency condition existed, a penalty of up to 10% of such collections may be imposed.

(G) In the event of an unanticipated material decrease in fuel costs or unanticipated material increase in revenues from the sales of economy energy, wheeling, or other sources, such as off-system sales, the utility shall file, under the emergency provision of subparagraph (F) of this paragraph, a request to decrease its fuel cost recovery factor. The commission shall modify the fuel recovery factor to assure that ratepayers receive an appropriate portion of such savings or revenues.

(H) Utilities covered by this section shall provide, in a format specified by the commission, monthly reports containing all information required by the commission to monitor and evaluate fuel-related activities including economy energy transactions, wheeling, off-system sales, or other similar activities.

[(3) Items included in the cost of fuel will be reviewed on a regular basis by the commission, and improper charges shall be disallowed. If such charges are disallowed, the utility shall provide appropriate refunds to affected customers as directed by order of the commission.

[(4) Each electric utility shall maintain a monthly record of the cost of fuel used in the generation of electricity which is included or will be included in customer rates. Such record shall show at each month end the total cost (actual or estimate) of fuel consumed for that month and on a cumulative basis, and the total dollar amount of revenues resulting from the fuel cost component in customer rates. Any difference between total cost of fuel consumed and the amount of revenues resulting from the fuel cost component in customer rates shall be credited or charged to the customers in the next billing month.

[(5) An adjustment for recovering the cost of economy energy purchased pursuant to a sale between different electric utilities may, at the commission's discretion, be allowed in the tariff of the purchasing utility.

[(6) If the fuel cost revenues exceed the fuel cost by 10% in any given month and the total fuel cost revenues have exceeded total fuel costs by the total of 5.0% or more for the most recent 12-month period, the utility shall so advise the commission.

[(7) A 10% penalty shall be applied to excessive collections above the actual fuel costs for any given month. For any month in which a utility over-recovers actual fuel costs by 10% or more and has over-recovered by 5.0% or more for the 12-month period ending with such month, such over-collections shall be deemed to be excessive unless otherwise found by order of the commission.

[(8) No penalties for excessive collections shall be applied to those electric utilities which have been granted a fuel adjustment clause which explicitly considers changes in the efficiency of generation. In addition, utilities applying such an efficiency based fuel adjustment clause shall be exempt from calculating adjustments for over- and under-collection in the manner set forth in paragraph (4) of this subsection.]

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

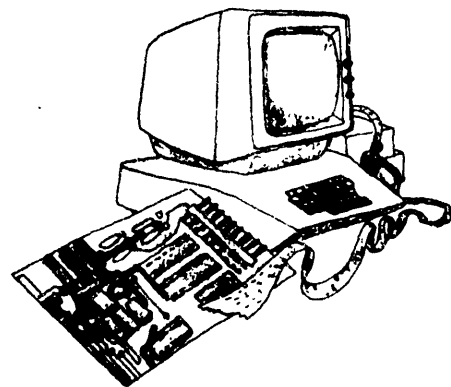
Issued in Austin, Texas, on June 9, 1983.

TRD-834148

Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Earliest possible date of adoption.  
July 18, 1983

For further information, please call (512) 458-0100.



### State Purchasing and General Services Commission Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the State Purchasing and General Services Commission furnishes this notice of contract award. The consultant pro-

posal request appeared in the May 6, 1983, issue of the *Texas Register* (8 TexReg 1519).

**Description of Project.** The consultant will identify changes that can be made to improve productivity and cost-effectiveness in custodial procedures and policies.

**Name and Address of Consultant.** The consultant selected is Service Engineering Associates, Inc., 3060 Peachtree Road, Atlanta, Georgia 30319.

**Total Value and Dates of Contract.** The completion and formal report due date is August 31, 1983. The cost of the contract is \$25,095. The contract was awarded June 10, 1983.

Issued in Austin, Texas, on June 15, 1983.

TRD-834406      Homer A. Foerster  
Executive Director  
State Purchasing and General  
Services Commission

Filed: June 16, 1983

For further information, please call (512) 475-5966.

## Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of June 7-17, 1983.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed are the name(s) of the applicants and the city in which the facilities are located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal

### Period of June 7-17, 1983

Texas Utilities Generating Company, Rusk-Panola Counties; Martin Lake wastewater treatment plant;

adjacent to Martin Lake, east of FM 2658 and approximately five miles southwest of the City of Tatum, Rusk-Panola Counties; 01784; amendment

Texas Utilities Generating Company, Rusk-Panola Counties; Martin Lake lignite mine areas A, B, and C; within 40 miles of the Martin Lake steam electric station, mine area A is adjacent to and southeast of Martin Lake, Mine Area B is northeast of Mine Area A, and Mine Area C is approximately three miles east of the City of Tatum, Rusk-Panola Counties; 02644; new permit

Allos Investments Company, N. V. *et al.*, doing business as 14-A Gulf Freeway Joint Venture, Houston; treated domestic wastewater; approximately 1-8 mile north of the intersection of IH 45 and North Broadway Street, approximately 1/2 mile southeast of the intersection of IH 45 and Almeda-Genoa Road in Harris County, 12753; new permit

The City of Galveston; treated wastewater (Terramar Beach wastewater treatment plant); approximately 4.5 miles north of the San Luis Pass Bridge and 1,900 feet west of the San Luis Pass Road (FM 3005) in Galveston County; 10688-05; amendment

Texaco, Inc., Port Arthur; lube oil refinery; at the northwest end of Houston Avenue in the City of Port Arthur and just east of the intersection of State Highway 366 and FM Road 136 and adjacent to the Neches River in the City of Port Arthur, in Jefferson County; 00414; renewal

Texas Eastman Company, Longview; plant manufacturing organic chemicals; five miles southeast of the City of Longview in Harrison County; 00471; renewal

New Horizons Ranch & Center, Inc., Goldthwaite; disposal by irrigation; approximately 4.3 miles west of the intersection of Goldthwaite Regency Road and Williams Ranch Road and approximately 1,750 feet north of Goldthwaite Regency Road in Mills County; 12759-01; new permit

City of Portland; treated wastewater (Plant 1); at 900 Moore Avenue (FM Road 893), approximately 2,000 feet northwest of the intersection of FM Road 893 and U.S. Highway 181, in the City of Portland in San Patricio County; 10478-01; amendment

Chacko Thomas & Associates, Inc., LaPorte; treated domestic sewage (Lincoln Cedars sewage treatment plant); approximately 1/4 mile north of the State Highway 146 bridge over Cedar Bayou and on the east bank of the bayou in Chambers County; 11031-01; renewal

The Trinity River Authority of Texas, Dallas County; treated domestic sewage, two miles northeast of the City of Ferris on the north side of Ten Mile Creek, 3 1/2 miles from its confluence with the Trinity River in Dallas County; 10984-01, amendment

The City of College Station; treated domestic wastewater (Parks wastewater treatment plant), approximately 16,000 feet east-northeast of the intersection of State Highway 6 and Greens Prairie Road, approximately 9,000 feet north of Texas International Speedway in Brazos County, 10024-03, new permit

The City of College Station; treated domestic wastewater (Phase I wastewater treatment plant), approximately 10,750 feet east of the intersection of State Highway 6 and Greens Prairie Road, approximately 7,250 feet north of Texas International Speedway in Brazos County, 10024-04, new permit

The City of College Station, treated domestic wastewater (Phase II wastewater treatment plant), approximately 6,500 feet north of the intersection of State Highway 6 and Greens Prairie Road, approximately 13,000 feet southwest of the south intersection of State Highway 6 and State Highway 6 Business in Brazos County; 10024-05, new permit

City of Pharr, treated wastewater, adjacent to South "I" Road and approximately 1.86 miles south of the intersection of South "I" Road and U.S. Highway 83 Business in Hidalgo County, 10596-01, amendment

Lefco Corporation, Houston, treated wastewater, just north of the west end of the Lake Conroe Dam, approximately 700 feet north of State Highway 105 and approximately 1,600 feet east of McCaleb Road in Montgomery County, 12439-01, amendment

Texaco, Inc., Port Arthur, treated wastewater-petroleum storage plant, on an island bounded on the west and north by the Port Arthur Ship Canal and Turning Basin and on the south and east by the Sabine-Neches Canal in Jefferson County, 00415, renewal

Humble Products, Inc., Huntsville, treated domestic sewage; approximately 3,000 feet northwest of the intersection of Kuykendahl Road and IH 45, approximately 2,000 feet north northeast of Rankin Road and Ella Boulevard in Harris County, 12752-01, new permit

Wilma Southwest, Inc., Harris County, treated wastewater (Greens Parkway Municipal Utility District wastewater treatment plant), approximately 5,000 feet east of the intersection of Hardy Road and Greens Road and 400 feet north of Greens Road in Harris County; 12754-01; new permit

Travis E. Duke, Houston; treated wastewater; 12825 Eastex Freeway (U.S. Highway 59) in the City of Houston in Harris County; 02647; new permit

United Structures of America, Inc., Houston; treated wastewater; 1912 Buschong in the City of Houston in Harris County, 12765-01, new permit

Richard Wallrath, Houston; treated wastewater; approximately 0.8 mile east of Cutten Road and 1.2 miles south of FM Road 1960 in Harris County; 12769-01; new permit

Bridgestone Municipal Utility District, Houston; treated wastewater; along the south bank of Seals Gully, approximately 2,000 feet upstream of the point where Spring-Cypress Road crosses the gully in Harris County; 11835-01; amendment

Reid Road Municipal Utility District 1, Houston; treated wastewater, 10015 Gusty Winds Drive, approximately 3,600 feet south of Windfern Road and approximately one mile east of Jones Road in Harris County, 11563-01, amendment

Longhorn Town Utility District, Houston, treated wastewater, approximately 0.5 mile south of IH 10 and 0.5 mile east of Baker Road in Harris County, 12356-01, amendment

City of Shenandoah, treated wastewater, approximately 800 feet east of IH 45 and 1,600 feet north of Tamina Road in the City of Shenandoah in Montgomery County, 12212-02, new permit

Permian Brine Sales, Inc., Odessa, *in situ* brine mining, on a 10-acre site approximately three miles north of Covanos, and 6.3 miles west-northwest of the intersection of State Highway 1450 and FM Road 1776, BR50023, new permit

Mayde Creek Municipal Utility District, Houston; treated wastewater, approximately 1.5 miles south of Clay Road and one mile west of Barker-Cypress Road in Harris County, 11969-01, renewal

Texas Parks and Wildlife Department, LaPorte; treated wastewater (San Jacinto Battleground State Park sewage treatment plant), north of Park Loop 1836 and east of the monument on San Jacinto Battleground State Park in Harris County, 11214-01, renewal

Bill Milburn, Inc., Austin, treated domestic sewage, approximately 1.2 miles west of the intersection of U.S. Highway 183 and FM Road 620, north of the Shenandoah residential community and east of Dies Ranch Road in Williamson County, 12747-01; new permit

The City of Harlingen, treated domestic wastewater; on Wilson Road approximately 3,600 feet west of U.S. Highway 77 and approximately 2,000 feet south of FM Road 2994 in northwest Cameron County; 10490-01, new permit

Texas Electric Service Company, Fort Worth, treated sewage effluent/condenser cooling water; adjacent to Eagle Mountain Lake, approximately 10 miles northwest of the City of Fort Worth in Tarrant County; 00550; amendment

Cameron Iron Works, Inc., Houston; domestic wastewater/cooling tower blowdown; at the northeast corner of the intersection of IH 10 and Pyka Road, approximately three miles west of the City of Sealy in Austin County, 02462; amendment

Issued in Austin, Texas, on June 17, 1983

TRD-834470

Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: June 17, 1983

For further information, please call (512) 475-4514.

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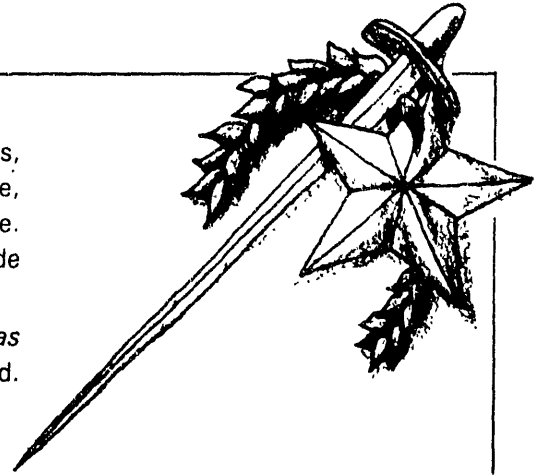
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