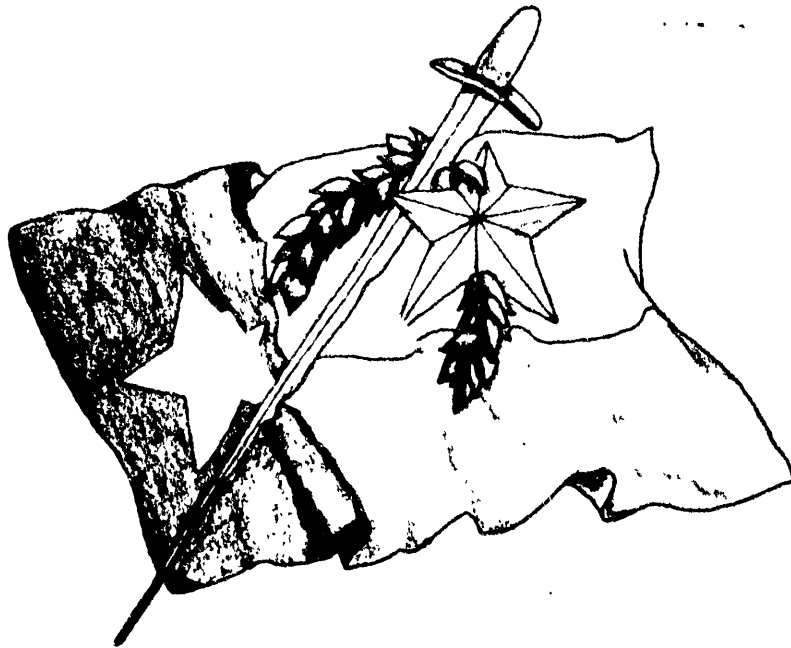


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# Texas Register

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JUL 6 1983



## Highlights

- ★ The Texas Savings and Loan Department proposes amendments to rules concerning loans; earliest possible date of adoption - August 1 ..... page 2323
- ★ The Board of Vocational Nurse Examiners proposes an amendment to a rule concerning definitions; earliest possible date of adoption - August 1 ..... page 2325
- ★ The Texas Department of Human Resources adopts amendments to rules concerning child support collection; effective date - July 14 ..... page 2406

# 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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**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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date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
- Legislature—Bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- 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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Tuesday, July 5	Wednesday, June 29	Thursday, June 30
★ Friday, July 8	Friday, July 1	Tuesday, July 5
Tuesday, July 12	Wednesday, July 6	Thursday, July 7
Friday, July 15	Monday, July 11	Tuesday, July 12
Tuesday, July 19	Wednesday, July 13	Thursday, July 14
Friday, July 22	Monday, July 18	Tuesday, July 19
Tuesday, July 26	Wednesday, July 20	Thursday, July 21
Friday, July 29	Monday, July 25	Tuesday, July 26

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Tuesday, August 2	<b>2ND QUARTERLY INDEX</b>	Tuesday, August 2
Friday, August 5	Monday, August 1	Thursday, August 4
Tuesday, August 9	Wednesday, August 3	Tuesday, August 9
Friday, August 12	Monday, August 8	Thursday, August 11
Tuesday, August 16	Wednesday, August 10	Tuesday, August 16
Friday, August 19	Monday, August 15	Thursday, August 18
Tuesday, August 23	Wednesday, August 17	Tuesday, August 23
Friday, August 26	Monday, August 22	Thursday, August 25
Tuesday, August 30	Wednesday, August 24	

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Friday, September 2	Monday, August 29	Tuesday, August 30
Tuesday, September 6	Wednesday, August 31	Thursday, September 1
★ Friday, September 9	Friday, September 2	Tuesday, September 6
Tuesday, September 13	Wednesday, September 7	Thursday, September 8
Friday, September 16	Monday, September 12	Tuesday, September 13
Tuesday, September 20	Wednesday, September 14	Thursday, September 15
Friday, September 23	Monday, September 19	Tuesday, September 20
Tuesday, September 27	Wednesday, September 21	Thursday, September 22
Friday, September 30	Monday, September 26	Tuesday, September 27

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-143.** Request from Chet Brooks, chairman, Senate Committee on Health and Human Resources, Austin, concerning delegation of authority by physicians to nurses.  
TRD-834736

**RQ-144.** Request from Wiley L. Cheatham, district attorney, 24th Judicial District, Cuero, concerning duties of certain officials under the Texas Code of Criminal Procedure, Article 42.12.  
TRD-834737

**RQ-145.** Request from William R. Moore, Tom Green County attorney, San

Angelo, concerning construction of Texas Civil Statutes, Article 1269m.  
TRD-834738

**RQ-146.** Request from Byron McClenney, chancellor, Alamo Community College District, San Antonio, concerning whether the tape of an interview is excepted from disclosure under the Open Records Act.  
TRD-834739

**RQ-147.** Request from Michael J. Guarino, criminal district attorney, Galveston, concerning use of bonds for the construction of toll roads.  
TRD-834740

**RQ-148.** Request from Margaret Moore, Travis County attorney, Austin, concern-

ing whether a taxing unit other than a county may impose the penalty authorized by the Property Tax Code, §33.07, where such taxing unit is under contract with the county to enforce delinquent tax collections.

TRD-834741

**RQ-149.** Request from Gene Kloss, Captain Crime Control Bureau, Odessa, concerning whether a police report regarding sexual abuse of a child is excepted under the Open Records Act.

TRD-834742

**RQ-150.** Request from Don R. Lane, city attorney, Pampa, concerning whether certain police records are available under the Open Records Act.

TRD-834743

# 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 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.)*

### Rating and Policy Forms Workers' Compensation Rates 059.05.55.003

The State Board of Insurance adopts on an emergency basis Rule 059.05.55.003, concerning the sale of insurance policies which substantially or in any material respect provide coverage similar to workers' compensation as provided under Texas Civil Statutes, Article 8306, §12(h), which states that such insurance policies may not be written to insure the risks of employers eligible to become subscribers under Article 8306, but who have failed to become subscribers. This rule is necessary to ensure that all insurance companies with a certificate of authority to do business in Texas comply with the specific intent of Article 8306, §12(h). It is the board's opinion that an imminent peril to the public welfare requires that the rule be adopted on an emergency basis as such policies which are sold to evade the provisions of Article 8306 are void under Texas Civil Statutes, Article 8306, §12(h).

This rule is adopted on an emergency basis under the authority of the Texas Insurance Code, Article 1.10, §1, which authorizes the State Board of Insurance to

see that all laws respecting insurance and insurance companies are faithfully executed.

.003. *Sale of Alternatives to Workers' Compensation.* An insurance policy that provides coverage that is substantially or in any material respect similar to the insurance coverage provided by Texas Civil Statutes, Article 8306, shall not be sold in the State of Texas to insure risks of an employer who is eligible to become a subscriber under Article 8306, but who has failed to become such a subscriber.

(1) The term "substantially or in any material respect similar to the insurance coverage provided by Texas Civil Statutes, Article 8306," means a policy that provides benefits for disability, either partial, total, temporary, or permanent; or that provides death benefits or benefits or compensation for medical services or other health benefits incurred under circumstances where a workers' compensation carrier would have been liable had the employer been a subscriber under Texas Civil Statutes, Article 8306.

(2) However, the term "substantially or in any material respect similar to the insurance coverage provided by Texas Civil Statutes, Article 8306," does not mean or include a policy that provides the types of employee benefits heretofore specified in paragraph (1) of this section when such benefits are payable only in addition to and not in lieu of benefits provided by Texas Civil Statutes, Article 8306.

Issued in Austin, Texas, on June 27, 1983.

TRD-834735

James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: June 27, 1983

Expiration date: October 25, 1983

For further information, please call (512) 475-2950.

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 7. BANKING AND SECURITIES Part IV. Savings and Loan Department Chapter 65. Loans

### 7 TAC §§65.1, 65.2, 65.3, 65.7

The Texas Savings and Loan Department proposes to amend §§65.1, 65.2, 65.3, and 65.7, concerning loans. These amendments will clarify loan limits and terms to one borrower by a state-chartered savings and loan association.

L. L. Bowman III, savings and loan commissioner, 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. Bowman 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 elimination of confusion as to applicable limits and terms of real estate loans by state-chartered savings and loan associations and consistency throughout the savings and loan industry. 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 L. L. Bowman III, Savings and Loan Commissioner, P.O. Box 1089, Austin, Texas 78767, or hand-deliv-

ered to 1004 Lavaca Street, Austin. Comments will be accepted for 30 days after publication in the *Texas Register*.

These amendments are proposed pursuant to Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules not inconsistent with the constitution and statutes of this state and from time to time amend the same.

#### §65.1. *Definitions of Improved Real Estate, Home, and Business Property.*

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

(e) **As used in this chapter, the term "net worth" shall mean regulatory net worth as defined and amended from time to time by the Federal Home Loan Bank.**

#### §65.2. *Real Estate Loans.*

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

(c) **Pursuant to Texas Civil Statutes, Article 852a, §5.02, every association may make or purchase participations in loan secured by real estate provided that the amount outstanding to any one borrower does not exceed the net worth of the association as defined in this chapter.**

§65.3. *Wrap-Around Mortgage.* An association may make or purchase participations in wrap-around mortgage loans provided that:

(1) (No change.)

(2) The loan matures no earlier than the latest maturity date of any such indebtedness.]

(2)(3) The loan is evidenced by a note or bond which:

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

§65.7. General Provisions.

(a) (No change.)

(b) On all secured [collateral] loans made under §65.6 of this title (relating to Commercial, Consumer, and Manufactured Home Loans) or participations purchased by an association, the security [collateral] must have a market value equal to or exceeding the balance of the loan and further the net amount advanced and outstanding on all such loans to any one borrower must not exceed an amount equal to 25% [10%] of the association's net worth as defined in this chapter.

(c) On all secured [collateral] loans made under §65.6 of this title (relating to Commercial, Consumer, and Manufactured Home Loans), the association shall maintain evidence that the value of the property offered as collateral thereof always equals or exceeds the unpaid balance of the loan.

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 22, 1983.

TRD-834662 L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 475-7991.

TITLE 16. ECONOMIC  
REGULATION  
Part I. Railroad Commission of  
Texas  
Chapter 3. Oil and Gas Division  
Conservation Rules and Regulations  
16 TAC §3.5

The Railroad Commission of Texas proposes amendments to §3.5, concerning application to drill, deepen, plug back, or reenter. This amendment implements House Bill 1970, Acts of the 68th Legislature, 1983, enacted on June 19, 1983; it provides for a \$100 fee for each application or materially amended application. The fee will not be required for minor amendments or corrections. Minor changes or corrections do not require the filing of an additional drilling application after a permit has been issued and should be accomplished by other means such as well completion report.

Larry Mendez, special projects director, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an increase of \$3,310,100 each year for 1984-1988. There is no anticipated effect on local government.

Sandra C. Joseph, legal examiner, 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 increase in revenue deposited in the state well plugging fund.

The anticipated economic cost to individuals who are required to comply with the rule as proposed will be a fee per application or materially amended application of \$100 each year for 1984-1988.

Comments on the proposal may be submitted to Sandra C. Joseph, Legal Examiner, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711

The amendments are proposed under the Texas Natural Resources Code, §85.202, which provides the Railroad Commission of Texas with the authority to adopt rules to provide for the issuance of permits.

§3.5. Application to Drill, Deepen, [or] Plug Back, or Reenter.

(a) An application for a permit to drill, [or] deepen, [or] plug back, or reenter any oil well, gas well, or geothermal resource well, shall be made under the provisions of §3.37 of this title (relating to Statewide Spacing Rule) (Rule 37) or as an exception thereto, or under special rules governing any particular oil, gas, or geothermal resource field or as an exception thereto and filed with the commission on a form approved by the commission. Operations of drilling, deepening, [or] plugging back, or reentering shall not be commenced until the permit granted by the commission has been received and the waiting period has terminated.

(b) With each application or materially amended application for a permit to drill, deepen, plug back, or reenter a well, the applicant shall submit to the commission a fee of \$100.

(1) A check or money order shall be made payable to the state treasurer of Texas. This fee is nonrefundable. If the check accompanying an application is not honored upon presentment, the permit issued on the basis of that application, or the allowable assigned or injection authority granted pursuant to such permit, may be suspended or revoked. The commission may require a certified check or money order from anyone who previously has tendered to the commission a check that was not honored upon presentment.

(2) An application will be considered materially amended if the amendment requires the issuance of a new permit. A materially amended application includes an application in which an additional field or a change in location or field is sought for a previously permitted well. However, if a new application and/or permit becomes necessary because of commission action, the \$100 fee may be waived.

(c)[(b)] If an application for a permit presents a question of an exception to the applicable density rule as well as an exception to the spacing rule, a hearing shall be held at which the operator seeking a spacing and density exception must offer proof that such an exception is necessary as required under the applicable spacing and density rules.

(d)(c)] An application for a permit to drill or deepen or plug back any exploratory well, fluid injection well, or injection water source well shall be made and filed with the commission on a form approved by the commission. Operations for drilling, deepening, or plugging back shall not be commenced until the permit granted by the commission has been received. (Reference Order 20-54,027, effective August 1, 1964).

(e)(d)] Plugging bond (Rescinded by Order 20-54,299, dated January 12, 1966. Adopted in Order 20-54,027, effective August 1, 1964, but suspended indefinitely).

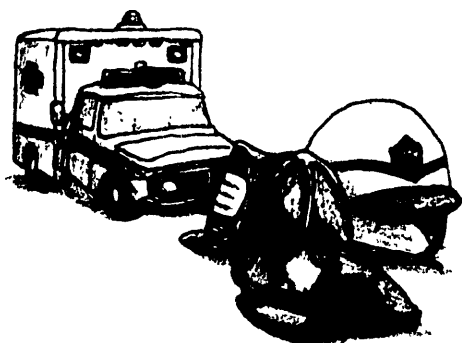
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 23, 1983.

TRD-834705 Susan Cory  
Acting General Counsel  
Oil and Gas Division  
Railroad Commission of Texas

Earliest possible date of adoption:  
August 1, 1983

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



or local government as a result of enforcing or administering the rule.

Ms. Wilson also has determined that for each year of the first five years the rule as proposed is in effect there is no anticipated public benefit or economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.

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

**Hardship**—A circumstance which results in failure to meet the national examination deadline due to natural disaster, personal illness, injury, or medical emergency of self or immediate family, death in immediate family, or other extraordinary circumstances.

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 20, 1983.

TRD-834654 Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse Examiners

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 835-2071.

**TITLE 22. EXAMINING BOARDS**  
**Part XII. Board of Vocational Nurse Examiners**  
**Chapter 231. Administration**  
**General Provisions**

**22 TAC §231.1**

The Board of Vocational Nurse Examiners proposes an amendment to §231.1, concerning definitions. The amendment is proposed to comply with a rider attached to the appropriations bill relating to applications not being received prior to deadline date for examination due to "hardship."

Waldeen D. Wilson, 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

**Chapter 233. Education**  
**Vocational Nursing Education Standards**  
**22 TAC §233.51**

The Board of Vocational Nurse Examiners proposes an amendment to §233.51, concerning curriculum organization. The rule is amended to comply with desired alterations in required reporting forms and schedules and to correlate with the amendment of §233.69 in November 1982, in which the terminology "sick leave" was deleted.

Waldeen D. Wilson, 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.

Ms. Wilson also has determined that for each year of the first five years the rule as proposed is in effect there is no anticipated public benefit or economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The amendment is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.51. Curriculum Organization. The program shall be a minimum of 12 months, including the time allowed for holidays [, vacation,] and/or vacation [sick leave]. A [The] teaching schedule shall show placement of courses or course content for the entire year. The placement of subjects within the teaching schedule shall be according to needs of the program. [The teaching schedule is to be submitted for each enrollment.]

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 20, 1983.

TRD-834655 Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 835-2071.

### Vocational Nurse Education Records

#### 22 TAC §§233.85-233.88

*(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 Vocational Nurse Examiners, 1300 East Anderson Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Board of Vocational Nurse Examiners proposes to repeal §§233.85-233.88, concerning vocational nurse education records. These rules are being repealed to consolidate information into one rule, which is simultaneously proposed, to be numbered §233.85.

Waldeen D. Wilson, 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.

Ms. Wilson also has determined that for each year of the first five years the repeals are in effect there is

no anticipated public benefit or economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The repeals are proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.

§233.85. General Information.

§233.86. Board Records.

§233.87. Enrollment Lists.

§233.88. Quarterly Reports.

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 20, 1983.

TRD-834656 Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 835-2071.

#### 22 TAC §233.85

The Board of Vocational Nurse Examiners proposes new §233.85, concerning vocational nurse education records. The rule is adopted to consolidate needed information from §§233.85-233.88, which are being repealed.

Waldeen D. Wilson, 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.

Ms. Wilson also has determined that for each year of the first five years the rule as proposed is in effect there is no anticipated public benefit or economic cost to persons who are required to comply with the rule.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The new section is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.



**§233.85. Required and Resource Program Documents.**

(a) Availability of documents from the board office include:

- (1) required reporting documents and
- (2) resource documents.

(b) Changes and/or clarification of required documents, resource documents, and/or applicable fees will be communicated by representatives of the board office. When applicable, original forms must be completed and submitted according to specified directions.

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 20, 1983.

TRD-834657      Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 835-2071.

## Chapter 235. Licensing Application for Licensure

### 22 TAC §235.3

*(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 Vocational Nurse Examiners, 1300 East Anderson Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Board of Vocational Nurse Examiners proposes to repeal §235.3, concerning submission of application for initial examination. This rule is being repealed to incorporate the wording into §235.10, which is being amended.

Waldeen D. Wilson, 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.

Ms. Wilson also has determined that for each year of the first five years the repeal is in effect there is no anticipated public benefit or economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The repeal is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.

### §235.3. Submission of Application for Initial Examination.

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 20, 1983.

TRD-834658      Waldeen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 835-2071.

### 22 TAC §§235.7, 235.9, 235.10

The Board of Vocational Nurse Examiners proposes amendments to §§235.7, 235.9, and 235.10, concerning application for licensure. The rules are amended to reflect changes in the application process and to incorporate language from repealed §235.3 into §235.10.

Waldeen D. Wilson, 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.

Ms. Wilson also has determined that for each year of the first five years the rules as proposed are in effect there is no anticipated public benefit or economic cost to persons who are required to comply with the rules.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The amendments are proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.

**§235.7. Application for Re-Examination.** [Applicants who fail the examination shall submit examination applications to the board office and the testing service.] Applicants who fail the examination will be allowed to rewrite the examination within two years of first time eligible after graduation allowing four opportunities to write. Applicants who do not successfully pass the examination within two years of eligibility must repeat the entire 12-month course.

**§235.9. Application Fees.** ["Application for licensure" fee shall be payable to the Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, 78752. The "Application for examination" fee shall be payable to the testing service.

The board assumes no responsibility for loss in transit of cash remittances. Applications submitted without the correct fee will be returned. Fees for both applications are nonrefundable. Fees must be in the form of cash, cashier's check, money order, individual institutional check, or state warrant. Personal checks are not acceptable. Each application for licensure as a vocational nurse under §6 and §7 of the Act shall be accompanied by the fee as stated in §9 of the Act.]

**(a) Application for examination and Application for licensure fees shall:**

(1) be payable to the Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas 78752;

(2) be due on established deadline dates;

(3) accompany the designated application;

(4) be submitted in the form of cash, cashier's check, money order, individual institutional check, or state warrant; and

(5) be nonrefundable.

**(b) Personal checks are not acceptable. The board assumes no responsibility for loss in transit of cash remittances. Each application for examination and licensure as a vocational nurse under Texas Civil Statutes, Article 4528(c), §6 and §7, shall be accompanied by the correct fee as stated in §9 of the Act.**

**§235.10. Deadline for Submission of Applications for Examination And Licensure.** [All "applications for examination" must be received in the office of the testing service by the close of business day as established by the testing service. All "applications for licensure" must be received in the board office by the close of business day on established deadline which is 30 days prior to the date scheduled examination. Should the deadline date fall on Saturday, Sunday, or a holiday, the application must be received in the board office on the first working day following.] Submission of applications for examination and licensure involves two deadline dates as follows:

(1) Application for examination must be received in the board office by the close of business day on deadline date to be forwarded to testing service by deadline date established by testing service.

(2) Application for licensure must be received in the board office by the close of business day on established deadline date, which is 30 days prior to scheduled examination date.

(3) Each application must be accompanied by the correct fee.

(4) Should the deadline date fall on Saturday, Sunday, or a state holiday, the application must be received in the board office on the first working day following.

(5) Incomplete applications and/or incorrect fee will be returned to applicant for completion.

(6) Failure of applicants to meet one or both deadline dates with completed and correct applications with fees will result in the applicant being ineligible for the examination, except in the case of hardship as defined in §231.1 of this title (relating to Definitions).

(7) Established deadline dates shall apply to the submission of initial examination and re-examination applications.

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 20, 1983.

TRD-834659

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

Earliest possible date of adoption.  
August 1, 1983

For further information, please call (512) 835-2071.

## Board Review of Applicants

### 22 TAC §235.26

The Board of Vocational Nurse Examiners proposes new §235.26, concerning hardship.

The rule is proposed to comply with a rider attached to the appropriations bill relating to applications not being received prior to deadline date for examination due to "hardship."

Waldeen D. Wilson, executive director, has determined that for the first five-year period the rule as proposed will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rule as proposed.

Ms. Wilson also has determined that for each year of the first five years the rule as proposed is in effect there is no anticipated public benefit or economic cost to individuals as a result of enforcing the rule as proposed.

Comments on the proposal may be submitted to Waldeen D. Wilson, R.N., Executive Director, Texas Board of Vocational Nurse Examiners, 1300 East Anderson Lane, Building C, Suite 285, Austin, Texas, (512) 835-2071.

The new section is proposed under Texas Civil Statutes, Article 4528c, §5(g), which provide the Board of Vocational Nurse Examiners with the authority to make such rules as may be necessary to govern its procedures and to carry in effect the purposes of the law.

**§235.26. Hardship.** The following specified criteria shall apply only to persons not meeting the testing service deadline for the national examination, if, for the week prior to the national examination application deadline, an applicant can provide any of the following:

(1) evidence of personal illness, personal injury, or personal medical emergency of self or immediate family as verified by a notarized physician's statement, including the name and address of physician;

(2) a notarized affidavit by the applicant showing evidence of a death of a member of the immediate family (grandparents, parents, parents-in-law, siblings, spouse, or children);

(3) a statement notarized by school or city official familiar with the applicant's circumstances as to a natural disaster such as tornado, flood;

(4) a notarized affidavit by the applicant of such other extraordinary circumstances which shall be found acceptable by the Board of Vocational Nurse Examiners or the board's designee;

(5) the documents listed in paragraphs (1)-(4) of this section must be submitted within three weeks following the national examination application deadline date and prior to the licensure application deadline date.

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 20, 1983.

TRD-834660      Waideen D. Wilson, R.N.  
Executive Director  
Board of Vocational Nurse  
Examiners

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 835-2071.

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 61. Chronic Diseases

##### Kidney Health Care Program Benefits

###### 25 TAC §561.1-61.13

The Texas Department of Health proposes amendments to §561.1-61.13, concerning Kidney Health Care Program benefits.

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

The effect on state government for the years 1983-1987 will be an estimated \$7.3 million reduction in cost for each year. This reduction in cost is explained in §61.3 of the rules, concerning payment of program benefits. There is no anticipated effect on local government.

Mr. Seale 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 to open avenues for cost containment and for facilitating implementation of an encumbrance system; to set down in writing practices already existing in the Kidney Health Care Program for the edification of program applicants, recipients, and providers; to clarify decisions so that program administration can be consistent in implementation; to tighten time frames and related requirements for reporting and claims submission for both patients and providers; and to delete wrap-up and affidavits for residency while broadening patient access to the program by including nephrologists and hospitals (in addition to facilities) as application points, and by expanding the types of documents that may be used to support residency.

The anticipated economic cost to individuals who are required to comply with the rules as proposed for the years 1983-1987 will be \$738 per year for persons not establishing Texas residency; \$1,595 per year for retroactive benefits no longer paid; \$1,500 per year for wrap-up benefits discontinued; and \$3,120 per year for change in contract payment to facilities (\$390 per patient prior to Medicare eligibility).

Comments on the proposal may be submitted to Manuel Zapata, Director, Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7338. In addition, a public hearing will be held beginning at 1 p.m., on July 14, 1983, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The amendments are proposed under Texas Civil Statutes, Article 4477-20, §3(13), which provides the Texas Department of Health with the authority to adopt rules to provide adequate kidney care and treatment for the citizens of the State of Texas and to carry out the purposes and intent of the Texas Kidney Health Care Act.

#### §61.1. *Introduction and Brief Description of Program Operation.*

(a) In April 1973, the 63rd Legislature of Texas passed the Kidney Health Care Act (Texas Civil Statutes, Article 4477-20), which established the Kidney Health Care Program (hereinafter called program) under the Texas Department of Health. This law authorizes [called for] state funds to be expended for the care and treatment of Texans suffering from end-stage renal disease (ESRD).

(b) End-stage renal disease is defined as that stage of renal impairment which is virtually always irreversible and permanent and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life. Patients meeting the eligibility requirements must make application through an approved end-stage renal disease [kidney health care] facility, that has received program approval or interim approval, Medicare approved hospital licensed in Texas, or board certified nephrologist licensed to practice in Texas. Benefits are available for dialysis treatments, hospitalization, laboratory charges, physician charges, home dialysis supplies, drugs, and transportation.

§61.2. *Eligibility Requirements.* [A person is eligible to receive kidney health care benefits when he/she meets all of the following requirements:]

(a) A person initially is eligible to receive program benefits when he/she meets all of the following requirements:

(1) has [have] a medical diagnosis of end-stage renal disease;

(2) is a bona fide resident of Texas, is actually present in the state, and furnishes documentation of residency as required by §61.6 of this title (relating to Documentation of Residency); [be a bona fide resident of Texas; and]

(3) makes application through a program [kidney health care] approved facility, hospital, or physician;

(4) continues premium payments on individual or group health insurance, prepaid medical plan, and health, and health insurance plans under Title XVIII, Social Security Act, as amended, where eligibility was effective prior to program eligibility, or provide a completed form KHC-10 to the department as to why such insurance cannot be maintained

(b) To maintain or regain eligibility for receipt of program benefits, a person must meet the following requirements in addition to those listed in subsection (a) of this section:

(1) maintain Texas residency and upon demand, furnishes evidence of such as referred to in §61.6 of this title (relating to Documentation of Residency);

(2) apprise the department within 15 days of changes in the following:

- (A) permanent home address;
- (B) treatment status and medical diagnosis;
- (C) insurance coverage; and
- (D) location of treatment.

(3) provide income data as requested by the department for purposes of determining reimbursement obligation;

(4) reimburse the department as requested for obligations existing under §61.3 of this title (relating to Payment of Program Benefits);

(5) reimburse the department as requested for overpayments made to the patient;

(6) receive services through approved facilities and providers; and

(7) submit claims for reimbursement in a timely fashion, as specified in subsection (e) of §61.3 of this title (relating to Payment of Program Benefits) and subsection (a)(8) of §61.7 of this title (relating to Modification, Suspension, or Termination of Patient Benefits).

#### §61.3. *Payment of Program Benefits.*

(a) Benefits are available for dialysis treatments, hospitalization, laboratory charges, home dialysis supplies, drugs, and transportation, up to a maximum per patient based upon available funds, [and] any contract between the department and the patient's kidney health care providers and the reimbursement rates as determined by the department.

(b) Benefits are payable only after all other possible third parties (e.g., private/group insurance, Medicare, Medicaid, or the Veterans Administration) have met their liability.

(c) The Kidney Health Care Program may restrict or prioritize service reimbursement to meet budgetary limitations. Priorities have been based upon medical necessity, Medicare eligibility, and projected Medicare payments for the treatment modality listed. In the event program benefits must be reduced, they will be reduced in a manner that takes into consideration medical necessity and Medicare coverage. In the event Medicare regulations scheduled to be effective on August 1, 1983, continue to apply, then priority List B will apply. If they are not effective, then priority List A will apply. Priority lists are as follows:

(1) List A: pre-Medicare eligible, not Medicare eligible, in-home dialysis, transplant; and drugs and transportation.

(2) List B: pre-Medicare eligible, not Medicare eligible, in-home dialysis, not facility supported; transplant; drugs and transportation, and in-home dialysis, facility supported.

(d)(c) Payment methods: [Payment can be made either directly to physicians or medical facilities, or as a reimbursement to the patient for charges which he/she has paid.]

(1) Payment can be made either directly to providers of services, or as a reimbursement to the patient for charges which he/she has paid.

(2) Dialysis treatments will be reimbursed at the rates established in the contract with providers.

(3) Payment to hospitals:

(A) Payment to hospitals, for inpatient services other than dialysis treatments, will be adjusted by the hospital's most recent ratio of inpatient costs to charges (RCC). This ratio cannot exceed 100%. All hospitals are required to submit within 90 days after the close of their fiscal year a sworn statement of costs allowable under the provisions of Title XVIII, Social Security Act, as amended, and charges used to determine their current RCC. Hospitals may request revision of their RCC during the year by submitting the required statement of allowable costs and charges. When requested, hospital records supporting these statements will be made available for examination by duly authorized representatives of the department. All claims submitted to the program for inpatient hospitalization must be reduced by the amount that is provided by any other third-party resource covering the patient. The ratio of costs to charges must be applied to the total bill, excluding personal items, before deducting the third-party payment. An itemized billing detailing services rendered to the patient must be submitted with the payment voucher.

(B) Payment to hospitals, for outpatient services, will be adjusted by the hospital's most recent ratio of outpatient costs to charges (RCC), determined in the same manner as required for determination of the inpatient RCC. This ratio cannot exceed 100%. The same procedures outlined in subparagraph (A) of this paragraph also apply to outpatient services. At least every six months the nephrologist should submit an evaluation report to determine the medical necessity for the patient to continue receiving services.

(4) For other than dialysis services, physicians will be reimbursed on the basis of the fourth edition (1980) lower fee of the Maximum Affordable Payment Schedule (MAPS), and for those not listed, allowable services and reimbursement rates will be as determined by the department.

(5) Home dialysis suppliers will be reimbursed at a maximum of 20% of the Medicare allowable for Medicare eligible patients and a maximum of 100% of the Medicare allowable for non-Medicare eligible patients, as determined by the department.

(e)(d) All benefits provided in behalf of approved patients are limited to charges incurred in Texas except when they are receiving treatment in a [an] program approved ESRD [kidney health care] facility located out-of-state.

(f)(c) All benefits paid on behalf of recipients must be for claims received by the program within 90 days

of the date of service rendered and within submission timetables stated in the facility contract. [Eligibility for all benefits will begin:

(1) the first day of the month prior to the month in which regular dialysis was started; or

(2) the first day of the month prior to the month a transplant was received; or

(3) the date of establishment of a bona fide Texas residency when a patient who is already on an established course of dialysis, or has a functioning transplant, moves into Texas;

(4) In order for the patient to receive full benefits, applications must be received no later than three months after the month in which dialysis initially started, a transplant was received, or the patient moved to Texas, whichever is applicable.]

(g) Patients regaining kidney function after dialyzing for a minimum of three consecutive months and who continue to reside in Texas may remain eligible for program benefits for drugs and transportation for a maximum of 12 months after the date of their last dialysis treatment.

(h) Benefits will be retroactive a maximum of 45 days prior to the department's receipt of a complete application for services rendered by providers approved by the program, but will not extend prior to the date Texas residency was established or 30 days prior to the date of first dialysis or transplant surgery.

(i)(f) In-center dialysis patient benefits are available to cover expenses for medical services performed during the three month waiting period required for Medicare chronic renal disease coverage.

(j)(g) For home dialysis patients and transplant patients, the [Kidney Health Care] Program will cover the portion of the 20% Medicare coinsurance on kidney-related charges which is not covered by a third party. For transplant patients, these medical benefits will terminate 36 months after a successful transplant; however, benefits for drugs and transportation will continue as long as the patient maintains program eligibility.

(k)(h) Long-term benefits for medical care are extended to those patients [under age 65] who do not qualify for Medicare coverage. Medicare denial must be documented by a copy of the official Social Security Administration denial notification.

(l)(i) Medicare Part A and B premiums may be paid for by the program for those persons that meet all the following criteria:

(1) are over age 65 and are not eligible for "premium free" Part A coverage;

(2) are not covered by a State "buy-in" agreement with the Texas Department of Human Resources (DHR). "Buy-in" occurs when Medicaid covers hospitalization (Part A) and DHR purchases Part B on behalf of their clients;

(3) apply through their local Social Security Administration office during the "open-enrollment period" (January through March, with effective date the following July of each year); and

(4) sign an agreement for the Kidney Health Care Program to purchase Medicare coverage in their behalf.

(m)(j) Drug and transportation benefits are available for all program [kidney health care] approved pa-

tients [on a continuing basis.] regardless of their treatment mode.

(k) Additional benefits may be provided if sufficient funds are available after payments have been made on all other allowable claims filed. All approved patients are eligible. If funds remain, notification and filing dates will be mailed to those concerned regarding the procedure for filing for these additional benefits. These benefits are limited to:

(1) deductibles, co-insurance, and totally non-covered items for patients with Medicare coverage, and

(2) charges prior to Medicare eligibility for those patients who reached maximum Kidney Health Care benefits during their regular benefits period.]

(n) In the event a patient dialyzes at a facility that loses its kidney health care approval, patient eligibility will remain unaffected provided the patient transfers to an approved facility.

(o) Overpayments made on behalf of recipients to recipients or their legal guardian may be reimbursed to the department, at the department's discretion, out of the current claims due to be paid to the recipient or by lump-sum reimbursement from the patient or legal guardian, following an opportunity for a hearing as provided in §61.7 of this title (relating to Modification, Suspension, or Termination of Patient Benefits).

§61.4. Applications. Patients meeting the eligibility requirements set forth in subsection (a) [paragraphs] (1), [and] (2), (4), and (5) of §61.2 of this title (relating to Eligibility Requirements) must make application for benefits through an end-stage renal disease [a kidney health care approved] facility that has received Program approval or interim approval, Medicare approved hospital licensed in Texas, or board certified nephrologist licensed to practice in Texas.

(1) Complete application. An application shall consist of:

(A) a properly completed and notarized original health care application for benefits (Form KHC 1), supplied by the Kidney Health Care Program. Form adopted by reference in §61.13 of this title (relating to Forms);

(B) a copy of the properly completed, signed and dated Health Care Financing Administration (HCFA) Medical Form 2728-U4. Form adopted by reference in §61.13 of this title (relating to Forms); [and]

(C) three [two] documents which are acceptable to the department to provide evidence of bona fide Texas residency. See §61.6 of this title (relating to Documentation of Residency).

(D) IRS Form 1040, 1040A, or EZ for the most recently completed year, if filed;

(E) a completed KHC-10 Statement of Health Insurance Coverage;

(F) a copy of the patient's personal Social Security card; and

(G) a copy of all the patient's currently valid public and private health insurance cards and/or a copy of the official Medicare denial notice.

(H) All documentation must be provided in English. Where non-English document copies are required, accurate English translations must be attached.

**(2) Deficient applications.**

**(A) An application shall be deemed deficient for any one of the following:**

**(i) failure to provide information requested in the application form,**

**(ii) lack of accompanying documents,**

**(iii) lack of, or improper, signatures,**

**(I) the application must be signed by the patient; or**

**(II) an application signed with a "mark" by the patient must be attested to by two witnesses; or**

**(III) if a member of the patient's immediate family signs for the patient, the reason they are doing so must be stated on the application.**

**(iv) failure of notarization,**

**(v)(iv)] lack of [legal] residency documentation.**

**(B) Deficient applications will be returned to the initiating facility, hospital, or physician for correction, with the deficiencies noted.**

**(i) A copy of the letter notifying the facility, hospital, or physician that the application is deficient also will be sent to the patient[, also].**

**(ii) If the application is deficient, eligibility will not be determined thereon. The eligibility date will be based upon the date a properly completed application is received. [The date used for determining the eligibility effective date for a deficient application will be the date the properly completed application is finally received, not the date the original application was received.]**

**§61.5. Residency.** A bona fide resident means a person who:

**[(1) is lawfully present in the United States;]**

**(1)(2) is physically present within the geographic boundaries of the State of Texas;**

**(2)(3) has an intent to remain within the state, either permanently or for an indefinite period; and**

**(3)(4) actually maintains an abode (i.e., house, apartment, etc., but not merely a post office box) within this state; [or]**

**(4) and does not claim residency in any other state or country; or**

**(5) is a minor child of a bona fide resident; or**

**(6) is a legal dependent spouse of a bona fide resident; or**

**(7) is an adult residing in Texas and his/her legal guardian is a bona fide resident.**

**§61.6. Documentation of Residency.** The department will consider the following documentation as adequate evidence of bona fide residency in the State of Texas. An applicant may provide evidence of Texas residency by submitting either:

**[(a) The department will consider the following documentation as adequate evidence of bona fide residency in the State of Texas.**

**[(1) An applicant who is a citizen of the United States may provide evidence of Texas residency by submitting either:]**

**(1)(A)] copies of three [two] of the following documents all in the applicant's name:**

**(A)(i)] a current, valid Texas driver's license;**

**(B)(ii)] a current, valid Texas voter's registration card;**

**(C)(iii)] a current, valid Texas motor vehicle registration; [or]**

**(D)(iv)] a residential warranty deed, or receipts for the payment of mortgage, rent, or utilities, for two consecutive months prior to the date of the applicant's first dialysis; or**

**(E) the most recent two retirement checks on which the applicant's name and address are imprinted;**

**(F) a current, valid Texas Medicaid card;**

**(G) current Texas AFDC benefit records;**

**(H) Texas property tax receipts for the most recently completed tax year;**

**(I) the most recent two months' payroll checks or employment records containing the applicant's name and address.**

**(J) a complete copy of United States Immigration and Naturalization Service (INS) Form I-151 or Form I-551 (Alien Registration Receipt Card);**

**(K) a copy of the applicant's most recent change of status application, as submitted to the INS, and updated every six months; or**

**(L) a complete copy of the forms issued to the applicant by the INS as evidence of lawful temporary entry into the United States. Such forms may include, but are not limited to, Form I-90, Form I-94, Form I-120, or Form I-181, and these must be renewed every six months; or**

**(2) copies of two of the documents listed in paragraph (1) of this section and a copy of one of the following documents:**

**(A) a Texas birth certificate;**

**(B) military service separation records;**

**(C) school records;**

**(D) most recent medical records that contain the applicant's name and current address, other than Form HCFA-2728-U4.**

**[(B) two sworn statements (affidavits) from reputable bona fide residents which state that the applicant meets the residency criteria set forth in §61.5 of this title (relating to Residency).**

**[(2) An applicant who is a lawful permanent resident alien of the United States may provide evidence of Texas residency by submitting either:**

**[(A) a complete copy of United States Immigration and Naturalization Service Form I-151 or Form I-551 (Alien Registration Receipt Card) and one document from a category enumerated in subsection (a)(1) of this section; or**

**[(B) two sworn statements (affidavits) from reputable bona fide residents which state that the applicant meets the residency criteria set forth in §61.5 of this title (relating to Residency).**

**[(b) An applicant who has been lawfully granted temporary entry into the United States may provide adequate evidence of Texas residency by submitting the following documentation on a periodic basis, at intervals not to exceed six months, measured from the date of the applicant's approval.**

**[(1) A complete copy of the forms issued to the applicants by the United States Immigration Naturalization Service as evidence of lawful temporary entry into**

the United States. Such forms may include, but are not limited to, Form I-90, Form I-94, Form I-120, or Form I-181; and

(2) one document from a category enumerated in subsection (a)(1) of this section; or

(3) two sworn statements (affdavits) from reputable bona fide residents that state that the applicant meets the residency criteria set forth in §61.5 of this title (relating to Residency).]

**§61.7. Denial of Application; Modification, Suspension, or Termination of Patient Benefits.**

(a) Reasons for denial of application or modification, suspension, or termination of benefits. Any person applying for or receiving benefits from the program will [may] be put on notice by certified mail to the most recent address known to the program that their application may be denied or their [these] benefits may be modified, suspended, or terminated if:

(1) the person submits an application form or any document required in support of the application [to prove Texas residency] which contains a misstatement of the fact which is material to the department's determination that the person is eligible for program benefits;

(2) the person is not [no longer] a bona fide resident of the state;

(3) the person fails or refuses to provide the periodic documentation of residency required in subsection (b) of §61.6 of this title (relating to Documentation of Residency);

(4) the person does not have end-stage renal disease, or regains kidney function;

(5) the person fails or refuses to submit to the department a patient financial status report for the purpose of determining reimbursement obligation.

(6)[(5)] the person refuses to reimburse the department after being notified of third-party benefits, [or] patient reimbursement obligations, or program overpayments;

(7)[(6)] the person submits false claims to the Kidney Health Care Program;

(8) the program fails to receive a claim for benefits on behalf of the patient during any period of 180 consecutive days;

(9) the person notifies the Kidney Health Care Program in writing that they no longer want to claim program benefits. Such a statement does not free the patient, or persons with legal obligation to support the patient, of any reimbursement obligation owing the program at the time of withdrawal.

(10) the person dies;

(11) program funds are curtailed; or

(12) funds allocated for payments on behalf of an individual are exhausted.

(b) Procedure for denial, modification, suspension, or termination.

(1) These procedures do not apply to denial, modification, suspension, or termination due to the necessity for curtailment of program funds or due to exceeding the limit for an individual patient.

(2)[(1)] Within 10 working days after receiving the notice, the patient or the patient's authorized representative must respond to, or question, the program's rea-

son(s) in a written response to the program by certified mail at the following address: Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Failure to respond will be deemed a waiver of the opportunity to respond to the program.

(3)[(2)] Upon receipt of the patient's response, the program will affirm or reverse its proposed action in writing to the patient, giving the reason(s) for the decision.

(4)[(3)] Any patient aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal procedure, at a minimum, will include the following:

(A) Within 10 working days after receiving the program's decision, the patient or the patient's authorized representative must send to the address given in paragraph (2) of this subsection a notice to the program by certified mail requesting a hearing. Failure to respond will be deemed a waiver of the opportunity for hearing.

(B) The program will set a date and time at the Texas Department of Health central office in Austin, for an administrative hearing before the department.

(C) The administrative hearings will be conducted in accordance with the applicable provisions of the Texas Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and §§1.21-1.32 of this title (relating to Formal Hearing Procedures). A copy of the hearing rules will be provided to the patient or the patient's authorized representative.

(D) In the event of a decision adverse to the patient's interest, the patient may appeal to the District Court of Travis County.

**§61.8. Kidney Health Care Approved Facilities.**

(a) An approved facility is one that:

(1) has met all Medicare certification requirements;

(2) has been assigned a Medicare ESRD provider number; [and]

(3) has entered into a contract with the department to participate in the Texas Kidney Health Care Program and agrees to cooperate with the program in accordance with Texas Civil Statutes, Article 4477-20, and the program rules adopted by the Texas Board of Health; and

(4) has authorized the department to conduct audits of its records, at reasonable time intervals, to determine cost of providing services.

(b) The approval date will be the same date as that granted by the Health Care Financing Administration for Medicare ESRD approval.

(c) Facilities under interim approval for Medicare participation also will be classified as interim approval by the program. Patient claims will be held by the program until the facility is approved by the HCFA. However, patient applications will be processed for approval.

(d) Has submitted facility operation cost reports for the most recent fiscal year of operation, in a manner prescribed by the department, no later than 90 days after the close of the facility's fiscal year, and an audited cost report within 180 days of fiscal year end.

**§61.9. Modification, Suspension or Termination of Facility Approval; Vendor Hold.**

(a) Reasons for termination of facility approval. A kidney health care approved facility will [may] lose its approval and privilege to participate in the Kidney Health Care Program if:

(1) the facility loses Medicare approval;  
(2) the facility fails or refuses to enter into a contract with the department to participate in the Texas Kidney Health Care Program;

(3) the facility with interim approval from the program will be terminated if it fails to get Medicare/HCFCA approval.

(4)[(3)] the contract between the facility and the department is terminated for any reason;

(5)[(4)] the facility fails or refuses to submit in a [timely] manner prescribed by the department information which is:

(A) requested by the department for the purpose of determining the facility's compliance with the provisions of the Texas Kidney Health Care Act or these program rules;

(B) requested by the department for the purpose of monitoring the facility's performance under the contract between the facility and the Department; or

(C) required to be provided by the facility to the department under the terms of the contract between the facility and the department.

(6)[(5)] the facility submits false or misleading information to the department and the information is material to the department's determination that the facility is:

(A) approved to participate in the Texas Kidney Health Care Program;

(B) in compliance with the provisions of the Texas Kidney Health Care Act and the program rules; or

(C) in compliance with the provisions of the contract between the facility and the department.

(7)[(6)] the facility fails to reimburse the Kidney Health Care Program when overpayments have been made;

(8)[(7)] the facility fails to reimburse the Kidney Health Care Program where primary liability for payment of patient claims has not been satisfied; or

(9)[(8)] the facility files false claims.

(b) Procedures for modification, suspension or [notice of] termination, or loss of approval.

(1) The [Kidney Health Care] program shall notify the medical director of record by certified mail of its intent to withdraw program [Kidney Health Care] approval.

(2) Within 10 working days after receiving this notice, the facility must respond to, or question, the program's reason(s) in a written response to the program by certified mail at the following address: **Kidney Health Care Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Failure to respond will be deemed a waiver of the opportunity to respond.**

(3) Upon receipt of the facility's written response, the program will affirm or reverse its proposed action, in writing, to the facility medical director of record, giving the reason(s) for the decision.

(4) A facility aggrieved by the program's decision is entitled to appeal the decision to the Texas Department of Health. The appeal procedure will be the same as that set forth in §61.7 of this title (relating to Modification, Suspension, or Termination of Patient Benefits).

(c) If the department has reasonable cause to believe that a reason for the modification, suspension or termination of facility approval exists, the department may, without notice to the affected facility, withhold payments to the facility during the pendency of the administrative hearing and appeal procedures set forth in subsection (b) of this section.

**§61.10. Patient Reimbursement Obligation.**

(a) Although there is no means test for receiving benefits through the Kidney Health Care Program, the Texas Kidney Health Care Act does impose a reimbursement obligation on all approved patients. The law states that [at the end of each calendar year] any person who has received benefits from the Kidney Health Care Program must pay back to the program either:

(1) an amount not to exceed 5.0% of the patient's adjusted gross income (or the adjusted gross income of those responsible for the patient's debts, e.g., spouse, parent) plus the proceeds of insurance, group health plan, or prepaid medical care plan, if the proceeds are paid to the recipient or to those responsible for the patient's debts and if the department has paid for the services upon which the claims for the proceeds are based; minus the following deductions:

(A) \$1,000 (standard deduction), and

(B) the amount paid in premiums for insurance, [private/] group health insurance plan, or prepaid medical care plan, or

(2) an amount equal to the benefits received from the Kidney Health Care Program, whichever is the smaller amount.

(b) For purposes of computing the patient's reimbursement obligation, a patient's adjusted gross income (AGI) is that amount shown as adjusted gross income on his/her Federal Income Tax Return, Forms 1040, [or] 1040A, or EZ. The person responsible for the patient's debts shall be determined for reimbursement purposes by the existing law of the state.

**§61.11. Confidentiality of Information.**

(a) All information required by these rules to be submitted may be verified at the discretion of the department and without notice to the applicant or recipient of benefits of the program, or to the providers of program services. This information is confidential to the extent authorized by law. [All information as to personal facts and circumstances obtained by the program staff or the staff of cooperative agencies of the state, regional, or local level will constitute privileged communications and will be held confidential and will not be divulged without the consent of the patient, patient's parents or guardians of minors or wards, except as necessary to provide services and as may be necessary under the Texas Open Records Act (Texas Civil Statutes, Article 6252-17a).]

(b) Information may be disclosed in summary, statistical, or other forms which does not identify particular individuals.



**§61.12. Nondiscrimination Statement.** The Texas Department of Health operates in compliance with Title VI, Civil Rights Act of 1964 (Public Law 88-352), and Title 45, Code of Federal Regulations, Part 80, so that no person will be excluded from participation in, be denied benefits, or otherwise subjected to discrimination on the grounds of race, color, or national origin, sex, creed, handicap, or age.

**§61.13. Forms.** Forms which have been developed by the department for use in the program will be provided to applicants in application packages.

(a) The department adopts by reference the following two forms contained in subparagraphs (A) and (B) of §61.4(1) of this title (relating to Applications):

(1) Kidney Health Care Application for Benefits (Form KHC 1), and

(2) Health Care Financing Administration Medical Form 2728-U4.

(b) Copies are indexed and filed and are available for public inspection in the office of the Kidney Health Care Program located at 5350 Burnet Road, Austin, Texas.)

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 24, 1983.

TRD-834708 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Proposed date of adoption:  
August 20, 1983

For further information, please call (512) 458-7338.

## Chapter 169. Veterinary Public Health

### [Federal Regulations on] Meat and Poultry Inspection

#### 25 TAC §169.11

The Texas Department of Health proposes amendments to §169.11 and a new §169.12 concerning meat and poultry inspection.

Stephen Seale, chief accountant III, has determined that for the first five-year period the rules will be in effect, there will be no fiscal implications on state or local government as a result of enforcing or administering the rules.

Mr. Seale has also 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 as follows. The amendments to §169.11 will update federal meat and poultry inspection regulations adopted by reference. The update will apprise the public of the latest changes to the federal regulations on meat and poultry inspection which the TDH is required to follow in implementing

the state meat and poultry inspection program. The new §169.12 will apprise the public on the proper procedures covering grants of inspection and/or custom exemption.

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 F. V. McCasland, D.V.M., M.P.H., Chief, Bureau of Veterinary Public Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7221. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendments and new section are proposed under Texas Civil Statutes, Article 4476-7, §13, which provide the Texas Board of Health with the authority to adopt rules to implement the meat and poultry inspection program required by Article 4476-7.

**§169.11. Federal Regulations on Meat and Poultry Inspection.**

(a) The Texas Department of Health adopts by reference the federal regulations contained in the U.S. Department of Agriculture publication *Meat and Poultry Inspection Regulations*, as amended.

(b) Copies of these regulations are indexed and filed in the Bureau [Division] of Veterinary Public Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

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 24, 1983.

TRD-834709 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Proposed date of adoption:  
August 20, 1983

For further information, please call (512) 458-7221.

#### 25 TAC §169.12

This new section is proposed under Texas Civil Statutes, Article 4476-7, §13, which provides the Texas Board of Health with the authority to adopt rules to implement the meat and poultry inspection program required by Texas Civil Statutes, Article 4476-7.

**§169.12. Meat Inspection.**

(a) Introduction. The purpose of these sections is to protect the public health by establishing uniform rules to assure that meat and poultry products are clean, wholesome, and truthfully labeled.

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

(1) Act—The Texas Meat and Poultry Inspection Act, Texas Civil Statutes, Article 4476-7.

(2) Change in ownership—

(A) A change in the business organization operating the business which changes the legal entity responsible for operation of the business; or

(B) Any change in control of the business; or

(C) Any change in ownership of the business which requires a reapplication to the department for a grant of inspection and/or custom exemption to operate.

(3) Custom processing—The processing of an inspected and/or uninspected carcass or parts thereof for the owner of that carcass or parts for the exclusive use of the owner.

(4) Custom slaughtering—The slaughtering of an animal for the owner of that animal for the exclusive use of the owner.

(5) Department—Texas Department of Health.

(6) Federal regulations—The regulations contained in the U.S. Department of Agriculture publication titled *Meat and Poultry Inspection Regulations*, and adopted by reference by the department in §169.11 of this title (relating to Federal Regulations on Meat and Poultry Inspection).

(7) Grant of custom exemption—An authorization from the department to engage in a business of custom slaughtering and/or processing.

(8) Grant of inspection—An authorization from the department to engage in a business subject to inspection under the Act.

(9) Person—Any individual, partnership, association, corporation or unincorporated business organization.

(c) Grant of inspection and/or custom exemption.

(1) Basic requirements.

(A) A person shall not engage in a business subject to the Act unless that person has met the standards established by the Act, the federal regulations, and these rules, and has obtained the appropriate grant of inspection and/or custom exemption issued by the department.

(B) A person shall not engage in a business of custom slaughtering and/or processing of cattle, swine, sheep, goats, or poultry unless that person has met the standards established by the Act, the federal regulations, and these rules, and has obtained a grant of custom exemption issued by the department.

(2) Application. To apply for a grant of inspection and/or custom exemption, a person shall complete department application forms which can be obtained from the Bureau of Veterinary Public Health, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(3) Duration. The applicant who has complied with the standards in the Act, the federal regulations, and these rules will receive a grant of inspection and/or custom exemption for an indefinite period subject to the denial, suspension, and revocation provisions in paragraph (7) of this subsection.

(4) Nontransferability. A grant of inspection and/or custom exemption is not transferable to another person.

(5) Change of ownership. Any person operating a business under a grant of inspection and/or custom exemption from the department shall notify the department

of any change in ownership of that business and, in such event, shall relinquish the current grant to the department. The new owner shall make application for a new grant on forms provided by the department. This notification and application shall be made prior to the ownership change.

(6) Temporary exemption. Each person engaged in a business subject to the Act at the time of enactment of the Act may be allowed a maximum period of 36 months to provide the drawings (blue prints of the business's physical plant) as required by the federal regulations and to bring the facility into compliance with these drawings. This 36-month period will begin upon the date the department gives the person official notice by certified mail that the person has 36 months to provide the drawings.

(7) Denial, suspension and revocation.

(A) The department may deny a grant of inspection and/or custom exemption to any applicant who does not comply with the standards of the Act, the federal regulations, and these rules.

(B) The department may suspend or revoke a grant of inspection and/or custom exemption of any person who violates the standards of the Act, the federal regulations, and these rules.

(C) A person whose grant has been denied, suspended, or revoked is entitled to an opportunity for a formal hearing in accordance with §§1.21 - 1.32 of this title (relating to Formal Hearing Procedures).

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

Issued in Austin, Texas, on June 24, 1983.

TRD-834710 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Proposed date of adoption:  
August 20, 1983

For further information, please call (512) 458-7221.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 8. HEAP

#### Weatherization Program

#### 40 TAC §58.1101-8.1106

*(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, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Human Resources proposes to repeal §§8.1101-8.1106, concerning weatherization in the Home Energy Assistance Program (HEAP). The rules are being repealed in compliance with Senate Bill 315, which transfers the responsibility for the administration of the Weatherization Program to the Texas Department of Community Affairs. The transfer of this responsibility is effective September 1, 1983.

David Hawes, programs budget and statistics 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. Hawes has also determined that for each year of the first five years the repeals are in effect the public benefit will be the continued availability of weatherization services and a clearer understanding of which agency is responsible for administering the program. There is no anticipated economic cost to individuals as a result of the repeals.

Written comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division—358, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§8.1101. *Eligibility Requirements.*

§8.1102. *Client Responsibilities.*

§8.1103. *Need.*

§8.1104. *Service Selection Process.*

§8.1105. *Confidentiality.*

§8.1106. *Provider Participation Requirements.*

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 23, 1983.

TRD-834688      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

## Chapter 10. Family Self-Support Services Day-Care and Child Development Services

40 TAC §10.3149, §10.3150

The Texas Department of Human Resources (DHR) proposes amendments to §10.3149 and §10.3150, concerning co-payment for day care services.

The amendments clarify the policy regarding assessment of the co-payment amount by stipulating that facilities must not charge families a co-payment amount that is more than the cost of the service to the DHR. This change is based on Senate Bill 920.

David Hawes, programs budget and statistics 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. 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 the rules as proposed will be that families will not pay more for day-care services than the cost of the service to the DHR. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Public comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division—362, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The amendments are proposed under the authority of the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

§10.3149. *Co-Pay by Families to POS Facilities.*

(a) Co-pay amount for day-care services. Each POS facility must establish its own sliding scale co-pay schedule, based on the family's ability to pay. The schedule must be approved by the DHR. Facilities must assess all income eligible and nonpublic assistance food stamp clients a weekly co-pay amount. The weekly co-pay amount for a family in which one child receives day care services is 2.0% to 3.0% of the family's gross monthly income based on the most recent eligibility certification. The weekly co-pay amount for a family in which more than one child receives day care services is 2.5% to 4.0% of the family's gross monthly income based on the most recent eligibility certification. **The facility must not charge a co-pay amount in excess of the cost of the service to the DHR as determined by the rate contained in the DHR's contract with the facility.**

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

§10.3150. *Co-Pay by Families to Provider Agreement Facilities.*

(a) Co-pay amount for day care services. The DHR assesses the co-pay amount for all income eligible and nonpublic assistance food stamp families receiving provider agreement day-care services and informs the facility. The weekly co-pay amount for a family in which one child receives day care services is 2.0% to 3.0% of the family's gross monthly income based on the most recent eligibility certification. The weekly co-pay amount for a family in which more than one child receives day care services is 2.5% to 4.0% of the family's gross monthly income based on the most recent eligibility certification. Each September, the DHR determines the co-pay percentages. The percentages are the average percentages

charged by POS facilities statewide. The co-pay amount will not exceed the cost of the service to the DHR as determined by the rate contained in the provider agreement with the facility.

(b)-(e) (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 23, 1983.

TRD-834687      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Earliest possible date of adoption:  
August 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

authorizes the department to administer public assistance programs.

§13.901. *Child Support Services.*

§13.902. *Organizational Structure.*

§13.903. *Federal Law.*

§13.904. *State 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 27, 1983.

TRD-834785      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

## Chapter 13. Child Support Collection

*(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, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Human Resources proposes to repeal its rules in Chapter 13, concerning child support collection. The rules are being repealed because the operation of the Child Support Program is being transferred to the Office of the Attorney General in accordance with Senate Concurrent Resolution 58, 88th Legislature. Rulemaking for this program will become the responsibility of the Office of the Attorney General effective September 1, 1983.

David Hawes, programs budget and statistics director, has determined that for the first five years the repeals will be in effect, there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Hawes also has determined that for each year of the first five years the repeals are in effect the public benefit will be the continued enforcement of child support services through the transfer of responsibility to the Office of the Attorney General. There is no anticipated economic cost to individuals as a result of the repeals.

Written comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-355, Texas Department of Human Resources 153-B, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

### Subchapter J. Program Overview

40 TAC §§13.901-13.904

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which

### Subchapter U. Child Support Collection Services

40 TAC §§13.2001-13.2003

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§13.2001. *Application Process.*

§13.2002. *AFDC Cases.*

§13.2003. *Non-AFDC Applicants.*

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 27, 1983.

TRD-834786      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter V. Assignment of Rights

40 TAC §§13.2101-13.2104

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§13.2101. *Assignment of Rights—AFDC.*

§13.2102. *Assignment of Rights—AFDC Foster Care.*

§13.2103. *Contract for Services—Non-AFDC.*  
§13.2104. *AFDC Foster Care Case.*

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 27, 1983.

TRD-834787      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter W. Cooperation in Obtaining Support

#### 40 TAC §§13.2201-13.2207

These repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§13.2201. *Condition of Eligibility.*  
§13.2202. *Specific Responsibilities.*  
§13.2203. *Examples of Cooperation.*  
§13.2204. *Documents and Information.*  
§13.2205. *Good Cause for Refusal.*  
§13.2206. *Failure to Cooperate.*  
§13.2207. *Willingness to Cooperate.*

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 27, 1983.

TRD-834788      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter X. Certified AFDC Applicants Already Receiving Child Support

#### 40 TAC §13.2301

The repeal is proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§13.2301. *Disposition of Child Support Payments.*

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 27, 1983.

TRD-834789      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter Y. Budgeting Process

#### 40 TAC §13.2401, §13.2402

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§13.2401. *Collections.*  
§13.2402. *Post-AFDC.*

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 27, 1983.

TRD-834790      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter Z. Application to Use U.S. Courts

#### 40 TAC §13.2501

The following repeal is proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§13.2501. *Procedure.*

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 27, 1983.

TRD-834791      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

**Subchapter AA. Request for Collections by the Secretary of Treasury**

**40 TAC §13.2601**

The repeal is proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

**§13.2601. Procedure.**

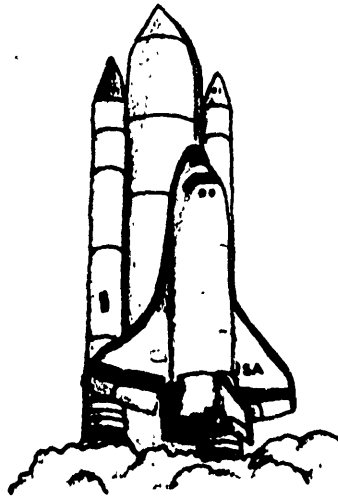
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 27, 1983.

TRD-834792 Marlin W. Johnston  
Commissioner  
Texas Department of Human Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355, ext. 2037.



**Subchapter BB. Standards for an Effective Program**

**40 TAC §§13.2701-13.2706**

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.2701. Federal Requirements.**
- §13.2702. Location of Absent Parents.**
- §13.2703. Establishment of Support Obligation.**
- §13.2704. Establishment of Paternity.**

- §13.2705. Enforcement of Support Obligations.**
- §13.2706. Cooperation with Other States.**

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 27, 1983.

TRD-834793 Marlin W. Johnston  
Commissioner  
Texas Department of Human Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355, ext. 2037.

**Subchapter DD. Parent Locator Services**

**40 TAC §§13.2901, 13.3001, 13.3101, 13.3201, 13.3301, 13.3401**

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.2901. Application.**
- §13.3001. Local Locate Efforts.**
- §13.3101. State Locate Efforts.**
- §13.3201. Request for Investigations.**
- §13.3301. Use of Private Investigation Vendor.**
- §13.3401. Use of Federal Parent Locator Service.**

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 27, 1983.

TRD-834794 Marlin W. Johnston  
Commissioner  
Texas Department of Human Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355, ext. 2037.

**Subchapter II. Legal Processes**

**40 TAC §§13.3901, 13.4001, 13.4101, 13.4102, 13.4201-13.4206, 13.4301, 13.4401, 13.4501, 13.4601, 13.4701, 13.4801, 13.4901**

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.3901. *Child Support Unit Responsibility.*
- §13.4001. *Determination of Court of Continuing Jurisdiction.*
- §13.4101. *Suit Affecting the Parent-Child Relationship.*
- §13.4102. *Voluntary Legitimation.*
- §13.4201. *Intervention.*
- §13.4202. *Notice of Assignment.*
- §13.4203. *Motion to Modify a Support Order.*
- §13.4204. *Motion to Transfer.*
- §13.4205. *Judgment for Support Arrearages.*
- §13.4206. *Garnishment.*
- §13.4301. *URESAs Cases.*
- §13.4401. *Definition.*
- §13.4501. *Definition.*
- §13.4601. *Filing of Complaint.*
- §13.4701. *U.S. District Courts.*
- §13.4801. *Support Agreement.*
- §13.4901. *Obligation to the State.*

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 27, 1983.

TRD-834795      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter KK. Child Support Collections and Disbursements

40 TAC §§13.5001, 13.5002,  
13.5101-13.5103

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.5001. *Date of Collection.*
- §13.5002. *Future Payments.*
- §13.5101. *Disbursements of Collections.*
- §13.5102. *Post-AFDC.*
- §13.5103. *Other Applicants (Non-AFDC).*

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 27, 1983.

TRD-834796      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter LL. Excess Payments and Reimbursements

40 TAC §§13.5201-13.5204

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.5201. *First Reimbursement for Current AFDC or AFDC Foster Care Assistance.*
- §13.5202. *First Excess.*
- §13.5203. *Second Reimbursement for Past-AFDC or Foster Care Assistance.*
- §13.5204. *Second Excess.*

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 27, 1983.

TRD-834797      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter MM. Incentive Payments

40 TAC §§13.5301-13.5303

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.5301. *When Paid.*
- §13.5302. *Collections Eligible for Incentive Payment.*
- §13.5303. *Twelve-Month Time Period.*

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 27, 1983.

TRD-834798      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### Subchapter SS. County Contract Child Support Procedures

40 TAC §13.5904

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which

authorizes the department to administer public assistance programs.

**§13.5904. Contract Termination.**

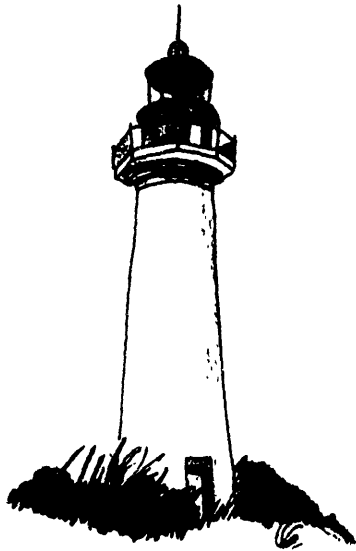
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 27, 1983.

TRD-834799      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.



**Subchapter TT. Case Management**

**40 TAC §§13.6001-13.6004**

These repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.6001. Classification.**
- §13.6002. Status of Cases.**
- §13.6003. Dismissing Court Cases.**
- §13.6004. Case Records.**

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 27, 1983.

TRD-834800      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

**Subchapter VV. Handling Cash**

**40 TAC §13.6201**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

**§13.6201. Accepting Cash.**

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 27, 1983.

TRD-834801      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

**Subchapter WW. Reports of  
Nonpayment**

**40 TAC §13.6301**

This repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

**§13.6301. Handling Nonpayment.**

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 27, 1983.

TRD-834817      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

**40 TAC §§13.6502-13.6506**

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.6502. Fiscal Audit of Contracting Counties.**
- §13.6503. Monitoring.**
- §13.6504. Criteria for Evaluating a Contract Unit.**
- §13.6505. Handling a Contract Unit's Noncompliance.**
- §13.6506. Contract 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 27, 1983.

TRD-834802      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### **Subchapter MMM. Cooperative Agreements**

#### **40 TAC §§ 13.7901-13.7914**

The repeals are proposed under the authority of the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.7901. *Legal Base.*
- §13.7902. *Responsibilities.*
- §13.7903. *County Responsibilities.*
- §13.7904. *Department Responsibilities.*
- §13.7905. *Financial Incentive.*
- §13.7906. *Child Support Program Budget.*
- §13.7907. *Assistance Available for Preparation.*
- §13.7908. *Expenses.*
- §13.7909. *Requirements for Federal Financial Participation.*
- §13.7910. *Expenditures Subject to FFP.*
- §13.7911. *Billings.*
- §13.7912. *Audits.*
- §13.7913. *Plan of Correction.*
- §13.7914. *Follow-up.*

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 27, 1983.

TRD-834803      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

### **Subchapter FFFF. Support Documents**

#### **40 TAC §§ 13.9801-13.9806**

These repeals are proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

- §13.9801. *Fee and Cost to Non-AFDC Applicants.*
- §13.9802. *Cost Schedule.*
- §13.9803. *Fees for Locate Only Services.*
- §13.9804. *Rates of Incentive Payment.*
- §13.9805. *Contract.*
- §13.9806. *Schedule of Child Support Payments.*

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 27, 1983.

TRD-834804      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption:  
September 1, 1983

For further information, please call (512) 441-3355,  
ext. 2037.

# Withdrawn Rules

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

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

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

**TITLE 7. BANKING AND  
SECURITIES  
Part II. State Banking Board  
Chapter 31. Miscellaneous  
Unmanned Teller Machines  
7 TAC §31.21**

**The State Banking Board has withdrawn from consideration for permanent adoption proposed new**

**§31.21, concerning unmanned teller machines. The text of the new section as proposed appeared in the May 6, 1983, issue of the *Texas Register* (8 TexReg 1448).**

**Issued in Austin, Texas, on June 23, 1983**

**TRD-834698**

**O. A. Cassity III  
Assistant General Counsel  
State Banking Board**

**Filed: June 23, 1983**

**For further information, please call (512) 475-4451.**

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 7. BANKING AND SECURITIES

### Part IV. Texas Savings and Loan Department

#### Chapter 53. Additional Offices

##### 7 TAC §§53.2, 53.4, 53.17

The Texas Savings and Loan Department adopts amendments to §53.2 and §53.4, and new §53.17, without changes to the proposed text published in the April 29, 1983, issue of the *Texas Register* (8 TexReg 1373)

The amendments and new rule provide the commissioner with the needed flexibility in areas dealing with the establishment of additional offices and approved and unopened offices

This department received seven comments, three comments clearly in favor of the proposals and four recommending changes to the proposals. Comments were received from Andrews Savings & Loan Association, Andrews, in support of the proposals; First Financial, a savings association of El Paso, in support of the proposals; General Savings Association, Henderson, in support of the proposals; Benjamin Franklin Savings Association, Houston, suggesting changes, by allowing presently unopened offices to be "grandfathered" in over a period of time; Guardian Savings & Loan Association, Dallas, suggesting changes to the effect that "branching" should be a business decision with supervisory review for soundness and solvency only; Longview Savings & Loan Association, Longview, suggesting the charging of a "fee" for each extension and to leave the language of the rule as it is presently written; and Travis Savings and Loan Association,

San Antonio, a comment on the proposed §53.2(4), regarding the possible "hardship" to be created by requiring original records to be maintained at the "home office" of an association.

The new regulation was brought about because of the tremendous amount of approved and unopened offices being carried on the books of the department at this time. Problems associated with this would not be solved by "grandfathering." The suggestion of leaving the regulation as it is and charging a fee does not address the problem at hand. Regarding the maintenance of records at the home office, the department must be guided by statutory requirements as found in Texas Civil Statutes, Article 852a-8.02.

No further comments were received at the public hearing, on June 6, 1983

These rules are adopted pursuant to Texas Civil Statutes, Article 342-114, which provides the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules not inconsistent with the constitution and the statutes of this state and from time to time to amend these rules.

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 22, 1983.

TRD-834663

L. L. Bowman III  
Commissioner  
Texas Savings and Loan  
Department

Effective date: July 13, 1983

Proposal publication date: April 29, 1983

For further information, please call (512) 475-7991.

**TITLE 19. EDUCATION  
Part II. Texas Education Agency  
Chapter 85. Student Services  
Subchapter H. Transportation Services  
Student Eligibility for Transportation  
Services**

**19 TAC §85.172**

The Texas Education Agency adopts amendments to §85.172 (226.34.62.020), without changes to the proposed text published in the May 6, 1983, issue of the *Texas Register* (8 TexReg 1449).

This section concerns handicapped student eligibility for transportation services. Cross-references in this section have been amended to refer to the appropriate section of revised special education rules.

Handicapped student eligibility for transportation services will be based upon the definition for handicapped students in federal and state law and regulations. Handicapped children eligible for special education who can use regular transportation shall be transported on regular routes. The local Admission, Review, and Dismissal Committee must annually determine the need for special transportation for each student and the type of transportation needed. The documented record of this determination becomes a part of the handicapped student's eligibility file.

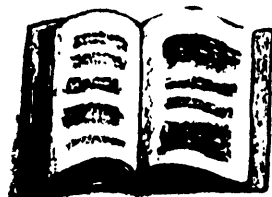
The amendments are adopted under the authority of the Texas Education Code, §16 005, which authorizes the State Board of Education to make rules for the implementation of the Foundation School Program; Texas Education Code, §16 104, which authorizes the State Board of Education to develop and implement a statewide design for the delivery of services to handicapped children; and the Texas Education Code, Chapter 16, Subchapter F, which provides for transportation under the Foundation School Program, in particular §16 206(h) of that subchapter, which authorizes special transportation services for eligible handicapped students.

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-834761 Raymon L. Bynum  
Commissioner of Education

Effective date July 18, 1983  
Proposal publication date May 6, 1983  
For further information, please call (512) 475-7077.



**TITLE 22. EXAMINING BOARDS  
Part XXI. Texas State Board of  
Examiners of Psychologists  
Chapter 463. Applications**

**22 TAC §463.7**

The Texas State Board of Examiners of Psychologists adopts amendments to §463.7, without changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1242).

This rule will provide an opportunity for the applicant to submit a written explanation concerning a negative reference letter which may satisfy the board's concerns. In the past, an applicant was required to appear before the board, which required a trip to Austin. With this change, the board has a more flexible procedure for considering a negative reference letter. In some cases the applicant will be spared the expense of traveling to Austin.

The board will review negative letters of reference and the written explanation from the applicant. At that time the board will determine whether the written explanation is satisfactory or whether it will be necessary to meet with the applicant. This flexibility has the potential of saving applicants time and money as they proceed through the application process.

All comments received were in favor of adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 4512c, §8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 22, 1983.

TRD-834669 Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date July 14, 1983  
Proposal publication date April 15, 1983  
For further information, please call (512) 835-2036.

**22 TAC §463.16**

The Texas State Board of Examiners of Psychologists adopts amendments to §463.16, with changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1242).

The rule will provide information to the public concerning the board's definition of the substantial equivalency of a doctoral degree based upon a program of studies whose content is primarily psychological. The

board has identified specific educational requirements which must be satisfied before a person can practice psychology. The rule provides an avenue for a person who does not have a degree from a department of psychology but who does have a degree from a department (wherever it is housed) that purports to educate and train psychologists.

The rule as amended will provide information to the public concerning the board's educational requirements for certification as a psychologist.

The board received three comments on the amendments. A suggestion was made to reduce full-time academic work from three to two years to allow recognition of those persons who have earned master's degrees or 60 semester hours. Concern was expressed that the rule did not contain a minimum semester-hour requirement for the substantial equivalency; the recommendation was to use a minimum of 90 semester-hours. An excellent elaboration of substantial equivalency with sufficient standards that are not arbitrary and capricious was put forth. Members of the Psychological Associate Division of the Texas Psychological Association spoke against the rule.

The agency did not disagree with the comments received; rather, it amended the rule to respond to the concerns of the public.

The amendments are proposed under Texas Civil Statutes, Article 4512(c), § 8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§463.16. Degree Requirements for Certification of Psychologists.**

(a) (No change.)

(b) The substantial equivalence of a doctoral degree based upon a program of studies whose content is primarily psychological means a doctoral degree based on a program which meets the following criteria:

(1) Post-baccalaureate program in a regionally accredited institution of higher education. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.

(2) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train psychologists.

(3) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g. department, area, or school.

(4) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative head who are psychologists responsible for the graduate program. Psychology faculty are individuals who are certified psychologists, or members/fellows of the American

Psychological Association, or diplomates of the American Board of Professional Psychology, or hold a doctoral degree in psychology from a regionally accredited institution.

(5) The program must be an integrated organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlines for students.

(6) The program must have an identifiable body of students who matriculated in the program.

(7) The program must include supervised practicum, internship, field, or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12-month period nor more than a 24-month period. Further, this requirement cannot have been obtained in more than two placements or agencies.

(8) The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons who have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

(9) The following curricular requirements must be met and demonstrated through appropriate course work:

(A) Scientific and professional ethics related to the field of psychology;

(B) Research design and methodology, statistics.

(C) The applicant must demonstrate competence in each of the following substantive content areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral program have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the board evidence of competency in each of the four core areas:

(i) biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

(ii) cognitive—affective basis of behavior: learning, thinking, motivation, emotion.

(iii) social basis of behavior: social psychology, group processes, organizational and systems theory.

(iv) individual differences: personality theory, human development, abnormal psychology.

(D) Courses meeting the substantial equivalency requirement must be taught by persons clearly iden-

tified by degree and professional affiliation as psychologists.

(10) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must demonstrate a minimum of 24 hours in his/her designated specialty area.

(c) Any person intending to apply for certification under the substantial equivalence clause must file with the board an affidavit showing:

(1) courses meeting each of the requirements noted in subsection (b) of this section verified by official transcripts;

(2) information regarding each of the instructors in the courses submitted as substantially equivalent; and

(3) appropriate, published information from the university awarding the degree demonstrating that the criteria of paragraphs (1)-(10) of subsection (b) of this section have been met.

(d) The board will consider post-doctoral course work in determining the eligibility of an applicant when such course work terminates in a doctoral degree that is consistent with this rule.

**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 22, 1983.

TRD-834670 Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date: July 14, 1983  
Proposal publication date: April 15, 1983  
For further information, please call (512) 835-2036.

## **Chapter 465. Rules of Practice**

### **22 TAC §465.6**

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.6, with changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1244).

This rule, as amended, will allow psychologists to bill for psychological services offered by themselves and by the employees they supervise. Services offered directly by other mental health professionals cannot be submitted for third-party payment under the name of a psychologist.

The amended rule will provide information about appropriate billing of psychological services by psychologists and their employees.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, §8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably nec-

essary for the proper performance of its duties and regulations of proceedings before it.

**§465.6. Employment of Psychologists.** Where a psychologist employs a person to perform psychological functions, the contract between the psychologist and the employee must be on file with the board for each situation. A certified psychologist may perform psychological services as the employee of a licensed psychologist or within the confines of an organization or corporation only if an approved contract of employment, specifying the nature and extent of supervision by a licensed psychologist, is on file with the board. For third-party payments, a psychologist may bill only for psychological services rendered directly by the psychologist or by a supervised employee under contract with the psychologist.

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 22, 1983.

TRD-834671 Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date: July 14, 1983  
Proposal publication date: April 15, 1983  
For further information, please call (512) 835-2036.

### **22 TAC §465.18**

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.18, without changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1244).

The repealed rule will be replaced with more extensive supervision guidelines.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512c, §8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

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 22, 1983.

TRD-834672 Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date: July 14, 1983  
Proposal publication date: April 15, 1983  
For further information, please call (512) 835-2036.

The Texas State Board of Examiners of Psychologists adopts new §465.18, with changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1244).

The new rule is adopted to respond to requests from the profession concerning supervision requirements, to provide information to new licensees concerning appropriate supervision guidelines, and to insure that the public receives psychological services from qualified persons who are trained and supervised as psychologists.

The new rule will provide information for licensees who employ supervisees, for educators who are training psychologists, and for the public to know what psychological services are performed under supervision.

Several comments were received on the rule. A request was made to remove the phrase "in exempt agencies" since the board has no jurisdiction over exempt agencies; another request suggested revising the minimum of one hour per week of regularly scheduled one-to-one individual supervision to a ratio of hours-of-service provided to hours-of-supervision. Concern was expressed that the rule was too extensive; also, that the rule should not affect training institutions.

Speaking against the rule were members of the Nueces County Psychological Association and the Psychological Associates Division of the Texas Psychological Association.

The agency amended the rule to accommodate all requests except the minimum of one hour per week of regularly scheduled one-to-one individual supervision. The board determined that at least one hour per week be spent in a supervisory capacity with each person supervised. The referral, review of activities, and documentation of the supervision are the responsibility of the psychologist and require the time investment.

The new section is proposed under Texas Civil Statutes, Article 4512c, §8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§465.18. Supervision Standards.**

(a) General supervision guidelines.

(1) Purpose: to provide general guidelines by which psychologists conduct supervision of employees/supervisees.

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

(A) Psychologist/supervisor—A person licensed to practice psychology by the Texas State Board of Examiners of Psychologists.

(B) Supervisee—A person employed by a licensed psychologist to provide psychological services, e.g., certified psychologist or psychological associate, or psychological trainees, e.g., interns and practicum students.

(3) Qualifications of psychologist (supervisor). A supervising psychologist shall have adequate training, knowledge, and skill to render competently any psychological service which a supervisee undertakes. The psychologist shall not permit a supervisee to engage in any psychological practice which the psychologist cannot perform competently.

(4) Qualifications of supervisee. The supervisee must have the background, training, and experience that is appropriate to the functions performed. The psychologist is responsible for determining the adequacy of the supervisee's preparation for the tasks to be performed.

(5) Contract of employment of supervisee. The supervising psychologist must submit a written contract to the Texas State Board of Examiners of Psychologists which includes the following:

- (A) the name of the supervisee and the supervisor(s);
- (B) the nature of the services rendered;
- (C) the primary location and setting of the services rendered;
- (D) the qualifying academic training and/or experience of the supervisee;
- (E) date employment will begin;
- (F) the responsibilities of the supervisee;
- (G) a statement that:
  - (i) the supervisee will not advertise or state publicly that he/she is in independent practice;
  - (ii) the psychologist will maintain and display his/her license and the complaint sign in a conspicuous place in the principle office where the psychologist practices;
  - (iii) all clients shall be appropriate for the experience level of the supervisee. It is understood that abilities and experience change over time and will be evaluated on a case-to-case basis;
  - (iv) when the supervisory relationship has terminated, a notice shall be sent to the Texas State Board of Examiners of Psychologists;
  - (v) indicates the supervisor and the supervisee agree to adhere to Texas State Board of Examiners of Psychologists' rules and ethical principles; and
  - (vi) indicates the date of execution of the contract.

(6) Conditions of employment.

(A) The psychologist must be vested with administrative authority over matters affecting the provision of psychological services provided by supervisees so that the ultimate responsibility for the welfare of every client is maintained by the psychologist.

(B) Clients using the supervisee's services shall be informed as to the supervisee's status as defined in subsection 2(b) of this section.

(C) Titles of supervisees, when used, must clearly indicate their supervised status.

(7) Conduct of supervision.

(A) The supervisor shall establish and maintain a level of supervisory contact consistent with established professional standards and be fully accountable in the event that professional, ethical, or legal issues are raised.

(B) The number of supervisees working under the supervision of a psychologist shall be limited to a number which the psychologist can responsibly supervise.

(C) The psychologist/supervisor may not be in the employ of his or her supervisee

(D) It is recommended that all providers of psychological services maintain adequate professional liability insurance and that the supervisee be covered adequately under the policy.

(E) A record of the supervisee's work activities shall be maintained.

(F) All reports written by the supervisee shall be signed by the psychologist and the supervisee.

(b) Supervision guidelines for psychologist/supervisee in a private practice setting.

(1) Purpose. To provide specific guidelines by which psychologists conduct their supervision of employees/supervisees in a private practice setting.

(2) Contract requirements.

(A) A statement that all clients are evaluated by the psychologist/supervisor during the intake process. The intake/evaluation process must include two or more of the following: personal interview, observation of the client, review of test data and social history, and review of audio or video observations.

(B) A statement indicating that upon client termination the client files shall remain in the custody of the psychologist.

(C) A statement that the psychologist will provide a supervisee (full time or part time) with a minimum one hour per week of regularly scheduled one-to-one individual supervision. Clinical issues shall be the focus of supervision. The psychologist and/or the supervisee will decide when additional supervision is appropriate. Group supervision does not take the place of the minimum requirement of weekly one-to-one supervision hour.

(D) A statement that the psychologist would provide an alternate psychologist to provide supervision for the supervisees in cases where the primary supervisor is not available.

(E) A statement indicating that all written reports by the supervisee shall be on the psychologist's/agency's stationery with the psychologist's signature of approval.

(3) Conditions of employment.

(A) The psychologist shall have sufficient knowledge of all clients, including ongoing personal contact when necessary, in order to plan effective service delivery procedures. The progress of the work shall be monitored on a regular basis by the psychologist to ensure that legal and professional responsibility is assumed by the supervisor for all services rendered. Supervisors shall be available for emergency consultation and intervention.

(B) The supervisor and supervisee shall maintain the primary work setting in the same site. The supervisor's office will be the base of operations and location of client records. Exception to this can be made with the Texas State Board of Examiners of Psychologists when special circumstances warrant, as in some rural settings.

(C) Clients shall be informed of the possibility of periodic meetings with the psychologist.

(D) Monetary considerations include the following.

(i) Fee setting is the responsibility of the psychologist.

(ii) Billing for psychological services must indicate the name of the supervising psychologist.

(iii) Supervisee must receive a salary or hourly wage.

(iv) The supervisee must be paid for services rendered independent of the supervisor's billings or collections. The supervisee's salary cannot be based on a percentage of billings or collections.

(v) A supervisee cannot pay a portion of office rent, telephone expense, or other office or business expense.

(E) If a psychologist supervises more than three full-time equivalent supervisees, he or she must file a statement of clarification with the board for approval.

(F) Public announcements of services and fees and contact with the public or professional community shall be offered only by or in the name of the psychologist.

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 22, 1983.

TRD-834673

Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date: July 14, 1983

Proposal publication date: April 15, 1983

For further information, please call (512) 835-2036.



**22 TAC §465.19**

The Texas State Board of Examiners of Psychologists adopts new §465.19, with changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1247).

House Bill 247, passed by the 67th Legislature, required state agencies to address the criminal backgrounds of persons and rehabilitation guidelines for those former professionals who might want to re-enter the profession.

This new rule will provide information about the board's requirements for considering applications from persons with criminal backgrounds.



No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 4512c, §8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§465.19. Persons with Criminal Backgrounds.**

(a) The board may revoke or suspend an existing valid certificate or license, disqualify a person from receiving or renewing a certificate or license, or deny to a person the opportunity to be examined for a certificate or license because of a person's conviction of a felony if the offense directly relates to the performance of the activities of a psychologist or psychological associate and the conviction directly affects such person's present fitness to perform as a psychologist or psychological associate.

(b) No person currently serving a sentence in prison for a felony is eligible to obtain or renew his/her psychologist's certificate or license or a psychological associate's certificate.

(c) In determining whether a criminal conviction directly relates to the performance of a certified and/or licensed psychologist or a certified psychological associate, the board shall consider the factors listed in Texas Civil Statutes, Article 6252-13c(4)(b).

(d) Those crimes which the board considers as directly related to the performance of a certified and/or licensed psychologist or a certified psychological associate include but are not limited to:

- (1) any felony or misdemeanor of which fraud, dishonesty, or deceit is an essential element;
- (2) any criminal violation of the Psychologists' Certification and Licensing Act or other statutes regulating or pertaining to the profession of psychology;
- (3) any criminal violation of statutes regulating other professions in the healing arts, which includes, but is not limited to, medicine and nursing;
- (4) any crime involving moral turpitude;
- (5) murder;
- (6) burglary;
- (7) robbery;
- (8) rape;
- (9) theft;
- (10) child molesting;
- (11) substance abuse.

(e) In determining whether a criminal conviction directly affects a person's present activity, the board shall consider the factors listed in Texas Civil Statutes, Article 6252-13c(4)(c)(1)-(6).

(f) It shall be the responsibility of the applicant to secure and provide to the board the recommendations of the prosecution, law enforcement, and correctional authorities regarding all offenses.

(g) The applicant also shall furnish proof in such form as may be required by the board that he/she has maintained a record of steady employment and has supported his/her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may

have been ordered in all criminal cases in which he/she has been convicted.

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 22, 1983.

TRD-834674      Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date: July 14, 1983  
Proposal publication date: April 15, 1983  
For further information, please call (512) 835-2036.

**22 TAC §465.20**

The Texas State Board of Examiners of Psychologists adopts new §465.20, with changes to the proposed text published in the April 15, 1983, issue of the *Texas Register* (8 TexReg 1247).

House Bill 247, passed by the 67th Legislature, required state agencies to address the criminal backgrounds of persons and rehabilitation guidelines for those former professionals who might want to re-enter the profession.

This new rule will provide information about the board's requirements for considering applications from persons whose certificate and/or license has been revoked, canceled, or suspended.

No comments were received regarding adoption of the new section.

The new section is proposed under Texas Civil Statutes, Article 4512c, §8(a), which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules not inconsistent with the constitution and laws of this state which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

**§465.20. Rehabilitation Guidelines.**

(a) In the event of revocation, cancellation, or suspension of a certificate or license due to noncompliance with the rules of the board and/or its ethical principles, the psychologist or psychological associate can expect to receive from the board a plan of rehabilitation at the next regularly scheduled board meeting following the date of the order. The plan shall outline the steps the person must follow in order to be considered for recertification/relicensure or removal of suspension. Completion of the plan may lead to consideration of submission of an application for recertification and/or relicensure; removal of suspension; and removal of supervision requirements. In the event the psychologist or psychological associate has not met the board's criteria for rehabilitation, the plan may be revised, expanded, and/or continued depending upon the progress of the rehabilitation program.

(b) The board may follow one or more options in devising a rehabilitation plan.

(1) The individual may be supervised in all or selected areas of activities related to his/her practice as a

psychologist or psychological associate by a licensed psychologist approved by the board for a specified length of time.

(A) The board will specify the focus of the supervision.

(B) The board will specify the number of hours per week required in a face-to-face supervisory contract.

(C) The supervisor will provide periodic and timely reports to the board concerning the progress of the supervisee.

(D) Any fees for supervision time will be the responsibility of the supervisee.

(E) The supervisor is acting as a "friend" of the board. Judgments of the supervisor are to be made independently and without reference to board opinions.

(2) The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate education formats may include, but are not limited to, workshops, seminars, courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars which are not held in a setting of academic review (approved Continuing Education) need prior approval of the board. Any course of study must be approved by the board prior to enrollment if it is to meet the criteria of a rehabilitation plan.

(3) The board may require of the individual:

(A) psychodiagnostic evaluations by a psychologist acceptable to the board and the individual; and

(B) psychotherapy on a regular, continuing basis from a psychologist or other professional acceptable to the board and the individual.

(4) The board may require the individual to:

(A) take or retake the generic licensing examination currently provided by the American Association of State Psychology Boards; and

(B) take or retake the jurisprudence examination.

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 22, 1983.

TRD-834675      Patti Bizzell  
Executive Director  
Texas State Board of Examiners  
of Psychologists

Effective date: July 14, 1983  
Proposal publication date: April 15, 1983  
For further information, please call (512) 835-2036.



## TITLE 25. HEALTH SERVICES Part I. Texas Department of Health

### Chapter 289. Occupational Health and Radiation Control Control of Radiation

#### 25 TAC §289.1

The Texas Department of Health adopts amendments to §289.1, without changes to the proposed text published in the April 29, 1983, issue of the *Texas Register* (8 TexReg 1400). Changes have been made, however, to the content of the material adopted by reference as stated in the following paragraphs.

The amendments are the addition to the Texas Regulations for Control of Radiation of Part 13, and amendments to Parts 36, 43, and 44.

Part 13, titled "Hearing and Enforcement Procedures," consolidates current agency rules and procedures for hearing requests and operations. It also sets forth clearly in rules the agency's policy for enforcing rules pertaining to the control of radiation. Parts 43 and 44 are amended to delete §§43.100, 43.105, 44.100, 44.102, and 44.103 because they are now contained in Part 13.

Part 36, titled "Radiation Safety Requirements for Wireline Service Operations and Subsurface Tracer Studies," changes the pressure testing requirement to meet current federal guidelines. The amendments will allow a slight difference from the original rule in pressure testing criteria. It will also help ensure that testing of the radioactive sources is performed only by persons qualified to do so.

Part 13 will govern the conduct of administrative proceedings for granting, denying, renewing, transferring, amending, suspending, revoking, or annulling any license, and for determining compliance with or granting of exemptions from agency rules or orders.

Section 36.108 addresses design and performance criteria for sealed radioactive sources used in downhole operations. The rule amendment changes the pressure testing requirement and sets specifications for persons who may certify source criteria. The amendment will require all sealed radioactive sources acquired after June 30, 1982, which are used in downhole operations to meet current federal guidelines for pressure testing.

A public hearing on Part 13 was held on May 10, 1983. No written or oral comments were received on the proposed rule. Review of the proposed new Part 13 by Texas Department of Health staff revealed several clarification and format changes necessary for the new Part 13 to remain consistent with the existing parts of the Texas Regulations for Control of Radiation. These minor changes were incorporated into the new part.

The agency received oral comments at the public hearing and also received written comments on Part 36 only. One commentor was for the amendment as pro-

posed and seven commentors were against the amendment as proposed. The seven commentors against the amendment all opposed the requirement for sealed radioactive sources used in downhole operations put into use before June 30, 1982, to meet the new federal testing criteria guidelines. They expressed concern that the cost to wireline companies of transporting and testing the older sources was excessive and unnecessary due to the excellent safety record of those sources currently in use. The seven commentors also felt that current leak testing requirements are adequate to demonstrate the integrity of sources manufactured prior to June 30, 1982.

The agency staff analysis of comments concurred with the seven commentors, and the proposed amendment has been changed to remove the pressure testing requirement for sources used in downhole operations acquired prior to June 30, 1982. However, all sealed sources acquired after June 30, 1982, must meet current federal guidelines for pressure testing. The change to the proposed amendment results in less change to the existing Texas Regulations for Control of Radiation.

Commenting in favor of changes to Part 36 was Geoscience Associates, Inc.; commenting against were Bell Petroleum Surveys, Dresser Atlas, Gearhart Industries, Inc., N. L. McCullough, Dia-Log Company, CRC Wireline, Inc., and Geosource Wireline Services.

The amendments are adopted under Texas Civil Statutes, Article 4590f, §4(d)(3), which provide the department with the authority to adopt rules relating to control and transport of sources of radiation in the State of Texas.

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 24, 1983.

TRD-834752      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date: July 15, 1983

Proposal publication date: April 29, 1983

For further information, please call (512) 835-7000.

## **Chapter 325. Solid Waste Management**

A notice appeared in the June 28, 1983, issue of the *Texas Register* indicating that the following adoptions submitted by the Texas Department of Health would be serialized beginning in this issue. The effective date for the documents is July 12, 1983.

Subchapter E. Permit Procedures and Design Criteria  
Permits  
25 TAC §§325.51-325.62  
(new rules)

Application and Data Requirements  
25 TAC §§325.71, 325.73, 325.75  
(new rules)

Application Review Process  
25 TAC §325.91  
(new rule)

Subchapter F. Operational Standards for Solid Waste Land Disposal Sites  
General  
25 TAC §§325.111, 325.113  
(new rules)

Standards for Protection of Ground and Surface Waters  
25 TAC §§325.121, 325.124  
(new rules)

Other Operational Standards for Types I, II, III, and IV Sites  
25 TAC §§325.131, 325.154  
(new rules)

Subchapter G. Operational Standards for Solid Waste Processing, Experimental, and Land Application Sites  
General  
25 TAC §§325.171, 325.173  
(new rules)

Operational Standards for Type V and VI Sites  
25 TAC §325.190  
(new rule)

Subchapter H. Surveillance and Enforcement  
25 TAC §325.221, §325.222  
(new rules)

Subchapter L. Hazardous Waste Management  
General  
25 TAC §325.271, §325.272  
(amendments)

Generators  
25 TAC §§325.293, 325.295, 325.299  
(amendments)

Facility Owners and Operators  
25 TAC §§325.332, 325.339, 325.349, 325.350  
(amendments)

Subchapter X. Forms and Documents  
25 TAC §§325.901, 325.902, 325.905, 325.906  
(new rules)

The Texas Department of Health adopts amendments to §§325.2, 325.5, 325.32, 325.34, 325.42, 325.92, 325.93, 325.95, and 325.181, with changes, and amendments to §§325.1, 325.3, 325.4, 325.6, 325.7, 325.21, 325.24, 325.31, 325.72, 325.94, 325.183, 325.271-325.274, 325.295, 325.299, 325.332, 325.335, 325.336, and 325.340, without changes to the proposed text published in the February 25, 1983, and March 1, 1983, issues of the *Texas Register* (8 TexReg 630 and 8 TexReg 694).

In addition, the Texas Department of Health adopts new §§325.52, 325.55, 325.56, 325.74, 325.75, 325.113, 325.121-325.124, 325.136, 325.137, 325.150, 325.152, 325.173, 325.190, and 325.901, with changes, and new §§325.51, 325.53, 325.54, 325.57-325.62, 325.71, 325.73, 325.91, 325.111, 325.112, 325.131-325.135, 325.138-325.149, 325.151, 325.153, 325.154, 325.171,

325.172, 325.221, 325.222, 325.902, 325.905, and 325.906, without changes to the proposed text published in the February 25, 1983, and March 1, 1983, issues of the *Texas Register* (8 TexReg 630 and 8 TexReg 694).

Finally, the Texas Department of Health adopts the repeal of §§325.51-325.60, 325.71, 325.73, 325.75, 325.91, 325.111, 325.121-325.136, 325.151-325.161, 325.171, 325.221, 325.222, 325.361-325.365, 325.901, 325.902, and 325.905-325.913, without changes to the proposed text published in the February 25, 1983, and March 1, 1983, issues of the *Texas Register* (8 TexReg 630 and 8 TexReg 694)

The text of the rules adopted without changes will not be republished

The adoption of these amendments, repeals, and new rules will strengthen the department's regulation of municipal solid waste by updating the rules to conform to current departmental policy. The revisions also incorporate amendments made to the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, by the 67th Texas Legislature and recent minor revisions to the U.S. Environmental Protection Agency rules regarding hazardous waste.

The adoption of these revisions will clarify which types of municipal solid waste facilities or activities must be permitted and update facility design standards to incorporate state-of-the-art technology. Through these rules, the department will offer the opportunity for a public hearing on a permit application (rather than requiring one be held) and the opportunity for a separate land use public hearing. The revisions will also apply to the Bureau of Solid Waste Management's responsibilities in the permit application review process and to facility operational standards applied to municipal solid waste land disposal, processing, experimental, and land application sites. In addition, minor changes have been made to the department's hazardous waste rules basically to satisfy the state's commitment to enforce rules substantially equivalent to federal hazardous waste rules.

The following is a summary of comments and the reasons the department agrees or disagrees with the comments. None of the changes are major or substantial.

A few commentors questioned the negative fiscal implication statement prefacing the proposed rules and expressed that the proposed revisions would result in an expense to local governments. The department staff has reassessed the rules contained herein in light of comments received. Although there would not be across-the-board fiscal implications, some permit applicants could possibly incur up to \$5,000 in additional costs to develop a permit application, and some site operators may incur costs up to \$1,000 per year to comply with the operational standards. It should be noted, however, that items involving high costs are generally identified during the site investigation and evaluation phase on a site-specific basis and necessary

site development and operational requirements imposed as a permit requirement. These rules will now specify "up-front" what must be specifically considered and performed when applicable.

Concerning §325.5, it was suggested that the definition of "citizen's collection station" reference the fact that a permit is not required for such facilities. In addition, comment was received suggesting the definitions of "solid waste site" and "solid waste facility" create a loophole allowing an operator to "open the valve" on a plot of land registered with the department under §325.52. It was also suggested the definitions of "sludge" and "solid waste" be amended to clearly delineate content, with operators, haulers, etc., held liable for variances. The department intends for §325.5 to be devoted solely to defining terms and abbreviations with operational and regulatory requirements discussed in other pertinent sections. Identifying a facility as being exempt from permit requirements may give the impression that there are no operational standards or requirements for that facility. In addition, the department does not foresee any loopholes between the definitions of "solid waste site" and "solid waste facility" with respect to registration. Each individual site or facility will require its own registration or permit, as appropriate. Concerning the definitions of "sludge" and "solid waste," these terms are defined in the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, and the department does not intend to deviate from state law.

Concerning subparagraph (D) in §325.5's definition of "special waste," the department was encouraged to clarify whether reference to water supply and treatment plant sludges means municipal sludges only, or whether sludges from industrial pretreatment or water purification systems are also included. The department is altering this definition to delete water supply treatment plant sludges from the special waste category. Water supply treatment plant sludges do not normally contain constituents which should be controlled as a special waste. Also, the change clarifies that only stabilized municipal wastewater treatment plant sludges are to be excluded from the special waste category.

Concerning §325.32, the department was requested to include the statement that waste haulers and operators of solid waste facilities must comply with applicable local ordinances or regulations if these are not contradictory to state regulations. The department does not consider it appropriate to specify in these rules that operators must comply with local ordinances. This would place the department in a position of having to enforce local ordinances without knowing or concurring in the content of the ordinances. The local government should have no problems in regulating haulers or operators within its jurisdiction by establishing its own licensing requirements.

Concerning §325.32(b), several commentors expressed various concerns and objections to the amendment. The department was requested to clarify

what types of records or information the department will require and the length of time these should be maintained. In addition, one commentor asked the department to ensure that landfill operators will not be burdened with verifying disposal locations for private haulers. Another felt that haulers employed by the same entity which owns and operates the disposal facility should not be required to maintain records. Another suggested the department has no grounds to intrude on solid waste collection by local governments. The department agrees that a period of time should be specified for retaining records, and is therefore amending §325.32(b) to specify a one-year period of time. It is also providing clarification as to what types of records and procedures will be required. The department disagrees that haulers employed by the same entity which owns and operates a disposal facility should not be required to maintain records. The purpose of this rule is to assure that wastes are not illegally dumped, and owning a disposal facility is not such assurance. The department disagrees that it has no grounds to intrude on solid waste collection by local governments since such authority is assigned to it by the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7.

Concerning §325.34(b), some commentors questioned what they felt was overly broad and vague wording. Problems were pointed out involving the number of different collection firms that could operate over a given route to a disposal site, the possibility that the phrase "along the route to the disposal site" could be interpreted to mean every city street, and the difficulty in determining which spillage along a route can be attributed to collection vehicles. One person suggested mandatory tarping be included with a description of how the tarp must fit a given waste container. Another suggested additional enforcement be provided at sites or an investigation team formed to determine the areas of direct influence to the site. The department generally agrees with the comments, and the proposed rules are modified to more clearly identify the responsibility of transporters to prevent unauthorized discharge of waste and to require the transporter to clean up any such discharge.

Concerning §325.42(4), one person remarked that a brush pit must comply with all the general requirements of landfills in §§325.111-325.113, while §325.52 does not exempt this limited use. It was suggested these rules would scare individuals who allow their gravel pits to be used and controlled by cities. The department disagrees that brush pits should be exempted from these rules due to the decompositional nature of the brush itself and the additional materials which are also deposited in these brush pits. It appears that the commentor is unaware this requirement has been in effect for several years. The only change made was in renumbering the pertinent subsections.

Concerning the permit exemption for beneficial use of sludge by land application found in §325.52, the department received comments pointing out that commercial and industrial sludge could be involved in addition to municipal sludge. In addition, one feared that

hazardous waste from small-quantity generators could become involved and exempted. Some felt that the disposal of such a wide variety of residuals could not be safely allowed without a full permit proceeding. One organization stated "registration only" is undesirable in major urban areas. Another group expressed concern that the absence of permit requirements will encourage the opening of more sludge disposal sites and overtax the ability of regulatory agencies to keep these under surveillance. It was also pointed out that there is no guideline as to what is "beneficial use of the land." The lack of registration criteria was mentioned as preventing the department from exercising the ability to approve or disapprove a site. Specifically, one person objected to the possible use of flood-prone land or land within the watershed of a drinking water supply for land application of sludge. Two persons objected to the exemption of any land application site. Although opposed to its exemption, another thought that any exemption should be limited to sludges from municipal sewage treatment plants, applying rules similar to those found in §325.136 on disposal of special waste. It was also suggested that the provisions of this section be limited to sludge from domestic sewage and/or conventional water treatment processes, with all other sludges evaluated on a case-by-case basis. It was also suggested that the physical and chemical characteristics of these sludges be closely monitored before application. The department is modifying subsection (a) to specifically limit the exemption to beneficial use of municipal wastewater treatment plant sludges. It is believed that adequate provisions are contained in other regulations in this chapter to prohibit the disposal of hazardous wastes under this section. The department is also developing more definitive regulations controlling the use and disposal of sludges and related wastes and will propose these at a later date.

Concerning §325.52, the comment was made that facilities handling grease trap waste and other similar materials should not be exempted from the requirement for permits, at least in urban areas or urban counties. The requirements for grease trap waste handling facilities are under consideration and will be addressed in rules to be proposed in the near future.

In regard to the permit exemption for on-site pathological incinerators in §325.52(d), one person regarded this as overly restrictive since the incineration of small quantities of hazardous waste is not included in the exemption. It was pointed out that these types of operations are already regulated under the rules of the Texas Air Control Board and, in some cases, municipal government, and could be exempted from permit requirements by the department. On the other hand, another person opposed the exemption proposed in subsection (d) because hazardous waste could be present in the waste materials. The exemption of on-site pathological incinerators is intended to apply only when infectious or pathological wastes are incinerated. Some of these incinerators are exempt from permit requirements by the Texas Air Control Board. The incineration of hazardous wastes in any

amount will require that the incinerator be permitted in order to comply with federal requirements.

Concerning §325.56(a), comment was received that land use is a local responsibility and should not be grounds upon which the state could revoke or cause an existing permit to be modified (i.e., a zoning change). Further explanation and qualification as to the circumstances under which land use considerations can be a legitimate reason for revoking or amending a permit were requested. This is not a new provision. The Solid Waste Disposal Act, since 1969, has provided that a permit may be revoked or amended for reasons of land use. Accordingly, this provision has been included in all editions of the department's rules promulgated under that statute. At this time, the department does not envision any situation that would require permit revocation or amendment for land use except for the case where a city or county having obtained a permit for a large site subsequently requests to withdraw a portion of the permitted area for other uses.

Concerning §325.56(b)(1), it was recommended this section be modified to require a permit amendment only for changes in the boundaries of the disposal area. Other changes should be reviewed by the bureau, which could require a permit amendment under §325.56(b)(7) if it determines these proposed changes are significant. The changes listed as requiring permit amendments are those which the department considers sufficiently significant to require coordination with other agencies or opportunity for public input before approval. Identification of these specific items in the rules will provide site operators with fixed guidance for planning future sites.

Concerning §325.56(b)(2), one person stated, "10 feet above a valley or hill/knoll is not acceptable in good design and is not practical or compatible with the proposed 2.0% minimum/6.0% maximum final gradient. On a flat-type terrain, six feet per 100 linear feet would be of limited distance, and even the two feet per 100 linear feet minimum would restrict the aerial volume. The 10 feet/20% criteria is strictly arbitrary and does not relate to health or good engineering. The 4:1 maximum slope, 2.0% minimum and 6.0% maximum gradient are sufficient to apply to all designs." Another suggested the phrase "or 10 feet" is unnecessarily restrictive and should be removed from the criteria determining what changes in height will require a permit amendment. It was recommended the bureau determine when proposed height changes are significant and require a permit amendment under §325.56(b)(7). The 10 feet/20% criteria is not intended to relate to health or engineering, but only to establish a fixed criteria to be known by all persons affected. Heretofore, each request for increase in height resulted in an arbitrary decision without any published criteria or guidance. The proposed rule has been reworded for clarification and the "10 feet or 20%, whichever is less" has been changed to read "whichever is greater" as being more appropriate.

Concerning §325.56(b)(7), the department received objection to this broad statement as an "others" category. The proposed rules are designed to give the department a means to require a permit amendment under unforeseen conditions where the facility may pose a potential health or environmental hazard under existing permit provisions. The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(a)(8), provides authority for the department to revoke or amend any permit it issues for reasons pertaining to public health, air or water pollution, etc. The department is, however, modifying the proposed rules to remove the phrase "in the opinion of the department."

Concerning §325.57, concern was expressed that it would be virtually impossible to prohibit someone from causing damage to a land disposal cell or liner after closure. It was suggested this post-closure responsibility would also mean replanting and would be a financial burden. The department's purpose in requiring the filing of an affidavit to the public (§325.152(c)) is to minimize such occurrences. With respect to the financial burden for post-closure maintenance, the close monitoring and prompt repair of damages during the period of site stabilization will minimize or eliminate a much larger burden at a future date. Proper site development and closure should preclude major maintenance problems.

Concerning §325.62, one person opposed this on the grounds that land use is a local matter and should not be an issue the department could raise on its own motion as the subject of a public hearing. Another group feared this proposal could possibly result in eliminating or at least diminishing public participation. It was suggested that the public be allowed to request a public hearing and participate in the permitting process. Also, it was suggested this separation of the hearing process implies nontechnical issues will not be allowed in the permit hearing, thus eliminating the general public. An equal number of those who commented were in favor of this proposal. It is not the department's intent to preclude the public from requesting a land use public hearing. To the contrary, the department's motion to hold such a hearing will usually be based on requests from the public or on information received prior to the receipt of an application that a question of land use may exist. It should be noted that the public will always have an opportunity for a public hearing. However, the intent here is to allow a permit applicant the opportunity of obtaining a land use determination before proceeding with the expenditure of considerable time and money to develop a complete application. Under the present system, an applicant could spend more than \$100,000 and more than a year before allowed a public hearing which could result in permit denial on the basis of incompatible land use. If the land use is affirmed at the first hearing, the second hearing will provide an opportunity for all interested persons to participate in technical or the other nontechnical issues.

Concerning §325.71, a comment was received that small governmental entities with a population equivalent less than 25,000 should be required to submit

only the technical data deemed appropriate by the permit applicant's engineer. The department should be required to obtain any additional data it desires. The department's staff currently spends considerable time providing technical assistance and guidance to design engineers because occasionally this has happened and the applicant is penalized because of the delays incurred. Depending on the department to acquire the data the design engineer cannot provide will extend the permitting process.

Concerning §325.74, the department received the comment that it is unwarranted and not cost effective for the department to require the same technical data, report, and construction for a small landfill as for a large landfill. The department disagrees. A landfill, whether large or small, is an engineering project which must provide for protection of ground and surface waters, public health, and the environment. Providing this protection is accomplished through proper operation resulting from proper construction and development based on a sound design. The design must be based on valid and sufficient data, properly interpreted and utilized. A properly planned project can certainly be cost effective because it can take maximum advantage of all available space and resources and minimize future operational and maintenance problems.

Concerning §325.74, it was argued that the state should address itself only to technical issues and leave land use to the appropriate local governing body. The department has included land use data as part of the application requirements so that it may have a basis for making a land use determination. The Solid Waste Disposal Act gives the department authority to issue or deny a permit, and the department believes land use should be one of the considerations in that decision. The department agrees that local governments should provide input to the land use determination, but regrettably this does not occur very often.

Concerning §325.74(b)(5)(A)(iii), the department received the comment that it has misinterpreted the federal sanitary landfill criteria by prohibiting landfills within prescribed critical distances of airports rather than requiring operators to demonstrate that disposal operations do not create a bird hazard to aircraft. The department does not believe it has misinterpreted the federal criteria. Although landfills receiving putrescible wastes are prohibited in close proximity to airports, under the variance provisions of the rules a permit may be obtained if the applicant can provide assurance that the operation will not create a bird hazard to aircraft. Such a permit, however, would contain a special provision requiring monitoring of bird activity at the landfill that could affect air traffic.

Concerning §325.74(b)(5)(A)(iii), one person regarded the minimum separating distance of 50 feet between the disposal operation and adjacent property line as excessive. It was suggested that the function this separating distance is to serve be defined instead and the design engineer allowed to design for this function. The requirement is that a buffer of 50 feet

shall normally be maintained between the excavations and the property line. This is to allow space for possible sloughing of sidewalls of deep excavations (adjacent property owners have complained in the past of fences left in the air because trench walls had sloughed off), monitor wells, drainage ditches, access roads for fire or emergency vehicles, methane monitoring, and screening if necessary. A lesser distance is acceptable, if justified.

Concerning §325.74(b)(5)(B), the department received widely varying comments. One suggested the deletion of clauses (i) and (iii) and their replacement with wording that would allow the design engineer to review the adequacy of access roads and determine what modifications or improvements are needed and to determine the design, type, and construction of all-weather access areas. Another regarded the requirement in clause (i) of data to substantiate the adequacy of public access roadways as unnecessary information as long as roadways are public and a vehicle does not exceed state posted weight limits. County government organizations and a citizen group opposed the wording in this subparagraph which would delete the requirement that the department receive written confirmation from counties on the safety and adequacy of county-maintained access roads for the permit application. The department considers that the data listed continues to be necessary. It has been a requirement in the past because the adequacy and safety of access roads are frequently some of the major issues in public hearings. The previous requirement for an applicant to obtain written confirmation that access roads are adequate from the county or city having maintenance jurisdiction was deleted from this section because not only was it impossible to obtain such confirmation if roads were inadequate, but it was felt the department should more appropriately obtain a statement from the city or county concerning the adequacy and what improvements, and at whose expense, would be necessary before the roads could be used to serve the proposed site. Such coordination has worked very effectively with the State Department of Highways and Public Transportation. Special provisions are included in the permit requiring accomplishment of necessary improvements in accordance with a specific design or specification as required by the appropriate agency prior to opening the proposed site for operation. The request for comments to the city or county would be made at the time the application is submitted to all review agencies for comment as provided for in §325.92(a).

Concerning §325.74(b)(5)(C)(vii), the comment was made that it should not be necessary to import clayey or top soil if solid waste has been thoroughly compacted, a conforming final gradient constructed, and good cover vegetation effected. It was suggested that five years of post-closure monitoring would be sufficient. The department believes that a clayey material, as was also acknowledged by other commentors, is necessary to prevent or substantially minimize the percolation of moisture into the waste cells. If a cover of vegetation is to be achieved and sustained, at least

six inches of top soil is considered necessary, and some design engineers have suggested eight inches of top soil as a minimum.

Concerning §325.74(b)(5)(D)(iii), the requirement to protect perched water was regarded as excessive since these waters are often nonpotable. The department disagrees because perched water wells are used in many areas for small volume water supply on single-family farms and for livestock water supply. In addition, if the landfill has leachate escaping from the site, the leachate may, in time, pose a threat to existing aquifers which may serve as major sources of drinking water. Finally, any discharge into any "waters of the state" without a discharge permit from the Texas Department of Water Resources is a violation of the Texas Water Quality Act

Concerning §325.74(b)(5)(D)(ii) and (b)(5)(D)(iii)(IV), one company suggested the deletion of firm criteria for liquid limit, plasticity index, and percent passing No. 200 sieve on the grounds that the establishment of general guidelines for these parameters would be more appropriate. Criteria or boundaries established for liquid limit, plasticity index, and percent passing No. 200 sieve are to be considered as a conformation of the coefficient of permeability test. It is established with boundary limits to eliminate any unnecessary laboratory testing of permeability values on soils which will obviously "pass or fail" the coefficient of permeability requirements as established in the rules.

Concerning §325.74(b)(5)(D)(iii)(i), the comment was made that the department is not allowing flexibility to use different soil and compaction to achieve permeability by forcing designers to express the percentage of compaction in the Soil and Liner Quality Control Plan. The Soil and Liner Quality Control Plan (SLQCP) establishes minimum standards of quality of construction. The percentage of compaction as established by a percentage of "Standard Proctor" should be relatively easy to obtain for the Proctor test is based on compaction equipment available in the early 1930s when compaction equipment was relatively lightweight. The type of soil is not limited by the SLQCP other than the limits established for plasticity index and coefficient of permeability required by the rules. It appears that the originator of this question mistakenly believes that the soil chosen as liner material is established as an exclusive sole source of material in the SLQCP.

Concerning §325.74(b)(5)(D)(iii)(IV), the suggestion was made to amend the sentence at the end of the subclause for clarification. The sentence now would read, "In no case shall the thickness of the soil liner or barrier be less than three feet when groundwater is encountered at or within three feet of the bottom of the excavations, or if excavations extend below the seasonal highwater table." The department agrees and this suggestion was adopted.

Concerning §325.74(b)(5)(D)(vi), the comment was received that too many other individual factors are involved in calculating percolation in a landfill to single

out percolation of precipitation. The comment is valid and, as is noted in the clause, those other factors which must be considered are listed. The water balance is intended as a tool for subsurface analysis when outside sources of moisture other than precipitation are not available at a given location. Such outside sources may be a seasonably high groundwater table, migration of ground and surface water from an off-site reservoir or pond, groundwater hydrologically connected to the flow of a nearby water course, etc. When these outside sources are noted to exist, the water balance should not be used. Further elaboration is provided in the response to the following comment.

Concerning §325.74(b)(5)(D)(vi), it was suggested the rules provide that a water balance calculation shall be made by the state upon request of the applicant, and if the balance shows no expected percolation, then lining or monitoring wells will not be required. As indicated in the clause, water balance is just one of the factors used by the department to determine if lining or groundwater monitoring is required for a specific site. Data which also must be considered include depth of groundwater, distance to stock ponds, sewage treatment lagoons, streams, or floodplains, and other conditions that may cause intrusion of surface or subsurface water into disposal excavations. A phrase has been added to the first sentence of the clause to emphasize the relationship.

Concerning §325.74(b)(5)(D)(vii), it was suggested that the small landfills serving a population of 25,000 or less should be exempted from the requirements of this clause. The potential for contamination of groundwater is not necessarily related to population served. Where geologic and hydrologic conditions warrant, the department has authority under these rules to waive all or part of the monitoring requirements. The operator of a small population site located in a sensitive aquifer recharge area will be expected to monitor his landfill closely to prevent possible contamination or additional contamination of a potential water source. The department is aware of the possible financial burden to some operators imposed by these rules and has attempted to provide additional time to spread costs where possible. It should be noted that cleaning up a contaminated water source would be far more expensive than preventing the contamination.

Concerning groundwater monitor well requirements found in §325.74(b)(5)(D)(vii), the department was asked to consider the following additions to add or reference detailed monitor well construction requirements and detailed sampling procedures for samples obtained from monitor wells, to revise the rules to reflect that samples collected for obtaining background water quality values should be collected at intervals no closer than 60 days with routine annual indicator samples collected at intervals no closer than 180 days; the number of parameters used to establish background quality should be reduced to those essential in determining deterioration of groundwater quality caused from landfill leachate by deleting, as a minimum, the parameters for barium, calcium, magnesium, sodium, carbonate, bicarbonate, phenol-



phthalate alkalinity as  $\text{CaCO}_3$ , and hardness as  $\text{CaCO}_3$ , based on proven stability in the quality of undisturbed groundwater as a general rule, the number of samples required and the lead time for background water quality determination should be reduced to half that proposed. The requirement to perform analyses on the nonheavy metal background parameters every three years should be deleted unless evidence of deterioration is confirmed through the annual tests; and it is imperative that some definite guidelines are established with regard to the time frame of departmental decisions regarding groundwater monitor wells, and it is recommended the rules establish a maximum 60-day response time by the department regarding all operational procedure requirements where an option or waiver is presented. Regarding the first suggestion, the department intends to publish a guidance document with respect to well construction and sampling procedures. If these requirements are included in the regulations, the department will not be able to respond to new technological developments, new sampling protocol, or unusual situations. The department agrees in principle with the second suggestion and has revised the proposed rules accordingly. Parameters listed in the proposed rules were selected for specific reasons. Barium was selected because it is a primary drinking water standard and is known to be a constituent of some wastes in municipal landfills. The remaining parameters mentioned were included to provide the department with the data necessary to perform consistency calculations on the data submitted. With respect to the requirement of four samples (one per quarter), the department has determined that four samples are needed to establish the background levels of the parameters in accordance with accepted practice. The quarterly periods to be used are January-March, April-June, July-September, and October-December. One sample is to be taken from each of these three-month blocks during the first 24 months. The department's intention is that at least one of the samples shall be taken prior to any deposition of waste. The remaining three samples may be taken after disposal operations have begun, but the background samples must be completed before the passage of seven three-month periods. The 24-month period was chosen to allow municipal operators a long period of time over which to spread the initial sampling costs. The department believes many people misunderstood the intent of § 325.74(b)(5)(D)(vii)(IV) and is clarifying the wording of this subclause. No reasons were submitted in support of this comment. A periodic review of the basic water quality parameters is necessary to ensure protection of the waters in the state. This group of parameters was selected as the least costly yet necessary to accomplish the purpose. This set of parameters will also allow the department to examine consistency of the data. It is expected that by being more specific in the rules concerning the type of data required for evaluation and with publication of a supporting technical guide to provide guidance in accomplishing the requirements, both the applicant and the department will

be able to more quickly accomplish their respective parts in establishing monitor well requirements.

Concerning § 325.74(b)(5)(D)(vii)(I), it was feared the wording here would discourage the conversion of test holes to monitor wells. The department intends for monitor wells to be installed where they will function for the life of the site. Some test holes would not be suitable for use as monitor wells because of the projected site development plan. In the past, test holes have been converted to monitor wells before groundwater gradient was determined, resulting in improper locations, and have frequently been dug at incorrect depths. This is an unnecessary and added expense to the permit applicant when the department must later direct other locations.

Concerning § 325.74(b)(5)(D)(vii)(II), the true value and reliability of earth electrical resistivity surveys in lieu of or as a supplement to monitor wells was questioned. Electrical resistivity measurements, when properly carried out, can give a significant indication of subsurface water migration and/or leachate plume formation. Monitor wells will sample subsurface water in specific locations but could miss significant leachate plumes. The department has found that electrical resistivity surveys provide the fastest and most economical means of identifying leachate plumes.

Concerning § 325.74(b)(5)(D)(vii)(VIII) on groundwater monitoring, it was suggested the subclause be changed to read "If any significant changes in parameter levels are found and verified, the department shall order additional sampling and analysis to determine if contaminated leachate is entering groundwater. If it is determined that the landfill is the source of the contamination, the landfill then shall cease operation until corrective action is complete." The suggested change has been adopted in part; however, the department will either prescribe or approve plans for remedial action in case of contamination. The department does not believe cessation of operation is necessary unless there is a deliberate refusal to institute corrective action. In many areas, cessation of municipal landfill activity could create serious public health problems because of the lack of any supervised disposal locations.

Concerning § 325.74(b)(5)(F)(II), it was suggested that in the definition of "point source" the phrase "may be discharged" is vague enough to require any stormwater discharge point to be identified as requiring an NPDES permit. The definition of point source is taken directly from the Texas Water Quality Act (Texas Civil Statutes, Water Code, § 26.001(21)). The department believes that its rules should comply with the intent of the Legislature as expressed in this Act.

Concerning § 325.74(b)(5)(F)(IV), a comment was made that the phrase "percolating or otherwise" would cause the definition of "water in the state" to include any soil within the state which can or may provide a potential passageway for water, even downward into the lower stratum, and would have the effect of technically including almost all the earth as "water in the state." This interpretation appears to

be correct and was the apparent intent of the Legislature. This definition is taken directly from the Texas Water Quality Act (Texas Civil Statutes, Water Code, §26.001(5)). The department does not have authority to authorize or allow any discharge into "waters in the state." The rules are written to reflect this situation.

Concerning §325.74(b)(5)(F)(i)(V), it was suggested there is a degree of ambiguity in declaring waters of the United States to include mudflats, sandflats, and wetlands followed by the admonition that their destruction could affect interstate or foreign commerce, recreation, and navigation. The definition of "waters in the United States" is taken directly from the federal Clean Water Act.

Concerning §325.74(b)(5)(F)(iii), it was suggested that if drainage calculations are deemed necessary by the state, they should be provided by the state. The department has a responsibility to ensure through, among other things, protection of ground and surface waters that the environment and health of the people of the state are not endangered. In complying with its mandate, the department should not allow the establishment of a solid waste facility that does not provide that protection. Accordingly, a permit applicant desiring to establish such a facility must assure the department that the facility design provides the required protection. The department considers that inasmuch as the applicant will be liable for correcting any erosion and contamination problems as a result of poor design, the engineer entrusted to provide a proper design is responsible for protecting his client's interest and should at least perform all of the calculations established by these rules as the minimum required.

Concerning §325.74(b)(5)(F)(v), one person disagreed with the requirement that owners of a site protect it against flooding caused by a man-made structure not completed as designed and not owned or controlled by the disposal site owner. It was suggested that the entity responsible for the control of such floodwaters be held accountable. The requirement for protection from flooding by a 100-year frequency flood is a federal requirement and does not take into consideration what influences the flood elevation. It appears that this situation is a matter for legal action between the parties concerned.

Concerning §325.74(b)(5)(G) on protection of endangered species, it was suggested that the department delete this subparagraph and place the burden on the state to show the extent of endangerment and recommend a solution if it deems these species are affected by a proposed landfill. The protection of endangered species is a federal requirement which also defines what actions constitute endangerment. It is the department's position that the burden of proof is on the permit applicant. To provide such assurance, it may be necessary to employ a qualified biologist to make a proper assessment in the same manner as the employment of a geologist, engineer, or other specialist for their expertise in specific areas.

Concerning §325.74(b)(5)(H) on control of methane, it was recommended the department leave the decision on whether or not to design for control of methane up to the design engineer or provide more specific guidelines under which methane generation and migration must be considered, since based on this person's experience, methane migration and accumulation to dangerous levels is not a potential problem under typical subsurface conditions in East Texas. Also concerning that same paragraph, another person recommended exempting permit applicants for small landfills from this requirement. The rule allows the design engineer to make that determination; but if control measures are not provided, he must justify his reasons. A technical guide on methane generation and control has been developed and will be available. Landfills serving a population equivalent of 5,000 persons or less are exempt from designing for methane control.

Concerning §325.74(b)(5)(I), it was pointed out that the rules do not mention plugging bore holes, and it was suggested the department might incorporate the plugging standard for mine test holes used by the Railroad Commission of Texas. Also concerning the same paragraph, it was recommended the applicant's design engineer should be the person to determine the number of borings needed based upon uniformity of site soil and conditions. The department agrees that all test borings, if not used for piezometers or monitor wells, should be plugged properly, and this requirement has been included. The test boring schedule in the rules is provided to ensure that a minimum amount of subsurface data is acquired for the department's evaluation. The design engineer may make additional borings if considered necessary.

Concerning §325.74(b)(5)(I)(v), it was suggested the list of acceptable experts in this clause should include a professional engineer with experience in geology or soils as in subsection (b)(5)(I)(v). It should be noted that a registered professional engineer with experience in geotechnical engineering is required for the purpose stated in the clause, whereas a geologist without any specific degree of experience may also accomplish the stated requirement. Lesser qualifications for the geologist in this clause are required because the function here is only to provide a review and summary of published data pertaining to the site area. The succeeding clause requires additional expertise because of the need to evaluate field and laboratory data and provide recommendations.

Concerning §325.74(b)(6)(N), a comment was received opposing any indirect requirement for a city to employ persons with certain types of certification. In making a determination to approve a permit for a facility, the department must have assurance that not only has the facility been properly designed, but also that the permittee has the capability of properly implementing the design. Experience has shown that use of inexperienced personnel to operate a facility designed and permitted at considerable cost invariably results in disregard of the site design, underutilization of available land, and continual operational problems. Al-

though the department's desire is that a facility be operated properly, it seems that a city would find it cost effective to have personnel with appropriate experience and qualifications.

Concerning §325.74(b)(6)(O), it was suggested that it is unreasonable to expect a city manager who is not an engineer to review the site development plan or the regulations. It was suggested that the language be changed to allow a city official who has expertise in this area to review these or that the department word this subparagraph in more general terms. The department agrees in part and has changed the wording here to require the applicant or his authorized representative to be familiar with the site development plan, aware of all commitments made therein, and familiar with pertinent regulations. This should allow a qualified person to review the plans and regulations and advise the mayor, city manager, or judge who may not have the technical expertise to make personal reviews. There have been occasions where applicants first became aware of the budgetary impact of commitments made by the design engineer in the plan at the public hearing, and efforts were made at that time to make revisions to the plan. The new wording is intended to preclude such situations.

Concerning §325.74(b)(6)(C), a comment was made that showing a distance of one mile around the area to be filled is too great and that, if a landfill is on properly zoned land or on farmland, it should not matter what is within that distance. The matter of making a land use determination is not an easy one and must necessarily involve the evaluation of several factors. Limiting the radius of consideration to one mile and to properly zoned land have not always been acceptable criteria. The department believes that one mile is the minimum distance that should be considered.

Concerning §325.74(b)(6)(E), it was suggested that applicants be allowed to provide contour maps of two foot intervals where land is relatively flat. The department agrees and subparagraph (E) has been revised to allow that option.

Concerning §325.74(b)(6)(G)(i), comment was received that 1 ½ feet of clayey soil final cover is a bad requirement for certain otherwise acceptable landfills. Where the impermeability of the clayey soil can be gained by design and operational features, a comment was received suggesting the department add the phrase "or other types as approved by the department" and add classification CH to the list of those soils specifically mentioned. The department concurs that a little wider latitude should be acceptable in the use of soils for final cover. The objective is to provide a cover that will prevent the percolation of moisture into the waste cells. The requirement has been modified to provide more latitude.

Concerning §325.74(b)(6)(G)(iii), one person felt it was arbitrary for the department to currently set a maximum gradient of 4.0% for the top portion of a landfill but propose to allow a 50% increase to 6.0%. The increase in allowable gradient is to assist operators of large aerial fills who have had problems main-

taining adequate drainage as the fills begin to subside. The increase is an allowance and not a mandatory requirement. Smaller sites not anticipating such problems may not need to use a steeper gradient.

Concerning §325.74(b)(6)(L), a comment was received that the requirement for a supervisor to be on site 75% of the time would require unnecessary overtime. It was suggested the department reduce the 75% figure or require regular hours for a supervisor where less than an additional shift is needed. The department agrees that the requirement should not impose unnecessary burdens on a city but believes that someone at the landfill should be designated as the responsible individual and be available to make necessary on-the-spot decisions. The use of a designated alternate would be considered appropriate and subparagraph (L) has been revised to reflect this option.

Concerning §325.74(b)(6)(L)(xi), one person suggested that since intermediate cover is temporary, classification of soil type used is unnecessary. The intent of the requirement is to properly advise operating personnel of what should or should not be used, particularly in those cases where clay is limited and must be conserved for use in lining or final cover. It is true that intermediate cover does not require any special type of soil, but it may be necessary to point out what type of soil should not be used, e.g., clay or top soil.

Concerning §325.74(b)(6)(M) and (N), it was suggested that cities be exempted from the requirements of these two subparagraphs. The department disagrees. The requirements were included because cities, in many cases, have failed in meeting their commitments or providing adequate personnel. These rules are intended to make cities, as well as all applicants, aware of the responsibilities they must assume in operating a landfill in accordance with state standards.

Concerning §325.75(b)(5)(A), it was suggested that notices relating to public hearings should not be required to be published in boldface capitals surrounded by a heavy border because some small local newspapers may not have the capability of complying with the requirement. The suggestion is a valid one, and since there has been no opposition to the format required for the past nine years, the proposed format requirement has been deleted.

Concerning §325.93(a), there was objection to the deletion of anything in regard to public hearings. A public hearing should remain mandatory. Another person commented on this subsection that, in addition to the public notice, notices should be sent to nearby landowners and pertinent local officials. It was also recommended that the department continue its practice of holding hearings in the more controversial cases. It was also suggested that public notice of an applicant's permit request be filed with all municipalities or governmental entities and news media in the vicinity. This group opposed processing of a permit unless the general public is assured adequate notification of any and all land use hearings. As indicated in the rules, the department does not intend to deny any individual having a justifiable interest the right to a

public hearing. The department in all cases will provide an opportunity for a hearing. However, as a means to conserve public funds and as provided for in the Solid Waste Disposal Act, the department will not hold a hearing if unwarranted. This procedure could reduce by as much as 40% the number of public hearings required for permit applications under evaluation, hearings where only the applicant and department staff would attend. Such a reduction can provide considerable savings in funds and man-days of wasted travel time. Not only will these applicants benefit from an expedited decision on their applications; but the public and applicants in cases where the public is deeply concerned will also benefit by the department's ability to schedule the necessary hearing and render decisions more expeditiously. It is impractical to have a requirement that all nearby property owners be individually notified of scheduled hearings. This requirement was contained in the department's initial permitting procedures but subsequently deleted because of problems due to frequent lack of up-to-date deed records on file with current ownership, lack of current addresses of absentee property owners, and changes in property ownership without knowledge of the applicant or the department between filing of an application and the time of the public hearing. Failure to notify any one such property owner under such notification requirements would prevent the department from having a valid public hearing as was determined by district court ruling. The department has therefore adopted the procedures required by law with modification to allow for a longer period between date of notice and date of hearing. In addition to the published regulatory requirements, the department, as a matter of policy, provides a press release to ensure that area citizens have ample opportunity to become aware of proposed hearings. Procedures contained in the regulations, as supplemented by the press releases, are considered adequate by the department for land use public hearings.

Concerning § 325.112(b), it was recommended that the bureau should be required to respond to a site operator's request under this subsection within a specified amount of time, i.e., 14-21 days. The department does not agree that such a self-regulating provision is necessary or beneficial. Delays and postponements of reopening inspections are invariably at the request of the applicant or necessitated by bad weather. A restraint on scheduling flexibility would only complicate the process or create a problem which has not existed in the past.

Concerning § 325.113, it was suggested that cities, counties, or other governmental agencies with landfills serving populations of 25,000 or less should be exempted from the proposed rule changes since the cost and burden of the additional requirements and paperwork on small governments outweigh the benefits. The department disagrees with the exemption of sites serving 25,000 or less since that would exempt the bulk, possibly as much as 90%, of the sites regulated by the department. This cost factor was ad-

ressed in the department's response to comments on the fiscal implications of these rules.

Concerning § 325.113, it was suggested that current permitted landfills and those with applications filed before March 1, 1983, should be exempted from the proposed rules. In addition, the requirement for a revised site development plan was opposed as an extra expense. It was also suggested that this section could be deleted since the department has stated the proposed rules do not involve substantial changes. The department disagrees that sites should be operated under different standards simply because of the date an application is filed or the date a permit is issued. Again, the expense has already been addressed. The department disagrees that the revised site development plan is an extra expense since such revisions have always been required where changes in site operations have occurred or are proposed.

Concerning those sections which require compliance within 180 days (§§ 325.113, 325.122, 325.152(b), and 325.173), it was suggested this requirement be changed to 24 months to allow local governments the flexibility to adjust their budgets to meet additional expenditures which may be required by the revised rules. The department agrees in part that some flexibility is necessary to allow for budgeting restraints that may exist. Therefore, the applicable §§ 325.113, 325.122, 325.152, and 325.173 have been revised to require a report which includes a schedule for completion and justifications for delay.

Concerning §§ 325.131-325.154, it was suggested that this be clarified to encompass the entire universe of solid waste activity, specifically operational standards for Types V, VI, and VII sites. The department disagrees because of the varying facilities included under Type V, VI, and VII sites; however, operational standards for Type V and VI sites in Subchapter G are being expanded to incorporate many of the requirements of Subchapter F which are appropriate. Operational standards for Type VII sites are under development.

Concerning § 325.121, one person questioned drawing the line rigidly to require soil with a minimum coefficient of permeability of  $1 \times 10^{-7}$  centimeters per second because the proposed provision penalizes areas which have difficulty in obtaining this type of soil. The department disagrees that the required protection should be compromised because of geographic location. These rules provide for alternatives and equivalents and the lining requirement is not new, but a long-standing requirement.

Concerning § 325.121(b), it was suggested that the department eliminate the option of placing a liner of one foot of soil with a permeability of  $1 \times 10^{-8}$  centimeters per second and return to the requirement of three feet at  $1 \times 10^{-7}$  centimeters per second because the proposed provision would result in unwanted cracking and fissures in the liner, particularly if installed in hot weather. The department disagrees that cracking and fissures in the liner will be a problem because of the required protective cover.

Concerning §325.121(c)(2), it was suggested the department modify and/or clarify these procedures to provide that the computations required under this paragraph be made by the site operator or his consultant and then reviewed by the bureau. It was suggested a technical manual be published to provide assistance by standardizing procedures, parameters, etc., to be used in the water balance computation. It was also recommended the rules be modified to emphasize the permeability factor with regard to the selection and placement of final cover material, since the development and containment of leachate is a function of both cover and lining. Clarification was also requested as to whether water balance method procedures of Subchapter F will be applied to the same procedures described in Subchapter E. The department established a policy of performing all water-balance calculations because experience has shown that few design engineers have the experience or data available for the calculations. The department has found that it can perform the calculations more expeditiously and reliably based on latest information available. Therefore, this provision has been incorporated in the rules. There are many factors to be considered in determining the effect of water-balance on a specific site, and the department is developing a technical guide for use by designers in compiling necessary information for this determination. The department agrees that the type of cover material is important and has addressed this in §325.150(c)(1)(A). The department also agrees that the same procedures should apply to both Subchapters E and F and revisions to both subchapters were made to reflect this.

Concerning §325.122, it was pointed out that the rules omit any reference to subsurface rock conditions such as fractured rock, permeable sand seams, etc., and how operators must deal with these conditions should be addressed. The department agrees that these items should be addressed, but they are very site-specific. The department proposed a requirement for development of a Soil and Liner Quality Control Plan (SLQCP) which would address such problems and how they will be dealt with at a specific site.

Concerning §325.122(a), it was suggested there is no need to submit a new Soil and Liner Quality Control Plan (SLQCP) just because new rules have been adopted and that this requirement should be deleted. The department agrees and is therefore rewording this section to reflect that sites with previously approved SLQCP's need not submit one.

Concerning §325.122(b)(3)(D)(iii), it was recommended that the rules be clarified as to whether liner is required or whether liner and soil can be combined to achieve the three feet. The rule has been clarified to provide for a minimum of three feet of liner or a liner-barrier combination to provide the necessary separation.

Concerning §325.122(b)(3)(D)(iii), it was suggested the requirement for three feet of liner required when groundwater is encountered should be clarified. The problem appears again in §325.74(b)(5)(D)(ii) and

(iii)(IV). It was suggested the rules should refer to whether groundwater is encountered within the excavation or within three feet of the waste since the phrase "when groundwater is encountered" does not specify where it is encountered. One of these problem areas implies that no matter where groundwater is encountered, three feet of soil will be needed, while another allows for one foot of  $1 \times 10^{-8}$ . As noted in the preceding response, §325.122(b)(3)(D)(iii) has been clarified as was the related §325.074(b)(5)(D)(iii)(IV). These two rules specifically address department requirements when groundwater is actually encountered within three feet below or above an excavation. There is no conflict with §325.74(b)(5)(D)(ii), because this rule deals only with groundwater protection in general.

Concerning §325.122(b)(3)(E)(v)(IV), it was suggested that the specification on the field density test—ASTM D698—may be the wrong test reference and looks like it may refer to an investigative test. The department disagrees because the section referenced pertains to a moisture-density relationship test commonly called a Proctor Test. The ASTM test procedure for this test is termed ASTM D698. This is not a field density test procedure as was believed by the person who made the comment.

Concerning §325.122(b)(3)(E)(iv), the department was requested to waive the five test procedures to be performed on each lift of a liner if it is determined the lining material is suitable prior to the placement of refuse. The department disagrees because the material may be considered adequate only if properly installed, and the tests are to assure that proper installation is achieved.

Concerning §325.122(b)(3)(E)(ii), it was requested that this be clarified to apply to firms or individuals performing the soils analysis and to not preclude a registered professional engineer without four years of geotechnical experience from completing soil liner reports. The department believes interpretation of soil data must be made by someone knowledgeable in soils if the results are to be meaningful. However, the four years of geotechnical engineering experience applies to the geologist. A professional engineer is required to be experienced in geotechnical engineering, with no stipulation as to how much experience is required.

Concerning §325.123(b), comment favoring a strict policy in regard to groundwater monitoring was received. It was recommended that a cross-reference to §325.74(b)(5)(D)(vii) be included in this subsection to avoid the impression the department would waive groundwater monitoring without the most compelling justification. The department agrees and is incorporating a majority of the requirements of §325.74(b)(5)(D)(vii) in Subchapter F as new §325.124.

Concerning §325.123(c), it was suggested that the following wording be substituted to provide protection against a 100-year riverine frequency flood level: "Prior to placing solid waste in any area within a floodplain, the site operator shall construct suitable

levees to prevent the discharge of solid waste into the waters of Texas. The site operator shall construct protective levees with no less than three feet of freeboard above the 100-year frequency riverine flood level. When solid waste disposal occurs within the area of a greater 100-year flood than the riverine flood, the site operator shall submit a plan of operation for approval to the department and the Texas Department of Water Resources." The department disagrees with the proposed wording because it is inconsistent with federal requirements and defined terms.

Concerning §325.136(a)(3), it was suggested restrictions regarding vacuum truck wastes seem too stringent for certain areas of the state. The department disagrees because the development of a quality control plan allows for the flexibility to account for particular situations and areas of the state.

Concerning §325.136(a)(3), it was recommended the use of trip tickets be made mandatory to ensure that other information required under the paragraph is provided. The department has this under advisement and will consider this in future revisions to the rules.

Concerning §325.136, one group felt the proposed rules would provide inadequate regulation of municipal sludge and small-quantity generators of hazardous waste; i.e., grease trap wastes, grit trap wastes, used motor oil, tank bottom wastes, etc. The department's use of the phrase "site-specific approval" was opposed as an undefined term. In addition, opposition was registered to the disposal of hazardous waste from small-quantity generators in Type I municipal landfills without special provision for labeling, handling, or record keeping. Finally, the implementation of a special waste manifest system was recommended with strict trip ticket and hauler/generator registration required. The department agrees that the proposed rules did not provide for adequate control of hazardous waste from small-quantity generators and is therefore deleting §325.136(b)(9) whereby such waste will become regulated by §325.136(a). The department disagrees that the term "site-specific approval" is an undefined term because of the simple straightforwardness of each term within the phrase; therefore, the phrase itself does not require a special definition. The department has a special waste generator/hauler registration and manifest system under advisement and will consider this in future revisions to the rules.

Concerning §325.140, it was suggested that a covered vehicle restriction could lead to more problems, such as indiscriminate dumping. Clarification was requested as to how far this will apply to site operators, i.e., exactly what and where site operators are going to be required to pick up. The department disagrees since §325.32(b) makes it a violation to illegally dispose of such wastes. Clarification is not needed because the affected area is too site-dependent, and site operators will not be required to pick up if proper requirements are placed on incoming vehicles.

Concerning §325.150(b)(1)(A), it was suggested the rules dealing with daily cover should be clarified to specify that the department means a six inch cover rather than the one foot cover implied. The department disagrees that a one-foot intermediate cover is implied because intermediate cover is defined as six inches in §325.150(b).

Concerning §325.150(c)(2), prohibition of above-ground filling unless approved by the department was opposed and its deletion was requested on the grounds that it is unnecessary. The department disagrees because prior approval by the department is necessary in order for proper consideration to be given to drainage, surrounding land use, and potential erosion.

Concerning §325.152(b), a comment was made that it is not reasonable to require a city to spend money to develop a closure/completion plan within the next six months and that this requirement should be deleted and such a plan required within 60 days of closure. The department disagrees because a closure plan is necessary to assure that the completion of the landfill will be timely and in accordance with slope grade and drainage requirements. The operator must have a closure plan to know the elevation to fill to as he crosses the site.

Concerning §325.152, the requirement for a closure/completion plan within 180 days was opposed as a unjustified expense. The department disagrees because such a plan is needed as previously explained and sites having an approved closure/completion plan need not submit a new plan unless changes are desired.

Concerning §325.153 on post-closure maintenance, one city suggested the increase from one year to five years is drastic. In addition, it was recommended that provision be made for discontinuing on-site owner's responsibility after the site is sold. The department disagrees because the five-year period is the accepted period within which the majority of settlement and methane gas generation will occur. If a site is sold, the permittee/applicant remains responsible for maintenance. However, should the sale agreement so stipulate, the new property owner may be required by the permittee/ applicant to do the actual maintenance, but this is a private matter between the two entities.

Concerning §325.154(a), the department's retention of regulatory control over activities affecting the integrity of a landfill was opposed as severely limiting an entity's ability to sell an older landfill. In addition, the department was asked to clarify the specifics of regulatory control at closure or after the five-year post-closure period. Also, it was requested that the department define the point at which post-closure use disturbs a closed landfill area. The department disagrees because future use of older landfills must be restricted now as in the past to assure that the integrity of the landfill is not disturbed. The period of time was left open to assure continued compliance. Department concerns over cover, drainage, liner and monitoring systems were noted in the proposed rules.

Concerning §325.181, the department was requested to specify which of the operational standards prescribed for Type I, II, or III sites are applicable for Type V and VI sites. The department agrees and those applicable sections are being placed either under operational standards for Type V and VI sites as new §325.190 or are being added under §325.181 and referenced directly. New §325.190 is drawn from proposed §§325.123(c), 325.132, 325.133, and 325.136.

Concerning §325.222, it was suggested the department relies too heavily on local enforcement and should rely more on a state enforcement program. The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §8(4) and (5), authorizes counties, cities, and political subdivisions to enforce both the Act and the department's rules. Although the department encourages enforcement at the local level, the department does not rely on local enforcement. Local enforcement activity varies throughout the state, but in general it is less than desirable. In addition to the Solid Waste Disposal Act, cities frequently have local ordinances which can quickly correct the problem through criminal proceeding. It has been our experience that even if relief is sought through civil action under the Solid Waste Disposal Act, the city or county's attorney can generally attain such relief in much less time and at much less expense to the taxpayers than can be attained through the attorney general at the state level. By law, the state becomes a necessary and indispensable party to any civil action filed at the local level, and the department relies on its own evidence in such cases.

Concerning §325.2, the reference to Article 4414a has been changed to 4414b because Senate Bill 98 passed by the 68th Legislature, 1983, amended the Texas Civil Statutes by adding Article 4414b as the new statutory authority for the department.

Additionally, the department has made revisions to other portions of the rules where needed to coordinate with changes made as a result of the comments.

The following individuals or entities indicated general support for the rules, some offering comments on particular areas of concern: Rick Conner, P.E.; The Groce Company, Inc.; Eldredge Engineering Associates, Inc.; National Solid Wastes Management Association; and Stokes & Associates. Individuals and groups clearly against the rules as proposed are Greater Texoma Municipal Utility District; City of Tyler; Ernst M. Davis, Ph.D.; and Travis County.

In addition, several individuals, groups, and associations have offered comments consisting primarily of concerns and recommendations about specific portions of the rules: City of Port Arthur; Houston Toxic Substances Task Force, Inc.; Harris County Pollution Control Department; Conference of Urban Counties; City of Austin; League of Women Voters of the Bay Area; Friends and Neighbors United; City of Waco; Consulting Engineers Council of Texas, Inc.; City of Seguin; City of Vernon; James B. Blackburn, Jr.; City

of Mesquite; City of Huntsville; City of Farmers Branch; City of Corpus Christi; Donald M. Alex; R. M. Hickerson; Charles M. Jackson; Jack S. Haston, P.E.; Edward G. Miller, P.E.; Lewis Yates, P.E.; John R. Philpott; Waste Management, Inc.; City of Houston; and John M. Teipel, P.E.

## Subchapter E. Permit Procedures and Design Criteria Permits

### 25 TAC §§325.51-325.62

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

#### §325.52. *Permit Exemptions.*

(a) A permit is not required for a site where the only operation is the beneficial use of a municipal wastewater treatment plant sludge by applying it to the land as provided for in §§325.201-325.207 of this title (relating to Operational Standards for Type VII Sites). Sites exempted from a permit under this subsection shall be registered with the department and registration acknowledged by letter prior to operation.

(b) Normally, a permit is not required for a site where the only operation is to be that of controlled burning by an air-curtain destructor (trench burner) of wood-type materials as may be allowed by a Texas Air Control Board permit or exemption for the site or trench burner, and that the only material to be disposed of is the ash residue that remains after the burning. However, such sites shall be registered with the department prior to operation by providing the information outlined in subsection (c) of this section.

(c) A request for registration for sites exempted from permits under subsection (a) and (b) of this section must be submitted in typed letter format which includes, as an enclosure, the information requested on the site registration form as provided under §325.901 of this title (relating to Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data)).

(d) A permit or registration is not required for on-site pathological incinerators used by a hospital, clinic, laboratory, or other similar-type facility for incineration of only on-site generated infectious or pathological wastes, or for a facility or site which is used as a citizens' collection station, as a collection point for nonputrescible recyclable wastes, or as a collection point for parking lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic city-wide cleanup campaigns and cleanup of rights-of-way or roadside parks.

**§325.55. Transfer of Permits/Applications/Property Ownership and Name Changes.**

(a) Within 30 days after a change in the corporate designation of the permittee or permit applicant, the sale of a partner's interest in a partnership, the transfer of title to the land whether or not the permittee is the land owner, or more than 50% of the corporate stock or assets are controlled by someone other than the permit holder or permit applicant, the permittee or applicant of record and the person now having the controlling interest shall file an application with the department for transfer of the permit or permit application. The application shall include such information as is applicable in subsection (b) of this section.

(b) The applicant should consult with the department prior to completion of the transfer application to determine specific requirements for information which must accompany the application. The transfer of the permit shall be for the remaining life of the permit. Upon submission of required information to the satisfaction of the department, the decision will be made concerning the transfer. Pending a decision on the transfer, the department will hold the current permittee or applicant of record for an operating site responsible for the proper operation of the site. Failure to initiate a transfer will cause the department to close the site for operating without a permit. Also, failure to give complete information or the submission of false information in the application shall constitute grounds for rejection of the application. The application shall be submitted in the form of a letter and shall normally provide the following information, as applicable, except when determined otherwise in consultation with the department:

(1) a statement from the present permit holder or applicant that it is his desire that the permit or application be transferred and that the new operator has the authority necessary to operate a municipal solid waste site within the boundaries of the site as described in the legal description included in the permit or application. If a change in property ownership is involved, the name and mailing address of the new property owner shall be provided.

(2) a statement from the applicant that he is familiar with the requirements of the subject permit and its special provisions; the engineer's site development plan upon which the permit is based; these regulations; and all official actions related to this site, and that he agrees to assume the legal responsibility for the operation of this site according to the requirements of this paragraph. If the applicant desires to make changes to the site development plan, he must submit the changes to the department for approval prior to implementing such changes.

(3) evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, etc., in the case of privately-owned facilities and by commissioners court or city council resolution in the case of publicly-owned facilities.

(4) evidence of competency to operate the site to include landfilling and earthmoving experience or such other pertinent experience of key personnel and the numbers, makes, models, and condition of all equipment to be dedicated to site operation. The applicant shall submit a record of all his activities involving solid waste management in Texas within the last 10 years.

(5) An up-to-date site development plan showing any changes to the drainage throughout the site area; ground and surface water protective measures; depths of trenches; special-use areas; and final topographies, etc., which differ from the original engineering site development plan.

(6) An up-to-date site operating plan providing a day-to-day operational guide outlining cover requirements and techniques, sequence of sector development, excavation procedures, lining techniques, and final cover procedures, if present or proposed operating procedures differ from those proposed by the original permittee.

(7) a statement from the owner of the land described in the application, witnessed and notarized, substantially equivalent to §325.905 of this title (relating to Appendix E—Form for Property Owner Affidavit), when the applicant is not the owner of the land.

**§325.56. Revocation or Amendment of a Permit.**

(a) A permit may be revoked or amended by the department at any time for reasons pertaining to public health; air or water pollution; land use; the existence of operating conditions which do not meet the minimum standards set forth in these regulations; or violation of any applicable laws, rules, or other regulations controlling the management of solid waste. Prior to revoking or amending a permit, the department shall provide notice to the permittee and to appropriate governmental entities. The permittee and persons affected shall be provided an opportunity for hearing to show cause on whether or not the permit should be revoked or amended on the basis stated by the department. If a hearing is requested, the department will publish a public hearing notice announcing the time, place, and purpose of the public hearing and advising all citizens of their rights to present competent evidence for or against the revocation or amendment of a permit. The department may hold such a hearing on its own motion. The department shall be responsible for ensuring that notice of the public hearing is published at least once in a newspaper regularly published or circulated in the county in which the site is located. The department shall be responsible for paying for and publishing the hearing notice. The department, at its option in any individual case, may publish the notice in additional newspapers in the county or other counties. Publication shall not be less than 30 days before the date of the hearing. As proof that the publication was timely, the department shall obtain an affidavit from the publisher which shows the date of publication. The affidavit shall be accompanied by a copy of the published notice. The hearing shall be conducted in accordance with §325.94 of this title (relating to Conduct of Public Hearing), and determination shall be made in accordance with §325.95 of this title (relating to Final Determination on Application).

(b) If, during the life of a permit, conditions change that would mandate a stricter or less strict type of opera-



tion (e.g., a change in population served), the permittee shall file a request for amendment within three months of the changed conditions. Requests for amendments involving changes such as increase in site acreage, an addition of an area fill above natural ground (aerial fill), or the addition of other on-site processing or disposal facilities, should normally be submitted in the same manner and similar detail as for an initial application, including an updated site development plan. In all cases, however, consultation with the department is recommended to determine specific data requirements for the proposed amendment. Modifications to the original site development plan, except as listed in paragraphs (1)-(7) of this subsection, may be approved by the department without a permit amendment in accordance with §325.111 of this title (relating to General Requirements) or §325.171 of this title (relating to General Requirements) for processing sites. However, the following types of modifications shall require a permit amendment:

- (1) a change to the original site boundaries or acreage;
- (2) both an increase in height of more than 10 feet above the originally permitted maximum elevation when the original permit did not provide for above-ground landfilling other than for grading; and for an aerial fill, an increase in height of more than 20% of the originally permitted height or 10 feet, whichever is greater, to the highest permitted height above natural ground;
- (3) an increase in trench or excavation depth which may result in changes to the lining requirements;
- (4) a change in site development which will result in additional encroachment into a 100-year floodplain;
- (5) a change in site development which will result in disposal of wastes closer to site boundaries than originally approved;
- (6) the addition of other on-site processing or disposal facilities, excluding air-curtain destructors;
- (7) other changes which could have an adverse effect on the health, welfare, or physical property of nearby residents or property owners or the environment and which could require the addition of a special provision to the permit.

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 21, 1983.

TRD-834624      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date: July 12, 1983  
Proposal publication date: February 25, 1983  
For further information, please call (512) 458-7236.



## Application and Data Requirements

25 TAC §§325.71, 325.73-325.75

The new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

### §325.74. *Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan.*

(a) For all Type I and IV sites serving 5,000 persons or more, or same population equivalent, the technical information submitted in support of Part A, in lieu of using Part B, shall be prepared in the form of an engineering site development plan as described in this section. In the interest of expediting the development of complete technical data requirements and reducing costs to the applicant, two draft copies of the site development plan shall be submitted to the department for review prior to reproduction in final form. The department will review the draft copies of the plan and advise of any changes or additions which are required or recommended and, if considered necessary, will request that the design engineer meet with appropriate staff members when clarification of data is necessary. Following this review, the department will advise the applicant, or his design engineer, of the number of copies required of the plan for distribution to review agencies which may need to make a detailed review with respect to matters under their jurisdiction. It is advisable that a copy of the soils report be submitted to the department for review as soon as it has been prepared so that the department can provide timely guidance if soil conditions will require special considerations. Individual site drawings shall be signed and sealed by the registered professional engineer responsible for their preparation. All drawings or other sheets submitted with the site development plan are preferred to be no larger than 8½ × 11 inches and should be no larger than 15 × 22 inches so that they can be reproduced by normal office copy machines. However, in addition to the reduced sheets, standard-sized drawings folded to 8½ × 11 inches may be submitted or required if their reduction would render them difficult to interpret. Bound plans shall be signed and sealed by the engineer, preferably on the first page.

(b) The site development plan shall be prepared in the format and content described as follows, except as may be otherwise determined for a specific site by the chief of the bureau in accordance with subsection (b) of §325.71 of this title (relating to General):

(1) The title page shall show the name of the project, the location by city and county, name of applicant, and date of application.

(2) The table of contents shall list the following main sections of the application which are described in paragraphs (3)-(5) of this subsection.

- (A) engineer's appointment.
- (B) solid waste data.

- (C) design data.
- (D) attachments.

(3) The engineer's appointment consists of a letter from the applicant to the commissioner, Texas Department of Health, identifying the registered professional engineer or consulting engineering firm under whose direction the plans and specifications will be prepared. See §325.90 of this title (relating to Appendix C—Notice of Appointment) for a suggested format.

(4) Solid waste data includes identification of the nature, type, and quantity of waste proposed for processing and/or disposal in the site to include a brief description of the general sources and generation areas contributing wastes to the site. This shall include an estimate of the population or population equivalent served by the site.

(5) Design data will be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Applicants will consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific site dictates. Applicants shall include in the support data for their permit applications information as specified in the design criteria indicated in this paragraph. It is recommended that the applicant review the operational standards for the specific type of site before completing the application. Additional information may be required of the applicant when deemed necessary by the department.

(A) Land use. The primary concern of the department is that the use of any land for a municipal solid waste site does not adversely impact on public health. However, the impact of the site upon a city, community, group of property owners, or individuals will be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.

(i) To assist the department in evaluating the impact of the site on the surrounding area, the applicant shall provide the following data in the application:

(I) zoning at the site and in the vicinity. If the site requires approval as a nonconforming use or a special permit from the local government having jurisdiction, a copy of such approval shall be submitted.

(II) character of surrounding land uses within one mile of the proposed facility.

(III) growth trends of the nearest community with directions of major development.

(IV) proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.). Give the approximate number of residences and business establishments within one mile of the proposed facility including the distances and directions to the nearest residences and businesses.

(V) availability and adequacy of roads.

(VI) volume of vehicular traffic on access roads, both existing and expected, during the expected life of the proposed facility.

(ii) Sites disposing of putrescible waste shall not be located in areas where the attraction of birds can cause a significant bird hazard to low-flying aircraft. Guidelines regarding location of landfills near airports can be found in Federal Aviation Administration Order 5200.5. As a general rule, land disposal sites should not be located closer than 10,000 feet to any runway used or planned to be used by turbojet aircraft or closer than 5,000 feet to any runway used only by piston-engine aircraft and not located in such a position so as to place a runway or approach/departure paths between the landfill and bird feeding, watering, or roosting areas. However, under certain circumstances, landfills beyond 10,000 feet may also pose a safety hazard to an airport. Therefore, all landfill sites within four miles of an airport will be critically evaluated to determine if an incompatibility exists. For the purposes of these regulations, an airport means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities. Bird hazard means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(iii) A minimum separating distance of 50 feet shall normally be maintained between the disposal operation and the adjacent property line. However, the design engineer shall consider the need for a greater distance when soil conditions, depth of excavations, or character of adjacent property use requires a greater distance. As a minimum, this buffer should be sufficient to accommodate safe passage of fire-fighting or other emergency vehicles. If a lesser distance is provided, the design engineer shall include proper justification.

(iv) Unless otherwise required by special circumstances, a minimum separating distance of 25 feet shall normally be maintained between the disposal operation and any pipeline, underground utility, or electrical transmission line easement. The buffer should provide not only enough distance to ensure the protection of the facilities within the easement and the safety of the site operating personnel who could be injured by exposure to damaged pipelines or electrical transmission lines, but should provide space for drainage controls. The applicant shall provide the names and mailing addresses of all parties possessing valid easements, rights-of-way, or ownership of any property within the site boundaries. The site development plan shall show the location of such easements and provide for protective measures such as buffer zones, drainage structures, etc., as may be necessary to protect the parties' interest. If the protective measures plan has been approved in writing by the parties involved, such approval shall be incorporated in the site development plan.

(B) Access. Proper access to and within the land disposal site shall be provided. The following data shall be submitted with a permit application:

(i) data to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, complete details of upgrading required, and recent average daily traffic counts (estimated, when counts are not available). A statement must also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight

limits, etc.) exist on these public access routes. An estimate shall be provided of the number, sizes, and maximum weight of vehicles expected to use the site daily.

(ii) provisions for all-weather access from access routes to the disposal site and from the entrance of the site to unloading areas used during wet weather. Interior access road locations and the type of surfacing shall be indicated on a site plan. The access road into the site shall be designed so as to minimize the tracking of mud onto the public access road. Maintenance and dust control procedures including all-weather serviceability of interior roads shall also be addressed in the overall site design and operating plan. A design of the intersection of the public access road with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gates, signalization, and landscaping as appropriate.

(iii) type and location of fences or other suitable means of access control to prevent the entry of livestock; to protect the public from exposure to potential health and safety hazards; and to discourage unauthorized entry or uncontrolled disposal of hazardous materials.

(C) Engineering considerations. The following shall be discussed as part of the design data in support of the attachments:

(i) the landfill method proposed, e.g., trench, area fill, or combination.

(ii) provisions for wet-weather operation, e.g., all-weather road, wet-weather pit, alternate disposal site, etc.

(iii) provisions for wastes requiring special handling and large items.

(iv) provisions for control of windblown solid waste.

(v) calculation of estimated rate of solid waste deposition and operating life of the site. (As a general rule, 10,000 people with a per capita collection rate of 5 pounds per day, dispose of 10 to 15 acre-feet of solid waste in one year.)

(vi) intended subsequent use of the site.

(vii) adequacy of supply, and soil characteristics, of on-site cover material, sufficient to provide a minimum of 18 inches of clayey soil (classification SC or CL as defined in the Unified Soil Classification System developed by the U.S. Army Corps of Engineers) and six inches of top soil, and any lining material that may be required. Soil balance calculations shall be provided to indicate the need for importing any materials. A soil management plan shall be provided to ensure the timely availability of required types of soil for lining, intermediate cover, and final cover. The plan shall also ensure that the temporary storage of soils to be used and excess soils pending final disposition does not conflict with site drainage plans.

(viii) fire control facilities, e.g., fire hydrants, fire breaks, earth stockpiles, water tanks, and availability of local fire departments.

(ix) provisions for proper compaction of waste to minimize excessive or uneven settlement in completed fill areas which could affect drainage or result in ponding of water.

(x) provisions to compensate for expected subsidence. The design engineer shall estimate the amount of subsidence for the particular site by taking into account the amount of compactive effort to be achieved depending on the type of equipment to be used and the anticipated fill height. The design shall provide for future settlement by specifying the initial cover slopes, which may be in excess of the recommended final slopes, that are expected to yield the desired final slope.

(xi) provisions for inspection of the site for erosion, ponding, leachate migration, and methane migration and for taking corrective actions when indicated for the first five years after closure, and for such longer period as may be necessary to correct recurring problems.

(D) Groundwater protection.

(i) The following words and terms, when used in this subparagraph of this paragraph, shall have the following meanings, unless the context clearly indicates otherwise:

(I) Contaminate—To introduce a substance that would cause the concentration of that substance in the groundwater to exceed the specified maximum contaminant level or an increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the specified maximum contaminant level.

(II) Groundwater—Water below the land surface in the zone of saturation.

(ii) A facility shall be designed so as not to contaminate the groundwater. As a general rule, the main concern is to protect the existing water quality from deterioration. Depth of groundwater in the area shall be indicated. For the purposes of these regulations, the protection of groundwater includes the protection of perched water or shallow surface infiltration which may now or in the future have value in low-volume, low-demand water wells. Except as required by clause (iii)(IV) of this subparagraph when groundwater is encountered, the minimum acceptable protection separating solid waste from groundwater or perched water shall be a naturally occurring barrier of in situ soil or a man-made liner which provides the equivalent protection of three feet of soil with a permeability of not more than  $1 \times 10^{-7}$  centimeters per second, a liquid limit of not less than 30, a plasticity index of not less than 15 and percent passing No. 200 sieve not less than 30. These soil parameters shall be determined by ASTM test procedures or those tests which have been discussed with and approved by the department. When soils with a permeability of  $1 \times 10^{-8}$  centimeters per second or less are used, the liner thickness may be reduced to not less than one foot, provided a protective cover of at least one additional foot of other soil is used.

(iii) A Soil and Liner Quality Control Plan (SLQCP) shall be included in the site development plan to provide operating personnel adequate procedural guidance for assuring continuous compliance with the groundwater protection requirements specified in clause (ii) of this subparagraph and subsection (c) of §325.122 of this title (relating to Soil and Liner Quality Control). The plan shall be portrayed graphically in paragraph (6)(H) of this subsection (Attachment No. 8—Ground and Surface

Water Protective Facilities) and described narratively in paragraph 6(L) of this subsection (Attachment No. 12—Site Operating Plan). It shall be keyed to the sectorized fill layout, paragraph (6)(F) of this subsection (Attachment No. 6—Sectorized Fill Layout), for area or trench identification. The plan shall include specifications and construction methods employing good engineering practices for compaction of clay soils to form a liner under each of the four potential conditions described in subclauses (I)-(IV) of this clause and provide for soil and liner quality control testing procedures as described in clause (iv) of this subparagraph. Unless alternate construction procedures are approved by the department in writing, all constructed liners shall be keyed into an underlying formation of sufficient strength to ensure stability of the constructed lining.

(I) Where lining of complete trenches is necessary, the liner details shall be depicted on cross sections of a typical trench showing the slope, widths, and thicknesses for compaction lifts. The amount of compaction shall be expressed as a percentage of standard Proctor density.

(II) Typical cross sections shall be provided for those instances in which overexcavation of permeable zones and backfilling with impermeable clay may be necessary.

(III) Proposed procedures shall be shown when only scarification and recompaction are required for impermeable soils with zones containing fissures, cracks, or joints.

(IV) If groundwater is encountered in the disposal excavations, or in cases where excavations extend below the seasonal high-water table, the equivalent of one foot of compacted clay liner for every two feet of static water head encountered shall be used as a basis for construction of a liner or barrier between the deposited solid waste and the groundwater. The total thickness of the liner shall consist of a base material which provides the equivalent protection of three feet of soil with a permeability of not more than  $1 \times 10^{-7}$  centimeters per second, a liquid limit of not less than 30 and a plasticity index of not less than 15 and percent passing No. 200 sieve not less than 30 plus an additional thickness of other material that will provide a combined total weight equal to one foot of compacted clay for every two feet of static water head. Pressure release systems may be used to reduce the amount of the liner support construction. In no case shall the thickness of the liner or liner-barrier combination be less than three feet when groundwater is encountered at or within three feet of the bottom of the excavations or if excavations extend below the seasonal high-water table. The shearing resistance of the lining material may not be considered as justification for reducing liner thickness.

(iv) Soil and liner quality control testing procedures, to include sampling frequency, shall be included in the SLQCP. For circumstances where constructed lining may not be required or needed, the SLQCP shall include specific details on preparation measures required for in situ soils prior to their receipt of wastes. All field sampling and testing, both during construction and after completion, shall be performed by a registered professional engineer experienced in geotechnical engineering

or a geologist having a college degree in geology with no less than four years of experience in engineering geology or under their direct supervision. Quality control sampling and testing procedures shall be prepared following guidelines of the department. Tests for the following parameters shall be performed in accordance with standards prescribed in subparagraph (1)(iii) of this paragraph:

- (I) coefficient of permeability.
- (II) sieve analysis.
- (III) Atterberg limits.
- (IV) density.
- (V) thickness verification.

(v) Constructed lining other than compacted clay soils (e.g., asphalt, polymeric membranes, concrete, bentonite slurry or admixture, etc.) may be utilized if written concurrence is obtained from the department. All such lining shall be placed in strict accordance with an approved quality control plan which incorporate the manufacturer's specifications and recommendations.

(vi) As an aid in determining whether or not the lining of trenches will be required, the bureau will calculate the potential percolation of precipitation into deposited solid waste and potential for leachate generation using the water-balance method based on rainfall, evapotranspiration, and soils data as described in U.S. Environmental Protection Agency Report SW-168 titled, "Use of Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites," or other improved procedure for evaluation in combination with other site-specific data. Applicants should consult with the bureau early in the design phase to determine if favorable water-balance conditions exist. Before making that determination, the bureau shall be provided such site-specific data as necessary to evaluate the validity of water-balance calculations for the specific site. Such data may include types of surface and subsurface soils; depth of groundwater; distance to streams and floodplains; distance to stock ponds and sewage treatment lagoons; proposed slope and frequency of application of intermediate cover; the thickness and type of final cover material; slope of final cover; type of vegetative cover; and proposed operational procedures to provide assurance that the intrusion of surface and subsurface water into the disposal excavations will be prevented.

(vii) Except as may be authorized by subclause (VIII) of this clause, groundwater monitor wells shall be installed for surface impoundments, landfills, and land treatment sites. A groundwater monitoring system will consist of at least one monitor well hydraulically upgradient of the site to obtain representative background groundwater samples and at least two monitor wells hydraulically downgradient of the site to obtain representative groundwater samples that may contain contaminants from leachate. The department may require additional monitor wells when conditions warrant, particularly for large sites. The design engineer shall determine the number, location, and depth of monitor wells based on such groundwater information as depth to the water table, direction and rate of groundwater flow, recharge area in relation to the site, static water elevation with dynamic head characteristics, and depth to the first potable aquifer.

(I) Test holes drilled for soils and groundwater information shall not be converted to monitor wells to satisfy the above requirements without prior approval by the department.

(II) The bureau may require or authorize that earth electrical resistivity surveys be used in lieu of or as a supplement to monitor wells. The provision for

monitor wells or alternatives shall be in accordance with department guidelines and/or permit special provisions.

(III) Details of monitor well construction and placement shall be shown in the site development plan.

(IV) Except as provided for in subclause (VIII) of this clause, a groundwater sampling program shall provide for obtaining four background groundwater samples of all monitor wells within 24 months from the date of the issuance of the permit. The background levels shall be established from samples collected from each well at least once during each of the four calendar quarters: January-March; April-June; July-September; and October-December. Samples from any monitor well shall not be collected for at least 45 days following collection of a previous sample, unless a replacement sample is necessary. At least one sample per well must be collected and analyzed prior to the deposition of any solid waste on site. In addition to the two groups of parameters listed in items (-a-) and (-b-) of this subclause, each well sample analysis shall include four replicate determinations for Total Organic Carbon (TOC) content and the groundwater elevation (MSL) at the time the sample was collected.

(-a-) heavy metals: arsenic, copper, mercury, barium, iron, selenium, cadmium, lead, silver, chromium, manganese, and zinc.

(-b-) nonheavy metals:

calcium	total dissolved solids
magnesium	phenolphthaleim alkalinity as CaCO <sub>3</sub>
sodium	alkalinity as CaCO <sub>3</sub>
carbonate	hardness as CaCO <sub>3</sub>
bicarbonate	pH
sulphate	specific conductance
chloride	groundwater elevation (MSL)
fluoride	
nitrate (as N)	

(V) After background values have been determined, at approximately 12-month intervals, more often if the department so determines, the following indicators shall be measured:

(-a-) TOC (four replicates)

(-b-) iron

(-c-) manganese

(-d-) pH

(-e-) chloride (in appropriate cases)

(-f-) groundwater elevation (MSL)

(-g-) specific conductance or total dissolved solids (Either one may be selected, but once selection is made, a change may not be made without approval of the department)

(VI) Once every fourth year following the establishment of background values, the nonheavy metals group specified in subclause (IV) of this clause shall be

determined in addition to the indicator parameters specified in subclause (V) of this clause.

(VII) If any significant changes in the parameter levels are found and verified, the department may order additional sampling and analysis to determine if leachate is entering the groundwater. If it is determined that the landfill is the source of the contamination, the department will direct appropriate corrective action.

(VIII) All or part of the groundwater monitoring requirements may be waived by the department if it can be demonstrated that there is low potential for the creation and migration of leachate from the site via aquifers to water supply wells or to surface water. Potential for the creation and migration of leachate may be evaluated using the water balance of precipitation, evapotranspiration, runoff, and infiltration and the evaluation of the hydrogeological and physical properties characteristics of the saturated and unsaturated zone and the proximity of the site to water supply wells or surface water.

(E) Drinking water protection. Solid waste shall not be deposited where a hazard may result to a drinking water supply well, intake of a water treatment plant, or raw water intake which furnishes water for human consumption. If any of these are located within 500 feet of actual disposal areas, engineering data shall be provided to show that adequate protection to drinking water sources is provided.

(F) Surface water protection.

(i) The following words and terms, when used in this subparagraph, shall have the following meanings, unless the context clearly indicates otherwise:

(I) Discharge of pollutant—Any addition of any pollutant to navigable waters from any point source, or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source.

(II) Point source—Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure from which pollutants are or may be discharged.

(III) Pollutant—Dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, munitions, chemical wastes, or biological materials discharged into water.

(IV) Water in the state—Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(V) Waters of the United States—All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, with their tributaries and adjacent wetlands; interstate waters and their tributaries, including interstate wetlands; all other waters such as intrastate

lakes, rivers, streams (including intermittent streams), mudflats, sandflats and wetlands, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce including any such waters which are or could be used by interstate or foreign travelers for recreational or other purposes; from which fish or shellfish are or could be taken and sold in interstate or foreign commerce, which are used or could be used for industrial purposes by industries in interstate commerce; and all impoundments of waters otherwise considered as navigable waters; including tributaries of and wetlands adjacent to waters identified herein.

(VI) Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas.

(VII) Discharge of dredged material—Any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified disposal site located in waters of the United States and the runoff or overflow from a contained land or water disposal area.

(VIII) Dredged material—Material that is excavated or dredged from waters of the United States.

(IX) Discharge of fill material—The addition of fill material into waters of the United States. The term generally includes placement of fill necessary to the construction of any structure in waters of the United States; the building of any structure or improvement requiring rock, sand, dirt, or other material for its construction; the building of dams, dikes, levees, and riprap.

(X) Fill material—Any material used for the primary purpose of replacing an aquatic area with dry land or for changing the bottom elevation of a water body. The term does not include any pollutant discharged into the water primarily to dispose of waste.

(XI) Nonpoint source—Any origin from which pollutants emanate in an unconfined and unchanneled manner, including but not limited to surface runoff and leachate seeps.

(XII) 100-year frequency flood—A flood that has a 1.0% or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(XIII) Washout—The carrying away of solid waste by waters of the 100-year frequency flood.

(XIV) Navigable waters—The waters of the United States, including the territorial seas.

(ii) A facility shall be designed to prevent:

(I) a discharge of solid wastes or pollutants adjacent to or into the water in the state that is in violation of the requirements of the Texas Water Code, §21.251;

(II) a discharge of pollutants into waters of the United States that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under the Federal Clean Water Act, §402, as amended.

(III) a discharge of dredged or fill material to waters of the United States that is in violation of the requirements under the Federal Clean Water Act, §404, as amended.

(IV) Nonpoint source pollution of waters of the United States that violates applicable legal requirements implementing an areawide or statewide water quality management plan that has been approved by the administrator of the U.S. Environmental Protection Agency under the Federal Clean Water Act, §208, as amended.

(iii) Surface drainage controls for a land disposal site shall be designed so as to minimize surface water runoff onto the working area. Dikes, embankments, drainage structures, or diversion channels of adequate size and grade shall be graded for adequate drainage, and the slopes of the sides and toe shall be graded in such a manner so as to minimize the possibility of erosion. Drainage calculations shall be based upon the 25-year rainfall intensity for the area and submitted with the design. Calculations for areas of 200 acres or less shall follow the rational method, and utilize appropriate surface runoff coefficients, as specified in the State Department of Highways and Public Transportation Bridge Division Hydraulic Manual. Time of runoff concentration as defined within the said manual generally shall not be less than 20 minutes for rainfall intensity determination purposes. Discharges from areas greater than 200 acres shall be computed by using USGS/DHT hydraulic equations compiled by the U.S. Geological Survey and the State Department of Highways and Public Transportation (SDHPT Administrative Circular 80-76); the HEC-1 and HEC-2 computer programs developed through the Hydrologic Engineering Center of the U.S. Army Corps of Engineers; or an equivalent or better method approved by the department. Designs of all drainage facilities within the site area shall include such features as typical cross-sectional areas, ditch grades, and flowline elevations. Sample calculations shall be provided to verify that natural drainage patterns will not be significantly altered.

(iv) Handling and temporary storage of contaminated surface water shall be considered. If required, contaminated surface water storage areas shall be designed with regard to size (verifying calculations included), locations, and methods and amounts of lining of the sides and bottoms of the storage areas. The linings shall comply with the requirements of paragraph (5)(D) of this subsection on groundwater protection.

(v) The site shall be protected from flooding with suitable levees constructed to provide protection from a 100-year frequency flood and in accordance with the rules and regulations of the Texas Department of Water Resources relating to levee improvement districts and approval of plans for reclamation projects or the rules of the county or city having jurisdiction under the Texas Water Code, §16.236. Flood protection levees shall be designed and constructed to prevent the washout of solid waste from the site. A freeboard of at least two feet shall be provided except in those cases where a greater freeboard is required by the agency having jurisdiction under the Texas Water Code, §16.236. Such levees shall not significantly restrict the flow of a 100-year frequency flood

nor significantly reduce the temporary water storage capacity of the 100-year floodplain.

(G) Protection of endangered species.

(i) The following words and terms, when used in this subparagraph of this paragraph, shall have the following meanings, unless the context clearly indicates otherwise:

(I) Endangered or threatened species—Any species listed as such pursuant to the Federal Endangered Species Act, §4.

(II) Taking—Harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting an endangered or threatened species or attempting to engage in such conduct.

(III) Harassing—An intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.

(IV) Harming—An act of omission which actually injures or kills wildlife, including acts which annoy it to such an extent as to significantly disrupt essential behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering; significant environmental modification or degradation which has such effects is included within the meaning of harming.

(ii) The impact of a solid waste disposal facility upon endangered or threatened species shall be considered. The facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

(iii) The permit applicant should consult with the department to determine the need for specific information relating to protection of endangered species. If the facility is located in the range of an endangered or threatened species, a biological assessment may be required to be prepared by a qualified biologist in accordance with standard procedures of the U.S. Fish and Wildlife Service to determine the effect of the facility on the endangered or threatened species. It shall be included as an appendix to the site development plan. Where a previous biological assessment has been made for another project in the general vicinity, a copy of that assessment may be submitted for evaluation. The U.S. Fish and Wildlife Service, 300 East Eighth Street, Room G-121, Austin, Texas 78701, may be contacted for locations and specific data relating to endangered and threatened species in Texas.

(H) Control of methane. The potential for generation and migration of methane from the site shall be considered, and an appropriate venting system or other control measures shall be designed if necessary. If a determination is made that gas migration will not be a problem and a control plan is not necessary, the basis for such determination shall be provided. The sign for control measures shall be in accordance with departmental guidelines and included as an appendix to the site development plan.

(I) Soil data.

(i) Prior to finalizing a boring plan, the applicant may choose to perform a resistivity survey of the proposed site and, based on data obtained, request a reduction in the number of borings that would normally be required with this supplemental information. The applicant is encouraged to discuss any available supplementary data and to finalize a boring plan with the department to ensure that only essential borings are made. Sufficient borings or other suitable geological data to provide a representative sampling of the types of soil contained in the site are required. The minimum number, locations, and depths of borings required can only be determined when the general characteristics and field tests of the specific site are analyzed. The following table is provided as a guide for planning, and the number of borings indicated is the minimum required when an alternate plan is not proposed by the applicant and approved by the department. Additional borings may be required if the findings obtained from the prescribed minimum number are inconclusive with respect to the soil geology of the proposed site. The depth of borings, under optimum soil conditions, i.e., relatively impermeable soils, should be not less than five feet below the deepest proposed excavation. With less favorable soil conditions, the depth of borings should be at least 20 feet below the deepest proposed excavation.

Size of Area In Acres	Number of Borings	Minimum Number of Borings 20 Feet Below Deepest Excavation
5 or less	2-4	2
5-10	4-6	3
10-20	6-10	5
20-50	10-15	7
50-100	15-20	7-12
100 and over—Determined in consultation with the department.		

(ii) A report of each columnar section obtained by borings shall be submitted along with a site map showing the location and elevation of each boring. Each boring log should report the elevation and the soil layers present describing the soil or rock constituents, color, degree of compaction, and amount of moisture present plus any additional information necessary for an adequate description. A total thickness of each soil or rock layer should be represented on the boring log and enough information should be obtained to classify each soil stratum based on the Unified Soils Classification System. If subsurface water is encountered, the test hole should be bailed of all drilling fluids for its entire depth and the initial depth that water was encountered should be noted on the boring log. Also, the static water level shall be obtained by measuring the depth to the water level daily until it has remained stable for a period of 24 hours or longer and noted on the boring log indicating the time required for the water level to stabilize. If drilling in the vicinity of an existing disposal site and water is encountered, the hole shall be bailed of all drilling fluids and a sample of the subsurface water shall be taken after the static water level has stabilized and analyzed to determine the existence of any contaminants. Consideration should be given to the conversion of bore holes into piezometers to establish

groundwater gradient and then monitor wells; however, conversion to monitor wells shall not be accomplished without prior approval by the department. All test holes drilled in conjunction with soil testing and evaluation shall be bailed and, once groundwater data is obtained, adequately plugged to preclude surface contamination from entering. The plugging shall consist of a 10-foot thick cement grout placed from a depth of three feet to 13 feet from the surface. The top three feet may be backfilled with on-site soils displaced during drilling. All test holes which penetrate any buried waste shall be plugged from three below the surface to their entire depth. This plug shall be a bentonite mud with a minimum of one sack of cement grout per 15 feet of test hole depth.

(iii) A laboratory report of soil characteristics shall be submitted consisting of a minimum of one sample from each soil layer that will form the bottom and sides of the proposed excavation. The design engineer should have as many additional tests performed as necessary to provide a typical profile of the soils stratification within the site. No laboratory work need be performed on highly permeable soil layers which obviously will require lining. The soil samples shall be tested by a competent soils laboratory. The soil tests shall consist of the following:

(I) Permeability tests, to be performed according to one of the following standards on undisturbed soil samples. Where excavations already exist on the site that are to be used for waste disposal, undisturbed samples shall be taken from the sidewalls of those excavations and said permeability tests made on the horizontal axis. All test results shall indicate the type of test used and the orientation of each sample

(a-) constant head—ASTM D2434; or

(b-) falling head—Appendix VII of the

Corps of Engineers Manual EM1110-2-1906, 30 Nov. 70, Laboratory Soils Testing

(II) Sieve analysis and hydrometer analysis: Number 4, #10, #40, #200, -200, and hydrometer analysis on -200 fraction—ASTM D422

(III) Atterberg limits—ASTM D423 and D424.

(IV) Moisture—density relations—ASTM D698.

(V) Moisture content—ASTM D2216.

(VI) All soils bounded within the following range of values shall be tested in a soils laboratory for the coefficient of permeability. Normally all soils below the range of values stated in this subclause are very sandy and will require lining, unless additional test data support a deviation. Those soils which exceed the range of values are high in clay and do not require additional testing to prove their adequacy for sanitary landfill purposes. The physical parameters stated are to be considered as guidelines for soil sample testing. Engineering judgment must be used on those samples which exhibit some but not all of the boundary limits stated

Plasticity Index	15 to 25
Liquid Limit	30 to 50
Percent Passing	
200 Mesh Sieve (-200)	30 to 50

(iv) A geologist or a registered professional engineer experienced in geotechnical engineering shall

review the geologic information and groundwater data which are available for the proposed site and its environs. From these data, a geologic report, to include a brief description of the historical and depositional background of the area, shall be prepared and included in the soils report

(v) An analysis of the soils data and a recommendation as to the adequacy of *in situ* soils for groundwater protection or the type and thickness of constructed liner, when necessary, shall be provided by a professional engineer experienced in geotechnical engineering or geologist having a college degree in geology with no less than four years of experience in engineering geology.

(J) Active geological faults. Applications submitted for the operation of sites located within areas which may be subject to differential subsidence or active geological faulting must include detailed fault studies. When an active fault is known to exist within one-half mile, the site shall be investigated for unknown faults. Areas experiencing withdrawal of crude oil, natural gas, sulfur, etc., or significant amounts of groundwater shall be investigated in detail for the possibility of faulting which could adversely affect the integrity of landfill liners. Such studies shall be conducted under the direct supervision of a professional engineer experienced in geotechnical engineering or a geologist qualified to evaluate such conditions. The studies shall establish the limits (both upthrown and downthrown) of the zones of influence of all active faulted areas within the site vicinity. Unless the applicant can provide substantial evidence that the zone of influence will not affect the site, no solid waste disposal shall be accomplished within a zone of influence of active geological faulting or differential subsidence because active faulting results in slippage along failure planes, thus creating preferred seepage paths for liquids. The studies shall include information or data on the items in clauses (i)-(xii) of this subparagraph, as applicable.

(i) structural damage to constructed facilities (roadways, railways, and buildings).

(ii) scarps in natural ground.

(iii) presence of surface depressions (sag ponds and ponded water)

(iv) lineations noted on aerial maps and topographic sheets.

(v) structural control of natural streams.

(vi) vegetation changes.

(vii) crude oil and natural gas accumulations.

(viii) electrical spontaneous potential and resistivity logs (correlation of subsurface strata to check for stratigraphic offsets).

(ix) earth electrical resistivity surveys (indications of anomalies which may represent fault planes).

(x) open trench excavations (visual examinations to detect change in subsoil texturing and/or weathering indicating stratigraphic offsets).

(xi) changes in elevations of established benchmarks.

(xii) references to published geological literature pertaining to area conditions.

(6) Attachments.



(A) Attachment 1—General location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If only a portion of the map sheet is used, the portion shall include the scale, date, north arrow, latitudes, and longitudes. These maps may be obtained at a nominal cost from the nearest District Highway Engineer Office or by writing to State Department of Highways and Public Transportation, Attention: Transportation Planning Division (D-10), P.O. Box 5051, Austin, Texas 78763. If the site is located within a city and a city map is available showing all of the information required by this subparagraph, the city map may be used for this purpose.

(B) Attachment 2—topographic map. This map shall be a United States Geological Survey 7½-Minute Quadrangle Sheet or equivalent, encompassing the area of the site and showing the location of area streams (particularly those entering and leaving the site), and marked to show site boundaries, roadway access, direction of prevailing wind, and airfields within four miles of the site. If these airfields are off the map, indicate distance and direction. These maps may be obtained at a nominal cost from Branch of Distribution, United States Geological Survey, Federal Center, Denver, Colorado 80225.

(C) Attachment 3—land use map. This is normally a constructed map of the site showing the boundary of the property and any existing zoning on or surrounding the property and actual uses (e.g., agricultural, industrial, residential, etc.) both within the site and surrounding the site within one mile of the boundary of the area to be filled. The applicant should make every effort to show the location of residences, commercial establishments, schools, churches, cemeteries, ponds or lakes, and recreational areas within one mile of the site boundary. Drainage, pipeline, and utility easements within the site shall be shown. Access roads serving the site shall also be shown.

(D) Attachment 4—aerial photograph. This should be an aerial photograph approximately 9 inches by 9 inches with a scale within a range of 1 inch equals 1667 feet to 1 inch equals 3,334 feet and showing the area within at least a one mile radius of the site boundaries. The site boundaries or actual fill areas should be marked. Aerial photographs are usually available at a nominal fee from Aerial Photography Field Office, Administrative Services Division, ASCS—USDA, 2505 Parlev's Way, Salt Lake City, Utah 84109. The Agricultural Stabilization and Conservation Office in the county where the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

(E) Attachment 5—contour map. This is normally a constructed map showing the contours prior to any filling operations on the site. Appropriate vertical contour intervals should be selected so that contours are not further apart than 100 feet as measured horizontally on the ground. However, wider spacing may be used when deemed appropriate. The map should show the location and quantities of surface drainage entering, exiting, or

internal to the site and the area subject to flooding by a 100-year frequency flood.

(F) Attachment 6—sectorized fill layout. This is the basic element of the site development plan consisting of a site layout on a constructed map showing the outline of the fill sectors with appropriate notations thereon to communicate the types of wastes to be disposed of in individual sectors, the general sequence of filling operations, locations of all interior site roadways to provide access to all fill areas, locations of monitor wells, dimensions of trenches, locations of buildings, and any other graphic representations or marginal explanatory notes necessary to communicate the proposed step-by-step construction of the site. The layout should include fencing; sequence of excavations, filling, and final cover; provisions for the maintenance of natural windbreaks, such as greenbelts, where they will improve the appearance and operation of the site; and, when appropriate, plans for screening the site from public view. A generalized design of all site entrance roads from public access roads shall be included. All designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with site entrances should be coordinated with the agency exercising maintenance responsibility of the public roadway involved. This plan is the basis for operational planning and budgeting, and therefore should contain sufficient detail to provide an effective site management tool. If a phased site development is proposed in accordance with this section, detailed working drawings for only the Phase I portion of the site, generally for five to eight years of estimated life, are required; however, the phased development does not waive the need for initial and final contours and an overall concept of development for the entire site.

(G) Attachment 7—typical fill cross section. This is normally a plan profile across the site reflecting the information usually found on a profile—namely, the top of the levee, top of the proposed fill, top of the final cover, top of the wastes, existing ground, bottom of the excavations, side slopes of trenches and fill areas, gas vents or wells, groundwater monitoring wells, plus the initial and static levels of any water encountered. These sections should go through or very near one or more soil borings in order that the boring logs obtained from the Soils Report, paragraph 6(K) of the application, can also be shown on the profile. A large section shall require several of these cross sections, both laterally and longitudinally, so as to depict the existing and proposed depths of all fill areas within the site. The plan portion can be handled on an inset key map somewhere on the typical section shape in order to devote the maximum space to the critical considerations reflected on a profile. Construction and design details of compacted perimeter or toe berms to be built in conjunction with above-ground (aerial-fill) waste disposal areas shall be included in the overall site design, as applicable.

(i) The thickness of the final cover on landfills shall consist of a minimum of 1½ feet of clayey soil of classification SC or CL, as defined in the Unified Soil Classification System developed by the U.S. Army Corps of Engineers, compacted in layers of no more than six inches with a minimum of an additional six inches of top soil capable of supporting vegetative growth. The clayey

soil may be of a CH classification, but this type may experience excessive cracking and must therefore be covered by at least 12 inches of topsoil to help in retaining moisture. Other types of soil may be used with prior approval.

(ii) Side slopes of all aboveground disposal areas (aerial fills) shall not exceed a 25% grade (four feet horizontal to one foot vertical). The final cover for the top portion of a landfill shall have a minimum gradient of 2.0% and shall not exceed 6.0%, but shall possess a sufficient minimum grade to preclude ponding of surface water taking into consideration total fill height and expected subsidence. Side slopes in excess of 25% will not be authorized without controlled drainage, such as flumes, diversion terraces, spillways, or other acceptable methods.

(iii) Permanent drainage facilities shall be constructed between the toe of an aerial fill and the adjacent property line, if applicable. The facilities shall be sized in accordance with subparagraph (F)(iii) of this section. A width sufficient to provide for passage and working space for maintenance equipment, fire-fighting vehicles, etc., shall be permanently maintained between the toe of the slope of an aerial fill and the inside backslope of the appropriate perimeter drainage facility.

(H) Attachment 8--ground and surface water protective facilities. This is normally a sheet reflecting locations and typical sections of levees, dikes, drainage channels, culverts, holding ponds, trench liners, storm sewers, or any other facilities relating to protection of the site from ground and surface water. Adequacy of provisions for safe passage of any internal or externally adjacent floodwaters should be reflected here. Cross sections or elevations of levees should be shown tied into contours. Natural drainage patterns shall not be significantly altered.

(I) Attachment 9--landfill completion plan. This is a constructed map showing the final contour of the entire landfill to include internal drainage and side slopes plus accommodation of surface drainage entering and departing the completed fill area plus areas subject to flooding due to a 100-year frequency flood.

(J) Attachment 10--legal description of the site. This is normally a typed page of the official metes and bounds description or, if platted property, the book and page number of the plat record of only that acreage encompassed in the application.

(K) Attachment 11--soils report. This is a copy of a professional soils laboratory report of borings and analyses of soil conditions as required by paragraph (5)(I) of this subsection.

(L) Attachment 12--site operating plan. This document is to provide guidance from the design engineer to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations in a manner consistent with the engineer's design through the life of the site. As a minimum, the site operating plan shall include specific guidance or instructions on the following:

(i) the minimum number of personnel and their functions and the size, types, and number of equipment to be provided by the site operator in order to have adequate capability to conduct the operation in confor-

mance with the design and operational standards. A supervisor position shall be designated to be in charge with a designated alternate and, one or the other shall be on site at least 75% of the time.

(ii) security, site access control, screening, traffic control, and safety.

(iii) sequence of site development such as roads, ditches, berms, retaining ponds, trenches, and buildings.

(iv) control of dumping within designated areas so as to minimize the width of the working face of the disposal area.

(v) fire prevention and control, stockpiling of fire-fighting materials, and special training requirements for fire-fighting personnel that may be called on for assistance.

(vi) control of special wastes, Class I wastes, hazardous wastes, management of manifested wastes, record keeping, and procedures to ensure that unauthorized wastes are not accepted for disposal.

(vii) control of windblown material.

(viii) vector control.

(ix) dewatering of excavations prior to lining or waste disposal.

(x) dust and mud control measures for access roads.

(xi) compaction and intermediate cover application and final cover procedures. Instructions shall be included for application of intermediate and final cover with guidance on the type and thickness of material to be applied.

(xii) procedures and responsibilities for assuring continuous compliance with the Soil and Limer Quality Control Plan.

(xiii) monitoring for leachate and methane. The timing for placement of monitoring or venting wells shall be addressed and guidance provided for sampling.

(xiv) posting of signs and enforcement of site rules to include proper covering of waste-hauling vehicles.

(xv) protection of on-site utilities and easements.

(xvi) wet-weather operations.

(xvii) inspection and maintenance of completed sections of the site during the active life of the site and after closure. Specific plans shall be provided for inspection by a professional engineer to evaluate and upgrade unsatisfactory conditions as necessary.

(xviii) incorporation of other instructions as necessary to ensure that site personnel comply with all of the operational standards for the type of site involved.

(M) Attachment 13--evidence of financial responsibility. The applicant shall submit evidence of financial responsibility which assures the department that he has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, etc., in the case of privately-owned facilities and by commissioners court or city council resolution in the case of publicly-owned facilities.

(N) Attachment 14—evidence of competency. The applicant shall submit a record of all his activities involving in solid waste management in Texas within the last 10 years. Evidence of competency to operate the site shall be provided, to include landfilling and earthmoving experience of key personnel.

(O) Attachment 15—applicant's statement. The applicant, or the authorized representative empowered to make commitments for the applicant, shall provide a statement that he is familiar with the engineer's site development plan and is aware of all commitments represented in the plan and that he is also familiar with all pertinent requirements in these regulations and he agrees to develop and operate the site in accordance with the plan, the regulations, and any permit special provisions that may be imposed.

**§325.75. Technical Information Required for Solid Waste Processing and Experimental Sites.**

(a) Report preparation. For all Type V sites, including those air-curtain destructors (trench burners) which may require a permit and Type VI sites not involving land disposal, the technical information submitted in support of Part A shall be prepared in the form of a site development plan as described in subsection (b) of this section. For all experimental land disposal sites (Type VI), the technical information submitted with an application shall include all applicable items as required for Type I disposal sites (see §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan)); however, because of the many variables that may be involved in operations of these types, applicants should consult with the department to confirm the applicability of specific requirements. Individual drawings shall be signed and sealed by the registered professional engineer responsible for their preparation. Bound plans shall be signed and sealed by the engineer, preferably on the first page. The preliminary instructions contained in §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan) with respect to consultation with the department, submittal of draft plans, size of drawings, and determination of number of copies apply to this subsection.

(b) The site development plan shall be prepared in the format and content described in paragraphs (1)-(6) of this subsection:

(1) The title page shall show the name of the project by city and county, name of applicant, and date of application.

(2) The table of contents shall list the following main sections of the application which are described in paragraphs (3)-(6) of this subsection:

- (A) engineer's appointment.
- (B) solid waste data
- (C) design data.
- (D) Attachments.

(3) The engineer's appointment consists of a letter from the applicant to the commissioner, Texas Department of Health, identifying the registered professional engineer or consulting engineering firm under whose direction the plans and specifications and other technical

data will be prepared. See §325.903 of this title (relating to Appendix C—Notice of Appointment) for a suggested format.

(4) Solid waste data includes identification of nature, type, and quantity of waste proposed for processing and/or disposal in the site to include a brief description of the general sources and generation areas contributing wastes to the site. This will include an estimate of the population or population equivalent served by the site.

(5) Design data will be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Information which is to be placed in narrative form in this section of the application should be in a sequence that parallels the sequence of the attachments described in paragraph (6) of this subsection. Applicants will consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific site dictates. Applicants shall include in the support data for their permit applications information as specified in the design criteria indicated in this paragraph. Additional information may be required of the applicant when deemed necessary by the department.

(A) Land use. The primary concern of the department is that the use of any land for a municipal solid waste site does not adversely impact on public health. However, the impact of the site upon a city, community, group of property owners, or individuals will be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.

(i) To assist the department in evaluating the impact of the site on the surrounding area, the applicant shall provide the following data in the application:

(I) zoning at the site and in the vicinity. If the site requires approval as a nonconforming use or a special permit from the local government having jurisdiction, a copy of such approval shall be submitted.

(II) character of surrounding land uses within one-half mile of the proposed facility.

(III) growth trends of the nearest community with directions of major development.

(IV) proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.). Give the approximate number of residences and business establishments within one-half mile of the proposed facility including the distances and directions to the nearest residences and businesses.

(V) availability and adequacy of roads.

(VI) volume of vehicular traffic on access roads, both existing and expected, during the expected life of the proposed facility.

(B) Access.

(i) solid waste processing facilities shall be so planned that they result in a minimum disruption of normal traffic patterns. Data shall be submitted to substantiate adequacy of public access roadways, in-

cluding types of surfacing, pavement widths, complete details of upgrading required, and recent daily traffic counts (estimated, when counts not available). A statement shall also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes. An estimate shall be provided of the number, sizes, and maximum weight of vehicles expected to use the facility daily.

(ii) Provisions shall be made for all-weather access from access routes to the site and within the site. Interior access road locations and the type of surfacing shall be indicated on a site plan. Maintenance and dust control procedures including all-weather serviceability of interior roads shall also be addressed in the overall site design and operating plan. A design of the intersection of the public access road with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gates, signalization and landscaping, as appropriate.

(iii) The access road into the site and appropriate portions of interior roads shall be designed so as to minimize the tracking of mud onto the public access road. The type and length of paving necessary to control accumulations of mud shall be indicated. Other methods of mud control, such as use of washing facilities and guard rails may be used to supplement paving.

(iv) Measures for access control shall be shown and discussed in the site development plan. These measures shall provide for the protection of the public from exposure to potential health and safety hazards and to prevent unauthorized entry or disposal of hazardous materials.

(C) Process description.

(i) A description shall be provided of the process to be used, including details of all planned on-site facilities. Sufficient narrative and graphic details shall be provided to enable an evaluation of the operational capabilities, the design safety features, pollution control devices, and other health and environmental protective measures.

(ii) A plan shall be provided for alternate processing or disposal of solid waste in the event that the processing site becomes inoperative for a period longer than 24 hours. If an incineration facility is to be constructed on site, an estimate of the amount and planned method for final disposal of incinerator ash, an estimate of the volume of quench or process water, and the planned method of treatment and disposal of such water shall be provided.

(D) Sanitation. Solid waste processing facilities shall be designed for proper cleaning. This may be accomplished by:

(i) controlling surface drainage in the vicinity of the facility to minimize surface water runoff onto, into, and off the treatment area.

(ii) constructing walls and floors in operating areas of masonry, concrete, or other hard-surfaced materials that can be hosed down and scrubbed.

(iii) providing necessary connections and equipment to permit thorough cleaning with water or steam.

(iv) providing adequate floor drains to remove wash water.

(E) Water pollution control. All liquids resulting from the operation of solid waste processing facilities shall be disposed of in a manner which will not cause water pollution. Facilities shall be provided for the treatment of wastewaters resulting from the process or from cleaning and washing. The procedure for wastewater disposal shall be in compliance with the rules and regulations of the Texas Department of Water Resources.

(F) Air pollution control. The construction and operation of Type V and VI sites may require a Texas Air Control Board permit. Applicants for permits for these types of sites should consult with that agency at the time that an application is filed with the department, or earlier.

(G) Storage of solid waste. Solid waste processing facilities shall be designed for the rapid processing of solid waste and a minimum detention time at the facility. All solid waste capable of creating public health hazards or nuisances shall be stored indoors only and processed or transferred during the same working day it is deposited at the facility. If the facility is in continuous operation, such as for resource or energy recovery, provisions shall be made to ensure that wastes are not allowed to accumulate or remain on-site awaiting processing or transfer for such periods that will allow the creation of nuisances or public health hazards due to odors, fly-breeding, or harborage of other vectors.

(H) Fire protection. Through proper design and location, fire hazards associated with a solid waste processing facility shall be minimized. The following are minimum requirements:

(i) A general plan of action to be followed in the event of fire shall be established.

(ii) The facility shall be constructed of fire-resistant material wherever possible.

(iii) An adequate supply of water under pressure shall be available for fire-fighting purposes.

(iv) Fire-fighting equipment shall be readily available.

(I) Ventilation. In the interest of odor control and operator safety, any structure associated with the processing of solid waste shall be adequately ventilated. The rules and regulations of the Texas Air Control Board shall be complied with in all matters involving the collection and emission of air through ventilating systems.

(J) Windblown material. Solid waste processing facilities shall be provided with a means to control windblown material which may result from the process itself or from the handling of solid waste at the facility.

(i) Loading, unloading, and processing of solid waste shall be conducted within an appropriately designed building, enclosed with appropriate doorways to allow sufficient vehicular mobility while allowing complete enclosure when no traffic is present, or, if appropriate to the facility, wire or other type fencing or screening shall be provided to enclose the structure and operating area.

(ii) All windblown material resulting from the operation shall be collected and returned to the processing site.

(K) Noise pollution. Noise pollution shall be considered in the design of solid waste processing facilities.

(L) Employee sanitation facilities. Adequate potable water and sanitary facilities shall be provided for all solid waste processing facilities.

(6) Attachments.

(A) Attachment 1—general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If only a portion of the map sheet is used, the portion shall include the scale, date, north arrow, latitudes, and longitudes. These maps may be obtained at a nominal cost from the nearest District Highway Engineer Office or by writing to State Department of Highways and Public Transportation, Attention: Transportation Planning Division (D-10), P.O. Box 5051, Austin, Texas 78763. If the site is located within a city and a city map is available showing all of the information listed in this subparagraph, the city map may be used for this purpose.

(B) Attachment 2—topographic map. This map shall be a United States Geological Survey 7½-Minute Quadrangle Sheet or equivalent, encompassing the area of the site and showing the location of area streams (particularly those entering and leaving the site) and marked to show site boundaries, roadway access, and direction of prevailing wind. These maps may be obtained at a nominal cost from Branch of Distribution, United States Geological Survey, Federal Center, Denver, Colorado 80225.

(C) Attachment 3—land use map. This is normally a constructed map of the site showing the boundary of the property and any existing zoning on or surrounding the property and actual uses (e.g., agricultural, industrial, residential, etc.) both within the site and surrounding the site within one-half mile of the boundary of the site. The applicant should make every effort to show the location of residences, commercial establishments, schools, churches, cemeteries, and recreational areas within one-half mile of the site boundary. Drainage, pipeline, and utility easements within the site shall be shown. Access roads serving the site shall also be shown.

(D) Attachment 4—airial photograph. This should be an aerial photograph approximately nine inches by nine inches with a scale within a range of one inch equals 1,667 feet to one inch equals 3,334 feet and showing the area within at least a one-half mile radius of the site boundaries. The site boundaries shall be marked. Aerial photographs are usually available at a nominal fee from Aerial Photography Field Office, Administrative Services Division, ASCS—USDA, 2505 Parley's Way, Salt Lake City, Utah 84109. The Agricultural Stabilization and Conservation Office in the county where the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

(E) Attachment 5—site layout and construction details. This is the basic element of the site development plan consisting of a site layout on a constructed map

showing all proposed on-site facilities in sufficient detail to enable an evaluation of the operational capabilities, the design safety features, and the health and environmental protection measures. The layout should include fencing and, when appropriate, plans for screening the site from public view. A generalized design of the site entrance road from the public access road shall be included. All designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with the site entrance should be coordinated with the agency exercising maintenance responsibility of the public roadway involved.

(F) Attachment 6—contour map. This is normally a constructed map showing the contours prior to and after completion of construction on the site. Appropriate vertical contour intervals should be selected so that contours are not further apart than 100 feet as measured horizontally on the ground. However, wider spacing may be used when deemed appropriate. The map should show the location and quantities of surface drainage entering, exiting, or internal to the site and the area subject to flooding by a 100-year frequency flood. Locations and sizes (showing typical sections) of levees, drainage channels, culverts, holding ponds, and storm sewers shall be shown and supporting calculations, performed in accordance with subsection (b)(5)(F)(iii) of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan), shall be provided. Natural drainage patterns shall not be significantly altered.

(G) Attachment 7—legal description of the site. This is normally a typed page of the official metes and bounds description or, if platted properly, the book and page number of the plat record of only that acreage encompassed in the application.

(H) Attachment 8—site operating plan. This document is to provide guidance from the design engineer to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations in a manner consistent with the engineer's design. As a minimum, the site operating plan shall include guidance or instructions on the following:

(i) the minimum number of personnel and their functions and the size, type, and number of equipment and minimum number of each type to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards. A supervisor position shall be designated to be in charge with a designated alternate, and one or the other shall be on site at least 75% of the time.

(ii) security, site access control, screening, traffic control, and safety.

(iii) control of dumping within designated areas.

(iv) fire prevention and control, provision of fire-fighting equipment, and special training requirements for fire-fighting personnel who may be called on for assistance.

(v) procedures to ensure that unauthorized wastes are not accepted for disposal.

(vi) control of windblown material.

(vii) vector control.

(I) Attachment 9—evidence of financial responsibility. Evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters or credit from recognized financial institutions, company stock-holder reports, etc., in the case of privately-owned facilities, and by commissioners court or city council resolution in the case of publicly-owned facilities

(J) Attachment 10—evidence of competency. The applicant shall submit a record of all his activities involving solid waste management in Texas within the last 10 years. Evidence of competency to operate the site shall be provided, to include pertinent experience of key personnel.

(K) Attachment 11—applicant's statement. The applicant, or authorized representative empowered to make commitments for the applicant, shall provide a statement that he is familiar with the engineer's site development plan and is aware of all commitments represented in the plan and that he is also familiar with all pertinent requirements in these regulations and he agrees to develop and operate the site in accordance with the plan, the regulations, and any permit special provisions that may be imposed

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 21, 1983

TRD-834625 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date July 12, 1983  
Proposal publication date February 25, 1983  
For further information, please call (512) 458-7236.



### **Application Review Process**

**25 TAC §325.91**

This new section is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules con-

sistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction

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 21, 1983

TRD-834626 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date July 12, 1983  
Proposal publication date February 25, 1983  
For further information, please call (512) 458-7236.

## **Subchapter F. Operational Standards for Solid Waste Land Disposal Sites General**

**25 TAC §§325.111 325 113**

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction

**§325.113 Effect of Updated Regulations on Existing Sites** It is not the department's intent to require implementation of changes to existing facilities which are not technically feasible or practical due to the current status of site development. The permittee shall review §§325.111 325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites) to determine operational changes and submissions required by these updated regulations. Permits issued under past regulations remain valid for the period of time specified in the permit. Permittees for sites serving a population equivalent of 5,000 persons or more shall submit a report to the bureau prior to January 1, 1984, addressing those changed standards which are technically feasible at the stage of construction and operation of the facility and justification for not incorporating any remaining changes required by these regulations. The report shall include a time schedule for implementing any operational changes not implemented as of January 1, 1984, and for completing any required submissions not already submitted as of January 1, 1984. Possible submissions in addition to a revised site development plan may be required by §325.122 of this title (relating to Soil and Liner Quality Control) or by §325.152 of this title (relating to Site Completion and Closure Procedures). The necessity of each of these two possible submissions must be addressed in

the report referred to in this section. When changes to the existing approved site development plan, closure/completion plan, or soil and liner quality control plan are not required and changes to these plans are not contemplated, a short statement to that effect is required by January 1, 1984. Upon approval of submissions required by this section, implementation plans and time schedules shall be implemented by the permittee. The permittee should also review §325.53 of this title (relating to Duration and Limits of Permits), §325.54 of this title (relating to Permits Issued Under Previous Regulations), and §325.55 of this title (relating to Transfer of Permits/Application/Property Ownership and Name Changes) for other submissions which may be required.

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 21, 1983

TRD-834627      Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Effective date: July 12, 1983

Proposal publication date: March 1, 1983

For further information, please call (512) 458-7236.

## Standards for Protection of Ground and Surface Waters

### 25 TAC §§325.121-325.124

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

#### §325.121 *General Liner Requirements and Alternatives.*

(a) The minimum acceptable protection is a layer of soil in each disposal trench, excavation, or area that is at least equivalent to three feet of soil having a maximum coefficient of permeability of  $1 \times 10^{-7}$  centimeters per second unless some other means of protection is approved by the department; or

(b) When soil liner thicknesses of less than three feet are proposed as equivalents, a protective cover of at least one foot of soil in addition to the liner shall be used. This protective cover may be of on-site material and does not have to meet a coefficient of permeability requirement. If the coefficient of permeability of the liner soil is  $1 \times 10^{-8}$  centimeters per second or less, the liner thickness shall not be less than one foot in compacted thickness under density-controlled construction prior to placement of the protective cover. If the plasticity index of the liner soil is less than 15 and the liquid limit is less

than 30, the equivalency liner rule does not apply and the soil liner shall be no less than three feet in compacted thickness.

(c) Consideration will be given to proposals for alternatives which will provide equivalent or greater protection of the waters in the state.

(1) A man-made liner other than compacted clay soils (i.e. asphalt, polymeric membranes, concrete, bentonite slurry or admixture, etc.) may be utilized only after the site operator has demonstrated the alternate method will provide the required protection of waters in the state and has received approval from the department to implement such alternate procedures

(2) As an aid in determining if lining of trenches or fill areas will be required, the bureau will, upon request, calculate the potential percolation of precipitation into deposited solid waste and the potential for leachate generation using the water-balance method based on rainfall, evapotranspiration, and soils data as described in the U.S. Environmental Protection Agency's report SW-168 titled "Use of Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites" or other improved procedures for evaluation in combination with other site-specific data. The site operator must provide the required site data for use in calculating and evaluating the water balance. This data must be accompanied by a proposed revision of the site development plan to incorporate the appropriate changes in the operation of the site. Revisions shall address intermediate cover frequencies, cover material quality and thickness for both intermediate and final cover applications; proposed final slopes and grades; provisions for assuring that ponding water over deposited waste will not occur either in the intermediate stages or final stages of the site development, provisions for a top soil that will support vegetation; and a proposed form of vegetative cover with a plan for initiating and maintaining this vegetative cover. Guidance from the bureau should be sought as to the specific information necessary to accomplish the calculations. Once the information is provided by the site operator, the bureau will perform and evaluate the water-balance calculations for the site in question as well as the proposed revisions to the site development plan. The evaluation results will be provided to the operator with notification of approval or disapproval of the revised site development plan.

#### §325.122. *Soil and Liner Quality Control.*

(a) The site operators of sites serving a population equivalent of 5,000 or more, or where lining is required by permit special provision, shall have on file with the bureau an approved Soil and Liner Quality Control Plan (SLQCP) for each site required to submit Soil and Liner Evaluation Reports (SLER) by subsection (b) of this section.

(b) The site operators of sites serving a population equivalent of 5,000 or more, or where lining is required by permit special provision, shall submit to the bureau a Soil and Liner Evaluation Report (SLER) in triplicate (including all attachments) for each disposal trench, excavation, or area as outlined in the SLQCP at least 14

days prior to depositing any solid waste in the trench, excavation, or disposal area unless alternate means for protecting ground waters have been approved by the bureau.

(1) The SI QCP shall be adequately described and illustrated to provide operating personnel all necessary procedural guidance for assuring continuous compliance with this subsection

(2) The SLQCP shall provide the engineer or geologist who prepares the SLERs for the site the guidance needed for testing and reporting procedures for the SLERs.

(3) The SLQCP shall include specifications and construction methods employing good engineering practices for both the evaluation of existing soils and the compaction of clay soils to form a liner under each of the four potential conditions described in subparagraphs (A) (D) of this paragraph, and provide for soil and liner quality control testing frequencies and procedures as described in subparagraph (F) of this paragraph

(A) Lining of complete trenches. The liner details shall be depicted on cross sections of a typical trench showing the slope, widths, and thicknesses for compaction lifts.

(B) Lining of permeable zones. Typical cross sections shall be provided for those instances in which overexcavation of permeable zones and backfilling with impermeable clay may be necessary

(C) Scarification and recompaction. Proposed procedures shall be shown when only scarification and recompaction are required for impermeable soils with zones containing fissures, cracks, or joints

(D) Lining below static groundwater levels. Procedures to be followed when excavations, trenches, or disposal areas extend into or have the potential to extend into the groundwater are provided in clauses (i) (iv) of this subparagraph

(i) If groundwater is encountered in the disposal excavations, or in cases where excavations extend below the seasonal highwater table, the equivalent of one foot of compacted clay liner for every two feet of static water head encountered shall be used as a basis for construction of a liner between the deposited solid waste and the groundwater. The total thickness of the liner shall consist of a base material which provides the equivalent protection of three feet of soil with a permeability of not more than  $1 \times 10^7$  centimeters per second, a liquid limit of not less than 30, a plasticity index of not less than 15, and a percent passing a 200 mesh sieve (-200) of not less than 30, plus an additional thickness of other material that will provide a combined total weight equal to one foot of compacted clay for every two feet of static water head.

(ii) Pressure release systems may be used to reduce the amount of the liner support construction.

(iii) In no case shall the thickness of the liner or liner-barrier combination be less than three feet when groundwater is encountered at or within three feet of the bottom of the excavation or if excavations extend below the seasonal highwater table.

(iv) The shearing resistance of the lining material may not be considered as justification for reducing liner thickness.

(E) Soil and liner quality control testing frequencies and procedures.

(i) For circumstances where constructed lining may not be required or needed, the SLQCP shall include specific details on preparation measures required for *in situ* soils prior to their receipt of wastes.

(ii) All field sampling and testing, both during construction and after completion of lining as well as verification of *in situ* soils, shall be performed by a registered professional engineer experienced in geotechnical engineering or a geologist having a college degree in geology with no less than four years experience in engineering geology, or under their direct supervision.

(iii) The amount of compaction shall be expressed as a percentage of standard Proctor density, which has been proven by soils laboratory testing to provide coefficient of permeability of  $1 \times 10^7$  centimeters per second or less

(iv) For constructed liners, the SI QCP shall define the frequency of testing for each of the test procedures listed in subclauses (I)-(V) of this clause. These frequencies shall be expressed in numbers of tests per specific area of liner per lift or specific thickness of liner unless an alternate is approved by the bureau

(I) coefficient of permeability.

(II) sieve analysis

(III) Atterberg limits

(IV) density

(V) thickness verification

(v) Unless otherwise approved by the department, any soil tests accomplished for *in situ* soils shall be performed according to the standards in subclauses (I)-(V) of this clause

(I) Permeability tests. Permeability tests should be run on tap water and not distilled water. All test data must be submitted on permeability tests regardless of test method used

(a) constant head-- ASTM D2434, or

(-b) falling head--Appendix VII of the Corps of Engineers' Manual EM, 1110-21906, November 30, 1970, Laboratory Soils Testing.

(-c-) undisturbed soil samples tested for the coefficient of permeability will be oriented on both the horizontal axis (for soils which will constitute the sidewalls of an excavation) and on the vertical axis (for soils which will constitute the trench or area bottom).

(II) sieve analysis and hydrometer analysis. Number 4, #10, #40, #200, -200, and hydrometer analysis on -200 fraction--ASTM D422.

(III) Atterberg limits. ASTM D423 and D424.

(IV) moisture-density relations. ASTM D698.

(V) moisture content. ASTM D2216.

(vi) All soils bounded within the following ranges of values shall be tested in a soils laboratory for the coefficient of permeability. All soils below the ranges of values stated are very sandy and will require lining, while those soils which exceed the range of values are high in clay and do not require additional testing to prove their adequacy for sanitary landfill purposes. The physical parameters stated in this clause are to be considered as guidelines for soil sample testing. Engineering judgment



must be used on those samples which exhibit some but not all of the boundary limits stated.

Plasticity Index	15 to 25
Liquid Limit	30 to 50
Percent Passing 200 Mesh Sieve (-200)	30 to 50

(vii) Permeability tests for proving the suitability of soils to be used in constructing clay liners must also be accomplished in the laboratory using the procedures and guidance of clauses (v) and (vi) of this subparagraph. Field quality control must be provided by field density tests based on predetermined moisture density curves unless an alternate plan is approved by the department.

(4) Unless alternate construction procedures are approved by the department in writing, all constructed liners shall be keyed into an underlying formation of sufficient strength to ensure stability of the constructed lining.

(5) Any deviation from an approved SI QCP must have prior approval from the department, therefore, each SI ER must be prepared in accordance with the approved SI QCP.

(c) The bureau shall be provided sufficient documentation to assure that the potential for contamination of waters in the state is minimized. If after review by the bureau it is determined that the SI ER is incomplete or that the test data provided are insufficient to support the evaluation conclusions, additional test data or other information may be required and use of the trench or disposal area will not be allowed until such additional data are received and approved. All SI ERs must be signed, and where applicable, sealed by the individual performing the evaluation and counter-signed by the site operator or his authorized representative.

**§325.123. Miscellaneous Standards for the Protection of Ground and Surface Waters.**

(a) Solid waste shall not be placed in unconfined waters which are subject to free exchange with ground and surface waters.

(b) The department may require monitor wells and/or resistivity surveys to monitor groundwater quality and/or movement when such is deemed necessary.

(c) Prior to placing solid waste in any area within a floodplain, the site operator must construct levees to protect the site from a 100-year frequency flood. Levee design and construction procedures shall be in accordance with TDWR requirements when applicable or shall be approved by the department. The minimum freeboard will be two feet unless otherwise required. Until levees are constructed, any area within a solid waste disposal facility that is subject to flooding shall be clearly marked by means of permanent posts not more than 300 feet apart, or closer if necessary to retain visual continuity, which extend at least six feet above ground level.

(d) Suitable drainage structures shall be provided to divert the flow of rainfall runoff or other surface water away from active disposal areas.

(e) Rainfall water within the landfill area that has come in contact with solid waste and other polluted waters shall not be discharged without prior specific approval of the TDWR.

**§325.124. Groundwater Protection Systems.**

(a) Facilities required to have groundwater monitoring programs and initiating operation on or after the effective date of these regulations, shall provide for obtaining and analyzing four background groundwater samples from all monitor wells. The first sample shall be taken prior to the disposal of solid waste at the site. Background values shall be established from samples collected at least once during each of the four calendar quarters over the first two years of operation. Samples from any monitor well shall not be collected for at least 45 days following collection of a previous sample, unless a replacement sample is necessary. At least one sample per well must be collected and analyzed prior to the deposition of any solid waste on-site. In addition to the two groups of parameters listed in paragraphs (1) and (2) of this subsection, each well sample analysis shall include four replicate determinations for Total Organic Carbon (TOC) content and the groundwater elevation (MSL) at the time the sample was collected.

(1) heavy metals: arsenic, copper, mercury, barium, iron, selenium, cadmium, lead, silver, chromium, manganese, and zinc

(2) nonheavy metals

calcium	total dissolved solids
magnesium	phenolphthalein alkalinity as CaCO <sub>3</sub>
sodium carbonate	alkalinity as CaCO <sub>3</sub>
bicarbonate	hardness as CaCO <sub>3</sub>
sulphate	pH
chloride	specific conductance
fluoride	groundwater elevation (MSL)
nitrate (as N)	

(b) All sites required to do groundwater monitoring shall sample at 12-month intervals, unless more frequent determinations are specified by the department. Sites required to do the background analyses specified in subsection (a) of this section shall not initiate these annual sampling procedures until the four background samplings and analyses have been completed. The following indicator parameters in addition to or in coordination with any requirements that may be specified in the permit or approved site development plan shall be determined for each monitoring well. With written concurrence from the department, these parameters may be substituted for those parameters specified in earlier permits.

- (1) TOC (four replicates per sample).
- (2) iron.
- (3) manganese.
- (4) pH.
- (5) chloride (in appropriate cases).
- (6) groundwater elevation (MSL).
- (7) specific conductance or total dissolved solids

(Either one may be selected, but consistency from one report to the next is mandatory unless the prior approval of the department is obtained in writing.)

(c) Once every fourth year all sites required to monitor groundwater will sample and analyze for the non-heavy metals group of parameters specified in subsection (a) of this section in addition to the indicator parameters specified in subsection (b) of this section.

(d) Within 45 days after completion of each sampling, the owner/operator shall submit a report to the bureau containing results of the analyses. These reports shall be submitted to the bureau on forms provided by the bureau.

(e) All samples shall be collected and preserved in accordance with guidelines of the department.

(f) Additional sampling and testing may be required by the department upon review of the analyses submitted.

(g) The groundwater monitoring program specified in this section does not apply to any facility permitted by the department under the provisions of §§325.271-325.350 of this title (relating to Hazardous Waste Management).

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.

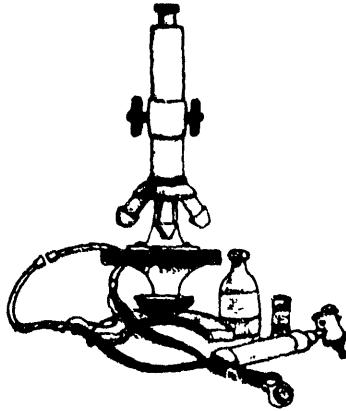
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### Other Operational Standards for Types I, II, III, and IV Sites

#### 25 TAC §§325.131-325.154

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

#### §325.136. Disposal of Special Wastes.

(a) Disposal of special wastes not specifically provided for under subsection (b) of this section, requires prior written approval from the bureau.

(1) Approvals will be waste specific/site specific and will be granted only to appropriate sites operating in general compliance with these regulations, not including Type IV sites.

(2) Requests for approval to accept special wastes other than those hauled in vacuum trucks shall be submitted to the bureau by the site operator and must include, but are not limited to:

(A) a letter from the generator providing a complete description of the chemical and physical characteristics of each waste, a statement as to whether or not each waste is a Class I waste as defined in §325.5 of this title (relating to Definitions of Terms and Abbreviations), and the quantity and rate at which each waste is produced and/or the expected frequency of disposal.

(B) an operational plan containing the proposed procedures for handling each waste and listing available protective equipment for operating personnel and on-site emergency equipment.

(C) a contingency plan outlining responsibility for containment and cleanup of any accidental spills occurring during the delivery and/or disposal operation.

(3) Prior to allowing vacuum trucks to discharge wastes at a municipal solid waste disposal site, the site operator shall have a bureau approved written quality control plan, which assures that there is no reasonable probability that the receipt of vacuum truck wastes would cause an adverse effect on the public health or the environment.

(A) The quality control plan shall assure adequate control over the waste stream to minimize the possibility of accepting unauthorized wastes by providing for:

(i) a system that clearly establishes:

(I) the identity and telephone number of each generator;

(II) the type and quantity of waste obtained from each generator;

(III) the total quantity of waste making up each load; and

(IV) the identity of the responsible hauler.

(ii) a system by which the hauler verifies that the information provided with each load is true and correct to the best of his knowledge.

(iii) a system by which the site operator checks the information provided by the hauler to include:

(I) spot checks of at least 10% of the generators; and

(II) comparison of actual load volumes with the reported volume for each load.

(B) The quality control plan shall provide for:

(i) protection for groundwaters including:

(I) handling procedures to minimize any potential increase in leachate production; and

(II) lining of any designated vacuum truck waste ponds.

(ii) procedures to maintain operational compliance of the site by:

(I) preventing vector breeding;

(II) preventing obnoxious odors;

(III) requiring trucks to arrive at such a time during the day, week, or month to assure adequate

waste exists for absorption of the vacuum truck wastes in the active working face; and

(IV) timely application of intermediate cover.

(C) The quality control plan shall indicate the anticipated frequency of accepting vacuum trucks, the volume of waste necessary to absorb the vacuum truck waste when received, and a method to assure that the volume of waste will be adequate at the time the vacuum truck arrives.

(D) The quality control plan shall provide for procedures to be followed in the event a vacuum truck is turned away from the site as a result of inaccurate or falsified information. The incident must be reported to the appropriate local agency or entity for enforcement action.

(E) The bureau recommends the use of a trip ticket for haulers, an example of which is shown in §325.906 of this title (relating to Appendix F—Form for Vacuum Truck Trip Ticket). Such trip tickets should be made out in triplicate in order that the hauler and the local governing agency or entity may have copies, while the site operator retains the original for at least one year from the date of receipt. If such a trip ticket is used, the retention of a copy of the trip ticket from a hauler who is turned away from the site should be a part of the plan.

(4) The bureau may on its own issue approval without a written request; however, in such cases the site operator is not required to accept the waste

(b) Receipt of the following special wastes do not require written authorization from the department for acceptance provided the waste is handled in accordance with the noted provisions for each waste

(1) Infectious and pathological wastes from laboratories, research facilities, and health and veterinary facilities may be accepted at a Type I municipal solid waste site without further written approval if the wastes are double-bagged in plastic bags not less than 1.5 mil thick each and conspicuously marked. The waste shall not be commingled with routine solid waste, but shall be segregated for special collection and transportation. The wastes shall be covered with three feet of other solid waste or two feet of soil immediately upon receipt.

(2) Dead animals and/or slaughterhouse waste may be accepted at a Type I, II, or III municipal solid waste site without further approval provided the carcasses and/or slaughterhouse waste are disposed of in accordance with the following:

(A) for Type I sites, waste shall be covered by three feet of other solid waste or two feet of soil immediately upon receipt.

(B) for Type II and III sites, waste shall be covered by at least two feet of soil immediately upon receipt.

(3) Water supply treatment plant sludges containing a minimum of 10% solids, which are not hauled in vacuum trucks, may be accepted at a Type I, II, or III municipal solid waste site.

(4) Stabilized sludges from domestic wastewater treatment plants containing a minimum of 10% solids, which are not hazardous and are not hauled in vacuum trucks, may be accepted at a Type I, II, or III municipal solid waste site. Quantities shall be limited to that which

can be adequately handled at the site without creating odor problems and shall be placed on the working face along with other solid waste and covered with soil or solid waste on the day received

(5) Unstabilized sludges from domestic wastewater treatment plants may be accepted at a Type I municipal solid waste site without further written authority when the sludge is:

(A) composed of at least 10% solids and is hauled in other than vacuum trucks (for vacuum truck wastes see subsection (a)(3) of this section);

(B) placed on the working face along with other municipal solid waste,

(C) covered at the end of the working day with at least six inches of soil, and

(D) determined to be nonhazardous

(6) Friable asbestos waste may be accepted at a Type I site in accordance with the procedures in subparagraphs (A)-(G) of this paragraph

(A) The site operator contemplating acceptance of friable asbestos waste shall notify the regional director of Environmental and Consumer Health Protection in the appropriate department regional office or the Surveillance and Enforcement Division of the bureau in Austin

(B) Delivery of the friable asbestos waste to the site shall be coordinated with the on-site supervisor so the waste will arrive at a time it can be properly handled and covered

(C) Friable asbestos waste shall be accepted at the site only in a wetted condition and in tightly closed and unruptured containers or bags as approved by the TACB.

(D) The bags or containers holding the friable asbestos waste shall be placed below natural grade level. Where this is not possible or practical, provisions shall be made to ensure that the waste will not be subject to future exposure through erosion or weathering of the intermediate and/or final cover.

(E) The bags or containers holding the friable asbestos waste shall be carefully unloaded and placed in the final disposal location rather than dumped. They shall be covered immediately with 12 inches of clean earthen material or three feet of solid waste containing no asbestos. Care shall be exercised in the application of the cover so that the bags or containers will not be ruptured.

(F) A contingency plan in the event of accidental spills (ruptured bags or containers) shall be prepared prior to accepting friable asbestos wastes. The plan shall specify the person(s) responsible and the procedure for collection and disposal of the spilled material.

(G) Friable asbestos waste of industrial origin must be treated as a Class I waste. See §325.137 of this title (relating to Disposal of Class I Wastes).

(7) Nonfriable asbestos may be accepted for disposal at any municipal solid waste landfill provided the wastes are placed on the active working face and covered in accordance with these regulations. Under no circumstances shall any material containing nonfriable asbestos be placed on any surface or roadway which is subject to vehicular traffic or disposed of by any other means by which the material could be crumbled into a friable state.

(8) Empty containers which have been used for pesticides, herbicides, fungicides, or rodenticides may be disposed of in accordance with subparagraphs (A) and (B) of this paragraph

(A) These containers may be disposed of at a Type I, II, or III site provided

(i) the containers are triple-rinsed prior to receipt at the site,

(ii) the containers are rendered unusable prior to or upon receipt at the site, and

(iii) the containers are covered by the end of the same working day they are received

(B) Those containers for which triple-rinsing is not feasible or practical (paper bags, etc.) shall be disposed of under provisions of paragraph (9) of this subsection or §325.137 of this title (relating to Disposal of Class I Wastes) as applicable

(C) Salvaging and/or scavenging of the containers shall not be allowed under any circumstances

(9) Any municipal solid waste from a generator meeting the requirements of a small quantity generator (SQG) as defined in §325.298 of this title (relating to Special Requirements for Small Quantity Generators) may be accepted at a Type I site without further specific approval from the department provided

(A) the site operator obtains written confirmation from the generator that the generator meets the specifications for SQG status,

(B) the site operator maintains the SQG status confirmation at the site for inspection and review by department representatives for at least one year following receipt of the waste, and

(C) one of the two disposal procedures listed in clauses (i) and (ii) of this subparagraph is followed:

(i) the waste is placed in the active disposal area and covered with at least three feet of municipal solid waste; or

(ii) the waste is placed in a specially designated area and covered with at least two feet of compacted soil.

**§325.137. Disposal of Class I Wastes.**

(a) Approvals to accept Class I wastes will be waste specific/site specific and will be granted only to appropriate sites that are operating in general compliance with these regulations, not including Type IV sites.

(b) Requests for approval to accept Class I solid wastes shall be submitted to the bureau by the site operator and shall include, but are not limited to:

(1) a letter from the generator providing a complete description of the chemical and physical characteristics of the waste, a statement as to whether or not the waste is a hazardous waste as defined in §325.5 of this title (relating to Definitions of Terms and Abbreviations), and the quantity and rate at which the waste is produced and/or the expected frequency of disposal.

(2) an operational plan containing the proposed procedures for handling the waste and listing of available protective equipment for operating personnel and on-site emergency equipment.

(3) a contingency plan outlining responsibility for containment and cleanup of any accidental spills occurring during the delivery and/or disposal operation.

(c) The department may issue approval without a written request, however, in such cases the site operator is not required to accept the waste

(d) The written concurrence of the TDWR is required for a municipal solid waste facility to accept a Class I industrial solid waste. This concurrence shall be sought by the department and not the site operator

**§325.150. Compaction, Intermediate Cover, and Final Cover**

(a) For Type I sites serving a population equivalent of 5,000 people or more, solid waste shall be spread and compacted evenly by repeated passages of suitable compaction equipment, such that each layer of solid waste is thoroughly compacted to a thickness of approximately two feet. For Type I sites serving a population equivalent of less than 5,000 people and Type II, III, and IV sites, all wastes deposited shall be compacted with suitable compaction equipment as frequently as necessary to minimize voids

(b) Intermediate cover shall be six inches of well-compacted earthen material not previously mixed with garbage, rubbish, or other solid waste to prevent the blowing of waste materials and to prevent insect and rodent problems. Cover frequencies shall be as outlined in §325.42 of this title (relating to Types of Municipal Solid Waste Sites) unless some other cover frequency is stipulated by the department

(1) Except as provided in paragraph (2) of this subsection, intermediate cover shall be applied as follows:

(A) Where daily cover is required, all solid waste deposited each day shall be provided with intermediate cover by the end of the working day

(B) Where a seven-day cover frequency is allowed, all solid waste deposited each week shall be covered with intermediate cover at the end of the last working day of each week

(C) Where a 30-day cover frequency is allowed, all solid waste deposited shall be covered at intervals of no greater than 30 days. It is recommended that this cover be applied at approximately the same time each month, such as the first week, last week, etc.

(D) All waste deposited in areas within Type I, II, or III sites designated to receive only brush and/or construction-demolition waste shall be covered with intermediate cover every 30 days. It is recommended that this cover be applied at the same time each month, such as the first week, last week, etc.

(2) Where the TACB has granted authorization to burn, the department may allow greater time periods between intermediate cover applications. For Type II, III, or IV sites or any specifically designated special use areas more frequent coverage may be required by the department if site inspections indicate such need due to excessive windblown material, excessively large waste cells which could pose a significant fire hazard, or other conditions which could pose a hazard to health or the environment. Where insects, rodents, and/or snakes are in evidence, they should be exterminated by the use of approved pesticides, rodenticides, trapping, etc., prior to covering deposited waste to ensure that they are not driven to populated areas when the landfill harborage is eliminated. The site operators of disposal sites near airports may be

required to apply intermediate cover at more frequent intervals and take other precautions when it appears that the site is contributing to air navigation safety problems.

(c) The entire surface of each completed portion of the fill shall be provided with final cover within 30 days unless inclement weather would prevent the application of any cover material.

(1) The final cover shall consist of no less than two feet of soil.

(A) The first 1 1/2 feet or more of cover (see paragraph (2) of this subsection) shall be of clayey soil of classification SC or CL, as defined in the Unified Soils Classification System developed by the U.S. Army Corps of Engineers, compacted in layers of no more than six inches to help minimize the water infiltration potential. A classification CH soil may be used, however, this soil may experience excessive cracking and must therefore be covered by at least 12 inches of topsoil to help in retaining moisture. Other types of soil may be used with prior approval.

(B) The final six inches of cover shall be of suitable topsoil which will sustain the growth of vegetation and shall be seeded or sodded during the first growing season following application of final cover to help minimize erosion.

(2) Final cover grades shall not exceed 6.0%—six feet vertical (v) to 100 feet horizontal (h)—unless an erosion control plan has been developed by the owner/operator and approved by the department. Disposal of solid waste above natural ground level is prohibited unless pursuant to an engineering site development plan approved by the department. Requests for changes to previously approved engineering site development plans or new engineering site development plans submitted in support of requests for aerial fills will be processed in accordance with §325.111 of this title (relating to General Requirements). Technical guidelines for design of aerial fills are available from the department.

(3) Final cover shall be applied in accordance with the approved site closure/completion plan required by subsection (b) of §325.152 of this title (relating to Site Completion and Closure Procedures).

(4) Erosion of cover shall be repaired by restoring the cover material, grading, compacting, and seeding it as necessary. Such periodic inspections and restorations are required during the site operational life and for a minimum of five years after closure.

(d) The on-site ponding of water upgradient of deposited waste shall be prevented, unless the department is assured that such ponding does not pose a potential leachate generation threat.

**§325.152. Site Completion and Closure Procedures.**

(a) At least one year prior to completion of disposal operations or abandonment of a site, the site operator shall notify the bureau and provide an updated closure schedule for the cessation of waste acceptance and completion of the closure of the site.

(b) An approved landfill closure/completion plan shall be on file with the bureau for each land disposal site serving a population equivalent of 5,000 or more. The closure/completion plan shall portray the proposed final contours, establishing side slopes and top grades, and proposed surface drainage features. Protective measures for

any areas subject to flooding by a 100-year frequency flood shall be described. Requests to amend approved closure plans shall be submitted with all necessary supporting data to the bureau no less than 60 days prior to implementation of closure procedures. Written approval by the department is mandatory before the site operator may proceed with the implementation of a closure/completion plan for a site.

(c) The site operator shall cause an affidavit to the public to be prepared and filed in the deed records in the office of the county clerk of the county in which the site is located. The affidavit shall include a legal description of the property on which the site is located and may include a site plan, specifying the area actually filled with solid waste. The affidavit shall also include a notice that any future owner or user of the site should consult with the department prior to planning or initiating any activity involving the disturbance of the landfill cover or monitoring system. See §325.904 of this title (relating to Appendix D—Affidavit to the Public) to obtain a suggested format for the affidavit required by this subsection.

(d) The site operator shall obtain a certified copy of the affidavit to the public from the county clerk and file it with the bureau.

(e) Following receipt of the documents required in subsections (a)-(d) of this section, as applicable, and an inspection report from the department's regional office reporting proper closure of the site, the bureau will acknowledge the termination of operations and closure of the site.

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.

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TRD 834629      Robert A. MacLean, M.D.  
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**Subchapter G. Operational Standards for  
Solid Waste Processing,  
Experimental, and Land Application  
Sites**

**General**

**25 TAC §§325.171-325.173**

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, 54(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

§325.173. Effect of Updated Regulations on Existing Sites. It is not the department's intent to require implementation of changes to existing facilities which are not technically feasible or practical due to the current status of site development. The permittee shall review §§325.171-325.207 of this title (relating to Operational Standards for Solid Waste Processing, Experimental, and Land Application) to determine operational changes and submissions required by these updated regulations. Permits issued under past regulations remain valid for the period of time specified in the permit. Permittees for sites serving a population equivalent of 5,000 persons or more shall submit a report to the bureau prior to January 1, 1984 addressing those changed standards which are technically feasible at the stage of construction and operation of the facility and justification for not incorporating any remaining changes required by these regulations. The report shall include a time schedule for implementing any operational changes not implemented as of January 1, 1984, and for completing any required submissions not already submitted as of January 1, 1984. Possible submissions in addition to a revised site development plan may be required by paragraph (14) of §325.181 of this title (relating to General). The necessity of this possible submission must be addressed in the report referred to above. When changes to the existing approved site development plan, closure completion plan, or soil and liner quality control plan are not required and changes to these plans are not contemplated, a short statement to that effect is required by January 1, 1984. Upon approval of submissions required by this section, implementation plans and time schedules shall be implemented by the permittee. The permittee should also review §325.53 of this title (relating to Duration and Limits of Permits), §325.54 of this title (relating to Permits Issued Under Previous Regulations), and §325.55 of this title (relating to Transfer of Permits, Applications, Property Ownership and Name Changes) for other submissions which may be required.

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.

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Operational Standards for Type V and VI Sites

25 TAC §325.190

This new section is adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules con-

sistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction

§325.190 Miscellaneous Operational Standards.

(a) Flood protection. Protection from a 100-year frequency flood shall be provided for Type V and VI sites. Levee design and construction procedures shall be in accordance with Texas Department of Water Resources requirements when applicable or shall be approved by the department. The minimum freeboard will be two feet unless otherwise required. Until levees are constructed, any area within a solid waste disposal facility that is subject to flooding shall be clearly marked by means of permanent posts not more than 300 feet apart, or closer if necessary to retain visual continuity, which extend at least six feet above ground level.

(b) Access control. Uncontrolled access and dumping of unauthorized materials shall be prevented. Any unauthorized wastes shall be removed from the site and taken to an approved disposal facility.

(c) Unloading. Unloading of solid waste shall be confined to as small an area as practical. An attendant shall be on duty during operating hours at Type V and VI sites to direct unloading of solid waste.

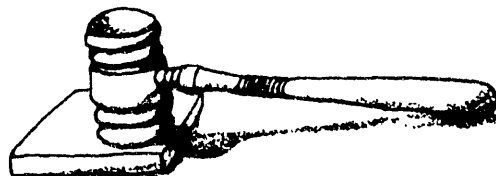
(d) Disposal of special wastes. Disposal of special wastes requires prior written approval from the bureau. Approval to accept such wastes may be obtained under §325.136 of this title (relating to Disposal of Special Wastes). Subsection (b) of §325.136 of this title (relating to Disposal of Special Wastes) is not applicable to Type V and VI sites.

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.

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Subchapter H. Surveillance and Enforcement

25 TAC §325.221, §325.222

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department

of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

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## Subchapter L. Hazardous Waste Management

The Texas Department of Health adopts amendments to §§325.271, 325.272, 325.293, 325.295, 325.299, 325.332, 325.339, 325.349, and 325.350.

These amendments are being made to keep the department's hazardous waste management rules substantially equivalent to federal regulations recently promulgated by the U.S. Environmental Protection Agency (EPA). The amended sections refer to applicability; definitions; manifest requirements; hazardous waste which is used, reused, recycled, or reclaimed; hazardous waste accumulation by generators; treatment, storage, and disposal facility financial requirements; general standards for land disposal facilities; and permits.

To keep these rules substantially equivalent to the federal regulations recently promulgated by the EPA, these rules are being amended and consist primarily of changes to many of the numbers used to cite or refer to portions of the EPA rules as a result of the EPA's separation of its consolidated permit rules and the subsequent renumbering of many federal rules. Other changes follow actual revisions to the wording of the EPA rules. The only significant revision included in these amendments directs generators to comply with provisions of §325.340 of this title (relating to Use and Management of Containers) and §325.341 of this title (relating to Tanks) where previously only the actual container or tank maintained by the generator had to comply with those provisions. The Texas Department of Health has already received interim authorization to conduct a state program under Phase I and II (Components A and B) in lieu of the EPA conducting a federal program. Now, as a part of the department's application for interim authorization under Phase II, Component C, the department is adopting these amendments.

## General

### 25 TAC §§325.271, §325.272

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purpose of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements as explained in this preamble.

#### §325.271. Purpose, Applicability, and Release of Information.

(a) (No change.)

(b) Applicability. These regulations are substantially equivalent to federal requirements under the Resource Conservation and Recovery Act (RCRA) as promulgated in 40 Code of Federal Regulations Parts 260 through 265 and 40 Code of Federal Regulations Parts 270, 271, and 124; and they are applicable to all persons who generate or transport municipal hazardous waste, and to owners and operators of municipal solid waste management facilities receiving hazardous waste for treatment, storage, or disposal.

(c)-(e) (No change.)

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

Designated facility—A hazardous waste treatment, storage, or disposal facility which has achieved interim status pursuant to 40 Code of Federal Regulations Part 270 or has been permitted by the Texas Department of Health or the Texas Department of Water Resources and has been designated on the manifest to receive the generator's shipment of hazardous waste.

Generator—Any person, by site, whose act or process produces hazardous waste at a location or whose act first causes a hazardous waste to become subject to regulation.

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.

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### 25 TAC §§325.293, 325.295, 325.299

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health

with the authority to adopt and promulgate rules consistent with the general intent and purpose of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements as explained in the preamble.

**§325.293. Hazardous Waste Accumulation.**

(a) A generator may accumulate municipal hazardous waste on-site in containers or tanks (not in waste piles or surface impoundments because there is no accurate or reasonable way to indicate accumulation dates), if such accumulation does not present a danger to human health and the environment, for 90 days or less (short-term) without a storage facility permit or interim status provided that the following requirements are met.

(1) Packaging and containers. The waste is placed in containers, and the generator complies with §325.340 of this title (relating to Use and Management of Containers), or in tanks and the generator complies with §325.341 of this title (relating to Tanks), except for waste analysis and trial tests.

(2)-(6) (No change.)

(b) (No change.)

**§325.295. Manifest Requirements.**

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

(e) Any person who exports municipal hazardous waste to a foreign country or imports municipal hazardous waste from a foreign country must comply with the requirements of paragraphs (1) and (2) of this subsection.

(1) Exporting. When shipping hazardous waste outside the United States, the generator must:

(A) notify the Texas Department of Health and the administrator (EPA) in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year.

(i)-(ii) (No change.)

(iii) The notification must be sent to: Office of International Activities (A-106), U.S. Environmental Protection Agency, Washington, D.C. 20460.

(iv) (No change.)

(B)-(D) (No change.)

(2) (No change.)

**§325.299. Hazardous Waste Which Is Used, Reused, Recycled, or Reclaimed.**

(a) A hazardous waste which exhibits characteristics of hazardous waste established in 40 Code of Federal Regulations Part 261, Subpart C (See §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions)) but which is not specifically identified and listed in 40 Code of Federal Regulations §261.31 and §261.32 (See subsection (b) of §325.274 of this title (relating to Hazardous Waste Regulated, Exclusions, and Exceptions)) is subject only to §325.273 of this title (relating to Hazardous Waste Determination) and §325.275 of this title (relating to Notification of Hazardous Waste Activity) if:

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

(b) A hazardous waste which is a sludge which is specifically identified and listed in 40 Code of Federal Regulations §261.31 and §261.32, or which contains one or more hazardous wastes listed in §261.31 and §261.32

and which is transported or stored prior to being used, reused, recycled, or reclaimed is subject to these regulations.

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 21, 1983.

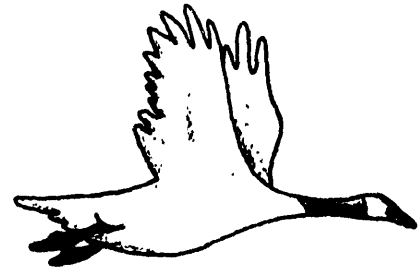
TRD-834635

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

Effective date: July 12, 1983

Proposal publication date: N/A

For further information, please call (512) 458-7236.



**Facility Owners and Operators**

**25 TAC §§325.332, 325.339, 325.349,  
325.350**

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purpose of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction. In addition, these amendments are being adopted pursuant to federal requirements as explained in the preamble.

**§325.332. Applicability.**

(a) (No change.)

(b) The standards in §§325.331-325.350 of this title (relating to Facility Owners and Operators) do not apply to:

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

(7) persons, including owners and operators of processing, storage, or disposal facilities, who make an immediate emergency response to contain or treat a discharge or an imminent and substantial threat of a discharge of a hazardous waste or a hazardous material which would become a hazardous waste when discharged, except that owners and operators of processing, storage, or disposal facilities remain subject to §325.334 of this title (relating to Preparedness and Prevention) and §325.335 of this title (relating to Contingency Plan and Emergency Procedures) if they are otherwise subject to §§325.331-325.350 of this title (relating to Facility Owners and Operators). After the immediate response activities



are completed, the applicable regulations of this subchapter apply to the management of the hazardous waste.

(8)-(9) (No change.)

(c) (No change.)

**§325.339. Financial Requirements.**

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

(d) Where federal rules and regulations adopted by reference under subsection (a) of this section refer to or cite other federal rules and regulations not so adopted, the equivalent department regulations apply. The following examples are provided and if this list does not correlate all referenced federal rules and regulations with applicable department regulations, then the owner or operator shall comply with the federal rule or regulation or obtain the applicable regulation from the department. **Federal Rule/Regulation—Applicable Department Regulation of this Title:**

(1)-(12) (No change.)

(13) 40 Code of Federal Regulations

**§270.41(a)(5)(iii)—§325.350 Permits**

(14) 40 Code of Federal Regulations §§270.14-270.29—§325.350 Permits.

(15)-(21) (No change.)

(e) (No change.)

**§325.349. General Standards for Land Disposal Facilities.**

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

(c) Standards for owners and operators of land disposal facilities.

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

(3) Where reference is made within the body of the rules and regulations adopted under paragraph (1) of this subsection to other federal rules and regulations not so adopted, the equivalent department regulations apply. The following examples are provided. If this list does not correlate all referenced federal rules and regulations with applicable department regulations, then the owner or operator shall comply with the referenced federal rules or regulations or obtain the applicable regulations from the department.

**Federal Rule/Regulations—Applicable Department Regulation of this Title:**

(A)-(K) (No change.)

(L) 40 Code of Federal Regulations §270.63—

**§325.350 Permits**

(M) 40 Code of Federal Regulations §144.77—

**None, Use 40 Code of Federal Regulations §144.7**

(N)-(P) (No change.)

(4) (No change.)

**§325.350. Permits.**

(a) Scope.

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

(3) Interim status facility Part A update. If the owner or operator of an existing hazardous waste management facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application:

(A) (No change.)

(B) as necessary to comply with the following situations:

(i)-(ii) (No change.)

(iii) New hazardous wastes not previously identified in Part A of the permit application may be treated, stored, or disposed of at a facility if the owner or operator submits a revised Part A permit application prior to such a change and has the approval of the department.

(iv) Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of §325.339 of this title (relating to Financial Requirements) until the new owner or operator has demonstrated to the department that it is complying with that section. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with that section, the department shall notify the old owner or operator in writing that it no longer needs to comply with that part as of the date of demonstration.

(C) (No change.)

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

(d) Modification, revocation and reissuance, termination, and minor modifications.

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

(3) Causes for modification or revocation and reissuance. A permit may be modified or revoked and reissued if cause exists for termination and the department determines that modification or revocation and reissuance is appropriate. Cause also exists when a permit transfer is applied for as noted in subsection (c) of this section.

(4)-(6) (No change.)

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

(g) Permit conditions. The following conditions shall be incorporated into each and every permit issued under this subchapter. (The conditions may be incorporated by specific reference to this subsection of the department's municipal solid waste management regulations.)

(1)-(13) (No change.)

(14) The permittee shall give advance notice to the department of any planned physical changes in the permitted facility or activity change which may result in noncompliance with permit requirements. For a new facility, the permittee shall not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee shall not treat, store, or dispose of hazardous waste in the modified portion of the facility until:

(A) the permittee has submitted to the bureau by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating the facility has been constructed or modified in compliance with the permit; and

(B) the department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit, or if within 15 days of the date of submission of the letter in subparagraph (A) of this paragraph the permittee has not received notice from the department of intent to inspect, prior inspec-

tion is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

(15)-(26) (No change.)

(27) The department shall establish conditions, as required on a case-by-case basis, for permits under subsections (b) and (r) of this section and paragraph (8) of this subsection concerning monitoring.

(28) For a new permit application, an applicable requirement is a state statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit

(29) For a permit which is being modified or revoked and reissued, any rule which takes effect prior to the modification or revocation and reissuance of a permit shall be a requirement if applicable to that permit.

(30) New or reissued permits, to the extent allowed under subsection (d) of this section, modified or revoked and reissued permits shall incorporate each of the applicable requirements referenced in paragraphs (8), (26), (27), (28), and (29) of this subsection.

(h) Application information.

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

(3) Part B of the application shall include the following.

(A) (No change.)

(B) Specific information requirements. The following additional information is required from owners or operators of specific types of facilities that are used or to be used for storage or treatment.

(i) for facilities that store containers of hazardous waste:

(I) (No change.)

(II) sketches, drawings, or data demonstrating compliance with subsections (g) and (h) of §325.340 of this title (relating to Use and Management of Containers) concerning location and isolation for containers holding ignitable, reactive, or incompatible wastes, as applicable.

(III)-(IV) (No change.)

(ii) (No change.)

(iii) For facilities that store or treat hazardous waste in surface impoundments, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.17 which was adopted by the EPA on July 26, 1982. These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I)-(II) (No change.)

(III) Where adopted federal regulations refer to 40 Code of Federal Regulations §270.14(b)(5), (7), and (13), the reference is more properly made to subsection (h)(3)(A)(v), (vii), and (xiii) of this section.

(iv) For facilities that store or treat hazardous waste in waste piles, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.18 which was adopted by the EPA on July 26, 1982. These regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(I)-(II) (No change.)

(III) Where adopted federal regulations refer to 40 Code of Federal Regulations §270.14(a)(5) and (13), reference is more properly made to subsection (h)(3)(B)(v) and (xiii) of this section.

(v) For facilities that incinerate hazardous waste, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.19 which was adopted by the EPA on January 23, 1981, and 40 Code of Federal Regulations §270.62 which has adopted by the EPA on June 24, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours. The following subclauses of this clause identify references made by the EPA in the rules adopted in this clause and note the equivalent rule in this subchapter to which reference can be more properly made.

(I)-(III) (No change.)

(IV) Reference to 40 Code of Federal Regulations §270.42 is equivalent to reference to subsection (d) of this section.

(V) (No change.)

(VI) Reference to 40 Code of Federal Regulations §270.16 is equivalent to reference to subsection (h)(3)(B)(ii) of this section.

(VII) Reference to 40 Code of Federal Regulations §270.11 is equivalent to reference to subsection (d) of §325.271 of this title (relating to Purpose, Applicability, and Release of Information).

(VIII) (No change.)

(IX) Where adopted federal regulations refer to 40 Code of Federal Regulations §270.6, reference must be made to the federal regulations because there are no comparable department regulations.

(vi) For facilities that use land treatment to dispose of hazardous waste, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.20 and 40 Code of Federal Regulations §270.63 which were adopted by the EPA on July 26, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours. The following subclauses of this clause identify the references made by the EPA in the rules adopted by this clause with the equivalent rule in this subchapter to which references can be more properly made.

(I)-(II) (No change.)

(III) Reference to 40 Code of Federal Regulations §270.11 is equivalent to reference to subsection (d) of §325.271 of this title (relating to Purpose, Applicability, and Release of Information).

(IV)-(V) (No change.)

(VI) Reference to 40 Code of Federal Regulations §270.42 is equivalent to reference to subsection (d)(5) of this section.

(VII) Reference to 40 Code of Federal Regulations §270.41(a) and (b) is equivalent to reference to subsections (c) and (d) of this section.

(VIII)-(IX) (No change.)

(X) Reference to 40 Code of Federal Regulations §270.14(a)(5) is equivalent to subsection (h)(3)(A)(v) of this section.

(vii) For facilities that dispose of hazardous waste in landfills, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.21 which was adopted by the EPA on July 26, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(l)-(III) No change.)

(IV) Where adopted federal regulations refer to 40 Code of Federal Regulations §270.14(a)(5) and (13), reference is more properly made to subsection (h)(3)(B)(v) and (xiii) of this section.

(C) For the protection of groundwater at land disposal facilities, the department adopts by reference the requirements of 40 Code of Federal Regulations §270.14(c) which was adopted by the EPA on July 26, 1982. These regulations and any referenced federal regulations are indexed and filed in the Bureau of Solid Waste Management, Texas Department of Health office, located at 1100 West 49th Street, Austin, Texas 78756, and are available for public inspection during regular working hours.

(i) Where adopted federal regulations refer to 40 Code of Federal Regulations §270.14(a)(19), reference is more properly made to subsection (h)(3)(A)(xix) of this section.

(ii)-(v) (No change.)

(4) Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under paragraphs (1)-(3) of this subsection for a period of at least three years from the date the application is signed.

(i)-(q) (No change.)

(r) Compliance schedule. A permit may specify a compliance schedule for a facility or activity. The time between interim requirements may not be more than a year. If it is necessary that the time between an interim requirement be more than a year, the permit shall specify interim dates for the submission of progress reports and include a projected completion report. All reports must be submitted to the bureau within 14 days of the due date.

(s) (No change.)

(t) Permits by rule. Notwithstanding any other provision of these rules, the following shall be deemed to have a permit if the conditions listed are met:

(1) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts

hazardous waste for ocean disposal, if the owner or operator has a permit for ocean dumping issued under 40 Code of Federal Regulations Part 220; complies with the conditions of that permit; and complies with the following hazardous waste rules:

(A) §325.276 of this title (relating to EPA Identification Number);

(B)-(F) (No change.)

(2) Publicly Owned Treatment Works (POTW). The owner or operator of a POTW which accepts for treatment hazardous waste, if the owner or operator has an NPDES permit; complies with the conditions of that permit; if the waste meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and complies with the following hazardous waste rules:

(A) §325.276 of this title (relating to EPA Identification Number);

(B)-(F) (No change.)

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

Issued in Austin, Texas, on June 21, 1983.

TRD-834836

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

Effective date: July 12, 1983

Proposal publication date: N/A

For further information, please call (512) 458-7238.

## Subchapter X. Forms and Documents

25 TAC §§325.901, 325.902, 325.905,  
325.906

These new sections are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

§325.901. Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data). This section adopts the attached Appendix A—Application for a Permit/Registration to Operate a Municipal Solid Waste Site—Part A (General Data).

TEXAS DEPARTMENT OF HEALTH  
1100 West 49th Street  
Austin, Texas 78756

APPLICATION FOR A PERMIT/REGISTRATION TO OPERATE A  
MUNICIPAL SOLID WASTE SITE

PART A - GENERAL DATA  
SECTION 1 - ALL SITES

All references to "Regulations" herein refer to the department's "Municipal Solid Waste Management Regulations" dated June 1983. The applicant is encouraged to read the Regulations and should consult with the department to determine if any amendments to the Regulations have been published that would impose additional or different requirements than are specified herein.

This form must be submitted in eleven copies unless otherwise determined by the department for a specific site. Supporting documents shall be submitted in the numbers indicated. Failure to complete all entries and provide all necessary attachments will delay processing the application. Notes 1,2,3, and 4 at the end of Part A should be read before completing Section II or III or proceeding to complete Part B, as applicable. PLEASE TYPE OR PRINT IN BLACK INK.

PERMIT/REGISTRATION APPLICATION NO. \_\_\_\_\_ (Applicant Leave Blank)

Name of Applicant: \_\_\_\_\_  
(City, County, Individual or Company)

TYPE OF FACILITY (*)			
<u>Landfill</u>	<u>Processing Site</u>	<u>Experimental Site</u>	Type VI
_____ Type I	_____ Type V	_____	_____
_____ Type II	_____ Incinerator	_____	_____ Land Application Site Type VII
_____ Type III	_____ Transfer Station	_____ Storage	_____ Treatment
_____ Type IV	_____ Trench Burner	_____ Disposal	
	_____ Other		

(\*) See Subchapter D of the Regulations

Facility is: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ (Check One)  
(Date Established)

Facility is: \_\_\_\_\_ feet to the nearest road \_\_\_\_\_;

\_\_\_\_\_ miles to nearest airport/airfield \_\_\_\_\_;

\_\_\_\_\_ feet (miles) to nearest occupied structure.

MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDH (June 1983)

Appendix A, continued

Name of Applicant \_\_\_\_\_

Street Address or Location of the Site: (Distance and direction from city, roads, intersections, etc.)

\_\_\_\_\_

Geographic coordinates: \_\_\_\_\_

Site is located in: (Fill in appropriate blanks.)

County of \_\_\_\_\_ City Limits of City of \_\_\_\_\_

Extraterritorial jurisdiction (ETJ) of City of \_\_\_\_\_

Nearest town \_\_\_\_\_  
(Applicable only if site is outside the city limits or ETJ of any city)

Application is for amendment or renewal of Permit/Registration No. \_\_\_\_\_

List any other existing permits or licenses issued by this or any government agency, whether local, state, or federal which pertain to this facility.

**SUBMIT ELEVEN COPIES OF AN AREA MAP WITH THE COMPLETED PART "A" WHICH CLEARLY SHOWS:**

1. Date and scale of map.
2. Site boundaries.
3. Prevailing wind direction and north arrow.
4. Location of drainage structures, streams, waterways and lakes.
5. Water wells within 500 feet of the site.  
(If there are no wells in the vicinity, please add a note to that effect.)
6. Residences and other significant structures within one (1) mile of the site.
7. Cemeteries within one (1) mile of the site.
8. Designated recreational areas within one (1) mile of the site.
9. Land use (i.e. farm or ranch land, commercial, residential, wooded areas, etc.) within one (1) mile of the site (1/2 mile for processing plants). (Annotate as needed.)

**MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDH (June 1983)**

Appendix A, continued

Name of Applicant \_\_\_\_\_

10. Political boundaries, including municipal extraterritorial jurisdictional limits.
11. Names or designations of main public roadways within one (1) mile of the site. Indicate type of surfacing of roads providing access to the site.
12. Locations and names of all airports within four (4) miles of the site.
13. Drainage and utility easements on or adjacent to the site.
14. Latitudes and longitudes.

For all types of applications other than for Type I and IV sites serving 5,000 or more persons, the map shall be all or a portion of half-scale State Department of Highways and Public Transportation County Map or a United States Geological Survey 7 1/2-Minute Quadrangle Sheet. For applications for Type I and IV sites serving 5,000 or more persons, both types of maps shall be submitted. Equivalent maps may be submitted with any application provided they meet the prior approval of this department.

The facility will serve approximately \_\_\_\_\_ persons and it is estimated that it will receive an average of approximately \_\_\_\_\_ tons per day of municipal solid waste. The estimated life of the facility is \_\_\_\_\_ years. Open burning of solid waste \_\_\_\_\_ (is) (is not) contemplated.

It is requested that the permit/registration be issued for a site of \_\_\_\_\_ acres. The name, address, and telephone number of the owner of the site are as follows:

\_\_\_\_\_  
\_\_\_\_\_

The name, address, and telephone number of the governmental entity or firm responsible for the operation of the facility are as follows:

\_\_\_\_\_  
\_\_\_\_\_

When the applicant for a permit is not the owner of record of the land or does not have an option to buy the land on which the site is located, there shall be submitted with the application of a statement in the general format provided in Appendix E of the Regulations, signed by the owner of the land acknowledging that he is aware that his land as described in the legal description submitted is to be used for the storage, processing and/or disposal of solid waste and, that the owner recognizes that notwithstanding and without prejudice to any contractual or other obligations between owner and operator, the department may regard owner and operator as jointly and severally responsible to maintain the site after termination of the permit.

**MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDH (June 1983)**

Appendix A, continued

Name of Applicant \_\_\_\_\_

- NOTE 1: If the applicant is sure of the type classification of the facility and operation for which a permit is desired, he may proceed to complete Part B of the application which pertains to more detailed information and technical data required for evaluation of the particular type of facility and operation. Before proceeding to Part B, the applicant is advised to read Subchapter E of the Regulations for guidance in providing the necessary detail required for each item in Part B. Additionally, the applicant should consult with the department to determine the amount of soil data required for the site. Applicants for Type I and IV sites serving 5,000 or more persons and for Types V and VI will not use Part B, but will provide a technical report in the form of a Site Development Plan as described in Subchapter E of the Regulations.
- NOTE 2: If the applicant is not sure of the type classification of the facility and operation for which a permit is desired, only Part A should be completed, signed, and submitted to the department. Upon receipt of Part A, the department will evaluate it and advise the applicant of the appropriate classification for the operation and facility so that unnecessary expenditures for the preparation of Part B can be avoided when a Site Development Plan may be required in lieu of Part B.
- NOTE 3: Information required by Section II of this form shall be provided only when the application is for a site registration.
- NOTE 4: Information required by Section III of this form shall be provided only when the application is for a hazardous waste permit.

\_\_\_\_\_  
(Signature of Applicant or Authorized Agent)

\_\_\_\_\_  
(Typed or Printed Name and Title)

\_\_\_\_\_  
(Street or P. O. Box)

\_\_\_\_\_  
(City) (State) (Zip Code)

\_\_\_\_\_  
(Area Code) (Telephone)

\_\_\_\_\_  
(Date)

MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDH (June 1983)

Appendix A, continued

TEXAS DEPARTMENT OF HEALTH  
1100 West 49th Street  
Austin, Texas 78756

APPLICATION FOR A PERMIT/REGISTRATION TO OPERATE A  
MUNICIPAL SOLID WASTE SITE

SECTION II

1. For registration of a site to be used for trench burner operations, submit a copy of the Texas Air Control Board permit for the trench burner and all items required by Section I.
2. For registration of a site to be used for land application of sludge, submit the following information and all items required by Section I.
  - a. Sewage treatment plants served
  - b. Quality of sludge from each source
    - (1) Method of stabilization
    - (2) Process used to further reduce pathogens
    - (3) Recent EP toxicity analysis (hazardous waste determination)
  - c. Method of transportation
  - d. Land application methods

MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDM (June 1983)



Appendix A, continued

TEXAS DEPARTMENT OF HEALTH  
1100 West 49th Street  
Austin, Texas 78756

APPLICATION FOR A PERMIT/REGISTRATION TO OPERATE A  
MUNICIPAL SOLID WASTE SITE

SECTION III - HAZARDOUS WASTE SITES

This supplementary form shall be submitted with Part A for a hazardous municipal solid waste site permit application.

1. List up to four Standard Industrial Classification (SIC) codes which best reflect the principal products or services provided by the facility (Standard Industrial Classification Manual (District of Columbia: Executive Office of the President - Office of Management and Budget, 1972)). \_\_\_\_\_
2. Status of owner (Federal)(State)(Private)(Public)(Other, specify). \_\_\_\_\_
3. Status of operator (Federal)(State)(Private)(Public)(Other, specify). \_\_\_\_\_
4. Facility located on Indian lands? Yes \_\_\_\_\_ No \_\_\_\_\_
5. On the topographic (or other) map submitted, indicate location of each hazardous waste treatment, storage or disposal facility and any drinking water wells and springs within 1/4 mile.
6. Briefly describe the nature of business conducted at the facility (attach supplemental sheet(s) if needed) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Is this an initial or revised application? Initial \_\_\_\_\_ Revised \_\_\_\_\_
8. If an existing facility, submit a scale drawing of the facility (8 1/2" x 11") showing property boundaries, location of all past, present, and future treatment, storage, and disposal areas.
9. If an existing facility, submit photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.
10. Describe the processes (treatment, storage, disposal) (used) (to be used) and the design capacities of each (obtain current process code data from the department).  
\_\_\_\_\_  
\_\_\_\_\_

MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDH (June 1983)

11. List the hazardous waste (to be) treated, stored, disposed annually and general description of processes (to be) used for each waste (obtain current listing of hazardous waste from the department). \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Attach additional sheets if necessary)

**MUNICIPAL SOLID WASTE PERMIT/REGISTRATION APPLICATION (SWA-A)  
TDH (June 1983)**

**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 21, 1983.

TRD-834633

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

Effective date: July 12, 1983

Proposal publication date: March 1, 1983

For further information, please call (512) 458-7236.

**Part II. Texas Department of  
Mental Health and Mental  
Retardation**  
**Chapter 401. Texas Board of Mental  
Health and Mental Retardation**  
**Subchapter F. Form, Submission,  
Consideration, and Disposition of  
Petitions for the Adoption of Rules**  
**25 TAC §§401.91-401.97**

The Texas Department of Mental Health and Mental Retardation adopts the repeal of § 401.91-401.97, without changes to the proposed notice of repeal published in the April 19, 1983, issue of the *Texas Register* (8 TexReg 1282).

The repeal is adopted simultaneously with the adoption of a new subchapter (Chapter 403, Subchapter D) that incorporates the content of repealed rules.

One written comment was made in favor of the repeal by Theda Hoyt, president, and Carmen Quesada, executive director of the Texas Association for Retarded Citizens.

The repeals are adopted under Texas Civil Statutes, Article 5547-202, §2.11(b), which provides the commissioner with the authority to promulgate rules of the department subject to the basic and general policies formulated by the Texas Board of Mental Health and Mental Retardation.

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 24, 1983

TRD-834702 Gary E. Miller, M.D.  
Commissioner  
Texas Department of Mental  
Health and Mental Retardation

Effective date: July 25, 1983  
Proposal publication date: April 19, 1983  
For further information, please call (512) 465-4670.

**Chapter 403. Other Agencies and the  
Public**  
**Subchapter D. Form, Submission,  
Consideration, and Disposition of  
Petitions for the Adoption of Rules  
by the Commissioner of Mental Health  
and Mental Retardation**  
**25 TAC §§403.101-403.107**

The Texas Department of Mental Health and Mental Retardation adopts the repeal of §§403.101-403.108, without changes to the proposed text as published in the April 19, 1983, issue of the *Texas Register* (8 TexReg 1283). The repeals are adopted

simultaneously with the adoption of a new subchapter (Chapter 403, Subchapter D) that incorporates the content of the repealed rules. One written comment was made in favor of the repeal by Theda Hoyt, president, and Carmen Quesada, executive director, Texas Association for Retarded Citizens.

The repeals are adopted under Texas Civil Statutes, Article 5547-202, §2.11(b), which provides the commissioner with the authority to promulgate rules of the department subject to the basic and general policies formulated by the Texas Board of Mental Health and Mental Retardation.

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 24, 1983.

TRD-834701 Gary E. Miller, M.D.  
Commissioner  
Texas Department of Mental  
Health and Mental Retardation

Effective date: July 25, 1983  
Proposal publication date: April 19, 1983  
For further information, please call (512) 465-4760.

**25 TAC §§403.101-403.108**

The Texas Department of Mental Health and Mental Retardation adopts new § 403.101-403.108, without changes to the proposed text published in the April 19, 1983, issue of the *Texas Register* (8 TexReg 1283).

The new subchapter incorporates the content of Subchapter F of Chapter 401, relating to the form, submission, consideration, and disposition of petitions for the adoption of rules by the Texas Board of Mental Health and Mental Retardation and the content of Subchapter D of Chapter 403, relating to the form, submission, consideration, and disposition of petitions for the adoption of rules by the commissioner of Mental Health and Mental Retardation. The department is adopting the repeal of those subchapters simultaneously with the adoption of this new subchapter. The new subchapter retains the substantive content of the rules it supercedes. It deletes unnecessary and redundant language and reduces format requirements for petitions. The rule establishes the Office of Standards and Quality Assurance as the coordinating unit for the review, change, and distribution of all rules, directives, and manuals and requires an annual sunset review process for these documents.

Theda Hoyt, president, and Carmen Quesada, executive director, Texas Association for Retarded Citizens (TARC), generally supported the proposed rules but recommended that §403.106 be amended by adding procedures ensuring that the proposal, when published in the *Texas Register*, is identified as a proposed rule, emergency rule, adopted rule, or rule repeal. The department responded that the *Texas Register* publication format makes this distinction.

The TARC commented that procedures should be added to identify with the *Texas Register* the specific time period for public comment in the proposed rule and the staff person to which written public comments are forwarded. The department responded that §403.106 (a)(3) provides that rule action will be taken in accordance with the *Texas Register* form and style manual and Texas Civil Statutes, Article 6252-13a. This article and the style manual call for a public comment period of 30 days, and this information is also included in the "Proposed Rules" section of every *Texas Register*. The *Texas Register* form and style manual also requires that a person be named to whom comments may be sent. Because publication of the adoption is contingent on meeting this requirement, inclusion of this additional information in the rule, except by reference, is unnecessary.

The TARC commented that procedures should be added by which citizens can request a public hearing in the proposal and procedures to be followed in such hearings. The department responded that these procedures are incorporated into the rule by reference to Texas Civil Statutes, Article 6252-13a.

The TARC commented that procedures should be added outlining the manner and timeliness by which the department will review and act upon public comments received relative to such proposals. The department responded that §403.106 provides that rule action will be taken in compliance with the *Texas Register* form and style manual, which requires that public comments and responses to them must be published at the time that the adopted rule is published. To further define the timeliness of response is not practical given the unpredictability in the volume of comment on any given rule.

The TARC commented that procedures should be added by which citizens providing written or verbal comment shall be notified of the department's action relative to their comments. The department responded that the *Texas Register* form and style manual requires that public comments and responses to them must be published at the time that the rule is adopted. To further stipulate that additional notification will be given is not practical given the unpredictability of the volume of comment on any given rule.

The TARC commented that procedures should be added by which the citizens can appeal decisions of the department's personnel to the Board of Mental Health and Mental Retardation and the appropriate timeliness for such appeals. The department commented that the Open Hearings Act and the petitioning process as set out in this rule provide reasonable mechanisms for citizens to petition for changes to a rule. It is not administratively practical to prescribe rigid time limits and additional procedural constraints, given the variability of public interest in rules and the unpredictability of the volume of comment. It is felt that statutory requirements and *Texas Register* procedural requirements adequately delineate the timeliness and manner in which public comment is considered.

The new sections are adopted under Texas Civil Statutes, Article 5547-202, §2.11(b), which provide the commissioner with the authority to promulgate rules of the department subject to the basic and general policies formulated by the Texas Board of Mental Health and Mental Retardation.

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 24, 1983.

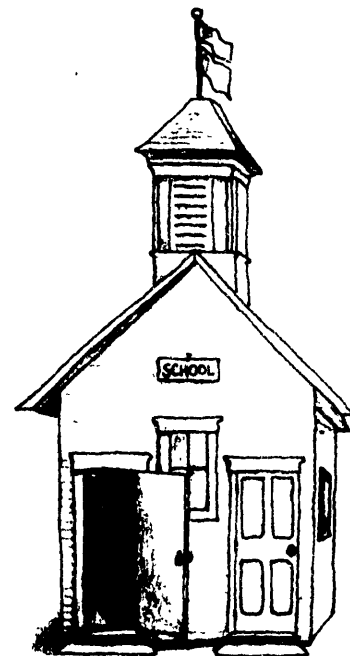
TRD-834700

Gary E. Miller, M.D.  
Commissioner  
Texas Department of Mental  
Health and Mental Retardation

Effective date: July 25, 1983

Proposal publication date: April 19, 1983

For further information, please call (512) 465-4670.



## TITLE 31. NATURAL RESOURCES AND CONSERVATION Part III. Texas Air Control Board Chapter 101. General Provisions

### 31 TAC §101.1

The Texas Air Control Board (TACB) adopts amendments to §101.1, concerning definitions, with changes to the proposed text published in the January 21, 1983, issue of the *Texas Register* (8 TexReg 271).

The amendments replace the definition of major modification with a new one. The change is necessary to make the definition of major modification that is used to determine the applicability of New Source Review (NSR) requirements under provisions of the Federal Clean Air Act consistent with that used in the NSR requirements of the U.S. Environmental Protection Agency (EPA) (40 Code of Federal Regulations §51.18

(j)(j)) specified in the August 7, 1980, *Federal Register* (45 FedReg 52676). The definition of modification contained in the Texas Clean Air Act (TCAA), Texas Civil Statutes, Article 4477-5, §1.03(9), will still be used to determine the applicability of state permitting requirements.

Seven written and two oral comments were made concerning the change to the general rules to revise the definition of major modification. Each of these comments requested some change to the definition as proposed.

Three commentors (Texas Mid-Continent Oil and Gas Association, Conoco, Inc., and Brown, Maroney, Rose, Baker, and Barber) recommended that the TCAA definition of "modification" be included in §101.1.

Five commentors (ARCO Oil and Gas Company, Texas Chemical Council, Texas Mid-Continent Oil and Gas Association, Conoco Inc., and Brown, Maroney, Rose, Baker, and Barber) recommended adoption of a definition of "major modification" that would be consistent with 40 Code of Federal Regulations §51.18(j)(1) to avoid confusion.

The City of Dallas supported the concept of specifying net increases in tons per year of each pollutant. The city also recommended that the applicability cut-off for emissions of volatile organic compounds (VOC) and for lead be lowered significantly, if possible, at least for the Dallas area.

Region VI of the U.S. Environmental Protection Agency (EPA) requested a minor change to the proposed wording to improve clarity.

The ARCO Oil and Gas Company recommended that VOC be excluded from the definition in compliance with EPA's recent ruling (48 FedReg 628, January 5, 1983) that revokes the primary and secondary national ambient air quality standards (NAAQS) for hydrocarbons.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentor who suggests any changes in the proposal is categorized as "against" the proposal, while a commentor who agreed with the proposal in its entirety is categorized as "for." Since each commentor suggested some changes, all are categorized as "against."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

Most of the testimony received on §101.1 was based on the concern that the proposed definition of "major modification" did not exactly track the EPA definition at 40 Code of Federal Regulations §51.18(j)(1) and would therefore not result in state implementation plan (SIP) approval. Further, another concern was that by not including the "net emission increase" (new source bubble) concept of the federal regulation, the permitting provisions of TACB Regulation VI would continue

to be applicable to many more activities than are subject to EPA requirements.

The revised definition of "major modification" was proposed to comply with a condition for approval of the 1979 Texas State Implementation Plan (SIP) revisions (March 25, 1980, *Federal Register*) requiring that administration of the federal NSR Program delegated to the state be carried out to conform to the EPA's NSR requirements. The proposed definition was not intended to result in more stringent application of federal NSR requirements for major sources or major modifications than required by the EPA. Specifically, "net increase" used in the proposed rule change was intended to be interpreted in exactly the same manner as the EPA interprets this phrase in the definition of "major modification" at 40 Code of Federal Regulations 51.18(j)(1) as specified in the August 7, 1980, *Federal Register* (45 FedReg 52676). Thus, a source could "net" emissions increases or decreases at the same facility to avoid the offset requirements which apply to major modifications under the federal NSR requirements. The proposed definition of "major modification" would not, however, affect TACB permit review requirements. State requirements for permit review are based upon the definition of "modification" contained in the Texas Clean Air Act (TCAA), which does not allow netting to avoid permit review.

Three commentors requested that the TACB include in §101.1 the definition of "modification" included in the TCAA. Such a change was not proposed and cannot be considered at this time since it would require the initiation of new rule making procedures. Moreover, there appears to exist no need to adopt the requested definition since it is already contained in the TCAA.

The City of Dallas requested that lower emission limits for VOC and for lead be included in the definition of "major modification." Such a change would create a difference between the EPA and state definitions for determining applicability of federally mandated NSR requirements. State permitting requirements, which are more inclusive than federal NSR requirements, remain unchanged and should continue to provide the additional stringency requested by the City of Dallas.

The EPA noted that there is no NAAQS for VOC and suggested certain changes in wording to clarify that VOC limits relate to the NAAQS for ozone. In addition, ARCO Oil and Gas Company recommended that VOC emissions be controlled as a precursor of ozone, the VOC limits are retained, and the wording is changed to remove the inference that there is a NAAQS for VOCs.

The amendments are adopted under Texas Civil Statutes, Article 4477-5, §3.09(a), which provide the Texas Air Control Board with the authority to make rules consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule the board makes.

*§101.1. Definitions.* Unless specifically defined in the Act or in the rules of the board, the terms used by the

board have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Civil Statutes, Article 4477-5, the following terms when used in this part (31 TAC Part III), shall have the following meanings unless the context clearly indicates otherwise.

Major modification (used solely for the purpose of determining the applicability of New Source Review under provisions of the Federal Clean Air Act)—Any physical change in, or change in the method of operation of:

(A) a facility/stationary source that increases by 100 tons per year its potential to emit volatile organic compounds (VOC) or any air contaminant for which a national ambient air quality standard has been issued, or

(B) a major facility/stationary source that would result in a net increase in its potential to emit volatile organic compounds (VOC) or any air contaminant for which a national ambient air quality standard has been issued by an amount equal to or greater than that specified in the following table.

	Tons/Year
VOC	40
CO	100
NO <sub>x</sub>	40
SO <sub>2</sub>	40
Particulate	25
Lead	.6

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 22, 1983

TRD-834691 Bill Stewart, P E  
Executive Director  
Texas Air Control Board

Effective date, July 14, 1983

Proposal publication date January 21, 1983

For further information, please call (512) 451-5711, ext. 354.

## Chapter 116. Permits

### 31 TAC §§116.1-116.5

The Texas Air Control Board (TACB) adopts amendments to §116.1, concerning construction permit; §116.2, concerning responsibility for obtaining permit; §116.3, concerning consideration for granting permits to construct and operate; §116.4, concerning special conditions; and §116.5, concerning representations in application for permit; without changes to the proposed text of §116.3, but with changes to the proposed text of §§116.1, 116.2, 116.4, and 116.5 published in the January 21, 1983, issue of the *Texas Register* (8 TexReg 274). Section 116.3 will not be reprinted.

Amendments to §§116.1, 116.2, 116.4, and 116.5 clarify that conditions under which permit exemptions are granted are as binding on the holders of exemptions as permit conditions are upon the holders of per-

mits and clarify that violations of exemption conditions may lead to fines or prosecution. The amendments clarify the intent of the rules, improve understanding of the responsibility of the holders of exemptions, and make compliance and enforcement actions easier.

Amendments to §116.3 delete Bexar County from the requirements of §116.3(a)(9) and deleted the so-called "clean spot exemption" from §116.3(a)(12). The deletion of Bexar County is adopted because the requirements of §116.3(a)(9) for reasonable further progress demonstrations apply to urban ozone nonattainment counties, and Bexar County has been redesignated as "attainment." The deletion of the "clean spot exemption" from §116.3(a)(12) is adopted to conform to U.S. Environmental Protection Agency (EPA) policy as published in the May 13, 1980, issue of the *Federal Register* (45 FedReg 31307), concerning new source review of new major stationary sources and major modifications.

Eight comments were received regarding proposed changes to Chapter 116. No negative comments were received concerning the proposed changes to §116.3. The Houston Regional Group of the Sierra Club and Region VI of the U.S. Environmental Protection Agency (EPA) supported without reservation the proposed changes to §§116.1, 116.2, 116.4, and 116.5.

Comments received from the ARCO Oil and Gas Company, Texas Chemical Council-Air Conservation Committee, Texas Mid-Continent Oil and Gas Association-Environmental Affairs Committee (TMOGA), Texaco, USA, Conoco Inc., and Brown, Maroney, Rose, Baker, and Barber (Brown Maroney) regarding changes proposed to §§116.1, 116.2, 116.4, and 116.5 concurred with the intent of the revisions but expressed concern that the proposed wording could be construed to require an application to be submitted for exemptions currently covered by the list of standard exemptions published by the executive director and requiring no application. The TMOGA, Texaco, and Brown Maroney submitted proposed wording changes.

The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(c)(1), requires categorization of comments as being "for" or "against" a proposal. A commentator who suggests any changes in the proposal is categorized as "against" the proposal, while a commentator who agreed with the proposal in its entirety is categorized as "for."

Copies of the written comments and the transcript of the hearing are available for inspection at the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

The broad concern with the proposed changes to §116.1, 116.2, 116.4, and 116.5 indicates a significant problem with the wording proposed by the Texas Air Control Board (TACB). The proposal was not intended to require an application for standard exemptions. Rather, the proposal was intended to state more clearly that permit exemption conditions are binding on the holders of exemptions even if no application

for a permit is required. Revisions to the wording as proposed have been made to clarify the original intent.

Texas Mid-Continent Oil and Gas Association (TMOGA), Texaco, and Brown Maroney all suggested differing wording changes to the language of § 116.1 and § 116.2. Texaco and Brown Maroney offered additional wording to clarify the language of § 116.5, while the TMOGA suggested wording to clarify the language of § 116.4. Review of the suggested language by legal counsel indicated that all of the suggested wording would clarify the original intent. For § 116.1 and § 116.2, the language proposed by Brown Maroney was preferred slightly. Legal counsel also felt that the language proposed by the TMOGA for § 116.4 was clearer than that originally proposed by the TACB. For § 116.5, counsel suggested alternate wording that has been used to improve clarity.

The amendments are adopted under Texas Civil Statutes, Article 4477-5, § 3.09(a), which provides the Texas Air Control Board with the authority to make rules consistent with the general intent and purposes of the Texas Clean Air Act and to amend any rule the board makes.

**§116.1. Construction Permit.** Any person who plans to construct any new facility or to engage in the modification of any existing facility which may emit air contaminants into the air of this state must obtain a construction permit or an exemption from the Texas Air Control Board or satisfy the conditions for a standard exemption as published by the executive director before any actual work is begun on the facility. If a permit to construct is issued by the board, the person in charge of the facility must apply for an operating permit within 60 days after the facility has begun operation, unless this 60-day period has been extended by the executive director.

**§116.2. Responsibility for Obtaining Permit or Exemption.** The owner of the facility or the operator of the facility authorized to act for the owner is responsible for applying for and obtaining an exemption or a permit to construct and operate or for seeing that the conditions for a standard exemption as published by the executive director are satisfied.

**§116.4. Special Conditions.** Permits to construct and operate and exemptions may contain general and special conditions. The holders of exemptions and/or construction and operating permits shall comply with any and all such conditions or satisfy the conditions for a standard exemption as published by the executive director.

**§116.5. Representations in Application for Permit or Exemption.** All representations with regard to construction plans and operation procedures in an application for a permit to construct or a permit to operate or in any request for an exemption become conditions upon which a subsequent exemption or permit to construct or operate are issued. It shall be unlawful for any person to vary from such representation if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless he first makes application to the executive director to amend his permit or ex-

emption in that regard and such amendment is approved by the executive director.

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 22, 1983.

TRD-834692 Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Effective date: July 14, 1983  
Proposal publication date: January 21, 1983  
For further information, please call (512) 451-5711,  
ext. 354.

## Chapter 269. Procedures after Public Hearing before an Examiner

### 31 TAC §269.1

The Texas Water Commission adopts an amendment to §269.1, without changes to the proposed text published in the May 20, 1983, issue of the *Texas Register* (8 TexReg 1653).

The rule concerns the issuance of proposals for decision after public hearings by commission examiners. The amendment requires that the examiner issue a written proposal for decision to the commission within 30 working days after close of the hearing record, unless extended by the commission.

Two comments were received regarding adoption of the amendment. The Brazos River Authority commented in favor of the amendment as proposed. Jephtha P. Hill commented in favor of the proposed amendment but suggested that the period of 30 working days begin to run upon the occurrence of an event which is independently fixed and ascertainable, such as the close of testimony, rather than upon the close of the hearing record. The commission believes that the close of the hearing record is the appropriate time to begin the 30-working day period since the proposal for decision must be based upon a complete hearing record.

The amendment is adopted under authority of the Texas Water Code, §5.262, which provides the commission to adopt reasonable procedural rules.

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 21, 1983.

TRD-834653 Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Effective date: July 13, 1983  
Proposal publication date: May 20, 1983  
For further information, please call (512) 475-4514.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 13. Child Support Collection

The Texas Department of Human Resources adopts amendments to §§ 13.2001 and §§ 13.9801-13.9803, concerning child support collection, without changes to the proposed text published in the April 19, 1983, issue of the Texas Register (8 TexReg 1288). The rules are amended to reflect new fees charged to non-public assistance applicants for child support services. The fees have been increased to ensure full recovery of costs to the department. Adoption of the amendments allows the department to charge increased fees for child support enforcement services.

No comments were received regarding adoption of the amendments.

Subchapter U. Child Support Collection Services

40 TAC §13.2001

The amendment is adopted under the authority of the Human Resources Code, Title 2, Chapter 22, 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 23, 1983.

TRD 834689 Marlin W. Johnston, Commissioner, Texas Department of Human Resources.

Effective date: July 14, 1983. Proposal publication date: April 19, 1983. For further information, please call (512) 441-3355, ext. 2037.

Subchapter FFFF. Support Documents

40 TAC §§ 13.9801-13.9803

The amendments are adopted under the Human Resources Code, Title 2, Chapter 22, 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 23, 1983.

TRD 834690 Marlin W. Johnston, Commissioner, Texas Department of Human Resources.

Effective date: July 14, 1983. Proposal publication date: April 19, 1983. For further information, please call (512) 441-3355, ext. 2037.

Chapter 15. Medicaid Eligibility Subchapter HH. Income for Individuals Related to the SSI Program

40 TAC §15.3309

The Texas Department of Human Resources adopts an amendment to §15.3309, with a change to the proposed text published in the April 5, 1983, issue of the Texas Register (8 TexReg 1122). A minor editorial change has been made to the text. The amendment to §15.3309 is necessary to comply with an SSI policy clarification. Section 15.3309 is amended to specify that a dividend from a life insurance policy is not income. It is a refund of an overcharge on a premium. The department has been considering dividends from life insurance policies as income.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance programs.

§15.3309 Rents, Dividends, Interest, Royalties.

(a)-(b) (No change)

(c) The caseworker considers dividends from investments or loans as unearned income when they become available to the individual, although they may not actually be received. The caseworker may exclude dividends if they meet the definition of irregular or infrequent income. A dividend from a life insurance policy is not income. It is a refund of an overcharge on a premium.

(d) The caseworker must count interest as unearned income in the month of receipt, whether the interest is withdrawn or allowed to remain in the account. The month of receipt is the month in which the bank or savings institution posts interest to the individual's account. The caseworker may use statements from a bank or savings institution as evidence of posting, whether the statements are received monthly, quarterly, semiannually, or annually. The caseworker may exclude interest if it meets the definition of irregular or infrequent income.

(e) Royalties or payments to the holder of a patent or copyright, the owner of a mine, oil well, or other property, for the use of a product, are income.

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 22, 1983.

TRD 834664 Marlin W. Johnston, Commissioner, Texas Department of Human Resources.

Effective date: July 29, 1983. Proposal publication date: April 5, 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 business days 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

## State Aircraft Pooling Board

**Wednesday, July 6, 1983, 2 p.m.** The State Aircraft Pooling Board will meet in Conference Room G-B, Reagan Building, 1500 Congress Avenue, Austin. According to the agenda, the board will approve the previous meeting minutes, specifications for board acquisition of another aircraft, and other board administrative, operational, and construction matters.

**Contact:** Fred R. Spies, Reagan Building, 1500 Congress Avenue, Austin, Texas 78711, (512) 477-8900.

**Filed:** June 23, 1983, 11:32 a.m.  
TRD-834679

Lawyers Association and sections, an amendment to the bylaws by the Legal Assistants Division, a recommendation by the Committee on Client Security Fund, and unfinished business from the June 28 meeting.

**Contact:** Evelyn Avent, 1414 Colorado Street, Austin, Texas 78701, (512) 475-4746

**Filed:** June 23, 1983, 2:51 p.m.  
TRD-834693

## State Board of Barber Examiners

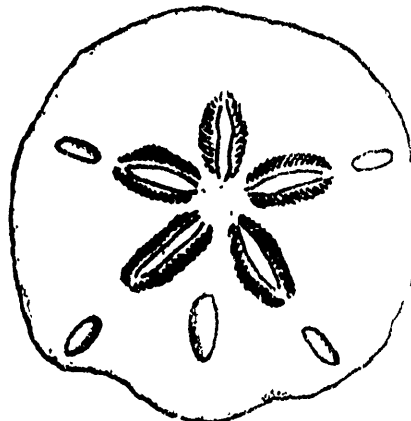
**Tuesday, July 12, 1983, 8 a.m.** The State Board of Barber Examiners will meet in Room C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will consider minutes of the previous meeting, letters and reports to the board by the executive director, and interview out-of-state applicants. The board will also meet in executive session.

**Contact:** Jo King McCrorey, 1300 East Anderson Lane, Room C-275, Austin, Texas 78752, (512) 835-2040

**Filed:** June 27, 1983, 10:11 a.m.  
TRD 834749

## State Bar of Texas

**Friday, July 1, 1983, 2 p.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. Items on the agenda summary include a statement and recommendations of the president; appointments by the president and the board chairman; a report on Advocacy, Inc.; reports of the Texas Young



## Governor's Commission on Physical Fitness

**Friday, July 8, 1983, 10 a.m.** The Governor's Commission on Physical Fitness will meet in the Tampico Room, Hobby Airport Hilton, 8181 Airport Boulevard, Houston. Items on the agenda include legislative reports concerning the agency budgets for 1984-1985 and House Bill 2196 relating to task force recommendations; reports on

proposed contracts concerning aging-budget action and a resolution of agreement with the Texas Physical Fitness Educational Foundation, Inc.; public school health and physical education curriculum revision concerning the potential impact on physical fitness, to which a guest speaker has been invited; the director's report concerning the manual on K-3, fitness and motor ability assessment, the manual on employee health fitness by the American Heart Association, and guidelines for running and jogging events; the president's council and A.M.A. employee health fitness conference in business and industry; and the schedule of the next board meeting.

**Contact:** Albert A. Rooker, 4200 North Lamar, #110, Austin, Texas 78756, (512) 475-6718.

**Filed:** June 27, 1983, 2:31 p.m.  
TRD-834783

### **Texas Department of Health**

**Friday, July 8, 1983, 10 a.m.** The Texas Occupational Safety Board of the Texas Department of Health will meet in Conference Room 1023, One Shell Plaza, 900 Louisiana Street, Houston. Items on the agenda include approval of the June 3, 1983, minutes; a report by Walter G. Martin on alternative program efforts and costs and a discussion by board members and attendees of the merits of the several alternatives; development of a plan to act on alternative of choice; and board member reports.

**Contact:** Walter G. Martin, 1100 West 49th Street, Austin, Texas, (512) 458-7287.

**Filed:** June 24, 1983, 2:20 p.m.  
TRD-834719

### **Texas Health Facilities Commission**

**Friday, July 8, 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.

#### **Certificate of Need**

**Lifemark Hospitals, Inc., Houston**  
**Alvin Community Hospital, Alvin**  
**Doctors Hospital of Houston, Houston**  
**Eastway General Hospital, Houston**  
**Fort Bend Community Hospital,**  
**Missouri City**

**Katy Community Hospital, Houston**  
AH83-0317-176

**Wesleyan Nursing Home, Georgetown**  
AN83-0104-327

**Motion for Rehearing/Reconsideration**  
**The Downtown Surgical Center,**  
**San Antonio**  
AS82-0917-041

**Contact:** John R. Neel, P.O. Box 50049,  
Austin, Texas 78763, (512) 475-6940.

**Filed:** June 27, 1983, 9:19 a.m.  
TRD-834744

### **State Department of Highways and Public Transportation**

**Wednesday, June 29, 1983, 9 a.m.** The State Highway and Public Transportation Commission of the State Department of Highways and Public Transportation made an emergency addition to the agenda of a meeting held on the second floor, Room 207, Dewitt C. Greer State Highway Building, 11th and Brazos Streets, Austin. The addition concerned the right-of-way use agreement with the City of Dallas of Dallas County, State Highway Spur 366, Woodall Rodgers Freeway. The emergency status was necessary because of a late development in the lawsuit.

**Contact:** Lois Jean Turner, 11th and Brazos  
Streets, Room 203, Austin, Texas, (512)  
475-3525.

**Filed:** June 24, 1983, 2:17 p.m.  
TRD-834720

### **State Board of Insurance**

**Thursday, June 23, 1983, 3:20 p.m.** The State Board of Insurance made an emergency addition to the agenda of a meeting held in Room 414, 1110 San Jacinto Street, Austin. The addition concerned final action on adoption of amendments to Rule 124—Motorcycles with respect to two new 10% operator credits for completion of the Motorcycle Safety Foundation's better biking course or motorcycle riders course and emergency Rule 059.05.55.003, concerning the sale of insurance policies which substantially or in any material respect provide coverage similar to workers' compensation as provided under Texas Civil Statutes, Article 8306, §12(h), which states that such insurance policies may not be written to insure the risks of employers eligible to become subscribers under Article 8306, but who have failed to become subscribers. This

rule is necessary to ensure that all insurance companies with a certificate of authority to do business in Texas comply with the specific intent of Article 8306, §12(h). The emergency status was necessary to insure that individuals completing such courses receive proper premium credits on their motorcycle policies and because policies which are sold to evade the provisions of Texas Civil Statutes, Article 8306, §12(h), are void.

**Contact:** Pat Wagner, 1110 San Jacinto  
Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** June 23, 1983, 1:11 p.m.  
TRD-834682

**Tuesday, June 28, 1983, 2 p.m.** The State Board of Insurance made an emergency addition to the agenda of a meeting held in Room 414, 1110 San Jacinto Street, Austin. The addition concerned a filing by Foremost Insurance Company which is identical to the uniform and standard personal theft program presently effective but going out of effect on July 1. The emergency status was necessary to prevent the lapsing of coverage and attendant confusion.

**Contact:** Pat Wagner, 1110 San Jacinto  
Street, Austin, Texas, 78786, (512)  
475-2950.

**Filed:** June 27, 1983, 2:55 p.m.  
TRD-834784

The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow.

**Tuesday, July 5, 1983, 9 a.m.** In Room 353, Docket 7207—application of First Savers Life Insurance Company, San Antonio, for certificate of authority.

**Contact:** J. C. Thomas, 1110 San Jacinto  
Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:02 p.m.  
TRD-834763

**Tuesday, July 5, 1983, 10:30 a.m.** In Room 342, Docket 7208—application of Associated Investors Life Insurance Company, Dallas, for a certificate of authority.

**Contact:** J. C. Thomas, 1110 San Jacinto  
Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:03 p.m.  
TRD-834764

**Tuesday, July 5, 1983, 3 p.m.** In Room 342, Docket 7216—whether the certificate of authority to do business in Texas held by

American Universal Insurance Company, Houston, should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:03 p.m.  
TRD-834765

**Wednesday, July 6, 1983, 9 a.m.** In Room 342, Docket 7214—whether the certificate of authority to do business in Texas held by True People of America Fraternal Benefit Society, Fort Worth, should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:04 p.m.  
TRD-834766

**Wednesday, July 6, 1983, 9 a.m.** In Room 353, Docket 7218—application for an amendment to the articles of incorporation of Union Standard Insurance Company, Dallas.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:04 p.m.  
TRD-834767

**Wednesday, July 6, 1983, 3 p.m.** In Room 342, Docket 7219—application for original charter of Banlife Insurance Company, Lancaster.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:05 p.m.  
TRD-834768

**Thursday, July 7, 1983, 9 a.m.** In Room 342, Docket 7221—whether the certificate of authority to do business in Texas held by Fire Insurance Company of Quaker City, Philadelphia, Pennsylvania, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:05 p.m.  
TRD-834769

**Thursday, July 7, 1983, 1:30 p.m.** In Room 342, Docket 7215—proposed plan of merger of Gulf Coast Security Life Insurance Company, Phoenix, Arizona, into Colonial Empire Life Insurance Company, Texarkana.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:05 p.m.  
TRD-834770

**Friday, July 8, 1983, 9 a.m.** In Room 342, Docket 7192—whether the title insurance

agent's license held by Elliott and Waldron Abstract Company of Live Oak County, Inc., George West, should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:06 p.m.  
TRD-834771

**Friday, July 8, 1983, 10:30 a.m.** In Room 342, Docket 7196—whether the title insurance agent's license held by East Texas Title Services, Inc., should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:06 p.m.  
TRD-834772

**Friday, July 8, 1983, 1:30 p.m.** In Room 342, Docket 7224—application for original charter of Confidence Life Insurance Company, Waco.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:07 p.m.  
TRD-834773

**Friday, July 8, 1983, 1:30 p.m.** In Room 353, Docket 7193—whether the title insurance agent's license held by Elliott and Waldron Abstract Company of Fort Stockton, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:07 p.m.  
TRD-834774

**Friday, July 8, 1983, 3 p.m.** In Room 353, Docket 7191—whether the title insurance agent's license held by East Texas Land Title Services, Inc., Nacogdoches, should be canceled or revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:08 p.m.  
TRD-834775

**Monday, July 11, 1983, 9 a.m.** In Room 342, Docket 7236—application for original charter of John A. Post Life Insurance Company, Dallas.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:08 p.m.  
TRD-834776

**Monday, July 11, 1983, 10:30 a.m.** In Room 342, Docket 7237—application for

original charter of Entrepreneurial Life Insurance Company, Dallas.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:09 p.m.  
TRD-834777

**Monday, July 11, 1983, 10:30 a.m.** In Room 353, Docket 7194—whether the title insurance agent's license held by Elliott and Waldron Abstract Company of Shelby County, Inc., should be canceled or revoked.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** June 27, 1983, 2:10 p.m.  
TRD-834778

**Monday, July 11, 1983, 1:30 p.m.** In Room 342, Docket 7217—whether the certificate of authority of Landmark American Insurance Company, Englewood, Colorado, should be revoked.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** June 27, 1983, 2:10 p.m.  
TRD-834779

*(Editor's note: Further information on the following public hearing scheduled by the State Board of Insurance may be found in the In Addition section of this issue.)*

**Tuesday, July 12, 1983, 1 p.m.** The State Board of Insurance will meet in Room E, John H. Reagan Building, 105 West 15th Street, Austin. According to the agenda, the board will conduct a public hearing to consider amendments to the automobile insurance plan of the State of Texas. This is part of the Texas auto manual which is Rule 059 .05.01.005. The amendments relate to installment payment of premium plan for risks written through the plan and to the agents retention for those risks.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** June 24, 1983, 10:02 a.m.  
TRD-834703

*(Editor's note: Further information on the following public hearing scheduled by the State Board of Insurance may be found in the In Addition section of this issue.)*

**Thursday, July 14, 1983, 9 a.m.** The State Board of Insurance will meet in the hearing room, DeWitt C. Greer Building, 11th and Brazos Streets, Austin. According to

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the agenda summary, the board will conduct a hearing on workers' compensation insurance.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** June 24, 1983, 2:34 p.m.  
TRD-834728

### Texas Advisory Commission on Intergovernmental Relations

**Friday, July 8, 1983.** Committees of the Texas Advisory Commission on Intergovernmental Relations and the full commission will meet in the Texas Law Center, 15th and Colorado Streets, Austin. Times, rooms, committees, and agendas follow.

**8:30 a.m.** In Room 201, the Operations and Funding Committee will consider 1983 finances, fiscal year 1984 projects and funding status, and the meeting schedule.

**9:30 a.m.** In Room 201, the New Federalism Committee will consider a preliminary report on the social services block grant and a staff report on federal grant formula issues.

**9:30 a.m.** In Room 208, the State-Local Issues Committee will consider a staff report on cost containment of health care expenditures and the status of the overall health care finance project.

**10:45 a.m.** In Rooms 202 and 203, the Texas Advisory Commission on Intergovernmental Relations will consider the reports from the executive director and the Operations and Funding, New Federalism, and State-Local Issues Committees; an audiovisual presentation on comprehensive planning; a preliminary report on the social services block grant; and an update of the county government resource manual.

**Contact:** Jay G. Stanford, P.O. Box 13206, Austin, Texas 78711, (512) 475-3728.

**Filed:** June 24, 1983, 1:55 p.m.  
TRD-834715-834718

### Texas Juvenile Probation Commission

**Wednesday, August 3, 1983, 1 p.m.** The Texas Juvenile Probation Commission will conduct a public hearing at 2015 IH 35 South, Austin. According to the agenda, the commission will receive comments for and

against the proposed Texas juvenile probation standards.

**Contact:** Bill Anderson, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

**Filed:** June 27, 1983, 4:08 p.m.  
TRD-834810

### Lamar University

**Wednesday, June 29, 1983, 7:45 a.m.** The Building and Grounds Committee of the Lamar University Board of Regents met in the Lamar Room, Mary and John Gray Library, Beaumont. According to the agenda, the committee met in executive session to review facility bids and contracts.

**Contact:** Dr. Andrew J. Johnson, Box 10014, Beaumont, Texas 77710, (409) 838-8403.

**Filed:** June 23, 1983, 11:46 a.m.  
TRD-834680

### Texas Mohair Producers Board

**Thursday, June 30, 1983, 10 a.m.** The Texas Mohair Producers Board of the Texas Department of Agriculture met in emergency session in the St. Angelus Room, Central National Bank Building, San Angelo. According to the agenda, the board considered reports concerning finances and collection, the mohair market, a department meeting, a check-off report; the British Mohair Spinning award; and Texas commodity refunds. The emergency status was necessary to meet deadlines for refunding commodity check-off funds.

**Contact:** Fred Campbell, P.O. Box 5337, San Angelo, Texas 76902, (915) 655-3161.

**Filed:** June 27, 1983, 8:21 a.m.  
TRD-834732

### Texas Motor Vehicle Commission

**Thursday, July 7, 1983, 9:30 a.m.** The Texas Motor Vehicle Commission will meet in Suite 302, 815 Brazos Street, Austin. Items on the agenda summary include adoption of the April 12, 1983, minutes; consideration of hearing reports in Dockets 288, 298, and 309; orders of dismissal in Dockets 274, 277, 295, 297, 300, 304-306, and 308; discussion of new amendment to

the Texas Motor Vehicle Commission Code; and a financial report.

**Contact:** Russell Harding, 815 Brazos Street, Austin, Texas, (512) 476-3587.

**Filed:** June 23, 1983, 10:05 a.m.  
TRD-834676

### Pan American University

**Tuesday, July 5, 1983, 9:10 a.m.** The Buildings and Grounds Committee of the Pan American University Board of Regents made an addition to the agenda of a meeting to be held in the board room, Administration Building, Pan American University, Edinburg. The addition concerns approval to request bids on the furniture and equipment for the Student Services Building.

**Contact:** Miguel A. Nevarez, Administration Building, Board Room, Pan American University, Edinburg, Texas 78539, (512) 381-2101.

**Filed:** June 27, 1983, 10:09 a.m.  
TRD-834750

### Board of Pardons and Paroles

**Monday-Friday, July 11-15, 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 initiate 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 27, 1983, 2:08 p.m.  
TRD-834781

### Polygraph Examiners Board

**Wednesday-Friday, July 13-15, 1983, 9 a.m. daily.** The Polygraph Examiners Board will meet at 5805 North Lamar, Austin. According to the agenda, the board will consider approval of the minutes; consider and act

upon applications for internship/reciprocity, certify June examination grades; the appearance of failing interns and their sponsors; discuss board rules and regulations and new fees for 1984; hear investigative reports on complaints filed; draft a job description for the executive officer; and act upon any other polygraph-related business that may come before the board.

**Contact:** Candy Moore, P.O. Box 4143, Austin, Texas 78765, (512) 465-2058.

**Filed:** June 23, 1983, 10 a.m.  
TRD-834677

**Public Utility Commission of Texas**

**Thursday, June 30, 1983, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas met in emergency session in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division conducted a prehearing conference in Docket 5113—petition of the commission for an inquiry concerning the effects of the modified final judgment and access charge order upon Southwestern Bell Telephone Company and the independent telephone companies of Texas. The emergency status was necessary to enable the commission to rule on matters and meet discovery time deadlines.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 24, 1983, 2:20 p.m.  
TRD-834721

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

**Thursday, July 7, 1983, 10 a.m.** A prehearing conference in Docket 5113—petition of the commission for an inquiry concerning the effects of the modified final judgment and 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 24, 1983, 2:20 p.m.  
TRD-834722

**Friday, July 8, 1983, 10 a.m.** A prehearing conference in Docket 5220—petition of

Southwestern Bell Telephone Company for authority to change rates.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 27, 1983, 10:11 a.m.  
TRD-834748

**Thursday, July 14, 1983, 10 a.m.** A prehearing conference in Docket 5113—petition of the commission for an inquiry concerning the effects of the modified final judgment and 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 24, 1983, 2:20 p.m.  
TRD-834723

**Tuesday, July 19, 1983, 9 a.m.** The Public Utility Commission will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will consider the adoption of a proposed amendment to 16 TAC §23.23 (052.02.03.003), concerning rate structure and rate design.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 23, 1983, 2:27 p.m.  
TRD-834683

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

**Thursday, July 21, 1983, 10 a.m.** A prehearing conference in Docket 5113—petition of the commission for an inquiry concerning the effects of the modified final judgment and 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 24, 1983, 2:20 p.m.  
TRD-834724

**Thursday, July 28, 1983, 10 a.m.** A prehearing conference in Docket 5113—petition of the commission for an inquiry concerning the effects of the modified final judgment and 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 24, 1983, 2:19 p.m.  
TRD-834725

**Thursday, August 11, 1983, 9 a.m.** A hearing in Docket 5194—application of Central Telephone Company of Texas for approval of measured service rates for the South Humble Exchange.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 23, 1983, 2:31 p.m.  
TRD-834684

**Monday, August 29, 1983, 9 a.m.** A hearing in Docket 5203—application of Nueces Electric Cooperative, Inc., for the authority to change rates.

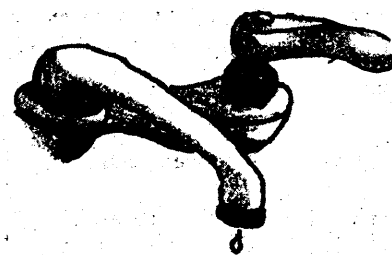
**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 27, 1983, 2:30 p.m.  
TRD-834782

**Wednesday, August 31, 1983, 9 a.m.** A hearing in Docket 5195—application of Central Telephone Company of Texas for approval of measured service rates for the Killeen and Copperas Cove Exchanges.

**Contact:** Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** June 23, 1983, 2:31 p.m.  
TRD-834685



**Railroad Commission of Texas**

**Monday, June 27, 1983, 9 a.m.** Divisions of the Railroad Commission of Texas made emergency additions to the agendas of meetings held at 1124 IH 35 South, Austin. Divisions, meeting rooms, and additions to the agendas follow.

The Administrative Services Division met in the first floor auditorium to consider an

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interagency contract between the comptroller and the commission for certified copies of Enserch Corporation's quarterly and annual reports for the years 1974-1981. The emergency status was necessary to aid the comptroller and attorney general in preparation of a suit to be heard July 5, 1983.

**Contact:** Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

**Filed:** June 24, 1983, 4:01 p.m.  
TRD-834730

The Gas Utilities Division met in Room 107 to consider gas utility Docket 4076—statement of intent filed by Esperanza Transmission Company to change rates charged to Lone Star Gas Company, and Docket 4078—statement of intent filed by United Texas Transmission Company to change rates to Armadillo Petroleum Company. The emergency status was necessary to prevent the rates from going into effect before the next scheduled commission conference.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

**Filed:** June 21, 1983, 10:50 a.m.  
TRD-834706

The Oil and Gas Division met in the first floor auditorium to consider Docket 8A-79,278—motion for rehearing on application of Marshall R. Young Oil Company for a permit to inject fluids, in the Prentice, Northwest (San Andres) Field, Terry County. The emergency status was necessary for the motion for rehearing to be considered on June 27, 1983, this being the only regularly scheduled meeting of the commission prior to the date on which the motion for rehearing would be overruled by operation of law.

**Contact:** Bob Rago, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1363.

**Filed:** June 24, 1983, 4:01 p.m.  
TRD-834731

Addition to the above agenda:

**Monday, June 27, 1983, 2 p.m.** The Oil and Gas Division met in the first floor auditorium to consider the status of the following leases and if further action by the operator, the commission, or the attorney general is necessary.

Charles F. Haas, Allen-Hammons Leases 04784, 00532, 04827, Ganado W. Field, Jackson County, Charles F. Haas, John L. Kopecky Lease 05302, Ganado, W., (4700 zone), Jackson County; Hewitt B. Fox, Louis Kuretsch Lease 04250, Minta Dolesh "B" Lease 05385; and City of Gando Lease

03545, Ganado, W. Field, Jackson County. The emergency status was necessary to consider whether further action by the operator, commission, or the attorney general is necessary to prevent pollution.

**Contact:** Susan Cory, P.O. Box 12967, Austin, Texas 78711, (512) 445-1285.

**Filed:** June 27, 1983, 11:40 a.m.  
TRD-834762

**Wednesday, July 20, 1983, 9 a.m.** The Oil and Gas Division of the Railroad Commission will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda summary, the division will conduct a statewide oil and gas hearing.

**Contact:** Harriett Trammell, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1297.

**Filed:** June 24, 1983, 10:51 a.m.  
TRD-834707

### School Land Board

**Tuesday, July 5, 1983, 10 a.m.** The School Land Board will meet in Room 831, General Land Office, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the previous board meeting minutes; pooling agreement amendments and applications; vacancy applications; consideration of a proposed land trade, Hidalgo County; easement applications for coastal public lands; a compensatory royalty agreement; and consideration of recommendations for guidelines and policy determination for pooling of state leases with variable royalties.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-4307.

**Filed:** June 27, 1983, 3:54 p.m.  
TRD-834809

### State Commission on Standards for the Teaching Profession

**Thursday, July 14, 1983.** Committees of the State Commission on Standards for the Teaching Profession will meet in Farish Hall, University of Houston, 4800 Calhoun, Houston. Times, rooms, committees, and agendas follow.

**1:30 p.m.** In Room 326, the Interim Reports Committee will review interim reports on Rice University, the University of Texas at El Paso, The University of Texas of the Per-

mian Basin, and the University of Texas at Austin.

**3 p.m.** In Room 328, the Committee on Certification Programs and Requirements will review the interim framework for provisional certificates, discuss the recommendation and implementation plan to be made on provisional certificate program standards, individual programs, and preprofessional skills test validation study, Reports 3 and 4.

**4:30 p.m.** In Room 326, the Committee on Recruiting and Training Members of Visiting Teams will review plans for a one-day workshop for team chairmen.

**Contact:** Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

**Filed:** June 27, 1983, 11:33 a.m.  
TRD-834754-834756

**Friday, July 15, 1983.** Committees of the State Commission on Standards for the Teaching Profession will meet in Farish Hall, University of Houston, 4800 Calhoun, Houston. Times, rooms, committees, and agendas follow.

**8:30 a.m.** In Room 328, the Executive Committee will review job descriptions for the staff.

**9:30 a.m.** In Room 328, the Committee on Standards and Procedures for Institutional Approval will discuss the recommendation to be made on undergraduate and graduate institutional standards.

**10:30 a.m.** In Room 326, the Teacher Education Conference Planning Committee will discuss the site for the 1985 Teacher Education Conference and preliminary plans for the 36th annual conference, October 20-22, at the Hilton Inn, Austin.

**Contact:** Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

**Filed:** June 27, 1983, 11:32 a.m.  
TRD-834757-834759

**Friday, July 15, 1983, noon.** The Commission on Standards for the Teaching Profession will meet in the Kiva Room, Farish Hall, University of Houston, 4800 Calhoun, Houston. Items on the agenda summary include the teacher education delegation from the Republic of China and AACTE Symposium; individual programs from nine institutions; visiting team reports from Dallas Baptist College, Jarvis Christian College, Lamar University, Paul Quinn College, Texas Christian University, and the University of Texas at Dallas; and reports from

the Interim Reports, Certification Programs and Requirements, Executive, Recruiting and Training Members of Visiting Teams, Standards and Procedures for Institutional Approval, and Teacher Education Conference Planning Committees.

**Contact:** Edward M. Vodicka, 201 East 11th Street, Austin, Texas 78701, (512) 834-4042.

**Filed:** June 27, 1983, 11:32 a.m.  
TRD-834760

### University of Texas System

**Thursday, June 30, 1983, 2 p.m.** The Board of Regents of the University of Texas System will meet in the regents' meeting room, Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin. According to the agenda, the board will consider the proposal from Gill-Richter-Cordier to lease and operate a commercial wine grape vineyard and an associated winery on permanent university fund lands in Pecos County. The board also will meet in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(f).

**Contact:** Arthur H. Dilly, P.O. Box N, Austin, Texas 78712, (512) 471-1265.

**Filed:** June 27, 1983, 9:37 a.m.  
TRD-834746

### Texas Water Commission

**Monday, June 27, 1983, 10 a.m.** The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned adoption of the grievance and complaint procedures for the commission. The emergency status was necessary so that employees of the commission will have a grievance and complaint procedure.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 24, 1983, 11:10 a.m.  
TRD-834711

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, rooms, and agendas follow.

**Tuesday, July 5, 1983, 10 a.m.** In Room 118 the commission will consider water district

bond issues, use of surplus funds, change orders, water quality applications, amendments and renewals, water right applications, amendment and use of surface water, cancellation of contractual permits, and filing and setting of a hearing date.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 23, 1983, 11:28 a.m.  
TRD-834678

**Tuesday, July 12, 1983, 10 a.m.** In Room 124A, the commission will consider the application of James L. Jarrett and wife, Vessie J. Jarrett, to amend Certificate of Adjudication 23-2435. Applicants request authorization for change in diversion point, place of use, and purpose of use from irrigation to domestic use, located in Zapata County, for dismissal by the commission or for filing and setting of hearing date.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 24, 1983, 11:11 a.m.  
TRD-834712

**Wednesday, July 13, 1983, 2 p.m.** In Room 118, the commission will consider Application 4017A of Dallas Market Center Company for an amendment to Permit 3737 to authorize diversion and use not to exceed 500 acre-feet per annum from Lake Gilead located on Mill Creek, tributary of Big Sandy Creek, tributary of Sabine River, for irrigation purposes in Wood County and application of Fred C. Gage Development, Inc., for proposed water quality Permit 12539-01 to authorize disposal by irrigation of treated domestic wastewater effluent at a volume not to exceed an average flow of one million gallons per day in Ector County, Colorado River Basin.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 27, 1983, 3:22 p.m.  
TRD-834805

**Thursday, July 14, 1983, 10 a.m.** In Room 118, the commission will consider Application 4241 of Joseph B. Morrow and wife, Helene C. Morrow, for a §11.121 permit to authorize direct diversion of 40 acre-feet per year from the Lampasas River, tributary of the Little River, tributary of the Brazos River, Brazos River Basin, for irrigation purposes in Bell County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 27, 1983, 3:22 p.m.  
TRD-834806

**Wednesday, July 20, 1983, 10 a.m.** In Room 118, the commission will consider the application by Permian Brine Sales, Inc., for proposed Permit BR50001 to authorize a brine station which will consist of two brine wells, two fresh water/monitor wells and related surface facilities in the Salado Salt Formation in Crockett County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 27, 1983, 3:23 p.m.  
TRD-834807

**Tuesday, August 2, 1983, 10 a.m.** In Room 124A, the commission will consider the application of the City of San Antonio, Office of City Attorney, 200 Main Plaza, Suite 104, San Antonio, Texas 78205, to the Texas Department of Water Resources for an amendment to Permit 10137-33 to authorize the construction of an interim sewage treatment plant (Dos Rios wastewater treatment plant) to treat wastewaters from the Rilling Road sewage treatment plant service area to a secondary treatment level with a proposed discharge of treated domestic sewage effluent at a volume not to exceed an average flow of 83 million gallons per day.

**Contact:** Paul Elliott, P.O. Box 13087, Austin, Texas 78711, (512) 475-1317.

**Filed:** June 24, 1983, 11:11 a.m.  
TRD-834713

**Wednesday, September 28, 1983, 10 a.m.** In Room 124A, the commission will consider Application 4375 of Kocide Chemical Corporation for a permit to divert and use 230 acre-feet per annum directly from Sims Bayou, tributary of Buffalo Bayou, tributary of San Jacinto River, San Jacinto River Basin, for industrial purposes at the Kocide Plant in Harris County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 23, 1983, 3:20 p.m.  
TRD-834694

**Thursday, September 29, 1983, 10 a.m.** In Room 618, the commission will consider Application 4372 of Towne Lake Corporation for a permit to authorize construction and impoundment of water in three dams and reservoirs on Estelle Creek, tributary of West Fork Trinity River, tributary of Trinity River, Trinity River Basin, in Dallas County for recreational use.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 23, 1983, 3:21 p.m.  
TRD-834695

## Texas Register

**Thursday, September 29, 1983, 10 a.m.** In Room 118, the commission will consider Application 4373 of Continental Wholesale Florists, Inc., for a permit to divert and use 300 acre-feet of water per annum from York Creek, tributary of San Marcos River, tributary of Guadalupe River, Guadalupe River Basin, to irrigate 150 acres in Guadalupe and Caldwell Counties.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 23, 1983, 3:22 p.m.  
TRD-834696

**Friday, September 30, 1983, 10 a.m.** In Room 618, the commission will consider Application 4374 of Robert Meek Farms, Inc., for a permit to authorize construction and maintenance of a 98 acre-foot capacity off-channel reservoir, the diversion not to exceed 723.57 acre-feet per year from Porters Creek, tributary of West Mustang Creek, tributary of Mustang Creek, tributary of Navidad River, tributary of Lavaca River, Lavaca River Basin, for the irrigation of 340 acres of land in Wharton County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** June 23, 1983, 3:21 p.m.  
TRD-834697

### Regional Agencies Meetings Filed June 23

**The Burnet County Appraisal District** will meet at 215 South Pierce, Burnet, on July 5, 1983, at 8:30 a.m. Information may be obtained from Alvin C. Williams, Drawer C, Burnet, Texas 78611, (512) 756-2109.

**The Central Texas Mental Health and Mental Retardation Center**, Board of Trustees, met at 408 Mulberry Drive, Brownwood, on June 28, 1983, at 4:30 p.m. Information may be obtained from Gloria Willen, P.O. Box 250, Brownwood, Texas 76801, (915) 646-9574.

**The Gray County Appraisal District**, Board of Directors, met in Suite 1960A, 400 West Kingsmill Hughes Building, Pampa, on June 27, 1983, at 5:30 p.m. Information may be obtained from Charles Buzzard, P.O. Box 836, Pampa, Texas 79065, (806) 665-0791.

**The Henderson County Appraisal District**, Board of Directors, made an addition to the agenda of a meeting held in the conference

room, 101 East Corsicana, Athens, on June 30, 1983, at 7:30 p.m. Information may be obtained from Linda Hagar, P.O. Box 430, Athens, Texas 75751, (214) 675-9296.

**The Hickory Underground Water Conservation District 1** met in the council chambers, City Hall, 105 East Main Street, Brady, on June 30, 1983, at 7 p.m. Information may be obtained from Mindy G. Quick, 101 East Main Street, Brady, Texas 76825, (915) 597-2152.

**The Hunt County Tax Appraisal District**, Board of Directors, met in emergency session in the board room, 4815-B King Street, Greenville, on June 24, 1983, at 9 a.m. Information may be obtained from Henry J. Popp, 4815-B King Street, Greenville, Texas 75401, (214) 454-3510.

**The Lubbock Regional Mental Health and Mental Retardation Center** met at 3800 Avenue H, Lubbock, on June 28, 1983, at 4:30 p.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

**The Middle Rio Grande Development Council**, chief elected officials, rescheduled a meeting to be held in the auditorium, Texas A&M Extension Center, Uvalde, on July 1, 1983, at 2 p.m. The meeting was originally scheduled for June 30, 1983. Information may be obtained from Paul A. Edwards, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

**The South Plains Health Provider Organization, Inc.**, Board of Directors, met at 715 Amarillo, Plainview, on June 27, 1983, at 8 p.m. Information may be obtained from Sue Terry, 706 Canyon, Plainview, Texas 79072, (806) 293-8561.  
TRD-834681

### Meetings Filed June 24

**The Austin-Travis County Mental Health and Mental Retardation Center**, Board of Trustees, met in the board room, 1430 Collier Street, Austin, on June 28, 1983, at noon. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 27.

**The Coryell County Appraisal District**, Appraisal Review Board, met at 105 North Seventh Street, Gatesville, on June 29, 1983, at 9:30 a.m. Information may be obtained from Darrell Lisenbe, 105 North Seventh Street, Gatesville, Texas 76528, (817) 865-6593.

**The Gonzales County Appraisal District**, Board of Directors, will meet in Suite 201, Gonzales Bank Building, 508 St. Louis Street, Gonzales, on July 14, 1983, at 8:30 a.m. Information may be obtained from Nancy Seitz, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

**The Gulf Bend Mental Health and Mental Retardation Center**, Board of Trustees, met at 2105 Port Lavaca Drive, Victoria, on June 30, 1983, at noon. Information may be obtained from T. G. Kelliher, Jr., 2105 Port Lavaca Drive, Victoria, Texas 77902, (512) 578-5262

**The Henderson County Appraisal District**, Board of Review, will meet in Room 202, 101 East Corsicana, Athens, on July 1, 1983, at 11 a.m. Information may be obtained from Linda Hagar, P.O. Box 430, Athens, Texas 75751, (214) 675-9296.

**The Mental Health and Mental Retardation Regional Center of East Texas**, Board of Trustees, met in the board room, 2323 West Front Street, Tyler, on June 30, 1983, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

**The North Central Texas Council of Governments**, Executive Board, met in Suite 200, Centerpoint Two Building, 616 Six Flags Drive, Arlington, on June 30, 1983, at 12:30 p.m. Information may be obtained from Linda Keithley, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 461-3300.

**The Tyler County Tax Appraisal District**, Board of Review, will meet at 1004 West Bluff, Woodville, on July 12, 1983, at 10 a.m. Information may be obtained from Leslie J. Silva, R.P.A., 1004 West Bluff, Woodville, Texas 75799, (409) 283-3736.  
TRD-834699

### Meetings Filed June 27

**The Ark-Tex Council of Governments**, Executive Committee, met at Loop 245 Park, Texarkana, Arkansas, on June 30, 1983, at 5 p.m. The Board of Directors met at the same location on the same day at 6 p.m. Information may be obtained from Vivienne Arvin, P.O. Box 5307, Texarkana, Texas 75501, (501) 774-3481.

**The Brazos River Authority**, Administrative Policy Committee, will meet at 4400 Cobbs



Drive, Waco, on July 1, 1983, at 9:30 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441

**The Deep East Texas Council of Governments, Area Agency on Aging,** will conduct public hearings at the locations and times indicated as follows

Tyler County Senior Center, 600 Elm Street, Woodville, on July 6, 1983, at 11 a.m.

Houston County Senior Center, Crockett City Park, Crockett, on July 6, 1983, at 2 p.m.

San Augustine County Senior Center, 405 South Bolivar, San Augustine, on July 7, 1983, at 10:30 a.m.

Angelina County Senior Center, 2801 Valley Avenue, Lufkin, on July 8, 1983, at 10:30 a.m.

The Regional Aging Advisory Council also will meet at the Angelina County Senior Citizens Center, 2801 Valley Avenue, Lufkin, on July 8, 1983, at 1:30 p.m. Information may be obtained from Martha Jones, P.O. Drawer 1170, Jasper, Texas 75951, (409) 384-5704.

**The Region IX Education Service Center, Board of Directors,** will meet at 301 Loop 11, Wichita Falls, on July 6, 1983, at 2 p.m. Information may be obtained from Don

Brewer, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.

**The Ellis County Tax Appraisal District, Appraisal Review Board,** will meet at 406 Sycamore Street, Waxahachie, on July 6, 1983, at 8:30 a.m. Information may be obtained from Gray Chamberlain, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552

**The Hamilton Appraisal District** will meet at the Hamilton County Courthouse, Hamilton, on July 7, 1983, at 7 p.m. Information may be obtained from Doyle Roberts, P.O. Box 446, Hamilton, Texas 76531, (817) 386-8418.

**The Hansford County Appraisal District, Review Board,** will meet at 13 West Kenneth Avenue, Spearman, on July 6, 1983, at 10 a.m. Information may be obtained from Bill Pittman, Box 1018, Spearman, Texas 79081, (806) 659-3731.

**The Houston-Galveston Area Council, Project Review Committee,** will meet at 3701 West Alabama Street, Houston, on July 5, 1983, at 9:30 a.m. Information may be obtained from Geraldine McCray, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200.

**The Jasper County Appraisal District, Board of Directors,** will meet in the Buna

Independent School District board room, Highway 62 South, Buna, on July 6, 1983, at 7 p.m. Information may be obtained from David W. Luther, P.O. Drawer G, Buna, Texas 77612, (409) 384-2544.

**The Lee County Appraisal District, Board of Review,** will meet at 218 East Richmond Street, Giddings, on July 7 and 8, 1983, at 9 a.m. daily. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Swisher County Appraisal District, Board of Directors,** met at 130 North Armstrong, Tulia, on June 30, 1983, at 8:30 p.m. Information may be obtained from Nan Davis, Drawer 8, Tulia, Texas 79088, (806) 995-3015.

TRD-834733

Meeting Filed June 28

**The Bexar Appraisal District, Board of Directors,** will meet at 535 South Main, San Antonio, on July 5, 1983, at 6 p.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

TRD-834815

# 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.

## Bills Signed by the Governor

### June 19

**HB 21** Relating to disruption of classes or public school transportation.

Effective Date: August 29, 1983

**HB 25** Relating to age requirements for applicants for beginning positions within police departments.

Effective Date: June 19, 1983

**HB 33** Relating to electronic filing, storing, and dissemination of documents in the courts.

Effective Date: August 29, 1983

**HB 42** Relating to small claims court procedure in justice courts.

Effective Date: August 29, 1983

**HB 44** Relating to certain powers, duties, and procedures of the State Commission on Judicial Conduct and the discipline of judges.

Effective Date: August 29, 1983

**HB 52** Relating to the attorney general's duty to respond to requests for legal opinions.

Effective Date: August 29, 1983

**HB 54** Relating to career education.

Effective Date: August 29, 1983

**HB 64** Relating to the fee for an examination for a license to practice architecture.

Effective Date: August 29, 1983

**HB 134** Relating to the compensation of the judges of the district courts in Galveston County.

Effective Date: August 29, 1983

**HB 147** Relating to the determination of local option status under the Bingo Enabling Act.

Effective Date: June 19, 1983

**HB 160** Relating to the required elements of disclosure for political advertising.

Effective Date: August 29, 1983

**HB 171** Relating to the elements and punishment of offenses related to oil and gas equipment and the inspection of businesses dealing in used oil and gas equipment.

Effective Date: September 1, 1983

**HB 178** Relating to vocational and technical training programs provided by the Texas State Technical Institute.

Effective Date: August 29, 1983

**HB 179** Relating to rules adversely affecting small businesses.

Effective Date: September 1, 1983

**HB 197** Relating to the period during which a suit against an alleged father of an illegitimate child may be brought to establish paternity.

Effective Date: June 19, 1983

**HB 210** Relating to the designation and service of certain public school officials as deputy voter registrars.

Effective Date: August 29, 1983

**HB 225** Relating to unannounced inspections of nursing and convalescent homes.

Effective Date: September 1, 1983

**HB 242** Relating to the status of adult probation department personnel as state employees for certain purposes.

Effective Date: June 19, 1983

**HB 326** Relating to the form in which certain government records may be kept.

Effective Date: August 29, 1983

**HB 340** Relating to disqualification for benefits under the Texas Unemployment Compensation Act.

Effective Date: August 29, 1983

**HB 350** Relating to the placement of signs outside of the entrance of a polling place.

Effective Date: August 29, 1983

**HB 355** Relating to the pay of election judges and clerks.

Effective Date: August 29, 1983

**HB 358** Relating to child abuse investigations.

Effective Date: September 1, 1983/January 1, 1986

**HB 359** Relating to the compensation of the judges of the district courts in Hidalgo County.

Effective Date: September 1, 1983

**HB 374** Relating to the management of property recovered in a suit by the next friend of an incapacitated person.

Effective Date: September 1, 1983

**HB 377** Relating to providing notice to heirs and beneficiaries concerning final settlements in probate proceedings.

Effective Date: September 1, 1983

**HB 378** Relating to the distribution of small estates on affidavit.

Effective Date: September 1, 1983

**HB 382** Relating to payment by the state to Walker County for certain expenses arising from the prosecution of an inmate of the Texas Department of Corrections.

Effective Date: September 1, 1983

**HB 385** Relating to the compensation of presiding judges of certain administrative judicial districts.

Effective Date: September 1, 1983

**HB 399** Relating to the boundaries, name, and terms of office for directors of the Ground Water Conservation District 2, North of the Canadian River.

Effective Date: August 29, 1983

**HB 401** Relating to the amount of per diem to which a member of a state board or commission is entitled.

Effective Date: August 29, 1983

**HB 413** Relating to the authority of a probation office in a judicial district to develop and administer programs for the supervision and rehabilitation of persons in pretrial diversion programs.

Effective Date: August 29, 1983

**HB 423** Relating to recovery of collection expense for furnishing labor and materials and to recovery of attorneys' fees and other expenses of defending invalid claims for furnishing labor and materials.

Effective Date: August 29, 1983

**HB 430** Relating to the purposes for which cities may engage in zoning.

Effective Date: August 29, 1983

**HB 444** Relating to making a change of address on a driver's license.

Effective Date: January 1, 1984

**HB 450** Relating to the disposition of money, securities, negotiable instruments, stocks, or bonds forfeited to an agency of the state or an agency or office of a political subdivision of the state under the Texas Controlled Substances Act.

Effective Date: August 29, 1983

**HB 455** Relating to operating a motor vehicle, trailer, or semi-trailer with expired registration.

Effective Date: September 1, 1983

**HB 470** Relating to registration of antique motor vehicles.

Effective Date: September 1, 1983

**HB 475** Relating to the inspection of certain juvenile records by the Texas Department of Corrections for statistical and diagnostic purposes.

Effective Date: June 19, 1983

**HB 484** Relating to the per diem for members of the Texas Board of Human Resources.

Effective Date: September 1, 1983

**HB 487** Relating to rules governing solid waste, including hazardous waste and Class I industrial solid waste.

Effective Date: September 1, 1983

**HB 500** Relating to the appointment of persons to serve on the Texas Department of Mental Health and Mental Retardation review board which determines manifest dangerousness.

Effective Date: August 29, 1983

**HB 501** Relating to landowner consent for hunting or engaging in target shooting in certain counties.

Effective Date: August 29, 1983

**HB 533** Relating to alternate jurors.

Effective Date: August 29, 1983

**HB 603** Relating to the destruction of an industrial die, mold, or form.

Effective Date: August 29, 1983

**HB 622** Relating to nonprofit corporations a purpose of which is to assist a state agency.

Effective Date: August 29, 1983

**HB 624** Relating to the authority of certain counties concerning cemeteries.

Effective Date: June 19, 1983

**HB 637** Relating to statewide assignment of judges of the statutory probate courts.

Effective Date: Upon passage of SJR

**HB 639** Relating to absentee voting on a federal post card application.

Effective Date: August 29, 1983

**HB 642** Relating to awarding the Texas Department of Human Resources fees for court-ordered social studies.

Effective Date: August 29, 1983

**HB 644** Relating to the authority of school districts to put records and reports on microfilm.

Effective Date: August 29, 1983

**HB 645** Relating to the consolidation of property tax assessing and collecting

Effective Date: September 1, 1983

**HB 647** Relating to the submission of the appraisal roll to a taxing unit.

Effective Date: August 29, 1983

**HB 651** Relating to state loans to finance the purchase, installation, or repair of energy conservation devices and renewable energy systems for use in residences.

Effective Date: August 29, 1983

**HB 655** Relating to use of rest areas.

Effective Date: August 29, 1983

**HB 697** Relating to the application of the Professional Prosecutors Act to the criminal district attorney of Cass County and the district attorney of the 229th Judicial District.

Effective Date: June 19, 1983

**HB 713** Relating to the authority of a county to pay certain expenses incurred by another county for the extension of a farm-to-market road.

Effective Date: August 29, 1983

**HB 723** Relating to the basic skills assessment instrument required in public schools.

Effective Date: Beginning of school year 1983-1984

**HB 724** Relating to the reorganization of the 28th Judicial District and the compensation of the district judges in Kleberg County.

Effective Date: When court created or January 1, 1984

**HB 726** Relating to the compensation of the judge of the 118th Judicial District.

Effective Date: September 1, 1983

**HB 736** Relating to evidence of, exemptions from, and disposition of fees collected as a result of compulsory liability insurance for certain vehicles.

Effective Date: August 29, 1983

**HB 741** Relating to the deadline for filing an application for a place on a primary election ballot.

Effective Date: August 29, 1983

**HB 742** Relating to reports by the division heads of the Texas Department of Public Safety regarding the efficiency of its employees.

Effective Date: August 29, 1983

**HB 747** Relating to application of the offense of disorderly conduct to looking into a room in a hotel or similar establishment for a lewd or unlawful purpose.

Effective Date: September 1, 1983

**HB 773** Relating to authorizing the commissioners court of Harris County to prohibit the discharge of waste and sewage into drainage ditches in the county and to make other changes in the county road law.

Effective Date: August 29, 1983

**HB 777** Relating to the composition of a county hospital's board of managers.

Effective Date: August 29, 1983

**HB 827** Relating to the disposition of interest earned on the separate fund accounts in the state treasury of public institutions of higher education.

Effective Date: August 29, 1983

**HB 842** Relating to amounts of coverage for spouses and children under certain group term life insurance.

Effective Date: September 1, 1983

**HB 844** Relating to membership in and payment of premiums for insurance coverage under the Texas employees uniform group insurance program.

Effective Date: September 1, 1983

**HB 846** Relating to certain oil and gas security interests and product liens.

Effective Date: August 29, 1983

**HB 855** Relating to the discretion of a court to allow certain persons convicted of crimes to serve their sentences during off-work hours or on weekends.

Effective Date: August 29, 1983

**HB 859** Relating to a requirement that a law enforcement agency that transfers a defendant to the custody of the Texas Department of Corrections provide the department with a written description of the offense.

Effective Date: September 1, 1983

**HB 861** Relating to the authority of the court to impose on a defendant a requirement that the defendant participate in a community-service project as a term of probation.

Effective Date: August 29, 1983

**HB 867** Relating to payment of certain benefits to family and dependents of a deceased insured under group accident and health insurance.

Effective Date: September 1, 1983

**HB 872** Relating to the requirements for obtaining a certificate of title to a vehicle that has not been previously registered or titled in any state.

Effective Date: September 1, 1983

**HB 882** Relating to solicitations for charitable organizations.

Effective Date: September 1, 1983

**HB 894** Relating to fees imposed and collected by state agencies.

Effective Date: August 29, 1983

**HB 895** Relating to the withholding of names drawn for jury service.

Effective Date: September 1, 1983

**HB 897** Relating to the protection of consumers and regulation of manufactured housing.

Effective Date: September 1, 1983

**HB 908** Relating to the identification of county-owned motor vehicles and heavy equipment.

Effective Date: September 1, 1983

**HB 930** Relating to predator control from aircraft in Jackson and Matagorda Counties.

Effective Date: August 29, 1983

**HB 957** Relating to printing on the ballot and posting the names of candidates for the general election for state and county offices.

Effective Date: August 29, 1983

**HB 965** Relating to the authority of a commissioners court of a county to impose a fee for registering a vehicle in the county, to the application for certificate of title, and to secondhand vehicle transfers.

Effective Date: August 29, 1983

**HB 970** Relating to the creation of a juvenile board in each of the counties of Blanco, Burnet, Llano, Mason, and San Saba.

Effective Date: June 19, 1983

**HB 998** Relating to the challenge at the polling place of a person's qualifications to vote.

Effective Date: August 29, 1983

**HB 1006** Relating to election contests for the offices of state senator and state representative.

Effective Date: August 29, 1983

**HB 1013** Relating to establishment of a juvenile board in each of the counties of Kimble and Menard.

Effective Date: June 19, 1983

**HB 1018** Relating to the authority of rural fire prevention districts to issue bonds, notes, and bond anticipation notes.

Effective Date: August 29, 1983

**HB 1031** Relating to the creation of the County Court at Law of Kleberg County.

Effective Date: August 29, 1983

**HB 1038** Relating to the consolidation of duties in connection with voter registration and the conduct of elections in the office of the county clerk or county tax assessor-collector; to the county elections administrator; to number of ballots.

Effective Date: August 29, 1983

**HB 1056** Relating to specific enforcement of agreements to arbitrate future disputes.

Effective Date: August 29, 1983

**HB 1061** Relating to the collection of information about certain persons by the National Crime Information Center.

Effective Date: September 1, 1983

**HB 1075** Relating to the protection of public employees who report a violation of law.

Effective Date: September 1, 1983

**HB 1080** Relating to the transfer of records in connection with a change of venue of certain probate proceedings.

Effective Date: September 1, 1983

**HB 1091** Relating to the placement of signs in the right-of-way of public roads in certain counties.

Effective Date: June 19, 1983

**HB 1100** Relating to branch offices for absentee voting in certain counties.

Effective Date: August 29, 1983

**HB 1106** Relating to the expenses of the official court reports for the 155th Judicial District.

Effective Date: September 1, 1983

**HB 1114** Relating to the enforcement of certain vehicle weight limitations.

Effective Date: September 1, 1983

**HB 1119** Relating to the jurisdiction of the Supreme Court and the courts of appeals in certain civil cases and the issuance of the writ of mandamus by the courts of appeals or the justices.

Effective Date: June 19, 1983

**HB 1125** Relating to the creation, operation, and dissolution of enterprise zones.

Effective Date: September 1, 1983

**HB 1128** Relating to records of births, deaths, and fetal deaths, enforcement of the vital statistics of law, and providing a hearing for a person whose application for a copy of a record is refused.

Effective Date: June 19, 1983

**HB 1130** Relating to supplemental appropriations to pay the additional cost of purchased utilities at certain institutions of higher education.

Effective Date: June 19, 1983

**HB 1147** Relating to the improvement of the teaching of mathematics and science in the public schools; declaring state intent for improvement of instruction in the teaching of mathematics and science; providing pilot programs.

Effective Date: August 29, 1983

**HB 1157** Relating to the authority of a commissioners court to permit the revision of a subdivision plat or cancellation of a subdivision.

Effective Date: August 29, 1983

**HB 1183** Relating to the jurisdiction of the County Court of Cass County.

Effective Date: June 19, 1983

**HB 1199** Relating to obstructions, barriers, and restraints on beaches and adjacent property.

Effective Date: June 19, 1983

**HB 1203** Relating to revision of the Texas Tax Code to conform to recent constitutional amendments concerning property taxation.

Effective Date: August 29, 1983

**HB 1208** Relating to offenses involving hoax bombs, explosive weapons, and chemical dispensing devices and to the forfeiture of certain items seized pursuant to an arrest for a weapons violation.

Effective Date: September 1, 1983

**HB 1210** Relating to the creation of the County Court at Law of Rusk County and to the membership of the judge of that court on the county juvenile board.

Effective Date: August 29, 1983

**HB 1216** Relating to the designation of emergency interim successors to assume the powers and duties of unavailable legislators in the event of enemy attack.

Effective Date: January 1, 1984, if HSR 30 is adopted

**HB 1217** Relating to the labeling, advertising, or sale of kosher food.

Effective Date: September 1, 1983

**HB 1250** Relating to the election, terms of office, and compensation of directors of the Orange County Drainage District of Orange County.

Effective Date: September 1, 1983

**HB 1253** Relating to offenses involving using, handling, disposing of, or storing a pesticide or pesticide container in certain manners.

Effective Date: September 1, 1983

**HB 1254** Relating to establishment of a juvenile board in McCulloch County.

Effective Date: August 29, 1983

**HB 1263** Relating to the powers and status of the Tribal Councils and tribal businesses of the Alabama-Coushatta and the Tigua Indian Tribes.

Effective Date: September 1, 1983

**HB 1269** Relating to the maximum population for a county election precinct in which voting machines or electronic voting systems are used.

Effective Date: August 29, 1983

**HB 1277** Relating to an administrative penalty for violation of laws, safety standards, and regulations relating to transportation of gas and gas pipeline facilities.

Effective Date: September 1, 1983

**HB 1282** Relating to split payment of and the granting of discounts for the early payment of property taxes.

Effective Date: September 1, 1983

**HB 1289** Relating to the imposition of fees and terms of probation on certain defendants.

Effective Date: August 29, 1983

**HB 1291** Relating to the interception of wire or oral communications.

Effective Date: June 19, 1983

**HB 1293** Relating to the amount charged by the county for the use of electronic voting equipment in a primary election.

Effective Date: August 29, 1983

**HB 1301** Relating to the membership of the Texas Board of Private Investigators and Private Security Agencies.

Effective Date: August 29, 1983

**HB 1304** Relating to the authority of certain cities concerning port and harbor improvements and facilities.

Effective Date: June 19, 1983

**HB 1308** Relating to the reporting of the movement of a mobile home for purposes of property tax records.

Effective Date: September 1, 1983

**HB 1310** Relating to judicial review of certain orders issued by the Alcoholic Beverage Commission.

Effective Date: August 29, 1983

**HB 1322** Relating to the compensation of the county auditor of Cameron County

Effective Date: June 19, 1983

**HB 1336** Relating to the attendance of children enrolled in public school kindergarten

Effective Date: September 1, 1983

**HB 1344** Relating to jurisdiction over the regulation of certain entities by the State Board of Insurance.

Effective Date: August 29, 1983

**HB 1345** Relating to the regulation of pipeline transportation of hazardous liquids and the regulation of hazardous liquid pipeline facilities.

Effective Date: August 29, 1983

**HB 1368** Relating to the failure of certain persons to maintain records of the source of citrus fruit.

Effective Date: August 29, 1983

**HB 1370** Relating to the filing and docketing of certain suits for adoption.

Effective Date: September 1, 1983

**HB 1395** Relating to the remedies for unequal appraisal of property for property tax purposes.

Effective Date: January 1, 1984

**HB 1409** Relating to the authority of certain cities to impose a hotel occupancy tax; providing for authorized uses of revenues derived from the tax imposed.

Effective Date: June 19, 1983

**HB 1420** Relating to proceedings on offenses regarding certificates of title to motor vehicles.

Effective Date: September 1, 1983

**HB 1421** Relating to the deposit in financial institutions of money received by the county tax collector for motor vehicle registration and certificates of title.

Effective Date: August 29, 1983

**HB 1422** Relating to approval of certain insurance policy forms and documents.

Effective Date: August 29, 1983

**HB 1438** Relating to the removal of certain businesses from treatment as a consumer under the Deceptive Trade Practices-Consumer Protection Act.

Effective Date: August 29, 1983

**HB 1446** Relating to the protest of a property tax appraisal.

Effective Date: January 1, 1984

**HB 1447** Relating to the delivery of notice to a property owner under the Property Tax Code.

Effective Date: January 1, 1984

**HB 1451** Relating to the regulation of automotive wrecking and salvage yards in certain counties

Effective Date: September 1, 1983

**HB 1454** Relating to procedures under the Administrative Procedure and Texas Register Act.

Effective Date: September 1, 1983

**HB 1460** Relating to the authority of the commissioners court to set court costs in certain misdemeanor cases in certain counties.

Effective Date: August 29, 1983

**HB 1473** Relating to the creation of reorganization of certain judicial districts, supplemental compensation to certain district judges, exchange of benches, creation of the office of district attorney, and juvenile boards.

Effective Date: September 1, 1983

**HB 1474** Relating to the provision of dangerous drugs by licensed physicians who practice in rural areas.

Effective Date: August 29, 1983

**HB 1475** Relating to the authority of a county to issue bonds for a public library.

Effective Date: August 29, 1983

**HB 1481** Relating to the expenditure by certain counties of public or private grant or aid money.

Effective Date: June 19, 1983

**HB 1488** Relating to the regulation of the formation and operation of risk retention groups.

Effective Date: June 19, 1983

**HB 1500** Relating to the correction of a tax roll prepared by a tax assessor for a taxing unit prior to the participation of the taxing unit in an appraisal district.

Effective Date: August 29, 1983

**HB 1501** Relating to salaries of the veterans county service officer and assistants.

Effective Date: August 29, 1983

**HB 1502** Relating to proration of property taxes because of loss of an exemption during a tax year.

Effective Date: January 1, 1984

**HB 1517** Relating to the duty of a county to provide physical facilities, equipment, and utilities for office of the Texas Adult Probation Commission.

Effective Date: August 29, 1983

## Texas Register

**HB 1518** Relating to the transfer of prisoners between jails and other facilities for the purpose of reducing jail overcrowding.

Effective Date: August 29, 1983

**HB 1542** Relating to gifts received by the board of regents of The University of Texas System.

Effective Date: August 29, 1983

**HB 1550** Relating to access by institutions of higher education to police records of certain applicants for employment.

Effective Date: August 29, 1983

**HB 1554** Relating to the collection of certain insurance maintenance taxes and fees by the State Board of Insurance.

Effective Date: September 1, 1983

**HB 1571** Relating to exceptions to the Nonresident Violator Compact of 1977.

Effective Date: June 19, 1983

**HB 1575** Relating to the operation of the Joint Underwriting Association established by the Texas Medical Liability Insurance Underwriting Association Act.

Effective Date: August 29, 1983

**HB 1580** Relating to a taxpayer's remedies in the judicial review of certain property tax determinations.

Effective Date: August 29, 1983

**HB 1582** Relating to a taxpayer protest of the situs of property.

Effective Date: January 1, 1984

**HB 1599** Relating to screening and treatment of newborn infants for certain heritable diseases.

Effective Date: August 29, 1983

**HB 1601** Relating to length limitations on certain motor vehicles and combinations of vehicles.

Effective Date: June 19, 1983

**HB 1602** Relating to width limitations on motor vehicles on certain highways.

Effective Date: June 19, 1983

**HB 1603** Relating to the payment of property taxes pending a taxpayer appeal.

Effective Date: August 29, 1983

**HB 1606** Relating to a provision for payment of restitution by a person who has issued a bad check.

Effective Date: August 29, 1983

**HB 1608** Relating to powers of certain partnerships or other combinations of corporations that provide energy for utilities.

Effective Date: June 19, 1983

**HB 1613** Relating to taxation of agribusiness items.

Effective Date: August 29, 1983

**HB 1618** Relating to bond requirements for certain alcoholic beverage permittees and licensees.

Effective Date: September 1, 1983

**HB 1619** Relating to filing notice of a sale of real estate under a power conferred by a contract lien.

Effective Date: January 1, 1984

**HB 1625** Relating to appointment of masters in delinquent tax suits.

Effective Date: September 1, 1983

**HB 1644** Relating to parties agreeing to a trial by a special judge for district court civil cases.

Effective Date: June 19, 1983

**HB 1650** Relating to transactions involving crafted precious metal.

Effective Date: September 1, 1983, part June 19, 1983

**HB 1651** Relating to transactions involving business machines.

Effective Date: August 29, 1983/September 1, 1983

**HB 1655** Relating to the availability of appraisal records and related materials to a property owner.

Effective Date: August 29, 1983

**HB 1669** Relating to the jurisdiction of the Ninth, and Second Ninth, and the 258th District Courts in Polk County and to the compensation of the judges of those courts.

Effective Date: August 29, 1983

**HB 1679** Relating to contributions to and disbursements from firemen's relief and retirement funds in certain cities.

Effective Date: August 29, 1983

**HB 1685** Relating to regulation of the food, drug, health device, and cosmetic salvage brokers and establishments.

Effective Date: September 1, 1983

**HB 1686** Relating to the punishment for the offense of indecent exposure.

Effective Date: September 1, 1983

**HB 1699** Relating to written investment objectives and performance evaluations concerning the investment of certain state funds.

Effective Date: August 29, 1983



**HB 1701** Relating to the management and investment of certain state funds.

Effective Date: August 29, 1983

**HB 1702** Relating to the composition and qualifications of the board of trustees of the Teacher Retirement System of Texas.

Effective Date: September 1, 1983

**HB 1706** Relating to rehabilitation services for crippled children.

Effective Date: September 1, 1983

**HB 1707** Relating to the terms of court in the 24th Judicial District

Effective Date: September 1, 1983

**HB 1708** Relating to the carrying of nightsticks by certain campus security personnel.

Effective Date: August 29, 1983

**HB 1710** Authorizing certain investments of Texas insurance companies except those writing life, health, and accident insurance.

Effective Date: June 19, 1983

**HB 1712** Relating to the reporting of certain traffic accidents.

Effective Date: January 1, 1984

**HB 1719** Relating to solid waste management.

Effective Date: September 1, 1983

**HB 1725** Relating to the administration of children's protective services in Harris County.

Effective Date: August 29, 1983

**HB 1726** Relating to rights of the elderly.

Effective Date: September 1, 1983

**HB 1731** Relating to the establishment of a Texas Trails System.

Effective Date: August 29, 1983

**HB 1741** Relating to advertising regulations under the Private Investigators and Private Security Agencies Act.

Effective Date: June 19, 1983

**HB 1753** Relating to administration of medications in convalescent homes, nursing homes, and other related institutions; establishing fees for the issuance and renewal of permits to administer medications.

Effective Date: September 1, 1983

**HB 1778** Relating to fees for motor vehicle dealers and providing for bonds for certain motor vehicle dealers.

Effective Date: January 1, 1984

**HB 1792** Relating to the administration of public employee benefit programs.

Effective Date: August 29, 1983

**HB 1818** Relating to the service of process in an election contest.

Effective Date: August 29, 1983

**HB 1840** Relating to a joint office for certain irrigation districts.

Effective Date: August 29, 1983

**HB 1845** Relating to the duration of a city contract concerning solid waste management.

Effective Date: August 29, 1983

**HB 1849** Relating to fraud in a transaction involving real estate or stock in a corporation or joint stock company.

Effective Date: September 1, 1983

**HB 1852** Relating to workers' compensation insurance coverage of subcontractors as defined herein.

Effective Date: August 29, 1983

**HB 1858** Relating to elections and terms of office of directors of certain general law water districts.

Effective Date: January 1, 1984

**HB 1876** Relating to filing the annual report of the Texas Alcoholic Beverage Commission.

Effective Date: August 29, 1983

**HB 1884** Relating to certain proceedings under the Texas Probate Code.

Effective Date: September 1, 1983

**HB 1889** Relating to the sale of beer by general, local, or branch distributors who have an assigned sales territory from manufacturers or nonresident manufacturers.

Effective Date: August 29, 1983

**HB 1914** Relating to penalties for tampering with oil and gas wells and certain associated equipment and for making certain false reports relating to certain oil and gas wells.

Effective Date: September 1, 1983

**HB 1925** Relating to the authority of certain cities to provide automobile liability insurance for fire and police department officers and employees.

Effective Date: August 29, 1983

**HB 1933** Relating to appeal of suits affecting the parent-child relationship.

Effective Date: June 19, 1983

**HB 1936** Relating to the licensing of veterinarians in Texas.

Effective Date: August 29, 1983

**HB 1953** Relating to conforming the Texas Litter Abatement Act and related statutes to legislation passed by the 67th Legislature.

Effective Date: August 29, 1983/September 1, 1983

**HB 1964** Relating to the reservation of minerals by the state and other conditions for the sale, lease, and prospect of state land.

Effective Date: June 19, 1983

**HB 1966** Relating to the operation of vehicles used to transport solid waste; prescribing load limits.

Effective Date: August 29, 1983

**HB 1970** Relating to the regulatory and enforcement procedures and authority of the Railroad Commission of Texas.

Effective Date: September 1, 1983

**HB 1971** Relating to the disposition of certain hospital authority records.

Effective Date: September 1, 1983

**HB 1981** Relating to the application of the Private Investigators and Private Security Agencies Act to expert witnesses.

Effective Date: September 1, 1983

**HB 1985** Relating to the establishment, powers, and duties of the Texas Planning Council for Developmental Disabilities and to the rights of persons with developmental disabilities.

Effective Date: August 29, 1983

**HB 1986** Relating to certain subdivision plat amendments.

Effective Date: August 29, 1983

**HB 1987** Relating to the designation of certain cities as issuer-registrars of public securities.

Effective Date: August 29, 1983

**HB 1991** Relating to the withholding of the compensation of certain county officers who elect not to be paid for their services.

Effective Date: June 19, 1983

**HB 1999** Relating to the compensation and powers of members of the State Board of Medical Examiners, to registration of practitioners and interns, to qualifications of licensees, to grounds for refusal to admit persons to examination.

Effective Date: August 29, 1983

**HB 2006** Relating to replacing the limitation on the value of an urban homestead with a limitation based on size.

Effective Date: Upon passage of HJR 105

**HB 2008** Relating to revision of the criminal laws relating to the offenses of rape—aggravated rape, rape of a child, sexual abuse, aggravated sexual abuse, and sexual abuse of a child; redefining those offenses as assaultive offenses.

Effective Date: September 1, 1983

**HB 2009** Relating to contracts, leases, and other arrangements for the use and occupancy of airport property entered into by joint boards under the Municipal Airports Act.

Effective Date: September 1, 1983

**HB 2013** Relating to the creation of the constitutional office of criminal district attorney of Tyler County, the application of the Professional Prosecutors Act to that criminal district attorney, and the powers of the district attorney.

Effective Date: September 1, 1983

**HB 2031** Relating to the registration and certification of persons engaged in the appraisal of property for purposes of ad valorem taxation and in the assessment and collection of ad valorem taxes.

Effective Date: September 1, 1983

**HB 2032** Relating to the parties in an appeal of a property tax determination and to service of process on those parties.

Effective Date: August 29, 1983

**HB 2058** Relating to court-ordered commitment of a drug-dependent person.

Effective Date: August 29, 1983

**HB 2066** Relating to airport zoning regulations.

Effective Date: August 29, 1983

**HB 2067** Relating to airport zoning regulations.

Effective Date: June 19, 1983

**HB 2068** Relating to off-street parking facilities, terminals, and facilities of cities over 650,000 population and the issuance and security of revenue bonds therefor.

Effective Date: August 29, 1983

**HB 2076** Relating to certain school district property tax revenues to be used by a junior college district operated by the school district.

Effective Date: June 19, 1983

**HB 2077** Relating to pilot projects for year-round school programs.

Effective Date: August 29, 1983

**HB 2081** Relating to promptness of payment of workers' compensation benefits, fines, and penalties.

Effective Date: January 1, 1984

**HB 2083** Relating to deferred suspension of certain licenses issued by the Texas Department of Agriculture.

Effective Date: September 1, 1983

**HB 2106** Relating to the Second Injury Fund.

Effective Date: August 29, 1983

**HB 2107** Relating to lump sum settlements in the case of death.

Effective Date: August 29, 1983

**HB 2112** Relating to the use of fresh water for enhanced oil recovery activities under an injection well permit.

Effective Date: September 1, 1983

**HB 2116** Relating to authorizing a school district board of trustees to adopt rules concerning a determination of residency for school admissions purposes.

Effective Date: August 29, 1983

**HB 2118** Relating to private mortgage guaranty insurance issued pursuant to the Texas Insurance Code, Article 21.50.

Effective Date: August 29, 1983

**HB 2119** Relating to the marking of roads that follow historical routes.

Effective Date: August 29, 1983

**HB 2126** Relating to establishment of a juvenile board in Ward County.

Effective Date: August 29, 1983

**HB 2134** Relating to the calculation of the effective tax rate for a taxing unit.

Effective Date: January 1, 1984

**HB 2135** Relating to the responsibilities of landowners in plugging and replugging abandoned oil and gas wells.

Effective Date: August 29, 1983

**HB 2140** Relating to the use of volunteers by certain governmental entities that provide human services.

Effective Date: September 1, 1983

**HB 2143** Relating to the application of credit life insurance or credit health and accident insurance to certain transactions.

Effective Date: August 29, 1983

**HB 2150** Relating to local regulation of alcoholic beverage advertising.

Effective Date: September 1, 1983

**HB 2156** Relating to the exemption of state lands from taxation.

Effective Date: January 1, 1984

**HB 2157** Relating to reduced motor vehicle registration fees for vehicles transporting soil conservation machinery.

Effective Date: September 1, 1983

**HB 2158** Relating to the enforcement and collection of the city hotel occupancy tax.

Effective Date: September 1, 1983

**HB 2161** Relating to the regulation of the transportaiton of water from the Edwards Underground Water District.

Effective Date: August 29, 1983

**HB 2165** Relating to certain licensing requirements and penalties under the Liquefied Petroleum Gas Code.

Effective Date: August 29, 1983

**HB 2188** Relating to supplemental compensation for the district attorney of the 293rd Judicial District.

Effective Date: September 1, 1983

**HB 2189** Relating to the composition of the Fourth and Sixth Administrative Judicial Districts.

Effective Date: June 19, 1983

**HB 2196** Relating to state employees health fitness programs.

Effective Date: September 1, 1983

**HB 2217** Relating to the authority of the clerk of a district court with original probate jurisdiction.

Effective Date: August 29 1983

**HB 2218** Relating to the powers and duties of parents and managing conservators to manage the estate of a child.

Effective Date: June 19, 1983

**HB 2220** Relating to a floating interest rate for certain public securities.

Effective Date: August 29, 1983

**HB 2227** Relating to the authority of any general-law city, town, or village to annex up to 15,840 feet gulfward of the coastline.

Effective Date: September 1, 1983

**HB 2228** Relating to the power of the board of aldermen of a town or village to codify its ordinances.

Effective Date: September 1, 1983

**HB 2229** Relating to the membership of the Court of Appeals for the Second Supreme Judicial District and to supplemental appropriation to that court.

Effective Date: June 19, 1983

**HB 2245** Relating to entry of certain orders and reports in the records of the courts of appeals.

Effective Date: June 19, 1983

**HB 2251** Relating to the creation of a state job-training program.

Effective Date: September 1, 1983

**HB 2276** Relating to the right of the state to appropriate water.

Effective Date: August 29, 1983

**HB 2282** Relating to the submission of the tax collector's annual report to the governing body.

Effective Date: August 29, 1983

**HB 2284** Relating to prohibiting employemnt of tax appraisers by taxing units.

Effective Date: August 29, 1983

**HB 2289** Relating to pilot programs for postsecondary-level students with learning disabilities.

Effective Date: August 29, 1983

**HB 2292** Relating to the terms of office of directors of the Panhandle Ground Water Conservation District 3, South of the Candian River.

Effective Date: June 19, 1983

**HB 2295** Relating to the composition of the Henderson County juvenile board, the compensation of the members of that board, and prosection of juvenile cases in Henderson County.

Effective Date: September 1, 1983

**HB 2299** Relating to legislative findings, boundaries, creation, adminstration, powers, duties, elections, issuance of bonds, levy and collection of taxes and finances for the Dickinson Bayou Watershed Drainage District.

Effective Date: August 29, 1983

**HB 2302** Relating to the county courts at law in Cameron County.

Effective Date: June 19, 1983

**HB 2305** Relating to the assessment and collection of taxes for the Lavaca-Navidad River Authority.

Effective Date: June 19, 1983

**HB 2313** Relating to establishment of a juvenile board in Denton County.

Effective Date: June 19, 1983

**HB 2314** Relating to the creation of a juvenile board in Lampasas County.

Effective Date: June 19, 1983

**HB 2320** Relating to validation of certain contracts of and issuance of a certain order by the Meadowlakes Municipal Utility District.

Effective Date: June 19, 1983

**HB 2322** Relating to creation of a municipal court of record for the City of Marshall.

Effective Date: June 19, 1983

**HB 2324** Relating to the establishment of a juvenile board in Parker County.

Effective Date: June 19, 1983

**HB 2325** Relating to establishment of a juvenile board in Cooke County.

Effective Date: June 19, 1983

**HB 2326** Relating to establishment of a juvenile board in Jack and Wise Counties.

Effective Date: June 19, 1983

**HB 2327** Relating to the creation of two county criminal courts in Tarrant County.

Effective Date: September 1, 1983

**HB 2329** Relating to the creation of the County Court at Law 2 of Ector County.

Effective Date: August 29, 1983

**HB 2335** Relating to the directors of the Port O'Connor Municipal Utility District.

Effective Date: June 19, 1983

**HB 2337** Relating to creation, administration, powers, duties, operation, and financing of the Mason County Hospital District.

Effective Date: August 29, 1983

**HB 2338** Relating to the creation, administration, powers, duties, operation, and financing of the Sutton County Hospital District.

Effective Date: August 29, 1983

**HB 2340** Relating to fees for support collections and payments to be charged by the clerk of the district courts of Johnson County.

Effective Date: September 1, 1983

**HB 2343** Relating to the apointment of directors of the Galveston County Water Authority.

Effective Date: June 19, 1983

**HB 2345** Relating to the election and terms of office of directors of the Comanche Hills Utility District.

Effective Date: August 29, 1983

**HB 2346** Relating to the election and terms of office of directors of the Bell County Water Control and Improvement District 3.

Effective Date: August 29, 1983

**HB 2347** Relating to the election and terms of office of directors of the Bell County Water Control and Improvement District 1.

Effective Date: August 29, 1983

**HB 2348** Relating to the jurisdiction and authority of the county courts at law in Brazoria County.

Effective Date: September 1, 1983

**HB 2350** Relating to the election of directors of the Community Hospital District of Brazoria County.

Effective Date: August 29, 1983

**HB 2354** Relating to the creation, administration, powers, duties, operation, and financing of the Teague Hospital District.

Effective Date: June 19, 1983

**HB 2359** Relating to the election and terms of office of directors of the Bell County Water Control and Improvement District 6.

Effective Date: August 29, 1983

**HB 2363** Relating to the regulation of certain persons who contract with the state.

Effective Date: September 1, 1983

**HB 2365** Relating to the establishment of a juvenile board in Williamson County.

Effective Date: August 29, 1983

**HB 2368** Relating to the authority of the Upper Guadalupe River Authority to issue bonds and to exercise the powers and duties under the Texas Water Code, Chapters 51 and 54, and to the rights and authority of the Upper Guadalupe River Authority.

Effective Date: June 19, 1983

**HB 2369** Relating to establishment of a juvenile board in Lamb County.

Effective Date: August 29, 1983

**HB 2370** Relating to the establishment of a juvenile board in Navarro County.

Effective Date: August 29, 1983

**HB 2371** Relating to establishment of a juvenile board in Brazos County.

Effective Date: August 29, 1983

**HB 2372** Relating to establishment of a juvenile board in Cochran County.

Effective Date: August 29, 1983

**HB 2375** Relating to benefits for emergency medical personnel, peace officers, and fire fighters who are exposed to contagious diseases in the course of their employment.

Effective Date: September 1, 1983

**HB 2377** Relating to the establishment of a juvenile board in the 118th Judicial District.

Effective Date: August 29, 1983

**HB 2379** Relating to the composition of the juvenile board of Anderson County.

Effective Date: August 29, 1983

**HB 2380** Relating to the creation of a County Court at Law of Cherokee County.

Effective Date: August 29, 1983

**HB 2382** Relating to the creation of municipal courts of record in the City of Austin.

Effective Date: June 19, 1983

**HB 2383** Relating to the relinquishment and release of certain conditions of use, encumbrances, easements, requirements, reservations, trusts, and limitations, concerning submerged land in Calhoun County conveyed to City of Port Lavaca.

Effective Date: August 29, 1983

**HB 2385** Relating to the jurisdiction of the County Court at Law of Harrison County.

Effective Date: June 19, 1983

**HB 2388** Relating to the conveyance of certain state real property in Jefferson County to the City of Port Arthur.

Effective Date: August 29, 1983

**HB 2390** Relating to fees for child support collections in Collin County.

Effective Date: September 1, 1983

**HB 2391** Relating to the reorganization, boundaries, administration, powers, duties, and financing of Irving Flood Control District Section III and validating certain actions of and matters relating to that district.

Effective Date: October 1, 1983

**HB 2395** Relating to the creation of the County Court at Law of Panola County.

Effective Date: January 1, 1984

**HB 2398** Relating to the creation of an offense involving a card or document falsely identifying a person as a law enforcement officer.

Effective Date: September 1, 1983

**HB 2399** Relating to the creation of the County Court at Law 1 of Calhoun County and to membership on the county juvenile board of the judge of that court.

Effective Date: September 1, 1983

**HB 2404** Relating to establishment of a juvenile board in Shackelford County.

Effective Date: August 29, 1983

**HB 2406** Relating to the establishment and powers of a juvenile board in the 46th Judicial District, composed of Wilbarger, Foard, and Hardeman Counties.

Effective Date: August 29, 1983

**HB 2407** Relating to the establishment and powers of a juvenile board in 50th Judicial District, composed of Baylor, Cottle, King, and Knox Counties

Effective Date: August 29, 1983

**HB 2412** Relating to the juvenile boards in the 12th Judicial District.

Effective Date: August 29, 1983

**HB 2425** Relating to the reorganization, boundaries, administration, powers, duties, and financing of Dallas County Municipal Utility District 2, the change of name of that district to Dallas County Flood Control District 1.

Effective Date: August 29, 1983

**HB 2429** Relating to the Rio Grande Valley Municipal Water Authority.

Effective Date: June 19, 1983

**HB 2432** Relating to establishment of a juvenile board in Camp, Marion, Morris, and Titus Counties.

Effective Date: August 29, 1983

**HB 2433** Relating to the civil jurisdiction of the County Court at Law of Hidalgo County and the County Court at Law 2 of Hidalgo County.

Effective Date: August 29, 1983

**HB 2435** Relating to the composition and compensation of the Randall County Juvenile Board.

Effective Date: June 19, 1983

**HB 2439** Relating to certain contracts executed by and the qualifications for membership on the board of directors of Val Verde County Hospital District.

Effective Date: August 29, 1983

**HB 2440** Relating to the creation of a juvenile board in Starr County.

Effective Date: August 29, 1983

**HB 2441** Relating to establishment of a juvenile board in Throckmorton County.

Effective Date: August 29, 1983

**HB 2443** Relating to the establishment of the Bexar County Child Support Services Department and to the collection of certain fees.

Effective Date: August 29, 1983

**HB 2447** Relating to establishment of a juvenile board in Haskell County.

Effective Date: August 29, 1983

**HB 2448** Relating to the establishment of a juvenile board in Fisher, Mitchell, and Nolan Counties.

Effective Date: August 29, 1983

**HB 2449** Relating to the child support collection service fee in Smith County.

Effective Date: August 29, 1983

**HB 2452** Relating to the authority of counties to provide and finance jail improvements.

Effective Date: June 19, 1983

**SB 7** Relating to the insanity defense in criminal prosecution, to hearings and other procedures relating to commitment of persons acquitted by reason of insanity, to discharge, and to outpatient supervision.

Effective Date: August 29, 1983

**SB 21** Relating to the offense of selling an alcoholic beverage to a minor; permitting an identification card issued by the Texas Department of Public Safety to have the same effect as a valid Texas driver's license.

Effective Date: September 1, 1983

**SB 22** Relating to creation of the criminal offense of possession, manufacture, transportation, repair, or sale of armor-piercing ammunition.

Effective Date: September 1, 1983

**SB 24** Relating to a driver's license issued for essential need; providing for notice, hearings, court orders regulating use, and enforcement procedures; relating to certain duties of persons issued a license under this Act.

Effective Date: September 1, 1983

**SB 45** Relating to the establishment of a domestic relations office in certain counties or areas with certain duties in regard to court orders for child support and other matters affecting a child; imposing fees.

Effective Date: June 19, 1983

**SB 82** Relating to a requirement that a dental hygienist receive training in cardiopulmonary resuscitation except under certain circumstances; absolving a dental hygienist from liability except in certain situations.

Effective Date: September 1, 1983

**SB 84** Relating to the treatment of sex offenders; providing for the establishment, organization, administration, powers, and duties of an Interagency Council on Sex Offender Treatment and cooperation by certain state agencies.

Effective Date: September 1, 1983

**SB 100** Relating to the continuation, organization, personnel, functions, powers, and duties of the State Depos-

itory Board; giving certain savings and loan associations rights to apply for and be designated as state depositories.

Effective Date: September 1, 1983

**SB 105** Relating to the membership, operations, and continuation of the Industrial Commission under the name of the Texas Economic Development Commission and to commission's advisory council of small business assistance.

Effective Date: September 1, 1983

**SB 106** Relating to the continuation of the State Securities Board and to the membership qualifications, powers and duties, and administration of the board and the duties of the securities commissioner.

Effective Date: September 1, 1983

**SB 112** Relating to technical-vocational education and to the continuation, membership, qualifications, terms, and powers and duties of the Advisory Council for Technical-Vocational Education in Texas.

Effective Date: September 1, 1983

**SB 118** Relating to the reorganization of the 20th and 82nd Judicial Districts.

Effective Date: August 29, 1983

**SB 120** Relating to residency requirements for certain municipal public officers.

Effective Date: August 29, 1983

**SB 123** Relating to an exemption from sales and use taxes for certain equipment used by the visually handicapped and to certain items sold, leased, rented to, or stored, used, or consumed by certain nonprofit agencies.

Effective Date: September 1, 1983

**SB 126** Relating to the powers and duties of the Texas Department of Mental Health and Mental Retardation and to certain community centers to receive relevant conviction data on applicants for employment, to deny employment to unqualified applicants.

Effective Date: August 29, 1983

**SB 133** Relating to membership of legislators on certain legislative committees, boards, or councils.

Effective Date: August 29, 1983

**SB 134** Relating to the membership, personnel, qualifications, powers and duties, administration, and continuation of the Texas Commission on the Arts.

Effective Date: September 1, 1983

**SB 137** Relating to the continuation, membership, qualifications, and operations of the Texas Advisory Commission on Intergovernmental Relations, to grounds for removal of its members, and to establishment of a complaint procedure.

Effective Date: September 1, 1983

**SB 138** Relating to costs imposed on criminal convictions for the purpose of funding the compensation to victims of crime fund.

Effective Date: January 1, 1984

**SB 147** Relating to the care of the State Capitol, General Land Office Building, their grounds, and their contents; to the establishment of the State Preservation Board; to the duties of the state curator.

Effective Date: September 1, 1983

**SB 149** Relating to the operation and regulation of state savings and loan associations and the savings and loan department, to the continuation of the office of the savings and loan commissioner.

Effective Date: September 1, 1983

**SB 151** Relating to the continuation, operation, membership, terms, and grounds for removal of member of the State Banking Board; making certain financial statements confidential.

Effective Date: September 1, 1983

**SB 155** Relating to the continuation of the Commission on Law Enforcement Officer Standards and Education, its membership, functions, powers and duties, and operations; to grounds for removal of members.

Effective Date: September 1, 1983

**SB 156** Relating to certain powers and duties of the board of regents of North Texas State University.

Effective Date: September 1, 1983

**SB 160** Relating to creation of the offense of tampering with a consumer product including food or drugs.

Effective Date: September 1, 1983

**SB 161** Relating to public disclosure of certain information obtained by institutions of higher education.

Effective Date: June 19, 1983

**SB 179** General Appropriations Bill.

Effective Date: September 1, 1983

**SB 180** Relating to the continuation, administration, membership, powers and duties, and grounds for removal of members of the Industrial Accident Board; providing funding and regulations concerning the compensation to victims of crime fund.

Effective Date: September 1, 1983

**SB 194** Relating to the times at which certain vacancies in state and district offices may be filled, appointments to fill vacancies for certain partial terms, the terms of certain state and district officers, and the time at which terms expire.

Effective Date: June 19, 1983

**SB 223** Relating to creation, jurisdiction, and practice and procedures of County Court at Law of Waller

County; fixing terms; providing for the appointment and election, term of office, qualifications, powers, and duties of the judge.

Effective Date: January 1, 1984

**SB 224** Relating to the creation, jurisdiction, personnel, administration, and appeals procedures of municipal courts of record in the City of Dallas and powers and duties of the governing body of the city in connection with these courts.

Effective Date: August 29, 1983

**SB 225** Relating to the continuation and operations of the Commission on Uniform State Laws and to the qualifications, duties, and grounds for removal of its members; providing for reimbursement of expenses.

Effective Date: September 1, 1983

**SB 226** Relating to information given to, consent required of, and inspection rights of parents or guardians of students recommended for attendance at or attending a school-community guidance center.

Effective Date: Beginning of school year 1983-1984

**SB 230** Relating to the eligibility for unemployment compensation benefits of certain students.

Effective Date: June 19, 1983

**SB 239** Relating to the authority of the attorney general to sue to restrain or enjoin violations of certain consumer protection laws.

Effective Date: August 29, 1983

**SB 250** Relating to the management of game management areas by the Texas Parks and Wildlife Department, to the execution of any sale or lease by the State Purchasing and General Services Commission, and to licenses for fur-bearing animals.

Effective Date: August 29, 1983

**SB 255** Relating to the authority of an insurer to designate a particular practitioner or practitioners of the healing arts in a policy of accident and sickness insurance.

Effective Date: August 29, 1983

**SB 258** Relating to the control of venereal disease.

Effective Date: August 29, 1983

**SB 272** Relating to the Southern States Energy Compact and its implementation; to the Southern States Energy Board, its membership, powers, and duties; to the continuation of the Texas participation in the compact.

Effective Date: August 29, 1983

**SB 273** Relating to the membership and administration of the Texas Mining Council and the reporting by and continuation of the office of the Interstate Mining Compact Commissioner for Texas.

Effective Date: August 29, 1983

**SB 277** Relating to the confidentiality of alarm systems records.

Effective Date: August 29, 1983

**SB 283** Relating to the effect of the value of property or service stolen, damaged, or destroyed on the penalty imposed for theft, theft of service, or criminal mischief.

Effective Date: September 1, 1983

**SB 291** Relating to the time a claim for compensation shall be made under the Workers' Compensation Act.

Effective Date: August 29, 1983

**SB 294** Relating to powers and duties, staff, and operation of the Banking Department of Texas and to the continuation, authority, and powers and duties of the office of Banking Commissioner of Texas.

Effective Date: September 1, 1983

**SB 303** Relating to suspensions of drivers' licenses based on findings of habitual violation of traffic law.

Effective Date: September 1, 1983

**SB 311** Relating to benefits under a compromise settlement agreement or provided in an agreed judgment approved by the court; providing procedures for handling a dispute and a limitation period for payment of benefits.

Effective Date: August 29, 1983

**SB 315** Relating to the continuation, operations, personnel, and the powers and duties of the Texas Department of Community Affairs and to the establishment, membership, and powers and duties of the Advisory Council on Community Affairs.

Effective Date: September 1, 1983

**SB 317** Relating to solid waste management.

Effective Date: September 1, 1983

**SB 330** Relating to the limit on the amount of insurance coverage for a debtor under group life insurance.

Effective Date: August 29, 1983

**SB 350** Relating to payment of benefits in certain currencies under certain insurance coverage and to the authority of the State Board of Insurance.

Effective Date: August 29, 1983

**SB 354** Prohibiting a person with a firearm, or explosive weapon, or illegal knife going on premises of certain places.

Effective Date: August 29, 1983

**SB 360** Relating to the Texas Energy and Natural Resources Advisory Council servings as an energy resource center for school districts.

Effective Date: September 1, 1983

**SB 370** Relating to reports concerning veterans who may have been exposed to certain chemical defoliants or her-



bicides or other causative agents, to assistance to those veterans, and to the Agent Orange Advisory Committee.

Effective Date: September 1, 1983/January 1, 1984

**SB 375** Relating to certain exceptions to the confidentiality of certain medical and other mental health records regarding a patient.

Effective Date: September 1, 1983

**SB 376** Providing that municipalities participating in Texas Municipal Retirement System may allow to eligible members updated service credits calculated to include unforfeited credited service from other participating municipalities.

Effective Date: August 29, 1983

**SB 377** Relating to the personnel and administrative staff to the Texas Department of Mental Health and Mental Retardation and to the designation of facilities operated by the Texas Department of Mental Health and Mental Retardation.

Effective Date: June 19, 1983

**SB 380** Relating to the selection of grand jurors.

Effective Date: June 19, 1983

**SB 381** Relating to the licensing and regulation of home health agencies and to the exemption of licensing requirements of certain health care professionals.

Effective Date: August 29, 1983

**SB 385** Relating to prehospital and emergency medical services.

Effective Date: January 1, 1984

**SB 389** Relating to the classification and promotion policies for members of police departments in certain cities; prohibiting crossover promotions from certain classes to other classes.

Effective Date: August 29, 1983

**SB 397** Relating to the regulation of monopolies, contracts, combinations, and conspiracies in restraint of trade or commerce.

Effective Date: August 29, 1983

**SB 407** Relating to the retention of certain sheltered workshop operating funds by the Texas Department of Mental Health and Mental Retardation in trust for the benefit of the participants in such workshops.

Effective Date: August 29, 1983

**SB 409** Relating to the provision of physical facilities for Lamar University at Port Arthur and Lamar University at Orange.

Effective Date: August 29, 1983

**SB 410** Relating to student centers and fees for student centers at Lamar University at Orange and Lamar University at Port Arthur.

Effective Date: August 29, 1983

**SB 417** Relating to the registration and registration fees of alarm systems installers and certain private security officers and consultants and to certain duties of the Board of Private Investigators and Private Security Agencies.

Effective Date: September 1, 1983

**SB 428** Relating to the rights, powers, and duties of the board of the Texas State University System; providing for disposition and use of funds.

Effective Date: September 1, 1983

**SB 429** Relating to bank deposit agreements, to notice, and to subpoenas and examination, production, and disclosure of bank records.

Effective Date: September 1, 1983

**SB 446** Relating to inspection, insurance, and safety regulations for certain amusement rides; giving the State Board of Insurance certain powers and duties; providing for fees; prescribing operation requirements; providing enforcement procedures

Effective Date: July 1, 1983

**SB 456** Making an appropriation to the Texas Department of Corrections to pay utility costs incurred at its facilities.

Effective Date: June 19, 1983

**SB 461** Relating to de-annexation of territory within certain junior college districts situated within certain counties, to the establishment of a new junior college district, to petitions and elections, to powers of the board of the district.

Effective Date: June 19, 1983

**SB 470** Relating to tort liability of certain units of government.

Effective Date: September 1, 1983

**SB 488** Relating to the regulation of banking and to the Banking Department of Texas expense fund.

Effective Date: August 29, 1983

**SB 512** Relating to the designation of campaign treasurers and assistant campaign treasurers and to the activities, powers, duties, and liability of assistant campaign treasurers.

Effective Date: August 29, 1983

**SB 515** Relating to the membership and duties of the governing committee of the Texas Workers' Compensation Assigned Risk Pool and to furnishing insurance for certain rejected risks.

Effective Date: August 29, 1983

**SB 547** Relating to the administration of oaths and taking of acknowledgments by the county assessor-collector or employees of that office relating to certain documents.

Effective Date: August 29, 1983

**SB 549** Relating to areas in which rapid transit authorities may be created.

Effective Date: August 29, 1983

**SB 554** Relating to the verification and filing of a petition for a local option liquor election to legalize or prohibit the sale of liquor.

Effective Date: August 29, 1983, and September 1, 1983

**SB 569** Relating to the district courts of Bexar County.

Effective Date: August 29, 1983

**SB 586** Relating to increasing the membership of the Texas Parks and Wildlife Commission.

Effective Date: June 19, 1983

**SB 587** Relating to the furnishing of voter registration lists relating to new, canceled, and changed registrations by voter registrars under the secretary of state's service program.

Effective Date: June 19, 1983

**SB 620** Relating to the Lamar University System and to certain appropriations by the legislature to Lamar University.

Effective Date: August 29, 1983

**SB 621** Relating to the continuance of public hearings.

Effective Date: June 19, 1983

**SB 622** Relating to parole transfers of prisoners to community residential facilities and to certain powers and duties of the Texas Department of Corrections and its director and the Board of Pardons and Paroles and its officers.

Effective Date: June 19, 1983

**SB 624** Relating to supplemental pay for certain Texas Department of Public Safety commissioned officers.

Effective Date: September 1, 1983

**SB 631** Relating to the creation, jurisdiction, administration, terms, and procedures of the County Court at Law 3 of Montgomery County; fixing the qualifications of the judge and providing for his election or appointment.

Effective Date: August 29, 1983

**SB 634** Relating to requiring participating in an alcohol or drug abuse program as a condition of a bond in certain criminal cases and to forfeiture for violation of the condition of the bond.

Effective Date: September 1, 1983

**SB 635** Relating to the prohibition of certain discrimination against physicians on the basis of academic medical degree.

Effective Date: August 29, 1983

**SB 638** Relating to the application of sales, rental, and use taxes on certain vehicles and machinery used for farm purposes and to the definition of motor vehicle and farm machine in relation to motor vehicle sales, rental, and use taxes.

Effective Date: September 1, 1983

**SB 641** Relating to the formation, termination, administration, and costs of municipally created reinvestment zones that qualify for tax increment financing.

Effective Date: August 29, 1983

**SB 642** Relating to the regulation of air conditioning contractors.

Effective Date: September 1, 1983

**SB 643** Relating to the installation and maintenance of community antenna or cable television equipment.

Effective Date: June 19, 1983

**SB 647** Relating to the adoption of rules by the Texas Cosmetology Commission regarding continuing education programs for persons licensed by the commission.

Effective Date: August 29, 1983

**SB 651** Relating to offenses against public administration and offenses involving the abuse of office or employment, including theft, by a public servant.

Effective Date: September 1, 1983

**SB 653** Relating to the licensing and regulation of chiropractors and their employees.

Effective Date: September 1, 1983

**SB 657** Relating to the annual financial report filed by the Texas Board of Health relating to administration of the law regulating circuses, carnivals, and zoos.

Effective Date: August 29, 1983

**SB 659** Relating to the sale of certain state-owned real property in Grayson County.

Effective Date: August 29, 1983

**SB 661** Relating to information that a filing officer provides concerning financing and assignment statements under the Business and Commerce Code and to an increase in fees for statements in excess of a certain amount.

Effective Date: August 29, 1983

**SB 662** Relating to the amount of the fee charged by county clerks and county recorders for a copy of a birth or death certificate.

Effective Date: August 29, 1983

**SB 668** Relating to the clarification of violations of consumer protection acts relating to debt collection and home solicitation transactions as deceptive trade practices.

Effective Date: August 29, 1983

**SB 669** Relating to juvenile court orders affecting parents and others, including juvenile restitution, and to liability of cities, towns, and counties for certain causes of action that arise from juvenile restitution programs.

Effective Date: September 1, 1983

**SB 705** Relating to a program to screen and treat certain young persons for special senses and communications disorders, to appropriate licensing for service providers, and to a children's speech, hearing, and language screening committee.

Effective Date: September 1, 1983

**SB 706** Relating to the licensing of certain agents of legal reserve life insurance companies.

Effective Date: August 29, 1983

**SB 714** Relating to the lease of space in state office buildings to private tenants and to the installation of vending facilities in those buildings.

Effective Date: January 1, 1984

**SB 718** Relating to regulation of real estate brokers and salesmen, to source of funds for administration of the Residential Service Company Act, to payment from the real estate recovery fund, and to fees to be charged and collected.

Effective Date: August 29, 1983

**SB 733** Relating to payment for construction work by municipal utility districts and to certain amounts on which the district is obligated to pay interest.

Effective Date: August 29, 1983

**SB 738** Relating to the application requirement for property tax exemptions for disabled veterans and the survivors of certain veterans.

Effective Date: January 1, 1984

**SB 752** Relating to the financing of hospital equipment, providing for the administration of this Act by a public benefit corporation known as the Texas Hospital Equipment Financing Council.

Effective Date: August 29, 1983

**SB 757** Relating to the appointment, qualifications, compensation, and assignment of retired and former district judges to serve as senior judges on district courts and to retirement system membership, contributions, and credit of the judges.

Effective Date: August 29, 1983

**SB 762** Relating to certain protected and prohibited political activities of state employees and to termination of employment for a violation of any prohibited activity.

Effective Date: September 1, 1983

**SB 763** Relating to contracting to provide for the transportation of public school students.

Effective Date: August 29, 1983

**SB 765** Relating to regulation of motor vehicle equipment by the Texas Department of Public Safety, to certain powers and duties of the Texas Department of Public Safety, and to procedures for hearings and injunctions.

Effective Date: September 1, 1983

**SB 766** Relating to parking privileges for the disabled; providing enforcement procedures.

Effective Date: September 1, 1983

**SB 772** Relating to rules governing relationships between a state agency and its employees and a private organization or private donor.

Effective Date: August 29, 1983

**SB 775** Relating to capital and surplus requirements for life, health, and accident insurance companies.

Effective Date: September 1, 1983

**SB 776** Relating to the capital and surplus requirements of insurance companies other than certain life, health, or accident insurance companies.

Effective Date: September 1, 1983

**SB 779** Relating to a work release program for persons convicted of certain criminal offenses.

Effective Date: August 29, 1983

**SB 791** Relating to the appointment of a local registrar of births and deaths and to reports, transcripts, and records of vital statistics.

Effective Date: August 29, 1983

**SB 800** Relating to the authority of a city, town, or village to make an agreement or contract with a conservation and reclamation district for the purchase of hydroelectric power or energy.

Effective Date: June 19, 1983

**SB 801** Relating to changing the name of the Harlingen State Chest Hospital to the South Texas Hospital; authorizing the Texas Board of Health to establish certain health services at the South Texas Hospital.

Effective Date: August 29, 1983

**SB 802** Relating to the surrender, obtaining, and designation of certificates of title to certain motor vehicles.

Effective Date: June 19, 1983

**SB 808** Relating to the retention of redfish and speckled sea trout by shrimpers and to the application of criminal penalties.

Effective Date: August 29, 1983

**SB 816** Relating to the disposition of interest earned on certain funds deposited in the treasury by the State Commission for the Blind.

Effective Date: June 19, 1983

**SB 818** Relating to allowing certain convalescent and nursing homes and related institutions to operate under different standards and the requirements of the certificate of need program.

Effective Date: June 19, 1983

**SB 827** Relating to immunity from certain liability to persons providing information involving known or suspected fraudulent insurance and reinsurance transactions.

Effective Date: August 29, 1983

**SB 834** Relating to the importation, transportation, and sale of redfish and speckled sea trout.

Effective Date: August 29, 1983

**SB 835** Relating to the regulation of certain circuses, carnivals, and zoos.

Effective Date: September 1, 1983

**SB 836** Relating to the testimony or statement in certain civil and criminal proceedings of a child who is a victim of alleged sexual or other abuse or offense, to special procedures for the taking of such testimony or statement.

Effective Date: August 29, 1983

**SB 845** Relating to disciplinary actions by the State Board of Pharmacy, to facts and reports received by the board, and to reporting by peer group review committees and professional committees; absolving participating persons from liability.

Effective Date: June 19, 1983

**SB 856** Relating to the maximum punishment for violation of municipal ordinances or rules or police regulations and to criminal jurisdiction of municipal courts.

Effective Date: September 1, 1983

**SB 864** Relating to attorney's fees in certain workers' compensation death cases.

Effective Date: August 29, 1983

**SB 870** Relating to the authority of water control and improvement districts to borrow money through certain methods.

Effective Date: August 29, 1983

**SB 872** Relating to the authorization under the Uniform Reciprocal Enforcement of Support Act for a court to

order a deduction from certain child support payments for the payment of certain court costs.

Effective Date: June 19, 1983

**SB 873** Relating to the annual meeting of the directors of soil and water conservation districts; authorizing the State Soil and Water Conservation Board to charge and use fees for paying costs of the meeting.

Effective Date: August 29, 1983

**SB 875** Relating to the creation and jurisdiction of the County Court at Law 2 of Taylor County; fixing terms; providing for the appointment and election, terms of office, qualifications, power, and compensation of the judge.

Effective Date: August 29, 1983

**SB 892** Relating to security personnel of the Texas Tech University Health Sciences Center and to their jurisdiction and compensation.

Effective Date: June 19, 1983

**SB 901** Relating to regulation of the fitting and dispensing of hearing aids.

Effective Date: August 29, 1983

**SB 906** Relating to mutual assistance among cities and counties in the provision of emergency medical services.

Effective Date: September 1, 1983

**SB 910** Relating to hazardous duty pay for parole officers and certain employees or officials of the Board of Pardons and Paroles.

Effective Date: September 1, 1983

**SB 920** Relating to the authority of the Texas Department of Human Resources to set and charge a fee for providing certain services and to provision of services under certain circumstances.

Effective Date: September 1, 1983

**SB 923** Relating to the regulation of lobbying; providing for advisory opinions by the secretary of state.

Effective Date: October 1, 1983

**SB 925** Relating to the regulation of auctioneers.

Effective Date: September 1, 1983

**SB 926** Relating to recovery of costs and attorney's fees in defense of a frivolous claim raised by a state agency.

Effective Date: September 1, 1983

**SB 928** Relating to the continuation of the State Board of Insurance and to the regulation of the business of insurance.

Effective Date: September 1, 1983

**SB 943** Relating to the terms of office of directors of certain general law water districts.

Effective Date: January 1, 1984

**SB 946** Relating to the subdivision and use of mineral-bearing land; to certain powers and duties of the Railroad Commission of Texas, to the use of operations sites within a subdivision, and to the authority of municipalities.

Effective Date: August 29, 1983

**SB 948** Relating to the regulation of compensation paid for the sale of credit insurance and to certain powers and duties of the State Board of Insurance; providing for judicial review of the board's action

Effective Date: June 19, 1983

**SB 963** Relating to the reorganization of the Dallas County Municipal Utility District 1 and its continuation as a district; to a change of the name of the district to Dallas County Utility and Reclamation District.

Effective Date: February 1, 1984

**SB 964** Relating to the measurement of distances in connection with the sale of alcoholic beverages near a public school, church, or public hospital, and to notice of an application for a license or permit to sell alcoholic beverages.

Effective Date: September 1, 1983

**SB 970** Relating to financing, constructing, and operating certain causeways, bridges, and tunnels by certain counties; to use and acquisition of property for purposes of a project and to the status of authorized liens or pledges.

Effective Date: August 29, 1983

**SB 997** Relating to certain protective orders issued to deter family violence and to criminal penalties for the violation of those orders.

Effective Date: September 1, 1983

**SB 1006** Relating to coverage of state employees working outside of the state.

Effective Date: September 1, 1983

**SB 1022** Relating to catching redfish and speckled sea trout by persons on commercial fishing boats.

Effective Date: September 1, 1983

**SB 1023** Relating to increasing penalties for taking redfish and speckled sea trout and for possessing and using certain nets.

Effective Date: September 1, 1983

**SB 1025** Relating to abandoned motor vehicles, including certain motorboats, outboard motors, or vessels.

Effective Date: August 29, 1983

**SB 1027** Relating to the acquisition and content of a certificate of title for motorboats and outboard motors,

to requirements for transfer of title, and to the creation and enforcement of liens on motorboats and outboard motors.

Effective Date: August 29

**SB 1033** Relating to the authority of a county commissioner's court to regulate the keeping of certain wild animals.

Effective Date: August 29, 1983

**SB 1038** Relating to protective clothing for firefighters; giving the Commission on Fire Protection Personnel Standards and Education certain decision-making and enforcement authority.

Effective Date: June 19, 1983

**SB 1040** Relating to licensing and regulation of insurers, insurance solicitors, and agents; giving the State Board of Insurance certain powers and duties; providing rules on payment or receipt of commissions.

Effective Date: June 19, 1983

**SB 1044** Relating to conflicts of interest of local public officials.

Effective Date: January 1, 1984

**SB 1047** Relating to the collection of fees by the Texas Department of Health for public health services, to creation of a special fee fund, to certain powers and duties of the Texas Department of Health and Board of Health, and to subrogation rights.

Effective Date: August 29, 1983

**SB 1062** Relating to the counties in the First and 14th Supreme Judicial Districts reimbursing Harris County for certain costs incurred by Harris County pertaining to those courts.

Effective Date: August 29, 1983

**SB 1075** Relating to compensation of directors of the Acquilla-Hackberry Creek Conservation District.

Effective Date: August 29, 1983

**SB 1082** Relating to fees, costs, and deposits to be received by the clerks of the courts of appeals for civil cases.

Effective Date: August 29, 1983

**SB 1086** Relating to notice concerning exhibits and papers on file with the courts of appeals and to the preservation of records of the courts of appeals.

Effective Date: August 29, 1983

**SB 1094** Relating to certificates of contribution, tax liability, policy limits, and guaranty fund provisions; to the regulation and licensing of agents for companies; and to certain powers and duties of the State Board of Insurance.

Effective Date: August 29, 1983

**SB 1131** Relating to life insurance company separate accounts and to contracts providing benefits in variable

amounts; providing for the extent of application of the Insurance Code to separate accounts and contracts relating to separate accounts.

Effective Date: September 1, 1984

**SB 1137** Relating to certain admissions of unadjudicated offenses during sentencing for a criminal conviction.

Effective Date: August 29, 1983

**SB 1140** Relating to standards for rating energy devices for use in performance rating and certification of the devices and to tax exemption for certain solar energy devices.

Effective Date: August 29, 1983

**SB 1141** Relating to the regulation of motor vehicle manufacturers, distributors, and sellers of new motor vehicles; to the protection of purchasers of new motor vehicles; to certain related legal actions by consumers.

Effective Date: June 19, 1983

**SB 1143** Relating to the inclusion of land previously appraised as agricultural or open-space land as part of a residence homestead for property tax purposes.

Effective Date: June 19, 1983

**SB 1144** Relating to the transaction of business by the courts of appeals for the First, Second, and Fourteenth Supreme Judicial Districts and the filing and transfer of appellate cases.

Effective Date: September 1, 1983

**SB 1152** Relating to the use of firearms by and to firearm training of private security officers.

Effective Date: September 1, 1983

**SB 1156** Relating to the disposition of abandoned securities and abandoned property in a safe deposit box or other safekeeping repository.

Effective Date: September 1, 1983

**SB 1167** Relating to authorizing the issuance of short-term obligations by certain cities, river authorities, navigation districts, joint power agencies, and certain transit authorities and the use of funds generated.

Effective Date: August 29, 1983

**SB 1184** Relating to recovery of actual costs and attorney's fees by the attorney general in a charitable trust suits and to the venue of such charitable trust suits.

Effective Date: June 19, 1983

**SB 1185** Relating to fees to which the attorney general is entitled.

Effective Date: June 19, 1983

**SB 1192** Relating to establishment, membership, staff, powers and duties, and compensation of a juvenile board for the 132nd Judicial District.

Effective Date: August 29, 1983

**SB 1194** Relating to establishment, membership, staff, powers and duties, financing, and compensation of a juvenile board in Jones County.

Effective Date: August 29, 1983

**SB 1208** Relating to the issuance of a driver's license to a person from another state and to the renewal of a driver's license by mail.

Effective Date: January 1, 1984

**SB 1215** Relating to distribution of a fire fighter's relief and retirement benefits in certain cities.

Effective Date: June 19, 1983

**SB 1217** Relating to the establishment, membership, personnel, powers and duties, financing, and administration of a juvenile board in Denton County.

Effective Date: August 29, 1983

**SB 1225** Relating to liability insurance for county officers and employees.

Effective Date: June 19, 1983

**SB 1226** Relating to the periodic review of certain state agencies under the Texas Sunset Act.

Effective Date: August 29, 1983

**SB 1228** Relating to conventions of political parties required to nominate candidates by primary election.

Effective Date: August 29, 1983

**SB 1241** Relating to prevention and control of spills of hazardous substances, to coordination of the state response effort and cooperation of state agencies, to creation of the Texas spill response fund.

Effective Date: September 1, 1983

**SB 1242** Relating to validation of the boundaries of Forest Cove Municipal Utility District and elections held in the district.

Effective Date: August 29, 1983

**SB 1252** Relating to the creation, jurisdiction, terms, judges and other personnel and their compensation, and practice and procedures of the County Court at Law 2 of Wichita County and membership of the judge on the county juvenile board.

Effective Date: September 1, 1983

**SB 1273** Relating to the creation, jurisdiction, judges, facilities, personnel, and practice and procedures of municipal courts of record in the City of Odessa and to elections approving the creation of these courts.

Effective Date: August 29, 1983

**SB 1278** Relating to establishment and operation of a Texas Mental Health Code Public Information Program and to certain powers and duties of the Texas Department of Mental Health and Mental Retardation.

Effective Date: June 19, 1983

**SB 1281** Relating to the county courts at law in El Paso County and their jurisdiction and administration; providing the qualifications of judges and for their compensation; providing for juries and procedures for jury trials.

Effective Date: September 1, 1983

**SB 1282** Providing for a co-presiding judge for courts having jurisdiction over criminal matters in certain counties to act in the absence or disability of the regular presiding judge.

Effective Date: August 29, 1983

**SB 1286** Relating to the creation, judges, jurisdiction, personnel, and powers and duties of the County Court of Jefferson County at Law 3 and to the jurisdiction, judges, personnel, and powers of the County Courts of Jefferson County One and Two.

Effective Date: June 19, 1983

**SB 1291** Relating to appointment, qualifications, compensation, termination, powers, duties, and immunity of matters for certain courts in Travis County and to *de novo* hearings before the judge of the referring court.

Effective Date: September 1, 1983

**SB 1292** Relating to the creation, administration, directors, powers, duties, operation, and financing of the Foard County Hospital District.

Effective Date: August 29, 1983

**SB 1293** Giving to justices of the peace, medical examiners, and their personnel the protection provided under Chapter 309, Act of the 64th Legislature (removal of corneal tissue).

Effective Date: June 19, 1983

**SB 1298** Relating to fees collected by the Texas Department of Agriculture.

Effective Date: September 1, 1983

**SB 1306** Relating to the application of the Professional Prosecutors Act to the offices of certain district attorneys, criminal district attorneys, and county attorneys performing the duties of the district attorney and to compensation.

Effective Date: September 1, 1983

**SB 1308** Relating to the authority of the governor to appoint an agent to sign for the governor or use the governor's signature on certain documents relating to criminal justice.

Effective Date: June 19, 1983

**SB 1312** Relating to municipal courts of record in the City of El Paso; prescribing the jurisdiction, organiza-

tion, administration, procedures, and power of municipal courts; creating the El Paso Municipal Court of Appeals.

Effective Date: September 1, 1983

**SB 1314** Relating to the authority of the Jefferson County Drainage District 6 and participating entities to acquire property.

Effective Date: June 19, 1983

**SB 1321** Relating to regulation of business opportunity sales.

Effective Date: August 29, 1983

**SB 1322** Relating to size and weight limitations for vehicles operated across certain public highways and to indemnification and to the State Department of Highways and Public Transportation for maintenance and repair of certain highways.

Effective Date: June 19, 1983

**SB 1330** Relating to establishment, membership, powers, duties, compensation, staff, and financing of a juvenile board for Hansford County.

Effective Date: August 29, 1983

**SB 1334** Relating to payment of the salary of the official court reporter for the 105th Judicial District.

Effective Date: September 1, 1983

**SB 1335** Relating to the creation, jurisdiction, judges, personnel, terms of court, facilities, and practice and procedure of the County Court at Law 4 of Nueces County and to the powers and duties of the commissioners court.

Effective Date: September 1, 1983

**SB 1338** Relating to electronic transmission procedures under the Administrative Procedure and Texas Register Act and to the time rules become effective.

Effective Date: June 19, 1983

**SB 1348** Relating to the powers, duties, financing, and territory of the Red River Authority and to the interest rate on bonds issued by the authority and to contracts between other persons, including public agencies, and the authority.

Effective Date: June 19, 1983

**SB 1350** Relating to the creation, administration, powers, duties, operation, expansion, and financing of the New Ulm Municipal Utility District.

Effective Date: June 19, 1983

**SB 1352** Relating to the appointment, duties, and staff of court administrators and their compensation, facilities, and equipment and the appointment, powers, and duties of masters for certain courts in Jefferson County.

Effective Date: June 19, 1983

**SB 1355** Relating to the creation, membership, terms, compensation, staff, and powers and duties of a public

authority to issue bonds for certain state building, communications, and data processing projects; to specific projects.

Effective Date: August 29, 1983

**SB 1356** Relating to the dissolution of the Northwest Harris County Municipal Utility District 7 and to certain powers and duties of the board of directors of the district.

Effective Date: June 19, 1983

**SB 1358** Relating to the financing of and the creation, governing body, operation, rights, powers, authority, and financing of subdistricts within certain metropolitan water control and improvement districts.

Effective Date: June 19, 1983

**SB 1359** Relating to the creation and functions of domestic relations offices in counties having a population in excess of two million, to powers and duties of the county commissioners court and of the chief administrative officer, and to fees.

Effective Date: September 1, 1983

**SB 1363** Creating and establishing a conservation and reclamation district to be known as Harris County Municipal Utility District 233.

Effective Date: June 19, 1983

**SB 1366** Relating to the establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in each of the counties of Brooks, Kenedy, Kleberg, and Willacy; authorizing appointment of advisory councils.

Effective Date: August 29, 1983

**SB 1367** Amending the act creating the Coastal Industrial Water Authority; providing that the Texas Department of Water Resources approval of bonds and of plans and specifications for projects to be financed by sale of bonds shall not be required.

Effective Date: August 29, 1983

**SB 1370** Relating to the selection of a private architect/engineer and the appointment of a director of facilities planning and construction.

Effective Date: June 19, 1983

**SB 1375** Relating to the establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in Chambers County and to the appointment of an advisory council.

Effective Date: June 19, 1983

**SB 1379** Relating to establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in Garza County.

Effective Date: August 29, 1983

**SB 1381** Relating to the creation, directors, administration, powers, duties, and financing of the Broussard Sewage District.

Effective Date: June 19, 1983

**SB 1382** Relating to the creation, directors, administration, powers, duties, and financing of the Fannett Sewage District.

Effective Date: June 19, 1983

**SB 1383** Relating to the creation, directors, administration, powers, duties, and financing of the Hillebrandt Sewage District.

Effective Date: June 19, 1983

**SB 1388** Relating to a merger of home-rule city's separately owned municipal and rural electric systems.

Effective Date: September 1, 1983

**SB 1395** Relating to the establishment, membership, compensation, powers and duties, staff, and financing of a juvenile board in Lynn County.

Effective Date: August 29, 1983

**SB 1397** Relating to a child support collection service fee and a fee assessed as costs in certain contempt actions in Nueces County.

Effective Date: August 29, 1983

**SB 1398** Relating to creation, directorship, administration, powers, duties, functions, operations, and financing of the Argyle Municipal Utility District in Denton County.

Effective Date: June 19, 1983

**SB 1402** Relating to the boundaries of the Livingston Hospital District of Polk County and validating the district and certain actions, proceedings, and elections of that district.

Effective Date: June 19, 1983

**SB 1404** Relating to the creation, administration, powers, duties, functions, operations, and financing of the Emerald Bay Municipal Utility District.

Effective Date: June 19, 1983

**SB 1409** Relating to the composition and compensation of the Neuces County Juvenile Board.

Effective Date: August 29, 1983

**SB 1425** Relating to the amendment of a condominium declaration and the authority of a condominium association to alter or destroy a unit or a limited common element.

Effective Date: August 29, 1983

**SB 1426** Relating to the establishment, membership, compensation, personnel, powers and duties, and financing of a juvenile board in Terry County.

Effective Date: August 29, 1983



**SB 1427** Relating to establishment, membership, personnel, compensation, powers and duties, and financing of a juvenile board in Yoakum County.

Effective Date: August 29, 1983

**SB 1438** Relating to movement of manufactured housing of certain dimensions over highways, roads, and streets in Texas.

Effective Date: September 2, 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 Application for Construction Permit

The Texas Air Control Board gives notice of an application for a construction permit received during the period of June 13-17, 1983.

Information relative to the application listed, 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 previously stated, and at the regional office for the air quality control region within which the proposed facility will be located.

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

Southwest Grain Company, Inc., Edcouch;  
grain elevator; 442 Santa Rosa; 3109A; modification

Issued in Austin, Texas, on June 22, 1983.

TRD-834686      Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: June 23, 1983  
For further information, please call (512) 451-5711,  
ext. 354.

### Banking Department of Texas Application To Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, 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 23, 1983, the banking commissioner received an application to acquire control of DeSoto State Bank, DeSoto, by Kendall E. Andrews of Irving, T. Stuart Ducote, and J. Richard Rolater of Dallas, *et al.*

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

Issued in Austin, Texas, on June 23, 1983.

TRD-834726      Archie P. Clayton III  
General Counsel  
Banking Department of Texas

Filed: June 24, 1983  
For further information, please call (512) 475-4451.

## Comptroller of Public Accounts

### Decision 13,519

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.** A taxpayer contended that the base for computing use tax due on its purchase of an aircraft should be fair market rental value as provided in the Texas Tax Code, §151.154(a), rather than the sales price as provided in §151.101. The comptroller held that the appropriate tax base was the sales price, since §151.154 is available only to taxpayers who do not intend to make any use of the item purchased or are unsure at the time of purchase whether they will use the item or resell it. In this case, the taxpayer knew he was going to use the plane in his business when it was purchased.

Issued in Austin, Texas, on June 24, 1983.

TRD-834753      Bob Bullock  
Comptroller of Public Accounts

Filed: June 27, 1983

For further information, please call (512) 475-1938.

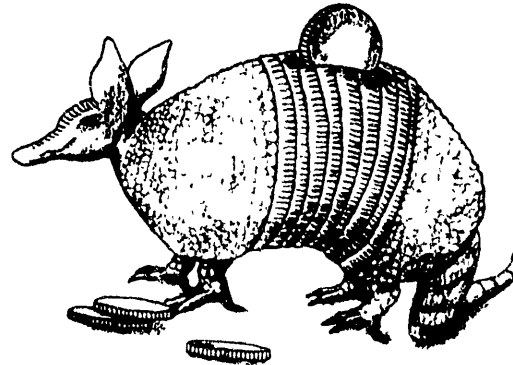
(512) 475-1930 or toll-free anywhere in Texas, (800) 252-5555.

Issued in Austin, Texas, on June 27, 1983.

TRD-834751      Bob Bullock  
Comptroller of Public Accounts

Filed: June 27, 1983

For further information, please call (512) 475-7000.



## Gasoline and Alcohol Mixture: Determination of Credits Allowable for the Month of September 1983

Pursuant to House Bill 2433, signed by the governor on May 9, 1983, and effective immediately, the Comptroller of Public Accounts is required to publish the maximum credit against the gasoline tax allowable for the first sale or use of gasoline and alcohol mixture blended from products produced in a state allowing a reciprocal credit for Texas produced products.

Pursuant to the Texas Tax Code, §153.123, the Comptroller of Public Accounts has determined that \$.05 per gallon credit for the first sale or use of gasoline and alcohol mixture blended from Texas will be available for the month of September 1983.

The maximum credit allowed to be claimed for the first sale or use in September of a gasoline and alcohol mixture blended from alcohol produced outside Texas and not from Texas produced products will be \$.012 per gallon if from one of the following states: Alabama, Alaska, California, Illinois, Florida, Iowa, Kansas, Nebraska, North Dakota, South Dakota, Washington, Wyoming, Nevada (only a \$.01 credit allowed), and North Carolina (only a \$.01 credit allowed).

No credit will be allowed for mixtures containing alcohol produced outside the United States or those states which do not allow credit or exemption for Texas produced alcohol.

Inquiries should be directed to the Fuels Tax Division, Comptroller of Public Accounts, Austin, Texas 78774,

## 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>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 7/04/83-7/10/83	18.25%	18.25%
Monthly Rate— Article 1.04(c) <sup>(1)</sup> 7/01/83-7/31/83	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%

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricultural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Retail Credit Card Annual Rate— Article 1.11 <sup>(3)</sup> 7/01/83-9/30/83	18.00%	N/A
Annual Rate Applicable to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 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 27, 1983.

TRD-834734 Sam Kelly  
Consumer Credit Commissioner

Filed: June 27, 1983  
For further information, please call (512) 475-2111.

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Energy and Natural Resources Advisory Council (TENRAC) hereby furnishes this consultant contract award. The consultant proposal request appeared in the April 22, 1983, issue of the *Texas Register* (8 TexReg 1357).

**Description of Services.** This project is to change the TENRAC Oil and Gas Supply Model (OGSM) production module simulation period; develop revised price expectation routine in the OGSM; change the treatment of lags in the production module of the OGSM; create separate regional severance tax parameters in the OGSM; revise the treatment of inflation on drilling costs in both the onshore and offshore modules of the OGSM; revise the treatment of average exploratory well depth within the OGSM; and document the changes in a manner satisfactory to the TENRAC.

**Contractor, Value, and Contract Dates.** The contractor is Mathtech, Inc., P.O. Box 2392, Princeton, New Jersey, 08540. The total value of the contract is \$9,500. The beginning date is February 1, 1983, and the ending date is April 1, 1983.

Issued in Austin, Texas, on June 23, 1983.

TRD-834780 Ted Taylor  
Director  
Energy Policy Division  
Texas Energy and Natural  
Resources Advisory Council

Filed: June 24, 1983  
For further information, please call (512) 475-0414.

### Texas Energy and Natural Resources Advisory Council Consultant Contract Awards

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Energy and Natural Resources Advisory Council hereby furnishes this consultant contract award. The consultant proposal request appeared in the April 22, 1983, issue of the *Texas Register* (8 TexReg 1357).

This project is to develop a main program for the Natural Gas Policy Analysis System (NGPAS), develop data communications between the Oil and Gas Supply Model (OGSM) and the Gas Pipeline Competition Model (GPCM), develop the OGSM's capability to operate in a time-stepped fashion within the NGPAS, develop the capability of the OGSM to reflect explicitly of potential windfall profits tax on gas similar to that presently in effect for oil, and document the effects of these actions on the operations of both the OGSM and the NGPAS through case studies.

The contractor is Mathtech, Inc., P.O. Box 2392, Princeton, New Jersey 08540. The total value of the contract is \$9,500. The beginning date is April 1, 1983, and the ending date is June 10, 1983.

Issued in Austin, Texas, on June 23, 1983.

TRD-834727 Ted Taylor  
Director  
Energy Policy Division  
Texas Energy and Natural  
Resources Advisory Council

Filed: June 24, 1983  
For further information, please call (512) 475-0414.

### Texas Department of Health Application for Training Funds

The Texas Department of Health will receive letters of intent to apply for Home Health Agency unskilled personnel funding under preventive health and health services block grants. Monies will be available October 1, 1983.

Letters to apply for funds should be sent to Maurice B. Shaw, Chief, Bureau of Licensing and Certification, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and received by August 1, 1983.

Eligible recipients who send letters of intent will receive application kits which will consist of materials pertinent to submitting an application.

For more information, contact Mr. Shaw at (512) 458-7538.

Issued in Austin, Texas, on June 27, 1983.

TRD-834747 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: June 27, 1983  
For further information, please call (512) 458-7538.

## Radioactive Material License Amendment

The Texas Department of Health gives notice that Radioactive Material License 11-1811 issued to Nuclear Sources and Services, Inc., 5711 Etheridge, Harris County, (mailing address: Nuclear Sources and Services, Inc., P. O. Box 34042, Houston, Texas 77034), has been amended to authorize the licensee to collect, store, repackage, and transfer to an authorized disposal site radioactive waste containing a total of 10 microcuries of Uranium-235 in concentrations not to exceed 10 nano-curies per gram.

The Texas Department of Health, Bureau of Radiation Control, has determined that the amendment has no significant impact on the human environment and that the licensee is qualified by reason of training and experience to use the material in question for the purpose requested in accordance with these regulations in such a manner as to minimize danger to public health, safety, and the environment. The licensee's equipment, facilities, and procedures are adequate to minimize danger to public health, safety, and the environment. The issuance of the license amendment will not be inimical to public health and safety or have a detrimental impact on the environment. The licensee satisfies any applicable special requirements in the Texas Regulations for Control of Radiation (TRCR) Parts 41 and 44.

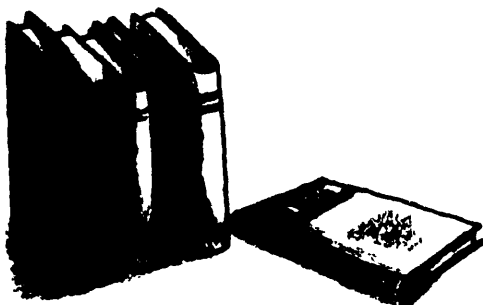
This notice affords the opportunity for a public hearing upon written request by a person affected as required by Texas Civil Statutes, Article 4590f, §11B(b), as amended, and as set out in TRCR Part 44.103(a). A written hearing request must be received within 30 days from the date of this notice by 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 amendment will remain in effect.

A copy of all material submitted is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin. Information relative to the amendment of this specific radioactive material license may be obtained by contacting Mr. Lacker. For further information, please call (512) 835-7000.

Issued in Austin, Texas, on June 21, 1983.

TRD-834707 Robert A. MacLean, M.D.  
Deputy Commissioner  
Professional Services  
Texas Department of Health

Filed: June 24, 1983  
For further information, please call (512) 835-7000.



## Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need, PFR indicates petition for reissuance, NIE indicates notice of intent to acquire major medical equipment, NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project, and EC indicates exemption certificate

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission 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 any of these applications 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.

Surgical Center, Ltd., a to-be-formed Texas limited partnership, El Paso

AS83-0621-644

DR/NIEH—Request for a declaratory ruling that neither a certificate of need nor a notice of intent is required for Surgical Center, Ltd., a to-be-formed Texas limited partnership, to acquire 100% of the leasehold interest in Surgical Center of El Paso from Surgical Center of El Paso, Inc., or in the alternative, that only a notice of intent is required. Surgical Center of El Paso, Inc., which will be the general partner in Surgical Center, Ltd., is proposing to transfer its leasehold interest in Surgical Center of El Paso along with the license and other assets, to Surgical Center, Ltd., in return for a 60% interest in the profits and losses of Surgical Center, Ltd.

Brown County Hospital Authority and Hospital Corporation of America—Brownwood Regional Hospital, Inc., for Brownwood Regional Hospital, Brownwood

AH81-1014-013A(062283)

CN/AMD—Request for an extension of the com-

pletion deadline from September 30, 1983, to March 30, 1984, in Certificate of Need AH81-1014-013, which authorized the certificate holder to conduct an extensive construction and renovation project including the construction of 17,664 square feet of new space, the expansion and relocation of ancillary and support services, and renovation of 13,679 square feet of space. The proposed project also includes the acquisition and replacement of medical equipment and the purchase of a CT whole body scanner which represents a new service.

Hitchcock Nursing Home, Inc., Hitchcock  
AN83-0622-648

NIEH—Request for a declaratory ruling that a certificate of need is not required for Hitchcock Nursing Home, Inc., to acquire by lease Taft Nursing Home, an existing 60-bed nursing facility with 48 ICF and 12 private pay beds located in Hitchcock, from Taft Nursing Home, Inc.

Psychiatric Pavilion, The University of Texas  
Medical Branch, Galveston  
AH79-1016-013A(052783)

CN/AMD—Notice of an amended amendment application. Request to extend the completion deadline from September 30, 1981, to December 31, 1983, in Certificate of Need AH79-1016-013, which authorized the certificate holder to establish an eight-bed clinical study-research center as an additional fifth floor.

Fort Crocket Investors, Houston  
AN83-0622-646

NIEH—Request for a declaratory ruling that a certificate of need is not required for Fort Crocket Investors to acquire Autumn Hills Convalescent Centers, an approved 240-bed nursing facility with 180 ICF and 60 skilled beds located in Galveston, from Autumn Hills Convalescent Center, Inc.

Issued in Austin, Texas, on June 27, 1983

TRD-834745      Judith Monaco  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: June 27, 1983

For further information, please call (512) 475-6940.

## 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 Abba Indemnity Company, to be a domestic casualty insurance company. The home office is proposed to be in Houston.
- (2) Application for incorporation of Western Heritage Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Dallas.
- (3) Application for incorporation of Texas Bancorp Life Insurance Company, to be a domestic life insurance

company. The home office is proposed to be in San Antonio.

(4) Application for admission to do business in Texas of The Integral Insurance Company, a foreign fire and casualty insurance company. The home office is in Jefferson City, Missouri.

(5) Application for incorporation of United National Insurance Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Austin.

Issued in Austin, Texas, on June 21, 1983.

TRD-834661      James W. Norman  
Chief Clerk  
State Board of Insurance

Filed: June 22, 1983

For further information, please call (512) 475-2950.

## Public Hearings

The State Board of Insurance gives notice of a public hearing to be held at 9 a.m. on Thursday, July 14, 1983, in the hearing room, DeWitt Greer Building (Highway Department Building), 11th and Brazos Streets, Austin, to consider amendments to the workers' compensation insurance manual rules, endorsements and policy forms, rating plans, including retrospective rating plans, classification plans, and statistical plans, and such other matters as may be held pursuant to the provisions of the Texas Insurance Code, Articles 5.55-5.76-1 and 5.96, and the rules of practice and procedure before the State Board of Insurance and the commissioner of insurance. The items to be considered by the board are as follows.

**Agenda Item 83.1.** The National Council on Compensation Insurance requests that the board consider and adopt an amendment to Rule VI, §G, of the *Texas Workers' Compensation and Employers' Liability Manual* (Rule 059 05 55.001), hereinafter the "Basic Manual." The purpose of this amendment is to permit the amount of deposit premium for workers' compensation insurance policies subject to interim adjustment to be established by the insurance company. Deposit premium is the down payment for a policy. Subsequent to the payment of the deposit premium, periodic payments are made. Interim adjustment is the adjustment of premium during the policy term due to the changing conditions for the insured's projected premium. (For example, an increase or decrease in number of employees could cause such an adjustment.) The effect of the change is to permit the insurer to increase or decrease premium to reflect current policy exposure.

**Agenda Item 83-2.** The staff of the State Board of Insurance requests that the board consider and approve an amendment to Rule XII, §D, of the *Basic Manual*, concerning the United States Longshoremen's and Harbor Workers' Act (USL&HWA). The amendment permits rates for an employer with an "F" classification ("F" classification reflects exposure under USL&HWA) to reduce its insurance expense if some of its employees are not exposed to hazards addressed in the USL&HWA. The

effect would be to decrease an insured's premium where there is no "F" classification exposure. Other minor changes are editorial in nature.

**Agenda Item 83-3.** The staff of the State Board of Insurance requests that the board consider and approve an amendment to Part II, titled "Removal of Specific Disease Element" of the supplement to the Basic Manual (the supplement is part of the Basic Manual). Specific disease elements refer to the loading for coverage against specified diseases. The specific disease element factors in the rates can be removed under certain circumstances, i.e., the charge for exposure to a specific disease can be eliminated. (This amendment changes the language in the third paragraph from " . . . shall not be allowed" to ". . . is not permissible.") The change is editorial and nonsubstantive in nature.

**Agenda Item 83-4.** The staff of the State Board of Insurance requests that the board consider and approve an amendment to that section of the Basic Manual which is titled "Special Rules" as reflected in the Stamping Department rules and procedures of the Basic Manual. These are procedural rules used by the staff and industry to identify those stevedoring classifications that are not subject to experience rating. Experience rating is a promulgation of a factor to be applied to the policy premium utilizing the individual insured's own experience. The amendment changes the first sentence of Rule 1 from "Contract stevedore risks are not subject to the Experience Rating Plan" to "Contract stevedore risks are not subject to experience rating." This change is editorial in nature. In addition, the amendment includes Stevedoring Codes 7350F, 8709F, and 8726F to the second sentence of Rule 1. These classifications were inadvertently omitted in the past.

**Agenda Item 83-5.** The staff of the State Board of Insurance requests that the board consider and approve an amendment to Rule 5 of that section of the Basic Manual which is titled "Special Rules" as reflected in the Stamping Department rules and procedures in the Basic Manual. Rule 5 deals with the attachment of a divided risk endorsement. The divided risk endorsement indicates the coverage that a particular policy provides when there is more than one policy covering an entity. The amendment would delete a note which states that companies are required to attach this endorsement at the time of the inception date of the policy. This is because changing coverage conditions, after the inception date of the policy, may require the attachment of the divided risk endorsement.

**Agenda Item 83-6.** The staff of the State Board of Insurance requests that the board consider the addition of the following items to the classification underwriting guide: (1) bands—traveling 9156; (2) cement block erection 5022; (3) cord wood dealers 8231, (4) glass—insulated window fabrication 4130; (5) highway comfort station maintenance by contract 9014; (6) interior decorators—house furnishings installation 9521; (7) lifeguards at swimming pools, beaches, etc. 9015; (8) oil production by contract—pumping and gauging 1321; (9) pawn shops 8017; (10) quick print shops 8800; (11) septic tank installation: excavation 6219, setting tank and necessary pipe work 5183; (12) ship or barge cleaning service—all opera-

tions 6872; (13) siding installation—aluminum or vinyl: private one or two-family residences 5645, dwellings—three stories or less 5651, all other buildings and structures 5403; (14) stairway erection by contract—metal-inside buildings 5057; (15) street or road—traffic lane marker installation 5506; (16) tortilla or tamale manufacturing 6504; (17) venetian blind installation 9521; (18) video game room operation 8017; (19) warehouse operation—mini-storage 9015. The classification underwriting guide is part of the Basic Manual; it gives further guidance to assigning the proper classification to risks with the same or similar insurable exposure. The risks proposed to be classified in this agenda item are unusual and are not now contained in the Classification Section of the Basic Manual, necessitating frequent inquiries from the insurance industry. These assignments are currently being made by the staff and these entries would give further guidance and therefore eliminate these inquiries. The risks will be classified so that risks with similar hazards have the same premium rate.

**Agenda Item 83-7.** The Texas Classification and Rating Committee requests that the board consider the following amendments to the Basic Manual and the classification underwriting guide: (1) reclassify awning erection—canvas and/or metal from code 9549 to 5102. This change will affect either the entry or the footnote of the following entries in the classification pages: AWNING or Tent MFG.—Shop 2576; AWNING, Tent or Canvas Goods, ERECTION, Removal or Repair and Drivers 9549; CANVAS GOODS, Awning or Tent, ERECTION, Removal or Repair and Driver 9549; CANVAS GOODS MFG. Noc-Shop 2576, TENT, Awning or Canvas Goods, ERECTION, Removal or Repair and Drivers 9549; TENT or Awning MFG —Shop 2576. The purpose of this amendment is to reassign the tent and awning erection to 5102—door, door frame, or sash erection metal which has a closer analogy than the old reference, 9549—Advertising Companies. The intent is to place similar risks under the same classifications. This will result in a lower premium for those risks engaged in tent and awning erection. (2) In the Basic Manual, amend classification FENCE ERECTION-METAL 6400 to read FENCE ERECTION-ALL TYPES 6400. The purpose of this amendment is to include both wood and metal fence erection in one classification as both are normally done by the same employees. (3) In the Basic Manual, delete the word "nonprofit" from the classification HOME-MAKER SERVICE 8828. The purpose of this amendment is to make this classification available for both profit and nonprofit organizations. (4) In the Basic Manual, amend the classification LIMOUSINE CO., GARAGE EMPLOYEES 8385; ALL OTHER EMPLOYEES AND DRIVERS 7382, to include the footnote set out under the classification for TAXICAB COMPANY. This change is editorial and nonsubstantive in nature. (5) In the classification underwriting guide, amend the following language, "clearing existing right of way for electric light, power, and telephone companies 0106" to read as follows: "clearing existing right of way—See transmission line clearing"; add the following underwriting guide entry; "transmission line clearing and/or maintenance: clearing and maintenance of right of Way 6044, tree trimming along existing lines 0106." The purpose of this

amendment is to add a cross-reference to this classification to more accurately describe the contemplated exposure. The rate for 6044—clearing and maintenance of right of way is lower than the rate for 0106—tree trimming along existing lines. This will assign a lower rated classification for those risks that are not fully exposed to the hazards contemplated under 0106. (6) In the classification underwriting guide, the following entry is being deleted—fence construction—wood 5645. This is because, as noted in number (2) of this agenda item, the entry for the Classification Section of the Basic Manual is proposed to include fence construction of all types and therefore include both wood and metal fence construction in the same classification. (7) In the classification underwriting guide, the entry—oil or gas well equipment rental 6213 is being amended to oil or gas well equipment rental with operator 6213, without operator 8107. The purpose of this amendment is to allow a separate classification to firms which do not furnish operators with their equipment. The rate for 6213—with operators is higher than the rate for 8107—without operators.

In addition, as an item of pending business, the board will consider the issue of using total payroll in premium determination, in lieu of the present \$300 weekly payroll limitation, the proposal also includes appropriate rate reducing offsets so as not to influence the overall premium volume to insurers. Certain classifications are excluded. This item was originally considered as Agenda Item 31-19 in the workers' compensation hearing held on December 10, 1981 and set out in the November 30, 1981 notice letter captioned "W.C. Circular Letter No. 526—Retrospective Rate Article No. 44." This matter was taken under advisement of the board.

Issued in Austin, Texas, on June 24, 1983.

TRD-834729 James W. Norman  
Chief Clerk  
State Board of Insurance

Filed: June 24, 1983

For further information, please call (512) 475-2950.

The State Board of Insurance will hold a hearing on July 12, 1983, at 1 p.m. in Room E, Reagan Building, 105 West 15th Street, Austin, on the following matter. The Texas Automobile Insurance Plan has petitioned the State Board of Insurance to amend effective January 1, 1984, the provisions of the automobile insurance plan of the State of Texas (contained in the Texas Auto Manual, which is Rule 059.07-01.005) in two ways.

The first is amendment to permit payment of premiums on an installment basis. Presently, the full annual premium has to be paid in advance. The proposed payment options are payment of full annual premium; a deposit of 25% of the annual premium subject to a minimum of \$40 per vehicle, whichever is greater, and full payment of the balance within 30 days from the date of the premium notice, or a deposit of 25% of the annual premium or \$40, whichever is greater, and a maximum of five monthly installments. The monthly installments would be one-fifth of the premium balance sub-

ject to a minimum payment of \$20 plus an installment charge of \$2.00 on each installment. Option 3 would only be available to private passenger auto policies.

The second amendment is to require that premium submissions be on a full or gross basis rather than premium net of local service fees. Presently, premiums are submitted to the insurer by the agent net of local service fees.

The hearing will be held under authority of the Texas Insurance Code, Articles 5.01, 5.10, and 5.96.

Issued in Austin, Texas, on June 23, 1983.

TRD-834704 James W. Norman  
Chief Clerk  
State Board of Insurance

Filed: June 24, 1983

For further information, please call (512) 475-2950.

### 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 17-24, 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 names 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 17-24, 1983

Sandhills Industries, Inc., Odessa, solid waste storage facility; on a five-acre tract of land south of Odessa, located four miles south-southwest of the intersection of IH 20 and U.S. Highway 385 in Ector County; HW50006; new permit.

Jon R. Hoffman, Amarillo, disposal by irrigation; approximately 4,000 feet east of IH 27 and approxi-



mately 1,000 feet north of McCormick Road in Randall County; 11198-01; new permit

R. E. Patient, Clute; treated domestic sewage; adjacent to Brazoria County Road 57 at a point approximately two miles south of the intersection of State Highways 288 and 6 in Brazoria County; 12744-01; new permit

Herman B. Taylor, Houston; treated domestic wastewater; 5505 Gaston Road in Harris County; 12772-01; new permit

Northwestern Resources Company, Huntsville; storm water runoff (Jewett lignite surface mine); approximately six miles north of the City of Jewett in Leon, Limestone, and Freestone Counties; 02653; new permit

Carl Barbour, Jr., Ed Garnett, and Bill Marlin, Houston; treated wastewater; 6800 block of Jetero Boulevard in the City of Houston, in Harris County; 02658; new permit

Greenspoint/Northland Associates, Ltd., Harris County; treated wastewater; approximately 2,000 feet south of the intersection of IH 45 and Spring-Cypress Road and 1,200 feet east of IH 45, adjacent to the Northland Shopping Center in Harris County; 11572-01; renewal

Charles G. Barfknecht, Lewisville; treated domestic wastewater; approximately 4,500 feet east of the intersection of State Highway 121 and the Elm Fork of the Trinity River and 2,000 feet south of State Highway 121 in Denton County; 12744-01; new permit

The City of George West; treated wastewater; on the north side of Timon Creek, south of U.S. Highway 59 approximately 0.1 mile east of the Missouri Pacific Railroad in Live Oak County; 10455-01; amendment

Gulf Refining and Marketing Company, Port Arthur; integrated oil refinery; southwest of the City of Port Arthur in the vicinity of the State Highway 87 crossing over Taylor Bayou in Jefferson County; 00309; renewal

Issued in Austin, Texas, on June 24, 1983.

TRD-834714      Mary Ann Hefner  
                         Chief Clerk  
                         Texas Water Commission

Filed: June 24, 1983

For further information, please call (512) 475-4614.

## Correction of Error

The text of proposed amendments to 31 TAC §263.18 by the Texas Water Commission contained an error as published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1976), in a portion of the rule unchanged by the amendment. The correct text should read: A hearing reporter shall be provided by the commission to

report [transcribe] a proceeding upon the timely written request of any party. If a transcript of the proceeding is not requested by any party, the party requesting the reporter shall pay the minimum reporting fee set out in the commission's court reporting contract. If a transcript of the proceeding is made [When a reporter is provided] at the request of a party, the party requesting the transcript [transcription] shall pay all costs associated therewith or the commission may assess the costs to one or more of the parties to the proceeding. If the commission does not provide a reporter after timely written request, a party may furnish a reporter, at that party's expense, who may be appointed by the commission as the official reporter for the proceeding. All other hearings will be electronically recorded.

## Texas Department of Public Safety Public Information

Based on the anticipated volume of traffic and previous holiday deaths, the Texas Department of Public Safety (DPS) estimates that as many as 49 people could die in traffic accidents across the state during the Fourth of July weekend. Fifty-five fatalities were recorded during the 78-hour period last year, but subsequent deaths from serious injuries brought the final count to 64 for the three-day holiday.

"Independence Day can bring more motorists to our streets and highways compared to a regular weekend," said DPS Colonel Jim Adams. "We are estimating fewer deaths than we had during the Fourth of July holiday last year because thus far this year we have experienced a decline in traffic fatalities."

Adams said that if drivers would stay sober, slow down, and use seat belts, their chances for survival would increase.

"Drivers who speed or are intoxicated pose the greatest threat to law-abiding motorists. Some people will insist upon drinking excessively and attempting to drive during this period. We will do our best to remove these individuals from the roads," he said. "If a person drinks, that is his personal business, but if he drives drunk—that's police business."

Adams also encouraged motorists who observe drunken drivers to report them to the nearest police agency or the Highway Patrol.

Texas Department of Public Safety commanders throughout the state will utilize additional troopers in areas they deem appropriate. The department will also conduct "Operation Motorcide" to inform the public of the number of traffic deaths occurring during the 78-hour holiday period. Periodic reports will be communicated statewide relating the tabulation of the number of deaths that occur during this period.

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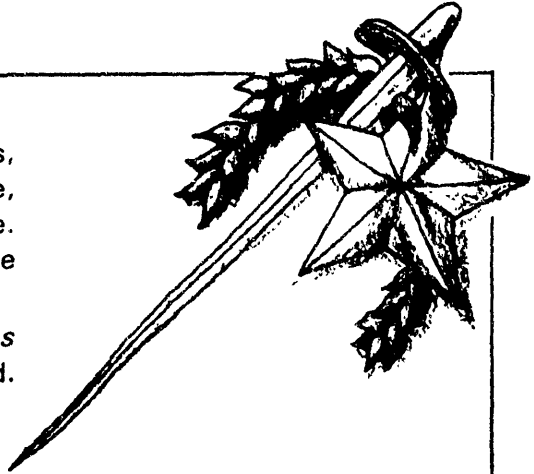
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