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Texas Register

THE OFFICIAL PUBLICATION OF THE
TEXAS LEGISLATURE

AUG 16 1983



Highlights

- ★ The Texas Department of Human Resources adopts on an emergency basis the repeal of an existing rule and simultaneously adopts on an emergency basis a new rule concerning the standard budgetary allowances in the Aid to Families with Dependent Children (AFDC) Program; effective date - August 1 page 2972
- ★ The Texas Feed and Fertilizer Control Service proposes to repeal existing rules and simultaneously adopt new rules in chapters concerning feed, pet food, and fertilizer; earliest possible date of adoption - September 5 page 2975
- ★ The Texas Department of Health proposes the repeal of existing rules and new rules concerning communicable diseases; proposed date of adoption - September 30 page 3000

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- Withdrawn Rules - rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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)

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

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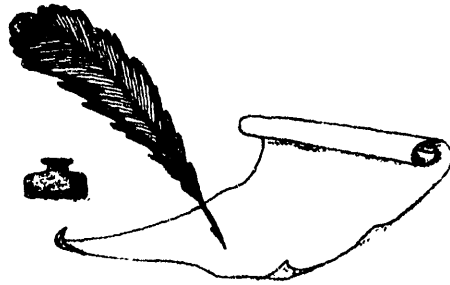
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The Governor

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

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



Appointments Made July 6 Texas Animal Health Commission

For a term to expire September 6, 1985:

Robert Franklin Bartlett
P.O. Box 417
Canton, Texas 75103

Mr. Bartlett is being appointed to a new position created by House Bill 1, 68th Legislature, First Called Session, 1983.

Issued in Austin, Texas, on July 6, 1983.

TRD-835704 Mark White
Governor of Texas

For a term to expire September 6, 1989:

Mary Nan West
Box 38
Batesville, Texas 78829

Ms. West is being appointed to a new position created by House Bill 1, 68th Legislature, First Called Session, 1983.

Issued in Austin, Texas, on July 6, 1983.

TRD-835705 Mark White
Governor of Texas

For a term to expire September 6, 1987:

Laurence Herbert Bostick
Route 1, Box 209
Brookshire, Texas 77423

Mr. Bostick is being appointed to a new position created by House Bill 1, 68th Legislature, First Called Session, 1983.

Issued in Austin, Texas, on July 6, 1983.

TRD-835706 Mark White
Governor of Texas

Education Commission of the States

For terms to continue during the term of service of this governor:

Oscar Mauzy
State Senator
1106 North Highway 360, #201
Grand Prairie, Texas 75050

Senator Mauzy is being reappointed.

Wilhelmina Delco
State Representative
1805 Astor Place
Austin, Texas 78721

Ms. Delco is to be appointed to an existing vacant position on the commission.

Robert L. Hardesty
President
Southwest Texas State University
800 Academy Street
San Marcos, Texas 78666

Mr. Hardesty is replacing Dr. Abner V. McCall of Waco.

Vivian Bowser
Houston Independent School District classroom teacher
3215 Charleston
Houston, Texas 77021

Ms. Bowser is replacing Bill J. Priest of Dallas.

June Karp
Legislative Director, Texas Federation of Teachers
8511 Grayledge
Austin, Texas 78753

Ms. Karp is replacing Dr. Robert E. Hayes, Sr., of Marshall.

Kay Killough
Associate Executive Director
Texas Association of School Boards
6638 East Hill
Austin, Texas

Ms. Killough is replacing John E. Gray of Beaumont.

Issued in Austin, Texas, on July 6, 1983.

TRD-835707 Mark White
Governor of Texas

Appointments Made July 8

Texas School for the Blind

To the Governing Board for terms to expire January 31, 1989:

Crispin E. Sanchez
218 Idaho
Laredo, Texas 78041

Mr. Crispin is replacing Mary Lillian Anderson of Denton, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835856 Mark White
Governor of Texas

Sue Tullos
1020 East 45th Street
Austin, Texas

Ms. Tullos is replacing Joe D. Hewett of Waco, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835862 Mark White
Governor of Texas

Robert D. Tindle
3003 Boxdale
Austin, Texas 78758

Mr. Tindle is replacing Jack English of Dallas, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835863 Mark White
Governor of Texas

To the Governing Board for a term to expire January 31, 1987:

Dr. M. Ray Harrington
4800 Lakeside
Dallas, Texas 75205

Mr. Harrington is replacing Dorothy Jo Knight of Lubbock, who resigned.

Issued in Austin, Texas, on July 8, 1983.

TRD-835861 Mark White
Governor of Texas

Texas Commission for the Deaf

For terms to expire January 31, 1989:

William A. Floerke
Route 1, Box 11
Taft, Texas 78390

Mr. Floerke is being reappointed.

Issued in Austin, Texas, on July 8, 1983.

TRD-835857 Mark White
Governor of Texas

Jerry G. Hassell
2204 Laramie Trail
Austin, Texas 78745

Mr. Hassell is replacing Martin A. O'Neal of Dallas, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835864 Mark White
Governor of Texas

Jerry A. McCutchin, Sr.
1 Love Drive
Coppell, Texas 75019

Mr. McCutchin is replacing Linda Lutz of Laredo, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835865 Mark White
Governor of Texas

Texas School for the Deaf

To the Governing Board for terms to expire January 31, 1989:

Robert E. Bevill
2105 Mulberry
Pasadena, Texas 77502

Mr. Bevill is replacing Allan F. Bubeck, Jr., of Richardson, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835709 Mark White
Governor of Texas

Ernest R. Fuentes
1007 West 42nd Street
Austin, Texas 78756

Mr. Fuentes is replacing William C. Johnson of San Antonio, whose term expired.

Issued in Austin, Texas, on July 8, 1983.

TRD-835858 Mark White
Governor of Texas

Avril Thompson
5510 Kuldell
Houston, Texas 77096

Ms. Thompson is being reappointed.

Issued in Austin, Texas, on July 8, 1983.

TRD-835859 Mark White
Governor of Texas

Governor's Committee for Disabled Persons

For two-year terms and at the pleasure of this governor:

Martha Arbuckle
2508 Loyola
Austin, Texas

Olivia Chavez Blundell
222 Remcon #205
El Paso, Texas

Sidney Braquet
742 East 6½ Street
Houston, Texas

Justin W. Dart, Jr.
2012 Lear Lane
Austin, Texas 78745

Patricia K. Dicorte
Route 1, Box 198
China Spring, Texas

Lawrence P. Johnson
10387 Sahara-6H
San Antonio, Texas 78216

William J. Martin
8802 Silverarrow Court
Austin, Texas

Betty H. Meyer
712 Harris Avenue
Austin, Texas 78705

Philip D. Miller
202 Enchanted Drive
San Antonio, Texas 78216

H. Thomas Morrison
4654 Cedar Tone
Dallas, Texas 75211

Shirley K. Price
6526 Martin Luther King, Jr., Boulevard
Hitchcock, Texas 77563

Amy K. Rosenberg
6602 Lost Horizon
Austin, Texas 78759

Joe W. Russell
7010 Delrose
Dallas, Texas 75214

Bobby C. Simpson
2606 Whitehorse
Austin, Texas

Sherry K. Wagner
525 East Craig
San Antonio, Texas

Kathy Weldon
3818 Tonkawa Trail
Austin, Texas 78756

Mr. Simpson has been designated as chairman and Ms. Rosenberg as vice-chairman.

Issued in Austin, Texas, on July 8, 1983.

TRD-835708 Mark White
Governor of Texas

State Board of Plumbing Examiners

For a term to expire September 5, 1985:

William D. Pickens
5306 Winding Way
Houston, Texas 77091

Mr. Pickens is replacing Maurice S. Batiste of Houston, who resigned.

Issued in Austin, Texas, on July 11, 1983.

TRD-835860 Mark White
Governor of Texas

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

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

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

The Attorney General

Requests for Opinions

RQ-169. Request from Carl A. Parker, state senator, Austin, concerning whether union dues and other payroll deductions constitute an "indebtedness" under the Texas Education Code, §2.07.
TRD-835718

RQ-170. Request from Mike Westergren, Nueces County attorney, Corpus Christi, concerning the authority of a county to promulgate an ordinance banning alcoholic beverages in motor vehicles.
TRD-835740

RQ-171. Request from Grant Jones, state senator, Austin, concerning the authority of a flood control district to impose a one cent sales tax and use tax.
TRD-835741

RQ-172. Request from Hal H. Hood, commissioner, Firemen's Pension Commission, Austin, concerning whether a required airport board may enter into an agreement with a municipality under Texas Civil Statutes, Article 999b.
TRD-835850

RQ-173. Request from Henry Wade, Dallas County district attorney, Dallas, concerning investment of firemen and pension funds in corporate stocks and boards.
TRD-835851

Opinions

JM-43 (RQ-709). Request from Kenneth E. Graeber, executive director, State Property Tax Board, Austin, concerning the constitutionality of House Bill 30, Acts of the 67th Legislature, First Called Session, 1982, §115.

Summary of Opinion. House Bill 30, Acts of the 67th Legislature, First Called Session, 1982, §115, amending the Property Tax Code by adding §26.001, is unconstitutional.
TRD-835734

JM-44 (RQ-888). Request from Mike Driscoll, Harris County attorney, Houston, concerning the authority of Harris County to charge admission to a swimming pool in a county park and related questions.

Summary of Opinion. Harris County is authorized by Texas Civil Statutes, Article 6079e, §11(a), to charge fees for admission to a swimming pool located in a county park.
TRD-835735

JM-45 (RQ-108). Request from Bob Bush, chairman, Committee on Judiciary, Texas House of Representatives, Austin, concerning whether an outside auditor who contracts to perform for a school district is subject to Texas Civil Statutes, Article 5996a, the nepotism statute.

Summary of Opinion. No violation of Texas Civil Statutes, Article 5996a, occurred where a CPA who had served as the school district's auditor since 1972 was reemployed in that capacity after his first cousin was elected to the school board, if the CPA was "continuously employed" by the school district as its auditor for two consecutive years prior to the election of his cousin as trustee.
TRD-835736

JM-46 (RQ-61). Request from Roger D. Shipman, executive secretary, State Board of Veterinary Medical Examiners, Austin, concerning the construction of the Veterinary Practice Act, Texas Civil Statutes, Article 7465a.

Summary of Opinion. Texas Civil Statutes, Article 7465a, §10(b), does not require the State Board of Veterinary Medical Examiners to exempt from its examination requirement applicants with a license issued by another state who "otherwise qualify" for a Texas license under §10(a). In processing an application for licensure under §10(b), the board may consider any reasonable factors it deems relevant to the determination of whether the applicant is competent to practice veterinary medicine in Texas.
TRD-835737

JM-47 (RQ-75). Request from John W. Holcombe, DVM, executive director, Texas

Animal Health Commission, Austin, concerning the authority of the Texas Animal Health Commission to use Form 2-71 pertaining to inspections of livestock moving interstate.

Summary of Opinion. The Texas Animal Health Commission may, at its discretion, conduct inspections of livestock moving from Texas to another state; it is not required to do so. The Texas Animal Health Commission may employ Form 2-71 for the purpose of conducting such inspections.
TRD-835738

JM-48 (RQ-114). Request from Robert Bernstein, M.D., F.A.C.P., commissioner, Texas Department of Health, Austin, concerning the availability under the Open Records Act of licenses issued by the Texas Department of Health relating to storage, incineration, processing, or disposal of radioactive wastes

Summary of Opinion. The Open Records Act does not require a governmental body to treat a request for information as a continuing one. Whether balance sheets are excepted from disclosure depends upon the particular facts involved. They will be excepted from disclosure only if release would cause substantial harm to the competitive position of the person from whom the information was obtained.
TRD-835739

JM-49 (RQ-58). Request from Britt Plunk, Hardin County attorney, Kountze, concerning whether a district judge may raise salaries of a county auditor's deputies at any time during the year and whether a

district judge may appoint a court coordinator and set a salary in absence of statutory authority.

Summary of Opinion. A district judge is empowered to increase the salaries of assistants in the county auditor's office at any time during a budget year. A district judge may not appoint a court coordinator.
TRD-835849

Open Records Decisions

ORD-390 (RQ-103). Request from Wade Adkins, city attorney, Fort Worth, concerning the availability to the public of an investigative report on the Educational Incentive Pay Program of the City of Fort Worth.

Summary of Decision. Information contained in an investigative report on the Educational Incentive Pay Program of the City of Fort Worth is not excepted from disclosure by "false light" privacy, under the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(1), nor by §3(a)(14) and §14(e) thereof, the student records provisions. Portions of the material are excepted under Texas Civil Statutes, Article 6252-17a, §3(a)(11), the inter-agency memorandum provision.
TRD-835852

ORD-391 (RQ-43). Request from Bill Stewart, executive director, Texas Air Control Board, Austin, concerning whether common law confidentiality privileges incorporated into the Open Records Act, §3(a)(1), are applicable to records of the Texas Air Control Board, subject to the

Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §2.13 and §2.14.

Summary of Decision. Information which identifies or tends to identify persons who make complaints to the Texas Air Control Board regarding pollution is excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(1), as information made confidential by judicial decision, i.e., the informer's privilege.
TRD-835853

ORD-392 (RQ-77). Request from Sam Kelley, consumer credit commissioner, Austin, concerning whether material collected in investigation by the consumer credit commissioner is available to the public under the Open Records Act.

Summary of Decision. Information collected in an investigation by the consumer credit commissioner is not excepted from disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a, §§3(a)(1), 3(a)(3), or 3(a)(12). Portions of the material are excepted under §3(a)(11).
TRD-835854

ORD-393 (RQ-149). Request from Gene Kloss, captain, Ector County Crime Control Bureau, Odessa, concerning whether a police report regarding sexual abuse of a child is excepted under the Open Records Act.

Summary of Decision. A police report regarding the sexual abuse of a child is excepted in its entirety under the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(a)(1), by judicial decisions recognizing a common law right of privacy.
TRD-835855

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.

Emergency Rules

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division Subchapter M. Motor Bus Companies 16 TAC §5.233

The Railroad Commission of Texas adopts on an emergency basis amendments to §5.233, concerning charter operations of motor bus companies

The amendments delete current provisions of §5.233 and substitute provisions which allow the holder of a charter bus certificate to originate charter or special party trips at any point expressly granted upon application to the commission

As a result of the deregulation of motor bus charter movements in interstate commerce, certificated carrier operations are being seriously jeopardized by the resultant loss of revenue in interstate commerce.

The commission concludes that an imminent peril to the public health, safety, and welfare has been created by the federal mandate and the resultant threat to the viability of intrastate regular route bus companies and that an emergency rulemaking under the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(b), is warranted. The commission will give immediate effect to these amendments and is simultaneously proposing this section for public comment as a permanent final adoption.

Accordingly the rule is adopted on an emergency basis pursuant to these provisions and the authority vested in the commission by the Texas Motor Bus Act, Texas Civil Statutes, Article 911a, as well as the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

§5.233. Charter Operation.

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

(e) A motor bus company may be authorized, by order of the commission, to originate charter or special party transportation at points along the route or routes where they are authorized to provide regular-route passenger service and where they are providing regular-route passenger service, or at points in the adjacent territory at which no other motor bus company is providing regular-route passenger service, or at other points specifically identified in a charter certificate issued by the commission to the motor bus company. [Motor bus companies will be authorized to originate charter or special party transportation only at points along the route or routes which they are authorized to serve and are serving or within the territory adjacent thereto which is not served by any other motor bus company.] The destination of charter and special parties may be any point within the State of Texas.

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

TRD 835714 Mack Wallace, Chairman
Buddy Temple and Jim Nugent,
Commissioners
Railroad Commission of Texas

Effective date: July 26, 1983

Expiration date: November 23, 1983

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

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules Rates

16 TAC §23.23

The Public Utility Commission of Texas adopts on an emergency basis amendments to §23.23, concerning

rate structure. It has been determined by the commissioners that, due to the magnitude of expense involved for both consumers and utilities, emergency adoption of a rule assuring stricter scrutiny and prior approval of fuel costs is necessary to prevent imminent peril to the public welfare.

The amendments are adopted on an emergency basis under Texas Civil Statutes, Article 1446c, § 16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and to make decisions with respect to administering the provisions of the Public Utility Regulatory Act.

§23.23. *Rate Structure*

- (a) (No change)
- (b) Rate design
 - (1) (No change)

(2) **The provisions of this section apply to all investor-owned generating electric utilities. Beginning with the September 1983 billing period of each utility, respectively, no automatic fuel adjustment clause shall be allowed. Any revision of a utility's billings to its customers to allow for the recovery of additional fuel costs may be made only upon public hearing and order of the commission. No later than August 15, 1983, each utility covered by this section shall file with the commission all information necessary to determine an interim fixed fuel factor, effective with its September 1983 billing period. On September 1, 1983, each utility shall file an application for an interim fixed fuel factor. After notice and hearing, the commission shall set such an interim factor. The interim fuel factor shall remain fixed until the utility's next general rate case or commission-ordered reconciliation, whichever occurs first. The monthly interim fuel factor shall be determined by dividing actual, unadjusted fuel costs by actual, unadjusted sales for the 12-month period ending June 30, 1983. [An adjustment for recovering the cost of fuel used in the generation of electric power may be allowed in the tariff of electric utilities when approved by the commission, provided that:]**

(A)[(B)] All fuel costs shall be reviewed at the time of the utility's general rate case. All allowed fuel costs, including, if approved, a reconciliation of over- or under-recovery of fuel costs, shall be recovered through the energy portion of the utility's base rates. [The total cost of fuel per kilowatt-hour (fuel cost factor) and/or purchased power (purchased power adjustment factor) is shown on the bill (provided that the utility shall have the option of also showing on the bill the total cost of fuel);]

(B)[(A)] In determining allowable fuel costs, the commission may consider the cost of fuel for the utility's own generation, the cost of economy energy, hydroelectric energy, purchased power, cogeneration, wheeling, and other costs associated with generated or purchased power as approved by the commission. In making such determination, the commission shall consider revenues from these or other activities, including off-system sales, to assure that the ratepayers receive an appropriate portion of benefits associated with such revenues. [At the time of a rate hearing, the utility shall have filed with the commission all requested fuel contracts and cost data

upon which such total fuel costs are predicated, with a schedule showing any adjustments anticipated under current contracts;]

(C) When approved by the commission, a utility's base rates may be designed to: [The items included in the cost of fuel are approved by the commission;]

- (i) include seasonal differentiation of fuel costs, and**
- (ii) account for system losses and for differences in line losses corresponding to voltage level of service.**

(D) For all third-party, nonaffiliated fuel contracts, the utility shall have the burden of demonstrating in each general rate case that its contract negotiations have produced the lowest reasonable cost of fuel to ratepayers. To the extent that the utility does not meet its burden of proof, the commission shall disallow the portion of fuel costs that it finds to be unreasonable. [Fuel costs billed shall be for fuel consumed in the generation of electric energy in the calendar month that most closely corresponds to the billing period, and]

(E) For all fuels acquired from or provided by affiliates of a generating utility, the utility shall have the burden of demonstrating in each general rate case that all fuel and fuel-related affiliate expenses are reasonable and necessary, and that the price to the utility is no higher than prices charged by the supplying affiliate to its other affiliates or divisions, or to unaffiliated persons or corporations for the same item or class of items. [The total fuel cost is applied equitably to each customer's bill and is proportional to the number of kilowatt hours used. This shall be done by determining a fuel cost factor.]

(i) The affiliate fuel price shall be "at cost"; no return on equity or equity profit may be included in the affiliate fuel price. The commission may consider the inclusion of affiliate equity return in rate of return and rate base during the utility's general rate case. However, affiliate equity return or profit shall not be considered part of fuel cost.

(ii) Within 12 months of the implementation of this subsection and thereafter, as determined by the commission, the commission shall perform a full operational investigation of all affiliate fuel suppliers and fuel supply services. The commission may use the results of such investigations during a succeeding general rate case, fuel cost reconciliation proceedings, emergency request proceedings, and elsewhere as it deems appropriate.

(iii) The affiliated companies shall establish, maintain, and provide for commission audit all books and records related to the cost of fuel. These records shall explicitly identify all salaries, contract expense, or other expenses paid or received among any affiliated companies, their employees, or contract employees.

(F) If an electric utility can demonstrate in an emergency request that fuel curtailments, equipment failure, strikes, embargoes, sanctions, or other reasonably unforeseeable circumstances have substantially changed the cost of fuel included in its base rates, the commission shall issue an interim order on such emergency request within 30 days. Such request shall state the nature of the emergency and the magnitude of change in fuel costs resulting from the emergency circumstances. If within 120 days after implementation, after a full investigation of

the emergency condition, the interim factor is found by the commission to have been excessive, the utility shall refund, with interest at the utility's composite cost of capital during the period the rates were in effect, all excessive collections. Such interest shall be calculated on the cumulative monthly over-recovery balance. If, after full investigation, the commission determines that no emergency condition existed, a penalty of up to 10% of such collections may be imposed. Any over- or under-recovery of fuel costs existing at the time of the emergency request shall be subject to reconciliation, as provided for in subparagraph (I) of this section.

(G) In the event of an unanticipated material decrease in fuel costs or unanticipated material increase in revenues from the sales of economy energy, wheeling, or other sources, such as off-system sales, the utility shall file, under the emergency provision of subparagraph (F) of this section, a request to decrease the fuel portion of its base rates. The commission shall modify the base rates to assure that ratepayers receive an appropriate portion of such savings or revenues.

(H) Each utility shall maintain up-to-date monthly and cumulative records of fuel costs, fuel revenues, and the difference between them, and it shall report this information to the commission on a monthly basis.

(I) No less than 12 months after implementing a change in its base rates, a utility shall request reconciliation of any over-recovery of fuel cost revenues and may request an opportunity to reconcile any under-recovery of such fuel costs. Under-recovery reconciliation shall be granted only for that portion of fuel costs increased by conditions or events beyond the control of the utility and upon demonstration of proof by the utility that such conditions or events could not have been predicted or foreseen at the time the rates were established. Interest to be paid by the utility or to the utility on such over- or under-recovery of fuel costs shall be at the utility's composite cost of capital during the period the rates were in effect. Such interest shall be calculated on the cumulative monthly over-under-recovery balance.

(i) The utility shall have the burden of showing in public hearing that it has operated plant and generated electricity efficiently and that it has maintained effective cost controls. Such burden of proof shall extend to affiliates in the case of affiliate fuel suppliers.

(ii) A utility may not request a fuel cost reconciliation if it has been granted a fuel cost reconciliation within the preceding 12 months. This subsection shall not preclude the reconciling of fuel costs and revenues in the general rate case as approved by the commission, and it shall not preclude the filing of an emergency request as provided in subparagraphs (F) and (G) of this section.

(J) If upon audit or other finding, the commission determines that fuel cost revenue collections are excessive, it may initiate a fuel cost reconciliation hearing.

(K) Utilities covered by this section shall provide, in a format specified by the commission, monthly reports containing all information required by the commission to monitor and evaluate fuel-related activities, including economy energy transactions, wheeling, off-system sales, or other similar transactions.

[(3) Items included in the cost of fuel will be reviewed on a regular basis by the commission, and improper charges shall be disallowed. If such charges are disallowed, the utility shall provide appropriate refunds to affected customers as directed by order of the commission.

[(4) Each electric utility shall maintain a monthly record of the cost of fuel used in the generation of electricity which is included or will be included in customer rates. Such record shall show at each month end the total cost (actual or estimate) of fuel consumed for that month and on a cumulative basis, and the total dollar amount of revenues resulting from the fuel cost component in customer rates. Any difference between the total cost of fuel consumed and the amount of revenues resulting from the fuel cost component in customer rates shall be credited or charged to the customers in the next billing month.

[(5) An adjustment for recovering the cost of economy energy purchased pursuant to a sale between different electric utilities may, at the commission's discretion, be allowed in the tariff of the purchasing utility.

[(6) If the fuel cost revenues exceed the fuel cost by 10% in any given month and the total fuel cost revenues have exceeded total fuel costs by the total of 5.0% or more for the most recent 12 month period, the utility shall so advise the commission.

[(7) A 10% penalty shall be applied to excessive collections above the actual fuel costs for any given month. For any month in which a utility over-recovers actual fuel costs by 10% or more and has over-recovered by 5.0% or more for the 12-month period ending with such month, such over-collections shall be deemed to be excessive unless otherwise found by order of the commission.

[(8) No penalties for excessive collections shall be applied to those electric utilities which have been granted a fuel adjustment clause which explicitly considers changes in the efficiency of generation. In addition, utilities applying such an efficiency-based fuel adjustment clause shall be exempt from calculating adjustments for over- and under-collection in the manner set forth in paragraph (4) of this subsection.]

Issued in Austin, Texas, on July 27, 1983

TRD-835754

Rhonda Colbert Ryan
Secretary of the Commission
Public Utility Commission of
Texas

Effective date: July 28, 1983

Expiration date: November 25, 1983

For further information, please call (512) 458-0100.



**TITLE 40. SOCIAL SERVICES AND
ASSISTANCE**

**Part I. Texas Department of
Human Resources**

**Chapter 3. AFDC
Support Documents**

40 TAC §3.9804

(Editor's note The text of the following rule being repealed on an emergency basis will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Human Resources adopts on an emergency basis the repeal of existing §3 9804 and new §3 9804, concerning the standard budgetary allowances in the Aid to Families with Dependent Children (AFDC) Program

Section 3 9804(a) concerns changes in the AFDC standard budgetary allowances for August 1983, and §3.9804(b) concerns changes in the standard budgetary allowances for September and future months.

The department adopts §3 9804(a) to increase the AFDC grant in August. The grant in August includes the special payment. The special payment is a supplementary payment to AFDC recipients, authorized by the Texas Legislature, that is paid once or twice a year. The department has incorporated the special payment into the August AFDC grant, to qualify for federal matching funds.

Most AFDC recipients also are food stamp recipients. When AFDC benefits increase, there is a corresponding decrease in food stamp benefits. The United States Department of Agriculture has recently indicated that the special payment would be considered income and result in a decrease in food stamp benefits. By in-

cluding the special payment in the increased AFDC grant, the decrease in recipients' food stamp benefits will be offset.

To increase the AFDC grant, the department must increase the AFDC standard of need, which serves as the basis for determining AFDC eligibility and benefit amount.

The department must adopt the needs standard figures shown in §3 9804(a), effective August 1, 1983. This new standard was approved by the Board of Human Resources on July 14, 1983.

In §3 9804(b), the department adopts a new standard for determining AFDC eligibility and benefit amounts for September and future months, based on increased appropriations from the 68th Texas Legislature. The current AFDC standard of need was established in 1969. The department has developed the new standard to recognize the increased cost of living. The Board of Human Resources will consider approval of the new standard for September and future months at its meeting on August 11, 1983.

Failure to implement these revised standards would result in imminent danger to the health, safety, and welfare of AFDC clients.

The repeal is adopted on an emergency basis under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

§3 9804 Standard Budgetary Allowances

The new rule is adopted on an emergency basis under the Human Resources Code, Title 2, Chapters 22 and 31, which authorizes the department to administer public assistance programs.

§3 9804 Standard Budgetary Allowances.

(a) For only August 1-August 31, 1983, the needs allowance for each size family group for AFDC is as follows:

| Family Size | Non-caretaker Cases | | | Caretaker Cases | | |
|----------------------------|-----------------------|------------------------|--------------------------|-----------------------|------------------------|--------------------------|
| | Maximum Income (150%) | Budgetary Needs (100%) | Recognizable Needs (75%) | Maximum Income (150%) | Budgetary Needs (100%) | Recognizable Needs (75%) |
| 1 | \$255 00 | \$170 00 | \$128 00 | \$307 50* | \$205 00* | \$154 00* |
| 2 | 360 00 | 240 00 | 180 00 | 637 50 | 425 00 | 319 00 |
| 3 | 507 00 | 338 00 | 254 00 | 741 00 | 494 00 | 371 00 |
| 4 | 604.50 | 403 00 | 302 00 | 889 50 | 593 00 | 445 00 |
| 5 | 780.00 | 520 00 | 390 00 | 991 50 | 661 00 | 496 00 |
| 6 | 841 50 | 561 00 | 421 00 | 1140 00 | 760 00 | 570 00 |
| 7 | 1051 50 | 701 00 | 526 00 | 1237 50 | 825 00 | 619 00 |
| 8 | 1155 00 | 770 00 | 578 00 | 1410 00 | 940 00 | 705 00 |
| 9 | 1324.50 | 883 00 | 662 00 | 1510 50 | 1007 00 | 755 00 |
| 10 | 1426 50 | 951 00 | 713 00 | 1681 50 | 1121 00 | 841 00 |
| 11 | 1597 50 | 1065 00 | 799 00 | 1785.00 | 1190 00 | 893.00 |
| 12 | 1701 00 | 1134 00 | 851 00 | 1951 50 | 1301.00 | 976.00 |
| 13 | 1870 50 | 1247 00 | 935 00 | 2056 50 | 1371 00 | 1028.00 |
| 14 | 1972.50 | 1315 00 | 986.00 | 2226 00 | 1484 00 | 1113.00 |
| 15 | 2142.00 | 1428.00 | 1071.00 | 2329 50 | 1553.00 | 1165.00 |
| Per each additional member | 169.50 | 113.00 | 85.00 | 169.50 | 113.00 | 85.00 |

*SSI Caretaker

Note: For SSI caretaker cases with second parent, use these figures Maximum Income — \$505.50; Budgetary Needs — \$337.00, Recognizable Needs — \$253 00

Texas Register

(b) For September 1, 1983, and future months, the needs allowance for each size family group for AFDC is as follows:

| Family Size | Non-caretaker Cases | | | Caretaker Cases | | |
|----------------------------|-----------------------|------------------------|--------------------------|-----------------------|------------------------|--------------------------|
| | Maximum Income (150%) | Budgetary Needs (100%) | Recognizable Needs (30%) | Maximum Income (150%) | Budgetary Needs (100%) | Recognizable Needs (30%) |
| 1 | \$255 00 | \$170 00 | \$ 51 00 | \$307 50* | \$205 00* | \$ 62 00* |
| 2 | 360 00 | 240 00 | 72 00 | 637 50 | 425 00 | 128 00 |
| 3 | 507 00 | 338 00 | 101 00 | 741 00 | 494.00 | 148.00 |
| 4 | 604 50 | 403 00 | 121 00 | 889 50 | 593 00 | 178.00 |
| 5 | 780.00 | 520 00 | 156 00 | 991 50 | 661.00 | 198 00 |
| 6 | 841 50 | 561 00 | 168 00 | 1140 00 | 760 00 | 228 00 |
| 7 | 1051 50 | 701 00 | 210 00 | 1237 50 | 825.00 | 248 00 |
| 8 | 1155 00 | 770 00 | 231 00 | 1410 00 | 940.00 | 282 00 |
| 9 | 1324 50 | 883 00 | 265 00 | 1510 50 | 1007 00 | 302 00 |
| 10 | 1426 50 | 951 00 | 285 00 | 1681 50 | 1121 00 | 336.00 |
| 11 | 1597.50 | 1065 00 | 320 00 | 1785 00 | 1190 00 | 357.00 |
| 12 | 1701 00 | 1134 00 | 340 00 | 1951 50 | 1301.00 | 390.00 |
| 13 | 1870 50 | 1247 00 | 374 00 | 2056 50 | 1371 00 | 411 00 |
| 14 | 1972.50 | 1315 00 | 395 00 | 2226 00 | 1484.00 | 445 00 |
| 15 | 2142 00 | 1428 00 | 428.00 | 2329 50 | 1553.00 | 466.00 |
| Per each additional member | 169 50 | 113.00 | 34.00 | 169.50 | 113.00 | 34.00 |

* SSI Caretaker

Note: For SSI caretaker cases with second parent, use these figures: Maximum Income - \$505.50; Budgetary Needs - \$337.00, Recognizable Needs - \$101 00

Issued in Austin, Texas, on August 1, 1983.

TRD-835879

Marlin W Johnston
Commissioner
Texas Department of Human
Resources

Effective date: August 1, 1983

Expiration date: November 29, 1983

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

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 4. AGRICULTURE Part III. Texas Feed and Fertilizer Control Service Chapter 61. Feed

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Feed and Fertilizer Control Service, Texas Agricultural Experiment Station, College Station, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Feed and Fertilizer Control Service proposes the repeal of §§ 61.1, 61.2, 61.11-61.19, 61.41-61.43, and 61.51, concerning names and definitions, terms; labeling, label format, brand and product names; expression of guarantees, ingredients, statements, definitions, sampling, and analysis, directions for use and precautionary statements, nonprotein nitrogen, drug and feed additives, trademarks, poisonous and deleterious substances, inspection tax tags, certificates; tonnage reporting permits, and repeal of prior and conflicting regulations.

Substantial revision of the Texas Commercial Feed Act by House Bill 1510, 68th Legislature, 1983, has necessitated the repeal of the service's extant feed regulations and the simultaneous adoption of the new feed regulations, as part of a complete revision of the Texas Administrative Code, Chapter 61. The revision is sought not only to account for substantive changes made to the Act, but to reorganize the chapter to correspond to the structure of the revised Act, con-

solidate related rules and subparts, improve the style and structure of the chapter, foster accuracy and clarity among its provisions, and effect general editorial changes.

Sections 61.1 and 61.2, relating to names and definitions, and terms, respectively, have been proposed for repeal to allow the consolidation of related rules. The substantive provisions of present § 61.1 and § 61.2 are proposed for inclusion in the new § 61.1, relating to definitions, simultaneously proposed for adoption.

Section 61.11, relating to labeling, has been proposed for repeal as part of substantive revision and reorganization of Chapter 61. The substance of that portion of § 61.11(a) dealing with the requirements for registration of a feed have been included in new § 61.11(b), relating to application for registration, simultaneously proposed for adoption. The portion of the first sentence of § 61.11, relating to labeling of feed products, has been substantially altered and may now be found in new § 61.2(a), relating to general label restrictions, proposed for adoption in this issue. The substance of the last sentence of § 61.11(a) may now be found in new § 61.11(c), relating to application for registration. Section 61.11(b), as presently constituted, has been redesignated new § 61.23(b), relating to labeling of customer-formula feed. The present § 61.11(c) has become new § 61.21(d), relating to the general label restrictions.

Section 61.12, relating to label format, has been repealed to allow reorganization of the chapter. The substance of this section has been largely readopted as the basis of new § 61.22, relating to labeling of

commercial feed, with the exception of paragraphs (7) (now new §61.21(a)) and paragraphs (8) and (9) (now new §61.23), relating to labeling of customer formula feed

Section 61.13, relating to brand and product names, has been repealed to allow consolidation of related provisions. The substance of §61.13 may now be found in new §61.22, relating to labeling of commercial feed, with the exception of subsection (h) which may now be found in new §61.23, relating to labeling of customer formula feed

Section 61.14, relating to expression of guarantees, has been repealed to allow consolidation of related provisions. The substance of the present §61.14 may now be found in §61.22, relating to labeling of commercial feed

Section 61.15, relating to ingredients, statements, definitions, sampling and analysis, has been repealed to allow consolidation of related provisions. The substance of the present §61.15 may now be found in new §61.22, relating to labeling of commercial feed, with the exception of subsection (j) (now new §61.41) relating to sampling and analytical procedures, and subsection (k) (now new §61.42) relating to analysis of customer formula feed

Section 61.16, relating to directions for use and precautionary statements, has been repealed to allow consolidation of related provisions. The substance of the present §61.16 may now be found in new §61.22, relating to labeling of commercial feed

Section 61.17, relating to nonprotein nitrogen, has been repealed to allow consolidation of related provisions. The substance of present §61.17 may now be found in new §61.22, relating to labeling of customer formula feed

Section 61.18, relating to drugs and additives, has been repealed to allow revision and reorganization of the chapter. Much of this rule has been readopted as new §61.11(d), relating to application for registration

Section 61.19, relating to trademarks, has been repealed to allow consolidation of related provisions. The substance of this section has been readopted as new §61.21(c), relating to general label restrictions. The substance of paragraph (4) has been included in new §61.22, relating to labeling of commercial feed

Section 61.31, relating to poisonous or deleterious substances, has been repealed to allow reorganization of the chapter. The substance of §61.31 has been proposed for readoption as new §61.61, relating to poisonous or deleterious substances

Sections 61.41-61.43, and 61.51, relating to inspection tax tags, certificates, tonnage reporting permits, and repeal of prior and conflicting regulations, respectively, have been repealed without readoption.

Dr. Dudley T. Smith, Texas Agricultural Experiment Station associate director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local govern-

ment as a result of enforcing or administering the repeal

I. J. Shenkir, head of the Texas Feed and Fertilizer Control Service, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be clearer and more understandable feed regulations, which are in accord with recent statutory revisions. The anticipated economic cost to individuals who are required to comply with the repeal will be an annual inspection fee of \$100 for products packed in containers of five pounds or greater, to be credited towards tonnage inspection fees, an annual flat rate inspection fee of \$50 each year, from 1983-1987 for products packed in containers of less than five pounds, and tonnage inspection fees of \$.15 per ton for the period 1983-1987

Comments on the proposal may be submitted to I. J. Shenkir, Head of the Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77841

General Definitions

4 TAC §61.1, §61.2

The repeals are proposed under the Texas Agriculture Code, §141.004 (1981), as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed

§61.1 *Names and Definitions*

§61.2 *Terms*

Permitting and Registration

4 TAC §§61.11-61.19

The repeals are proposed under the Texas Agriculture Code, §141.004 (1981), as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed

§61.11 *Labeling*

§61.12 *Label Format*

§61.13 *Brand and Product Names.*

§61.14 *Expression of Guarantees.*

§61.15 *Ingredients, Statements, Definitions, Sampling, and Analysis.*

§61.16 *Directions for Use and Precautionary Statements.*

§61.17 *Nonprotein Nitrogen.*

§61.18 *Drug and Feed Additives.*

§61.19 *Trademarks.*

Adulterants

4 TAC §61.31

The repeal is proposed under the Texas Agriculture Code, §141.004 (1981), as amended, which provides

the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.31. *Poisonous and Deleterious Substances.*

Procedures for Paying the Inspection Fee

4 TAC §§61.41-61.43

The repeals are proposed under the Texas Agriculture Code, §141.004 (1981), as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.41. *Inspection Tax Tags.*

§61.42. *Certificates.*

§61.43. *Tonnage Reporting Permits.*

Repeal of Prior and Conflicting Regulations

4 TAC §61.51

The repeal is proposed under the Texas Agriculture Code, §141.004 (1981), as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.51. *Repeal of Prior and Conflicting Regulations.*

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

Issued in College Station, Texas, on August 1, 1983.

TRD-835866 Dr. Neville P. Clark
Director
Texas Agricultural Experiment
Station

Earliest possible date of adoption:
September 5, 1983

For further information, please call (409) 845-3511.

The Texas Feed and Fertilizer Control Service proposes new §§61.1, 61.2, 61.11, 61.21-61.23, 61.31, 61.41, 61.42, and 61.61, concerning definitions, commercial feed, application for registration, general label restrictions, labeling of commercial feed, labeling of customer-formula feed, assessment, sampling and analytical procedures, analysis of customer-formula feed, and poisonous and deleterious substances.

Substantial revision to the Texas Commercial Feed Act by House Bill 1510, 68th Legislature, 1983, has ne-

cessitated the repeal of the service's extant feed regulations and the simultaneous adoption of new feed regulations, as part of a complete revision of the Texas Administrative Code, Chapter 61. The revision is sought not only to account for substantive changes made to the Act, but to reorganize the chapter to correspond to the structure of the revised Act, consolidate related rules and subparts, improve the style and structure of the chapter, foster accuracy and clarity among its provisions, and effect general editorial changes. The rules proposed for adoption in this issue will replace the current Chapter 61, which simultaneously is being proposed for repeal.

Section 61.1, relating to definitions, will add definitions for the following terms: act, container, customer-formula feed, distribute, ingredient, label, person, purchaser, registrant, salvage, service, and weed seeds. The rule will further adopt by reference the terms and definitions of the Association of American Feed Control Officials as published in its official publication. The rule will consolidate the substance of present §61.1 and §61.2, proposed in this issue for repeal.

Section 61.2, relating to commercial feed, is a new rule clarifying what may be considered a commercial feed and what may be included as a component of commercial feed.

Section 61.11, relating to application for registration, will consolidate all provisions of the chapter relating to the registration of feeds. Subsection (a) is a new provision designating exactly what is to be registered. Subsections (b) and (c) adopt with revisions the substance of the current §61.11(a), which is being proposed for repeal. Subsection (d) adopts with revisions the provisions of the current §61.18, proposed for repeal in this issue. Subsection (e) is a new provision requiring persons registering specialty products labeled by volume to provide the net weight of the product as a condition of registration.

Section 61.21, relating to general label restrictions, is a consolidation of all the provisions of the chapter, prescribing general requirements for the labeling of feed. Subsection (a) adopts the substance of present §61.12(7), which is being proposed for repeal. Subsection (b) is a new provision prohibiting required label information from being obscured or subordinated by other statements or designs. Subsection (c) adopts the substance of the present §61.19, simultaneously proposed for repeal. Subsection (d) adopts the substance of the present §61.11(c). Subsection (e) is a new provision relating to label emphasis of a feed ingredient or combination of ingredients. Subsection (f) is a new provision allowing certain specialty feed products to be labeled by volume.

Section 61.22, relating to labeling of commercial feed, is a consolidation of most of the provisions of current §§61.12-61.17, relating to label format, brand and product names, expression of guarantees, ingredients, statements, definitions, sampling and analysis, directions for use and precautionary statements, nonprotein and nitrogen. These sections are being proposed simultaneously for repeal.

Section 61.23, relating to labeling of customer-formula feed, is a consolidation of the present §§61.11(b), 61.12(8) and (9), and 61.13(h), relating to labeling, label format, and brand and product names, respectively. These sections are being proposed simultaneously for repeal.

Section 61.41, relating to sampling and analytical procedures, adopts the substance of the present §61.15 (j), relating to ingredients, statements, definitions, sampling, and analysis, proposed for repeal in this issue.

Section 61.61, relating to poisonous or deleterious substances, adopts the substance of the present §61.31, relating to poisonous or deleterious substances, which is being proposed for repeal.

Dr. Dudley T. Smith, Texas Agricultural Experiment Station associate director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

I. J. Shenkir, head of the Texas Feed and Fertilizer Control Service, 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 clearer and more understandable feed regulations which are in accord with recent statutory revisions.

The anticipated economic cost to individuals who are required to comply with the rules as proposed will be an annual inspection fee of \$100 each year from 1983-1987 for products packed in containers of five pounds or greater, to be credited towards tonnage inspection fees; an annual flat-rate inspection fee of \$50 each year from 1983-1987, for products packed in containers of less than five pounds; and a tonnage inspection fee of \$.15/ton for 1983-1987.

Comments on the proposal may be submitted to I. J. Shenkir, Head, Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77841.

General Provisions

4 TAC §61.1, §61.2

The new sections are proposed under the Texas Agriculture Code, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.1. Definitions. Except where otherwise provided, the terms and definitions adopted by the Association of American Feed Control Officials in the last-published edition of the annual official publication are hereby adopted by reference as the terms and definitions to control in this title. The publication is available from the Association of American Feed Control Officials, Department of Agriculture, Room E-111, State Capitol Building, Charleston, West Virginia 25305. In addition, the follow-

ing words and terms, when used in this title, shall have the following meanings, unless the context clearly indicates otherwise:

Act—Texas Commercial Feed Control Act, Texas Agriculture Code, Chapter 141, 1981, as amended.

Container—A bag, box, carton, bottle, object, barrel, package, apparatus, device, appliance, or other item of any capacity into which a feed is packed, poured, stored, or placed for handling, transporting, or distributing.

Customer-formula feed—A mixture of commercial feed or feed material, all or part of which is furnished by the person who processes, mixes, mills, or otherwise prepares the mixture and which is mixed according to the specific instructions of the purchaser. Customer-formula feed may be derived from a registered feed that has been altered by the deletion, addition, or substitution of one or more ingredients that may or may not affect the chemical analysis. The term includes special formula feed and made-to-order feed.

Distribute—Sell, offer for sale, expose for sale, barter, exchange, transfer possession or title, or otherwise supply

Ingredient—A constituent material of a commercial feed.

Label—A display of written, printed, or graphic matter on or affixed to a container, invoice, or delivery slip.

Person—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

Purchaser—A person who buys or otherwise acquires a commercial feed, customer-formula feed, or custom-mill service.

Registrant—A person who registers a commercial feed under the Act.

Salvage—When applied to an ingredient or combination of ingredients, refers only to those products that have been damaged by natural causes, such as fire, water, hail, or windstorm, or by conveyance mishap.

Service—Texas Feed and Fertilizer Control Service.

Weed seeds—Those seeds declared prohibited or restricted noxious weed seeds by §19.3 of this title (relating to Noxious Weed Seeds).

§61.2. Commercial Feed.

(a) All feed materials are considered commercial feeds, except:

(1) those exempted under §141.002(c) of the Act (relating to Commercial Feed); and

(2) salvage feed materials.

(b) Commercial feeds may not contain:

(1) any adulterants as listed in §141.148 of the Act (relating to Distribution of Adulterated Feed); or

(2) salvage feed materials.

Permitting and Registration

4 TAC §61.11

The new section is proposed under the Texas Agriculture Code, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the

Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.11. Application for Registration.

(a) Each brand and product name of a commercial feed must be registered before it may be distributed.

(b) The labeling information required to accompany bagged or bulk commercial feed by §141.051 or §141.052 of the Act (relating to Labeling of Commercial Feed) shall be submitted with all applications for registration of medicated feeds, pet foods, and specialty products. Labeling information may be required for other products as a condition of registration upon request by the service.

(c) The service may require the applicant to present evidence of authorization to use a registered trademark or other labeling reference as a condition for the registration of a product.

(d) The applicant may be required to submit satisfactory evidence respecting the safety and efficacy of a commercial feed prior to the approval of a registration application and label for the feed if it contains additives (including drugs, other special purpose additives, or non-nutritive additives). Satisfactory evidence may include recognition by the United States Food and Drug Administration of the safety and efficacy of the feed or additive for its labeled use.

(e) The net weight shall be provided as a condition for registration of specialty products packaged and marketed in containers weighing one pound or less whose net contents are declared on the label of the product in conformity with the United States Fair Packaging and Labeling Act, 15 United States Code, §1415, *et seq.*, and regulations promulgated thereunder.

Labeling

4 TAC §§61.21-61.23

The new sections are proposed under the Texas Agriculture Code, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.21. General Label Restrictions.

(a) All labeling information required by §141.051 or §141.052 of the Act (relating to Labeling of Commercial Feed) or by this title shall appear in its entirety on one side of the label or one side of the feed container, except directions for use or precautionary statements, which shall appear in a prominent place on the label or container, but not necessarily on the same side of such label or container as other required label information. When directions for use or cautionary statements appear on a different side of the label or container than its principal display panel, such principal display panel shall bear a reference to such information (e.g., "See back for directions for use.").

(b) No labeling information required by the Act or this title shall be obscured or subordinated by other statements or designs.

(c) A trademark or trade name may form part of the labeling of a commercial feed provided that:

(1) the trademark, in the opinion of the service, contributes significantly in conveying to the purchaser important information respecting a distinctive characteristic of the product; and

(2) the display of the trademark or trade name is not unduly conspicuous in relation to the display of the name of the registrant or guarantor of the product or other required information.

(d) Negative labeling is prohibited except as required by a specific provision of the Act or this title.

(e) When the label of a commercial feed declares the common name of a component or ingredient or a combination of components or ingredients and emphasis is placed on such ingredients or combinations thereof without reference to a percentage value, the service may require a showing of scientific data that the ingredient or combination of ingredients is present in sufficient quantities to impart a distinctive characteristic to the product. If reference is made to a percentage value for such ingredient or combination of ingredients, the service, in addition, may require:

(1) that the percentage reference be determinable by accepted laboratory methods; and

(2) that the applicant provide, upon request, an analysis of the ingredient or combination of ingredients made by a private laboratory.

(f) Specialty products packaged or marketed in containers weighing one pound or less may bear a declaration of the net contents of the container made in conformity with the United States Fair Packaging and Labeling Act, 15 United States Code, §1415, *et seq.*, and regulations promulgated thereunder.

§61.22. Labeling of Commercial Feed. Commercial feed shall be labeled with the information prescribed in the Act and this title on the principal display panel of the product with the following general format, unless otherwise specifically provided:

(1) net weight.

(2) product name and brand name, if any.

(A) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith.

(B) The word "protein" shall not be permitted in the product name of a feed that contains nonprotein nitrogen.

(C) The word "vitamin," or a contraction thereof, or any word suggesting vitamins, shall be used only in the name of a feed which is represented to be a vitamin supplement and which is labeled with the minimum content of each vitamin declared, as specified in clause (vi) of this section.

(D) The term "mineralized" shall not be used in the name of a feed, except for when contained in the expression "trace mineralized salt." When this phrase is displayed on the label, the product must contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

(E) The term "meat" or "meat by-products" shall be qualified on the label to designate the type of animal from which the meat or meat by-products are de-

rived unless the meat or meat by-products are from cattle, swine, sheep, and goats.

(F) When the product name or brand name of a feed carries a percentage value, it shall be understood to signify the protein and/or equivalent protein of the feed content only, even though such percentage value is not explicitly modified by the word "protein." Other percentage values are permitted in the product name or brand name of a feed if such percentages are followed by a proper description and conform with good labeling practices.

(G) Digital numbers shall not be used in the product name or brand name of a feed in such a manner as to be misleading or confusing to a consumer.

(H) Unless otherwise specified, single ingredient feeds shall have a product name which comports with the ingredient name assigned to such product by the Association of American Feed Control Officials in its official publication, adopted by reference in §61.1 of this title (relating to Definitions)

(3) drug additives, if any

(A) When drug additives are present in a commercial feed, the label shall include:

(i) the word "medicated" directly following and below the product name in type size no smaller than one-half the size of the product name;

(ii) the purpose of the medication (claim statement);

(iii) any warning or cautionary statement relating to such drug additive required by paragraph (6) of this section, or reference to where such warning or cautionary statement may be found; and

(iv) an active drug ingredient statement listing:

(I) each drug ingredient by its common or usual name; and

(II) the amount of each ingredient stated in terms of percent by weight, except that:

(-a-) antibiotics present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

(-b-) antibiotics present at more than 2,000 grams per ton (total) of commercial feed shall be stated in grams per pound of commercial feed;

(-c-) labels for commercial feeds containing growth promotion and feed efficiency levels of antibiotics which are to be fed continuously as the sole ration are not required to make quantitative guarantees, except as specifically noted in the Code of Federal Regulations, Title 21;

(-d-) the amount of a drug or antibiotic may be expressed in terms of milligrams per pound where the dosage given in the feeding directions is given in milligrams.

(B) Drug additives may not be included on the label of a feed, except customer-formula feed, not registered with the service in accordance with §61.11 of this title (relating to Application for Registration).

(4) the guaranteed analysis of the feed.

(A) The guaranteed analysis of the feed shall include the following items in the following order, unless exempted in accordance with subparagraph (E) of this paragraph:

(i) minimum percentage of crude protein;

(ii) percentage of equivalent protein from nonprotein nitrogen, guaranteed as follows:

(I) Complete feeds, supplements, and concentrates containing more than 5.0% protein from natural sources shall bear the following statement of guarantee: "Crude protein, minimum _____% (This includes not more than _____ equivalent protein from nonprotein nitrogen)."

(II) Mixed feed concentrates and supplements containing less than 5.0% protein from natural sources may bear the following statement of guarantee: "Equivalent crude protein from nonprotein nitrogen, minimum _____%."

(III) Ingredient sources of nonprotein nitrogen, such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or any other basic nonprotein nitrogen ingredient shall bear the following statement of guarantee: "Nitrogen, minimum _____%. Equivalent crude protein from nonprotein nitrogen, minimum _____%."

(IV) Liquid feed supplements shall bear the following statement of guarantee: "Crude protein not less than _____% (This includes not more than _____% equivalent protein from nonprotein nitrogen)."

(iii) minimum percentage of crude fat;

(iv) maximum percentage of crude fiber;

(v) minerals,

(I) Commercial feeds containing 6.5% or more mineral elements shall include a guaranteed analysis of the following minerals in the following order:

(-a-) minimum and maximum percentage of calcium (Ca);

(-b-) minimum percentage of phosphorus (P);

(-c-) minimum and maximum percentages of salt (NaCl), if added; and

(-d-) such other minerals as may be required by subclause (IV) of this clause.

(II) Minerals, except salt, shall be guaranteed in terms of percentage of the element.

(III) When calcium and/or salt guarantees are given in the guaranteed analysis, such guarantees shall conform to the following:

(-a-) When the minimum is 5.0% or less, the maximum shall not exceed the minimum by more than one percentage point.

(-b-) When the minimum is above 5.0%, the maximum shall not exceed the minimum by more than 20% and in no case shall the maximum exceed the minimum by more than five percentage points.

(IV) Naturally occurring mineral phosphatic materials for feeding purposes shall be labeled with a guaranteed analysis of the minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

(vi) vitamins;

(I) Guarantees for minimum vitamin content of commercial feeds and feed supplements, when shall be stated on the label in milligrams per pound except that:

(-a-) vitamin A, other than precursors of vitamin A, shall be stated in International or USP Units per pound;

(-b-) vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound;

(-c-) vitamin D, for other uses, shall be stated in terms of International or USP Units per pound;

(-d-) vitamin E shall be stated in International or USP Units per pound; and

(-e-) oils and premixes containing Vitamin A or Vitamin D may be labeled to show vitamin content in terms of units per gram.

(II) Guarantees for vitamin content on the label of a commercial feed shall state the guarantees as true vitamins, not compounds, with the exception of the following compounds:

(-a-) pyridoxine hydrochloride;

(-b-) choline chloride;

(-c-) thiamine; and

(-d-) d-pantothenic acid.

(vii) total sugars as invert on dried molasses products or products being sold primarily for their molasses content.

(viii) maximum moisture content on liquid feed supplements and liquid ingredients expressed as a percentage.

(B) The sliding scale method of expressing guarantees (e.g., "protein is 15-18%, etc.") is prohibited.

(C) Unless otherwise provided by this section, guarantees for crude protein, equivalent protein from nonprotein nitrogen, crude fat, crude fiber, and minerals will be in terms of percentage by weight.

(D) Commercial, registered brand, or trade names are not permitted for use in a statement of guarantee unless followed by a parenthetical statement giving the technical name of the ingredient.

(E) Exemptions:

(i) Guarantees for minerals are not required when the commercial feed contains less than 6.5% mineral element and no specific label claims are made for minerals.

(ii) Guarantees for vitamins are not required for commercial feed which is neither formulated nor in any manner represented as a vitamin supplement.

(iii) Guarantees for crude protein, crude fat, and crude fiber are not required for commercial feed not intended to furnish these substances, or for feeds in which these substances are of minor significance to the primary purpose of the product (e.g., drug premixes, mineral or vitamin supplements, or molasses).

(iv) Liquid ingredients need not be guaranteed to show maximum moisture content when moisture is the difference between the guarantee element and 100% or when the moisture content of the ingredient is less than 20%.

(5) Feed ingredients.

(A) The feed ingredients statement for a commercial feed shall include the name of each ingredient in the feed or the collective term for each grouping of feed ingredients contained in the feed, unless exempted under subparagraph (K) of this paragraph.

(B) The name of each ingredient or grouping of ingredients listed shall be the:

(i) official term for the ingredient or grouping of ingredients adopted by the Association of American Feed Control Officials in its official publication, adopted by reference in §61.1 of this title (relating to Definitions);

(ii) the common or usual name for the ingredient; or

(iii) a name approved by the service.

(C) When a collective term for a group of ingredients is used on the label of a feed:

(i) individual ingredients within that group shall not be listed on the label; and

(ii) the service may require the manufacturer to provide a listing of the individual ingredients within the group that are or have been used in the product as distributed in this state.

(D) Tentative definitions for feed ingredients shall not be used until adopted as an official definition by the Association of American Feed Control Officials, unless no official definition exists or the ingredient has a commonly-accepted name that requires no definition (e.g., sugar.)

(E) No declaration of vitamin content shall appear in the ingredient statement or any other part of the label of a proprietary feed except in accordance with clause (4)(A)(vi) of this section.

(F) The names of all ingredients must be in letters or type of the same size as that of the guaranteed analysis and must be of a size easily read by the average person under ordinary conditions.

(G) The sources of vitamins shall be stated in the ingredients statement.

(H) No reference to quality or grade of an ingredient shall appear in the ingredients statement.

(I) The term "dehydrated" may precede the name of any product that has been artificially dried.

(J) When the term "iodized" is used in connection with a feed ingredient, the ingredient shall contain not less than 0.007% iodine, uniformly distributed.

(K) Exemptions.

(i) Carrier ingredients in products used solely as drug and vitamin premixes need not be named in the ingredients statement if:

(I) any changes in the carrier will not affect the purposes of the product; and

(II) the carrier ingredient is recognized by the service as being safe.

(ii) Single ingredient feeds are not required to have an ingredient statement.

(6) Directions for use and cautionary statements.

(A) All feeds containing additives (including drugs, special purpose additives, or nonnutritive additives) shall have included on their label direction for use and cautionary statements which shall:

(i) be adequate to enable safe and effective use of the product for its intended purposes by users with no special knowledge of the purposes and use of such articles; and

(ii) include, but not be limited to, all information prescribed by the Code of Federal Regulations, Title 21.

(B) All feeds supplying particular dietary needs

or for supplementing or fortifying the diet or ration with any vitamin, mineral, or other dietary nutrient or compound shall have included on their label adequate directions for use and any cautionary statement necessary for their safe and effective use.

(C) Feeds containing urea or other nonprotein nitrogen products.

(i) All feeds containing urea or other nonprotein nitrogen products shall have included on their label:

(I) the parenthetical statement: "(For Ruminants Only)" printed directly below the brand or product name for the feed; and

(II) if the equivalent protein from nonprotein nitrogen in the feed exceeds one-third of the total crude protein, or more than 8.75% of the equivalent protein is from nonprotein nitrogen, the statement "Warning: (or "Caution:) Use as Directed" followed by adequate directions for the safe use of the feed.

(ii) All directions for use required by this subparagraph shall be printed in a size of type such as to render it likely that the directions will be read and understood by ordinary persons under customary conditions of purchase and use.

(iii) This subparagraph shall apply to all invoiced, labeled customer-formula and registered brand labeled feeds.

(iv) Feeds, such as medicated feeds, which are required to be labeled with adequate feeding directions and cautionary statements irrespective of the provisions of this subparagraph, shall not be required to bear duplicate feeding directions or cautionary statements on their labels if such statements as are otherwise required are sufficient to ensure the safe and effective use of the product due to the presence of nonprotein nitrogen.

(D) All feeds containing fluorine bearing phosphatic materials shall have included on their label the statement: "Caution—Mix at the rate to not raise the fluorine content in a total ration (exclusive of roughage) above the following levels:

- 0.004% for breeding and dairy cattle;
- 0.009% for slaughter cattle;
- 0.006% for sheep;
- 0.01% for lambs;
- 0.015% for swine; and
- 0.03% for poultry."

(7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed.

(A) The principal mailing address shall include the street address, city, state, and zip code; provided, however, that the street address may be omitted if the address is listed in a current city directory or telephone directory.

(B) The labeling may bear the name of the purchaser as well as the manufacturer, provided the product is for in-plant use and not for resale.

(C) The labeling may bear the name of the distributor as well as the manufacturer, provided that the guarantor of the product is specifically stated.

§61.23. Labeling of Customer-Formula Feed.

(a) If a customer-formula feed is identified by label under §141.053(a) of the Act (relating to Labeling of Customer-Formula Feed), the label, in addition to the requirements of that section, shall bear the following information:

(1) If the feed contains drug additives, the label shall include:

(A) the purpose of the medication;

(B) any directions for use or cautionary statements required by §61.22(6) of this title (relating to Labeling of Commercial Feed); and

(C) any active drug ingredient statement required by §61.22(3)(A)(iv) of this title (relating to Labeling of Commercial Feed).

(2) If the feed is derived from a registered feed that has been altered, the label shall include:

(A) the label of the registered feed from which the product was derived; and

(B) a listing of the deleted, added, or substituted ingredients and their guaranteed analysis.

(b) If a customer-formula feed is identified by label under §141.053(b) of the Act (relating to Labeling of Customer-Formula Feed), the following shall apply:

(1) This alternate method of labeling customer-formula feed shall be accompanied by use of forms prescribed by the service and signed by both the seller and the purchaser.

(2) The original of the form shall, within five days of the transaction, be sent to the Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77841.

(3) The duplicate of the form shall be given to the purchaser simultaneously with the invoice covering the first transaction involving the feed. Any invoices covering subsequent transactions involving the feed shall reference the form. A copy of the form shall be retained by the seller.

Inspection Fee

4 TAC §61.31

The new section is proposed under the Texas Agriculture Code, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.31. Assessment.

(a) The inspection fee shall be calculated and reported on the basis of 2,000 pounds per ton.

(b) Any change regarding inspection fees may be assessed preceding each quarter of the year.

(c) When the inspection fee is reduced or increased, the manufacturer and other interested persons will be notified 30 days prior to the effective date of the change.

(d) The flat rate inspection fee applies to those registered products packaged only in containers weighing five pounds or less. It does not apply to individual products distributed both in containers of five pounds or less and larger container sizes.

Inspection, Sampling, and Analysis**4 TAC §61.41, §61.42**

The new sections are proposed under the Texas Agriculture Code, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.41. Sampling and Analytical Procedures. The service hereby adopts by reference the last-published edition of the *Official Methods of Analysis* of the Association of Official Analytical Chemists as the sampling and analytical procedures to be applied under the Act and this title. These official methods are available from the Association of Official Analytical Chemists, 111 North 19th Street, Arlington, Virginia, 22209.

§61.42. Analysis of Customer-Formula Feed. To measure the quality of customer-formula feed, a chemical analysis will be performed based on a computation using the average analysis of ingredients used. When a premix, supplement, or concentrate is used as one of the ingredients, the analysis on its label will be used for computation.

Penalties**4 TAC §61.61**

The new section is proposed under the Texas Agriculture Code, §141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules as necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed.

§61.61. Poisonous or Deleterious Substances.

(a) Poisonous or deleterious substances include, but are not limited to, the following:

(1) fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry;

(2) fluorine-bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts:

- 0.004% for breeding and dairy cattle;
- 0.009% for slaughter cattle;
- 0.006% for sheep;
- 0.01% for lambs;
- 0.015% for swine; and
- 0.03% for poultry.

(3) soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichlorethylene or other chlorinated solvents;

(4) sulfur dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B₁ (thiamine); and

(5) artificial color that has not been cleared for safety for use in feeds. Evidence of safety must include a clearance for use of these color additives under the provisions of the Federal Food, Drug, and Cosmetic Act. No artificial color material shall be used to enhance the natural color of the feed or feed ingredient whereby inferiority would be concealed.

(b) Urea and other nonprotein nitrogen products defined by the Association of American Feed Control Officials are acceptable ingredients in proprietary cattle, sheep, and goat feeds only, provided the parenthetical statement ("For ruminants only") is printed on the label directly below the brand or product name on all feeds. These materials shall be considered adulterants in proprietary feeds for other animals and birds.

(c) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of such weed seeds so that the finished product contains no viable prohibited noxious weed seeds and not more than 50 viable restricted weed seeds per pound, and not more than 100 of other weed seeds per pound.

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 College Station, Texas, on August 1, 1983.

TRD-835867 Dr. Neville P. Clarke
Director
Texas Agricultural Experiment
Station

Earliest possible date of adoption:
September 5, 1983

For further information, please call (409) 845-3511.

Chapter 63. Pet Food**4 TAC §§63.1-63.6**

The Texas Feed and Fertilizer Control Service proposes amendments to §§63.1-63.5 and the repeal of §63.6, concerning definitions, label format and labeling, brand and product names, expression of guarantees, ingredients, directions for use and drugs, and pet food additives.

The service desires to bring its pet food regulations into conformity with the official pet food regulations promulgated by the Association of American Feed Control Officials (AAFCO) and the Pet Food Institute. The substantial interstate trade conducted by the pet food industry makes it advisable to subscribe to a set of uniform pet food standards to avoid a multiplicity of different and perhaps conflicting state regulatory policies. The service has in the past striven to conform to these uniform standards and encourage standardization.

Because the AAFCO has proposed the amendment of its uniform regulations pertaining to label format and labeling, brand and product names, expression of

guarantees, ingredients, and drugs and pet food additives and proposed the repeal of its uniform regulation pertaining to directions for use, the service herein proposes commensurate action to its corresponding § 63.1-63.6. A brief outline of the proposed action follows.

Section 63.1 has been amended to include definitions for the terms information panel, National Research Council, principal display panel, and service.

Section 63.2 has been amended to require scientific proof of a claim that a pet food provides a complete, perfect, scientific, or balanced ration for dogs or cats, unless the nutrients of the feed have been established by a recognized authority on animal nutrition as providing the estimated nutrient requirements for all stages of the life of a dog or cat. New subsection (o) has been added to § 63.2, requiring the label of a dog or cat food to contain a statement of its nutritional adequacy or purpose. Further editorial changes have been made to the rule to improve style and promote consistency.

Section § 63.3 has been amended to exclude water sufficient for processing from the calculation of the guaranteed percentage of animal ingredients in a pet food. Further editorial changes have been made to the rule to improve style and promote consistency.

Section 63.4 has been amended to require pet foods represented to be mineral additive supplements to state on their label the guaranteed analysis of calcium, phosphorus, and salt. Other essential nutrient elements recognized by the National Research Council are required to be expressed in units of measurement established by a recognized authority on animal nutrition.

Section 63.5 has been amended by addition of new subsection (e), which prohibits a label reference to the quality, nature, form, or other attributes of an ingredient of a pet food, unless the statement is accurate and the ingredient imparts a distinctive characteristic to the pet food.

Section 63.6, relating to direction for use on the label of pet foods suitable only for intermittent or supplemental feeding, has been proposed for repeal.

It is hoped that the effect of the proposed rules will be the conformity of the service's pet food regulations with the uniform standards adopted by the AAFCO and the standardization of interstate pet food regulation.

Dr. Dudley T. Smith, Texas Agricultural Experiment Station associate director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

I. J. Shenkir, head of the Texas Feed and Fertilizer Control Service, has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be a decrease in the cost

to pet food manufacturers of compliance with state pet food regulations.

The anticipated economic cost to individuals who are required to comply with the rules as proposed will be a \$100 annual inspection fee each year from 1983-1987 for products packed in containers of five pounds or greater, which will be credited towards tonnage inspection fees; an annual flat-rate inspection fee of \$50 each year from 1983-1987 for products packed in containers of less than five pounds; and a tonnage inspection fee of \$.15 per ton each year from 1983-1987.

Comments on the proposal may be submitted to I. J. Shenkir, Head, Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77841.

The amendments and repeal are proposed under the Texas Agriculture Code, § 141.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules necessary for the enforcement of the Texas Agriculture Code, Chapter 141, including rules defining and establishing minimum standards for commercial feed. To the extent practicable, the service is directed by § 141.004 to harmonize such rules with the standards adopted by the Association of American Feed Control Officials.

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

Information panel—Information panel as defined by 21 Code of Federal Regulations §501.1.

National Research Council—The National Research Council of the National Academy of Sciences.

Principal display panel—Principal display panel as defined by 21 Code of Federal Regulations §501.2.

Service—Texas Feed and Fertilizer Control Service.

§63.2. Label Format and Labeling.

(a) (No change.)

(b) The declaration of the net content shall be made in conformity with the United States [“] Fair Packaging and Labeling Act, 15 United States Code §1451, *et seq.*, [”] and the regulations promulgated thereunder.

(c)-(k) (No change.)

(l) The label of a pet food shall not contain an unqualified representation or claim, directly or indirectly, that the pet food therein contained or a recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balanced ration for dogs or cats unless such product or feeding:

(1) contains ingredients in quantities sufficient to provide the estimated nutrient requirements for all stages of the life of a dog or cat, as the case may be, which have been established by a recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council [of the National Academy of Sciences], **provided however, that to the extent that the product's ingredients provide nutrients in amounts which substantially deviate from those nutrient requirements estimated by such a recognized authority on animal nutrition, or in the event that no estimation has been made by a recognized authority on animal nutri-**

tion of the requirements of animals for one or more stages of said animals' lives, the product's represented capabilities in this regard must have been demonstrated by adequate testing; or

(2) (No change.)

(m) Labels for products which are compounded for or which are suitable for only a limited purpose (i.e., a product designed for the feeding of puppies) may contain representations that said pet food product, or recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balanced ration for dogs or cats only:

(1) in conjunction with a statement of a [the] limited purpose for which the product is intended or suitable (as, for example, in the statement "a complete food for puppies"). Such representations and such required qualification thereof shall be juxtaposed on the same panel and in the same size, style, and color of print; and

(2) such qualified representations may appear on pet food labels only if:

(A) the pet food contains ingredients in quantities sufficient to satisfy the estimated nutrient requirements established by a recognized authority on animal nutrition, such as the Committee on Animal Nutrition of the National Research Council [National Academy of Sciences] for such limited or qualified purpose; or

(B) (No change.)

(n) (No change.)

(o) The label of a dog or cat food, other than one prominently identified as a snack or treat as part of the designation required upon the principal display panel under subsection (k) of this section, shall bear, on either the principal display panel or the information panel, in type of a size reasonably related to the largest type on the panel, a statement of the nutritional adequacy or purpose of the product. Such statement shall consist of one of the following:

(1) a claim that the pet food meets or exceeds the requirements of one or more of the recognized categories of nutritional adequacy: gestation, lactation, growth, maintenance, and complete for all life stages, as those categories are set forth in subsections (l) and (m) of this section;

(2) a nutrition or dietary claim for purposes other than those listed in subsections (l) and (m) of this section if the claim is scientifically substantiated;

(3) the statement: "Use only as directed by your veterinarian," if it is a dietary animal food product intended for use by, or under the supervision or direction of, a veterinarian;

(4) the statement: "This product is intended for intermittent or supplemental feeding only," if a product does not meet either the requirements of subsections (l) or (m) or any other special nutritional or dietary need and so is suitable only for limited, intermittent, or supplementary feeding.

§63.3. Brand and Product Names.

(a) No flavor designation shall be used on a pet food label unless the designated flavor is detectable by a recognized test method, or is one the presence of which provides a characteristic distinguishable by the pet. Any flavor designation on a pet food label must either con-

form to the name of its source as shown in the ingredients [ingredient] statement, or the ingredients [ingredient] statement shall show the source of the flavor. The word "flavor" shall be printed in the same size type and with an equal degree of conspicuousness as the ingredient term(s) from which the flavor designation is derived. Distributors of pet food employing such flavor designation or claims on the label [labels] of a [the] product distributed by them, shall, upon request, supply verification of the designated or claimed flavor to the service [appropriate control official].

(b) The designation "100%" or "all" or words of similar connotation shall not be used in the brand or product name of a pet food if it contains more than one ingredient. However, for the purpose of this provisions, water sufficient for [the] processing, required decharacterizing agents, and trace amounts of preservatives and condiments shall not be considered ingredients.

(c) (No change.)

(d) The name of the pet food shall not be derived from one or more ingredients of a mixture of a pet food product [to the exclusion of other ingredients and shall not be one representing any components of a mixture of a pet food product] unless all components or ingredients are included in the name except as specified by subsections (a), (e) - (f) of this section; provided that the name of an ingredient or combination of ingredients may be used as part of the product name if:

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

(e) When an ingredient or combination of ingredients derived from animals, poultry, or fish constitutes 95% or more of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient(s) may form a part of the product name of the pet food; provided that, where more than one ingredient is part of such product name, then all such ingredient names shall be in the same size, style, and color of print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s); however, such named ingredient(s) shall constitute at least 70% of the total product.

(f) When an ingredient or combination of ingredients derived from animals, poultry, or fish constitutes at least 25% but less than 95% of the total weight of all ingredients of a pet food mixture, the name or names of such ingredient(s) [ingredient or ingredients] may form a part of the product name of the pet food only if the product name also includes a primary descriptive term, such as "meatballs" or "fishcakes," so that the product name describes the contents of the product in accordance with an established law, custom, or usage or so that the product name is not misleading. All such ingredient names and [the] primary descriptive terms [term] shall be in the same size, style, and color of print. For the purpose of this provision, water sufficient for processing shall be excluded when calculating the percentage of the named ingredient(s). However, such named ingredient(s) shall constitute at least 10% of the total product.

(g) (No change.)

§63.4. Expression of Guarantees.

(a) (No change.)

(b) The label of a pet food which is formulated as and represented to be a mineral additive supplement [Pursuant to §5(2)3 of the Uniform State Feed Bill, pet foods containing 6.5% or more of mineral elements] shall include in the guaranteed analysis the minimum and maximum percentages of calcium [(Ca)], the minimum percentage of phosphorus [(P)], and [if added,] the minimum and maximum percentages of salt [(NaCl)]. The minimum content of all other essential nutrient elements recognized by the National Research Council from sources declared in the ingredients statement [All other minerals, when quantitatively guaranteed,] shall be expressed as the element in units of measurement established by a recognized authority on animal nutrition such as the National Research Council.

(c) [Pursuant to §5(2)3 of the Uniform State Feed Bill,] The label of pet food which is formulated as and represented to be a vitamin supplement shall include a guarantee of the minimum content of each vitamin declared in the ingredients [ingredient] statement. Such guarantees shall be stated in units of measurements established by a recognized authority on animal nutrition, such as the National Research Council.

(d)-(e) (No change.)

§63.5. *Ingredients.*

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

(e) A reference to the quality, nature, form, or other attribute of an ingredient shall not be made unless such designation is accurate and unless the ingredient imparts a distinctive characteristic to the pet food because it possesses that attribute.

(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Feed and Fertilizer Control Service, Texas Agricultural Experiment Station, College Station, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

§63.6. *Directions for Use.*

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 College Station, Texas, on August 1, 1983.

TRD-835868 Dr. Neville P. Clarke
Director
Texas Agricultural Experiment
Station

Earliest possible date of adoption:
September 5, 1983

For further information, please call (409) 845-3511.

Chapter 65. Fertilizer

4 TAC §65.1-65.9

(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 Feed and Fertilizer Control Service, Texas Agricultural Experiment Station, College Station, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

ment Station, College Station, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Feed and Fertilizer Control Service proposes the repeal of § 65.1-65.9, concerning sampling and analysis, plant nutrients, degree of fineness of unacidulated phosphatic materials and basic slag, standards and definition of ingredients, reporting, organic and organic base fertilizer, additives in fertilizer, submission of samples for analysis by private individuals, and registration and labeling

Substantial revision of the Texas Commercial Fertilizer Control Act by House Bill 1510, 68th Legislature, 1983, has necessitated the repeal of the service's extant fertilizer regulations and the simultaneous adoption of new fertilizer regulations as part of a complete revision of the Texas Administrative Code, Title 4, Chapter 65. The revision is sought not only to account for substantive changes made to the Act, but to reorganize the chapter to correspond to the structure of the revised Act, consolidate related rules and subparts, improve the style and architecture of the chapter, foster accuracy and clarity among its provisions, and effect general editorial changes. An outline of the rules proposed for repeal and the disposition thereof is provided as follows.

Section 65.1, relating to sampling and analysis, is being repealed to allow reorganization of the chapter. The substance of §65.1 may now be found in new §65.51, relating to sampling and analytical procedures, proposed in this issue for adoption.

Section 65.2, relating to plant nutrients, is being repealed to allow reorganization of the chapter. The substance of §65.2 may now be found in new §65.22, relating to plant nutrients in addition to nitrogen, phosphorus, and potassium, proposed in this issue for adoption.

Section 65.3, relating to degree of fineness of unacidulated phosphatic materials and basic slag, is being repealed to allow editorial amendment and reorganization of the chapter. The substance of §65.3 may now be found in new §65.25, relating to degree of fineness of unacidulated phosphatic materials and basic slag.

Section 65.4, relating to standards and definition of ingredients, is being repealed to allow editorial amendment and reorganization of the chapter. The substance of §65.4 may now be found in new §65.1, relating to definitions, simultaneously proposed for adoption.

Section 65.5, relating to reporting, is being repealed to allow substantive revision and additional amendment. Most of §65.5 may now be found in new §65.42, relating to statistical and tonnage reporting and inspection fees, proposed in this issue for adoption.

Section 65.6, relating to organic and organic base fertilizer, is being repealed to allow substantive revision and reorganization of the chapter. The substance of §65.6 may now be found in new §65.26, relating to

organic and organic base nitrogen fertilizer, proposed in this issue for adoption.

Section 65.7, relating to additives in fertilizer, is being repealed to allow reorganization of the chapter. The substance of §65.7 may now be found in new §65.27, relating to additives in fertilizer.

Section 65.8, relating to submission of samples for analysis by private individuals, is being repealed without readoption.

Section 65.9, relating to registration and labeling, is being repealed to allow substantive revision and reorganization of the chapter. The substance of §65.9 may now be found in new §65.28, relating to trademarks, trade names, common names, and emphasis on a particular component

Dr. Dudley T. Smith, Texas Agricultural Experiment Station associate director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal

I. J. Shenkir, head of the Texas Feed and Fertilizer Control Service, has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal will be clearer and more understandable fertilizer regulations which are in accord with recent statutory revisions.

The anticipated economic cost to individuals as a result of the repeal as proposed will be a \$100 annual inspection fee each year from 1983-1987 for products packed in containers of five pounds or greater to be credited towards tonnage inspection fees, a \$50 annual flat-rate inspection fee each year from 1983-1987 for products packed in containers of less than five pounds, and a \$.30 per ton tonnage inspection fee each year from 1983-1987.

Comments on the proposal may be submitted to I. J. Shenkir, Head, Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77821.

The repeal is proposed under the Texas Agriculture Code, §63.004, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relative to the distribution of commercial fertilizers that the service finds necessary to carry into full effect the intent and meaning of the Texas Agriculture Code, Chapter 65, including rules that define and establish standards for commercial fertilizer.

§65.1. Sampling and Analysis.

§65.2. Plant Nutrients.

§65.3. Degree of Fineness of Unacidulated Phosphatic Materials and Basic Slag.

§65.4. Standards and Definition of Ingredients.

§65.5. Reporting.

§65.6. Organic and Organic Base Fertilizer.

§65.7. Additives in Fertilizer.

§65.8. Submission of Samples for Analysis by Private Individuals.

§65.9. Registration and Labeling.

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 College Station, Texas, on August 1, 1983.

TRD-835870

Dr. Neville P. Clark
Director
Texas Agricultural Experiment
Station

Earliest possible date of adoption:
September 5, 1983

For further information, please call (409) 845-3511.

The Texas Feed and Fertilizer Control Service proposes new §§65.1, 65.2, 65.11, 65.21, 65.29, 65.41, 65.42, and 65.51, concerning definitions, commercial fertilizer, application for registration, primary plant nutrients, plant nutrients in addition to nitrogen, phosphorus, and potassium, name and address of manufacturer required, warnings or cautionary statements required, degree of fineness of unacidulated phosphatic materials and basic slag, organic and organic base nitrogen fertilizer, additives in fertilizer, trade marks, trade names, common names, emphasis on a particular component, specialty fertilizers, assessment, statistical and tonnage reporting and inspection fees, and sampling and analytical procedures

Substantial revision of the Texas Commercial Fertilizer Control Act by House Bill 1510, 68th Legislature, 1983, has necessitated the repeal of the service's extant fertilizer regulations and the simultaneous adoption of new fertilizer regulations, as part of a complete revision of the Texas Administrative Code, Title 4, Chapter 65. The revision is sought not only to account for substantive changes made to the Act, but to reorganize the chapter to correspond to the structure of the revised Act, consolidate related rules and subparts, improve the style and structure of the chapter, foster accuracy and clarity among its provisions, and effect general editorial changes. The rules proposed in this issue for adoption will replace the current Chapter 65, which simultaneously is being proposed for repeal.

Section 65.1, relating to definitions, will add definitions for the following terms: act, container, distribute, label, person registrant, salvage, service, specialty fertilizer, and ton. The rule will further adopt by reference the terms and definitions of the Association of American Plant Food Control Officials in its official publication. The rule readopts the substance of current §65.4, relating to standards and definition of ingredients, proposed for repeal in this issue.

Section 65.2, relating to commercial fertilizer, is a new rule specifying what plant nutrient and additives are satisfactory for use in a commercial fertilizer.

Section 65.11, relating application for registration, is a new rule specifying requirements for the registration of a commercial fertilizer.

Section 65.21, relating to primary plant nutrients, is a new rule specifying how primary plant nutrients are to be guaranteed on the label of a commercial fertilizer.

Section 65.22, relating to plant nutrients in addition to nitrogen, phosphorus, and potassium, readopts the substance of the present § 65.2, relating to plant nutrients, proposed for repeal in this issue.

Section 65.23, relating to name and address of manufacturer required, is a new rule requiring the name and address of the manufacturer of a commercial fertilizer to appear on its label.

Section 65.24, relating to warnings or cautionary statements required, is a new rule specifying when warnings or cautionary statements are to be displayed on the label of a commercial fertilizer.

Section 65.25, relating to the degree of fineness of unacidulated phosphatic materials and basic slag, readopts with amendments the substance of the present § 65.3, relating to degree of fineness of unacidulated phosphatic materials and basic slag, proposed for repeal in this issue.

Section 65.26, relating to organic and organic base nitrogen fertilizer, readopts with amendments the substance of the present § 65.6, relating to organic and organic base fertilizer, proposed for repeal in this issue.

Section 65.27, relating to additives in fertilizer, readopts with amendments the present § 65.7, relating to additives in fertilizer, proposed for repeal in this issue.

Section 65.28, relating to trademarks, trade names, common names, emphasis on a particular component, is a new rule specifying how trademarks, trade names, common names, and any emphasis on a particular component of a commercial fertilizer are to be displayed on its label. The rule readopts with amendments portions of the present § 65.9, relating to registration and labeling, proposed for repeal in this issue.

Section 65.29, relating to specialty fertilizers, is a new rule authorizing certain specialty fertilizers to be labeled by volume.

Section 65.41, relating to assessment, is a new rule relating to the assessment of inspection fees.

Section 65.42, relating to statistical and tonnage reporting and inspection fees, is a new rule relating to the mechanics of reporting and remitting inspection fees.

Section 65.51, relating to sampling and analytical procedures, readopts with amendments the substance of the present § 65.1, relating to sampling and analysis, proposed for repeal in this issue.

Dr. Dudley T. Smith, Texas Agricultural Experiment Station associate director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

I. J. Shenkir, head of the Texas Feed and Fertilizer Control Service, 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 clearer and more understandable fertilizer regulations which are in accordance with recent statutory revisions. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be an annual inspection fee of \$100 each year from 1983-1987 for products packed in containers of five pounds or greater, to be credited towards tonnage inspection fees, an annual flat rate inspection fee of \$50 each year from 1983-1987, for products packed in containers of less than five pounds, and a tonnage inspection fee of \$.30 per ton each year from 1983-1987.

Comments on the proposal may be submitted to I. J. Shenkir, Head, Texas Feed and Fertilizer Control Service, P.O. Box 3160, College Station, Texas 77821.

General Provisions

4 TAC § 65.1, § 65.2

The new sections are proposed under the Texas Agriculture Code, § 63.004, as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relative to the distribution of commercial fertilizers that the service finds necessary to carry into full effect the intent and meaning of the Texas Agriculture Code, Chapter 65, including rules that define and establish standards for commercial fertilizer.

§ 65.1 Definitions. Except where otherwise provided, the terms and definitions adopted by the Association of American Plant Food Control Officials in its last-published official publication are adopted by reference as the terms and definitions to control in this title. The publication is available from the Association of American Plant Food Control Officials, 203 Governor Street, Room 304, Richmond, Virginia 23219. In addition, the following words and terms, when used in this title, shall have the following meanings, unless the context clearly indicates otherwise.

Act—Texas Fertilizer Control Act, Texas Agriculture Code, Chapter 63, 1981, as amended.

Container—A bag, box, carton, bottle, object, barrel, package, apparatus, device, appliance, or other item of any capacity into which a commercial fertilizer is packed, poured, stored, or placed for handling, transporting, or distributing.

Distribute—Sell, offer for sale, expose for sale, barter, exchange, transfer possession or title, or otherwise supply.

Label—A display of written, printed, or graphic matter on or affixed to a container or on an invoice or delivery slip.

Person—Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character.

Registrant—A person who registers a commercial fertilizer under the Act and this chapter.

Salvage—When applied to plant nutrients or additives, refers to only those products that have been damaged by natural causes, such as fire, water, hail, or windstorm, or by conveyance mishap

Service—Texas Feed and Fertilizer Control Service.

Specialty fertilizer—Fertilizer distributed primarily for nonfarm use, including use on or in home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, or nurseries. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made

Ton—A net weight of 2,000 pounds avoirdupois or 1,000 kilograms metric

§65.2. *Commercial Fertilizer.* All plant nutrients and additives, not salvage nutrients or additives, shall be satisfactory for use for or in a commercial fertilizer.

Permitting and Registration

4 TAC §65.11

The new section is proposed under the Texas Agriculture Code, §63 004, as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relative to the distribution of commercial fertilizers that the service finds necessary to carry into full effect the intent and meaning of the Texas Agriculture Code, Chapter 65, including rules that define and establish standards for commercial fertilizer

§65.11. *Application for Registration*

(a) Each brand name under which a commercial fertilizer will be marketed must be registered before the product is distributed

(b) All applications for registration of a specialty fertilizer or pesticide/fertilizer mixtures shall include the labeling information for the product required by §63 051 of the Act (relating to Labeling of Commercial Fertilizer)

(c) The service may also require the labeling information for other products as a condition of registration.

(d) The net weight shall be provided as a condition of registration for specialty products packaged and marketed in containers weighing one pound or less whose net contents are declared on the label in conformity with the United States Fair Packaging and Labeling Act, 15 United State Code §1415, *et seq.*, and regulations promulgated thereunder.

Labeling

4 TAC §§65.21-65.29

The new sections are proposed under the Texas Agriculture Code, §63.004, as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relative to the distribution of commercial fertilizers that the service finds necessary to carry into full effect the intent and meaning of the Texas Agriculture Code, Chapter 65, including rules that define and establish standards for commercial fertilizer.

§65.21. *Primary Plant Nutrients* Primary nutrients shall be guaranteed on the label of a commercial fertilizer in either of the following forms.

- (1) total nitrogen (N) _____%
- available phosphoric acid (P₂O₅) _____%
- soluble potash (K₂O) _____%
- or
- (2) total nitrogen (N) _____%
- _____ % ammoniacal nitrogen
- _____ % nitrate nitrogen
- _____ % water insoluble nitrogen
- _____ % (other recognized and determinable forms of N)
- available phosphoric acid (P₂O₅) _____%
- soluble potash (K₂O) _____%

§65.22. *Plant Nutrients in Addition to Nitrogen, Phosphorus, and Potassium*

(a) Plant nutrients in addition to nitrogen, phosphorus, and potassium, when mentioned in any form or manner on the label of a fertilizer product, shall be guaranteed

(1) Guarantees shall be expressed on an elemental basis as a percentage by weight

(2) Guarantees or claims for the additional plant nutrients listed in paragraph (4) of this subsection shall be the only guarantees acceptable to the service

(3) Any guarantees or claims for the additional plant nutrients listed in paragraph (4) of this subsection shall appear in the order listed and shall immediately follow the guarantees for the primary nutrients of nitrogen, phosphorus, and potassium

(4) Except for products distributed for foliar and hydroponic purposes, the minimum acceptable guaranteed percentage of plant nutrients, not primary plant nutrients, shall be as follows.

| Element | Percentage |
|-----------------|------------|
| Calcium (Ca) | 1.00 |
| Magnesium (Mg) | 0.50 |
| Sulphur (S) | 1.00 |
| Boron (B) | 0.02 |
| Chlorine (Cl) | 0.10 |
| Cobalt (Co) | 0.0005 |
| Copper (Cu) | 0.05 |
| Iron (Fe) | 0.10 |
| Manganese (Mn) | 0.05 |
| Molybdenum (Mo) | 0.0005 |
| Sodium (Na) | 0.10 |
| Zinc (Zn) | 0.05 |

(b) The registrant of a fertilizer shall furnish to the service upon request:

- (1) the source of the elements guaranteed;
- (2) proof of the availability and efficacy of the plant nutrients and other additives guaranteed or claimed on the label; and
- (3) the proposed label and direction for use of the fertilizer.

§65.23. *Name and Address of Manufacturer Required.*

(a) The name and principal mailing address of the manufacturer or person responsible for distribution shall be required on the label of a commercial fertilizer.

(b) The principal mailing address shall include the street address, city, state, and zip code; provided however, that the street address may be omitted if the address is listed in a current city directory or telephone directory.

(c) The label may bear the name of the distributor as well as the manufacturer, provided that the guarantor of the project is specifically stated

§65.24. Warnings or Cautionary Statements Required. A warning or cautionary statement is required on any fertilizer product containing:

(1) 0.10% or more boron in water soluble form. The statement shall include

(A) the word "Warning" or "Caution" conspicuously displayed,

(B) a statement of the crop(s) for which the fertilizer is recommended, and

(C) a statement that the use of the fertilizer on any crop(s) other than those recommended may result in serious injury to the crop(s)

(2) 0.001% or more of molybdenum. The statement shall include

(A) the word "Warning" or "Caution" conspicuously displayed, and

(B) a statement that the application of fertilizers containing molybdenum may result in forage crops containing levels of molybdenum which are toxic to ruminant animals

§65.25. Degree of Fineness of Unacidulated Phosphatic Materials and Basic Slag

(a) Any guarantee of the degree of fineness of unacidulated phosphatic materials stated on the label of a fertilizer product shall be stated in terms of the percentage of the material that will pass the United States standard sieve series Number 200 (200 mesh, dry sieve method), adopted by reference under §65.51 of this title (relating to Sampling and Analytical Procedures).

(b) Any guarantee of the degree of fineness of basic slag stated on the label of a fertilizer product shall be stated in terms of the percentage of the material that will pass the United States standard sieve series Number 100 (100 mesh, dry sieve method), adopted by reference under §65.51 of this title (relating to Sampling and Analytical Procedures).

§65.26. Organic and Organic Base Nitrogen Fertilizer.

(a) The terms "organic" and "organic base," when used on the label of commercial fertilizer, shall refer only to substances:

(1) generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition;

(2) in which the water insoluble nitrogen content is at least 60% of the total nitrogen provided by the organic material; and

(3) the water insoluble nitrogen in the product is not less than 15% of the total nitrogen.

(b) The terms "organic," "organic base," and "natural organic material" shall not be interpreted as including urea or cyanamids, but does include urea formaldehyde.

§65.27. Additives in Fertilizer. When a pesticide or any other additive, other than plant nutrients, is incor-

porated in a commercial fertilizer, the fertilizer mixture must be registered and guaranteed with respect to the kind and percentage of each of these additives as well as to claimed plant nutrient elements, all of which must be determinable by accepted laboratory methods. The labeling shall, in addition to other required information, state in a prominent manner the purpose for which the combined fertilizer and additive is recommended. It must be shown by scientific data that each additive is present in sufficient quantities to impart a distinctive characteristic to the product.

§65.28. Trademarks, Trade Names, Common Names, Emphasis on a Particular Component. The trademark, trade name, or common name of a component and/or emphasis on one or more components or ingredients may form part of the label of a commercial fertilizer provided that:

(1) such trademark, trade name, common name, or emphasis on a particular component contributes significantly in conveying to the purchaser important information respecting a distinctive characteristic of the product;

(2) the display of the trademark or trade name on the label of the product is not unduly conspicuous in relation to the display of the registrant or guarantor of the product and other required information,

(3) the common name and percentage of the component is given, and the percentage is determinable by accepted laboratory methods, and

(4) it can be shown by scientific data that the component is present in sufficient quantities to impart a distinctive characteristic to the product.

§65.29. Specialty Fertilizers. Specialty fertilizer products packaged or marketed in containers weighing one pound or less may bear a declaration of the net contents of the container made in conformity with the United States Fair Packaging and Labeling Act, 15 United States Code §1415, *et seq.*, and regulations promulgated thereunder.

Inspection Fees

4 TAC §65.41, §65.42

The new sections are proposed under the Texas Agriculture Code, §63.004, as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relative to the distribution of commercial fertilizers that the service finds necessary to carry into full effect the intent and meaning of the Texas Agriculture Code, Chapter 65, including rules that define and establish standards for commercial fertilizer

§65.41. Assessment.

(a) Any change regarding inspection fees may be assessed preceding any quarter of the year.

(b) If the inspection fee is reduced or increased, the registrants and other affected persons will be notified 30 days prior to the effective date of the change.

(c) The flat rate inspection fee, provided for in §63.071(c) of the Act (relating to Inspection Fee), shall apply to those registered products packaged only in containers of five pounds or less. It shall not apply to prod-

ucts distributed both in containers of five pounds or less and larger container sizes

§65.42 Statistical and Tonnage Reporting and Inspection Fees

(a) The sales of commercial fertilizers designed for general purpose on the farm use shall be reported as follows.

(1) The last person who distributes the fertilizer to a dealer or consumer who is not a registrant shall submit all quarterly tonnage reports and remit all tonnage inspection fees required by §63.072 of the Act (relating to Quarterly Tonnage Report and Inspection Fee)

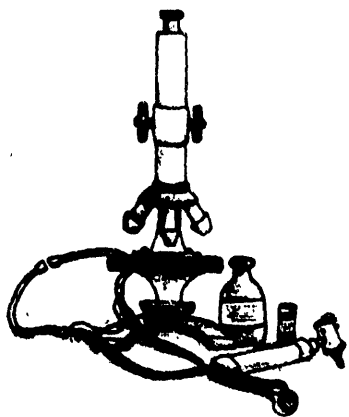
(2) Such person shall further submit a quarterly statistical tonnage report which shall list the total fertilizer tonnage distributed in the state during the preceding quarter by county, grade, and type (e.g., bulk, liquid, or packaged). The quarterly statistical tonnage report shall be submitted on forms prescribed by the service or on forms containing commensurate information organized in a manner convenient and useful to the service.

(b) The sales of commercial fertilizers designed for nongeneral, agricultural uses such as use in home gardens, on flowers, shrubs, potted plants, etc., shall be reported as follows

(1) The person in whose name the fertilizer is registered shall submit all reports and pay all fees required by the Act and this chapter.

(2) The total fertilizer tonnage distributed in this state during the preceding quarter shall be reported without regard to county, grade, or type on forms prescribed by the service.

(c) The reporting of tonnage is not required for products distributed solely in packages of five pounds or less on which a flat rate inspection fee has been paid.



Inspection, Sampling, and Analysis

4 TAC §65.51

The new section is proposed under the Texas Agriculture Code, §63.004, as amended, which provides the Texas Feed and Fertilizer Control Service with the authority to adopt rules relative to the distribution of commercial fertilizers that the service finds necessary to carry into full effect the intent and mean-

ing of the Texas Agriculture Code, Chapter 65, including rules that define and establish standards for commercial fertilizer

§65.51 Sampling and Analytical Procedures The service hereby adopts by reference the official methods of analysis of the Association of Official Analytical Chemists as the sampling and analytical procedures to be applied in the administration of the Act and this title. The methods of analysis are available from the Association of Official Analytical Chemists, 111 North 19th Street, Arlington, Virginia 22209

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 College Station, Texas, on August 1, 1983.

IRD 835869 Dr. Neville P. Clark
Director
Texas Agricultural Experiment
Station

Earliest possible date of adoption
September 5, 1983

For further information please call (409) 845-3511.

**TITLE 16. ECONOMIC
REGULATION
Part I. Railroad Commission of
Texas
Chapter 3. Oil and Gas Division
Conservation Rules and Regulations
16 TAC §3.73**

The Railroad Commission of Texas proposes new §3.73, concerning inscriptions on Railroad Commission vehicles. The proposed rule implements Senate Bill 288, enacted during the last legislative session, which adds Railroad Commission of Texas vehicles to the list of state-owned vehicles exempt from the requirement of Texas Civil Statutes, Article 6701M-1, that all state vehicles be conspicuously marked.

Patrick Thompson, Oil and Gas Division legal examiner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Thompson also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be increased effectiveness of Railroad Commission of Texas investigative and inspection personnel, due to the fact that they will be able to perform their function with less likelihood of detection. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Patrick Thompson, Legal Section, Oil and Gas Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

The new section is proposed under Texas Civil Statutes, Article 6701M-1, which provide the Railroad Commission of Texas with the authority to adopt a rule exempting its vehicles from the general requirement that state-owned vehicles be marked.

§3.73. Inscriptions on Railroad Commission of Texas Vehicles. Vehicles assigned to and used by district office field personnel are exempt from bearing the inscription required in Texas Civil Statutes, Article 6701m-1. These vehicles are used in regulatory and administrative activity, including inspections and investigations which require that the Railroad Commission of Texas personnel be able to accomplish their tasks undetected.

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 July 25, 1983

TRD-835801 Susan Cory
General Counsel
Oil and Gas Division
Railroad Commission of Texas

Earliest possible date of adoption:
September 5, 1983

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

Chapter 5. Transportation Division Subchapter M. Motor Bus Companies 16 TAC §5.233

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

The Railroad Commission of Texas proposes an amendment to §5.233, concerning charter operations of motor bus companies, without comment on the merits of the proposed amendment.

The proposed amendment would delete certain current provisions of §5.233 and would authorize motor bus companies to originate trips at points other than those on the carrier's regular route by express grant upon application to the commission. This amendment is being simultaneously adopted on an emergency basis.

Holly Noelke, Transportation Division hearings examiner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Noelke also has determined that for each year of the first five years the rule as proposed is in effect the

public benefit anticipated as a result of enforcing the rule as proposed will be an increased ability, on the part of intrastate regular-route bus carriers, to provide viable regular-route passenger service. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 911a, §4, which provide the Railroad Commission of Texas with the authority to adopt reasonable regulations for the governance of motor bus companies.

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 July 25, 1983.

TRD-835715 Walter Wendlandt
Acting Director
Transportation Division
Railroad Commission of Texas

Earliest possible date of adoption:
September 5, 1983

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

16 TAC §5.246

The Railroad Commission of Texas proposes new §5.246, concerning licensing, ratemaking, and other requirements for motor bus companies.

The rule would implement the recently enacted House Bill 593, relating to the powers and duties of the Railroad Commission of Texas.

The Railroad Commission has scheduled a public hearing on the proposed rule for August 16, 1983. The hearing will be at 9 a.m. in Room 107, Railroad Commission Building, 1124 IH 35 South, Austin.

Holly Noelke, Transportation Division hearings examiner, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Noelke also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be implementation of House Bill 593. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Walter Wendlandt, Acting Director, Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711. Comments will be ac-

cepted for 30 days after publication in the *Texas Register*.

The new rule is proposed under Texas Civil Statutes, Article 911a, §4, which provide the Railroad Commission of Texas with the authority to prescribe reasonable regulations for the governance of motor bus companies.

§5.246. *Motor Bus Certificates, Rates, and Regulations.*

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

(1) **Motor bus company**—Every corporation or persons, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any motor-propelled passenger vehicle not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise. However, the term "motor bus company" as used in this subchapter shall not include:

(A) corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor-propelled passenger vehicles operated wholly within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise;

(B) corporations or persons to the extent that they own, control, operate, or manage vehicles used for van-pooling or any other nonprofit ride-sharing arrangement by which a group of people share the expense of operating, or owning and operating, a vehicle in which they commute to and from work, with one member of the group serving as driver in exchange for transportation to and from work and reasonable personal use of the vehicle; or

(C) corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor-propelled taxicabs designed for carrying no more than five passengers; except that this exclusion shall not apply to:

(i) permits, licenses, or certificates issued prior to June 1, 1983; or

(ii) taxicabs operating to or from a joint municipal airport, established pursuant to Texas Civil Statutes, Article 46d-14.

(2) **Taxicab**—Any vehicle designed and used exclusively for the transportation of passengers and their baggage:

(A) in call-and-demand, irregular route, unscheduled service;

(B) where the points of pick-up and drop-off are designated by the passenger(s) and are not facilities owned, controlled, operated, or managed by the carrier, its employees, or agents;

(C) where route to be taken may be directed by the passenger(s) being transported;

(D) in curbside service;

(E) where the service was not pre-arranged more than 24 hours in advance of pick-up; and,

(F) where the fee for service is determined, on a time or mileage basis, by use of a meter.

(b) **Licensing, ratemaking, and other requirements for carriers of passengers (motor bus companies and taxicabs).**

(1) **Motor bus companies.** Motor bus companies may provide intrastate service in Texas only:

(A) to the extent authorized in a certificate issued by the commission or by the Interstate Commerce Commission pursuant to 49 United States Code §10922;

(B) at rates prescribed by the commission or otherwise made lawful under 49 United States Code §11501(e); and

(C) in compliance with safety, insurance, and other regulations adopted by the commission or prescribed by the Interstate Commerce Commission under 49 United States Code §11501(e).

(2) **Taxicabs.**

(A) Generally. Service in taxicabs designed to carry not more than five passengers shall not be subject to the licensing, ratemaking, or other jurisdiction of the commission, except as set forth in subparagraphs (B) and (C) of this paragraph.

(B) Grandfathered certificates. Taxicab service within the scope of any certificate issued prior to June 1, 1983, and which has not been surrendered or canceled by the commission, shall be subject to the licensing, ratemaking, and other jurisdiction of the commission when this service is provided by the holder of such certificate.

(C) Taxicab service at joint municipal airports. Taxicab service to or from a joint municipal airport established pursuant to Texas Civil Statutes, Article 46d-14, shall be subject to the licensing, ratemaking, and other jurisdiction of the commission, as well as to the licensing jurisdiction of the joint municipal airport board by which the airport is governed.

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 July 25, 1983.

TRD-835682 Walter Wendlandt
Acting Director
Transportation Division
Railroad Commission of Texas

Earliest possible date of adoption:

September 5, 1983

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

16 TAC §5.247

The Railroad Commission of Texas proposes new §5.247, concerning charter operations by regular route bus companies. These rules are proposed pursuant to a petition filed by Kerrville Bus Company, Inc., and Painter Bus Lines.

This new section would allow the holder of a charter bus certificate to originate charter or special party trips at any point in the State of Texas.

Holly Noelke, Transportation Division hearings examiner, has determined that for the first five-year period

the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule

Ms. Noelke also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be an increased ability on the part of intrastate regular route bus carriers to provide viable regular route passenger service. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

This new section is proposed under Texas Civil Statutes, Article 911a, §4, which provide the Railroad Commission of Texas with the authority to adopt reasonable regulations for the governance of motor bus companies.

§5.247. Charter Operation by Regular Route Bus Companies.

(a) "Charter or special party" means a group of persons who, pursuant to a common purpose and under a single contract, have acquired exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination or on a particular itinerary, either agreed in advance or subject to modification; provided, however, that said term shall not include students 19 years of age or younger, who, in the course of secondary or elementary school activities, under the direction of public, private, or parochial school authorities, acquire the exclusive use of a passenger-carrying vehicle registered to a bus company with insurance on file with the commission, and travel together as a group.

(b) Authority to transport charter or special parties may be obtained by motor bus companies holding and operating under certificates by the same procedure which is applicable to the obtaining of a certificate under the rules.

(c) The rates, fares, and charges for the transportation of charter or special parties shall be fixed by the commission under the applicable tariffs prescribing the method of determining mileage on which charges are to be based.

(d) No order of the commission granting authority to transport charter or special parties or promulgating rates, fares, or charges applicable thereto shall be construed to affect or amend any certificate which is theretofore or thereafter issued to a motor bus company.

(e) Motor bus companies which are transporting passengers over specified routes and in scheduled operations pursuant to motor bus certificates issued by the commission and which have been issued charter and special party certificates are authorized to originate charter or special party trips at any point in the State of Texas. The

destination of charter and special parties may be any point within the State of 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 July 25, 1983

TRD 835716 Walter Wendlandt
Acting Director
Transportation Division
Railroad Commission of Texas

Earliest possible date of adoption
September 5, 1983

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

**Subchapter U. General and Special Rules
of Practice and Procedure**

16 TAC §5.430

The Railroad Commission of Texas proposes an amendment to §5.430, concerning the order of procedure in contested proceedings.

The amendment will implement the recently enacted House Bill 593, relating to the powers and duties of the Railroad Commission of Texas.

Rory K. McGinty, Transportation Division assistant director, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. McGinty also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be implementation of House Bill 593. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

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

The amendment is proposed under Texas Civil Statutes, Article 911b, §4, which provide the Railroad Commission of Texas with the authority to prescribe reasonable regulations for the governance of motor carriers.

§5.430. Order of Procedure.

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

(c) **Order of procedure in motor carrier authority cases.**

(1) **Preliminary matters. Preliminary motions, regarding notice, standing, or other matters, shall be made prior to beginning of applicant's case, or at any time thereafter at the discretion of the presiding examiner.**

(2) **Applicant's case.** Applicant shall have the burden of making a *prima facie* showing that a need exists for the service it proposes and that a grant of the application would promote the public convenience and necessity; otherwise, protestants shall have no burden with regard to the adequacy of their services.

(3) **Protestant's case.** If applicant makes its *prima facie* showing, the burden of proof shifts to protestants to show that a need for the proposed service does not exist, that a grant of the application would not promote the public convenience and necessity, or that the services of protesting carriers are reasonably adequate.

(4) **Rebuttal.** Applicant shall be entitled to an opportunity to rebut evidence and argument presented by protestants on the adequacy of protestants' services. Additional rebuttal time may be afforded the parties at the examiner's discretion, provided that applicant shall be entitled to make the closing presentation on the adequacy of protestants' services.

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 July 25, 1983

TRD-835717 Walter Wendlandt
Acting Director
Transportation Division
Railroad Commission of Texas

Earliest possible date of adoption:
September 5, 1983

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

TITLE 22. EXAMINING BOARDS Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act General Provisions Relating to the Requirement of Licensure

22 TAC §535.3

The Texas Real Estate Commission proposes an amendment to §535.3, relating to the acceptance of compensation by a real estate salesman.

Texas Civil Statutes, Article 6573a, §1(d), prohibit a real estate salesman from accepting compensation for real estate sales and transactions from any person other than the person under whom he is licensed at the time.

The amendment is proposed to bring the agency's rules into conformity with a provision of Senate Bill 636, effective August 29, 1983, which will permit a salesman to accept compensation from the broker under whom the salesman was licensed when he earned the right to compensation.

Mark A. Moseley, legal counsel, has determined that for the first five year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Moseley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the elimination of confusion or misunderstanding as to the persons from whom real estate salesmen may accept compensation. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Mark A. Moseley, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711

The amendment is proposed under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§535.3. *Compensation Accepted by Salesman.* A salesman is not permitted to receive compensation for his acts as a licensed real estate salesman, except through his sponsoring broker or through the broker under whom he was licensed when he earned the right to compensation, although the broker need not actually receive the money and pay it to the salesman. Payments not made by or through the broker must be made with the broker's knowledge and consent.

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 July 27, 1983.

TRD-835755 Mark A. Moseley
Legal Counsel
Texas Real Estate Commission

Earliest possible date of adoption:
September 5, 1983

For further information, please call (512) 459-3342.

Education, Experience, Educational Programs, Time Periods, and Type of Licenses

22 TAC §535.63

The Texas Real Estate Commission proposes amendments to §535.63, relating to the educational requirements for applicants for real estate broker licensure.

Under current requirements, an applicant for broker licensure must, in addition to other requirements, satisfy a requirement of 48 semester hours of approved courses, nine semester hours of which must be in courses reflecting a course title or description in real

estate disciplines. After January 1, 1985, the number of required semester hours increases to 60, 12 semester hours of which must be in real estate disciplines.

The amendments are proposed to bring existing rules into harmony with Senate Bill 718, effective August 29, 1983, which will require broker applicants to satisfy any annual education requirements that would have been imposed as a condition of maintaining salesman licensure privileges. A salesman licensed subject to pending annual education requirements will have to satisfy those requirements to apply for a broker license.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Moseley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the elimination of conflict between the agency's rules and statutory application requirements. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Mark A. Moseley, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§535.63. Broker: Education and Experience.

(a)-(u) (No change.)

(v) With respect to the education requirement of 48 semester hours in effect from January 1, 1983, through December 31, 1984, the commission will require not less than nine semester hours (135 classroom hours) in courses reflecting a course title or course description in the real estate disciplines, including, but not limited to, the statutory subject areas identified in §7(a) and §7(k) of the Act. The commission will publish periodically guidelines as to the acceptability of related courses; **provided, however, that an applicant for broker licensure who was licensed as a salesman subject to the annual education requirements set forth in this act must provide the commission satisfactory evidence of having completed the 12 semester (180 classroom) hours of core real estate courses that would have been required for the applicant's third annual certification of salesman licensure privileges.**

(w) With respect to the education requirement of 60 semester hours in effect on and after January 1, 1985, the commission shall require not less than 12 semester hours (180 classroom hours) in courses reflecting course titles or course descriptions in the real estate disciplines including, but not limited to, the statutory subject areas identified in §7(a) and §7(k) of the Act. The commission will publish periodically guidelines as to the acceptability of related courses; **provided, however, that an appli-**

cant for broker licensure who was licensed as a salesman subject to the annual education requirements set forth in this act must provide the commission satisfactory evidence of having completed 12 semester (180 classroom) hours of core real estate courses that would have been required for the applicant's third annual certification of salesman licensure privileges

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 July 27, 1983.

TRD-835756 Mark A. Moseley
Legal Counsel
Texas Real Estate Commission

Earliest possible date of adoption:
September 5, 1983

For further information, please call (512) 459-3342.

22 TAC §535.64

The Texas Real Estate Commission proposes an amendment to §535.64, relating to the annual educational requirements imposed upon salesmen as a condition of certifying licensure privileges.

Texas Civil Statutes, Article 6573a, §7(d), requires salesmen to provide the commission with proof of the completion of a specific number of approved courses to certify licensure privileges on an annual basis. The existing rule interprets the second annual certification as being the first renewal of licensure privileges following original issuance of the license.

The amendment is proposed to bring the existing rule into harmony with the provisions of Senate Bill 718, effective August 29, 1983. Because the statutory change makes it clear that a salesman must provide the required coursework to certify licensure privileges for the first three years following original licensure, portions of the rule will be unnecessary.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Moseley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the elimination of conflict between agency rules and statutory requirements for certification of licensure privileges. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Mark A. Moseley, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and

regulations necessary for the performance of its duties.

§535.64. Salesman: Education.

(a) (No change.)

(b) Persons with applications for salesman licensure pending on April 23, 1981, are not subject to the annual education requirements of §7(d) of the Act in order to thereafter certify licensure status. [For the purposes of this section, "second annual certification" means the first renewal of licensure status following original issuance of the license. Provided, however, salesmen subject to annual education requirements whose licenses expire December 31, 1981, shall as a condition of maintaining licensure furnish documentation to the commission of successful completion of the first increment of required courses no later than the 15th day of the month preceding the month their licenses expire in 1982.]

(c)-(i) (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 July 27, 1983.

TRD-835757 Mark A. Moseley
 Legal Counsel
 Texas Real Estate Commission

Earliest possible date of adoption:
September 5, 1983

For further information, please call (512) 459-3342.

Suspension and Revocation of Licensure

22 TAC §535.141

The Texas Real Estate Commission proposes amendments to §535.141, relating to the initiation of investigations by the commission.

The proposed amendments are necessary to remove provisions of the agency's rule which exceed the agency's statutory authority to initiate investigations set forth in Texas Civil Statutes, Article 6573a, §15B. The amendments reflect the agency's practice since April 28, 1981, of initiating investigations only upon receipt of written verified complaints or on the adoption of a motion by the commission members.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Moseley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be clarification of the agency's authority to initiate investigations. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Mark A. Moseley, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§535.141. Initiation of Investigation.

(a) If the Texas Real Estate Commission receives a **verified** complaint [in the form of a letter or an affidavit], and such complaint on its face alleges a possible violation of the Real Estate License Act, the Texas Real Estate Commission shall investigate the complaint.

(b) [If the Texas Real Estate Commission receives a carbon copy of a complaint that is addressed to another person or agency, but no communication is directly addressed to the commission, the commission shall have discretion as to whether or not to investigate the complaint.

[(c) If a complaint addressed to the commission is anonymous, the commission shall have discretion as to whether or not to investigate the complaint.

[(d)] The commission, on its own motion, with reasonable cause, may initiate an investigation of the actions and records of a real estate broker or real estate salesman.

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 July 27, 1983.

TRD-835758 Mark A. Moseley
 Legal Counsel
 Texas Real Estate Commission

Earliest possible date of adoption:
September 5, 1983

For further information, please call (512) 459-3342.

22 TAC §535.144

The Texas Real Estate Commission proposes an amendment to §535.144, relating to a licensee selling, buying, trading, or renting property in his own name. The amendment will incorporate a change in Texas Civil Statutes, Article 6573a, §15(3), effective August 29, 1983, which will authorize the agency to suspend or revoke a real estate license for misrepresentation or dishonest or fraudulent action by a licensee buying property in his own name. The amendment clarifies the title to §535.144 for accuracy.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Moseley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be clarification of the jurisdiction of the agency. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Mark A. Moseley, legal counsel, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule

Mr. Moseley also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be clarification of the obligation of real estate licensees to use approved contract forms. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Mark A. Moseley, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

§537.11. Use of Standard Contract Forms.

(a) [In any real estate transaction for which a standard contract form has been promulgated by the Texas Real Estate Commission, a Texas real estate licensee must use the standard contract form, except when the services of a lawyer are used to prepare the instrument for a particular sale.] Standard Contract Form TREC No. 1-1 is promulgated for use in the sale of residential real property where there is an assumption of an existing loan. Standard Contract Form TREC No. 2-1 is promulgated for use as an addendum only to another promulgated standard contract form. Standard Contract Form TREC No. 3-0 is promulgated for use in the resale of residential real property where there is a Veterans' Administration guaranteed loan. Standard Contract Form TREC No. 4-0 is promulgated for use in the resale of residential real property where there is a conventional loan. Standard Contract Form TREC No. 5-0 is promulgated for use in the resale of residential property where there is a Federal Housing Administration insured loan. Standard Contract Form TREC No. 6-0 is promulgated for use in the resale of residential real property where there is all cash or owner financing. Standard Contract Form TREC No. 9-0 is promulgated for use in the sale of unimproved property where intended use is for one- to four-family residences. Standard Contract Form TREC No. 10-0 is promulgated for use as an addendum concerning sale of other property by a buyer to be attached to promulgated forms of contracts. Standard Contract Form TREC No. 11-0 is promulgated for use as an addendum to be attached to promulgated forms of contracts which are second or "back-up" contracts. Standard Contract Form TREC No. 12-0 is promulgated for use as an addendum to be attached to promulgated forms of contracts where there is a Veterans' Administration release of liability or restoration of entitlement. Standard Contract Form TREC No. 13-0 is promulgated for use as an addendum

concerning new home insulation to be attached to promulgated forms of contracts. Standard Contract Form TREC No. 14-0 is promulgated for use as an addendum concerning financing conditions to be attached to promulgated contracts where there is a conventional loan. Standard Contract Form TREC No. 15-0 is promulgated for use as a residential lease when a seller temporarily occupies property after the closing. Standard Contract Form TREC No. 16-0 is promulgated for use as a residential lease when a buyer temporarily occupies property prior to closing. Real estate licensees may supply themselves with the forms for their use in any way they desire. Copies may be purchased from the commission. For those who desire to reproduce a form in volume, "slick proofs" may be purchased from the commission. All "slick proofs" will be separately numbered for the purpose of control of reproduction. The control number on each proof must appear on all forms reproduced. When reproducing a form, additions or changes are prohibited, except that brokers, organizations, or printing services may add their name and/or logo at the top of the form itself. Also, the real estate broker's name may be inserted on the front page of the form in the blank space provided after the words "broker's fee" and the broker's license number may be printed in the signature section on the back page.

(b) **When negotiating contracts binding the sale, exchange, option, lease, or rental of any interest in real property, a real estate licensee shall use only those contract forms promulgated by the Texas Real Estate Commission for that kind of transaction with the following exceptions [Notwithstanding any other provision of these rules, a licensee may use a form not promulgated by the Texas Real Estate Commission in the following transactions]:**

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

(3) **transactions for which a contract form has been prepared by the property owner or prepared by an attorney and required by the property owner.**

(4) **transactions for which no standard contract form has been promulgated by the Texas Real Estate Commission, and the licensee uses a form prepared by an attorney at law licensed by this state and approved by the attorney for the particular kind of transactions involved.**

(c)-(g) (No change.)

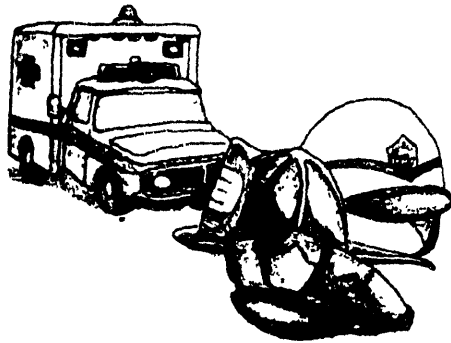
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

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

TRD-835761 Mark A. Moseley
Legal Counsel
Texas Real Estate Commission

Earliest possible date of adoption:
September 5, 1983

For further information, please call (512) 459-3342.



TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 73. Laboratories
Approved Laboratories Performing
Premarital and Prenatal Syphilis
Serology

25 TAC §73.1-73.6

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Health proposes the repeal of §§73.1-73.6, concerning approved laboratories performing premarital and prenatal syphilis serology. The content of the rules will be incorporated, with modifications, into a proposed new set of rules, § 97.131-97.136.

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

Mr. Seale has also determined that for each year of the first five years the repeals as proposed are in effect the public benefit anticipated as a result of the repeals as proposed will be the implementation of Senate Bill 258, 68th Legislature, 1983. Senate Bill 258 repeals Texas Civil Statutes, Article 4445c, effective August 29, 1983. Since Article 4445c is the statutory authority for §§73.1-73.6, the department needs to repeal §§73.1-73.6. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to C. E. Alexander, M.D., Dr.P.H., Chief, Bureau of Communicable Disease Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7455. Comments will be accepted for 30 days following publication of this repeal in the *Texas Register*.

The repeals are proposed under Texas Civil Statutes, Article 4445d, §4.02 and §4.05, which authorize the

Texas Board of Health to adopt rules covering approved laboratories performing premarital and prenatal syphilis serology, and Article 4414(b), §1.05(4), which authorizes the board to adopt rules covering the department's public health programs.

- §73.1. Introduction.
- §73.2. Application.
- §73.3. Approval.
- §73.4. Disapproval.
- §73.5. Changes.
- §73.6. Forms.

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 July 26, 1983.

TRD-835692

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

Proposed date of adoption:
September 30, 1983

For further information, please call (512) 458-7455.

Chapter 97. Communicable Diseases
Control of Communicable Diseases

25 TAC §§97.1-97.9

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Health proposes the repeal of existing §§97.1-97.9 and adoption of new §§97.1-97.9, concerning communicable diseases. The rules cover the prevention, reporting, and control of communicable diseases.

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 to 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 the provision of measures to control the spread of communicable diseases. As a result, the incidence of communicable diseases should be reduced and the public health improved. 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 Everett Hardgrove, Bureau of Epidemiology, Texas Department of Health, 1100 West 49th Street, Aus-

tin, Texas 78756, (512) 458-7207. Comments will be accepted for 30 days after publication of these rules in the *Texas Register*. In addition, a public hearing on the proposed rules will be held at 9 a.m., Monday, August 15, 1983, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The repeals are proposed under authority of Senate Bill 1064, 68th Legislature, §2.02, 1983, which authorizes the Texas Board of Health to implement the new Communicable Disease and Prevention Control Act, and Texas Civil Statutes, Article 4414(b), §1.05(4), which authorize the board to adopt rules covering the department's public health programs.

- §97.1. *Definitions.*
- §97.2. *Diseases Requiring Exclusion from School.*
- §97.3. *Hospitals to Report Communicable Diseases.*
- §97.4. *Physicians to Report Diseases.*
- §97.5. *Prevention of the Spread of Disease from a Case.*
- §97.6. *Quarantine of Diseases, Persons, and of Contacts within Specific Premises*
- §97.7. *General Control Measures for Reportable Diseases*
- §97.8. *Specific Control Measures for Certain Reportable Diseases.*
- §97.9. *Confidential Nature of Case Reporting.*

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 July 26, 1983.

TRD-835695 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
September 30, 1983

For further information, please call (512) 458-7207.

The new sections are proposed under Senate Bill 1064, 68th Legislature, §2.02, 1983, which authorizes the Texas Board of Health to adopt rules to implement the new Communicable Disease and Prevention Control Act, and Texas Civil Statutes, Article 414(b), §1.05(4), which authorize the board to adopt rules covering the department's public health program.

§97.1. *Definitions.* The following words and terms, when used in these sections, shall have the following meanings unless the context clearly indicates otherwise:

Carrier—An infected person or animal that harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source or reservoir of infection for man.

Case—As distinct from a carrier, the term "case" is used to mean a person in whose tissues the etiological agent of a communicable disease is lodged and which usually produces signs or symptoms of disease. Evidence of the presence of a communicable disease may be also revealed by routine laboratory findings.

Communicable disease—An illness due to an infectious agent or its toxic products which is transmitted

directly to a well person from an infected person or animal, or indirectly through an intermediate plant or animal host, vector, or the inanimate environment.

Contact—A person or animal that has been in such association with an infected person or a contaminated environment so as to have had opportunity to acquire the infection.

Disinfection—Destruction of pathogenic agents outside the body by chemical or physical means directly applied.

Epidemic or outbreak—The occurrence in a community or region of a group of illnesses of similar nature, clearly in excess of normal expectancy, and derived from a common or a propagated source.

Isolation—The voluntary separation for the period of communicability of infected persons or animals from others, in such places and under such conditions as to prevent the direct or indirect transmission of the infectious agent from one individual to another.

Local health authority—The city or county health officer, the director of an organized health department or a local board of health, or the director of a Texas public health region or the director of a public health district, within their respective jurisdictions.

Outbreak—See Epidemic.

Quarantine—The officially imposed application of measures to prevent contact between infected individuals, animals, objects, or places and individuals, animals, objects, or places not known or suspected of being or having been infected.

Report of a disease—The notification to the appropriate authority of the occurrence of a specific communicable or other disease in man or animals, including all information required by the procedures established by the Board of Health.

Reportable disease—Any disease or condition for which an official report is required. (See §97.4 of this title (relating to List of Reportable Diseases).) Any unusual outbreak of illness which may be of public concern, whether or not the disease involved is listed in §97.4, shall be considered a "reportable disease."

School administrator—The city or county superintendent of schools or the principal of any school not under the jurisdiction of a city or county board of education.

§97.2. *Reporting Requirements.*

(a) It is the duty of every physician, dentist, and veterinarian holding a license to practice in the State of Texas to report to the local health authority, immediately after his or her first professional visit, each patient or animal he or she shall examine and who has or is suspected of having any reportable disease and to report any recognized outbreak of illness of any kind whether or not the disease is known to be communicable or reportable. A staff member may be authorized to transmit reports.

(b) The local school authorities shall report to the local health authority those children attending school who are suspected of having a reportable disease. Procedures for determining which children shall be excluded from school are described in §97.5 of this title (relating to Disease Requiring Exclusion from Child-Care Centers and Schools).

(c) When a case of a reportable disease has for any reason not been reported, as required in subsections (a) and (b) of this section, it is the duty of every professional registered nurse; every director of a medical laboratory; every administrator or director of a public or private temporary or permanent child care facility or day-care center; every administrator or director of a nursing home, personal care home, maternity home, adult respite care center, or adult day care center; every administrator of a home health agency; every military installation, military or other federally-operated hospital, clinic, jail or detention center, every superintendent, principal, teacher, school health official, or counselor of a public or private school; every administrator or health official of a public or private institution of higher learning; every owner or manager of a restaurant, dairy, or other food-handling or foodprocessing establishment or food outlet; every superintendent, manager, or health official of a public or private camp, home, or institution; every parent, guardian, or householder, every professional health worker; every chief executive officer of a hospital; or other person having knowledge of any person affected with any disease apparently or presumably communicable to notify at once the local health authority or the Texas Department of Health and to provide all information known to them concerning the illness and physical condition of such person or persons.

(d) The local health authority shall collect the reports and transmit the information at weekly intervals to the Texas Department of Health in a manner prescribed by the commissioner of health.

(e) When a case or outbreak of communicable disease is reported to a local health authority, and the person or persons diagnosed as having the disease reside outside his area of local health jurisdiction, the local health authority receiving the report shall notify the appropriate local health authority where the person or persons reside. He shall also notify the local health authority of any other area where, in his opinion, transmission of the disease may have occurred. The Texas Department of Health shall assist the local health authority in providing such notifications if requested. The local health authority of the area where the case or outbreak is diagnosed shall report the case or outbreak to the Texas Department of Health on the same basis as other reports.

§97.3. Hospitals to Report Communicable Diseases.

(a) The chief administrative officer of each civilian hospital, dispensary, or clinic in the state shall be responsible for reporting to the local health authority cases or suspect cases of communicable diseases admitted to the facility. He may appoint an individual from the full-time staff to serve as the reporting officer. The chief administrative officer of each United States military and other federally operated hospital and clinic is requested to do likewise.

(b) Hospital and clinic reports shall be made to the local health authority at weekly intervals.

(c) Reporting officers shall telephone immediately reports of certain cases or suspect cases, as delineated on the official list of reportable diseases. (See §97.4 of this title (relating to List of Reportable Diseases).)

(d) Reports of communicable diseases shall be based on all patients having presumptive or confirmed

diagnosis of a disease as described in §97.4 of this title (relating to List of Reportable Diseases) who, during the reported week

- (1) were newly admitted to a facility;
- (2) were admitted to an isolation unit;
- (3) were discharged, disease not previously reported;
- (4) died, disease not previously reported; or
- (5) were evaluated in an out-patient unit or emergency room.

(e) Official reports of preliminary nature that do not require immediate investigation shall be held by the local health authority until a final diagnosis has been made.

(f) Reporting of a case of communicable disease by a hospital shall be in addition to, and not as a substitute for, the reporting required of the attending physician or other persons having knowledge of the case.

§97.4. List of Reportable Diseases

(a) Diseases to be reported immediately by telephone to the Texas Department of Health under the reporting requirement of subsection (a) of §97.2 of this title (relating to Reporting Requirements) are: botulism; cholera; diphtheria, plague; poliomyelitis, paralytic; smallpox; and yellow fever.

(b) Diseases reportable by name, address, age, sex, race/ethnicity, and date of onset are: acquired immune deficiency syndrome; amebiasis; anthrax; aseptic meningitis; botulism; brucellosis; cholera; diphtheria; encephalitis (specify etiology); Hansen's disease (leprosy); hepatitis, viral - type A, type B, type non-A/non-B, unspecified; leptospirosis, malaria; measles; meningococcal infections; mumps; pertussis; plague, poliomyelitis, paralytic; psittacosis; Q fever; rabies in man; relapsing fever; Reye syndrome; rheumatic fever, acute; Rocky Mountain spotted fever; rubella; rubella congenital syndrome; salmonellosis; shigellosis; smallpox; tetanus; trichinosis; tularemia; typhoid fever, typhus fever—endemic (murine), epidemic, yellow fever.

(c) Diseases reportable by numerical totals are: chickenpox, influenza and flu-like illness, Streptococcal sore throat (including scarlet fever).

(d) In addition to individual case reports, any unusual outbreak of disease which could be of public health concern should be reported to the local health authority or the state epidemiologist by the most expeditious means.

§97.5. Diseases Requiring Exclusion from Child-Care Centers and Schools.

(a) It shall be the duty of the owner or operator of a child-care center, or the school administrator, to exclude from attendance any child suffering from a reportable disease until one of the criteria listed in subsection (c) of this section is fulfilled.

(b) In addition to reportable diseases, the operator of a child-care center or the school administrator may exclude children suffering from scabies, impetigo contagiosa, ringworm of the scalp, influenza, common cold, infectious forms of conjunctivitis, and pediculosis.

(c) All children excluded for reason of communicable disease may be readmitted by one of the

following methods, as determined by the local health authority

- (1) a certificate of the attending physician attesting to their recovery or noninfectiousness
- (2) a permit for readmission issued by a local health authority
- (3) after a period of time corresponding to the duration of the communicability of the disease, as established by the commissioner of health

§97.6. Prevention of the Spread of Disease from a Case

(a) It shall be the duty of the local health authority upon identification of a case or upon receipt of notification or report of such diseases to take such action and measures as may be necessary to conform with the control measure standards adopted by the board throughout these rules. The board or the commissioner is authorized to amend, revise, or revoke any control measure or action taken by the local health authority if necessary or desirable in the administration of a regional or statewide public health program or policy.

(b) It shall be the duty of the local health authority upon identification of a case or upon report of a communicable disease in a child attending a public or private child-care center or a school to notify the owner or operator of the child-care center or the school administrator. The local health authority shall prohibit the attendance of any person from the infected household at any public or private child-care center or school when and for such a period of time as in his opinion there is danger of such persons transmitting infection.

(c) The local health authority is empowered to close any public or private child-care center, school, or other place of public or private assembly when in his or her opinion such closing is necessary to protect the public health; and such school or other place of public or private assembly shall not reopen until permitted by the health authority who caused its closure.

§97.7. General Control Measures for Reportable Diseases. Except for diseases for which equivalent measures of investigation and control are specifically provided in other sections of these regulations, it shall be the duty of the local health authority or his duly authorized representative to proceed as follows:

- (1) Investigation shall be made, as the circumstances may require, for verifying the diagnosis, ascertaining the source of the causative agent, disclosing unreported cases, and finding contacts.
- (2) Laboratory specimens of the body tissues, fluids, or discharges and of materials directly or indirectly associated with the case, as may be necessary or desirable in confirmation of the diagnosis or for ascertaining the source of the infection, shall be collected and submitted to a laboratory for examination.
- (3) Control techniques, including disinfection, environmental sanitation, immunization, chemoprophylaxis, isolation, quarantine, and other accepted measures, shall be instituted as necessary to reduce morbidity and mortality. In establishing quarantine or isolation, the local health authority shall designate and define the limits of the areas in which the persons are quarantined or isolated.
- (4) Information concerning the disease and its prevention shall be given to the patient or a responsible

member of his household to prevent further spread of said disease

(5) Control measures implemented by the local health authorities shall be consistent with and at least as stringent as those control measure standards adopted by the board throughout these rules. Individual control measures implemented by the local health authority are subject to review and modification or change by the commissioner.

§97.8. Quarantine of Diseases, Persons, and of Contacts within Specific Premises. It is the responsibility of the local health authority to declare a house, building, apartment, room, or place within his area of jurisdiction to be a place of quarantine whenever a case of communicable disease occurs therein and, in his opinion, it is necessary to do so in order to protect the public health. No person shall leave or enter said place during the period of quarantine except with specific permission of the health authority.

§97.9. Confidential Nature of Case Reporting.

(a) All individual morbidity case reports received by the local health authority or the Texas Department of Health are confidential records and not public records.

(b) To implement communicable disease control measures authorized in these rules, it may be necessary for the local health authority or the department to investigate public or private health records pertinent to the communicable disease. The local health authority and the department shall keep this information confidential.

(c) The department may use information obtained from reports or health records for statistical and epidemiological studies which may be public information as long as an individual is not identifiable.

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 July 26, 1983

TRD-835696 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Earliest possible date of adoption
September 30, 1983

For further information, please call (512) 458-7207.

Protecting Eyes of Newborn

25 TAC §97.111

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Health, 1100 West 49th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Department of Health proposes the repeal of §97.111, concerning protection of the eyes of newborns. The contents of this rule are being incorporated with modifications into proposed new §§97.131-97.136.

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

Mr. Seale has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal will be the implementation of Senate Bill 258, 68th Legislature, 1983. Senate Bill 258 repeals Texas Civil Statutes, Article 445c, effective August 29, 1983. Since Article 445c is the statutory authority for §97.111, the department needs to repeal §97.111. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to C. E. Alexander, M.D., Dr.P.H., Chief, Bureau of Communicable Disease Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of the proposed repeal in the *Texas Register*.

The repeal is proposed under Texas Civil Statutes, Article 4445d, §3.02, which authorize the Texas Board of Health to adopt rules on the prophylactic treatment of newborns, and Article 4414(b), §1.05(4), which authorize the board to adopt rules covering the department's public health programs.

§97.111. *Prophylaxis against Ophthalmia Neonatorum.*

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 July 26, 1983.

TRD-835698 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Earliest possible date of adoption:
September 30, 1983

For further information, please call (512) 458-7455.

Venereal Disease

25 TAC §§97.131-97.136

The Texas Department of Health proposes new §§97.131-97.136, concerning venereal disease. The rules will cover definitions, reporting of venereal disease, serologic testing during pregnancy and at delivery, certification of laboratories performing standard serologic tests, reporting of laboratory tests for syphilis and gonorrhea, and prophylaxis treatment of newborns.

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 to 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 the protection of confidentiality of venereal disease records; codification of venereal disease laws to one set of rules and simplification of the language to aid in understandability, and deletion of portions of rules being repealed which are obsolete. The anticipated economic cost to individuals who are required to comply with the rules as proposed will be a savings to a person applying for a marriage license of a one-time cost of approximately \$30, and an additional one-time cost of approximately \$15 for perinatal serological test at delivery.

Comments on the proposal may be submitted to C. E. Alexander, M.D., Dr.P.H., Chief, Bureau of Communicable Diseases Services, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7455. Comments will be accepted for 30 days after publication of these rules in the *Texas Register*. In addition, a public hearing on the proposed rules will be held at 9 a.m. on Monday, August 22, 1983, in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

The new sections are proposed under Texas Civil Statutes, Article 4445d, §§1.03, 2.01, 2.02, 3.02, 4.02, and 4.05, which authorize the Texas Board of Health to adopt rules concerning venereal disease, and Article 4414(b), §1.05(4), which authorize the board to adopt rules covering the department's public health programs.

§97.131. *Definitions.* The following words and terms, when used in these sections, shall have the following meanings unless the context clearly indicates otherwise:

Board—The Texas Board of Health.

Commissioner—The commissioner of health.

Department—The Texas Department of Health.

Health authority—A physician designated to administer state and local laws relating to public health. The health authority, for purposes of these rules, may be the director of a local health department, a regional director, or another physician as appropriate.

Local health department—A local department of health or a public health district as defined in Texas Civil Statutes, Article 4436b.

Regional director—A director of a public health region of the Texas Department of Health.

Reportable venereal disease—Gonorrhea or syphilis.

Standard serologic test—Tests and procedures for the diagnosis or evaluation of syphilis as may be approved by the Texas Board of Health.

Venereal disease—An infection, with or without symptoms or clinical manifestations, that is or may be transmitted from one person to another during or as a result of sexual relations of whatever kind between two persons, and that produces or might produce a disease in or otherwise impair the health of either person or might cause an infection or disease in a fetus *in utero* or a newborn. For purposes of these rules, syphilis, gonorrhea, chancroid, granuloma inguinale, condyloma acuminata, genital herpes simplex infection, and genital and neonatal chlamydial infections, including lymphogranuloma venereum, are venereal diseases.

§97.132. Reporting of Venereal Disease.

(a) A physician who diagnoses or treats a case of syphilis or gonorrhea, and every administrator of a hospital, dispensary, or charitable or penal institution in which there is a case of syphilis or gonorrhea shall report the case within 72 hours to the director of a local health department or, if there is none, to the director of the public health region in which the case is diagnosed or treated.

(b) The reporting physician shall make the report in writing, except as noted below in this subsection, using a Form J-27 Confidential Report of Venereal Disease. A health authority may authorize one or more employees under his/her supervision to receive the report from the physician by telephone and to complete the form on behalf of the physician, use of this alternative, if authorized, is at the option of the reporting physician. The health authority shall implement a method for verifying the identity of the telephone caller when that person is unfamiliar to the employee.

(c) The Form J-27 Confidential Report of Venereal Disease shall be supplied to physicians on request without charge by the department through each regional director or the Venereal Disease Control Program at the department's central office in Austin, Texas; the department may make the form available through directors of local health departments.

(d) The report shall contain the name, address, including the city and county of residence, age or date of birth, sex, race, ethnic group, diagnosis of the case, including pertinent laboratory test results, and antibiotics used; and the name, office address, and office telephone of the reporting physician or other individual rendering the report.

(e) A physician reporting a case of gonorrhea may substitute a code of letters and/or digits for the name and street address or post office box address of the patient provided all of the following conditions are met:

- (1) The patient is thirteen years of age or older.
- (2) There is no *in vivo* or *in vitro* evidence of resistance of the causative organism to therapeutic levels of penicillin or other drugs designated by the commissioner or his/her designee.
- (3) The disease is an uncomplicated infection of the urethra, pharynx, cervix uteri, and/or rectum.

(f) The physician shall keep a record of the code and patient's name and address for a period of 30 days from the date of report, during which period the health authority to whom the case was reported may require that the name and address be disclosed if, in the opinion of the health authority, circumstances so warrant.

(g) A health authority shall forward to the department at least weekly all reports of cases received by him/her. Transmittal may be by mail, courier, or electronic transmission.

(i) If by mail or courier, the reports shall be placed in a sealed envelope addressed to the attention of the Venereal Disease Control Program and marked "Confidential Medical Records." The envelope, which may be placed in an outer envelope, shall be delivered with the seal unbroken to the Venereal Disease Control Program office for opening and processing of the contents.

(2) If by electronic transmission, including facsimile transmission by telephone, it shall be in a manner and form authorized by the commissioner or his/her designee in each instance. Any electronic transmission of the reports must provide at least the same degree of protection against unauthorized disclosure as those of mail or courier transmittal. The commissioner or his/her designee shall, before authorizing such transmittal, establish guidelines for establishing and conducting such transmission.

§97.133. Serologic Testing During Pregnancy and at Delivery.

(a) Every physician or other person permitted by law to attend a pregnant woman during gestation or at the delivery of the infant resulting from such pregnancy shall, for each woman so attended, take or cause to be taken a sample of the blood of such woman at the time of first examination and visit and submit such sample to a laboratory certified by the department in accordance with §97.134 of this title (relating to Certification of Laboratories Performing Standard Serologic Tests). If the first examination and visit of the pregnant woman is within 24 hours of delivery of the infant, then this sample of blood will also satisfy the requirements of subsection (b) of this section.

(b) Within 24 hours of delivery, the physician or other person in attendance shall take or cause to be taken a sample of blood from the mother of the infant and submit such sample to a laboratory certified in accordance with §97.134 of this title (relating to Certification of Laboratories Performing Standard Serologic Tests). A sample of blood from the umbilical cord of the infant in lieu of the maternal blood sample may be substituted.

(c) A person attending the delivery of an infant or fetus who is not authorized by law or regulation to draw blood may obtain the specimen of blood for testing from the umbilical cord attached to the placenta after separation from the infant; otherwise, this person shall arrange for collection of the specimen within 24 hours of delivery by a person authorized to do so.

(d) Every physician or other person required to report births or fetal deaths shall state on each birth or fetal death certificate whether a blood test for syphilis was performed during the pregnancy and on the maternal blood or the umbilical cord blood of the newborn infant. Until the birth and fetal death certificates contain a item for certifying this test, the person completing the certificate shall make an entry immediately below the section entitled, "For Medical and Health Use Only," as follows: "Was serologic test made at delivery?"

(e) After the certificates have been revised, the information shall be entered only in the appropriate item of the printed form.

§97.134. Certification of Laboratories Performing Standard Serologic Tests.

(a) A laboratory performing a standard serologic test for syphilis shall file an application for certification by the department on Form G-62 Syphilis Serology Approval Program Registration. This application may be obtained without charge from the Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Completion of an application form

is required only for initial certification providing that the laboratory remains certified. If a laboratory has been decertified or has withdrawn from certification, reapplication is necessary in each instance. Any laboratory certified by the department as of August 29, 1983, under authority of Texas Civil Statutes, Article 4445a, shall be considered to have filed an application and been certified under this rule.

(b) A printed certification of approval shall be issued and shall remain the property of the department and must be surrendered within seven days if the laboratory is decertified for any reason or withdraws voluntarily from certification.

(c) The application shall indicate one or two standard serologic tests for which certification is desired. No more than two tests shall be certified for each laboratory. At least one test must be one of the following: the Venereal Disease Research Laboratory (VDRL) Slide Test, the Rapid Plasma Reagin (RPR) 18 mm Circle Card Test, the Fluorescent Treponemal Antibody-Absorbed (FTA-ABS) Test, the Automated Reagin Test (ART), the Plasmacrit Test (PCT), the Reagin Screen Test, the Microhemagglutination-Treponema Pallidum (MHA-TP) Test, the Rapid Plasma Reagin (RPR) Slide Test, or such other test as may be designated by the commissioner. The commissioner or his/her designee is authorized to add to, delete, or modify this list of tests at his/her discretion.

(d) An applicant shall participate in an approved program of proficiency testing in syphilis serology and identify the agency sponsoring such a program; enrollment in such a program shall be a prerequisite to certification. The following are sponsors of approved programs of proficiency testing: U.S. Public Health Service Centers for Disease Control, College of American Pathologists, and American Association of Bioanalysts. The commissioner is authorized to approve other programs and sponsors on an individual basis. The department may certify laboratories of military installations that may participate in proficiency testing programs sponsored by the federal government; military laboratories desiring such certification shall agree to be bound by this section.

(e) Once a laboratory has been certified by the department, it shall test all specimens provided by the sponsor as part of the proficiency testing program and shall inform the sponsor to provide the chief, Bureau of Laboratories of the Department, no less than once each quarter with documentation of satisfactory performance. A grade of 75% or better on three out of four evaluation sets distributed by the proficiency testing sponsor shall be the minimal level of satisfactory performance. No minimal or maximal number of specimens is required for annual testing, but the full number of specimens distributed by the proficiency testing program sponsor must be tested.

(f) Certified laboratories shall be issued a laboratory identification number by the department. This number shall be furnished to the proficiency testing program sponsor by the certified laboratory and shall be shown on all reports and correspondence with the department.

(g) The department shall mail a complete list of approved laboratories to all county clerks within 45 days of the adoption of these rules and shall notify the clerks

at least annually of any additions, suspensions, or revocations of proficiency certification.

(h) Certification is given to a laboratory and not to serologists or to the laboratory director. A worker moving from an approved laboratory to one not on the approved list will not confer certification on the new laboratory.

(i) A certified laboratory that fails in performance on proficiency testing specimens or fails to provide evidence of satisfactory performance in any 12-month period may be dropped from the list of certified laboratories after an opportunity for a hearing in accordance with §§1.21-1.32 of this title (relating to Formal Hearing Procedures). Notification of that fact shall be sent to county clerks. Reapplication will not be permitted for two months unless the laboratory director certifies in writing that there has been a change in staff or that pertinent training has been provided to the staff.

(j) Any change in address, location, and standard serologic tests performed shall be reported to the Bureau of Laboratories, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Changes in personnel need not be reported. It is the responsibility of the laboratory director to satisfy himself or herself about the ability of new employees before they are permitted to perform standard serologic tests.

(k) Each laboratory shall obtain and use its own individual test result reporting forms. A copy of the results of a standard serologic test shall be sent to the requesting physician and a copy to the Venereal Disease Control Program of the department as required in §97.135 of this title (relating to the Reporting of Laboratory Tests for Syphilis and Gonorrhea).

§97.135. Reporting of Laboratory Tests for Syphilis and Gonorrhea.

(a) Any person in charge of a clinical or hospital laboratory, blood bank, mobile unit, or other facility in which a laboratory examination of any specimen derived from a human body yields microscopic, cultural, serological, or other evidence suggestive of syphilis or gonorrhea shall notify the department of its findings.

(b) The notification shall be on Form J-28 Notification of Laboratory Examination Indicating Presence of Syphilis or Gonorrhea and shall be provided without charge to the laboratory or facility upon request. It shall state the name, address, sex, age or date of birth, race and ethnic group of the person from whom the specimen was obtained; the tests performed and the dates performed; and the name and office address of the physician from whom such examination or test was performed.

(c) Notifications shall be submitted at least weekly if any of the tests for syphilis or gonorrhea are reactive or positive. If a darkfield microscopic examination for syphilis (*Treponema pallidum*) is positive, the findings shall be reported within 24 hours of completion of the examination. If during any calendar quarter, reportable tests are performed and all test results are negative, the person in charge of the laboratory shall submit a statement to this effect in the same manner as the notification on or before January 5, April 5, July 5, and October 5 following that calendar quarter.

(d) Notifications shall be routed to the department as follows:

(1) Notice shall be sent to the director of the local health department or, if none, the regional director of the public health region, in which the requesting physician's office is located; in addition, a report of the examination shall be sent to the physician by the laboratory. If the laboratory examination was not requested by a physician, then the laboratory's location will be used instead of that of the physician's office for purposes of this subsection.

(2) A health authority shall make cumulative reports weekly to the department of all notifications received, except that positive results of a darkfield microscopic examination for *Treponema pallidum* shall be reported within one working day. For purposes of this subsection, "report to the department" means to the employee in the appropriate public health region of the department who is designated as the Venereal Disease Control Program manager; that employee shall be responsible for forwarding the reports to the Venereal Disease Control Program at the department's central office in Austin as required.

(e) Notifications by laboratories and cumulative reports by health authorities may be submitted by mail, courier, or electronically, including facsimile transmission by telephone as follows:

(1) If by mail or courier, notifications shall be submitted in a sealed envelope addressed to the health authority, attention: VD Control, and marked "Confidential Medical Report" on the outside of the envelope. The health authority shall establish procedures to prevent disclosure of the contents to unauthorized personnel within his/her office.

(2) If by mail or courier, cumulative reports to the department shall be submitted in a sealed envelope addressed to the Venereal Disease Control Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and shall be marked "Confidential Medical Report" on the outside of the envelope. The envelope shall be delivered with unbroken seal to the program office for opening.

(3) If notifications or reports are transmitted electronically, they shall be by a means and in a form approved by the commissioner or his/her designees; additional approval by the regional director or local health director is required for notifications.

(f) A laboratory report of the results of tests performed for gonorrhea or syphilis shall not constitute a diagnosis of either disease and shall not satisfy the requirements for reporting venereal disease by a physician attending the person from whom the laboratory specimen was obtained.

§97.136. Prophylaxis against *Ophthalmia Neonatorum*.

(a) Every physician, nurse, midwife, or other person in attendance at childbirth shall apply or cause to be applied to the child's eyes one of the following:

(1) two drops of a 1.0% silver nitrate solution in each eye within two hours after birth, or

(2) a standard ophthalmic tetracycline solution (drops) or ointment in each eye within two hours after birth, or

(3) a standard ophthalmic erythromycin solution (drops) or ointment within two hours after birth.

(b) The silver nitrate solution shall be provided by the department without charge to health-care providers if the newborn's financially responsible adult is unable to pay. No charge shall be made by the health-care provider for silver nitrate solution which is received free of charge from the department.

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 July 26, 1983.

TRD-835700 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
September 30, 1983

For further information, please call (512) 458-7455.

**Chapter 229. Food and Drug
Registration of Manufacturers of Food
25 TAC §§229.181-229.183**

The Texas Department of Health proposes new §§229.181-229.183, concerning registration for manufacturers of food in Texas. These rules cover a registration fee, minimum standards for registration, and procedures for refusal, suspension, and revocation of a registration.

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 will be an estimated increase in revenue of \$87,500 per year from 1983-1987. There is no anticipated effect on local government.

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 the annual registration of all manufacturers of foods in Texas with the department, the establishment of minimum standards to cover the annual registration, the requirement of manufacturers to pay a registration fee to cover the administrative cost of the registration, and the establishment of procedures for the refusal, revocation, and suspension of a registration. The anticipated economic cost to individuals who are required to comply with the rules as proposed will be \$25 per manufacturer per annum for the first five years the rules as proposed are in effect.

Comments on the proposal may be submitted to Robert L. Henna, R.Ph., Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7248. Comments will be accepted for a period of 30 days following publication in the *Texas Register*. In addition, a public hearing on the proposed rules will be held in

the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, on September 8, 1983, beginning at 9 a.m.

The new sections are proposed under Texas Civil Statutes, Article 4476-5, § 23a, which authorize the Texas Board of Health to adopt rules covering the registration of food manufacturers, and Article 4414(b), § 1.05(4), which authorizes the board to adopt rules covering its public health programs.

§229.181. Registration Fee and Procedures.

(a) Registration fee. All manufacturers of food in Texas shall register annually on or before September 1 with the Texas Department of Health and shall pay a registration fee of \$25 for each establishment operated by a manufacturer. An "establishment" means each location where food is manufactured as defined in Texas Civil Statutes, Article 4476-5, § 23a.3.

(b) Registration forms. Registration forms may be obtained from the Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(c) Registration statement. The manufacturers' registration statement shall be signed and verified, shall be made on the registration form furnished by the department, and shall contain the following information:

(1) the name under which the business is conducted;

(2) the address of each place of business in the state being registered;

(3) if a sole proprietorship, the name of the proprietor; if a partnership, the names of all partners; if a corporation, the date and place of incorporation and name and address of its registered agent in the state; or if any other type of association, the names of the principals of such association;

(4) the names of those individuals in an actual administrative capacity which, in the case of a sole proprietorship shall be the managing proprietor; in a partnership, the managing partner; in a corporation, the officers and directors; in any other association, those in a managerial capacity.

(d) Two or more establishments. If the manufacturer operates more than one establishment, the manufacturer shall register each establishment separately by listing the name and address of each establishment on the registration statement.

(e) Pre-registration inspection. The applicant shall cooperate with any pre-registration inspection by the department of the manufacturer's facilities.

(f) Issuance of registration. The department shall register a manufacturer of foods who meets the requirements of this section and §229.182 of this title (relating to Minimum Standards for Registration).

(g) Renewal of registration.

(1) Each year, the food manufacturer shall renew its registration following the requirements of this section and §229.182 of this title (relating to Minimum Standards for Registration).

(2) The application for renewal and fee of \$25 for each establishment shall be submitted to the department on or before September 1 in accordance with department procedures in this section.

(3) Failure to submit the renewal prior to September 1 may subject the food manufacturer to the offense provisions under Texas Civil Statutes, Article 4476-5, §23a.7, and also to the provision of §229.183 of this title (relating to Refusal, Revocation, or Suspension of Registration).

§229.182. Minimum Standards for Registration.

(a) Minimum standards. All manufacturers of food in Texas shall comply with the minimum standards specified in subsection (b) of this section in addition to the existing standards contained in the following statutes: Texas Food, Drug and Cosmetic Act, Texas Civil Statutes, Article 4476-5; Bakeries and Bakers Act, Texas Civil Statutes, Article 4476-1a; and Diseases Transmitted Through Food, Drink, or Utensils Act, Texas Civil Statutes, Article 4476-10.

(b) Current good manufacturing practice in manufacturing, processing, packing, or holding human food. The department adopts by reference the *Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding Human Food*, Code of Federal Regulations, Title 21, Part 110, §§110-1-110.99. Copies are indexed and filed in the office of the Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, and are available for inspection during normal working hours.

(c) Living areas. No manufacturing of foods shall be conducted in any room used as living or sleeping quarters. All manufacturing operations shall be separated from any living or sleeping quarters by complete partitioning.

(d) Potentially hazardous foods. The internal product temperature of potentially hazardous food shall be 45°F (7°C) or below or at an internal temperature of 140°F (60°C) or above at all times, except during periods of necessary preparation. Potentially hazardous food means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.5 or below or a water activity (Aw) value of 0.85 or less. Frozen foods shall be kept frozen and shall be stored at a temperature of 0°F (-18°C) or below.

(e) Food labeling. If a person, firm, or corporation labels an article of food, the label shall meet the requirement of the Texas Food, Drug and Cosmetic Act, Texas Civil Statutes, Article 4476-5.

§229.183. Refusal, Revocation, or Suspension of Registration.

(a) Basis. The department may, after providing opportunity for hearing, refuse to register a food manufacturer, or may revoke or suspend the registration for violations of the requirements in §229.181 of this title (relating to Registration Fee and Procedures) and §229.182 of this title (relating to Minimum Standards for Registration) or for interference with the department in the performance of its duty under these rules.

(b) Hearings. Any hearings for the refusal, revocation, or suspension of a registration are governed by

§§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 July 26, 1983.

TRD-835702 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
September 30, 1983

For further information, please call (512) 458-7248.

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 405. Client (Patient) Care Subchapter I. Review Board (Skyview Maximum Security Unit at Rusk State Hospital) for Making a Determination of Manifest Dangerousness

25 TAC §405.195

The Texas Department of Mental Health and Mental Retardation proposes amendments to §405.195, concerning appointment of review boards; when a review board may act; appointment of alternate members; appointment of new members; and notice of appointment. The amendments are proposed to fulfill the legislative intent of the newly enacted House Bill 500, which amends the Texas Code of Criminal Procedure, Article 46.02, §8, by changing the size and composition of the review board.

Paul Mascot, legal services attorney, has determined that for the first five-year period the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Mascot has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the adoption of procedures determined by the Texas Legislature to be in the best interests of its citizens. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Linda Logan, Rules Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, within 30 days of publication in this *Register*.

The amendments are proposed 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.

§405.195. Appointment of Review Boards; When a Review Board May Act; Appointment of Alternate Members; Appointment of New Members; Notice of Appointment.

(a) One or more review boards at Rusk State Hospital shall be appointed by the commissioner. Each board shall consist of five [three] members, one of whom shall be a psychiatrist and two of whom must work directly with mental health clients or mentally retarded clients [all of whom shall be psychiatrists]. The commissioner shall appoint the chairperson of each board.

(b) No action shall be taken or determination made by a review board unless five [three] members are present and voting. No action shall be taken or determination made by a review board except upon a majority vote of the review board.

(c) The commissioner shall appoint such alternate members as may be necessary to serve on a review board when regular members are unable to serve for any reason. [Such alternate members shall be psychiatrists.]

(d)-(g) (No change.)

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

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

TRD-835750 Gary E. Miller, M.D.
Commissioner
Texas Department of Mental
Health and Mental Retardation

Earliest possible date of adoption:
September 5, 1983

For further information, please call (512) 465-4670.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries Imported Redfish and Speckled Sea Trout

31 TAC §§57.371-57.376

The Texas Parks and Wildlife Commission proposes amendments to §§57.371-57.375 and to add a new rule. The new rule will be numbered §57.374, and existing §57.374 and §57.375 will be renumbered §57.375 and §57.376, respectively. Sections 57.371-57.374 concern regulations for importing redfish (red drum) and speckled seatrout (spotted seatrout). The proposed amendments will add the accepted common names of "red drum" and "spotted seatrout." The proposed new §57.374 will provide regulations which define requirements for identifying motor vehicles, trailers, and semi-trailers that transport

red drum and spotted seatrout for commercial purposes. The new rule is proposed to comply with provisions of Senate Bill 834 passed by the 68th Texas Legislature.

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

Mr. Dickinson has also determined that for each year of the first five years the amendments and new rule as proposed are in effect the segment of the public required to comply with the rules as proposed will be benefited to the extent that transporting vehicles will be more easily identified to law enforcement officials and potential markets. The anticipated economic cost to individuals who are required to comply with the rules as proposed will be an initial cost of less than \$50 per vehicle.

Comments on the proposal may be submitted to Gary Matlock or W. C. Walker, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4800, ext. 2205, or (512) 479-4849.

The amendments and new rule are proposed under the authority of the Texas Parks and Wildlife Code, Chapter 66, which authorizes the Texas Parks and Wildlife Commission to promulgate regulations concerning the identification of motor vehicles, trailers, and semi-trailers transporting red drum and spotted seatrout.

§57.371. Finfish Import License. A Texas finfish import license is required of any person importing for sale, transporting for sale, or selling for resale, dead redfish (also known as red drum) or speckled seatrout (also known as spotted seatrout) taken, caught, or raised in any other state or country.

§57.372. Packaging Requirements.

(a) All redfish (also known as red drum) and speckled seatrout (also known as spotted seatrout) entering this state for sale, or being transported intrastate for sale, shall be packaged, one species per package.

(b) (No change.)

(c) Each packaged shipment of redfish (also known as red drum) and speckled seatrout (also known as spotted seatrout) shall be accompanied by an intrastate Texas finfish import invoice or an intrastate Texas finfish import invoice.

(d) An intrastate Texas finfish import invoice shall:

(1) accompany all shipments of redfish (also known as red drum) and speckled seatrout (also known as spotted seatrout) entering the state for distribution within the state;

(2)-(4) (No change.)

(e) An intrastate Texas finfish import invoice shall:

(1) accompany all shipments of redfish (also known as red drum) and speckled seatrout (also known as spotted seatrout) shipped from within the state to a destination within the state;

(2)-(4) (No change.)

(f) (No change.)

§57.373. Package Contents' Identification.

(a) Each package of redfish (also known as red drum) or speckled seatrout (also known as spotted seatrout) shall be identified as to its contents.

(b) (No change.)

§57.374. Marking of Vehicles. All motor vehicles, trailers, or semi-trailers transporting redfish (also known as red drum) and speckled seatrout (also known as spotted seatrout) for commercial purposes shall exhibit the inscription "fish" on the right, left, and rear sides of the vehicle. The inscription shall read from left to right and shall be plainly visible at all times while transporting redfish (also known as red drum) and speckled seatrout (also known as spotted seatrout). The inscription "fish" shall be attached to or painted on the vehicle, trailer, or semi-trailer in block arabic letters of good proportion in contrasting color to the background and be at least eight inches in height.

§57.375. [§57.374]. Delegation of Authority.

Authority is hereby delegated to the executive director to change or prescribe the format in which invoice and identifier information are to be submitted to the department and to require additional information.

§57.376 [§57.375]. Penalty for Violation. Failure to comply with any provision of these rules shall be a Class A misdemeanor, as provided in the Texas Parks and Wildlife Code, §66.201(h).

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 July 25, 1983.

TRD-835662

Maurine Ray
Administrative Assistant
Texas Parks and Wildlife
Department

Earliest possible date of adoption:

September 5, 1983

For further information, please call (512) 479-4862.

Chapter 341. Consolidated Permits Waste Treatment Inspection Fee Program

31 TAC §§341.401-341.407

The Texas Department of Water Resources proposes new §§341.401-341.407, concerning the waste treatment inspection fee program. The Texas Department of Water Resources is required under the Texas Water Code, §26.0291(b), to establish a fee schedule under which each permit issued under authority of the Water Code, Chapter 26, is assessed a fee for deposit in the waste treatment facility inspection fund.

The fund is to be used by the department in paying the expenses of inspecting wastewater treatment and discharge facilities and enforcing the provisions of the Texas Water Code, Chapter 26. The fees used to establish the fund are assessed annually on each per-

mit on the basis of the volume of wastewater which is discharged under that permit. A fee of \$100 is assessed "no discharge" permits, and the fee then progresses according to volume of discharge to a maximum of \$2,000 for volumes in excess of 2.5 million gallons per day. The rules provide that the volume of discharge employed upon which the fee assessment is to be derived will be the daily average flow authorized by permit upon final completion of construction or expansion of the permitted facility, and that the fee will be assessed regardless of whether construction of a facility has been initiated or completed. "Stormwater," "report," and other variable or occasional discharge permits are assessed a general fee for all such discharges, due to the difficulty of comparing the rate of such indeterminable discharges with the rate for facilities with regular discharges. Any failure to make payment of the annual waste treatment facility inspection fee will constitute a violation of the Texas Water Code, Chapter 26.

Mike Hodges, Fiscal Services Section chief, 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 will be an estimated additional cost of \$2.169 million in 1984, \$2.104 million in 1985, \$2.241 million in 1986, \$2.389 million in 1987, and \$2.548 million in 1988. There will also be an estimated increase in revenue of \$2.166 million each year from 1984 to 1988. The effect on local government will be an estimated additional cost of \$1.120 million each year from 1984-1988. This cost assumes 1,600 publicly-owned treatment works at an average cost of \$700 each.

Mr. Hodges 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 improved inspection of wastewater treatment facilities and enhanced enforcement of provisions of the Texas Water Code, the rules of the Texas Water Development Board, and the provisions of wastewater discharge permits issued by the Texas Water Commission, to protect the quality of waters in the state. The anticipated cost to privately-owned treatment works (domestic and industrial) will be \$996,000 each year from 1984-1988.

Comments on the proposal may be submitted to Kenneth L. Petersen, Jr., Assistant General Counsel, Room 616A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78705.

The new rules are proposed under the Texas Water Code, §26.0291, and §§5.131, 5.132, and 26.0291 (e), which provides the Texas Department of Water Resources with the authority to provide a waste treatment inspection fee program to establish a fund to supplement appropriations for inspections and enforcement activities by the department.

§341.401. Purpose. It is the purpose of these rules to establish a waste treatment inspection fee program. Under this program, an annual waste treatment inspection fee is imposed on each permittee holding a permit under the

Texas Water Code, Chapter 26. All fees will be deposited in a fund for the purpose of supplementing other funds appropriated by the legislature to pay the expenses of the department in inspecting waste treatment facilities and enforcing the provisions of the Texas Water Code, Chapter 26, the rules of the department, and the provisions of permits governing waste discharges and waste treatment facilities.

§341.402. Definitions. The definitions contained in the Texas Water Code, §26.001, shall apply to §§341.401-341.407. The following words and terms, when used in these sections, shall have the following meanings:

Annual waste treatment inspection fee—A fee charged to each permittee holding a permit under the Texas Water Code, Chapter 26, and assessed once per year, ranging from \$100 to \$2,000.

Daily average flow—The total by volume of all wastewater discharges authorized under a permit expressed as an average flow per day exclusive of variable or occasional stormwater discharges. Generally, the daily average flow is based on the sum of the volumes of discharge for all outfalls of a facility, but excludes internal outfalls. However, for those facilities for which permit limitations on the volumes of discharge apply only to internal outfalls, the daily average flow is based on the sum of the volumes of discharge for all internal outfalls of the facility exclusive of variable or occasional stormwater discharges.

Department—The Texas Department of Water Resources.

Final flow limit—The maximum amount of wastewater discharge authorized during any term of the permit, expressed as a daily average flow.

Fund—The waste treatment facility inspection fund.

No discharge permit—A permit which does not authorize the discharge of wastewaters into waters of the state, including, but not limited to, permits for evaporation ponds and irrigation systems.

Payment—Payment is effective upon receipt by the department of the full amount of the annual waste treatment inspection fee.

Permit—Any permit issued by the Texas Water Commission under authority of the Texas Water Code, Chapter 26, including those permits issued under the authority of both the Texas Water Code, Chapter 26, and other statutory provisions (such as the Texas Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7).

Report discharge permit—A permit which authorizes the variable or occasional discharge of wastewaters with a requirement that the volume of discharge be reported but without any limitation on the volume of discharge.

Stormwater discharge permit—A permit which authorizes the variable or occasional discharge of accumulated stormwater and stormwater runoff, but without any specified limitation on the volume of discharge.

§341.403. Fee Assessment. An annual waste treatment inspection fee is hereby assessed each holder of a permit for deposit in the fund. The amount assessed is determined by the daily average flow for which the permitted facility is authorized as of October 1 of the year for which

the fee is payable. Those permits authorizing only stormwater or report discharges as of October 1 are assessed a general fee for such discharges rather than for a daily average discharge. Fees are assessed according to the following schedule:

| | |
|----------------------------------------------------------------------------------------------------------------|---------|
| No discharge permits | \$100 |
| Daily average flows less than or equal to 50,000 gallons per day | \$350 |
| Stormwater or report discharges | \$500 |
| Daily average flows greater than 50,000 but less than or equal to 100,000 gallons per day | \$500 |
| Daily average flows greater than 100,000 but less than or equal to 250,000 gallons per day | \$700 |
| Daily average flows greater than 250,000 but less than or equal to 500,000 gallons per day | \$900 |
| Daily average flows greater than 500,000 but less than or equal to one million gallons per day | \$1,200 |
| Daily average flows greater than one million but less than or equal to 2.5 million gallons per day | \$1,600 |
| Daily average flows greater than 2.5 million gallons per day | \$2,000 |

§341.404. Fee Payment. Annual waste treatment inspection fees are payable on December 1 of each year for all permittees. Fees must be paid by certified check or money order payable to the waste treatment facility inspection fund. New permits will require full payment of the appropriate fee within 30 days of the final order of the Texas Water Commission issuing the permit, and thereafter will be assessed an annual waste treatment inspection fee under the schedule set forth herein, beginning with the next regular billing date. All fee assessments are to be based on daily average flow under the final flow limits specified in the permit, without regard to whether the permitted facility actually is discharging a lower volume under an interim flow authorized in the permit. If a permit is amended to authorize a lesser or greater daily average flow, the revised fee will be assessed at the next regular payment date following the final order of

the Texas Water Commission effecting the amendment. If construction of a permitted facility has not been commenced, or is not complete, the appropriate fee remains payable. Fees are payable regardless of whether the permitted facility is in operation.

§341.405. Fund. All fees collected under this waste treatment inspection fee program are to be deposited in the waste treatment facility inspection fund. The fund shall be managed in accordance with §341.401 of this title (relating to Purpose).

§341.406. Cancellation, Revocation, and Transfer. Cancellation or revocation of a permit, whether by voluntary action on the part of the permittee or as a result of involuntary proceedings initiated by the department, will not constitute grounds for refund, in whole or in part, of any annual inspection fee already paid by the permittee. Transfer of a permit will not entitle the transferring permittee to a refund, in whole or in part, of any annual inspection fee already paid by that permittee. Any permittee to whom a permit is transferred shall be liable for payment of the annual inspection fee assessed for the permitted facility on the same basis as the transferor of the permit.

§341.407. Failure to Make Payment. Failure to make payment constitutes a violation of the Texas Water Code, Chapter 26, and each day for which payment is not made constitutes a separate violation. Any such violation is subject to legal proceedings initiated by the executive director of the department under the Texas Water Code, §26.123.

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 July 26, 1983.

TRD-835719 Susan Plettman
General Counsel
Texas Department of Water
Resources

Earliest possible date of adoption:
September 5, 1983

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

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 with the *Register*.

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*. 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.

Withdrawn Rules

TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division Miscellaneous

16 TAC §3.91

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §3.91 submitted by the Railroad Commission of Texas have been automatically withdrawn, effective July 29, 1983. The amendments as proposed appeared in the January 28, 1983, issue of the *Texas Register* (8 TexReg 306).

TRD-835846
Filed: July 29, 1983



TITLE 22. EXAMINING BOARDS Part IV. Texas State Board of Registration for Professional Engineers

Chapter 131. Practice and Procedure Professional Conduct and Ethics

31 TAC §131.151

The Texas State Board of Registration for Professional Engineers has withdrawn from consideration for permanent adoption proposed amendments to §131.151, concerning professional conduct and ethics. The text of the amended sections as proposed appeared in the June 7, 1983, issue of the *Texas Register* (8 TexReg 1908).

Issued in Austin, Texas, on July 29, 1983.

TRD-835871 Randi Warrington
Administrative Supervisor
Texas State Board of
Registration for Professional
Engineers

Filed: August 1, 1983
For further information, please call (512) 475-3141.

Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

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.

TITLE 1. ADMINISTRATION Part VII. Texas Merit System Council Chapter 161. Merit System of Personnel Administration

1 TAC §161.25

The Texas Merit System Council adopts new §161.25, without changes to the proposed text published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2158).

The new section is necessary to bring the agency into full compliance with Texas Civil Statutes, Article 6252-11d.

The rule will function by enabling agencies under merit system jurisdiction to address mutual concerns thereby improving merit system services.

One comment was received from the Texas Department of Human Resources as follows:

In reviewing the proposed rules, I note that there is no mention of whether majority rule will prevail on issues to be voted upon. Since this was a problem at one time, I believe it would be helpful to have this specified in the rules. Otherwise, the rules are acceptable to our agency.

The agency does not believe that there is any problem connected with the absence of rules regarding voting on issues before the committee. Since the committee is empowered by the statute to act in a solely advisory capacity, there will be no need to vote on issues. Each point of view and relative support

afforded each will be presented on the council for its consideration.

The new section is adopted in accordance with Texas Civil Statutes, Article 6252-11d, which require the Texas Merit System Council to adopt rules governing the appointment and operation of the Interagency Advisory Committee

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 July 29, 1983.

TRD-835790

F Kemp Dixon
Executive Director
Texas Merit System Council

Effective date: August 19, 1983

Proposal publication date: June 24, 1983

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

TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Labor and Standards

Chapter 65. Boiler Safety Relief Valves

16 TAC §65.82

The Texas Department of Labor and Standards adopts amendments to §65.82, without changes to the pro-

posed text published in the January 28, 1983, issue of the *Texas Register* (8 TexReg 307).

The rule will ensure that safe operation of boilers exists within the State of Texas and will clarify the requirements for safety relief valves for heating boilers.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Boiler Inspection Law, Texas Civil Statutes, Article 5221c, §6, which provides the commissioner with the authority to enforce a code of rules for the operation of boilers in 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 July 26, 1983.

TRD-835726 Allen Parker, Sr
Commissioner
Texas Department of Labor and
Standards

Effective date: August 17, 1983
Proposal publication date: January 28, 1983
For further information, please call (512) 475-6560.

Potable Water Heaters, Unique Requirements

16 TAC §65.93

The Texas Department of Labor and Standards adopts amendments to §65.93, without changes to the proposed text published in the January 28, 1983, issue of the *Texas Register* (8 TexReg 308).

The rule will ensure that the safe operation of boilers within this state will be enforceable. It also will clarify the requirements for potable hot water heaters.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the authority of the Texas Boiler Inspection Law, Texas Civil Statutes, Article 5221c, §6, which provides the commissioner with the authority to enforce a code of rules for the operation of boilers in 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 July 26, 1983.

TRD-835727 Allen Parker, Sr
Commissioner
Texas Department of Labor and
Standards

Effective date: August 17, 1983
Proposal publication date: January 28, 1983
For further information, please call (512) 475-6560.

TITLE 22. EXAMINING BOARDS Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

Brokers: Alternative Education and Experience

22 TAC §535.66

The Texas Real Estate Commission adopts an amendment to §535.68, relating to the requirements for non-residents applying for Texas real estate broker licensure, without changes to the proposed text published in the May 31, 1983, issue of the *Texas Register* (8 TexReg 1774). The amendment broadens the definition of the term "state" to include foreign countries and their political subdivisions, making the definition consistent with other provisions of the agency's rules.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and regulations necessary for the performance of its duties.

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 July 29, 1983.

TRD-835872 Mark A. Moseley
Legal Counsel
Texas Real Estate Commission

Effective date: August 22, 1983
Proposal publication date: May 31, 1983
For further information, please call (512) 459-3342.

Registration and Certification: Fees

22 TAC §535.201

The Texas Real Estate Commission adopts amendments to §535.201, concerning the registration and bonding of real estate inspectors, without changes to the proposed text published in the May 31, 1983, issue of the *Texas Register* (8 TexReg 1775). The amendments clarify the procedure of registering a corporation or partnership as an inspector, by requiring the registration and bond to be in the name of a designated officer or partner.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6573a, which authorize the Texas Real Estate Commission to make and enforce all rules and

regulations necessary for the performance of its duties.

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 July 29, 1983

TRD-836873 Mark A Moseley
Legal Counsel
Texas Real Estate Commission

Effective date: August 22, 1983

Proposal publication date: May 31, 1983

For further information, please call (512) 459-3342.

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.)

General Provisions

Unfair Competition and Unfair Practices

059.21.21.004, .006, .007

The State Board of Insurance adopts the repeal of Rules 059.21.21.004, .006, and .007, without changes to the proposal published in the April 1, 1983, issue of the *Texas Register* (8 TexReg 1056).

These rules specify requirements and procedures to be followed in the case of replacement of certain life insurance policies with other life insurance. The rules are specified in Board Orders 27700, 29908, and 30169, dated September 13, 1974, November 7, 1975, and December 31, 1975, respectively. Due to the increasingly complicated nature of many life insurance forms and the consequent difficulty in applying portions of the rules, the board has determined that the rules should be repealed.

Several insurers, organizations, and persons commented on the proposal, both in writing and in a public hearing held on June 29, 1983.

Comments favorable to the proposal are as follows.

The Texas Association of Life Underwriters (TALU) believes that the rules have proven difficult, if not impossible, to enforce. They have been widely abused and counterproductive to their intended purpose. The rules have required a large amount of paperwork with little purpose served. There are fully adequate statutory provisions in the Texas Insurance Code for dealing with replacements. The TALU presently opposes the adoption of any alternative rules on replacement.

Napper Davis, C.L.U., believes the rules should be repealed. He requests that the board favorably consider the TALU recommendation. He believes the rules are in violation of state law because they are incomplete and deceptive; they violate the United States Constitution, since the person replacing insurance may not choose to forego being contacted by the company whose insurance is replaced. He believes existing statutes fully cover any illegal activity in the replacement of insurance. He objects to agents not being included in the replacement process and being given no notice of action by the replacing or existing insurers. He believes certain statements in the comparison statement form, contained in the present rules, are erroneous or deceptive and are not in the insured's best interests. He believes the rules protect insurers, not the public. Mr. Davis believes a great deal of existing life insurance is not in the insured's best interest to keep and should be replaced.

Massachusetts Indemnity and Life Insurance Company believes the regulation creates a complicated and expensive procedure which has not accomplished any constructive purpose as far as the consumers of Texas are concerned. The effect of the regulation, the company believes, is to protect the interest of competitive insurance companies, rather than the insurance-buying public. The company believes complex insurance comparison forms often confuse the client rather than help and, therefore, sometimes create circumstances which negate the purposes for which the forms were originally intended. The company believes life insurance replacement should not receive any particular special regulatory attention. Likewise one insurer should not be required to share information with another. The company notes that a number of states have either no regulation or have modified previously complex regulations with simplified rules.

Fireman's Fund American Life Insurance Company believes the rules are outdated and are not accomplishing the purpose for which they were promulgated. The comparison statement contained in the rules does not permit an adequate description of various life insurance policy types. The notices to insureds contained as Exhibits B and C of the present rules, the company believes, are one-sided against a decision to replace insurance or annuities. The company believes that current laws against deception are adequate and that no new rules should replace the ones being repealed, for at least one year.

The Texas Legal Reserve Officials Association (TLROA) believes the rules have not served a public interest but have, perhaps, protected some companies. The association believes the rules have probably aided in twisting. Many policies of insurance should be replaced because they are too expensive. As a result, there is a lot of replacement today — the public or agencies should not be overburdened with replacement requirements that are not effective.

The board agreed with the previous comments insofar as they conclude that the rules should be repealed.

Several other insurers, persons, and organizations opposed the repeal outright or opposed the repeal unless and until an adequate alternative could be suggested or enacted

The American Council of Life Insurance (ACLI) has formulated an alternative regulation. It presented an alternative proposal to a National Association of Insurance Commissioners (NAIC) Subcommittee this spring. The ACLI urges the board to carefully consider its draft as a substitute for the regulation under consideration for repeal. The proposal, the council believes, is far superior to the Texas rules and will provide for a more flexible regulatory tool which will benefit consumers, agents, and insurers in providing information and a structure for disclosure in replacement transactions. The ACLI also urges the board to not completely repeal the present rules, but to eliminate only the comparison statement.

The Texas Life Insurance Association believes the policyholder should receive a notice regarding the replacement of life insurance. A notice can provide meaningful information by suggesting that the policyholder hear his or her existing company's position. The association favors the notification to the existing agent and company required by the present rules, because notification gives a reasonable opportunity to the existing company to present its position, so the policyholder may make his or her decision in a fully informed fashion. The association believes the comparison statement portion of the rules is not effective and should be abolished. The association believes the ACLI recommendations should be carefully considered.

The Metropolitan Life Insurance Company noted that the ACLI has recommended to the NAIC that the model regulation be revised to eliminate reference to completion of the comparative information statement. The company opposes a repeal of the regulation without an alternative, because the repeal would eliminate the notice required to be given by the replacing company to the applicant. By eliminating the regulation without replacing it, the applicant would not receive information which suggests that replacement might not be to his advantage, the in force company would not be apprised of the replacement, and, thus, not given an opportunity to conserve. As an alternative, the company suggests that no action be taken until there is at least some reaction by the NAIC to the ACLI proposal.

Although the Northwestern Mutual Life Insurance Company agrees that the present rules are not accomplishing their intended purpose, the company does not believe that replacement rules should be withdrawn altogether. The company favors the elimination of the agent-prepared comparative information form, but continues to believe that existing companies should be notified of replacement and that both the replacing and the existing company, if it attempts conservatory action, should be required to give policy data to the replacement buyer. The company urges the board to give consideration to adopting the ACLI pro-

posal or, as a possible alternative, regulations similar to the Wisconsin or Virginia regulations. The company does not believe the elimination of all information and notice requirements is in the public interest.

The Prudential Insurance Company of America views replacements as a form of sale in which the consumer deserves an opportunity to receive useful information on the costs and benefits of the existing policies being replaced. After viewing the information, the consumer should be in a position to make a well-reasoned decision about whether or not to replace. The company believes the consumer is entitled to information about an existing policy. Notice to the existing insurer will help to assure that the consumer will have all of the information needed to make this decision.

While the American General Life Insurance Company agrees that the complicated nature of many new life insurance plans make comparisons confusing and meaningless, the company believes that not all replacement regulations should be abandoned. Adequate notice should still be provided. It is important that the policy owner be aware that a new contestable and suicide provision will be effective in his or her policy. American General also favors keeping replacements "above board" with a requirement that the replacing company notify the existing insurer of the proposed replacement and allow a "20-day free look."

The Equitable Assurance Society of the United States believes, although the current regulation predates the introducing of a new generation of complex products, the regulation nevertheless polices the conduct of replacing agents and compels them to comply with the guidelines established by the board. The regulation protects the interests of the insurance buying public by mandating that certain cost data and basic information be made available to the applicant, reducing the opportunity for misrepresentation, and generally creating conditions in which notice affords the consumer the opportunity to "hear both sides" before making an informed decision. To repeal the current regulation without substituting a new regulation would leave a wide open field for unscrupulous replacers.

Government Personnel Mutual Life Insurance Company believes there are several reasons to have replacement regulations: to provide meaningful, full disclosure on both policies to the consumer, to prevent known abuses in the field of replacement, and to allow competing agents and companies to compete fairly, and to allow regulators to make accurate decisions on law violations when there has been a complaint. The solution is to work for better rules but not to repeal all present rules until better ones are promulgated. The vast majority of states have replacement regulations requiring notification and/or disclosure type statements. The cost of agent compliance is very small compared to the loss to the insured in an ill-advised replacement and the gain in sales compensation to the replacing agent. There are known abuses in the field of replacement. The Texas Insurance Code, Articles 21.20 and 21.21, §4(1), are general statutes which do not have

the specific requirements of the replacement regulations. Some type of notification to the policyholder that he or she should consider the position of the existing company should be retained, and the replacing insurer should be required to notify the existing insurer. The rules should not be entirely repealed, although the comparison statement should be abolished. If some form of regulation is not maintained, there will be a great deal of abuse, including misrepresentation. This insurer also adopts the remarks of the Texas Life Insurance Association.

Anti Replacement Method System, Inc., believes the replacement form should be kept. There are sales charges incident to a new policy which are not in the consumer's best interests. The consumer would be better off leaving money with the existing company, where there is no sales charge. The purpose of the rules is to require that the replacing insurer make available to the consumer a visual proposal and to give the company whose product is replaced an opportunity to show the consumer changes to his or her existing portfolio which might be advantageous. The replacement form has aided people in getting their money back. This company believes the present rules should be amended, so that the board is no longer required to keep on file any completed replacement forms at the state level or advance notice of replacements; the replacing company is required to keep the completed replacement forms and the advance notice on file for a period of five years from the date of writing of the replacement policy, and the board is authorized to audit those replacement records and is authorized to obtain a copy of the completed replacement form upon demand from the replacing company. Consumers will still have the documented proof they may need for a civil court action if an improper replacement attempt was initiated with false or misleading information or deceptive marketing practices.

Savers Annuity Insurance Company believes the present rules are not working correctly for life insurance, but are working well for the annuity business. This is because there is no comparison statement required for annuities. In addition, the U.S. Supreme Court has ruled that a state or federal agency may not impose restrictions on the communication of commercial information, but may only add to the items to be communicated, except where they do not involve restrictions of content, concerning only the time and place of making the communication. The Supreme Court has also ruled it is an infringement of the First Amendment of the United States Constitution to require, in a controversial area, state-adopted public policy to be submitted to a person with a controversial decision to make. The comparison statement requirement is indefensible. The board cannot exercise its protection of the public by requiring a statement with the hope it will prevent deception. This insurer endorses the ACLI approach, except for the requirement that the replacing insurer provide information as to the detail of the existing policy.

The board is open to new alternatives and will be glad to consider them when brought to its attention in the

future; however, it believes the existing rules are not presently working well and should be repealed now.

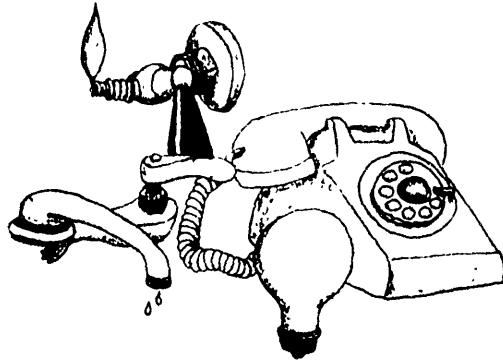
These repeals are adopted under authority of the Texas Insurance Code, Article 21.21, §13, which authorizes the State Board of Insurance to promulgate and enforce reasonable rules and regulations in the accomplishment of the purposes of the Texas Insurance Code, Articles 21.20 and 21.21, including, but not limited to, rules it deems necessary or that are required to effect uniformity with the adopted procedure of the National Association of Insurance Commissioners; and pursuant to the board's authority to repeal any rule it has previously adopted.

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 July 28, 1983.

TRD-835786 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: August 18, 1983
Proposal publication date: April 1, 1983
For further information, please call (512) 475-2950.



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IX. Texas Water Commission

Chapter 261. Introductory Provisions

31 TAC §261.1

The Texas Water Commission adopts an amendment to §261.1, with changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1974).

The rule concerns the purpose of the commission's rules, and the amendment specifically provides for the use of the Texas Rules of Civil Procedure in commission hearings.

One comment was received regarding the proposed amendment. R. Kinnan Golemon and J. Alan Holman of the firm Brown, Maroney, Rose, Baker, and Barber commented that the proposal was too vague and open-ended and could be interpreted as authorizing discovery and sanctions not authorized or contemplated by statute. In response to this concern, the commission adopted the amendment with additional language to clarify that the use of the Texas Rules of

Civil Procedure in any particular matter will be wholly within the discretion of the commission.

The amendment is adopted under authority of the Texas Water Code, §5.262, which provides for the commission to adopt reasonable procedural rules.

§261.1. Purpose of Rules. These rules set forth necessary and implied powers of the Texas Water Commission and establish reasonable procedures for the institution, conduct, and final determination of matters before the commission in order to avoid delays, save expense, and facilitate the just administration and enforcement of the water laws of the state and the rules of the department. The commission's rules are designed to supplement procedures established by statute, and any statutory procedures not specifically included in these rules shall be applicable to practice before the Texas Water Commission. The commission may use the Texas Rules of Civil Procedure as it deems necessary to assist in the conduct of hearings. The commission's rules shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, power, duties, or authority conferred by law on the Texas Department of Water Resources.

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 July 29, 1983

TRD 835824 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date August 19, 1983

Proposal publication date June 10, 1983

For further information, please call (512) 475 4514.

31 TAC §261.5, §261.6

The Texas Water Commission adopts the repeal of §261.5 and §261.6, without changes to the proposal published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1974)

The rules concern regular and special meetings of the commission and were repealed to allow the commission the flexibility in scheduling its meetings which is authorized by statute.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983

TRD 835825 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date August 19, 1983

Proposal publication date June 10, 1983

For further information, please call (512) 475 4514.

Chapter 263. General Rules

31 TAC §263.3

The Texas Water Commission adopts an amendment to §263.3, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1975).

The rule concerns the function of commission hearings examiners, and the amendment specifies that in a hearing with more than one examiner, the presiding officer will make rulings on all evidentiary, as well as procedural, questions.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983

TRD 835826 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date August 19, 1983

Proposal publication date June 10, 1983

For further information, please call (512) 475-4514.

31 TAC §263.4

The Texas Water Commission adopts an amendment to §263.4, with changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1975).

The rule concerns the powers of commission hearings examiners. The amendment specifically permits an examiner to reopen a hearing record for additional evidence, where appropriate.

One comment was received regarding the proposed amendment. B. Kuman Coleman and J. Alan Holman of the firm Brown, Moroney, Rose, Baker, and Barber suggested that the power to reopen a hearing record only be exercised before the examiner has issued a proposal for decision. The commission agrees and adopts the amendment with additional language restricting the power, as suggested.

The amendment is adopted under authority of the Texas Water Code, §5.262, which provides for the commission to adopt reasonable procedural rules.

§263.4 Powers of the Hearings Examiner. The examiner presiding shall have authority to do the following:

(1) (1) (No change.)

(2) recess any hearing from time to time and from place to place.

(3) reopen the record of a hearing, prior to issuance of a proposal for decision, for additional evidence where necessary to make the record more complete, and

(14) exercise any other appropriate powers necessary or convenient to carry out his responsibilities.

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 July 29, 1983

TRD-835927 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date: August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

31 TAC §263.18

The Texas Water Commission adopts an amendment to §263.18, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1976).

The rule concerns the reporting and transcription of commission proceedings, and the amendment makes the rule clearer that it is the party requesting a transcript, not the party requesting a hearings reporter, who is liable for the costs of the transcript, unless otherwise assessed by the commission. The amendment also specifies that if a transcript is not requested by any party, the party requesting the reporter is liable only for a minimum fee.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983

TRD-835928 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date: August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

31 TAC §263.20

The Texas Water Commission adopts an amendment to §263.20, with changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1976).

The rule concerns consolidated hearings, and the amendment specifically provides that the commission

may consolidate parties in a hearing under certain circumstances.

Two comments were received regarding the proposed amendment. Allen B. Cluck commented in favor of the amendment. R. Kinnan Golemon and J. Alan Holman of the firm Brown, Maroney, Rose, Baker, and Barber suggested that additional language be added to the amendment to clarify the standard by which parties or other participants could be consolidated. The commission believes that the standard in the rule as amended is sufficiently definite but could be made more so by providing that related "parties" could be consolidated rather than related "participants." Therefore, the amendment was adopted as proposed except that the term "participant" was changed to "parties."

The amendment is adopted under the authority of the Texas Water Code, §5.262, which provides for the commission to adopt reasonable procedural rules.

§263.20. *Consolidated Hearing.* Consistent with notices required by law, the commission may consolidate related matters or parties if the consolidation will not injure any party and may save time and expense or benefit the public interest and welfare.

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 July 29, 1983.

TRD 835829 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date: August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

Chapter 265. Procedures before Public Hearing

31 TAC §265.7, §265.8

The Texas Water Commission adopts amendments to §265.7 and §265.8, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1977).

The rules concern prehearing conferences, and the amendment to §265.7 provides that notice of a conference will be published only where notice of the hearing was required to be published. The amendment to §265.8 would delete the requirement that a written record of the conference be signed by the parties.

No comments were received regarding adoption of the amendments.

The amendments are adopted under authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983.

TRD-835830 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date: August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

Chapter 267. Procedures during Public Hearing

31 TAC §§267.1-267.3

The Texas Water Commission adopts amendments to §267.2 and 267.3, with changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1977). The text of §267.1 is adopted without changes and will not be republished.

The rules concern parties in commission proceedings. The amendment to §267.1 clarifies the rule to show that a person who is specifically named in that proceeding can be named as a party in that proceeding even if that person does not appear and seek to be named as a party. The amendment to §267.2 revises the rule to more closely follow the Texas Water Code, §5.173, regarding the executive director's procedural rights and obligations in commission proceedings. The amendment to §267.3 revises the rule to more closely follow the Texas Water Code, §5.181, regarding the public interest advocate's procedural rights and obligations in commission proceedings.

No comments were received concerning the proposed amendment to §267.1. Two comments were received regarding the proposed amendments to §267.2 and §267.3. The executive director of the department commented in opposition to the proposed amendment to §267.2 on the grounds that the amendment might be interpreted as restricting rights which the executive director has under applicable statutes. The public interest advocate of the department expressed a similar concern that the proposed amendment to §267.3 might be interpreted as restricting rights which the public interest advocate has under applicable statutes.

The commission's purpose in amending §267.2 and §267.3 is to conform the rules to applicable statutes and not to restrict statutory rights of the executive director and the public interest advocate, including any statutory right to file exceptions or motions for rehearing. In response to these concerns, the commission adopted the amendments with additional language which expresses this intent.

The amendments are adopted under authority of the Texas Water Code, §5.262, which provides for the commission to adopt reasonable procedural rules.

§267.2. *Executive Director as a Party.* The executive director shall be named a party in commission hearings and shall present the position of and information developed by the department. The executive director shall have such procedural rights and obligations as may be specified by these rules and applicable statutes.

§267.3. *Public Interest Advocate as a Party.* The public interest advocate shall be named a party in commission hearings. The public interest advocate shall have such procedural rights and obligations as may be specified by these rules and applicable statutes.

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 July 29, 1983

TRD-835831 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date: August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

31 TAC §267.12

The Texas Water Commission adopts an amendment to §267.12, with changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1978).

The rule concerns objections in hearings conducted by commission examiners. The amendment clarifies the rule to prohibit appeal to the commission of all rulings made by an examiner until the examiner's proposal for decision is considered by the commission.

Two comments were received regarding adoption of the amendment. R. Kinnan Golomon and J. Alan Holman of the firm Brown, Maroney, Rose, Baker and Barber suggested that additional language be added to the rule which would give the chairman of the commission discretion to allow such an appeal. The commission declined to add the suggested language since it believes that this would defeat the purpose for the rule.

The executive director suggested that a part of the amendment which would specify that objections "to rulings" be timely noted in the record was unnecessary. The commission agreed and adopted the amendment without the words "to rulings".

The amendment is adopted under the authority of the Texas Water Code, §5.262, which provides for the commission to adopt reasonable procedural rules.

§267.12. *Objections.* Objections shall be timely noted in the record. Formal exception to the ruling of the commission is not necessary to preserve the objecting party's right to appeal. If the matter is heard before an examiner, no objection to any ruling will be considered by the full

commission until it considers the examiner's proposal for decision.

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 July 29, 1983

TRD-835832 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475-4514.

31 TAC §267.17, §267.18

The Texas Water Commission adopts the repeal of §267.17 and §267.18, without changes to the proposal published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1978)

The rules concern the use of prepared testimony in commission hearings and are repealed since they have not been proven necessary or helpful and have been difficult to enforce

One comment was received concerning adoption of the repeal. The executive director of the department commented against the repeal on the grounds that the rules provide a useful tool in getting complicated testimony introduced in written form. The commission believes that the Administrative Procedure and Texas Register Act, §14(a), is sufficient to permit such written testimony without a rule.

The repeals are adopted under the authority of the Texas Water Code, §5 262, which provides for 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 July 29, 1983

TRD 835833 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475 4514

31 TAC §267.23

The Texas Water Commission adopts an amendment to §267.23, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1979)

The rule concerns the utilization of the special skills or knowledge of the department in evaluating evidence received in commission proceedings. The amendment revises the rule to be consistent with the Administrative Procedure and Texas Register Act, §17, by allowing the commission to communicate *ex*

parte with employees of the department who have not participated in the proceeding or in the processing of the matter being considered.

One comment was received regarding adoption of the amendment. The executive director of the department commented in opposition to the amendment on the grounds that under §17 the commission may communicate *ex parte* only with employees of the commission and not the department. The commission disagrees since such an interpretation for §17 would prevent the commission, which does not employ technical personnel, from utilizing the special skills and knowledge of the department's technical staff as envisioned and authorized by that statute.

The amendment is adopted under authority of the Texas Water Code, §5 262, which provides for 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 July 29, 1983

TRD-835834 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475-4514.

Chapter 269. Procedures after Public Hearing before an Examiner

31 TAC §269.2

The Texas Water Commission adopts an amendment to §269.2, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1979)

The rule concerns pleadings prior to issuance of proposals for decision. The amendment requires that only the original of a brief or proposed findings of fact be filed with the examiner prior to issuance of the proposal for decision, rather than the five copies now required.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Water Code, §5 262, which provides for 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 July 29, 1983

TRD 835835 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475 4514.

31 TAC §269.5

The Texas Water Commission adopts an amendment to §269.5, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1980).

The rule concerns waiver of a party's right to review and comment upon an examiner's proposal for decision. The amendment corrects the rule to provide that such waiver can be in writing or stated on, not into, the record at the hearing.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983.

TRD-835836 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date, August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

31 TAC §269.6

The Texas Water Commission adopts amendments to §269.6, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1980).

The rule concerns pleadings after issuance of proposals for decision. The amendments more closely conform the rule to the Administrative Procedure and Texas Register Act, §15, by providing that only parties who are adversely affected have the right to file exceptions or present briefs to the commission concerning an examiner's proposal for decision, unless such right is waived under §269.5 of this title, relating to waiver of right to review examiner's proposal. The amendments also provide that only the original exception or brief need be filed with the commission.

One comment was received regarding adoption of the amendments. The executive director of the department commented in opposition to the amendment requiring that parties be adversely affected to file exceptions or present briefs, on the grounds that the amendment might be interpreted to prohibit the executive director from filing exceptions to proposals for decision. The commission believes that this concern is adequately addressed by the additional language added to the amendment to §267.2 of this title, relating to the executive director as a party, as adopted.

The amendments are adopted under authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983.

TRD-835837 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date: August 19, 1983
Proposal publication date: June 10, 1983
For further information, please call (512) 475-4514.

31 TAC §269.9

The Texas Water Commission adopts an amendment to §269.9, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1981).

The rule concerns final decisions. The amendment makes it clear that the commission may enter a final decision in less than 20 days after issuance of a proposal for decision, if the parties have waived their right to review or comment upon the proposal for decision under §269.5 of this title, relating to waiver of right to review examiner's proposal.

No comments were received regarding adoption of the amendment.

The amendment is adopted under authority of the Texas Water Code, §5.262, which provides for 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 July 29, 1983

TRD 835838 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475-4514.

**Chapter 271. Procedures after Public
Hearing before The Full
Commission**

31 TAC §271.1

The Texas Water Commission adopts an amendment to §271.1, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1981)

The rule concerns the filing of briefs or proposed findings of fact prior to a final decision in hearings conducted by a majority of the commission. The amend

ment requires that only the original brief or proposed findings of fact be filed.

No comments were received regarding adoption of the amendment

The amendment is adopted under authority of the Texas Water Code, §5 262, which provides for 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 July 29, 1983

TRD 835839 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475-4514

Chapter 275. Special Provisions Water Rights Adjudication

31 TAC §275.16

The Texas Water Commission adopts an amendment to §275.16, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1982)

The rule concerns the filing of contests to preliminary determinations on claims of water rights. The amendment conforms the rule to the Texas Water Code, §11.313, by specifying that only a water right claimant affected by a preliminary determination may file a written contest to it

One comment was received regarding the proposed amendment. The executive director of the department commented in opposition to the amendment on the grounds that it could be interpreted as prohibiting the executive director from filing contests to preliminary determinations. The commission believes that this concern has been adequately addressed by the additional language added to the amendment to §267.2 of this title, relating to the executive director as a party, as adopted

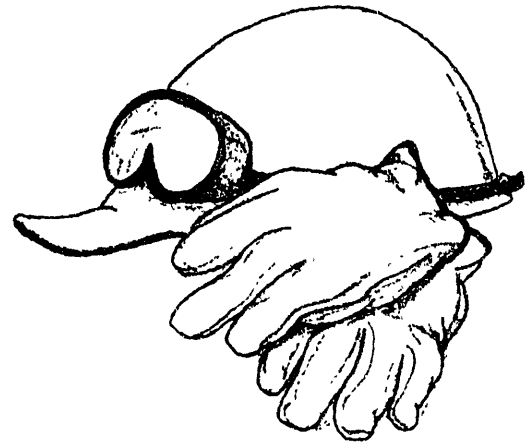
The amendment is adopted under authority of the Texas Water Code, §5 262, which provides for the commission to adopt reasonable procedural rules.

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 July 29, 1983

TRD 835840 Mary Ann Hefner
Chief Clerk
Texas Water Commission

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475 4514.



Part X. Texas Water Development Board

Chapter 353. Underground Injection Control

General Provisions

31 TAC §353.2, §353.16

The Texas Water Development Board adopts amendments to §353.2, with changes to the proposed text published in the April 29, 1983, issue of the *Texas Register* (8 TexReg 1401). Section 353.16 is adopted without changes and will not be republished

Amendments to §353.2 are additional definitions to comply with statute and to clarify their usage in these rules. Amendments to §353.16 clarify the obligation of owners and operators to inventory new and existing Class V wells and add drillers to the parties who must inventory, thus enabling the department to better comply with the program requirements of the U.S. Environmental Protection Agency, Region VI

The proposed definition of "artificial liner" is not being adopted at this time and will be repropoed at a later time to respond to comments received

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Water Code, Chapter 27, which provides the Texas Department of Water Resources with the authority to regulate underground injections, and the Texas Water Code, §5 131 and §5 132, which provides the department with the authority to promulgate rules and regulations

§353.2 Definitions The definitions contained in the Texas Water Code, §27.002, shall apply to this chapter. The following words and terms, when used in these sections, have the following meanings, unless the context clearly indicates otherwise:

Affected person Any person whose legal rights, duties, or privileges may be adversely affected by the proposed injection operation for which a permit is sought

Date of approval The effective date of Environmental Protection Agency approval of the Texas De-

partment of Water Resources' underground injection control program. This date is January 6, 1982.

Permit—A written document issued by the Texas Water Commission that, by its conditions, authorizes the permittee to construct, install, modify, or operate, in accordance with stated limitations, a specified injection well facility.

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 July 26, 1983

TRD-835720 Susan Plettman
General Counsel
Texas Department of Water
Resources

Effective date: August 17, 1983
Proposal publication date: April 29, 1983
For further information, please call (512) 475-7845.

31 TAC §353.21

The Texas Water Development Board adopts new §353.21, with changes to the proposed text published in the April 8, 1983, issue of the *Texas Register* (8 TexReg 1153).

This new rule provides a procedural mechanism to allow multiple use of well bores, i.e., conversion of well uses.

The rule requires persons utilizing injection wells, who wish to convert their well to another use, to obtain department approval of the conversion, as appropriate. Conversion to uses that require a permit will require a permit or a permit amendment. Conversion to uses that do not require a permit will require written approval.

Comments were received from the U.S. Environmental Protection Agency (EPA), Region VI. The EPA was concerned that these rules would provide a means, in addition to permitting or authorization by rule, to allow injection wells. The Texas Department of Water Resources has responded to those comments, explaining that this is a procedural mechanism and not an independent form of authorization. All wells are required to have either a permit or authorization by rule to operate.

The new rule is adopted under the Texas Water Code, Chapter 27, §§ 131 and § 132, which provides the Texas Department of Water Resources with the authority to regulate underground injection, and to promulgate rules and regulations.

§353.21 Conversion of Wells Persons utilizing wells authorized by permit, by rule, or otherwise, who wish to convert the well from its authorized purpose to another purpose or to an additional purpose, must first obtain the appropriate approval described in paragraphs (1) (4) of this section.

(1) Persons utilizing injection wells authorized by permit must obtain either a permit amendment, pur-

suant to §341.225 of this title (relating to Amendment), or if appropriate, a permit revocation, pursuant to §341.240 of this title (relating to Revocation and Suspension) or §341.241 of this title (relating to Revocation or Suspension with Consent).

(2) Persons utilizing injection wells authorized by rule that are to be converted to a purpose that requires authorization by permit must obtain a permit.

(3) Persons utilizing injection wells authorized by rule that are to be converted to a purpose that does not require authorization by permit must obtain the written approval of the executive director.

(4) Disposal of industrial or municipal waste in Class II wells is specifically prohibited unless authorized by permit or by written approval of the executive director and confirmed by Railroad Commission of Texas authorization. (Note. Conversions of wells that remain exclusively within the jurisdiction of the Railroad Commission of Texas are not affected by this rule. For example, a conversion from a Class II disposal well to a water supply well regulated by the Railroad Commission of Texas would neither enter nor exit the jurisdiction of the Texas Department of Water Resources and, thus, would not be subject to 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 July 26, 1983

TRD-835721 Susan Plettman
General Counsel
Texas Department of Water
Resources

Effective date: August 17, 1983
Proposal publication date: April 8, 1983
For further information, please call (512) 475-7845.

Chapter 355. Water Loan Assistance Fund Water Conservation, Water Quality, and Water Development Planning and Research and Flood Control Planning Fund

31 TAC §355.101, §355.106

The Texas Water Development Board adopts amendments to §355.101 and §355.106, without changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1983)

This amendment requires local, federal, or private participation in flood planning projects of a minimum of 25% of the cost of the project, so that more cities can participate and more projects can be completed for flood planning.

No comments were received regarding adoption of the amendments.

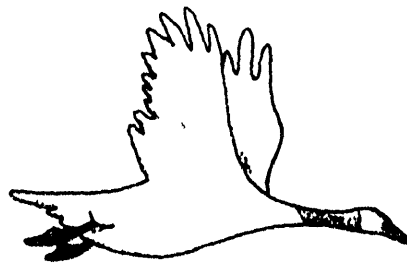
These amendments are adopted under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources. The rules are also adopted under the authority of the Texas Water Code, §15.003, which gives the Texas Water Development Board specific authority to adopt rules relating to the water assistance fund authorized by the Texas Water Code, Chapter 15.

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 July 26, 1983

TRD-835818 Susan Plettman
General Counsel
Texas Department of Water Resources

Effective date August 19, 1983
Proposal publication date June 10, 1983
For further information, please call (512) 475-7845.



TITLE 37. PUBLIC SAFETY AND CORRECTIONS
Part IX. Commission on Jail Standards
Chapter 265. Admission of Inmates to County Jails

37 TAC §265.12

The Commission on Jail Standards adopts an amendment to §265.12, without changes to the proposed text published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2208).

The rule clarifies existing direction and updates procedures based on known court interpretations of searches.

The rule requires individuals to be thoroughly searched for weapons and contraband upon entry into the jail and prior to booking.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of Texas Civil Statutes, Article 5115.1, which authorize

the Commission on Jail Standards to promulgate rules affecting county jails.

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

Issued in Austin, Texas, on July 25, 1983

TRD-835675 Mrs. William Cree
Chairman
Commission on Jail Standards

Effective date: August 15, 1983
Proposal publication date: June 24, 1983
For further information, please call (512) 475-2716.

37 TAC §265.16

The Commission on Jail Standards adopts an amendment to §265.16, without changes to the proposed text published in the June 24, 1983, issue of the *Texas Register* (8 TexReg 2208).

The rule clarifies existing direction and updates procedures based on known court interpretations of searches.

The rule requires that strip searches be performed when jail personnel reasonably believe it is necessary to maintain security in a facility.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the authority of Texas Civil Statutes, Article 5115.1, which authorize the Commission on Jail Standards to promulgate rules affecting county jails.

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

Issued in Austin, Texas, on July 25, 1983

TRD 835676 Mrs. William Cree
Chairman
Commission on Jail Standards

Effective date: August 15, 1983
Proposal publication date: June 24, 1983
For further information, please call (512) 475-2716.

31 TAC §275.18

The Texas Water Commission adopts amendments to §275.18, with changes to the proposed text published in the June 10, 1983, issue of the *Texas Register* (8 TexReg 1982).

The rule concerns final determinations on claims of water rights. The amendment to subsection (a) conforms the rule to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252.13a, §15, by specifying that only parties adversely affected by a proposed final decision may

file exceptions and present briefs to the commission concerning the decision. The amendment to subsection (b) clarifies when the adjudication hearings are closed and the method of mailing copies of the final determination. The amendment to subsection (c) conforms the rule to the Administrative Procedure and Texas Register Act, § 16, by requiring that applications for rehearing of a final determination be filed within 15 days after issuance of the final determination. Paragraph (d)(1) was deleted as inconsistent with the Administrative Procedure and Texas Register Act, § 16, as to applications for rehearing of final determinations. The amendment to paragraph (d)(3) clarifies the method of mailing copies of modified final determinations.

Two comments were received regarding adoption of the amendments. The executive director of the department commented in opposition to the amendment to subsection (a) on the grounds that it could be interpreted as prohibiting the executive director from filing exceptions to proposed final determinations. The commission believes this concern has been adequately addressed by the language added to the amendment, as adopted, to § 267.2 of this title, relating to the executive director as a party.

R. Kinnan Goleman and J. Alan Holman, of the firm Brown, Maroney, Rose, Baker and Barber suggested that the proposed amendment to subsection (c) be modified to provide that the deadline for filing applications for rehearing be 15 days from the date of rendition of the final determination, rather than "not more than" 15 days from the "effective date" of the final determination, as proposed. The commission adopted the suggested language, except that the term "date of issuance" was adopted, rather than the term "date of rendition," to ensure the 15 day period set out in the Administrative Procedure and Texas Register Act, § 16.

The amendments are adopted under authority of the Texas Water Code, § 5.262, which provides for the commission to adopt reasonable procedural rules.

§ 275.18 Final Determination and Appeal

(a) Proposed final decision. When a majority of the commission have not heard the contest or read the record, the examiner who presided at the contest hearing or one who has read the record shall prepare a proposal for final decision and shall send it by first class mail to all persons on the department's official mailing list for the adjudication segment. The proposed final decision shall contain a statement of the reasons therefor and a statement of each finding of fact and conclusion of law necessary to the proposed final decision. Any party adversely affected may file exceptions and present briefs to the commission concerning the proposal for final determination within the time limit stated in the notice of the proposal for final determination. The parties may waive compliance with this rule by written stipulation filed with the commission.

(b) Final determination. The adjudication hearings shall be closed at the conclusion of the last contest hearing. The commission will make a final determination of

the claims to water rights in the adjudication within 60 days after the closing of the adjudication hearings, provided that where the case was not heard by the commission, the examiner may set a reasonable time for the issuance of a final determination and shall announce such extension at the closing of the adjudication hearings. The commission shall send a copy of the final determination, and any modification thereof, by first-class mail to each person of record on the department's official mailing list for the stream or segment being adjudicated, as required by the Texas Water Code, § 11.315.

(c) Notice of final determination. The commission shall send a notice of the final determination by first-class mail to each claimant of water rights within the river basin in which the segment is located, to the extent that the claimants can be reasonably ascertained from the records of the department, and to each other person on the department's official mailing list for the segment being adjudicated.

(1) Each notice shall state the following:

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

(C) the date by which applications for rehearing must be filed, which shall be 15 days from the date of issuance of the final determination.

(2) The commission will provide in the final determination, and notice thereof, the effective date of the determination, in order to provide a sufficient period of time within which the determination and notice can be printed and mailed.

(d) Application and rehearing of final determination. An application for rehearing is the same as a motion for rehearing, under Texas Civil Statutes, Article 6252-13a, § 16, and is a prerequisite to filing an exception to the final determination under the Texas Water Code, § 11.318, *et seq.*

(1) If an application for rehearing is granted, the commission shall issue notice setting forth the substance of the application and setting the time and place of the hearing. Notice shall be sent in the same manner provided for in contest hearings.

(2) If the final determination is modified after a rehearing, the commission shall send a copy of the modified final determination by first class mail to each person on the department's official mailing list for the segment being adjudicated. However, if the modifications are such that they are likely to substantially affect the rights of other water right holders within the basin but outside the watershed or segment being adjudicated, then a summary of the modifications shall also be sent to all other water right holders in the basin.

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 July 29, 1983.

TRD 835841 Mary Ann Hofner
Chief Clerk
Texas Water Commission

Effective date: August 19, 1983.

Proposal publication date: June 10, 1983.

For further information, please call (512) 475-4514.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 33. Early and Periodic Screening, Diagnosis, and Treatment

The Texas Department of Human Resources adopts amendments to §33.122, relating to periodicity, and §33.131, relating to medical screening services, in its Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program rules. The amendments are adopted without changes to the proposed text published in the April 19, 1983, issue of the *Texas Register* (8 TexReg 1289).

Section 33 122 is amended to clarify when eligible recipients may receive medical screening and dental services. Subsection (b) is amended to reflect the time frames for medical screening visits for recipients under two years old. Section 33 131 is amended to delete background material which is not appropriate in the rule text.

Medical screening services are available to eligible recipients based on the recipient's age in years and months. Periodic routine dental services are available to eligible recipients once a year.

No comments were received regarding adoption of the amendments.

Subchapter I. Periodicity

40 TAC §33.122

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 July 25, 1983.

TRD-835683

Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Effective date: August 15, 1983

Proposal publication date: April 19, 1983

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

Subchapter J. Medical Phase

40 TAC §33.131

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 July 25, 1983.

TRD 835684

Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Effective date: August 15, 1983

Proposal publication date: April 19, 1983

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

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

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

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

Open Meetings

Texas Department on Aging

Thursday, August 11, 1983, 9 a.m. The Citizens Advisory Council of the Texas Department on Aging (TDA) will meet at Rio Concho Manor, 410 Rio Concho Drive, San Angelo. According to the agenda summary, the council will approve the May 11, 1983, minutes, hear reports of the Steering Committee and the Housing Committee, hear a special projects report, concerning video games for nursing home residents and the Camping 30 Texas Senior Games, a report on Acts of the 68th Legislature of special interest to the elderly, and a status report of the TDA preparation for Sunset Commission review, consider events and the time schedule involved in the implementation of the two-year state plan, view a slide-tape presentation by the West Central Texas Area Agency on Aging, and conduct site visits to Rio Concho Manor and to a modular structure for elderly housing.

Contact: Chris Kyker, P.O. Box 12786, Austin, Texas 78711, (512) 475-2717

Filed: August 1, 1983, 10:36 a.m.
TRD-835881

Texas Department of Agriculture

Wednesday, August 17, 1983, 10 a.m. The Seed Division of the Texas Department of Agriculture will meet in Room 1046, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the division will discuss vegetable seed packet labeling, concerning "year packed for."

Contact: Kenneth Boatwright, P.O. Box 12847, Austin, Texas 78711, (512) 475-2038.

Filed: July 28, 1983, 1:18 p.m.
TRD-835780

Texas Air Control Board

Friday, August 5, 1983, 9:30 a.m. The Mobile Source Emissions Committee of the Texas Air Control Board (TACB) will meet at the Hobby Airport Hilton, 8181 Airport Boulevard, Houston. According to the agenda, the committee will hear an explanation of recent Environmental Protection Agency (EPA) proposed action, consider a chronology of TACB action in response to

the Federal Clean Air Act requirement for inspection and maintenance, the status of the Harris County vehicle parameter inspection and maintenance program, and comments from local officials and the public concerning proposed EPA actions, and hold a committee discussion.

Contact: Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354

Filed: July 28, 1983, 4:29 p.m.
TRD-835788

Friday, August 12, 1983. Committees of the Texas Air Control Board (TACB) will meet at the Hobby Airport Hilton, 8181 Airport Boulevard, Houston. Times, committees, and agendas follow.

9:15 a.m. The Budget and Finance Committee will consider and review the interagency contract with the Texas Merit System Council and hold a budget and appropriation discussion.

9:45 a.m. The Mobile Source Emissions Committee will consider a resolution to re-

quest that the Texas Department of Public Safety continue implementation of the parameter motor vehicle emission inspection and maintenance program for Harris County and discuss and consider the IACB response to the EPA July 1983, proposal to impose sanctions for Harris County

Contact: Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354

Filed: July 29, 1983, 4:45 p.m.
TRD-835843, 835844

10:30 a.m. The Texas Air Control Board will approve the July 15, 1983, minutes, hear a report of the Mobile Source Emissions Committee on EPA sanctions proposed for Harris County, the hearing examiner, and other various reports, consider and act on a resolution to request that the Texas Department of Public Safety continue implementation of the parameter motor vehicle emission inspection and maintenance program for Harris County, a response to the Sunset Advisory Commission, a proposed contract for Texas Merit System Council services, and a request for an extended compliance date, and conduct new business

Contact: Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354

Filed: July 28, 1983, 4:29 p.m.
TRD-835789

Texas Commission on Alcoholism

Thursday, August 11, 1983, 9 a.m. The Texas Commission on Alcoholism will meet in the conference room, eighth floor, Sam Houston Building, 201 East 14th Street, Austin. Items on the agenda include approval of the minutes and the 1984-1985 fiscal year operating budget and consideration of proposed policies. The commission also will meet in executive session

Contact: Jane C. Maxwell, Sam Houston Building, Eighth Floor, 201 East 14th Street, Austin, Texas 78701, (512) 475-2577

Filed: August 1, 1983, 2:38 p.m.
TRD-835901

Texas Antiquities Committee

Friday, August 5, 1983, 9:30 a.m. The Texas Antiquities Committee will meet in Room 100B, Reagan Building 101 West 11th Street, Austin. According to the agenda, the committee will consider approval of the June 28, 1983, minutes and state archaeological landmark nominations and designations regarding archeological sites and historic buildings, draft the operating budget for fiscal year 1984, and discuss changes in the Antiquities Code resulting from Senate Bill 231

Contact: Cindy Smetak, 105 West 16th Street, Austin, Texas, (512) 475-6328.

Filed: July 27, 1983, 9:59 a.m.
TRD-835728

Addition to the above agenda:

Discussion of House Resolution 3194 and Senate Resolution 1504, concerning the Historic Shipwreck Preservation Act

Contact: Cindy Smetak, 105 West 16th Street, Austin, Texas, (512) 475-6328

Filed: July 28, 1983, 9:13 a.m.
TRD-835753

Texas Board of Architectural Examiners

Friday, August 12, 1983, 9 a.m. The Texas Board of Architectural Examiners will meet in the La Princesa Room, Hilton Palacio Del Rio, 200 South Alamo, San Antonio. Items on the agenda summary include approval of the minutes, revocation hearings, 1984 appropriations, the Intern Development Program, reinstatements, reciprocal licensing, examinations, alleged violations, registration law, proposed rules, a joint statement, and U.S. Annis

Contact: Philip D. Creer, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363

Filed: July 28, 1983, 2:15 p.m.
TRD-835785

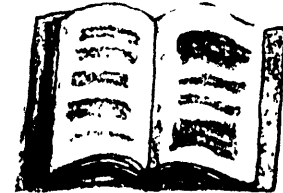
State Depository Board

Wednesday, July 27, 1983, 10 a.m. The State Depository Board made an emergency revision to the agenda of a meeting held in the office of the state treasurer, FBI Building, 111 East 17th Street, Austin. According to the revised agenda, the board considered repurchase agreements, collateral security repurchase agreements, collateral security eligibility, and applications for depository designation. The emergency status was necessary to review collateral security re-

quirements before the fall application deadline

Contact: Jorge Gutierrez, P.O. Box 12608, Austin, Texas 78711, (512) 475-2591.

Filed: July 26, 1983, 3:25 p.m.
TRD-835711



East Texas State University

Friday, August 5, 1983, 9:30 a.m. The Executive Committee of the East Texas State University Board of Regents will meet in Mockingbird One, Sheraton Mockingbird West Hotel, 1893 West Mockingbird Lane, Dallas. Items on the agenda include consideration of the acting secretary of the board, endorsement of the Texas Equal Educational Opportunity Plan for Higher Education, and approval of the motion to confer an honorary degree, the Athletic Hall of Fame nominees, and the holiday schedules for ETSU - Commerce and Texarkana campuses

Contact: Steve W. Batson, East Texas State University, Commerce, Texas 75428, (214) 886-5012

Filed: July 28, 1983, 2:18 p.m.
TRD-835782

Friday, August 5, 1983, 10:30 a.m. The Board of Regents of East Texas State University will meet in Mockingbird One, Sheraton Mockingbird West Hotel, 1893 West Mockingbird Lane, Dallas. Items on the agenda include approval of the agenda, consideration of the acting secretary to the board, approval of the minutes of the last meeting, a report by the president, approval to confer an honorary degree, the Athletic Hall of Fame nominees, and the 1983-1984 holiday schedules, faculty workloads and undersized class reports, policy on academic freedom, tenure, and responsibilities, faculty promotions and fee schedules, bank depository bids, scholarship policy and budget for 1983-1984 for ETSU - Commerce and Texarkana campuses, acceptance of an off-campus academic program report, authorization to seek Coordinating Board approval to purchase land for the Texarkana library, ratification of the selection of an

architect for the Zeppa Center repair work and an architect for the Texarkana library, authorization to delete surplus equipment from the inventory, and a resolution honoring a regent. The board also will meet in executive session.

Contact: Steve W. Batson, East Texas State University, Commerce, Texas 75428, (214) 886-5012.

Filed: July 28, 1983, 2:19 p.m.
TRD-835783

Texas Employment Commission

Thursday, August 11, 1983, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider and act on higher level appeals in unemployment compensation cases.

Contact: Courtenay Browning, TEC Building, Room 608, Austin, Texas, (512) 397-4415.

Filed: August 2, 1983, 9:42 a.m.
TRD-835926

Finance Commission of Texas

Monday, August 8, 1983, 10 a.m. The Savings and Loan Section of the Finance Commission of Texas will meet at 1004 Lavaca, Austin. According to the agenda summary, the section will review and discuss proposed new regulations regarding change of control, hearing procedures, and loans and receive an update on the building program and department operation. The section will also meet in executive session to consider personnel matters.

Contact: F. F. Bowman III, 1004 Lavaca, Austin, Texas 78701, (512) 475-7991.

Filed: July 27, 1983, 2:51 p.m.
TRD-835744

Office of the Governor

Thursday, August 4, 1983, 1 p.m. The Planning Committee of the State Job Training Coordinating Council of the Office of the Governor will meet in the Crown Room West, Hilton Inn, Austin. Items on the agenda include a public comment period, the employment service plan, the governor's

coordination and special services plan, and the role of the council in local plan review.

Contact: Robert McPherson, Room 208, Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 475-0681.

Filed: July 27, 1983, 3:56 p.m.
TRD-835749

Friday, August 5, 1983, 9 a.m. The State Job Training Coordinating Council of the Office of the Governor will meet in emergency session in the Crown Room, Hilton Inn, Austin. Items on the agenda include approval of the June 24, 1983, minutes, a presentation by Wilhelmina Delco, Texas state representative and chair of the Committee on Education and Job Training, National Association of State Legislators, a council briefing on certification of private industry councils, the chief elected officials' planning conference of the Private Industry Council, and an overview of progress, a public comment period, worker adjustment (dislocated workers programs), action on the employment service plan, the governor's coordination and special service plan, and the role of the state council in local plan review. The emergency status is necessary because the council was unable to reschedule for a date when a quorum of members could be present.

Contact: Bob McPherson, 611 South Congress, Austin, Texas 78701, (512) 475-0681.

Filed: August 1, 1983, 2:39 p.m.
TRD-835900

Monday, August 8, 1983, 10 a.m. The State Agency Management Effectiveness Council of the Office of the Governor will meet in Room 104, Texas Law Center, 1414 Colorado, Austin. Items on the agenda summary include cooperation and coordination between the governor's office and state agencies, a discussion of work currently underway by the State Agency Coordinating Council (formerly the MBO Task Force) on improving the public's perception of state employees, incentives for state employees to contribute to program efficiency and effectiveness, state employment and EEO issues, and state contracting procedures.

Contact: Harden H. Wiedemann, Sam Houston Building, 201 East 14th Street, Seventh Floor, Austin, Texas 78701, (512) 475-6156.

Filed: July 29, 1983, 4:09 p.m.
TRD-835842

Monday, August 15, 1983, 11 a.m. The Executive Funding Committee of the Criminal Justice Division of the Office of the Governor will meet in the Lieutenant Governor's Committee Room, State Capitol, Austin. Items on the agenda include presentation of Criminal Justice Advisory Board recommendations for fiscal year 1984 grant requests and consideration of and a decision on those recommendations.

Contact: Gilbert J. Pena, Sam Houston Building, 201 East 14th Street, Third Floor, Austin, Texas 78701, (512) 475-3001.

Filed: July 27, 1983, 1:26 p.m.
TRD-835731

State Board of Insurance

Wednesday, July 27, 1983, 9 a.m. The State Board of Insurance met in emergency session in Room 414, 1110 San Jacinto, Austin. According to the agenda, the board discussed pending litigation concerning the Heritage Health and Life Insurance Company vs. the State Board of Insurance. The emergency status was necessary because of a court hearing scheduled for August 4, 1983.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 26, 1983, 3:24 p.m.
TRD-835710

Tuesday, August 9, 1983, 2 p.m. The State Board of Insurance revised the agenda of a meeting to be held in Room 414, 1110 San Jacinto Street, Austin. According to the revised agenda, the board will consider amendments to the Automobile Statistical Plan National Association Independent Insurers and PMI Insurance Company rate filing for Home Equity Home Improvement Loan Credit.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: July 29, 1983, 2:25 p.m.
TRD-835819

Tuesday, August 9, 1983, 2 p.m. The State Board of Insurance revised the agenda of a meeting to be held in Room 414, 1110 San Jacinto Street, Austin. According to the revised agenda, the board will consider a rescission of Board Order 43263, establishing

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a charge of \$10 for insurance related legislation enacted by the 68th Legislature

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950

Filed: August 1, 1983, 2:47 p.m.
TRD-835902

Wednesday, August 10, 1983, 2 p.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will discuss whether to propose an amendment to the workers' compensation rules, concerning the selling, to employer within the state, of Texas insurance policies that provide benefits substantially or in any material respect similar to the coverage provided under the workers' compensation laws.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950

Filed: July 28, 1983, 2:26 p.m.
TRD 835787

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, August 9, 1983, 1:30 p.m. In Room 342, Docket 7314—whether the title insurance agent's license held by Permian Abstract Company of Midland should be canceled or revoked.

Contact: F. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

Filed: August 1, 1983, 11:06 a.m.
TRD 835883

Tuesday, August 9, 1983, 1:30 p.m. In Room 353, Docket 7256—application for approval of the declaration of subscribers of Contractors Insurance Exchange of Texas, Houston.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287

Filed: August 1, 1983, 11:06 a.m.
TRD 835884

Wednesday, August 10, 1983, 9 a.m. In Room 342, Docket 7271—whether the title insurance agent's license held by Wheeler Abstract Company, Wheeler, should be canceled or revoked.

Contact: F. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

Filed: August 1, 1983, 11:06 a.m.
TRD 835885

Wednesday, August 10, 1983, 10:30 a.m. In Room 342, Docket 7267—whether the

title insurance agent's license held by Western Abstract Company, Morton, should be canceled or revoked.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287

Filed: August 1, 1983, 11:06 a.m.
TRD-835886

Wednesday, August 10, 1983, 1:30 p.m. In Room 342, Docket 7288—application for original charter of Aztec Insurance Company, Dallas.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287

Filed: August 1, 1983, 11:07 a.m.
TRD 835887

Thursday, August 11, 1983, 9 a.m. In Room 342, Docket 7282—whether the title insurance agent's license held by Metropolitan Title Corporation, Houston, should be canceled or revoked.

Contact: F. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

Filed: August 1, 1983, 11:07 a.m.
TRD 835888

Thursday, August 11, 1983, 10:30 a.m. In Room 342, Docket 7283—whether the title insurance agent's license held by Pierce Abstract Company, Inc., Junction, should be canceled or revoked.

Contact: F. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

Filed: August 1, 1983, 11:07 a.m.
TRD 835889

Monday, August 15, 1983, 9 a.m. In Room 342, Docket 7284—whether the title insurance agent's license held by Randolph Abstract Company, Inc., Junction should be canceled or revoked.

Contact: F. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

Filed: August 1, 1983, 11:07 a.m.
TRD 835890

Monday, August 15, 1983, 10:30 a.m. In Room 342, Docket 7285—whether the title insurance agent's license held by Sam Houston Landmark Title Company, Huntsville, should be canceled or revoked.

Contact: F. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353

Filed: August 1, 1983, 11:07 a.m.
TRD-835891

Board of Pardons and Paroles

Monday-Friday, August 8-12, 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 the 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 78701, (512) 475-3363

Filed: July 26, 1983, 1:47 p.m.
TRD 835690

Monday-Friday, August 15-19, 1983, 9 a.m. daily. The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, 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, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2716.

Filed: August 1, 1983, 1:41 p.m.
TRD 835895

Texas Parks and Wildlife Department

Wednesday, July 27, 1983, 7 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department met in a rescheduled emergency meeting at the University Club, 400 West 15th Street, Austin. According to the agenda summary, the commission members met to have dinner. Although this function was primarily a social event and no formal action was planned, the commission was free to discuss items on the public hearing agenda scheduled for 9 a.m. on July 28, 1983. The emergency status was because the meeting was changed to a different location. The meet-

ing was originally scheduled for the Driskill Hotel, Austin

Contact: Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4806.

Filed: July 27, 1983, 1:54 p.m.
TRD-835732

Thursday, July 28, 1983, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department submitted an emergency revised agenda to the meeting held at the Parks and Wildlife Headquarters Complex, Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission considered the election of the vice-chairman of the Texas Parks and Wildlife Commission. The emergency status was due to urgent public necessity requiring consideration of election of the vice-chairman of the Texas Parks and Wildlife Commission, to insure proper function of the commission.

Contact: Maurine Ray, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4806.

Filed: July 27, 1983, 1:54 p.m.
TRD-835733

Texas State Board of Pharmacy

Tuesday, August 16, 1983, 9 a.m. The Texas State Board of Pharmacy will meet in Room 117, Sam Houston Building, 14th and Brazos Streets, Austin. According to the agenda, the board will be administering the Texas jurisprudence examination and conducting reciprocity hearings for licensure as pharmacists.

Contact: Priscill Jarvis, 211 East Seventh, Suite 1121, Austin, Texas, (512) 478-9827.

Filed: July 28, 1983, 9:23 a.m.
TRD-835762

Texas Department of Public Safety

Tuesday, August 9, 1983, 10 a.m. The Public Safety Commission of the Texas Department of Public Safety (DPS) will meet in the commission room, DPS Headquarters, 5805 North Lamar Boulevard, Austin. Items on the agenda include approval of the minutes, budget and personnel matters, and other unfinished business.

Contact: James B. Adams, Box 4087, 5805 North Lamar Boulevard, Austin, Texas 78773, (512) 465-2000.

Filed: July 29, 1983, 3:46 p.m.
TRD-835821

Public Servant Standards of Conduct Advisory Committee

Monday and Tuesday, August 15 and 16, 1983, 10 a.m. daily. The Public Servant Standards of Conduct Advisory Committee will meet in Room 410, John H. Reagan Building, 105 West 15th Street, Austin. Items on the agenda include a review of committee-endorsed legislation passed and not passed by the 68th Legislature; consideration of recommendations to the 69th Legislature; a public hearing of testimony regarding recommendations to the State Ethics Advisory Commission and to the 69th Legislature (interested citizens are encouraged to testify); and consideration of recommendations to the State Ethics Advisory Committee.

Contact: Donna Mobley, John H. Reagan Building, Room 417, Austin, Texas 78701, (512) 475-2466.

Filed: August 1, 1983, 3:24 p.m.
TRD-835910

Public Utility Commission of Texas

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The days, times, and dockets follow.

Tuesday, August 9, 1983, 10 a.m. A pre-hearing in Docket 5258—application of General Telephone Company of the Southwest to eliminate extended area service between the Georgetown and Jarrell exchanges.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 27, 1983, 9:01 a.m.
TRD-835722

Tuesday, August 9, 1983, 1:30 p.m. A pre-hearing conference in Docket 5272—application of Comanche County Electric Cooperative, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 1, 1983, 4:59 p.m.
TRD-835911

Friday, August 12, 1983, 10 a.m. A pre-hearing in Docket 5259—complaint of Mrs.

David Hazelrigg against Upshur-Rural Electric Cooperative, Inc.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 27, 1983, 9:01 a.m.
TRD-835723

Monday, August 15, 1983, 10 a.m. A pre-hearing conference in Docket 5205—appeals of Texas-New Mexico Power Company from the ratemaking ordinances of the Cities of League City, Olney, Fort Stockton, Texas City, Clifton, Spearman, Darrouzett, Follett, Perryton, and La Marque.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 29, 1983, 2:25 p.m.
TRD-835820

Wednesday, August 17, 1983, 10 a.m. A hearing in Docket 5196—application of Rio Grande Electric Cooperative, Inc., for authority to change rates.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100

Filed: July 29, 1983, 9:14 a.m.
TRD-835792

Thursday, August 18, 1983, 10 a.m. A hearing in Docket 5149—application of Montague Water Systems for authority to change rates within Montague County.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 29, 1983, 9:15 a.m.
TRD-835793

Wednesday, August 24, 1983, 2 p.m. A rescheduled hearing in Docket 3382—appeal of El Paso Electric Company from the rate order of the City of El Paso. The hearing was originally scheduled for August 29, 1983.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 28, 1983, 2:18 p.m.
TRD-835784

Monday, October 17, 1983, 10 a.m. A hearing on the merits in Docket 4802—petition of Dow Chemical Company regarding Houston Lighting and Power Company's interruptible power rate for cogenerators; Docket 5050—application of Houston Lighting and Power Company for approval of proposed interruptible service tariff; and

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Docket 5062—inquiry by the commission into the rates and tariffs of Houston Lighting and Power Company

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 27, 1983, 9:02 a.m.
TRD-835724

Railroad Commission of Texas

Monday, August 8, 1983, 9 a.m. Divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. Divisions, meeting rooms, and agendas follow:

The Administrative Services Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters; and an interagency contract between the commission's Texas Petroleum Research Committee Program and Texas A&M University to expedite research requiring laboratory and office supplies and materials, computer services, reproduction of manuscripts, automotive rental and storage facilities available on the respective university campuses where the work is performed.

Contact: Roger Dillon, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1211.

Filed: July 29, 1983, 1:47 p.m.
TRD-835802

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters; and interagency contracts with the Texas State Board of Registration for Professional Engineers, the State Property Tax Board, and the University of Texas System administration university lands accounting office.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: July 29, 1983, 1:50 p.m.
TRD-835803

The Flight Division will meet in Room 107 to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103

Filed: July 29, 1983, 1:49 p.m.
TRD-835804

The Gas Utilities Division will meet in Room 107 to consider gas utilities Dockets

2645 consolidated, 4015, 4122, 4126, 4095, 4127, 4128, 4141, 4106, and the director's report

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461

Filed: July 29, 1983, 1:47 p.m.
TRD-835805

The Office of Information Services will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters

Contact: Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711

Filed: July 29, 1983, 1:49 p.m.
TRD-835806

The LP-Gas Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters

Contact: Hugh I. Keepers, P.O. Drawer 12967, Austin, Texas 78711

Filed: July 29, 1983, 1:47 p.m.
TRD-835807

The Oil and Gas Division will meet in the first floor auditorium to consider various matters falling within the commission's oil and gas regulatory jurisdiction.

Contact: Ian Burris, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

Filed: July 29, 1983, 1:48 p.m.
TRD-835808

Additions to the above agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

Contact: Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1273

Filed: July 29, 1983, 1:49 p.m.
TRD-835809

Consideration of final or emergency adoption of proposed amendments to 16 TAC §3.5, pertaining to drilling applications, in Docket 20-80,962

Contact: Sandra Joseph, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1285.

Filed: July 29, 1983, 1:48 p.m.
TRD-835810

Consideration of a staff recommendation to file a grant application with the U.S. Environmental Protection Agency (EPA) for the Underground Injection Control Pro-

gram in the amount of \$327,950 for fiscal year 1984; a staff recommendation to file a grant application with the U.S. EPA for the Underground Injection Control Program in the amount of \$50,000 in additional funding for fiscal year 1983; and consideration of acceptance of \$7,350 in reallocated funds for fiscal year 1983

Contact: Jerry W. Mullican, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1373.

Filed: July 29, 1983, 1:47 p.m.
TRD-835811

Consideration of whether to institute legal action against Silsbee Vacuum Service Company, Inc., and Hannon Hollyfield

Contact: Glenn Jordan, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1229

Filed: July 29, 1983, 1:46 p.m.
TRD-835815

The Personnel Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters

Contact: Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

Filed: July 29, 1983, 1:47 p.m.
TRD-835812

The Office of the Special Counsel will meet in the third floor conference room to consider and act on the division director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters. The commission will also consider a recommendation that the Travis Peak Formation be designated as a tight sands formation in Texas, Docket 5-76,659, pending before the Federal Energy Regulatory Commission.

Contact: Walter Earl Lihie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186

Filed: July 29, 1983, 1:49 p.m.
TRD-835813

The Surface Mining and Reclamation Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, personnel matters, and approval of the bond and issuance of a permit to Texas Utilities Generating Company in Docket 17

Contact: J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751

Filed: July 29, 1983, 1:46 p.m.
TRD-835814

The Transportation Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the commission's transportation regulatory jurisdiction.

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: July 29, 1983, 1:46 p.m.
TRD-835816

Thursday, August 18, 1983, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 IH 35 South, Austin. According to the agenda summary, the commission will conduct a statewide oil and gas hearing.

Contact: Harriett Trammell, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1297.

Filed: July 29, 1983, 1:48 p.m.
TRD-835817

Texas Southern University

Friday, August 12, 1983. Committees of Texas Southern University will meet in Room 117, Hannah Hall, 3100 Cleburne Avenue, Texas Southern University, Houston. Times, committees, and agendas follow.

9 a.m. The Building and Grounds Committee will consider approval of payments for construction contracts for construction and for rehabilitation of buildings, construction change orders, and approval of land acquisitions.

10:15 a.m. The Finance Committee will consider monthly financial reports and approval of short-term investments, approval of payments for real estate purchases, and the 1983-1984 annual budgets.

11:30 a.m. The Personnel and Academic Affairs Committee will receive enrollment and curricula data from the administration and will review appointments and changes in the status of personnel, approve educational gifts and grants, and approve leave of absences.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911

Filed: July 29, 1983, 9:17 a.m.
TRD-835794-835796

Friday, August 12, 1983, 1:30 p.m. The Board of Regents of Texas Southern University will meet in Room 203, Sterling Life Center, 3100 Cleburne Avenue, Houston.

Items on the agenda include approval of the minutes; reports of the Finance Committee, concerning financial reports, approval of short-term investments, approval of payments for real estate purchases, and consideration of the 1983-1984 annual budget; change orders, and land acquisitions; the Personnel and Academic Affairs Committee, concerning approval of faculty appointments, changes in the status of personnel, approval of leaves of absence, and status reports, and the Development and Student Affairs Committees, concerning status reports.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: July 29, 1983, 9:16 a.m.
TRD-835797

Advisory Council for Technical-Vocational Education in Texas

Monday, August 8, 1983, 8:30 a.m. The Steering Committee of the Advisory Council for Technical-Vocational Education in Texas will meet in the Advisory Council Office, Suite 202, 1700 South Lamar Boulevard, Austin. According to the agenda, the committee will review plans for public forum activities, items for the 1983-1984 program of work and activities, and other information items. The committee also will meet in executive session to discuss personnel matters.

Contact: Val Blaschke, P.O. Box 1886, Austin, Texas 78767, (512) 475-2046.

Filed: July 28, 1983, 2:19 p.m.
TRD-835781

Texas Tech University

Thursday, August 4, 1983. Committees of the Texas Tech University Board of Regents and the Texas Tech University Health Sciences Center Board of Regents met jointly in the board suite, Administration Building, Texas Tech University, Lubbock. Times, committees, and agendas follow.

9 a.m. The Campus and Building Committees met in executive session.

The Campus and Building Committee of the Texas Tech University Board of Regents also considered receipt of bids to renovate heating, ventilation, and air conditioning in housing office, reconstruct the livestock arena, complete the sub-basement in the art building, add a lab to the university theater, and renovate the industrial engineering

building, award contracts for renovating and expanding the cooling capacity of central heating and cooling plant #2, adding to the feedmill and designing and constructing a feedlot at Texas Tech University agriculture field labs in Lubbock County; appoint a project engineer to design a ground water distribution system and renovate a sewage effluent storage reservoir; approve the budget to construct six tennis courts, proceed with the demolition and removal of metal portions of the former power plant, ratify acceptance dates for heating, ventilation, and air conditioning in the business administration building, the library building, and relocate the metal buildings housing range and wildlife management, agronomy, and horticulture, and construct a women's training facility at Jones Station.

10 a.m. The Athletic Affairs Committee of the Texas Tech University Board of Regents considered financing and budgets. The committee also met in executive session.

Noon. The Finance Committees jointly considered budget adjustments; revise budget rules and procedures; award a concession contract; amend and approve the inter-agency contract; approve the sale of general tuition revenue bonds and select an agent; revised board authority to manage surface and mineral interests, student fees, and the 1983-1984 holiday schedules; ratify the Texas Equal Educational Opportunity Plan for Higher Education, consider the 1984 and 1985 general policy governing granting of tuition scholarships, guidelines for limiting time deposit investments, and the investments report; and ratify signature authorizations and commissioning of peace officers.

The Finance Committee of the Texas Tech University Board of Regents also considered the Texas Tech University and Museum 1984 Budget, extend the concession contract for game machines; approve an addition to the university space and facilities policy; extend the sewage effluent contract with the City of Lubbock; and designate the livestock judging pavilion as an historical landmark.

The Finance Committee of the Texas Tech University Health Sciences Center Board of Regents also approved the 1984 budget and considered the contract for purchase of El Paso land, the contract with the El Paso County Hospital District, amendments to the master coordinating agreement with the Lubbock County Hospital District, the contract with the Medical Center Hospital,

Odessa, and revisions to the School of Medical Practice Income Plan Bylaws

3 p.m. The Academic and Student Affairs Committees jointly considered the granting of academic tenure with appointment, and the review of the draft of tenure policy. The committees also met in executive session.

The Academic and Student Affairs Committee of the Texas Tech University Board of Regents also considered the granting of Emeritus status, regulations pertaining to the academic status of undergraduate students, revision of undergraduate admission standards, a master of arts in philosophy, and ratifying leaves of absence and centers and institutes.

4:30 p.m. The Development Committees met in executive session.

The Development Committee of the Texas Tech University Board of Regents considered the appointment of new members to the board of directors of the Texas Tech University Foundation for three-year terms which expire August 31, 1983, and the reappointment of present member of the Texas Tech University Foundation for three-year terms which expire August 31, 1986.

5:15 p.m. The Public Affairs Committees jointly heard reports. The committees also met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 28, 1983, 9:21 a.m.
TRD-835763-835773

Friday, August 5, 1983, 8:30 a.m. The Texas Tech University Board of Regents and the Texas Tech University Health Sciences Center Board of Regents met jointly in the board room, administration building, Texas Tech University, Lubbock. According to the agenda, the boards considered reports and take action on the minutes, and on the following committees: Academic and Student Affairs, Finance, Campus and Building, and Development. The boards considered other business and met in executive session.

Contact: Freda Pierce, P.O. Box 4039, Lubbock, Texas 79409, (806) 742-2161.

Filed: July 28, 1983, 9:17 a.m.
TRD-835774, 835775

Texas Water Commission

Thursday, July 28, 1983, 2 p.m. The Texas Water Commission met in emergency ses-

ion in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda included an application by the Red River Authority of Texas for a resolution by the commission certifying that the authority has the necessary water right authorizing it to appropriate and use the surface water to be provided by a project as required by the Texas Water Code, §17.125, and 31 TAC §313.83(b) (Arrowhead Estates). The emergency status was necessary because the authority must have certification of its water rights before selling bonds, and the commission must consider the referenced matter as soon as possible for the authority to meet its proposed schedule.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 28, 1983, 8:23 a.m.
TRD-835751

Monday, August 8, 1983, 1 p.m. The Texas Water Commission will meet in emergency session in the meeting room, Harlingen Public Library, 504 East Tyler, Harlingen. According to the agenda, the commission will conduct adjudication hearings on the Nueces Rio Grande Coastal Basin. The emergency status is necessary because notice of the application was properly and timely mailed to the affected claimants on July 8, 1983; however, it was not filed on time with the secretary of state for publication in the *Texas Register*.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 1, 1983, 9:59 a.m.
TRD-835892

Tuesday-Friday, August 9-12, 1983, 9 a.m. daily. The Texas Water Commission will meet in the meeting room, Harlingen Public Library, 504 East Tyler, Harlingen. According to the agenda, the commission will conduct adjudication hearings on the Nueces-Rio Grande Coastal Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 1, 1983, 9:59 a.m.
TRD-835893

The Texas Water Commission will conduct application hearings in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, and applications follow.

Tuesday, August 16, 1983, 10 a.m. Sixteen applications to appropriate state waters from the Brazos River Basin for irrigation purposes in Wilhamson, Travis, McLennan,

Hill, Bell, Robertson, Johnson, Falls, Milam, and Brazos Counties.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 29, 1983, 3:38 p.m.
TRD-835822

Wednesday, August 24, 1983, 10 a.m. Application by Albert H. Korenek for a proposed water quality Permit 12680-01, to authorize discharge of 12,000 gallons per day of treated domestic sewage from a mobile home park in Brazoria County, in the San Jacinto Brazos Coastal Basin, and approval of preliminary plans for a reclamation project (RE-0204) by Las Colinas Corporation, Dallas County Municipal Utility District 1, CF-1 BJ Properties, Inc., and Los Colinas Properties, Inc., in Dallas County, to modify 11,300 feet of the Elm Fork Trinity River and channelization of 2,300 feet of Farmers Branch Creek.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 29, 1983, 3:38 p.m.
TRD-835823

Tuesday, August 30, 1983, 10 a.m. Petition for creation of Harris County Municipal Utility District 222 containing 430.86 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 28, 1983, 11:17 a.m.
TRD-835779

Wednesday, September 7, 1983, 10 a.m. Petition for creation of Harris County Municipal Utility District 231 containing 179.0048 acres of land.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: July 27, 1983, 11:18 a.m.
TRD-835729

West Texas State University

Wednesday, August 10, 1983, 10 a.m. The West Texas State University Board of Regents will meet in Room 211, Activities Center, West Texas State University, Canyon. Items on the agenda summary include the election of officers, business and finance items, concerning operating budget changes and construction contracts; contract change orders, bids and contract awards, miscellaneous contracts, a Property Committee recommendation, an Advisory Athletic Committee recommendation, the 1983-1984 uni-

versity operating budget and museum operating budget, an interfund transfer, full-time university employees' exemption from payment of fees, sale of surplus and salvage property, annual year-end closing, authority to approve travel reimbursement, a resolution supporting House Joint Resolution 19, the Texas Equal Educational Opportunity Plan for Higher Education, authority to manage income from Smith and Sheffy Manorial Library Fund; and faculty, staff, and curriculum items. The board also will meet in executive session.

Contact: Texas Smith, West Texas State University, Canyon, Texas 79016, (806) 656-3962

Filed: August 2, 1983, 9:27 a.m.
TRD-835923

Texas Wheat Producers Board

Thursday and Friday, August 11 and 12, 1983, 1:30 p.m. and 8 a.m., respectively. The Texas Wheat Producers Board of the Texas Department of Agriculture will meet in the executive conference room, Hilton Inn, Amarillo. According to the agenda, the board will hear a biennial election report; Crop, Harvest, and Activity Committees' reports, the financial report; a report from the commissioner's office, hold the United States wheat directors meeting, install new board members, and plan constitutional amendment activity.

Contact: Bill Nelson, Texas Commerce Bank, Suite 600, Amarillo, Texas 79109, (806) 352-2191

Filed: August 1, 1983, 11:33 a.m.
TRD-835882

Regional Agencies

Meetings Filed July 27

The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors, met at the district office, Highway 81, Natalia, on August 1, 1983, at 10 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Central Texas Council of Governments, Executive Committee, made an emergency addition to the agenda of a meeting held at 302 East Central, Belton, on July 28, 1983, at 12:45 p.m. Information may be obtained from Walton B.

Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1801

The Gillespie County Appraisal District, Board of Directors, will meet in the county courtroom, County Courthouse, Fredericksburg, on August 10, 1983, at 9 a.m. Information may be obtained from Gary Nellendorf, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-7655.

The Region XVIII Education Service Center, Board of Directors, will meet at the Education Service Center, LaForce Boulevard, Midland, on August 18, 1983, at 7:30 p.m. Information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79711, (915) 563-2380.

The Scurry County Appraisal District, Board of Directors, met at 2612 College Avenue, Snyder, on August 2, 1983, at 8 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The Wood County Appraisal District, Appraisal Review Board, met in emergency session in the conference room, 217 North Main Street, Quitman, on July 28, 1983, at 9 a.m. Information may be obtained from W. Carson Wages, P.O. Box 951, Quitman, Texas 75783, (214) 763-4946.

TRD-835725

Meetings Filed July 28

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in emergency session in the board room, 1430 Collier Street, Austin, on August 1, 1983, at 12:30 p.m. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Region IV Education Service Center, Board of Directors, will meet in the board room, 7200 West Tidwell, Houston, on August 9, 1983, at 6 p.m. Information may be obtained from Tom Pate, Jr., P.O. Box 863, Houston, Texas, 77001, (713) 462-7708.

The Garza County Appraisal District, Board of Directors, met at the appraisal office, courthouse, Post, on August 2, 1983, at 7 p.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356.

The Mental Health and Mental Retardation Authority of Brazos Valley, Board of Trustees, will meet at the Brazos Center,

3232 Briarcrest Drive, Bryan, on August 11, 1983, at 3:30 p.m. Information may be obtained from Ann Pve Shively, Ph.D., 707 South Texas Avenue, Suite 225C, College Station, Texas 77840.

The Tarrant Appraisal District, Appraisal Review Board, will meet at 1701 River Run, Suite 300, Fort Worth, on August 5, 1983, at 8:30 a.m. Information may be obtained from Linda Freeman, 1701 River Run, Suite 300, Fort Worth, Texas 76107, (817) 332-3151.

TRD-835752

Meetings Filed July 29

The Archer County Appraisal District, Appraisal Review Board, will meet at the appraisal district office, Archer City, on August 8, 1983, at 10 a.m. Information may be obtained from A. G. Reis, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Bell County Appraisal District will meet in the commissioner's courtroom, second floor, Bell County Courthouse, Belton, on August 17, 1983, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-3521, ext. 410.

The Bexar Appraisal District, Appraisal Review Board, will meet at 535 South Main, San Antonio, on August 5, 1983, at 8:30 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Coryell County Appraisal District, Board of Directors, met at 105 North Seventh, Gatesville, on August 4, 1983, at 7 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The South Texas Development Council, Government Application Review Committee, will meet at the Zapata Community Center, Highway 83, Zapata, on August 5, 1983, at 10 a.m. Information may be obtained from Adriana Rodriguez, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

The Upshur County Appraisal District, Board of Directors, will meet at the appraisal district office, Warren and Trinity Streets, Gilmer, on August 8, 1983, at 7 p.m. Information may be obtained from Louise Stracener, P.O. Box 31, Gilmer, Texas 75644, (214) 843-3041.

TRD-835798

Texas Register

Meetings Filed August 1

The Archer County Appraisal District, Board of Directors, will meet in the Archer County Courthouse, Archer City, on August 10, 1983, at 5 p.m. Information may be obtained from A. G. Reis, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172.

The Blanco Central Appraisal District, Board of Directors, will meet at the Blanco County Courthouse Annex, Johnson City, on August 8, 1983, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Callahan County Appraisal District, Board of Directors, will meet at the Callahan County Courthouse, Baird, on August 8, 1983, at 8 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 1055, Baird, Texas 79504, (915) 854-1165.

The Carson County Appraisal District, Board of Directors, will meet at 220 Main Street, Panhandle, on August 10, 1983, at 7:30 p.m. and at 7:45 p.m. Information may be obtained from Dianne Lavake, Box 970, Panhandle, Texas 79068-0970, (806) 537-3569.

The Copano Bay Soil and Water Conservation District 329 will meet at Shay Plaza, 106 South Alamo, Refugio, on August 10, 1983, at 8:30 a.m. Information may be obtained from Jim Wales, Drawer 340, Refugio, Texas 78377, (512) 526-2334.

The Dawson County Appraisal District, Appraisal Review Board, met in emergency session in Room 3, Howard College Campus, 1810 Lubbock Highway, on August 4 and 5, 1983, at 9 a.m. daily. Information may be obtained from Mike Watson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Gray County Appraisal District, Board of Directors, will meet in the courtroom,

Gray County Courthouse, Pampa, on August 11, 1983, at 5:30 p.m. Information may be obtained from Charles Buzzard, Box 836, Pampa, Texas 79065, (806) 665-0791.

The Harris County Appraisal District, Board of Directors, will meet at 3737 Dacoma, Houston, on August 8, 1983, at 2 p.m. Information may be obtained from Searcy German, P.O. Box 10975, Houston, Texas 77292, (713) 683-9200.

The Henderson County Appraisal District, Board of Directors, revised the agenda of a meeting held at 101 East Corsicana, Athens, on August 4, 1983, at 7:30 p.m. Information may be obtained from Linda Hagar, P.O. Box 430, Athens, Texas 75751, (214) 675-9296.

The Hood County Appraisal District, Board of Directors, will meet at the district office, 1902 West Pearl, Granbury, on August 9, 1983, at 7:30 p.m. Information may be obtained from Ben H. Griffin, P.O. Box 819, Granbury, Texas 76048, (817) 573-5595.

The Houston-Galveston Area Council, Project Review Committee, met in emergency session at 3701 West Alabama Street, Houston, on August 2, 1983, at 9:30 a.m. Information may be obtained from Geraldine McCray, P.O. Box 22777, Houston, Texas 77027, (713) 627-3200.

The Lamar County Appraisal District, Board of Directors, will meet at 1523 Lamar Avenue, Paris, on August 8, 1983, at 4 p.m. Information may be obtained from L. F. Ricketson, 1523 Lamar Avenue, Paris, Texas 75460, (214) 785-7822.

The Lampasas County Appraisal District, will meet at 403 East Second Street, Lampasas, on August 5, 1983, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Texas Municipal Power Agency, Board of Directors, met at Texas Commerce Bank, 3200 Broadway, Garland, on August 4, 1983, at 2:30 p.m. Information may be obtained from Frank H. Bass, 2225 East Randol Mill Road, Suite 600, Arlington, Texas 76011, (817) 461-4400.

The Palo Pinto Appraisal District, Board of Review, met in emergency session at the Palo Pinto County Courtroom, Palo Pinto, on August 3, 1983, at 4 p.m. Information may be obtained from John R. Winters, 100 Southeast Fifth Street, Mineral Wells, Texas 76067, (817) 659-3651.

The Panhandle Groundwater Conservation District 3, Board of Directors, met in emergency session at 300 South Omohundro, White Deer, on August 1, 1983, at 8 p.m. Information may be obtained from Richard S. Bowers, Box 637, White Deer, Texas 79097, (806) 883-2501.

The Swisher County Appraisal District, Board of Directors, will meet at 130 North Armstrong, Fulia, on August 11, 1983, at 8 p.m. Information may be obtained from Nan Davis, Drawer 8, Fulia, Texas 79088, (806) 995-3015.

TRD-835894

Meetings Filed August 2

The Fisher County Appraisal District, Board of Directors, will meet in the hospitality room, Fisher County Courthouse, Roby, on August 8, 1983, at 8 p.m. Information may be obtained from Ginger Green, Box 516, Roby, Texas 79543, (915) 776-2733.

The Lee County Appraisal District, Board of Review, will meet at 218 East Richmond Street, Giddings, on August 11, 1983, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

TRD-835912

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 Department of Agriculture Consultant Proposal Request

In compliance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Agriculture is requesting proposals for services of a consultant

Proposal Specifications. An applicant must have at least five years programming experience on a Burroughs computer system. He or she must be skilled in the design of computer systems and have demonstrated microcomputer experience. Also, it is desirable that the applicant be familiar with Texas agricultural statutes and regulations, since the applicant selected will be required to design and assist with developing computerized information systems to support the department's programs. The consultant shall:

- (1) assist with installation of microcomputers in the department;
- (2) advise on the selection and implementation of software;
- (3) assist in resolving hardware or software problems;
- (4) assist with establishing communications between microcomputers in the field offices and computers in the central office;
- (5) design applications for the department computers;
- (6) plan for communication and interface between the Burroughs and microcomputers;
- (7) design computer training programs for department staff;
- (8) answer questions posed by department staff about computers; and
- (9) provide general consulting services to the department on computer matters.

Contact. Written proposals are to be submitted to Crockett Camp, Assistant Deputy Commissioner for Administration, Texas Department of Agriculture, P O Box 12847, Austin, Texas 78711

Deadline for Proposal. Proposals must be received at the specified address no later than 5 p.m. on August 26, 1983.

Evaluation Criteria. Proposals will be judged on the following basis:

- (1) demonstrated knowledge and expertise in the department's programs and their applications;
- (2) working knowledge of the statutes under which the department operates;
- (3) previous work experience, demonstrating a long-term association with computer system design and the operation and programming of computers and microcomputers;
- (4) ability to meet departmental time-frame requirements; and
- (5) demonstrated ability to synthesize technical material and to rapidly prepare appropriate reports on findings.

Contract Award. Awarding of the contract will not necessarily be made to the bidder offering the lowest price, but to the lowest and best bidder, considering price and results of evaluation. Final selection will be made by the commissioner of the Texas Department of Agriculture based upon submitted qualifications and staff recommendations. It is the intent of the department to award this contract for consulting services to the private consultant that previously performed these services, unless a superior offer is submitted. However, this proposal request in no way obligates the department to execute a resulting contract. The right to reject any or all proposals is reserved.

Notice of Contract Award. The notice of contract award will be sent to the consultant selected by letter, to be issued not later than September 15, 1983. Notice will also be sent to unsuccessful applicants in the foregoing manner.

Issued in Austin, Texas, on August 1, 1983.

TRD-835848

Jim Hightower
Commissioner
Texas Department of Agriculture

Filed: August 1, 1983

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

Correction of Error

A proposal submitted by the Texas Department of Agriculture contained errors as published in the July 29, 1983, issue of the *Texas Register* (8 TexReg 2839). In the first sentence of the preamble of 4 TAC §15.11, the rule title should read: "fees for testing weighing and measuring devices." The fifth paragraph, second sentence, should reflect a \$10 fee increase for 1983-1987 for scales with a capacity of 1,000 pounds or more, but less than 4,999 pounds. The first and second sentences of the last paragraph of the preamble should read:

The amendments are proposed under Senate Bill 1298, 68th Legislature, which was signed into law to be effective September 1, 1983. Senate Bill 1298 amends the Texas Agriculture Code, (1981), §13.115, which provides the Texas Department of Agriculture with the authority to collect a fee as provided there.

The last sentence should read: "Section 13.021 provides the department with the authority to adopt rules."

Texas Air Control Board Applications for Construction Permits

The Texas Air Control Board gives notice of applications for construction permits received during the period of July 4-22, 1983.

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

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

Listed are the names of the applicants and the cities in which the facilities are located, type of facilities, location of the facilities (if available), permit numbers, and type of application--new source or modification.

Texas Fx Tx Corporation, Houston, bulk handling, (location not available), 9337, new source

Cooper and Woodruff, Inc., Panhandle; drum mix asphalt plant, (location not available); 6241E, new source

Sohio Chemical Company, Port Lavaca; acrylonitrile plant expansion, (location not available); 9338, new source

Cities Service Oil & Gas Corporation, Jewett; oil and gas exploration and production; FM 1469; 9339; new source

Concrete Recycling Corporation, Houston, crushed recycled concrete, 13060 Lanner Road; 8959A, modification

Texas Gulf Chemical Company, New Gulf; frash sulfur mining, (location not available); 9340, new source

Union Texas Petroleum Corporation, Novice; oil and gas treating station; 0.5 miles south of FM 1770, 9341, new source

Cen Tex Ready Mix Concrete Company, Belton; ready mix concrete plant, FM 93, 1.4 mile east of IH 35, 6992A, modification

Sentry Refining, Inc., Corpus Christi; petroleum terminal, (location not available), 9342; new source

Sentry Refining, Inc., Corpus Christi; petroleum refining; (location not available), 9343; new source

Coastal States Petroleum Company, Corpus Christi, refinery cogeneration unit, 1320 Cantwell; 9344, new source

Phillips Petroleum Company, Elkhart, tank hopper care cleaning repair plant, (location not available), 9345, modification

Issued in Austin, Texas, on July 26, 1983

TRD 835742

Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: July 27, 1983

For further information, please call (512) 451-5711, ext. 354.

Contested Case Hearing

Pursuant to the authority provided in the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §§3.15-3.17, and the procedural rules of the Texas Air Control Board (TACB), 31 TAC §§103.11(3), 103.31, and 103.41, an examiner for the TACB will conduct a hearing to consider whether a construction permit should be issued to H. B. Zachry Company for the construction of a drum mix asphaltic concrete plant to be located approximately 1,500 feet south of the intersection of Mustang Road and State Highway 157 in Grapevine, Tarrant County.

The company is directed to appear at the time and place shown and demonstrate by preponderance of evidence that the company, based upon Permit Application C-9306, has satisfied the requirements of the TACB and the Act for the issuance of a construction permit.

The record of this hearing will be used by the TACB in determining the appropriate action to take, concerning Permit Application C-9306.

Information regarding the application and copies of the board's rules are available at the regional office of this agency, located at 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, the central office of this

agency located at 6330 Highway 290 East, Austin, Texas 78723, and the office of the city secretary, 413 Main Street, Grapevine, Texas 76051

The examiner has set the hearing to begin at 6 p.m. on September 12, 1983, in the Grapevine City Council Chambers, 413 Main Street, Grapevine, Texas 76051. At this time, parties to the hearing are the TACB staff and the company. Any other persons desiring to be made a party must specifically apply in writing for party status to Kenneth E. Davison, Jr., Examiner, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723. No other persons will be admitted as parties, unless the request is actually received at the previously stated address by August 15, 1983. Previous correspondence with the TACB is not effective for this purpose. A final determination regarding party status will be made at the prehearing conference on the following date. At the hearing on the merits, only those persons admitted as parties will be permitted to present evidence and arguments and to cross-examine witnesses. Any person who desires to give testimony at the hearing, but who does not desire to be a party, may call the Legal Division of the TACB at (512) 451-5711, ext. 353, to determine the names and addresses of all admitted parties. These parties may then be contacted about the possibility of presenting testimony.

Pursuant to 31 TAC §103.46 of the procedural rules of the TACB, the examiner has scheduled a prehearing conference on August 17, 1983, at 6 p.m. in the Grapevine City Council Chambers, 413 Main Street, Grapevine, Texas 76051. All persons wishing to be admitted as parties must attend the conference. Proposed written disputed issues for consideration at the hearing on the merits, and written request for official notice should be made at the prehearing conference. At this conference, a specific date prior to the hearing on the merits will be established for the exchange of witness lists, short summaries of their prospective testimony, and copies of written and documentary evidence pursuant to 31 TAC §103.46(2).

Members of the general public who plan to attend the hearing are encouraged to telephone the central office of the TACB in Austin, at (512) 451-5711, ext. 353, or the regional office in Fort Worth, at (817) 732-5531 a day or two prior to the hearing date to confirm the setting, since continuances are granted from time to time.

Issued in Austin, Texas, on July 28, 1983

TRD-835845 Bill Stewart
Executive Director
Texas Air Control Board

Filed, July 29, 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*.

On July 26, 1983, notice was given that time limitations had expired, thus allowing acquisition of control.

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

Issued in Austin, Texas, on July 26, 1983

TRD-835743 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed July 27, 1983

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

Texas Coastal and Marine Council Coastal Issues of Texas

The Texas Coastal and Marine Council is seeking assistance in identifying important current and potential coastal problems and opportunities for Texas.

Next month the council will consider a budget and work program which will guide its activities for the next two years, and individuals and organizations are encouraged to help make the council's future work program more effective by identifying coastal issues for consideration. Respondents are urged to include specific comments to clarify individual issues being nominated.

Responses containing coastal issues and comments for consideration by the council should be sent to the Texas Coastal and Marine Council, P.O. Box 13047, Austin, Texas 78711-3407.

Issued in Austin, Texas, on July 29, 1983

TRD-835874 Charles L. Branton
Executive Director
Texas Coastal and Marine
Council

Filed: August 1, 1983

For further information, please call (512) 475-5849.

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 ⁽¹⁾ Agricul- tural Commercial ⁽²⁾ thru \$250,000 | Commercial ⁽³⁾ over \$250,000 |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------------|------------------------------------------------|

| | | |
|------------------------------------------------------------------|--------|--------|
| Indicated (Weekly) Rate—Article 1.04(a)(1) 8/08/83-8 14 83 | 19.00% | 19.00% |
|------------------------------------------------------------------|--------|--------|

| | | |
|--------------------------------------------------------------------|--------|--------|
| Monthly Rate— Article 1.04(c) ⁽¹⁾ 8/01/83-8 31 83 | 18.56% | 18.56% |
|--------------------------------------------------------------------|--------|--------|

| | | |
|------------------------------------------------------------------|--------|--------|
| 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 ⁽¹⁾ 7/01/83-9/30 83 | 18.00% | N/A |
|-----------------------------------------------------------------------------------------|--------|-----|

| | | |
|---------------------------------------------------------------------------------------------|--------|-----|
| Lender Credit Card Quarterly Rate— Article 15.02(d) ⁽¹⁾ 7/01/83-9 30 83 | 16.69% | N/A |
|---------------------------------------------------------------------------------------------|--------|-----|

| | | |
|----------------------------------------------------------------------------------|--------|--------|
| Standard Annual Rate— Article 1.04(a)(2) ⁽²⁾ 7/01/83-9/30 83 | 18.00% | 18.00% |
|----------------------------------------------------------------------------------|--------|--------|

| | | |
|--------------------------------------------------------------------------------------|--------|-----|
| Retail Credit Card Annual Rate— Article 1.11 ⁽¹⁾ 7/01/83-9/30 83 | 18.00% | N/A |
|--------------------------------------------------------------------------------------|--------|-----|

| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-----|
| Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 7/01 83 9/ 30 83 | 18.31% | N/A |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|-----|

| | | |
|--------------------------------|---------------------------|--|
| Judgment Rate— Article 1.05 | Becomes effective 9/01/83 | |
|--------------------------------|---------------------------|--|

- (1) For variable rate commercial transactions only
- (2) Only for open end credit as defined in Texas Civil Statutes Article 5069 1.01(1)
- (3) Credit for personal, family, or household use
- (4) Credit for business, commercial, investment or other similar purpose

Issued in Austin, Texas, on August 1 1983

TRD-835847 Sam Kelly
Consumer Credit Commissioner

Filed August 1, 1983
For further information, please call (512) 475-2111.

Comptroller of Public Accounts Decisions 13,303 and 13,317

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention, Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Summary of Decision. A petitioner and a contractor contended that the sales price for materials as shown on its internal records, rather than a higher amount plus 5.0% sales tax shown on an invoice given to its customer, should control in determining its sales tax liability. The comptroller held that §111.016 requires all persons to remit to the state any amounts that have been charged and paid to them as tax.

Issued in Austin, Texas on July 29, 1983

TRD 835799 Bob Bullock
Comptroller of Public Accounts

Filed July 29, 1983

For further information, please call (512) 475-1938.

Texas Education Agency Request for Proposal

Description. The Texas Education Agency is requesting proposals to select an investment advisory firm to advise the State Board of Education in carrying out its statutory duty to invest funds for the state permanent school fund. The contract with the selected investment advisory firm will be awarded on September 9, 1983, and will terminate on August 31, 1985.

Continuation of a Service Previously Performed. This is a continuation of a service now being performed by InterFirst Investment Management, Inc., P.O. Box 83781, Dallas, Texas 75283.

Selection of Contractor. Respondents must be advisory firms of national scope, having a large and complete research division for the analysis of both industries and individual corporations, an economics department competent in analyzing and forecasting the general economy and the economy of industries and industry groups, and an organization which combines the knowledge and judgments of all of its departments to assure that its advice and recommendations regarding the fund are the product of the opinions of many individuals rather than one. Further, respondents must currently be providing investment advice for a fund aggregating not less than \$1 billion, must have partial discretion for a fund aggregating not less than \$500 million, must currently be rendering advisory services to a tax-exempt fund or funds, and must not be part of, or controlled by, any stock brokerage firm. Respondents having these qualifications will be ranked by the permanent school fund staff on the basis of their capacity to render the required investment advice and the charges proposed to be made for their services. On September 9, staff will present to the Investment Committee of the State Board of Education the top five ranked proposals. After these presentations, the Investment Committee will recommend to the State Board of Education that the Texas Education Agency be empowered to enter into a contract with the chosen respondent. Upon approval by the full board, the contract will be executed effective September 10, 1983.

Contents of Proposals. Each proposal shall contain a detailed statement demonstrating that the respondent meets the qualifications set out previously and a money bid of its annual fee for its services to the board for the period beginning September 10, 1983, and ending August 31, 1985.

Delivery of Proposals. Proposals must be received by the Texas Education Agency no later than 5 p.m. on August 31, 1983. Proposals should be mailed to the Document Control Center, Attention: Investment Officer, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701. Proposals shall be submitted in 15 sequentially numbered copies.

Assistance to Prospective Respondents. Prospective respondents not receiving a request for proposal (RFP) in the initial mailing may obtain a copy of the RFP or any additional information needed to develop a proposal by telephoning or writing to Jim Hooks, Investment Officer, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, (512) 475-4791.

Issued in Austin, Texas, on July 26, 1983

TRD-835730 Raymon L. Bynum
 Commissioner of Education

Filed July 27, 1983

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

Texas Department of Health Public Hearings

The Texas Department of Health will conduct hearings on proposed rules as follows:

On Thursday, August 11, 1983, at 9 a.m., in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, a public hearing will be held on proposed new §§205.01-205.43, concerning labeling of hazardous consumer products. The rules cover all types or classes of items which are hazardous substances and the labeling requirements, restrictions, and exemptions. For further information, contact R. D. Sowards, Jr., Manager, Hazardous Products Program, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7248.

On Friday, August 12, 1983, at 10 a.m., in the conference room, Bureau of Radiation Control, 1212 East Anderson Lane, Austin, a public hearing will be held on amendments to §289.1, concerning the control of radiation. The proposed amendments include a new Part 45, concerning licensing requirements for near-surface land disposal of radioactive waste, changes to Part 11, concerning general requirements, and changes to Part 21, concerning standards for protection against radiation. For further information, contact E. M. Burney, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 835-7000.

On Monday, August 15, 1983, at 9 a.m., in the auditorium, Texas Department of Health, 1100 West 49th

Street, Austin, a public hearing will be held on the proposed repeal of existing rules and proposed adoption of new §§97.1-97.9, concerning communicable diseases. The new rules cover the prevention, reporting, and control of communicable diseases. For further information, contact Everett Hardgrove, Bureau of Epidemiology, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7207.

On Monday, August 22, 1983, at 9 a.m., in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, a public hearing will be held on proposed new §§97.131-97.136, concerning venereal disease. The rules will cover definitions, reporting of venereal disease, serologic testing during pregnancy and at delivery, certification of laboratories performing standard serologic tests, reporting of laboratory tests for syphilis and gonorrhea, and prophylaxis treatment of newborns. For further information, contact C. E. Alexander, M.D., Dr.P.H., Chief, Bureau of Communicable Diseases, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7455.

On Thursday, September 8, 1983, at 9 a.m., in the auditorium, Texas Department of Health, 1100 West 49th Street, Austin, a public hearing will be held on proposed new §§229.181-229.183, concerning registration for manufacturers of food in Texas. The rules cover a registration fee, minimum standards for registration, and procedures for refusal, suspension, and revocation of a registration. For further information, contact Robert L. Henna, R.Ph., Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7248.

Issued in Austin, Texas, on July 29, 1983

TRD-835878 Robert A. MacLean, M.D.
 Deputy Commissioner
 Professional Services
 Texas Department of Health

Filed, August 1, 1983

For further information, please call (512) 458-7236.

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, NIH indicates notice of intent to acquire major medical equipment, NIHF indicates notice of intent to acquire existing health care facilities, NIR indicates notice of intent regarding a

research project, NH—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 FAC §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.

First Texas Medical, Inc., Lewisville
AH83-0725-058

NIEH—Request for a declaratory ruling that a certificate of need is not required for First Texas Medical, Inc., a Texas corporation, to acquire by purchase Denton Osteopathic Hospital, Inc., an existing 24-bed general acute care hospital located in Denton, from the Denton Osteopathic Hospital and Physicians' Clinic, Robert H. Nobles, D.O., and Jimmie Lou Nobles.

Unicare—Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., Milwaukee, Wisconsin
AN83-0706-015

NIEH—Request for a declaratory ruling that a certificate of need is not required for Unicare—Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., to acquire Concho Nursing Center, an existing 82-bed ICF nursing facility located in Eden, from Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc.

Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., Milwaukee, Wisconsin
AN83-0722-050

NIEH—Request for a declaratory ruling that a certificate of need is not required for Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., to acquire Concho Nursing Center, an existing 82-bed ICF nursing facility located in Eden, from Unicare—Amelia Island, Inc. The acquisition by Unicare Health Facilities, Inc., will result from a merger of Unicare—Amelia Island, Inc., with and into Unicare Health Facilities, Inc. After the merger, Unicare—Amelia Island, Inc., will be dissolved.

Unicare—Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., Milwaukee, Wisconsin
AN83-0706-017

NIEH—Request for a declaratory ruling that a certificate of need is not required for Unicare—Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., to acquire Richland Hills Nursing Home, an existing 60-bed ICF nursing facility located in Fort Worth, from Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc.

Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., Milwaukee, Wisconsin
AN83-0722-048

NIEH—Request for a declaratory ruling that a certificate of need is not required for Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., to acquire Richland Hills Nursing Home, a 60-bed ICF nursing facility located in Fort Worth, from Unicare—Amelia Island, Inc. The acquisition by Unicare Health Facilities, Inc., will result from a merger of Unicare—Amelia Island, Inc., with and into Unicare Health Facilities, Inc. After the merger, Unicare—Amelia Island, Inc., will be dissolved.

Unicare—Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., Milwaukee, Wisconsin
AN83-0706-018

NIEH—Request for a declaratory ruling that a certificate of need is not required for Unicare—Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., to acquire Villa Haven Nursing Center, an existing 92-bed ICF nursing facility located in Breckenridge, from Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc.

Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., Milwaukee, Wisconsin
AN83-0722-049

NIEH—Request for a declaratory ruling that a certificate of need is not required for Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., to acquire Villa Haven Nursing Center, an existing 92-bed ICF nursing facility located in Breckenridge, from Unicare—Amelia Island, Inc. The acquisition by Unicare Health Facilities, Inc., will result from a merger of Unicare—Amelia Island, Inc., with and into Unicare Health Facilities, Inc. After the merger, Unicare—Amelia Island, Inc., will be dissolved.

Unicare - Amelia Island, Inc., a Florida corporation and wholly owned subsidiary of Unicare Health Facilities, Inc., Milwaukee, Wisconsin AN83-0706-016

NIEH - Request for a declaratory ruling that a certificate of need is not required for Unicare - Amelia Island, Inc., a Florida corporation and wholly owned subsidiary of Unicare Health Facilities, Inc., to acquire Bremond Nursing Center, an existing 82-bed ICU nursing facility located in Bremond, from Unicare Health Facilities, Inc., a Wisconsin corporation and wholly owned subsidiary of Unicare Services, Inc.

Unicare Health Facilities, Inc., a Wisconsin corporation and wholly owned subsidiary of Unicare Services, Inc., Milwaukee, Wisconsin AN83-0722-051

NIEH - Request for a declaratory ruling that a certificate of need is not required for Unicare Health Facilities, Inc., a Wisconsin corporation and wholly owned subsidiary of Unicare Services, Inc., to acquire Bremond Nursing Center, an existing 82-bed ICU nursing facility located in Bremond, from Unicare - Amelia Island, Inc. The acquisition by Unicare Health Facilities, Inc., will result from a merger of Unicare - Amelia Island, Inc., with and into Unicare Health Facilities, Inc. After the merger, Unicare - Amelia Island, Inc., will be dissolved.

Surgicare Corporation - Houston AS83-0725-057

NIEH - Request for a declaratory ruling that a certificate of need is not required for Surgicare Corporation or its wholly owned subsidiary, Surgical Center of Corpus Christi, Inc., to acquire by purchase 100% ownership of Certificate of Need AS80-0630-015, which was issued to Ambulatory Surgical Center of Corpus Christi and Knolle Center, Inc., on March 13, 1981, authorizing the construction and operation of a freestanding ambulatory surgical center in Corpus Christi. Upon acquisition, the applicant proposes to name the facility "Surgical Center of Corpus Christi."

Issued in Austin, Texas, on August 1, 1983

TRD-835875 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: August 1, 1983

For further information, please call (512) 475-6940.

Texas Historical Commission Consultant Proposal Requests

The Texas Historical Commission, under the provisions of Texas Civil Statutes, Article 6252-11c, announces a consultant proposal request

Description. The commission hereby invites the offer of services on a consulting basis for the coordination of the Texas Heritage Conservation Plan computerization program. Services will include

- (1) monitoring the progress of an encoding crew;
- (2) training of professional archeological staff in the use of the computer remote terminal and manipulation of computerized data;
- (3) acting as liaison between the Texas Historical Commission and the computer facility;
- (4) recommending refinements of encoding format and instructions;
- (5) maintaining a master copy of the encoding manual, noting format changes;
- (6) recommending priorities for encoding;
- (7) encoding of data for test cases;
- (8) editing of computerized data;
- (9) supervising the loading of encoded data;
- (10) maintaining hard copy files and security systems;
- (11) recommending use of statistical software packages most appropriate to fulfilling the goals of the Texas Heritage Conservation Plan;
- (12) developing an updating system for addition of newly discovered sites; and
- (13) submitting written monthly progress reports, memos outlining problems and solutions, and a summary at the end of the project period.

Qualifications. The contractor must have

- (1) at least a B.A. degree and some graduate work in archeology, anthropology, or other social science, with some business courses;
- (2) experience in archeological field work, cultural resource management, and interdisciplinary comprehensive planning; and
- (3) some knowledge of basic computer concepts, editing processes, DIRECT CR1 and compatible printer, UNIVAC 1100 (EXEC 8), System 2000, and SPSS.

Duration and Amount of Funding. The project period must not extend beyond August 31, 1984. The contract amount will not exceed \$14,400.

Contact. For further information, contact Virginia A. Wulkuhle, Administrative Assistant, Office of the State Archeologist, Texas Historical Commission, P.O. Box 12276, 105 West 16th Street, Austin, Texas 78711, (512) 475-6328.

Deadline. The deadline for receipt of proposals is 40 days from July 27, 1983.

Selection. The Texas Historical Commission reserves the right to interview each prospective contractor before the contract is awarded. The contractor will be selected on the basis of the greatest knowledge of the services to be performed, the most relevant experience, and the demonstrated ability to perform the services in a timely manner. Preference will be given to resident individuals.

Issued in Austin, Texas, on July 27, 1983

TRD-835748 Curtis Tunnell
Executive Director
Texas Historical Commission

Filed: July 27, 1983

For further information, please call (512) 475-6328.

The Texas Historical Commission files this consultant proposal request under the provisions of Texas Civil Statutes, Article 6252.11c.

Description. The commission hereby invites the offer of services on a consulting basis relevant to the Texas Heritage Conservation Plan (THCP) database. These services will entail the development of an Image 3000 type database system for the THCP data, as this data has been defined in the Texas Heritage Conservation Plan computerization program manual. The THCP database will have the following capabilities and characteristics:

- (1) use of query language for interactive inquiry and formatted reports;
- (2) a series of formatted screens for retrieval, data-entry, and data modification;
- (3) English language labels for value codes on retrieved information;
- (4) a password security system and backup security system conforming to strict confidentiality requirements;
- (5) rapid production of raw data files of entire or specified portions of the THCP database;
- (6) a response time of not more than 30 seconds for retrieval of an item by index number or one minute to log onto the computer system from a remote terminal;
- (7) offloading temporarily inactive portions of the THCP database;
- (8) edit and load data from industry standard magnetic tape;
- (9) documentation of all programs developed for the THCP database and collaboration with the THC in production of a user manual;
- (10) training of THC personnel for utilization of the software;
- (11) maintenance of the THCP database in a condition that conforms to its development as intended by the THC;
- (12) enhancements to original the THCP database and additional datasets, data values, and data variables to be added to the THCP database at some future time as required by the THC;
- (13) data entry as required; and
- (14) computer time and disk storage.

Qualifications. The contractor must have:

- (1) ability to design the system described within 30 days;
- (2) Hewlett-Packard hardware or hardware guaranteed compatible with existing THC hardware;
- (3) 1200-baud communications capability;
- (4) ability to designate a liaison person to develop and maintain the THCP database; and
- (5) ability to submit a detailed, verifiable bill on a monthly basis.

Duration and Amount of Funding. The project must not extend beyond August 31, 1984. The contract amount will not exceed \$20,000.

Contact. For further information, contact Virginia A. Wulfkuhle, Administrative Assistant, Office of the State Archeologist, Texas Historical Commission, P.O. Box 12276, 105 West 16th Street, Austin, Texas 78711, (512) 475-6328. The deadline for receipt of proposals is 5 p.m. on September 8, 1983.

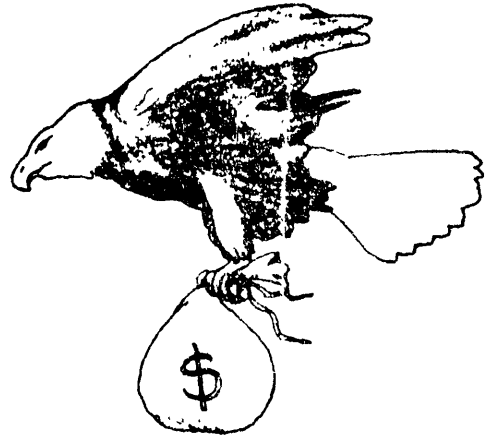
Selection. The information contained in this proposal request is intended to serve only as a general description of the services desired. The THC will use responses as a basis for further negotiation of specific project details. The THC reserves the right to accept or reject any of the proposals submitted. Selection of a contractor will be made on the basis of demonstrated competence and qualifications and reasonableness of fees for services. Unless a better offer is submitted, preference will go to the contractor that has satisfactorily performed these services in the past.

Issued in Austin, Texas, on July 29, 1983.

TRD 835800 Curtis Tunneil
Executive Director
Texas Historical Commission

Filed July 29, 1983

For further information, please call (512) 475-6328.



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 Treasury Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Richardson.
- (2) Application for admission to do business in Texas of Confederation Life Insurance and Annuity Company, a foreign life insurance company. The home office is in Atlanta, Georgia.
- (3) Application for incorporation of Ensign Mortgage Guaranty Insurance Company, to be a domestic mortgage guaranty insurance company. The home office is proposed to be in Dallas.
- (4) Application for incorporation of Sur-Tex Surety Insurance Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Dallas.
- (5) Application for incorporation of Horizon Lloyd's, to be a domestic lloyds insurance company. The home office is proposed to be in Fort Worth.

(6) Application for incorporation of Standard Lloyd's of Texas, to be a domestic lloyds insurance company. The home office is proposed to be in Dallas.

(7) Application for incorporation of Republic of Texas Lloyd's, to be a domestic lloyds insurance company. The home office is proposed to be in Dallas.

(8) Application for incorporation of Alpha Lloyds Insurance Company, to be a domestic lloyds insurance company. The home office is proposed to be in Houston.

(9) Application for incorporation of Dallas Casualty and Surety Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Dallas.

(10) Application for admission to do business in Texas of The HBA Life Insurance Company, a foreign life insurance company. The home office is in Phoenix, Arizona.

(11) Application for incorporation of Sanus Texas Health Plan, Inc., to be a domestic health maintenance organization. The home office is proposed to be in Dallas.

(12) Application for admission to do business in Texas of Humana Health Plan, Inc., a foreign health maintenance organization. The home office is in Louisville, Kentucky.

(13) Application for incorporation of Alliance Financial Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Austin.

(14) Application for incorporation of Lumbermens Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Austin.

(15) Application for admission to do business in Texas of American Business & Mercantile Insurance Mutual, Inc., a foreign fire and casualty insurance company. The home office is in Dover, Delaware.

(16) Application for incorporation of State National Insurance Company, Inc., to be a domestic casualty insurance company. The home office is proposed to be in Arlington.

(17) Application for incorporation of State National Life Insurance Company, Inc., to be a domestic life insurance company. The home office is proposed to be in Arlington.

(18) Application for incorporation of Trinity Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Dallas.

(19) Application for incorporation of Trinity Life and Accident Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Dallas.

(20) Application for incorporation of Life Insurance Company of Texas, to be a domestic life insurance company. The home office is proposed to be in Dallas.

(21) Application for incorporation of Austin Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Dallas.

(22) Application for incorporation of Bankers Trust Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Dallas.

(23) Application for admission to do business in Texas of Hamburg International Reinsurance Company,

a foreign fire and casualty insurance company. The home office is in Orlando, Florida.

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

TRD-835776 James W. Norman
Chief Clerk
State Board of Insurance

Filed: July 28, 1983
For further information, please call (512) 475-2950.

Texas State Library and Archives Commission Consultant Proposal Request

As required by Texas Civil Statutes, Article 6252-11c, notice is given that the Texas State Library invites proposals for the delivery of services, involving the research, compilation, drafting, consulting with local government officials, and editing required to produce publications setting forth, and explaining the use of, records retention guidelines for Texas municipalities and special district offices.

Description of Services. The consultant will determine the various types of records maintained in local government offices and their current and long-term fiscal, legal, administrative, and historical values. Determinations will be made in close consultation with local government officials and staff of the RHRD and Local Records Division and will be based on physical inventories of records, Texas and federal statutes, state agency regulations, Texas attorney general's opinions, and retention periods for comparable records in other states. Determinations will be subject to review and approval. The consultant will be responsible for setting up committees of local government officials to review retention periods and advise on methodology of the project.

After determination and approval of retention periods, the consultant will have full production responsibility for manuals and/or other published formats for their dissemination. Such responsibilities will include, but not be limited to, design and illustration, writing, proofreading, and preparation of copy.

The consultant will develop the work plan and timetable.

To work closely with staff of the Local Records Division and make use of resources for research in a centralized location, the consultant must locate in Austin for the duration of the contract. The project will require extensive travel and research.

Procedure for Selecting Consultant. Respondents should have a master's degree in history or a related discipline, with training and experience in public or business archives and records management and in publications production. The Texas State Library and Archives Commission will base its selection upon factors such as evidence of work produced similar to that previously described, references as to ability to meet goals and timetables and work effectively with others, and reasonableness of cost.

Deadline for Submission. Proposals must be submitted no later than 5 p.m. on September 9, 1983, and must be accompanied by a copy of the respondent's curriculum vitae.

Contact Person. For further information, contact Marilyn von Kohl, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

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

TRD-835777 William D. Gooch
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: July 28, 1983

For further information, please call (512) 475-2166.

Board of Nurse Examiners Request for Proposals

This request for proposals is not filed pursuant to Texas Civil Statutes, Article 6252-11c.

The Board of Nurse Examiners for the State of Texas is accepting bids for a manager or organization to administer the licensing examination in February and July of 1984 and 1985.

Scope of Service. The services provided by the test manager and/or test administration service are as follows:

- (1) work with staff of the examination site regarding arrangement;
- (2) receive and secure test booklets at the test site, or transport booklets to the site;
- (3) inventory test booklets at the test site;
- (4) provide testing supplies not supplied by the board;
- (5) provide personnel to administer the examination as follows:
 - (a) examiner—one per site;
 - (b) proctors—total of one for every 20 candidates assigned as follows:
 - (1) one for every 35 seated candidates;
 - (2) doorkeepers;
 - (3) miscellaneous—proctor supervisors; escorts to bathroom;
 - (6) orient personnel to security measures and testing procedures;
 - (7) check test booklets and verify that the candidate identifying information is recorded correctly;
 - (8) prepare necessary forms;
 - (9) return test booklets to the testing service; and
 - (10) return rosters, admission cards, and photos to the board.

The services provided by the Board of Nurse Examiners are as follows:

- (1) obtain examination sites;
- (2) provide a board liaison person to work with examiners;
- (3) order test booklets;

(4) provide the number of candidates expected at each site, approximately 30 days in advance;

(5) issue admission cards;

(6) provide alpha candidate rosters, test booklet/candidate record in alpha order—one for each proctor, seating labels;

(7) provide guidelines for emergency, late arrivals, etc.;

(8) provide a copy of security measures and information to orient proctors;

(9) provide one copy of the test administration manual for each site (to be treated as secure material); and

(10) provide a dialogue of necessary information to be read to candidates (information not in the manual).

Deadline for Submission. Bids will be accepted through September 1, 1983.

Contact Person. Should there be any questions regarding the services, please contact Margaret L. Rowland, 1300 East Anderson Lane, Building C, Suite 225, Austin, Texas 78752, (512) 835-4880.

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

TRD-835778 Margaret L. Rowland, R.N.
Executive Secretary
Board of Nurses Examiners

Filed: July 28, 1983

For further information, please call (512) 835-4880.

Public Utility Commission Correction of Error

A proposal submitted by the Public Utility Commission of Texas contained errors as published in the July 29, 1983, issue of the *Texas Register* (8 TexReg 2853). On page 2853, in 16 TAC §23.23(b)(2)(A), the following sentences should have been printed in bold type to indicate new language.

(A)(B) All fuel costs shall be reviewed at the time of the utility's general rate case. All allowed fuel costs, including, if approved, a reconciliation of over- or under-recovery of fuel costs, shall be recovered through the energy portion of the utility's base rates.

In §23.23(b)(2)(B), the following sentences should also have been printed in bold type.

(B)(A) In determining allowable fuel costs, the commission may consider the cost of fuel for the utility's own generation, the cost of economy energy, hydroelectric energy, purchased power, cogeneration, wheeling, and other costs associated with generated or purchased power as approved by the commission. In making such determination, the commission shall consider revenues from these or other activities, including off-system sales, to assure that the ratepayers receive an appropriate portion of benefits associated with such revenues.

Railroad Commission of Texas Correction of Error

A proposal submitted by the Railroad Commission of Texas contained errors as published in the July 22, 1983, issue of the *Texas Register* (8 TexReg 2731). In the text of 16 TAC §3.8(a)(17) on page 2732, the word "organization" should be shown as singular. On page 2733, the title of §3.46 referenced in new paragraph (d)(1) should read: "Fluid Injection into Productive Reservoirs."

On page 2734, there should be a new subclause (d)(4)(c)(i)(III), which reads as follows:

(III) All workover pits shall be dewatered, backfilled, and compacted within 30 days of the completion of workover operations.

On page 2735, new clause (d)(6)(E)(i) should read:

(i) pollution of surface or subsurface water is occurring or is likely to occur as a result of the permitted operations;



Texas Savings and Loan Department Branch Applications

Notice is hereby given to all (approved) savings and loan associations operating in Texas that the following applications to establish and operate branch offices have been filed with the savings and loan commissioner of Texas. These applications have been filed pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a; and are scheduled for hearing Monday, August 1, 1983, in the offices of the Savings and Loan Department, 1004 Lavaca, Austin. The particular sections of the statute involved are 2.13 and 11.11. The particular rules involved are 7 TAC §§51.1-51.13, 53.3, and 53.4. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicant associations each assert that operation of the proposed branch office will not unduly harm any other association operating in the vicinity; that there is a public need for the proposed branch office; that the volume of business in the community in which the proposed branch office will operate is such as to yield a profit to the association in a reasonable time, and certain other assertions per 7 TAC §§3.3 and §53.4.

Anyone desiring to protest any one or more of the following applications may do so by writing the commissioner at P.O. Box 1089, Austin, Texas 78767, and so indicating and by appearing at 10 a.m. on Monday, August 1, 1983, in the department's offices and voicing protest when the application is called. If no protest is registered prior to or at the time the application is called, hearing on the application may be dispensed with; if protest is registered and existing when the application is called, hearing on the application will be continued to a later date to receive testimony and evidence from the parties and to accumulate a record of pertinent information and data in support of the application and in protest to the application. The applicants for branch offices and the proposed locations are as follows:

| Docket # | Application |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------|
| 031-83 | Heart O'Texas Savings Association (San Saba) for 204 South Key Street, Lampasas, Lampasas County; |
| 034-83 | Heart O'Texas Savings Association (San Saba) for southeast corner of Brodie Lane and Plantation Road, Austin, Travis County; |
| 130-83 | Central Plains Savings Association (Tulia) for Bridge and Country Club Lane, Fort Worth, Tarrant County; |
| 131-83 | Equitable Savings Association (Round Rock) for 9430 Research Boulevard, Austin, Travis County; |
| 133-83 | Delta Savings Association (Alvin) for 301 Irvine, Yoakum, DeWitt County; |
| 134-83 | First State Savings Association (San Antonio) for northwest corner of Bandera and Braun, Bexar County; |
| 135-83 | First State Savings Association (San Antonio) for northwest corner of Paso Del Norte and San Pedro, Hill Country Village, Bexar County; |
| 137-83 | Sunbelt Savings Association (Stephenville) for northwest corner of Coit Road and Park Boulevard, Plano, Collin County; |
| 138-83 | San Antonio Savings Association (San Antonio) for 907 North Main, Bandera, Bandera County. |

Issued in Austin, Texas, on July 12, 1983.

TRD-835712 L. L. Bowman III
Savings and Loan Commissioner

Filed: July 26, 1983
For further information, please call (512) 475-7991.

Notice is hereby given that application has been made to the Savings and Loan Commission of Texas by Sentry Savings Association, Slaton, Lubbock County, for approval to establish a branch office of said association at the following location: 7816 Burnet Road, Austin, Travis County. Notice is further given that hearing on the ap-

plication is set for 9 a.m. on August 4, 1983, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin. This is a continuance on the hearing of June 6, 1983, at which time the parties appeared and stated their positions. The nature and purpose of this hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application, and may be continued from day to day at the same location if not concluded on the day said hearing commences.

This application is filed and hearing held pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a. The particular sections of the statute involved are 2.13 and 11.11. The particular rules involved are 7 TAC §§51.1-51.13, 53.3, and 53.4. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicant association asserts that operation of the proposed branch office will not unduly harm any other association operating in the vicinity; that there is a public need for the proposed branch office; that the volume of business in the community in which the proposed branch office will operate is such as to yield a profit to the association in a reasonable time, and certain other assertions per 7 TAC §§53.3 and §53.4.

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

TRD-835745 L. L. Bowman III
Savings and Loan Commissioner

Filed: July 27, 1983
For further information, please call (512) 475-7991.

Notice is hereby given that application has been made to the Savings and Loan Commission of Texas by Taylor-Banc Savings Association, Taylor, Williamson County, for approval to establish a branch office of said association at the following location: Milam Plaza Shopping Center, southeast corner of West Fourth and Orchard Streets, Cameron, Milam County. Notice is further given that hearing on the application is set for 9 a.m., on August 9, 1983, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin. This is a continuance on the hearing of June 6, 1983, at which time the parties appeared and stated their positions. The nature and purpose of this hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application, and may be continued from day to day at the same location if not concluded on the day said hearing commences.

This application is filed and hearing held pursuant to authority and jurisdiction granted by Texas Civil Statutes, Article 852a. The particular sections of the statute involved are 2.13 and 11.11. The particular rules involved are 7 TAC §§51.1-51.13, 53.3, and 53.4. Such rules are

on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicant association asserts that operation of the proposed branch office will not unduly harm any other association operating in the vicinity; that there is a public need for the proposed branch office; that the volume of business in the community in which the proposed branch office will operate is such as to yield a profit to the association in a reasonable time, and certain other assertions per 7 TAC §§53.3 and §53.4.

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

TRD-835746 L. L. Bowman III
Savings and Loan Commissioner

Filed: July 27, 1983
For further information, please call (512) 475-7991.

Charter Applications

Notice is hereby given that application has been made to the savings and loan commissioner of Texas for the approval of a charter for Hall Savings Association, 10100 North Central Expressway, Dallas, Dallas County. Notice is further given that hearing on the application will be set for 9 a.m. on August 16, 1983, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin, pursuant to authority and jurisdiction granted by the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a.

The nature and purpose of the hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application.

The particular sections of the statute involved are 2.01-2.09 and 11.11. The particular rules involved are 7 TAC §§51.1-51.13. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicants for charter assert that the prerequisites, where applicable, set forth in §§2.02-2.06 of the Act, have been met; the character responsibility and general fitness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted and that the proposed association will have qualified full-time management; there is a public need for the proposed association, and the volume of business in the community in which the proposed association will conduct its business is such as to indicate a profitable operation; and the operation proposed association will not unduly harm any existing association.

Anyone desiring to oppose this application may do so by appearing at the scheduled hearing; however, it is requested and advisable that persons who plan to oppose this application, notify the commissioner of their inten-

tions, in writing, at P.O. Box 1089, Austin, Texas 78767, at least 10 days prior to the scheduled hearing.

Issued in Austin, Texas, on July 6, 1983.

TRD-835747 L. L. Bowman III
Savings and Loan Commissioner

Filed: July 27, 1983

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

Notice is hereby given that application has been made to the savings and loan commissioner of Texas for the approval of a charter for Columbia Savings Association, in the vicinity of Bay Area Boulevard and IH 45, Houston, Harris County. Notice is further given that hearing on the application will be set for 9 a.m. on August 2, 1983, in the offices of the Savings and Loan Department of Texas, 1004 Lavaca, Austin, pursuant to authority and jurisdiction granted by the Texas Savings and Loan Act, Texas Civil Statutes, Article 852a.

The nature and purpose of the hearing is to accumulate a record of pertinent information and data in support of the application and in opposition to the application, from which record the commissioner shall determine whether to grant or deny the application.

The particular sections of the statute involved are 2.01-2.09 and 11.11. The particular rules involved are 7 TAC §§51.1-51.13. Such rules are on file with the *Texas Register*, Office of the Secretary of State, or may be seen at the department's offices.

The applicants for charter assert that the prerequisites, where applicable, set forth in §§2.02-2.06 of the Act, have been met; the character responsibility and general citness of the persons named in the articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted and that the proposed association will have qualified full-time management; there is a public need for the proposed association, and the volume of business in the community in which the proposed association will conduct its business is such as to indicate a profitable operation; and the operation proposed association will not unduly harm any existing association.

Anyone desiring to oppose this application may do so by appearing at the scheduled hearing; however, it is requested and advisable that persons who plan to oppose this application notify the commissioner of their intentions, in writing, at P.O. Box 1089, Austin, Texas 78767, at least 10 days prior to the scheduled hearing.

Issued in Austin, Texas, on July 6, 1983.

TRD-835713 L. L. Bowman III
Savings and Loan Commissioner

Filed: July 27, 1983

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

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 July 25-29, 1983.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed are the name(s) of the applicants and the city in which the facilities are located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of July 25-29, 1983

Ashford Street Associates, Incorporated, Houston; apartment complex; approximately 2,000 feet upstream from the crossing of Harris County Flood Control District Ditch 122-00-00 and Cook Road in Harris County; 12784-01; new permit

C&W Constructors, Incorporated, Houston; mobile home park complex and commercial development; approximately ¼ mile southeast of the intersection of State Highway 105 and Old 105, and approximately ¼ mile due west of the intersection of State Highway 105 and East Beech Road in Montgomery County; 12761-01; new permit

Cypress-Klein Utility District, Houston; wastewater treatment plant; on Cypresswood Boulevard, approximately 1,500 feet north of Cypress Creek, and approximately 3,500 feet north of the intersection of Stuebner-Airline Road and Strack Road in Harris County; 11366-01; renewal

Gulf Coast Waste Disposal Authority, Houston; wastewater treatment plant; approximately 1,000 feet north of Cypress Creek and 1,800 feet west of Aldine-Westfield Road in north-central Harris County; 11142-02; renewal

Roger Pipkin III, Houston; mobile home park; 1,300 feet south of Anderson Road, at a point approximately 6,500 feet east of the intersection of South Post Oak

Road and Anderson Road in Harris County; 12798-01; new permit

O & O Enterprises, Inc., Grangerland; coin-operated laundromat; at the intersection of Gulf Coast Road and FM Road 3083 in the Town of Grangerland in Montgomery County; 02662; new permit

Montgomery County Municipal Utility District 53, Houston; mixed use office and multi-family subdivision; approximately 2,000 feet west of the intersection

of IH 45 and State Highway 75, south of the City of Conroe in Montgomery County; 12794-01; new permit

Issued in Austin, Texas, on July 29, 1983.

TRD-835877

Mary Ann Hefner
Chief Clerk

Texas Water Commission

Filed: August 1, 1983

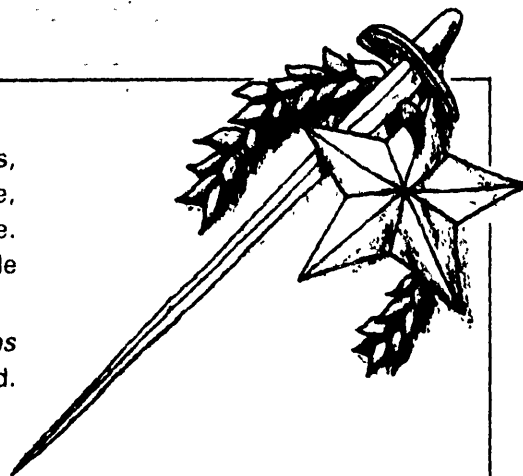
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