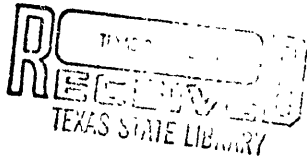


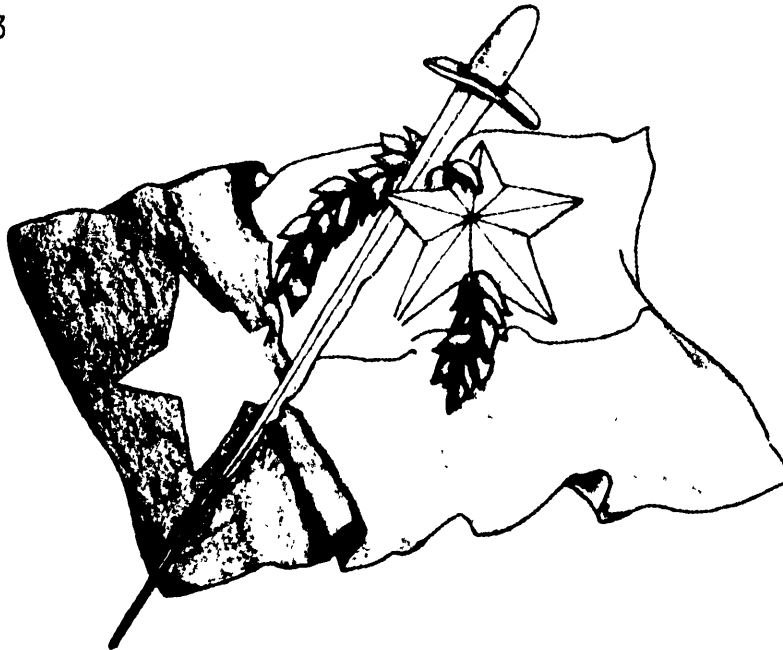
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Texas Register

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MAR 1 1983



Highlights

- ★ The Comptroller of Public Accounts proposes to adopt on an emergency basis and simultaneously proposes for permanent adoption a rule concerning third-party record keepers; effective date - February 18..... pages 619, 670
- ★ The Board of Pardons and Paroles adopts on an emergency basis new rules and conditions of mandatory supervision; effective date - February 16.....page 620
- ★ The Texas Department of Health proposes amendments to and the repeal of existing rules and the adoption of new rules in a chapter concerning solid waste management; proposed date of adoption - April 16..... page 630

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date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
- 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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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 February 16

Public Utility Commission of Texas

For a term to expire September 1, 1987:

Margaret Ann (Peggy) Rosson
3021 Stone Edge
El Paso, Texas 79904

Mrs. Rosson is replacing General Tommie G. Smith of San Antonio, who resigned.

Issued in Austin, Texas, in February 16, 1983

TRD-831332 Mark White
Governor of Texas

State Aircraft Pooling Board

For a six-year term to expire January 31, 1989:

James L. Nelson
4503 Highland Terrace
Austin, Texas 78731

Mr. Nelson is replacing James J. Kaster of Austin, whose term expired

Issued in Austin, Texas, in February 16, 1983

TRD-831333 Mark White
Governor of Texas

Appointment Made February 17

State Highway and Public Transportation Commission

For a six-year term to expire February 15, 1989:

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

Mr. Lanier is replacing Sam A. Waldrop of Abilene, whose term expired.

Issued in Austin, Texas, in February 17, 1983

TRD-831318 Mark White
Governor of Texas



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 19. EDUCATION

Part II. Texas Education Agency

Chapter 37. Organization and Operation of the State Board of Education

Subchapter C. Committees of the Board 19 TAC §§37.41-37.43

(Editor's note: The text of the following rules being repealed on an emergency basis will not be published. The rules may be examined in the offices of the Texas Education Agency, 201 East 11th Street, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The Texas Education Agency adopts on an emergency basis the repeal of §§37.41-37.43 (226.91.03.010-.030), concerning committees of the State Board of Education. The repeal of these rules is being simultaneously proposed for permanent adoption. The rules concerning committees of the State Board of Education will be contained in the internal operating rules for the board.

This repeal is adopted on an emergency basis to reflect the organization of the board which was accomplished in January 1983 in accordance with the Texas Education Code, §11.23.

The repeal is adopted on an emergency basis to reflect the authority of the Texas Education Code, §11.23.

which authorizes the State Board of Education to organize and adopt rules of procedure.

- §37.41(226.91.03.010) *Delegation of Committee Authority*
- §37.42(226.91.03.020) *Committee of the Whole.*
- §37.43(226.91.03.030) *Special Committees.*

Issued in Austin, Texas, on February 16, 1983.

TRD 831275 Raymon L. Bynum
Commissioner of Education

Effective date February 16, 1983

Expiration date June 16, 1983

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter A. General Rulings

34 TAC §3.6

The Comptroller of Public Accounts adopts on an emergency basis new §3.6, relating to subpoenas of third-party record keepers. The Texas Tax Code, §111.0043, authorizes the comptroller to subpoena a taxpayer's records from any person in possession of them to determine the taxpayer's obligation to the state. This might include a bank, supplier, or customer

of a taxpayer. The Texas Tax Code, § 111.0044, provides special procedures for third-party orders and subpoenas including payment of expenses incurred in complying with the subpoena. The purpose of this section is to fix the rates of reimbursement to be paid to third-party record keepers as provided by the Texas Tax Code, § 111.0044(h) and to provide a procedure for requesting payment.

This rule is being adopted on an emergency basis because there are currently pending requests for subpoenas of records of several taxpayers. It is necessary that these records be obtained as quickly as possible so that any taxes found to be due and owing can be assessed before the statute of limitations expires. This new rule is simultaneously being proposed for permanent adoption.

This rule is adopted on an emergency basis under the authority of the Texas Tax Code, § 111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the enforcement and administration of the Tax Code.

§3.6. Subpoenas of Third-Party Record Keepers.

(a) Authority. The Texas Tax Code, § 111.0043, authorizes the comptroller to subpoena a taxpayer's records from any person in possession of them.

(b) Payment.

(1) Certain third-party record keepers are entitled to receive payment for certain costs directly incurred in complying with a comptroller's subpoena

(2) These costs must be reasonably necessary to locate, compile, reproduce, or transport the records requested.

(3) Payment will be made at rates established in subsection (c) of this section. Costs in excess of these rates will not be reimbursed.

(c) Rates of reimbursement.

(1) Personnel time. A third-party record keeper will be reimbursed for time actually spent by its personnel in locating, retrieving, copying, and compiling records requested at the rate of \$6.00 per hour. There is no allowance for managerial or legal work expended in determining whether or not to comply with a subpoena.

(2) Reproduction of documents. The cost of copying documents will be reimbursed at the rate of \$.35 for the first page and \$.10 for each additional page. These rates apply whether the copies are made from the actual document or microfilm or microfiche copies. If the copies requested are required to be certified, the additional cost will be reimbursed on an hourly basis for the personnel time expended.

(3) Transportation.

(A) Packaging and mailing costs will be reimbursed at the actual rate paid.

(B) If it is necessary to transport personnel in order to comply with a third-party record keeper subpoena, the cost of transportation will be reimbursed at the following rates:

(i) mileage for automobile travel at \$.23 per mile.

(ii) the actual cost of public transportation used, not to exceed the next lowest available airline fare below first class.

(d) Requesting payment.

(1) Purchase voucher. A third party record keeper who is the subject of a subpoena will be provided with a purchase voucher to complete and return to the comptroller. The voucher will be accompanied by instructions for its proper completion.

(2) Documentation. The completed purchase voucher must be accompanied by an itemized list of the costs incurred and receipts for amounts paid to outside suppliers of goods or services. Costs unsupported by documentation will not be reimbursed.

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

TRD-831323

Bob Bullock

Comptroller of Public Accounts

Effective date: February 18, 1983

Expiration date: June 18, 1983

For further information, please call (512) 475-1922.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

Chapter 149. Mandatory Supervision Rules and Conditions of Mandatory Supervision

37 TAC § 149.5

The Board of Pardons and Paroles adopts on an emergency basis new § 149.5, relating to the rules and conditions of mandatory supervision. Mandatory supervision is a form of release, prescribed pursuant to the Texas Code of Criminal Procedure, Article 42.12, § 15(c) and (d), whereby an individual is placed for supervision in the community prior to the discharge of a felony sentence (see Texas Code of Criminal Procedure, Article 42.12, § 2.d). A mandatory supervision releasee is "deemed as if released on parole" (Texas Code of Criminal Procedure, Article 42.12, § 15(c)).

New § 149.5, concerning annual report status, establishes a new supervision status for mandatory supervision (MS) releasees. This status involves removing the releasee from the direct supervision of a parole officer and allowing the individual to report in writing to the executive director of the board on an annual basis. Standards are established regarding eligibility for annual report status, including a satisfactory period of regular supervision (of varying duration depending upon the length of the sentence for which the individual was incarcerated) and a recommendation from the parole officer responsible for supervision at the time of proposed transfer. Such a transfer in no way affects the authority of the board over the releasee, and he may be returned to active supervision at any time if problems develop.

The board has determined that an emergency exists whereby the public safety and welfare is in imminent peril due to the fact that caseload ratios, the ratio between active parolees/mandatory supervision releasees and parole officers (including parole case-workers), have crept above the statutorily prescribed maximum of 60:1. This ratio was established by the legislature via the emergency criminal justice appropriations bill passed during the May 1982 Special Session by House Bill 9, Acts of the 67th Legislature, Second Called Session, 1982, Chapter 2, page 8, §2. With the capability of placing eligible cases on annual report status, an inactive status, which this new rule would provide, caseloads once again could be brought within the mandated limits.

This new rule is adopted on an emergency basis under the authority of the Texas Code of Criminal Procedure, Article 42.12, §§12, 15(c), 15(g), and 20, which provide the board with the statutory authority to administer the adult parole and mandatory supervision law (§12) and to make rules concerning the conditions of mandatory supervision and parole release (§15(g) and §20).

§149.5. Annual Report Status.

(a) Annual report status is a mandatory supervision releasee status which releases the releasee from the original terms and conditions of mandatory supervision, releases the releasee from the direct supervision of a parole officer, and is conditional upon the mandatory supervision releasee's acceptance of and compliance with the annual report rules.

(b) A mandatory supervision releasee may be considered for annual report status upon the recommendation of his or her parole officer after having been satisfactorily under mandatory supervision for:

(1) a minimum of 12 months if released from a sentence of less than 10 years; or

(2) a minimum of 18 months if released from a sentence of 10 or more years; or

(3) a minimum of two years if released from a life sentence.

(c) A recommendation for a transfer to annual report status must be approved by the executive director or his/her designated staff representative.

(d) Transfer to annual report status in no way affects the authority of a parole panel to recommend the revocation of mandatory supervision. The releasee remains subject to the jurisdiction of the board and subject to its order while on annual report status.

(e) A parole panel may, at its discretion and without notice, set aside an order of transfer to annual report and impose any additional rules of mandatory supervi-

sion as the parole panel may deem proper.

(f) The rules for a mandatory supervision releasee on annual report status are:

(1) Each year, from the date of the acceptance of the order for annual report, the releasee will submit, in writing, to the Executive Director, Texas Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, P.O. Box 13401, Austin, Texas 78711, a report showing his or her employment and residence. This annual report will be made until the term of his or her mandatory supervision expires. Failure to submit this report each year could result in the releasee being returned to active mandatory supervision, or the issuance of a pre-revocation warrant for his or her arrest and possible return to the Texas Department of Corrections.

(2) The releasee will, in all respects, conduct himself/herself honorably, obey all federal, state, and municipal laws and ordinances, work diligently at a lawful occupation, and support his or her dependents, if any, to the best of his or her ability.

(3) The releasee will not associate with persons having a criminal record and will not communicate with any inmate of a penal institution nor visit any such institution, except as provided in §149.4 of this title (relating to Visits to Penal Institutions), or unless requested in writing to do so by the warden or general manager of penal institution, and in such case the original or a copy of such request shall be immediately sent to the Executive Director, Texas Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, P.O. Box 13401, Austin, Texas 78711, by the releasee.

(4) The releasee will cooperate with and abide by any written instructions given by the Board of Pardons and Paroles, or any of its duly authorized officers.

(5) The releasee will not own, possess, use, sell, nor have under his or her control any firearm, prohibited weapon, or illegal weapon; nor shall he or she unlawfully carry any weapon; nor use, attempt or threaten to use any tool, implement, or object to cause or threaten to cause bodily injury.

(6) The releasee will report, in writing, the fact of any arrest, within five days of its occurrence, to the Executive Director, Texas Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, P.O. Box 13401, Austin, Texas 78711, (512) 475-4525.

Issued in Austin, Texas, on February 16, 1983.

TRD-831302 Ruben M. Torres
 Chairman
 Board of Pardons and Paroles

Effective date: February 16, 1983

Expiration date: June 16, 1983

For further information, please call (512) 475-3162.

Proposed Rules

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.

TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 5. Transportation Division Subchapter AA. Rail Safety 16 TAC §5.611

The Railroad Commission of Texas proposes new §5.611, concerning deviations from the Texas Clearance Law.

The provisions of §5.611 had previously been incorporated into a general order of the commission published under Circular 6632. This general order granted authority for certain deviations from the Texas Clearance Law as required for the operation of the state's railroads, with limitations and conditions imposed as required for the protection of persons working on or around railroad tracks.

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

Mr. McGinty has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a simplification of procedures used to obtain authorization for certain repetitive deviations from the terms of the Texas

Clearance Law. 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. Box 12967, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

The new rule is proposed under Texas Civil Statutes, Article 6445, *et seq.*, which provides the Railroad Commission of Texas with the authority to regulate rail carriers and in particular to authorize deviations from terms of the Texas Clearance Law.

§5.611. Clearances of Structures Over and Alongside Railway Tracks.

(a) Mail cranes, turn tables, cattle guards, icing racks, and coal chutes. Mail cranes, turn tables, cattle guards, icing racks, and coal chutes shall be exempt from provisions of this law.

(b) Water cranes and oil cranes. Present standards may be maintained as refers to the respective railway companies with a minimum clearance of seven feet from center line of track.

(c) Through truss and girder bridges.

(1) The minimum horizontal clearance in bridges shall be seven feet six inches from the center line of the track, over a distance between a point four feet above the top of rail and a point 17 feet above the top of the rail.

(2) Upper diagonal bracing in bridges shall not encroach within a line extending from a point seven feet six inches from center line of track at a height of 17 feet

Chapter 53. Regional Education
Service Centers
Subchapter B. Administration and
Operation

19 TAC §53.30

The Texas Education Agency proposes amendments to §53.30 (226.21.02.043), concerning the adoption by reference of the bulletin entitled "Budgeting, Accounting, Auditing, and Reporting for Texas Regional Education Service Centers." It is proposed that the bulletin be amended to make the following changes.

(a) Modify audit report schedules to conform more closely to the reporting categories used by the Texas Education Agency.

(b) Amend rules for reporting of flow-through funds so that the revenues and expenditures of such funds are reported as such by the district or other entity which finally receives them in order to pass them on. This change eliminates double reporting of the same funds.

(c) Editorial changes for greater clarity in the text have also been proposed.

The rule adopting the bulletin by reference is amended to refer to the bulletin "as amended April 1983."

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be greater uniformity in reporting by regional education service centers and elimination of duplicate reporting of flow-through funds. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the authority of the General Appropriations Act of 1981, Article III, §7, which directed the Texas Education Agency to develop a standardized reporting system for regional education service center budgets and expenditures; and Texas Education Code, §11.23(a), which authorizes the State Board of Education to provide, by rules, for the establishment and operation of regional education service centers.

§53.30 (226.21.02.043). *Fiscal Audits, Records, and Reports.*

(a) Education service centers shall use the same budgeting, accounting, and financial reporting system as that used by the Texas Education Agency. Principles and requirements for the system to be used by education service centers are described in the official Texas Education Agency bulletin, "Budgeting, Accounting, Auditing, and Reporting for Texas Regional Education Service Centers," as amended April 1983, which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8 a.m. to 5 p.m., except holidays, Saturdays, and Sundays, at the Texas Education Agency, 201 East 11th Street, Austin, Texas 78701.

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

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

Issued in Austin, Texas, on February 16, 1983.

TRD-831274 Raymon L. Bynum
Commissioner of Education

Proposed date of adoption:
April 9, 1983

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

Chapter 69. Proprietary Schools and
Veterans Education
Subchapter E. Guidelines and Minimum
Standards for Operation of Texas
Proprietary Schools

19 TAC §69.127

The Texas Education Agency proposes an amendment to §69.127, concerning minimum standards for operation of proprietary schools. The proposed amendment would allow a school which is being sold to establish its financial position based on its most recent annual financial statement rather than requiring the presentation of an audited balance sheet before a purchase can be approved.

In cover letters accompanying balance sheets, certified public accountants use three different terms to indicate the kinds of scrutiny given to the balance sheet.

(1) Audit of financial statement. A systematic procedure for examining the veracity of assertions made by management. The objective of an audit is to provide a reasonable basis for expressing an opinion regarding the financial statement.

(2) Review of financial statement. Performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles.

(3) **Compilation of financial statement.** Presenting in the form of a financial statement information that is the representation of management without undertaking to express any assurance on the statement.

Under the proposed rule, if the most recent annual financial statements were reviewed (or audited), for purposes of approval of a sale, the balance sheet may be compiled. If the most recent annual financial statements were compiled, the rule requires that the balance sheet be reviewed. However, to ensure full disclosure of liability to the purchaser, the proposed rule requires an audited list of student tuition refunds payable and unearned tuition. The agency retains the authority to require the purchaser of the school to furnish "any evidence deemed appropriate" to establish financial stability.

This proposed rule change is recommended by the Proprietary School Advisory Commission. The agency anticipates that the rule will enable a school which is being sold to save from \$250 to \$2,000, depending on the size of the school. Under the proposed rule, the agency would continue to have adequate information on the financial position of proprietary schools.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a reduction in expense for proprietary schools which change owners, without any loss in the agency's ability to effectively regulate proprietary schools. It is anticipated that the rule will enable a school which is being sold to save from \$250 to \$2,000, depending upon the size of the school.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendment is proposed under the authority of the Texas Education Code, §32.22, which authorizes the State Board of Education to make rules for carrying out the provisions of the Texas Education Code, Chapter 32, the Texas Proprietary School Act, and the Texas Education Code, §32.21, which authorizes the establishment of minimum standards for proprietary schools.

§69.127. *Minimum Standards for Operation of Proprietary Schools.*

- (a) (No change.)
- (b) Schools desiring issuance and renewal of cer-

tificates of approval shall adhere to the following standards:

(1)-(10) (No change.)

(11) Financial stability.

(A)-(E) (No change.)

(F) Prior to a change in ownership of a proprietary school, the seller must furnish the director an acceptable [audited] statement of financial position (balance sheet) of the school consistent with generally accepted accounting principles [and certified by an independent public accountant or certified public accountant]. **If the most recent annual statements have been reviewed or audited, this balance sheet may be compiled. Otherwise, the balance sheet must be reviewed. The balance sheet [statement] must be accompanied by an audited list of any student tuition refunds payable and unearned tuition which has been audited by an independent certified public accountant or public accountant [include a detailed list of any student tuition refunds payable].** The purchaser shall furnish any evidence deemed appropriate by the administrator to establish financial stability.

(G) (No change.)

(12)-(15) (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 February 16, 1983.

TRD-831277

Raymon L. Bynum
Commissioner of Education

Proposed date of adoption:

April 9, 1983

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

Chapter 141. Teacher Certification Subchapter A. Certification of Teachers in General

19 TAC §141.3

The Texas Education Agency proposes amendments to §141.3 (226.62.01.030), concerning general requirements for teacher certification. The proposed amendments would permit persons holding a valid provisional elementary certificate to be certified to teach on the secondary level with only one teaching field instead of the usual two. Such persons would be required to have 12 semester hours of professional education of which at least six, not including student teaching, must be at the secondary level. These proposed amendments come as a recommendation from the Commission on Standards for the Teaching Profession.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be more teachers qualified for assignment at the secondary level, especially in subject areas where there are shortages. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendments are proposed under the authority of the Texas Education Code, § 11.26(a)(8), which authorizes the State Board of Education to prescribe rules for certification of teachers, and the Texas Education Code, § 13.032(a), which authorizes the State Board of Education to establish rules for the implementation of the Texas Education Code, Chapter 13, concerning teacher certification.

§141.3 (226.62.01.030). *General Requirements.*

(a) Policy.

(1) The general requirements for teacher certification, and revisions thereof, shall be:

- (A) in accordance with law;
- (B) recommended by the commissioner of education; and
- (C) approved by the State Board of Education.

(2) The specific requirements for teacher certification by class, by level, with areas of specialization (teaching fields), and endorsements, and revisions thereof, shall be:

- (A) in accordance with law;
- (B) recommended by the commissioner of education; and
- (C) approved by the State Board of Education.

(b) Administrative procedure.]

(a)(1) An individual making application for a Texas teacher certificate must:

- (1)(A) be a citizen of the United States or indicate intent to become a naturalized citizen as evidence by filing a statement of intent to become a United States citizen with the division of teacher certification [declaration of intention];
- (2)(B) be at least 18 years of age;
- (3)(C) be of good moral character as evidenced by statements of three individuals or be recommended by an approved college or university. The commissioner of education may refuse to issue a teaching certificate to a person who has been convicted of a felony or a misdemeanor for a crime which directly relates to the duties and responsibilities of the teaching profession. See §141.5 of this title (relating to Teaching Certificates for Persons with a Criminal Background);

(4)(D) be willing to support and defend the constitutions of the United States and Texas;

(5)(E) have college credit or examination credit in knowledge of the Texas and federal constitutions; and

(6)(F) be able to speak and understand the English language sufficiently to use it easily and readily in conversation and teaching.

(b)(2) Teacher certificates are issued to individuals who meet the requirements in subsection (a) [paragraph (1)] of this section [subsection], who complete approved programs at approved Texas institutions of higher learning, and who are recommended for certification by the institution. All credit hour requirements for certificates are semester hours or their equivalent.

(c)(3) Exceptions to the recommendation requirements are:

- (1)(A) certain vocational education certificates;
- (2)(B) certificates [and degrees] earned from out of state; and
- (3)(C) newly adopted teaching fields for which Texas colleges do not have a sufficient number of approved programs.

(d)(4) Since the person holding a permanent Texas teacher certificate may be considered to have met the basic requirements for certification, the requirements of professional education shall be considered fully satisfied when the individual has completed at least 12 semester hours of professional education courses, of which at least six semester hours are in the area and level of the additional certificate requested.

(e)(5) To be certified to teach on the secondary level, a person shall have at least 24 semester hours in two subjects related to the public secondary school curriculum or at least 48 semester hours in subjects which may be considered as being included in a composite field. **Persons holding a valid provisional elementary certificate may be certified to teach on the secondary level with only one teaching field as provided in §141.101 of this title (relating to Requirements for Provisional Junior High or High School Certificates).**

(f)(6) To be certified on the elementary level, a person shall have at least 12 semester hours in courses specifically designed for teaching subjects in the public elementary school. At least nine semester hours shall be in the basic subjects, such as arithmetic, reading, social studies, and/or science.

(g)(7) To be certified to teach on the elementary level or secondary level, a person shall have knowledge and skills related to the education of handicapped pupils, incorporated within the framework of existing programs for elementary and secondary teachers, including:

- (1)(A) knowledge of the concept of least restrictive alternatives and its implications for the instructional process;
- (2)(B) knowledge of the characteristics and learning differences of handicapped pupils;
- (3)(C) skills in informal assessment and a variety of instructional techniques and procedures for implementing the educational plan for handicapped pupils; and
- (4)(D) knowledge of the admission, review, and dismissal processes and understanding of the individualized educational program for handicapped pupils.

(h)(8) To be certified to teach on any level in Texas public schools, a person shall have had a study of the multicultural society of Texas, with emphasis on working with the ethnic components within the complexities of the Texas school population.

(i)(9) To be certified in special education, the individual shall fulfill the specialized requirements of an approved program.

(j)(10) The requirements for additional endorsements may be met by one of the following methods:

(1)(A) completion of an approved teacher education program for the requested certificate; or

(2)(B) completion of examination(s) covering the required subject(s) if the institution has an approved examination program.

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 February 16, 1983.

TRD-831278 Raymon L. Bynum
Commissioner of Education

Proposed date of adoption
April 9, 1983

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

Subchapter F. Junior High and High School Certificates

19 TAC §141.101

The Texas Education Agency proposes amendments to §141.101 (226.62.09.010), concerning requirements for provisional junior high or high school certificates. The proposed amendments would permit persons holding a valid provisional elementary certificate to be certified to teach on the secondary level with only one teaching field, instead of the usual two. Such persons would be required to have 12 semester hours of professional education of which at least six, not including student teaching, must be at the secondary level. This proposed amendment comes as a recommendation from the Commission on Standards for the Teaching Profession.

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

Dr. Beverly J. Bardsley, director for policy development, and Mr. Bennett have 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 that more teachers will be able to qualify for assignment at the secondary level, especially in subject areas where there are shortages. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Dr. Beverly J. Bardsley, Director for Policy Development, 201 East 11th Street, Austin, Texas 78701, (512) 475-7077. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

The amendment is proposed under the authority of the Texas Education Code, §11.26(a)(8), which authorizes the State Board of Education to prescribe rules for certification of teachers, and the Texas Education Code, §13.032(a), which authorizes the State Board of Education to establish rules for the implementation of the Texas Education Code, Chapter 13, concerning teacher certification.

§141.101. Requirements for Provisional Junior High or High School Certificates.

(a) General provisions. An applicant must have a bachelor's degree including the following areas:

(1)-(3) (No change)

(b) Requirements for persons with a valid, provisional elementary certificate.

(1) Persons holding a valid, provisional elementary certificate shall be considered to have met the professional education requirements for the junior high or high school certificate when they have completed at least 12 semester hours of professional education of which at least six semester hours, exclusive of student teaching, are in secondary education.

(2) To meet the academic teaching field requirements for the provisional junior high or high school certificate, persons holding a valid, provisional elementary certificate shall complete at least 24 semester hours (with 12 advanced level hours) in at least one of the authorized academic teaching fields in the public secondary school curriculum or at least 48 semester hours (with 18 advanced level hours) in subjects which are authorized as being included in a broad field or composite teaching field.

(3) The semester hours, or a portion thereof, which comprise an area of academic specialization on a valid, provisional elementary certificate may be applied toward requirements for the 24 or 48 semester hours in an academic teaching field required for the provisional junior high or high school certificate.

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 February 16, 1983.

TRD-831279 Raymon L. Bynum
Commissioner of Education

Proposed date of adoption:
April 9, 1983

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

TITLE 22. EXAMINING BOARDS
Part V. State Board of Dental
Examiners
Chapter 109. Conduct

(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 State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The Texas State Board of Dental Examiners proposes the repeal of §§109.3-109.5, 109.21, 109.22, 109.24, 109.25, 109.34, 109.41, 109.42, 109.45, 109.51, 109.61, 109.71, 109.101, 109.201, and 109.202, concerning signs, listings, special announcements, directories, soliciting, and advertising. The board is repealing these rules in order to bring its rules into compliance with the Dental Practice Act and with court rulings.

William S. Nail, executive director, has determined that for the first five-year period the repeals will be in effect there will be no fiscal implications to state or local government as a result of the repeals.

Mr. Nail has also determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of the repeals will be the relaxation of the restrictions for advertising to the public. There is no anticipated economic cost to individuals as a result of the repeals.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

Professional Signs

22 TAC §§109.3-109.5

§109.3. *Lighting.*

§109.4. *Size.*

§109.5. *Abbreviations and Designations.*

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 February 17, 1983.

TRD-831336 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Newspaper and Professional Card
Listings

22 TAC §§109.21, 109.22, 109.24, 109.25

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.21. *Newspaper Listings and Announcements.*

§109.22. *Size and Publication.*

§109.24. *Professional Cards.*

§109.25. *Content.*

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 February 17, 1983.

TRD-831337 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Special Announcements

22 TAC §109.34

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.34. *Content.*

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 February 17, 1983.

TRD-831338 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Telephone Directory Listings

22 TAC §§109.41, 109.42, 109.45

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Den-

tal Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.41. *Requirements.*

§109.42. *Metro-Plex Directories.*

§109.45. *Content.*

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 February 17, 1983.

TRD-831339 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Building Directories

22 TAC §109.51

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provides the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.51. *Outside Requirements.*

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

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

TRD-831340 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Building and Shopping Center Signs

22 TAC §109.61

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.61. *Requirements.*

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

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

TRD 831341 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Entrance Door Signs

22 TAC §109.71

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.71. *Requirements.*

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

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

TRD-831342 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Prohibitions

22 TAC §109.101

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.101. *Soliciting.*

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 February 17, 1983.

TRD-831343 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

Advertising

22 TAC §109.201, §109.202

The repeals are proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety

§109.201 Routine Dental Services

§109.202 Time Requirements on Advertising

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 February 17, 1983

TRD-831345 William S. Nail
Executive Director
State Board of Dental Examiners

Earliest possible date of adoption
March 28, 1983

For further information please call (512) 475-2443

22 TAC §109.201

The Texas State Board of Dental Examiners proposes new §109.201, concerning definitions of false and misleading advertising.

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

Mr. Nail 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 public protection from false and misleading advertising. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The new rule is proposed under Texas Civil Statutes, Article 4551d, which provides the State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety.

§109.201. Definition of False and Misleading Advertising. Although any dentist may advertise, no dentist shall advertise or solicit patients in any form of communication in a manner that is false or misleading in any material respect. A communication is false or misleading if it:

(1) contains a material misrepresentation of fact or omits a fact necessary to make the statement considered as a whole not materially misleading;

(2) contains a statement of opinion as to the quality of dental services;

(3) contains a representation or implication regarding the quality of dental services which is not susceptible to reasonable verification by the public;

(4) contains predictions of future satisfaction or success of any dental service;

(5) contains statistical data which is not susceptible to reasonable verification by the public;

(6) contains other information based on past performance which is not susceptible to reasonable verification by the public;

(7) contains a testimonial about or endorsement of a dentist;

(8) is intended or likely to create an unjustified expectation about results the dentist can achieve; and

(9) fails to make a truthful disclosure of the course or authorship of the communication.

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 February 17, 1983.

TRD 831346 William S. Nail
Executive Director
State Board of Dental
Examiners

Earliest possible date of adoption:
March 28, 1983

For further information, please call (512) 475-2443.

**TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 325. Solid Waste
Management**

The following proposals submitted by the Texas Department of Health will be serialized beginning in the March 1, 1983, issue of the *Texas Register*. Proposed date of adoption for the documents is April 16, 1983.

Subchapter F. Operational Standards for Solid Waste
Land Disposal Sites
General

25 TAC §325.111
(proposed for repeal)

25 TAC §§325.111-325.113
(proposed new rules)

[Operational] Standards for **Protection of Ground
and Surface Waters** [Type I, II, and III Sites]

25 TAC §§325.121-325.136
(proposed for repeal)

25 TAC §§325.121-325.123
(proposed new rules)

Other Operational Standards for Types I, II, III, and IV Sites

25 TAC §§325.131-325.154

(proposed new rules)

25 TAC §§325.151-325.161

(proposed for repeal)

Subchapter G. Operational Standards for Solid Waste Processing, Experimental, and Land Application Sites

General

25 TAC §325.171

(proposed for repeal)

25 TAC §§325.171-325.173

(proposed new rules)

Operational Standards for Type V and VI Sites

25 TAC §325.181, §325.183

(proposed amendments)

Subchapter H. Surveillance (Compliance) and Enforcement

25 TAC §325.221, §325.222

(proposed for repeal)

25 TAC §325.221, §325.222

(proposed new rules)

Subchapter L. Hazardous Waste Management

General

25 TAC §§325.271-325.274

(proposed amendments)

Generators

25 TAC §§325.293, 325.295, 325.299

(proposed amendments)

Facility Owners and Operators

25 TAC §§325.332, 325.335, 325.336,

325.340

(proposed amendments)

Tables Containing Listing and Characteristics of Hazardous Waste)

25 TAC §§325.361-325.365

(proposed for repeal)

Subchapter X. Forms and Documents

25 TAC §§325.901, 325.902,

325.905-325.913

(proposed for repeal)

25 TAC §§325.901, 325.902, 325.905,

325.906

(proposed new rules)

The Texas Department of Health proposes amendments to §§325.1-325.7, 325.21, 325.24, 325.31, 325.32, 325.34, 325.42, 325.72, 325.92-325.95, 325.181, 325.183, 325.271-325.274, 325.295, 325.299, 325.332, 325.335, 325.336, and 325.340. At the same time, the department proposes the repeal of §§325.51-325.60, 325.71, 325.73-325.75, 325.91, 325.111, 325.121-325.136, 325.151-325.161, 325.171, 325.221, 325.222, 325.361-325.365, 325.901, 325.902, and 325.905-325.913. In addition, the department proposes new §§325.51-325.62, 325.71, 325.73-325.75, 325.91, 325.111-325.113, 325.121-325.123, 325.131-325.154, 325.171-325.173, 325.221, 325.222, 325.901, 325.902, 325.905, and 325.906. The proposed amendments, repeals, and new rules concern municipal solid waste management. Specifically, the department proposes to clarify definitions, redefine terms, establish new definitions, better define what the department considers to be a storage facility, strengthen the rules regarding collection of municipal solid waste, and update the classifi-

cations of municipal solid waste facilities. In the area of permit application procedures, the department proposes to offer the opportunity for a public hearing rather than require that one be held for permit applications; offer the option of conducting a public hearing on land use alone to determine a site's compatibility prior to expensive engineering design work; update facility design standards (i.e., groundwater monitoring) to incorporate state-of-the-art technology; clarify the Bureau of Solid Waste Management's responsibilities in the permit application review process; and allow permit exemptions for trench burners regulated under the rules of the Texas Air Control Board and for land application sites making beneficial use of municipal wastewater treatment plant sludges. Finally, the department proposes to update facility operational standards, particularly in ground and surface water protection, special wastes, screening activities from view, site completion and closure procedures, and post-closure maintenance, clarify enforcement and surveillance policy, and repeal tables containing listing and characteristics of hazardous waste to allow the department to respond quickly to EPA additions or deletions to these tables without going through a rule amendment process.

Hector H. Mendieta, P.E., Permits Division director, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Mendieta 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 flexibility to expedite the permit application decision-making process at less cost to all concerned when proposed options are exercised; an improved capability to detect groundwater pollution from leachate; and improved standards for collection and facility operations which will better protect public health and the environment. 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 Jack C. Carmichael, P.E., Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7271. Comments will be received for 30 days after publication of this proposal in the *Texas Register*.

In addition, six public hearings have been scheduled around the state to offer the public an opportunity to submit oral comments. These will be held as follows. Friday, March 4, 1983, 10 a.m., council chambers, first floor, city hall, 302 South Shoreline, Corpus Christi; Friday, March 11, 1983, 10 a.m., auditorium, Pollution Control Building, City of Houston Health Department, 7411 Park Place Boulevard, Houston; Tuesday, March 15, 1983, 9:30 a.m., auditorium, High Plains Underground Water Conservation District 1, 2930 Avenue Q, Lubbock; Wednesday, March 16, 1983, 10 a.m., conference room, Texas Department

of Health, Public Health Region 3, 2300 East Yandell, El Paso; Wednesday, March 16, 1983, 10 a.m., council chambers, city hall, 101 West Abram, Arlington; and Friday, March 18, 1983, 10 a.m., auditorium, Texas Department of Health, 1100 West 49th Street, Austin.

Copies of the proposed rules are available for review at the following TDH regional offices. Written comments submitted at these locations will be transmitted to the department's central office in Austin. Canyon 300 Victory Drive, contact Oran Buckner, Old Health Center Building, (806) 655-1511 Lubbock 4709 66th Street, contact Linda Wyatt, (806) 797-4331 El Paso—2300 East Yandell, contact Tom Grimshaw, (915) 533-4972 Abilene 301 Oak Street, contact Stanley Thompson, old courthouse, 2nd floor, (915) 673-5231

Arlington - 701 Directors Drive, contact Don Thurman, (817) 778-6744 Temple 2408 South 37th Street, contact Charles Wentworth, (817) 778-6744, Tyler 1517 West Front Street, contact W. T. Ballard, Cotton Belt Office, (214) 595-3585 Harlingen 500 South Rangerville Road, contact Hector Herrera, (512) 423-0130 Uvalde Garner Field Road, contact Bob Barrick, Old Memorial Hospital Building, (512) 278-7173 Rosenberg 1110 Avenue G, contact Mark Lowry, (713) 342-8685

Subchapter A. General Information

25 TAC §§325.1-325.7

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

§325.1. Basis for Regulatory Controls. The regulations promulgated in this chapter cover all aspects of solid waste management under the authority of the Texas Department of Health and are based primarily on the stated purpose of the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, as amended [by the 66th Legislature], hereafter referred to as the Solid Waste Disposal Act.

§325.2. Authority for Regulations. The Solid Waste Disposal Act designated the Texas Department of Health as the solid waste agency with respect to the collection, handling, storage, processing, and disposal of municipal solid waste. Texas Civil Statutes, Article 4414a, as amended by the 65th Legislature, created the Texas Department of Health consisting of the Texas Board of Health, the commissioner of health, and an administrative staff. These regulations are responsive to the following state and federal statutes and regulations pertaining to public health and solid waste management:

(1) (No change.)

(2) The Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7 (as amended by the 67th [66th] Legislature). The provisions of this statute which have

particular significance relating to solid waste management include:

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

(3) (No change.)

(4) **The Litter Abatement Act**, Texas Civil Statutes, Article 4477-9a [dumping solid waste on property or into waters, penalty]. The provisions of this statute which have particular significance relating to solid waste management are contained in §2.01 [summarized in the title of the Act].

(5) Texas Civil Statutes, Article 6674v-2, **Dumping Refuse Near Highway**. The provisions of this statute which have particular significance relating to solid waste management are contained in §2(A)-(C), and (E) (Unlawful Acts).

(5)(6) The Administrative Procedures and Texas Register Act, Texas Civil Statutes, Article 6252-13a, (as amended by the 67th [66th] Legislature). The provisions of this statute which have particular significance relating to procedures pertaining to solid waste management are summarized in §1.

(6)(7) Public Law 94-580, [The Resource Conservation and Recovery Act of 1976, **42 United States Code 6901 et seq., Public Law 94-580**].

(A) The Resource Conservation and Recovery Act (RCRA) establishes the requirement to regulate the treatment (processing), storage, transportation, and disposal of hazardous waste. The RCRA requires that the U.S. Environmental Protection Agency (EPA) identify and list hazardous wastes, establish standards applicable to generators, transporters, and owners or operators of treatment, storage, or disposal facilities, and establish guidelines to assist states in the development of state hazardous waste programs. The Act provides that any state may seek to administer and enforce a hazardous waste program under federal authorization. The authorized state may carry out its hazardous waste program in lieu of the federal program and issue and enforce permits for the storage, treatment, or disposal of hazardous waste. The department has **interim** [applied for] authorization to regulate hazardous waste that comes under its jurisdiction. The department's requirements for managing [of] hazardous waste are contained in §§325.271-325.350 [325.365] of this title (relating to **Hazardous Waste Management**). These are applicable to generators and transporters of municipal hazardous waste and to owners or operators of municipal solid waste treatment, storage, or disposal facilities. The EPA is expected to **periodically** publish additional facility standards and listings of hazardous waste. When this occurs, the department will revise its requirements accordingly.

(B) The RCRA also requires that the EPA publish regulations containing criteria for determining the classification of disposal facilities as sanitary landfills or as open dumps. The RCRA further requires that each state shall prohibit the establishment of open dumps. These [department] regulations are responsive to the RCRA and [the] criteria contained in 40 Code of Federal Regulations Part 257, as published in the September 13, 1979, issue of the *Federal Register*.

§325.3. Applicability. The provisions of these regulations apply to any individual, corporation, organization, government or governmental subdivision or agency, busi-

ness trust, partnership, association, or other legal entity, including all federal installations (see the Resource Conservation and Recovery Act of 1976, §6001), involved in any aspect of the management and control of municipal solid waste including, but not limited to, storage, collection, handling, processing, and disposal. The Solid Waste Disposal Act, §8, states that

No person may cause, suffer, allow, or permit the collection, storage, handling, transportation, processing, or disposal of solid waste, or the use or operation of a solid waste facility for the storage, processing, or disposal of solid waste, [disposal site] in violation of this [the] Act or of the rules, permits, licenses, or other orders of the department

Any person who violates any provision of the act or of any rule, [regulation,] permit, or order of the department is subject to civil and/or criminal penalties as provided for in the Act or other appropriate state statutes [civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, as the court may deem proper]

§325.4 Departmental Municipal Solid Waste Management Guidelines. From time to time, the department will publish guidelines in the form of technical guides on various topics related to municipal solid waste management. The purpose of the guides is to provide information which may be of use to site operators in the selection, design, development, and operation of solid waste sites. The procedures outlined therein are not normally mandatory, however, they are recommended and, in certain cases, may be specifically required by permit special provisions. [Current technical guides are "Use of Earth Resistivity in Solid Waste Management" and "Methane from Landfills." Other guides which are under development are "Leachate in Landfills" and "Groundwater Monitoring."]

§325.5 Definitions [Definition] of Terms and Abbreviations. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. Other definitions, pertinent to specific sections, are contained within the appropriate sections.

ASTM—The American Society of Testing Materials.

Bureau—The Bureau of Solid Waste Management in the Texas Department of Health.

Citizen's collection station—A facility established by a county or municipal government for the convenience and exclusive use of residents (not commercial or industrial users). The facility may consist of one or more storage containers, bins, or trailers.

Class I industrial solid waste—See Industrial solid waste. [Any industrial solid waste designated as Class I by the executive director of the Texas Department of Water Resources as any industrial solid waste or mixture of industrial solid wastes which, because of its concentration or physical or chemical characteristics, is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when im-

properly (treated), stored, transported, or otherwise managed including industrial hazardous waste.]

Commissioner—The commissioner of health.

Composting—The controlled biological decomposition of organic solid waste under aerobic conditions. [(Texas Civil Statutes, Article 4477-7).]

Department—The Texas Department of Health [(Texas Civil Statutes, Article 4477-7 and Article 4414a).]

Discard—To abandon a material and not use, reuse, reclaim, or recycle it. A material is abandoned by being disposed of, burned or incinerated (except where the material is being burned as a fuel for the purpose of recovering usable energy); or physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed.

Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste (whether containerized or uncontainerized) into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters [water], including groundwaters.

Endangered or threatened species—Any species listed as such pursuant to the federal Endangered Species Act [of 1973], 16 United States Code 1536, §4, [(Public Law 93-205),] as amended.

Essentially insoluble—Any material which, if representatively sampled and placed in static or dynamic contact with deionized water at ambient temperature for seven days, will not leach any quantity of any constituent of the material into the water in excess of current U.S. Public Health Service or U.S. Environmental Protection Agency limits for drinking water as published in the Federal Register.

Garbage— [Municipal] Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products. [(Texas Civil Statutes, Article 4477-7).]

Generator—Any person, by site or location, whose act or process produces a solid waste.

Groundwater—Groundwater as included in water in the state.

Hazardous waste—Any solid waste identified or listed as a hazardous waste by the administrator of the U.S. [United States] Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, [of 1976] 42 United States Code 6901 et seq., as amended.

Industrial hazardous waste—Hazardous waste determined to be of industrial origin.

Industrial solid waste—Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations.

(A) Class I industrial solid waste or Class I waste—Any industrial solid waste designated as Class I by the executive director of the Texas Department of Water Resources as any industrial solid waste or mixture of industrial solid wastes which because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a

generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly processed, stored, transported, or otherwise managed, including hazardous industrial waste

(B) Class II industrial solid waste - Any individual solid waste or combination of industrial solid wastes which cannot be described as Class I or Class III.

(C) Class III industrial solid waste - Inert and essentially insoluble industrial solid waste, including materials such as rock, brick, glass, dirt, and certain plastics and rubber, etc., that are not readily decomposable.

Inert material - A naturally occurring nonputrescible material which is essentially insoluble such as soil, dirt, clay, sand, gravel, and rock

Infectious waste - Waste containing pathogens or biologically active material which because of its type, concentration, and quantity is capable of transmitting disease to persons exposed to the waste.

Man-made inert material - Those nonputrescible, essentially insoluble materials fabricated by man which are not included under the definition of rubbish.

May - [That] The stated action is optional.

[Mixed waste - Solid waste that contains both municipal solid waste and industrial solid waste. See §325.125 of this title (relating to Disposal of Mixed Solid Waste and Certain Sludges) for requirements.]

Municipal solid waste - Solid waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste

Open burning - The **unauthorized** combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion; containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and control of the emission of the combustion products

Opposed case - A case when one or more parties appear, or make their appearance, in opposition to an application and are designated as opponent parties by the **hearing** [hearings] examiner either at or before the public hearing on the application.

Permit or license - The formal written approval issued to the applicant for a solid waste site by the appropriate regulatory body. To conform with terminology usage in Texas Civil Statutes, Article 4477-7, and Article 4477-8, a permit shall mean **approval** [approved] by the department and a license shall mean approval by a county.

Person - Individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity [(Texas Civil Statutes, Article 4477-7.)]

Population equivalent - The hypothetical population which would generate an amount of solid waste equivalent to that actually being **managed** [processed or disposed of] based on a generation rate of five pounds per capita per day and applied to situations involving solid waste not necessarily generated by individuals.

Processing - The extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the **treatment or neutralization of hazardous waste, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material from the waste, or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume. Unless the state agency determines that regulation of such activity under these rules is necessary to protect human health or the environment, the definition of "processing" does not include activities relating to those materials exempted by the administrator of the Environmental Protection Agency pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code 6901 et seq., as amended** [storage, separation, packaging, repackaging, volume reduction, or treatment of radioactive waste and hazardous waste so as to render such waste less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume]

[Processing facility - A facility used to transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, or provide other processing of solid waste. Processing facilities used for rendering fats and oils, reclamation of yeast for animal feed, cooking of garbage for animal consumption, or plants of a similar nature are not included in this definition. (These latter facilities are regulated by the Texas Department of Water Resources.)]

Public highway - The entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, **if any part of the road, street, way, thoroughfare, bridge, public beach, or park** [when any part thereof] is opened to the public for vehicular traffic, **is used as a public recreational area, or is under the state's legislative jurisdiction through its police power** [and over which the state has legislative jurisdiction under its police power] (Texas Civil Statutes, Article 4477-9a [6674v-2]).

Radioactive waste - **That waste which requires specific licensing under Texas Civil Statutes, Article 4590C, Chapter 72, Acts of the 57th Legislature, 1961, as amended, and the rules adopted by the Texas Board of Health under that law.** [Waste material which emits ionizing radiation spontaneously, excluding uranium mill tailings, irradiated nuclear reactor fuel elements, and high-level radioactive wastes as defined by federal regulations.]

Refuse - The same as rubbish.

Registration - **The act of filing information for specific solid waste management activities as determined by the department.**

Rubbish - **Nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and the like materials**

which will not burn at ordinary incinerator temperatures (1,600°F to 1,800°F).

Rural collection station—A facility established by a county or municipal government for the convenience and exclusive use of rural residents (not commercial or industrial users) who are not served by scheduled house-to-house collection service. The facility may consist of one or more storage containers, bins, or trailers.]

Sanitary landfill—A controlled area of land upon which solid waste is disposed of in accordance with standards, rules, a permit or license, or orders established by the Board of Health. [A facility for the land disposal of solid waste which complies with all applicable standards and regulations so as to ensure that there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility.]

Shall—[That] The stated action is mandatory.

Should—[That] The stated action is recommended as a guide in completing the overall requirement.

Sludge—Any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect, exclusive of the treated effluent from a wastewater treatment plant.

Solid waste—[All putrescible and nonputrescible discarded or unwanted materials including] Any garbage, refuse, [radioactive waste collected from multiple sources,] sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities, but does not include:

(A) solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges [which are point sources] subject to regulation by permit issued pursuant to the Texas Water Code, Chapter 26 [the Texas Water Quality Act or §402 of the Federal Clean Water Act];

(B) soil, dirt, rock, sand, and other natural or man-made inert solid [waste] materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements, or

(C) waste materials which result from activities associated with the exploration, development, or production of oil or gas and are subject to control by the Railroad Commission of Texas [; or

(D) source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.]

Solid waste [disposal] site—A plot of ground designated for the processing, storage, or disposal of solid waste.

Solid waste facility—All contiguous land, and structures, other appurtenances, and improvements on the land, used for processing, storing, or disposing of solid waste. A facility may be publicly or privately owned and consist of several processing, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or combinations of them. [Any land and

appurtenances thereto used or designated for the storage, processing, or disposal of solid waste.]

[Solid waste processing site—A plot of ground designated for the processing of solid waste.]

Special waste—Any solid waste or combination of solid wastes that because of its quantity, concentration, physical or chemical characteristics, or biological properties requires special handling and disposal to protect the human health or the environment. If improperly handled, transported, stored, processed or disposed of, or otherwise managed, it may pose a present or potential danger to the human health or the environment. Special wastes include, but are not limited to:

(A) hazardous waste from small quantity generators, see §325.298 [subsection (d) of §325.274] of this title (relating to [Hazardous Waste Regulated, Exclusions, Exceptions, and] Special Requirements for Small Quantity Generators), that may be exempt from full controls under §§325.271-325.350 [325.365] of this title (relating to Hazardous Waste Management).

(B) Class I industrial nonhazardous waste not routinely collected with municipal solid waste;

(C) infectious and pathological wastes from health care facilities, veterinary hospitals, or laboratories;

(D) water supply and wastewater [Unstabilized sewage] treatment plant sludges;

(E) septic tank pumpings;

(F) grease and grit trap wastes;

(G) sludges and liquid wastes from sources other than water supply [domestic water] and wastewater treatment plants;

(H) slaughterhouse wastes;

(I) dead animals; [and]

(J) drugs, contaminated foods, or drink products, other than those contained in normal household waste; [other solid waste identified as a special waste by the commissioner of health.]

(K) pesticide (insecticide, herbicide, fungicide, or rodenticide) containers; and

(L) discarded materials containing asbestos.

Stabilized sludges—Those sludges processed to significantly reduce pathogens as specified in §325.205 of this title (relating to Processes to Significantly Reduce Pathogens).

Storage—The holding of solid waste for a temporary period, at the end of which the solid waste is processed, disposed of, or stored elsewhere. A facility established as a neighborhood collection point for nonputrescible recyclable wastes or as a collection point for consolidation of parking lot or street sweepings or wastes collected and received in sealed plastic bags from such activities as periodic citywide cleanup campaigns and cleanup of rights-of-way or roadside parks prior to transportation to a processing or disposal site is considered a storage facility. Storage includes operations of precollection and postcollection as follows: [The interim containment of municipal solid waste under one of the following conditions:]

(A) Precollection—That storage by the generator, normally on his premises, prior to initial collection.

(B) Postcollection—That storage by a transporter or [the] processor, at a processing site, while the

waste is awaiting processing or transfer to another storage, [a] disposal, or recovery facility.

Surface water—Surface water as included in water in the state.

T.A.C.B.—Texas Air Control Board.

T.D.W.R.—Texas Department of Water Resources.

[T.R.C.S.—Texas Revised Civil Statutes.]

Trash—The same as rubbish. [(Rubbish)—Nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible trash (rubbish) includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible trash (rubbish) includes glass, crockery, tin cans, aluminum cans, metal furniture, and the like materials which will not burn at ordinary incinerator temperatures (1,600°F to 1,800°F).]

Treatment—The same as processing.

Triple rinse—To rinse a container three times using a volume of solvent equal to 10% of the volume of the container or liner for each rinse.

Unified soil classification system—The standardized system devised by the U.S. Army Corps of Engineers for classifying soil types.

Vector—An agent, such as an insect, snake, rodent, or animal capable of mechanically or biologically transferring a pathogen from one organism to another. [Rodents, flies, and mosquitoes capable of transmitting disease.]

[V.A.C.S.—Vernon's Annotated Civil Statutes.]

Water in the state—Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state (the Texas Water Code, Chapter 26).

§325.6. *Relationships with Other Governmental Entities.*

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

(c) State Department of Highways and Public Transportation. In view of the responsibilities of the State Department of Highways and Public Transportation (SDHPT) regarding the junkyard control provisions of the Texas Litter Abatement Act, Texas Civil Statutes, Article 4477-9a, [Highway Beautification Act,] the department shall coordinate with the SDHPT on the review of all permit applications for municipal solid waste land disposal facilities existing or proposed within 1,000 feet of an interstate or primary highway to determine the need for screening or special operating requirements. When primary access to a municipal solid waste disposal facility is provided by state-maintained streets or highways, the department shall solicit recommendations from the SDHPT regarding the adequacy and design capacity of such roadways to safely accommodate the additional volumes and weights of traffic generated or to be

generated by the facility operation [(Highway Beautification Act, Texas Civil Statutes, Article 6674v-1)].

(d) (No change.)

(e) Federal Aviation Administration. In view of the potential attraction that solid waste land disposal facilities [sites] have to birds and the hazard that birds present to low-flying aircraft, the department shall coordinate the review of permit applications for all municipal solid waste land disposal facilities existing or proposed in the vicinity of airports with the appropriate Airports District Office of the Federal Aviation Administration (FAA Agency Order 5200.5, "FAA Guidance Concerning Sanitary Landfills on or near Airports").

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

(h) Municipal governments. Municipalities are encouraged to enforce the provisions of this chapter as provided for in the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §8(a)(5). The department is committed to assist municipal governments in an educational and advisory capacity. The department is a necessary party to any suit filed by a local government [municipality] under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §8(a)(7).

(i) County governments. The department encourages [the] county governments to exercise the authority provided in Texas Civil Statutes, Article 4477-7 and 4477-8, regarding the management of solid waste including the enforcement of the requirements of the Solid Waste Disposal Act and these regulations. The provisions of Texas Civil Statutes, Articles 4477-7 and 4477-8, allow county governments to require and issue licenses authorizing and governing the operation and maintenance of sites used for the disposal of solid waste not in the territorial limits or extraterritorial jurisdiction of a municipality. Texas Civil Statutes, Article 4477-7, requires that no license for disposal of solid waste may be issued, renewed, or extended without the prior approval, as appropriate, of the department or the Department of Water Resources. Under Texas Civil Statutes, Article 4477-7, §8(a)(7) [§8(g)], the department and the Department of Water Resources are necessary and indispensable parties to any suit filed by a local government for the violation of any provision of the Act. If a permit is issued, renewed, or extended by the department, the owner or operator of the site does not need to obtain a separate license for the same site from a county or from a political subdivision as defined in the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §6. (See §§325.241-325.243 of this title (relating to County Governments with Licensing Authority) for more information.)

§325.7. *Relationship With County Licensing System. Under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §8(a)(5) and (7), [empowers] counties are empowered to require and issue licenses authorizing and governing the operation and maintenance of solid waste disposal sites not within the territorial limits or extraterritorial jurisdiction of incorporated cities and towns. The county shall mail a copy of the license application to the department to receive comments and recommendations on the license application before the county acts on the application. No license for the use of a site for the disposal of solid waste may be issued, renewed, or extended without prior approval of the department. The County Solid*

Waste Control Act, Texas Civil Statutes, Article 4477-8, excludes both the territorial limits and the extraterritorial jurisdiction of incorporated cities and towns from the counties' authority to make regulations for the governing and controlling of solid waste collection, handling, storage, and disposal. Refer to §§325.241-325.243 of this title (relating to County Governments with Licensing Authority).

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 February 15, 1983.

TRD-831243 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
April 16, 1983

For further information, please call (512) 458-7236.

Subchapter B. Municipal Solid Waste Storage

25 TAC §§325.21, §325.24

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

§325.21. *Applicability.* This subchapter shall be applicable to all public and private storage systems. Additional requirements for storage of hazardous wastes are contained in §§325.271-325.350 [325.365] of this title (relating to Hazardous Waste Management).

§325.24. *Citizens' [Rural] Collection Stations.* Citizens' [Rural] collection stations should be provided with the type and quantity of containers compatible with the areas to be served. Rules should be posted governing the use of the facility to include who may use it, what may or may not be deposited, etc. The responsible county or municipal government shall provide for the collection of deposited waste on a scheduled basis and supervise the facility in order to maintain it in a sanitary condition.

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

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Subchapter C. Municipal Solid Waste Collection

25 TAC §§325.31, 325.32, 325.34

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

§325.31. *Applicability.* This subchapter shall be applicable to all public and private collection systems. Additional requirements for the collection and transportation of hazardous wastes are contained in §§325.271-325.350 [325.365] of this title (relating to Hazardous Waste Management).

§325.32. *Collection Requirements.*

(a) Municipal solid waste containing putrescibles shall be collected a minimum of once weekly to prevent propagation and attraction of vectors and the creation of public health nuisances. Collection should be made more frequently in circumstances where vector breeding or harborage potential is significant.

(b) **Municipal solid waste collected by commercial collector/haulers, publicly owned collecting/hauling services, or other collector/haulers shall only be deposited in authorized solid waste disposal facilities. All haulers must maintain records to document that waste is going to an authorized management facility. Upon request of the department, a transporter is responsible for providing adequate documentation regarding the destination of all such collected waste.**

(c) **Improper disposal by collectors shall be grounds for the department to require removal of the deposited waste from the unauthorized disposal facility and transportation of said waste to an authorized disposal facility or other penalties as authorized by law.**

§325.34. *Collection Spillage.*

(a) (No change.)

(b) Cleanup along disposal route. The person operating the collection system shall [should] provide for prompt collection of any waste materials lost from the collection vehicles along the route to the disposal site.

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

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Subchapter D. Classification of Municipal Solid Waste Sites

25 TAC §325.42

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

§325.42. Types of Municipal Solid Waste Sites. The department has classified all solid waste sites and facilities according to function and/or population equivalency served. [into seven types which are described in this subsection. The first four types are land disposal sites and each provides for the disposal of solid waste on land without creating nuisances or hazards to public health or safety and without posing a reasonable probability of adverse effects to the environment by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to periodically cover it with a layer of earth to minimize unhealthy, unsafe, or unsightly conditions. As indicated in this subsection, the department may authorize different frequencies of cover, commensurate with the potential for creating nuisances or hazards to public health or safety.] Subject to the limitations in **§325.135 [§325.125]** of this title (relating to **Industrial Wastes [Disposal of Mixed Solid Waste and Certain Sludges]**) and **§325.136** of this title (relating to **Disposal of Special Wastes**, a [or] municipal solid waste landfill site may also receive mixed wastes and with the written approval of the department may also receive solid wastes, including Class I [industrial] **nonhazardous** solid waste and **hazardous waste from small quantity generators**, if properly handled and safeguarded in the landfill site

(1) Municipal solid waste site—Type I. A Type I site shall be considered to be the standard landfill for the disposal of municipal solid waste and is encouraged in all cases. Type I operations are required for sites serving 5,000 persons or more, or same population equivalent. All solid waste deposited in a Type I site shall be compacted and covered at least daily except for areas designated to receive only brush and/or construction-demolition wastes which shall be covered at least monthly. The department may authorize the designation of special-use areas for processing, storage, and disposal or any other functions involving solid waste. **The operational standards prescribed in §§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites) shall be followed.**

(2) Municipal solid waste site—Type II. A Type II site or operation may be authorized by the department for a site serving less than 5,000 persons or same population equivalent when relevant factors indicate a frequency of [or] less than daily compaction and cover will not result in any significant health problems. A Type II operation shall not be conducted within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed loca-

tion will be acceptable. The operational standards prescribed in **§§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites)** [§§325.121-325.126 of this title (relating to Operational Standards for Type I, II, and III Sites)] shall be followed except that the frequency of compaction and cover may be extended up to seven days. The prescribed frequency will constitute the minimum standard for the site with the obligation of the operator to cover more frequently when conditions so warrant. Areas designated to receive only brush and/or construction-demolition wastes shall be covered at least monthly. The department may authorize the designation of special-use areas for processing, storage, and disposal or any other functions involving solid waste.

(3) Municipal solid waste site—Type III. **A Type III site or operation may be authorized by the department for a site serving less than 1,500 persons or same population equivalent. A Type III site shall not be operated within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed location will be acceptable. The operational standards prescribed in §§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites) shall be followed, except that the frequency of compaction and covering will be specified by the department.** [A Type III site or operation is an interim classification which may be authorized by the department for a site serving less than 1,500 persons or same population equivalent for a period of time no longer than five years while pending its upgrading to a Type II operation. A Type III site shall not be operated within 300 yards of a public road unless the department determines that the site, after upgrading, will be acceptable as a Type II site in the final classification. The operational standards prescribed in §§325.121-325.136 of this title (relating to Operational Standards for Type I, II, and III Sites) shall be followed, except that the interim frequency of compaction and intermediate cover will be specified by the department. The prescribed interim frequency will constitute the minimum standard for the site with the obligation of the operator to cover more frequently when conditions so warrant.]

(4) Municipal solid waste site—Type IV. A Type IV site or operation may be authorized by the department for the disposal of brush, construction-demolition waste and/or **rubbish (trash)** [trash (rubbish)] that are free of other solid wastes. A Type IV operation shall not be operated within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed location will be acceptable. The minimum operational standards are prescribed in **§§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land Disposal Sites)**. [§§325.151-325.161 of this title (relating to Operational Standards for Type IV Sites).]

(5) Municipal solid waste site—Type V. Separate solid waste processing sites are classified as Type V. These sites shall encompass processing plants that transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, or provide other processing of solid waste. [Processing sites include those facilities which receive, store, and process radioactive waste collected

from multiple sources and air-curtain destructors (trench burners) designed to burn trees, brush, and other wood-type materials in a safe, controlled burning process. The operational] **Operational** standards are prescribed in §§325.171-325.189 (relating to **Operational Standards for Solid Waste Processing and Experimental Sites**) [§§325.181-325.189 of this title (relating to **Operational Standards for Type V and VI Sites**)].

(6) (No change.)

(7) **Municipal solid waste site—Type VII.** A Type VII site or operation may be authorized by the department for the land application of **sludge**. [solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for the production of food chain crops.] The operational standards for Type VII sites are prescribed in §§325.201-325.207 of this title (relating to **Operational Standards for Type VII Sites**).

(8) **Municipal solid waste site—Type VIII. Sites for hazardous solid waste** (see §325.272 of this title (relating to **Definitions of Terms and Abbreviations**)) are classified as **Type VIII**. These sites include all contiguous land and structures, other appurtenances, and improvements on the land used for processing/treating (see §325.272 of this title (relating to **Definitions of Terms and Abbreviations**)), storing, or disposing of hazardous solid waste. A site may consist of several processing/treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundment storage units, waste piles, tanks, incinerators, or combination of them). The operational standards and permit requirements are prescribed in §§325.331-325.350 of this title (relating to **Facility Owners and Operators**).

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 February 15, 1983.

TRD-831246 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
April 16, 1983

For further information, please call (512) 458-7236.

Subchapter E. Permit Procedures and Design Criteria

Permits [Permit Requirements]

25 TAC §§325.51-325.60

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

These repealed sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article

4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

§325.51. *General.*

§325.52. *Permits Issued under Previous Regulations.*

§325.53. *Duration and Limits of Permits.*

§325.54. *Transfer of Permits.*

§325.55. *Revocation or Amendment of a Permit.*

§325.56. *Property Rights*

§325.57. *Emergency Approval.*

§325.58. *Application Requirements.*

§325.59. *Preparation of Application.*

§325.60. *Submission of Application.*

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

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Deputy Commissioner
Professional Services
Texas Department of Health

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25 TAC §§325.51-325.62

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

§325.51. *General.* No municipal solid waste site shall be operated without a permit from the department or a license from a county exercising licensing authority, except as authorized herein and in §325.52 of this title (relating to **Permit Exemptions**). A separate permit or license shall be required for each site or facility, and the department, at its discretion, may include one or more different types of facilities in a single permit if the facilities are collocated on the same site. A permit or license may be issued by the department or a county, respectively, only after an opportunity for a hearing has been provided to the applicant and persons affected. (See §§325.71-325.75 of this title (relating to **Application and Data Requirements**) and §§325.91-325.95 of this title (relating to **Application Review Process**) for departmental procedures and §§325.241-325.243 of this title (relating to **County Governments with Licensing Authority**) for minimum requirements for a county licensing program.) The permitting of low-level radioactive waste processing, storage, and disposal facilities is not covered by these regulations.

The Texas Department of Health Bureau of Radiation Control chief should be contacted for permit requirements and operational standards for these types of facilities.

§325.52. Permit Exemptions.

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

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

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

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

§325.53. Duration and Limits of Permits.

(a) A permit is normally issued for the life of the site but may be revoked at any time if the operating conditions do not meet the minimum standards set forth in these regulations or for any other good cause. However, when deemed appropriate by the department, a permit may be issued for a specific period of time. When a permittee has made timely and sufficient application for the renewal of a permit, the existing permit does not expire until the application has been finally determined by the department.

(b) A permit is issued to a specific person (see definition for person contained in §325.5 of this title (relating to Definitions of Terms and Abbreviations)) and may not be transferred from one person to another without departmental approval. A permit is attached to the realty to which it pertains and may not be transferred from one solid waste site to another.

§325.54. Permits Issued under Previous Regulations. Permits issued by this department under previous regulations will remain valid for the period specified in the permit. However, all amendments to the permitor site

development plan shall be in accordance with these regulations. Requirements established by permit special provisions will remain in force unless amended by the department. (See §325.113 of this title (relating to Effect of Updated Regulations on Existing Sites) for the effect of new design and operational requirements contained in these regulations.)

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

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

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

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

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

(3) Evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equip-

ment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, etc., in the case of privately-owned facilities and by commissioners court or city council resolution in the case of publicly-owned facilities.

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

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

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

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

§325.56. *Revocation or Amendment of a Permit.*

(a) A permit may be revoked or amended by the department at any time for reasons pertaining to public health; air or water pollution; land use; the existence of operating conditions which do not meet the minimum standards set forth in these regulations; or violation of any applicable laws, rules, or other regulations controlling the management of solid waste. Prior to revoking or amending a permit, the department shall provide notice to the permittee and to appropriate governmental entities. The permittee and persons affected shall be provided an opportunity for hearing to show cause on whether or not the permit should be revoked or amended on the basis stated by the department. If a hearing is requested, the department will publish a public hearing notice announcing the time, place, and purpose of the public hearing and advising all citizens of their rights to present competent evidence for or against the revocation or amendment of a permit. The department may hold such a hearing on its own motion. The department shall be responsible for ensuring that notice of the public hearing is published at least once in a newspaper regularly published or circulated in the county in which the site is located. The department shall be responsible for paying for and publishing the hearing notice. The department, at its option in any individual case, may publish the notice in additional newspapers in the county or other counties. Publication shall not be less than 30 days before the date of the hearing. As proof that the publication was timely, the department shall obtain an affidavit from the pub-

lisher which shows the date of publication. The affidavit shall be accompanied by a copy of the published notice. The hearing shall be conducted in accordance with §325.94 of this title (relating to Conduct of Public Hearing), and determination shall be made in accordance with §325.95 of this title (relating to Final Determination on Application).

(b) If, during the life of a permit, conditions change that would mandate a stricter or less strict type of operation (e.g., a change in population served), the permittee shall file a request for amendment within three months of the changed conditions. Requests for amendments involving changes such as increase in site acreage, an addition of an area fill above natural ground (aerial fill), or the addition of other on-site processing or disposal facilities, should normally be submitted in the same manner and similar detail as for an initial application, including an updated site development plan. In all cases, however, consultation with the department is recommended to determine specific data requirements for the proposed amendment. Modifications to the original site development plan, except as listed in paragraphs (1)-(7) of this subsection, may be approved by the department without a permit amendment in accordance with §325.111 of this title (relating to General Requirements) or §325.171 of this title (relating to General Requirements) for processing sites. However, the following types of modifications shall require a permit amendment:

(1) a change to the original site boundaries or acreage.

(2) an increase in height of more than 10 feet above natural ground when the original permit did not provide for above-ground landfilling or more than the equivalent of 20% of the originally permitted above-ground height or 10 feet, whichever is less, to the highest permitted height above natural ground.

(3) an increase in trench or excavation depth which may result in changes to the lining requirements.

(4) a change in site development which will result in additional encroachment into a 100-year floodplain.

(5) a change in site development which will result in disposal of wastes closer to site boundaries than originally approved.

(6) the addition of other on-site processing or disposal facilities, excluding air-curtain destructors.

(7) other changes which, in the opinion of the department, could have an adverse effect on the health, welfare, or physical property of nearby residents or property owners or the environment and which could require the addition of a special provision to the permit.

§325.57. *Property Rights.*

(a) It is the responsibility of a permittee to possess or acquire a sufficient interest in or right to the use of the property for which a permit is issued, including the access route thereto. The granting of a permit does not convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights; nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit is issued. In this connection, see subsection (b)(2) of §325.72 of this

title (relating to General Information Required for all Sites--Permit Registration Application, Part A.) The permittee shall retain the right of entry to the site for at least five years after termination of solid waste operations for inspection and maintenance of the site with the understanding that a longer period may be required for post-closure maintenance. In any lease agreement, specific provisions shall be included to delineate mineral rights attached to the property and the rights to any recoverable materials that may be buried on the property or landfill gases that may be produced. Department approval or a permit will be required if any on-site operations subsequent to closure of a landfill site involve disturbing the cover or liner of the landfill.

(b) It is also the responsibility of a permittee to obtain any permits or approvals that may be required by local agencies such as for building construction, discharge of uncontaminated waters into ditches under control of a drainage district, discharge of effluent into a local sanitary sewer system, etc.

§325.58 Emergency Approval. When a disaster occurs, such as from a tornado, hurricane, or flood, and results in urgent need for public solid waste disposal facilities, the department may approve a site for immediate operation subject to stipulated conditions and for a limited period of time. Requests for emergency approval may be made by telephone either to the department's central office or the appropriate regional office. Failure to acquire a permit for a replacement disposal facility in a timely manner does not constitute grounds for an emergency approval.

§325.59 Application Requirements. An application for a permit or license must be submitted to the department or the appropriate county, as applicable, by any agency, political subdivision, corporation, or individual desiring to establish or operate a solid waste processing or disposal site or facility. Representatives from the department's regional or central offices are available to assist in determining type classification for a particular site. Regulations of the appropriate county should be consulted before preparation of an application for a license.

§325.60 Preparation of Application

(a) The application for a permit shall be prepared and signed by the applicant on a form to be provided by the department. In general, the application shall include information necessary to make an evaluation of the proposed operation to ensure that the facility is located, designed, and operated so that the health, welfare, and physical property of the public as well as the environment and endangered species are protected. Failure to give complete information as requested on the application form, or the submission of false information, may constitute grounds for rejection of the application. (See §§325.71-325.75 of this title (relating to Application and Data Requirements) for specific requirements for the type of facility for which a permit is desired.)

(b) Data presented in support of an application for a permit for Type I and Type IV municipal solid waste sites serving 5,000 persons or more, or same population equivalent, shall be prepared under the direction of a registered professional engineer authorized to practice in the State of Texas, under the Texas Engineering Prac-

tice Act, Texas Civil Statutes, Article 3271a. An engineer who prepares the supporting data for an application is not authorized to sign the application unless he is an official of the applicant's organization. If a consultant is employed, a letter of appointment shall be submitted by the proper city, county, agency, company, official, or individual confirming that the engineer is authorized to prepare plans and specifications. (See §325.903 of this title (relating to Appendix C--Notice of Appointment) for suggested format.)

(c) Applicants for Types II and III and for Type IV municipal solid waste sites serving less than 5,000 persons, or same population equivalent, are encouraged to seek professional engineering assistance in the collection of information and the design of their solid waste sites. Normally, these types of sites are located in sparsely populated areas and the types and volumes of wastes deposited therein do not constitute as much of a potential health hazard as those in subsection (a) of this section. However, when deemed necessary by the department, data presented in support of permit applications for these types of sites shall be prepared by a registered professional engineer.

(d) Unless advised otherwise by the department, data presented in support of an application for a permit for Types V, VI, VII, and VIII municipal solid waste sites shall be prepared by a registered professional engineer under the same conditions prescribed in subsection (a) of this section, unless the department determines that the supporting technical data for the proposed operation could be better presented by a specialist in another field.

§325.61 Submission of Application. The application for a permit shall be submitted to the department with all the supporting data in the number of copies prescribed in the instructions on the application form unless otherwise advised. Upon receipt of the application, the department will forward to the applicant a notice of filing of application which the applicant, at his own expense, will cause to be published one time in a newspaper of general circulation in the county in which the solid waste site is located. Such publication shall be accomplished within 15 days after receipt of such notice by the applicant, and a publisher's affidavit relative to such publication shall be forwarded to the department immediately thereafter. The publication of this notice of filing of application shall be in addition to the publication of the notice of public hearing required by §325.93 of this title (relating to Scheduling and Preparation for a Public Hearing). For a facility to be located within a county which exercises licensing authority but not within the territorial or extraterritorial jurisdiction of a city or town, the prospective applicant should consult with the appropriate county for any special application requirements.

§325.62 Land Use Public Hearing. The department, upon its own motion or upon the request of a permit applicant, may process a permit application or partial application to the extent necessary to determine land use compatibility alone. If the site is determined to be acceptable on the basis of land use, the department will consider technical matters related to the application at a later time. When this procedure is followed, a public hearing will be held for each determination in accordance with

§§325.91-325.95 of this title (relating to Application Review Process). For the purposes of the land use public hearing, the applicant will be required to submit, as a minimum, Part A of the permit application.

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

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TRD-831253 Robert A. MacLean, M.D.
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Texas Department of Health

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For further information, please call (512) 458-7236.

Application and Data Requirements

25 TAC §§325.71, 325.73-325.75

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

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

§325.71. *General.*

§325.73. *Technical Information Required for Landfill Sites Serving Less Than 5,000 Persons—Permit Application, Part B.*

§325.74. *Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan.*

§325.75. *Technical Information Required for Solid Waste Processing, Experimental, and Land Application Sites.*

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

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Professional Services
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25 TAC §§325.71, 325.73-325.75

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

§325.71. *General.*

(a) The first part of the application, Part A, is designed to provide information which is required regardless of the type of site involved. If the applicant is sure of the type classification of the facility and operation for which a permit is desired, he may proceed to complete the second part, Part B and supporting data, to provide the more detailed information and technical data required for evaluation of the particular type of site. If the applicant is not sure of the type classification of the site and amount of supporting data required, he may submit only Part A to the department for evaluation and determination of additional supporting information.

(b) All of the application and data requirements indicated in §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria) and §§325.271-325.350 of this title (relating to Hazardous Waste Management), as applicable, shall be submitted by a permit applicant prior to a public hearing on the application; except that the chief of the bureau, or his designated representative, may temporarily waive any requirement which he considers not essential to the evaluation of the application or for holding a public hearing. A temporary waiver/variance shall be affirmed, modified, or set aside at the public hearing or during the final decision-making process. The applicant is responsible for presenting justification at the public hearing for the waiver/variance temporarily granted by the chief of the bureau. The department strongly recommends that the prospective applicant confer as early as possible with appropriate representatives of the bureau to discuss the information contained in Part A and to obtain guidance for conducting the soils investigation and preparation of the design for the proposed facility. Discussions at such a conference can result in determining the degree of detail required in the preparation of supporting data or in the identification of data that may not be required for the particular facility. Except as may be otherwise determined as unnecessary for a specific site by the chief of the bureau in accordance with this subsection, the information required by the regulations is the minimum required to process an application. All aspects of the application and design requirements must be addressed by the applicant, even if only to show why they are not applicable for the particular site. It is the responsibility of the applicant to provide the department technical data of sufficient completeness, accuracy, and clarity to provide assurance that the operation of the site will pose no reasonable probability of adverse effects on the health, welfare, environment, or physical property of nearby residents or property owners. The applicant is also responsible for determining any site-specific conditions which require special

design considerations that may exceed the minimum criteria contained in these regulations.

§325.73. Technical Information Required for Landfill Sites Serving Less Than 5,000 Persons—Permit Application, Part B.

(a) Part B of the permit application—see §325.902 of this title (relating to Appendix B—Application for a Permit to Operate a Municipal Solid Waste Site—Part B (Technical Data)) for sample format—shall be submitted in support of Part A for all Type II and III sites and for all Type IV sites serving less than 5,000 persons or same population equivalent. When deemed necessary, however, the department may require that, in lieu of using Part B, permit applicants for these types of sites submit supporting technical information in the format and amount of detail as required for sites serving 5,000 persons or more, or same population equivalent. See §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan). Even though an applicant may not be required to submit detailed supporting data, it is recommended that he consider the requirements contained in subsection (b)(5) of §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan) as a guide in selecting a suitable site location, developing the operational plan, and preparing for the required public hearing. It is also recommended that the applicant review the operational standards for the specific type of site before completing his application.

(b) Unless otherwise excepted by the chief of the bureau or his designated representative in subsection (b) of §325.71 of this title (relating to General), Part B shall be supported by the following:

(1) A report of on-site soil characteristics prepared in accordance with guidance obtained through consultation with the department.

(2) A site plan showing drainage throughout the site area; ground and surface water protective measures; depth of trenches; locations of streams; special-use areas; buffer zones along boundaries and easements; etc. See §325.902 of this title (relating to Appendix B—Application for a Permit to Operate a Municipal Solid Waste Site—Part B (Technical Data)) for complete requirements.

(3) A legal description of the site consisting of the official metes and bounds description or, if platted property, the book and page number of the plat record of only that acreage encompassed in the application.

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

(5) Evidence of competency to operate the site to include landfilling and earthmoving experience of key personnel and the size, types, and number of equipment

to be dedicated to site operation. The applicant shall submit a record of all his activities involving solid waste management in Texas within the past 10 years.

§325.74. Technical Information Required for Landfill Sites Serving 5,000 Persons or More—site development plan.

(a) For all Type I and IV sites serving 5,000 persons or more, or same population equivalent, the technical information submitted in support of Part A, in lieu of using Part B, shall be prepared in the form of an engineering site development plan as described in this section. In the interest of expediting the development of complete technical data requirements and reducing costs to the applicant, two draft copies of the site development plan shall be submitted to the department for review prior to reproduction in final form. The department will review the draft copies of the plan and advise of any changes or additions which are required or recommended and, if considered necessary, will request that the design engineer meet with appropriate staff members when clarification of data is necessary. Following this review, the department will advise the applicant, or his design engineer, of the number of copies required of the plan for distribution to review agencies which may need to make a detailed review with respect to matters under their jurisdiction. It is advisable that a copy of the soils report be submitted to the department for review as soon as it has been prepared so that the department can provide timely guidance if soil conditions will require special considerations. Individual site drawings shall be signed and sealed by the registered professional engineer responsible for their preparation. All drawings or other sheets submitted with the site development plan are preferred to be no larger than 8½ by 11 inches and should be no larger than 15 by 22 inches so that they can be reproduced by normal office copy machines. However, in addition to the reduced sheets, standard-sized drawings folded to 8½ by 11 inches may be submitted or required if their reduction would render them difficult to interpret. Bound plans shall be signed and sealed by the engineer, preferably on the first page.

(b) The site development plan shall be prepared in the format and content described as follows, except as may be otherwise determined for a specific site by the chief of the bureau in accordance with subsection (b) of §325.71 of this title (relating to General):

(1) The title page shall show the name of the project, the location by city and county, name of applicant, and date of application.

(2) The table of contents shall list the following main sections of the application which are described in paragraphs (3)-(6) of this subsection.

- (A) Engineer's appointment.
- (B) Solid waste data.
- (C) Design data.
- (D) Attachments.

(3) The engineer's appointment consists of a letter from the applicant to the commissioner, Texas Department of Health, identifying the registered professional engineer or consulting engineering firm under whose direction the plans and specifications will be prepared. See §325.903 of this title (relating to Appendix C—Notice of Appointment) for a suggested format.

(4) Solid waste data includes identification of the nature, type, and quantity of waste proposed for processing and/or disposal in the site to include a brief description of the general sources and generation areas contributing wastes to the site. This shall include an estimate of the population or population equivalent served by the site.

(5) Design data will be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Applicants will consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific site dictates. Applicants shall include in the support data for their permit applications information as specified in the design criteria indicated in this paragraph. It is recommended that the applicant review the operational standards for the specific type of site before completing the application. Additional information may be required of the applicant when deemed necessary by the department.

(A) Land use. The primary concern of the department is that the use of any land for a municipal solid waste site does not adversely impact on public health. However, the impact of the site upon a city, community, group of property owners, or individuals will be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.

(i) To assist the department in evaluating the impact of the site on the surrounding area, the applicant shall provide the following data in the application:

(I) Zoning at the site and in the vicinity. If the site requires approval as a nonconforming use or a special permit from the local government having jurisdiction, a copy of such approval shall be submitted.

(II) Character of surrounding land uses within one mile of the proposed facility.

(III) Growth trends of the nearest community with directions of major development.

(IV) Proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.). Give the approximate number of residences and business establishments within one mile of the proposed facility including the distances and directions to the nearest residences and businesses.

(V) Availability and adequacy of roads.

(VI) Volume of vehicular traffic on access roads, both existing and expected, during the expected life of the proposed facility.

(ii) Sites disposing of putrescible waste shall not be located in areas where the attraction of birds can cause a significant bird hazard to low-flying aircraft. Guidelines regarding location of landfills near airports can be found in Federal Aviation Administration Order 5200.5. As a general rule, land disposal sites should not be located closer than 10,000 feet to any runway used or planned to be used by turbojet aircraft or closer than 5,000 feet to any runway used only by piston-engine aircraft and not located in such a position so as to place

a runway or approach departure paths between the landfill and bird feeding, watering, or roosting areas. However, under certain circumstances, landfills beyond 10,000 feet may also pose a safety hazard to an airport. Therefore, all landfill sites within four miles of an airport will be critically evaluated to determine if an incompatibility exists. For the purposes of these regulations, an airport means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities. Bird hazard means an increase in the likelihood of bird-aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(iii) A minimum separating distance of 50 feet shall normally be maintained between the disposal operation and the adjacent property line. However, the design engineer shall consider the need for a greater distance when soil conditions, depth of excavations, or character of adjacent property use requires a greater distance. As a minimum, this buffer should be sufficient to accommodate safe passage of fire-fighting or other emergency vehicles. If a lesser distance is provided, the design engineer shall include proper justification.

(iv) Unless otherwise required by special circumstances, a minimum separating distance of 25 feet shall normally be maintained between the disposal operation and any pipeline, underground utility, or electrical transmission line easement. The buffer should provide not only enough distance to ensure the protection of the facilities within the easement and the safety of the site operating personnel who could be injured by exposure to damaged pipelines or electrical transmission lines, but should provide space for drainage controls. The applicant shall provide the names and mailing addresses of all parties possessing valid easements, rights-of-way, or ownership of any property within the site boundaries. The site development plan shall show the location of such easements and provide for protective measures such as buffer zones, drainage structures, etc., as may be necessary to protect the parties' interest. If the protective measures plan has been approved in writing by the parties involved, such approval shall be incorporated in the site development plan.

(B) Access. Proper access to and within the land disposal site shall be provided. The following data shall be submitted with a permit application:

(i) Data to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, complete details of upgrading required, and recent average daily traffic counts (estimated, when counts are not available). A statement must also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes. An estimate shall be provided of the number, sizes, and maximum weight of vehicles expected to use the site daily.

(ii) Provisions for all-weather access from access routes to the disposal site and from the entrance of the site to unloading areas used during wet weather. Interior access road locations and the type of surfacing shall be indicated on a site plan. The access road into the site shall be designed so as to minimize the tracking of mud onto the public access road. Maintenance and dust

control procedures including all weather serviceability of interior roads shall also be addressed in the overall site design and operating plan. A design of the intersection of the public access road with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gate signalization, and landscaping as appropriate.

(iii) Type and location of fences or other suitable means of access control to prevent the entry of livestock, to protect the public from exposure to potential health and safety hazards, and to discourage unauthorized entry or uncontrolled disposal of hazardous materials.

(C) Engineering considerations. The following shall be discussed as part of the design data in support of the attachments:

(i) The landfill method proposed, e.g., trench, area fill, or combination.

(ii) Provisions for wet-weather operation, e.g., all-weather road, wet-weather pit, alternate disposal site, etc.

(iii) Provisions for wastes requiring special handling and large items.

(iv) Provisions for control of windblown solid waste.

(v) Calculation of estimated rate of solid waste deposition and operating life of the site. (As a general rule, 10,000 people with a per capita collection rate of 5 pounds per day, dispose of 10 to 15 acre-feet of solid waste in one year.)

(vi) Intended subsequent use of the site.

(vii) Adequacy of supply, and soil characteristics, of on-site cover material, sufficient to provide a minimum of 18 inches of clayey soil (classification SC or CL as defined in the United Soil Classification System developed by the U.S. Army Corps of Engineers) and six inches of top soil, and any lining material that may be required. Soil balance calculations shall be provided to indicate the need for importing any materials. A soil management plan shall be provided to ensure the timely availability of required types of soil for lining, intermediate cover, and final cover. The plan shall also ensure that the temporary storage of soils to be used and excess soils pending final disposition does not conflict with site drainage plans.

(viii) Fire control facilities, e.g., fire hydrants, fire breaks, earth stockpiles, water tanks, and availability of local fire departments.

(ix) Provisions for proper compaction of waste to minimize excessive or uneven settlement in completed fill areas which could affect drainage or result in ponding of water.

(x) Provisions to compensate for expected subsidence. The design engineer shall estimate the amount of subsidence for the particular site by taking into account the amount of compactive effort to be achieved depending on the type of equipment to be used and the anticipated fill height. The design shall provide for future settlement by specifying the initial cover slopes, which may be in excess of the recommended final slopes, that are expected to yield the desired final slope.

(xi) Provisions for inspection of the site for erosion, ponding, leachate migration, and methane migration and for taking corrective actions when indicated for the first five years after closure, and for such longer period as may be necessary to correct recurring problems.

(D) Groundwater protection.

(i) The following words and terms, when used in this subparagraph, shall have the following meanings, unless the context clearly indicates otherwise:

(I) Contaminate-- To introduce a substance that would cause the concentration of that substance in the groundwater to exceed the specified maximum contaminant level or an increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the specified maximum contaminant level.

(II) Groundwater-- Water below the land surface in the zone of saturation.

(iii) A facility shall be designed so as not to contaminate the groundwater. As a general rule, the main concern is to protect the existing water quality from deterioration. Depth of groundwater in the area shall be indicated. For the purposes of these regulations, the protection of groundwater includes the protection of perched water or shallow surface infiltration which may now or in the future have value in low volume, low-demand water wells. The minimum acceptable protection separating solid waste from groundwater or perched water shall be a barrier or liner which provides the equivalent protection of three feet of soil with a permeability of not more than 1×10^{-7} centimeters per second, a liquid limit of not less than 30, a plasticity index of not less than 15 and percent passing No. 200 sieve not less than 30. These soil parameters shall be determined by ASTM test procedures or those tests which have been discussed with and approved by the department. When soils with a permeability of 1×10^{-8} centimeters per second or less are used, the barrier thickness may be reduced to not less than one foot, provided a protective cover of at least one additional foot of other soil is used.

(iii) A Soil and Liner Quality Control Plan (SLQCP) shall be included in the site development plan to provide operating personnel adequate procedural guidance for assuring continuous compliance with the groundwater protection requirements specified in clause (ii) of this subparagraph and subsection (c) of §325.122 of this title (relating to Soil and Liner Quality Control). The plan shall be portrayed graphically in paragraph (6)(H) of this subsection (Attachment 8--Ground and Surface Water Protective Facilities) and described narratively in paragraph (6)(I) of this subsection (Attachment 12--Site Operating Plan). It shall be keyed to the sectorized fill layout, paragraph (6)(F) of this subsection (Attachment 6--Sectorized Fill Layout), for area or trench identification. The plan shall include specifications and construction methods employing good engineering practices for compaction of clay soils to form a liner or barrier under each of the four potential conditions described in subclauses (I)-(IV) of this clause and provide for soil and liner quality control testing procedures as described in clause (iv) of this subparagraph. Unless alternate construction procedures are approved by the department in writing, all constructed liners shall be keyed into

an underlying formation of sufficient strength to ensure stability of the constructed lining.

(I) Where lining of complete trenches is necessary, the liner or barrier details shall be depicted on cross sections of a typical trench showing the slope, widths, and thicknesses for compaction lifts. The amount of compaction shall be expressed as a percentage of standard Proctor density.

(II) Typical cross sections shall be provided for those instances in which overexcavation of permeable zones and backfilling with impermeable clay may be necessary.

(III) Proposed procedures shall be shown when only scarification and recompaction are required for impermeable soils with zones containing fissures, cracks, or joints.

(IV) If groundwater is encountered in the disposal excavations, or in cases where excavations extend below the seasonal high water table, the equivalent of one foot of compacted clay liner for every two feet of static water head encountered shall be used as a basis for construction of a liner or barrier between the deposited solid waste and the groundwater. The total thickness of the barrier shall consist of a liner which provides the equivalent protection of three feet of soil with a permeability of not more than 1×10^{-7} centimeters per second, a liquid limit of not less than 30 and a plasticity index of not less than 15 and percent passing No. 200 sieve not less than 30 plus an additional thickness of other material that will provide a combined total weight equal to one foot of compacted clay for every two feet of static water head. Pressure release systems may be used to reduce the amount of the barrier support construction. In no case shall the thickness of the liner or barrier be less than three feet when groundwater is encountered or if excavations extend below the seasonal high water table. The shearing resistance of the lining material may not be considered as justification for reducing liner thickness.

(v) Soil and liner quality control testing procedures, to include sampling frequency, shall be included in the SI QCP. For circumstances where constructed lining may not be required or needed, the SI QCP shall include specific details on preparation measures required for *in situ* soils prior to their receipt of wastes. All field sampling and testing, both during construction and after completion, shall be performed by a registered professional engineer experienced in geotechnical engineering or a geologist having a college degree in geology with no less than four years of experience in engineering geology or under their direct supervision. Quality control sampling and testing procedures shall be prepared following guidelines of the department. Tests for the following parameters shall be performed in accordance with standards prescribed in clause (iii) of subparagraph (I) of this paragraph:

- (I) Coefficient of Permeability
- (II) Sieve Analysis
- (III) Atterberg Limits
- (IV) Density
- (V) Thickness Verification

(v) Constructed lining other than compacted clay soils (e.g., asphalt, polymeric membranes, concrete, bentonite slurry or admixture, etc.) may be utilized if writ-

ten concurrence is obtained from the department. All such lining shall be placed in strict accordance with an approved quality control plan which incorporates the manufacturer's specifications and recommendations.

(vi) As an aid in determining whether or not the lining of trenches will be required, the bureau will calculate the potential percolation of precipitation into deposited solid waste and potential for leachate generation using the water balance method based on rainfall, evapotranspiration, and soils data as described in U.S. Environmental Protection Agency report SW-168 titled "Use of Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites," or other improved procedure. Applicants should consult with the bureau early in the design phase to determine if favorable water balance conditions exist. Before making that determination, the bureau shall be provided such site specific data as necessary to evaluate the validity of water balance calculations for the specific site. Such data may include types of surface and subsurface soils, depth of groundwater, distance to streams and floodplains, distance to stock ponds and sewage treatment lagoons, proposed slope and frequency of application of intermediate cover, the thickness and type of final cover material, slope of final cover, type of vegetative cover, and proposed operational procedures to provide assurance that the intrusion of surface and subsurface water into the disposal excavations will be prevented.

(vii) Except as may be authorized by subclause (viii) of this clause, groundwater monitor wells shall be installed for surface impoundments, landfills, and land treatment sites. A groundwater monitoring system will consist of at least one monitor well hydraulically upgradient of the site to obtain representative background groundwater samples and at least two monitor wells hydraulically downgradient of the site to obtain representative groundwater samples that may contain contaminants from leachate. The department may require additional monitor wells when conditions warrant, particularly for large sites. The design engineer shall determine the number, location, and depth of monitor wells based on such groundwater information as depth to the water table, direction and rate of groundwater flow, recharge area in relation to the site, static water elevation with dynamic head characteristics, and depth to the first potable aquifer.

(I) Test holes drilled for soils and groundwater information shall not be converted to monitor wells to satisfy the requirements in clause (vii) of this subparagraph without prior approval by the department.

(II) The bureau may require or authorize that earth electrical resistivity surveys be used in lieu of or as a supplement to monitor wells. The provision for monitor wells or alternatives shall be in accordance with department guidelines and/or permit special provisions.

(III) Details of monitor well construction and placement shall be shown in the site development plan.

(IV) Except as provided for in subclause (viii) of this clause, the groundwater sampling program shall provide for obtaining background groundwater samples of all monitor wells prior to any disposal of waste on site. The following parameters shall be determined for

each monitor well one time during each of four quarters during the first 24 months. In addition, four replicate determinations of the Total Organic Carbon content (TOC) for each monitor well shall be made during each of four quarters during the first 24 months.

Heavy Metals	Non-heavy Metals
Arsenic	Calcium
Barium	Magnesium
Cadmium	Sodium
Chromium	Carbonate
Copper	Bicarbonate
Iron	Sulphate
Lead	Chloride
Manganese	Fluoride
Mercury	Nitrate (as N)
Selenium	Total Dissolved Solids
Silver	Phenolphthaleim
Zinc	Alkalinity as CaCO ₃
	Alkalinity as CaCO ₃
	Hardness as CaCO ₃
	pH
	Specific Conductance
	Anion-Cation Balance

(V) After background values have been determined, at least once a year, more often if the department so determines, the following indicators shall be measured:

- (-a-) TOC (four replicates)
- (-b-) Iron
- (-c-) Manganese
- (-d-) pH
- (-e-) Specific Conductance or Total Dissolved Solids, but once selection is made any change must have prior approval of the department
- (-f-) Chloride (in appropriate cases)

(VI) Every third year, the parameters in the non-heavy metals group specified in subclause (IV) of this clause shall be determined and reported to the bureau.

(VII) If any changes in the parameter levels are found and verified, the department may order additional sampling and analysis as it deems necessary.

(VIII) All or part of the groundwater monitoring requirements may be waived by the department if it can be demonstrated that there is low potential for the creation and migration of leachate from the site via aquifers to water supply wells or to surface water. Potential for the creation and migration of leachate may be evaluated using the water balance of precipitation, evapotranspiration, runoff, and infiltration and the evaluation of the hydrogeological and physical properties characteristics of the saturated and unsaturated zone and the proximity of the site to water supply wells or surfacewater.

(E) Drinking water protection. Solid waste shall not be deposited where a hazard may result to a drinking water supply well, intake of a water treatment plant, or raw water intake which furnishes water for human consumption. If any of these are located within 500 feet of actual disposal areas, engineering data shall

be provided to show that adequate protection to drinking water sources is provided.

(F) Surface water protection

(i) The following words and terms, when used in this subparagraph, shall have the following meanings, unless the context clearly indicates otherwise:

(I) Discharge of pollutant—Any addition of any pollutant to navigable waters from any point source, or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source

(II) Point source—Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, or discrete fissure from which pollutants are or may be discharged.

(III) Pollutant—Dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, munitions, chemical wastes, or biological materials discharged into water

(IV) Water in the state—Groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(V) Waters of the United States—All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide, with their tributaries and adjacent wetlands, interstate waters and their tributaries, including interstate wetlands; all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, and wetlands, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters which are or could be used by interstate or foreign travelers for recreational or other purposes; from which fish or shellfish are or could be taken and sold in interstate or foreign commerce, which are used or could be used for industrial purposes by industries in interstate commerce, and all impoundments of waters otherwise considered as navigable waters; including tributaries of and wetlands adjacent to waters identified herein.

(VI) Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs, and similar areas.

(VII) Discharge of dredged material—Any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified disposal site located in waters of the United States and the runoff or overflow from a contained land or water disposal area.

(VIII) Dredged material—Material that is excavated or dredged from waters of the United States.

(IX) Discharge of fill material—The addition of fill material into waters of the United States. The term generally includes placement of fill necessary to the construction of any structure in waters of the United States; the building of any structure or improvement requiring rock, sand, dirt, or other material for its construction; the building of dams, dikes, levees, and rip-rap.

(X) Fill material—Any material used for the primary purpose of replacing an aquatic area with dry land or for changing the bottom elevation of a water body. The term does not include any pollutant discharged into the water primarily to dispose of waste.

(XI) Nonpoint source—Any origin from which pollutants emanate in an unconfined and unchanneled manner, including but not limited to surface runoff and leachate seeps.

(XII) One hundred-year frequency flood—A flood that has a 1.0% or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(XIII) Washout—The carrying away of solid waste by waters of the 100-year frequency flood.

(XIV) Navigable waters—The waters of the United States, including the territorial seas.

(i) A facility shall be designed to prevent

(I) a discharge of solid wastes or pollutants adjacent to or into the water in the state that is in violation of the requirements of the Texas Water Code, §21.251.

(II) a discharge of pollutants into waters of the United States that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under the Federal Clean Water Act, §402, as amended.

(III) a discharge of dredged or fill material to waters of the United States that is in violation of the requirements under the Federal Clean Water Act, §404, as amended.

(IV) nonpoint source pollution of waters of the United States that violates applicable legal requirements implementing an areawide or statewide water quality management plan that has been approved by the administrator of the U.S. Environmental Protection Agency under the Federal Clean Water Act, §208, as amended.

(iii) Surface drainage controls for a land disposal site shall be designed so as to minimize surface water runoff onto the working area. Dikes, embankments, drainage structures, or diversion channels of adequate size and grade shall be graded for adequate drainage, and the slopes of the sides and toe shall be graded in such a manner so as to minimize the possibility of erosion. Drainage calculations shall be based upon the 25-year rainfall intensity for the area and submitted with the design. Calculations for areas of 200 acres or less shall follow the rational method, and utilize appropriate surface runoff coefficients, as specified in the "State Department of Highways and Public Transportation Bridge Division Hydraulic Manual." Time of runoff concentra-

tion as defined within the said manual generally shall not be less than 20 minutes for rainfall intensity determination purposes. Discharges from areas greater than 200 acres shall be computed by using USGS/DHT hydraulic equations compiled by the U.S. Geological Survey and the State Department of Highways and Public Transportation (SDHPT Administrative Circular 80-76); the HEC-1 and HEC-2 computer programs developed through the Hydrologic Engineering Center of the U.S. Army Corps of Engineers; or an equivalent or better method approved by the department. Designs of all drainage facilities within the site area shall include such features as typical cross-sectional areas, ditch grades, and flowline elevations. Sample calculations shall be provided to verify that natural drainage patterns will not be significantly altered.

(iv) Handling and temporary storage of contaminated surface water shall be considered. If required, contaminated surface water storage areas shall be designed with regard to size (verifying calculations included), locations, and methods and amounts of lining of the sides and bottoms of the storage areas. The linings shall comply with the requirements of paragraph (5)(D) of this subsection on groundwater protection.

(v) The site shall be protected from flooding with suitable levees constructed to provide protection from a 100-year frequency flood and in accordance with the rules and regulations of the Texas Department of Water Resources relating to levee improvement districts and approval of plans for reclamation projects or the rules of the county having jurisdiction under the Texas Water Code, §16.236. Flood protection levees shall be designed and constructed to prevent the washout of solid waste from the site. Such levees shall not significantly restrict the flow of a 100-year frequency flood nor significantly reduce the temporary water storage capacity of the 100-year floodplain.

(c) Protection of endangered species.

(i) The following words and terms, when used in this subparagraph, shall have the following meanings, unless the context clearly indicates otherwise:

(I) Endangered or threatened species—Any species listed as such pursuant to the Federal Endangered Species Act, §4.

(II) Taking—Harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or collecting an endangered or threatened species or attempting to engage in such conduct.

(III) Harassing—An intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.

(IV) Harming—An act of omission which actually injures or kills wildlife, including acts which annoy it to such an extent as to significantly disrupt essential behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering; significant environmental modification or degradation which has such effects is included within the meaning of harming.

(ii) The impact of a solid waste disposal facility upon endangered or threatened species shall be

considered. The facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

(iii) The permit applicant should consult with the department to determine the need for specific information relating to protection of endangered species. If the facility is located in the range of an endangered or threatened species, a biological assessment may be required to be prepared by a qualified biologist in accordance with standard procedures of the U.S. Fish and Wildlife Service to determine the effect of the facility on the endangered or threatened species. It shall be included as an appendix to the site development plan. Where a previous biological assessment has been made for another project in the general vicinity, a copy of that assessment may be submitted for evaluation. The U.S. Fish and Wildlife Service, 300 East Eighth Street, Room G-121, Austin, Texas 78701, may be contacted for locations and specific data relating to endangered and threatened species in Texas.

(H) Control of methane. The potential for generation and migration of methane from the site shall be considered, and an appropriate venting system or other control measures shall be designed if necessary. If a determination is made that gas migration will not be a problem and a control plan is not necessary, the basis for such determination shall be provided. The design for control measures shall be in accordance with departmental guidelines and included as an appendix to the site development plan.

(I) Soil data.

(i) Prior to finalizing a boring plan, the applicant may choose to perform a resistivity survey of the proposed site and, based on data obtained, request a reduction in the number of borings that would normally be required without this supplemental information. The applicant is encouraged to discuss any available supplementary data and to finalize a boring plan with the department to ensure that only essential borings are made. Sufficient borings or other suitable geological data to provide a representative sampling of the types of soil contained in the site are required. The minimum number, locations, and depths of borings required can only be determined when the general characteristics and field tests of the specific site are analyzed. The following table is provided as a guide for planning, and the number of borings indicated is the minimum required when an alternate plan is not proposed by the applicant and approved by the department. Additional borings may be required if the findings obtained from the prescribed minimum number are inconclusive with respect to the soil geology of the proposed site. The depth of borings, under optimum soil conditions, i.e., relatively impermeable soils, should be not less than five feet below the deepest proposed excavation. With less favorable soil conditions, the depth of borings should be at least 20 feet below the deepest proposed excavation.

Size of Area In Acres	Number of Borings	Minimum No. of Borings 20 Ft. Below Deepest Excavation
5 or less	2-4	2
5-10	4-6	3
10-20	6-10	5
20-50	10-15	7
50-100	15-20	7-12
100 and over—Determined in consultation with the department.		

(ii) A report of each columnar section obtained by borings shall be submitted along with a site map showing the location and elevation of each boring. Each boring log should report the soil layers present describing the soil or rock constituents, color, degree of compaction, and amount of moisture present plus any additional information necessary for an adequate description. A total thickness of each soil or rock layer should be represented on the boring log and enough information should be obtained to classify each soil stratum based on the Unified Soils Classification System. If subsurface water is encountered, the test hole should be bailed of all drilling fluids for its entire depth and the initial depth that water was encountered should be noted on the boring log. Also, the static water level shall be obtained by measuring the depth to the water level daily until it has remained stable for a period of 24 hours or longer and noted on the boring log indicating the time required for the water level to stabilize. If drilling in the vicinity of an existing disposal site and water is encountered, the hole shall be bailed of all drilling fluids and a sample of the subsurface water shall be taken after the static water level has stabilized and analyzed to determine the existence of any contaminants. Consideration should be given to the conversion of bore holes into monitor wells, however, such conversion shall not be accomplished without prior approval by the department.

(iii) A laboratory report of soil characteristics shall be submitted consisting of a minimum of one sample from each soil layer that will form the bottom and sides of the proposed excavation. The design engineer should have as many additional tests performed as necessary to provide a typical profile of the soils stratification within the site. No laboratory work need be performed on highly permeable soil layers which obviously will require lining. The soil samples shall be tested by a competent soils laboratory. The soil tests shall consist of the following.

(I) Permeability tests, to be performed according to one of the following standards on undisturbed soil samples. Where excavations already exist on the site that are to be used for waste disposal, undisturbed samples shall be taken from the sidewalls of those excavations and said permeability tests made on the horizontal axis. All test results shall indicate the type of test used and the orientation of each sample.

(-a-) Constant Head—ASTM D2434;

or

(-b-) Falling Head—Appendix VII of the Corps of Engineers Manual EM1110-2-1906, 30 Nov. 70, Laboratory Soils Testing.

(II) Sieve analysis and hydrometer analysis: #4, #10, #40, #200, -200, and hydrometer analysis on -200 fraction—ASTM D422.

(III) Atterberg Limits—ASTM D423 and D424.

(IV) Moisture—Density Relations—ASTM D698.

(V) Moisture Content—ASTM D2216.

(VI) All soils bounded within the following range of values shall be tested in a soils laboratory for the coefficient of permeability. Normally all soils below the range of values stated in this subclause are very sandy and will require lining, unless additional test data support a deviation. Those soils which exceed the range of values are high in clay and do not require additional testing to prove their adequacy for sanitary landfill purposes. The physical parameters stated are to be considered as guidelines for soil sample testing. Engineering judgment must be used on those samples which exhibit some but not all of the boundary limits stated.

Plasticity Index	15 to 25
Liquid Limit	30 to 30
Percent Passing 200 Mesh Sieve (-200)	30 to 50

(iv) A geologist or a registered professional engineer experienced in geotechnical engineering shall review the geologic information and groundwater data which are available for the proposed site and its environs. From these data, a geologic report, to include a brief description of the historical and depositional background of the area, shall be prepared and included in the soils report.

(v) An analysis of the soils data and a recommendation as to the adequacy of *in situ* soils for groundwater protection or the type and thickness of constructed liner, when necessary, shall be provided by a professional engineer experienced in geotechnical engineering or geologist having a college degree in geology with no less than four years of experience in engineering geology.

(J) Active geological faults. Applications submitted for the operation of sites located within areas which may be subject to differential subsidence or active geological faulting must include detailed fault studies. When an active fault is known to exist within ½ mile, the site shall be investigated for unknown faults. Areas experiencing withdrawal of crude oil, natural gas, sulfur, etc., or significant amounts of groundwater shall be investigated in detail for the possibility of faulting which could adversely affect the integrity of landfill liners. Such studies shall be conducted under the direct supervision of a professional engineer experienced in geotechnical engineering or a geologist qualified to evaluate such conditions. The studies shall establish the limits (both upthrown and downthrown) of the zones of influence of all active faulted areas within the site vicinity. Unless the applicant can provide substantial evidence that the zone of influence will not affect the site, no solid waste disposal shall be accomplished within a zone of influence of active geological faulting or differential subsidence because active faulting results in slippage along failure planes, thus creating preferred seepage paths for liquids. The studies shall

include information or data on the items in clauses (i)-(iii) of this subparagraph, as applicable.

(i) structural damage to constructed facilities (roadways, railways, and buildings)

(ii) scarps in natural ground

(iii) presence of surface depressions (sag ponds and ponded water)

(iv) lineations noted on aerial maps and topographic sheets.

(v) structural control of natural streams.

(vi) vegetation changes.

(vii) crude oil and natural gas accumulations.

(viii) electrical spontaneous potential and resistivity logs (correlation of subsurface strata to check for stratigraphic offsets)

(ix) earth electrical resistivity surveys (indications of anomalies which may represent fault planes).

(x) open trench excavations (visual examinations to detect changes in subsoil texturing and/or weathering indicating stratigraphic offsets).

(xi) changes in elevations of established benchmarks.

(xii) references to published geological literature pertaining to area conditions.

(6) Attachments.

(A) Attachment 1—general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If only a portion of the map sheet is used, the portion shall include the scale, date, north arrow, latitudes, and longitudes. These maps may be obtained at a nominal cost from the nearest district highway engineer office or by writing to State Department of Highways and Public Transportation, Attention: Transportation Planning Division (D-10), P.O. Box 5051, Austin, Texas 78763. If the site is located within a city and a city map is available showing all of the information required by this subparagraph, the city map may be used for this purpose.

(B) Attachment 2—topographic map. This map shall be a United States Geological Survey 7½-minute quadrangle sheet or equivalent, encompassing the area of the site and showing the location of area streams (particularly those entering and leaving the site), and marked to show site boundaries, roadway access, direction of prevailing wind, and airfields within four miles of the site. If these airfields are off the map, indicate distance and direction. These maps may be obtained at a nominal cost from Branch of Distribution, United States Geological Survey, Federal Center, Denver, Colorado 80225.

(C) Attachment 3—land use map. This is normally a constructed map of the site showing the boundary of the property and any existing zoning on or surrounding the property and actual uses (e.g., agricultural, industrial, residential, etc.) both within the site and surrounding the site within one mile of the boundary of the area to be filled. The applicant should make every effort to show the location of residences, commercial establish-

ments, schools, churches, cemeteries, ponds or lakes, and recreational areas within one mile of the site boundary. Drainage, pipeline, and utility easements within the site shall be shown. Access roads serving the site shall also be shown.

(D) Attachment 4—*aerial photograph*. This should be an aerial photograph approximately 9 inches by 9 inches with a scale within a range of 1 inch = 1,667 feet to 1 inch = 3,334 feet and showing the area within at least a one-mile radius of the site boundaries. The site boundaries or actual fill areas should be marked. Aerial photographs are usually available at a nominal fee from Aerial Photography Field Office, Administrative Services Division, ASCS—USDA, 2505 Parley's Way, Salt Lake City, Utah, 84109. The Agricultural Stabilization and Conservation Office in the county where the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

(E) Attachment 5—*contour map*. This is normally a constructed map showing the contours prior to any filling operations on the site. Appropriate vertical contour intervals should be selected so that contours are not further apart than 100 feet as measured horizontally on the ground. The map should show the location and quantities of surface drainage entering, exiting, or internal to the site and the area subject to flooding by a 100-year frequency flood.

(F) Attachment 6—*sectorized fill layout*. This is the basic element of the site development plan consisting of a site layout on a constructed map showing the outline of the fill sectors with appropriate notations thereon to communicate the types of wastes to be disposed of in individual sectors, the general sequence of filling operations, locations of all interior site roadways to provide access to all fill areas, locations of monitor wells, dimensions of trenches, locations of buildings, and any other graphic representations or marginal explanatory notes necessary to communicate the proposed step-by-step construction of the site. The layout should include fencing, sequence of excavations, filling, and final cover; provisions for the maintenance of natural windbreaks, such as greenbelts, where they will improve the appearance and operation of the site; and, when appropriate, plans for screening the site from public view. A generalized design of all site entrance roads from public access roads shall be included. All designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with site entrances should be coordinated with the agency exercising maintenance responsibility of the public roadway involved. This plan is the basis for operational planning and budgeting, and therefore should contain sufficient detail to provide an effective site management tool. If a phased site development is proposed in accordance with this section, detailed working drawings for only the Phase I portion of the site, generally for five to eight years of estimated life, are required; however, the phased development does not waive the need for initial and final contours and an overall concept of development for the entire site.

(G) Attachment 7—*typical fill cross section*. This is normally a plan profile across the site reflecting the information usually found on a profile; namely, the top of the levee, top of the proposed fill, top of the final

cover, top of the wastes, existing ground, bottom of the excavations, side slopes of trenches and fill areas, gas vents or wells, groundwater monitoring wells, plus the initial and static levels of any water encountered. These sections should go through or very near one or more soil borings in order that the boring logs obtained from the soils report, paragraph (6)(K) of this subsection, can also be shown on the profile. A large site may require several of these cross sections, both laterally and longitudinally, so as to depict the existing and proposed depths of all fill areas within the site. The plan portion can be handled on an inset key map somewhere on the typical section shape in order to devote the maximum space to the critical considerations reflected on a profile. Construction and design details of compacted perimeter or toe berms to be built in conjunction with above-ground (aerial-fill) waste disposal areas shall be included in the overall site design, as applicable.

(i) The thickness of the final cover on landfills shall consist of a minimum of 1½ feet of clayey soil (classification SC or CI as defined in the Unified Soil Classification System developed by the U.S. Army Corps of Engineers) compacted in layers of no more than six inches with a minimum of an additional six inches of top soil capable of supporting vegetative growth.

(ii) Side slopes of all above ground disposal areas (aerial fills) shall not exceed a 25% grade (four feet horizontal to one foot vertical). The final cover for the top portion of a landfill shall have a minimum gradient of 2.0% and shall not exceed 6.0%, but shall possess a sufficient minimum grade to preclude ponding of surface water taking into consideration total fill height and expected subsidence. Side slopes in excess of 25% will not be authorized without controlled drainage, such as flumes, diversion terraces, and spillways, etc.

(iii) Permanent drainage facilities shall be constructed between the toe of an aerial fill and the adjacent property line, if applicable. The facilities shall be sized in accordance with subparagraph (F)(iii) of this section. A width sufficient to provide for passage and working space for maintenance equipment, fire-fighting vehicles, etc., shall be permanently maintained between the toe of the slope of an aerial fill and the inside backslope of the appropriate perimeter drainage facility.

(H) Attachment 8—*ground and surface water protective facilities*. This is normally a sheet reflecting locations and typical sections of levees, dikes, drainage channels, culverts, holding ponds, trench liners, storm sewers, or any other facilities relating to protection of the site from ground and surface water. Adequacy of provisions for safe passage of any internal or externally adjacent floodwaters should be reflected here. Cross sections or elevations of levees should be shown tied into contours. Natural drainage patterns shall not be significantly altered.

(I) Attachment 9—*Landfill completion plan*. This is a constructed map showing the final contour of the entire landfill to include internal drainage and side slopes plus accommodation of surface drainage entering and departing the completed fill area plus areas subject to flooding due to a 100-year frequency flood.

(J) Attachment 10—*legal description of the site*. This is normally a typed page of the official metes

and bounds description or, if platted property, the book and page number of the plat record of only that acreage encompassed in the application

(K) Attachment 11—soils report. This is a copy of a professional soils laboratory report of borings and analyses of soil conditions as required by paragraph (5)(I) of this subsection.

(L) Attachment 12—site operating plan. This document is to provide guidance from the design engineer to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations in a manner consistent with the engineer's design through the life of the site. As a minimum, the site operating plan shall include specific guidance or instructions on the following:

(i) The minimum number of personnel and their functions and the size, types, and number of equipment to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards. A supervisor position shall be designated to be in charge and to be on site at least 75% of the time.

(ii) Security, site access control, screening, traffic control, and safety.

(iii) Sequence of site development such as roads, ditches, berms, retaining ponds, trenches, and buildings.

(iv) Control of dumping within designated areas so as to minimize the width of the working face of the disposal area.

(v) Fire prevention and control, stockpiling of fire-fighting materials, and special training requirements for fire-fighting personnel that may be called on for assistance.

(vi) Control of special wastes, Class I wastes, hazardous wastes, management of manifested wastes, record keeping, and procedures to ensure that unauthorized wastes are not accepted for disposal.

(vii) Control of windblown material.

(viii) Vector control.

(ix) Dewatering of excavations prior to lining or waste disposal.

(x) Dust and mud control measures for access roads.

(xi) Compaction and intermediate cover application and final cover procedures. Instructions shall be included for application of intermediate and final cover with guidance on the type and thickness of material to be applied.

(xii) Procedures and responsibilities for assuring continuous compliance with the soil and liner quality control plan.

(xiii) Monitoring for leachate and methane. The timing for placement of monitoring or venting wells shall be addressed and guidance provided for sampling.

(xiv) Posting of signs and enforcement of site rules to include proper covering of waste-hauling vehicles.

(xv) Protection of on-site utilities and easements.

(xvi) Wet-weather operations.

(xvii) Inspection and maintenance of completed sections of the site during the active life of the site

and after closure. Specific plans shall be provided for inspection by a professional engineer to evaluate and upgrade unsatisfactory conditions as necessary.

(xviii) Incorporation of other instructions as necessary to ensure that site personnel comply with all of the operational standards for the type of site involved.

(M) Attachment 13—evidence of financial responsibility. The applicant shall submit evidence of financial responsibility which assures the department that he has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, etc., in the case of privately owned facilities and by commissioners court or city council resolution in the case of publicly owned facilities.

(N) Attachment 14—evidence of competency. The applicant shall submit a record of all his activities involving in solid waste management in Texas within the last 10 years. Evidence of competency to operate the site shall be provided, to include landfilling and earthmoving experience of key personnel.

(O) Attachment 15—applicant's statement. The applicant, or the authorized representative empowered to make commitments for the applicant, shall provide a statement that he has reviewed the engineer's site development plan and is aware of all commitments represented in the plan and that he has also reviewed all pertinent requirements in these regulations and he agrees to develop and operate the site in accordance with the plan, the regulations, and any permit special provisions that may be imposed.

§325.75. Technical Information Required for Solid Waste Processing and Experimental Sites.

(a) Report preparation. For all Type V sites, including those air-curtain destructors (trench burners) which may require a permit and Type VI sites not involving land disposal, the technical information submitted in support of Part A shall be prepared in the form of a site development plan as described in subsection (b) of this section. For all experimental land disposal sites (Type VI), the technical information submitted with an application shall include all applicable items as required for Type I disposal sites (see §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan)); however, because of the many variables that may be involved in operations of these types, applicants should consult with the department to confirm the applicability of specific requirements. Individual drawings shall be signed and sealed by the registered professional engineer responsible for their preparation. Bound plans shall be signed and sealed by the engineer, preferably on the first page. The preliminary instructions contained in §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan) with respect to consultation with the department, submittal of draft plans, size of drawings, and determination of number of copies apply to this subsection.

(b) The site development plan shall be prepared in

the format and content described in paragraphs (1)-(6) of this subsection.

(1) The title page shall show the name of the project by city and county, name of applicant, and date of application.

(2) The table of contents shall list the following main sections of the application which are described in paragraphs (3)-(6) of this subsection

- (A) Engineer's Appointment.
- (B) Solid Waste Data.
- (C) Design Data
- (D) Attachments

(3) The engineer's appointment consists of a letter from the applicant to the commissioner, Texas Department of Health, identifying the registered professional engineer or consulting engineering firm under whose direction the plans and specifications and other technical data will be prepared. See §325.903 of this title (relating to Appendix C—Notice of Appointment) for a suggested format.

(4) Solid waste data includes identification of nature, type, and quantity of waste proposed for processing and/or disposal in the site to include a brief description of the general sources and generation areas contributing wastes to the site. This will include an estimate of the population or population equivalent served by the site.

(5) Design data will be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Information which is to be placed in narrative form in this section of the application should be in a sequence that parallels the sequence of the attachments described in paragraph (6) of this subsection. Applicants will consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and highways, and other considerations as the specific site dictates. Applicants shall include in the support data for their permit applications information as specified in the design criteria indicated in this paragraph. Additional information may be required of the applicant when deemed necessary by the department.

(A) Land use. The primary concern of the department is that the use of any land for a municipal solid waste site does not adversely impact on public health. However, the impact of the site upon a city, community, group of property owners, or individuals will be considered in terms of compatibility of land use, zoning in the vicinity, community growth patterns, and other factors associated with the public interest.

(i) To assist the department in evaluating the impact of the site on the surrounding area, the applicant shall provide the following data in the application:

(I) Zoning at the site and in the vicinity. If the site requires approval as a nonconforming use or a special permit from the local government having jurisdiction, a copy of such approval shall be submitted.

(II) Character of surrounding land uses within ½ mile of the proposed facility.

(III) Growth trends of the nearest community with directions of major development.

(IV) Proximity to residences and other uses (e.g., schools, churches, cemeteries, historic structures and sites, archaeologically significant sites, sites having exceptional aesthetic quality, etc.) Give the approximate number of residences and business establishments within ½ mile of the proposed facility including the distances and directions to the nearest residences and businesses.

(V) Availability and adequacy of roads.

(VI) Volume of vehicular traffic on access roads, both existing and expected, during the expected life of the proposed facility.

(B) Access.

(i) Solid waste processing facilities shall be so planned that they result in a minimum disruption of normal traffic patterns. Data shall be submitted to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, complete details of upgrading required, and recent daily traffic counts (estimated, when counts not available). A statement shall also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes. An estimate shall be provided of the number, sizes, and maximum weight of vehicles expected to use the facility daily.

(ii) Provisions shall be made for all-weather access from access routes to the site and within the site. Interior access road locations and the type of surfacing shall be indicated on a site plan. Maintenance and dust control procedures including all-weather serviceability of interior roads shall also be addressed in the overall site design and operating plan. A design of the intersection of the public access road with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gates, signalization and landscaping, as appropriate.

(iii) The access road into the site and appropriate portions of interior roads shall be designed so as to minimize the tracking of mud onto the public access road. The type and length of paving necessary to control accumulations of mud shall be indicated. Other methods of mud control, such as use of washing facilities and guard rails may be used to supplement paving.

(iv) Measures for access control shall be shown and discussed in the site development plan. These measures shall provide for the protection of the public from exposure to potential health and safety hazards and to prevent unauthorized entry or disposal of hazardous materials.

(C) Process description.

(i) A description shall be provided of the process to be used, including details of all planned on-site facilities. Sufficient narrative and graphic details shall be provided to enable an evaluation of the operational capabilities, the design safety features, pollution control devices, and other health and environmental protective measures.

(ii) A plan shall be provided for alternate processing or disposal of solid waste in the event that the processing site becomes inoperative for a period longer than 24 hours. If an incineration facility is to be con-

structed on site, an estimate of the amount and planned method for final disposal of incinerator ash, an estimate of the volume of quench or process water, and the planned method of treatment and disposal of such water shall be provided.

(D) Sanitation. Solid waste processing facilities shall be designed for proper cleaning. This may be accomplished by:

(i) controlling surface drainage in the vicinity of the facility to minimize surface water runoff onto, into, and off the treatment area.

(ii) constructing walls and floors in operating areas of masonry, concrete, or other hard-surfaced materials that can be hosed down and scrubbed.

(iii) providing necessary connections and equipment to permit thorough cleaning with water or steam.

(iv) providing adequate floor drains to remove washwater

(E) Water pollution control. All liquids resulting from the operation of solid waste processing facilities shall be disposed of in a manner which will not cause water pollution. Facilities shall be provided for the treatment of wastewaters resulting from the process or from cleaning and washing. The procedure for wastewater disposal shall be in compliance with the rules and regulations of the Texas Department of Water Resources.

(F) Air pollution control. The construction and operation of Type V and VI sites may require a Texas Air Control Board permit. Applicants for permits for these types of sites should consult with that agency at the time that an application is filed with the department, or earlier.

(G) Storage of solid waste. Solid waste processing facilities shall be designed for the rapid processing of solid waste and a minimum detention time at the facility. All solid waste capable of creating public health hazards or nuisances shall be stored indoors only and processed or transferred during the same working day it is deposited at the facility. If the facility is in continuous operation, such as for resource or energy recovery, provisions shall be made to ensure that wastes are not allowed to accumulate or remain on site awaiting processing or transfer for such periods that will allow the creation of nuisances or public health hazards due to odors, fly-breeding, or harborage of other vectors.

(H) Fire protection. Through proper design and location, fire hazards associated with a solid waste processing facility shall be minimized. The following are minimum requirements:

(i) A general plan of action to be followed in the event of fire shall be established.

(ii) The facility shall be constructed of fire-resistant material wherever possible.

(iii) An adequate supply of water under pressure shall be available for fire-fighting purposes.

(iv) Fire-fighting equipment shall be readily available.

(I) Ventilation. In the interest of odor control and operator safety, any structure associated with the processing of solid waste shall be adequately ventilated. The rules and regulations of the Texas Air Control Board shall be complied with in all matters involving the collection

and emission of air through ventilating systems.

(J) Windblown material. Solid waste processing facilities shall be provided with a means to control windblown material which may result from the process itself or from the handling of solid waste at the facility.

(i) Loading, unloading, and processing of solid waste shall be conducted within an appropriately designed building, enclosed with appropriate doorways to allow sufficient vehicular mobility while allowing complete enclosure when no traffic is present, or, if appropriate to the facility, wire or other type fencing or screening shall be provided to enclose the structure and operating area.

(ii) All windblown material resulting from the operation shall be collected and returned to the processing site.

(K) Noise pollution. Noise pollution shall be considered in the design of solid waste processing facilities.

(L) Employee sanitation facilities. Adequate potable water and sanitary facilities shall be provided for all solid waste processing facilities.

(6) Attachments

(A) Attachment 1—general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the site marked and labeled thereon in a manner that will facilitate determining the general location of the site and roadway access. If only a portion of the map sheet is used, the portion shall include the scale, date, north arrow, latitudes, and longitudes. These maps may be obtained at a nominal cost from the nearest district highway engineer office or by writing to State Department of Highways and Public Transportation, Attention: Transportation Planning Division (D 10), P. O. Box 5051, Austin, Texas 78763. If the site is located within a city and a city map is available showing all of the information required by this subparagraph, the city map may be used for this purpose.

(B) Attachment 2—topographic map. This map shall be a United States Geological Survey 7½-minute quadrangle sheet or equivalent, encompassing the area of the site and showing the location of area streams (particularly those entering and leaving the site) and marked to show site boundaries, roadway access, and direction of prevailing wind. These maps may be obtained at a nominal cost from Branch of Distribution, United States Geological Survey, Federal Center, Denver, Colorado 80225.

(C) Attachment 3—land use map. This is normally a constructed map of the site showing the boundary of the property and any existing zoning on or surrounding the property and actual uses (e.g., agricultural, industrial, residential, etc.) both within the site and surrounding the site within ½ mile of the boundary of the site. The applicant should make every effort to show the location of residences, commercial establishments, schools, churches, cemeteries, and recreational areas within ½ mile of the site boundary. Drainage, pipeline, and utility easements within the site shall be shown. Access roads serving the site shall also be shown.

(D) Attachment 4—aerial photograph. This

should be an aerial photograph approximately 9 inches by 9 inches with a scale within a range of 1 inch = 1,667 feet to 1 inch = 3,334 feet and showing the area within at least a 1/2 mile radius of the site boundaries. The site boundaries shall be marked. Aerial photographs are usually available at a nominal fee from Aerial Photography Field Office, Administrative Services Division, ASCS—USDA, 2505 Parley's Way, Salt Lake City, Utah 84109. The Agricultural Stabilization and Conservation Office in the county where the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

(E) Attachment 5—site layout and construction details. This is the basic element of the site development plan consisting of a site layout on a constructed map showing all proposed on-site facilities in sufficient detail to enable an evaluation of the operational capabilities, the design safety features, and the health and environmental protection measures. The layout should include fencing and, when appropriate, plans for screening the site from public view. A generalized design of the site entrance road from the public access road shall be included. All designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with the site entrance should be coordinated with the agency exercising maintenance responsibility of the public roadway involved.

(F) Attachment 6—contour map. This is normally a constructed map showing the contours prior to and after completion of construction on the site. Appropriate vertical contour intervals should be selected so that contours are not further apart than 100 feet as measured horizontally on the ground. The map should show the location and quantities of surface drainage entering, exiting, or internal to the site and the area subject to flooding by a 100-year frequency flood. Location and sizes (showing typical sections) of levees, drainage channels, culverts, holding ponds, and storm sewers shall be shown and supporting calculations, performed in accordance with subsection (b)(5)(F)(iii) of §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan), shall be provided. Natural drainage patterns shall not be significantly altered.

(G) Attachment 7—legal description of the site. This is normally a typed page of the official metes and bounds description or, if platted property, the book and page number of the plat record of only that acreage encompassed in the application.

(H) Attachment 8—site operating plan. This document is to provide guidance from the design engineer to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations in a manner consistent with the engineer's design. As a minimum, the site operating plan shall include specific guidance or instructions on the following:

(i) The minimum number of personnel and their functions and the size, type, and number of equipment and minimum number of each type to be provided by the site operator in order to have adequate capability to conduct the operation in conformance with the design and operational standards. A supervisor position shall

be designated to be in charge and to be on site at least 75% of the time.

(ii) Security, site access control, screening, traffic control, and safety.

(iii) Control of dumping within designated areas.

(iv) Fire prevention and control, provision of fire-fighting equipment, and special training requirements for fire-fighting personnel who may be called on for assistance.

(v) Procedures to ensure that unauthorized wastes are not accepted for disposal.

(vi) Control of windblown material.

(vii) Vector control.

(I) Attachment 9—evidence of financial responsibility. Evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is part of this responsibility. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, etc., in the case of privately-owned facilities and by commissioners court or city council resolution in the case of publicly-owned facilities.

(J) Attachment 10—evidence of competency. The applicant shall submit a record of all his activities involving solid waste management in Texas within the last 10 years. Evidence of competency to operate the site shall be provided, to include pertinent experience of key personnel.

(K) Attachment 11—applicant's statement. The applicant, or authorized representative empowered to make commitments for the applicant, shall provide a statement that he has reviewed the engineer's site development plan and is aware of all commitments represented in the plan and that he has also reviewed all pertinent requirements in these regulations and he agrees to develop and operate the site in accordance with the plan, the regulations, and any permit special provisions that may be imposed.

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

Issued in Austin, Texas, on February 16, 1983.

TRD-831254

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

Proposed date of adoption:

April 18, 1983

For further information, please call (512) 458-7238.

25 TAC §325.72

These amendments are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and to establish minimum standards of op-

eration for all aspects of the management and control of solid waste under its jurisdiction.

§325.72. General Information Required for All Sites—Permit /Registration Application, Part A.

(a) **Unless otherwise excepted by the chief of the bureau or his representative in subsection (b) of §325.71 of this title (relating to General),** [In general,] the following type of information will be included in Part A of the permit application. (See §325.901 of this title (relating to Appendix A—Permit/Registration Application—Part A (General Data)) for sample format.) [of the permit application.] Normally, 11 copies of Part A are required to effect the necessary coordination with other agencies. However, **the actual** [a lesser] number of copies **should** [may] be **determined** [established] through consultation with the department.

(1)-(8) (No change.)

(9) Specific location of site by street address if within the city limits or distance and direction from a city or road intersection. **The site location shall be further described by giving the direction (using compass headings as N, NE, E, etc.) and distance measured perpendicularly (in feet or miles), unless otherwise noted, from each site boundary to a known physical feature (such as a road, highway, canal, creek, etc.).**

(10)-(13) (No change.)

(14) Estimated life of the site [facility].

(b) The following will be submitted, in the number of copies indicated, with Part A of the permit application unless otherwise advised:

(1) (No change)

(2) When the applicant is not the owner of record of the land described in the application, **or does not have an option to buy the land,** the applicant shall secure **and submit with the application, except as provided in this paragraph,** a statement from the owner substantially equivalent to §325.905 [§325.913] of this title (relating to Appendix E [M]—**Form For Property Owner Affidavit**). **The [An] owner-signed statement shall be witnessed and notarized. If the owner does not sign this affidavit, the applicant will include the owner's name and mailing address in Part A of the application. In this latter case, within approximately 10 working days of receipt by the department of Part A of the application, the Bureau of Solid Waste Management will notify the owner of record by certified mail that an application for a solid waste facility to be located on his land has been submitted to the department.** [, shall be submitted in two copies within 30 days after the permit is issued and before the site is opened for receipt of solid waste.]

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 February 15, 1983.

TRD-831247 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
April 16, 1983

For further information, please call (512) 458-7236.

Application Review Process

25 TAC §325.91

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

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

§325.91. General.

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 February 15, 1983.

TRD-831271 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption:
April 16, 1983

For further information, please call (512) 458-7236.

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

§325.91. General. The chief of the bureau is responsible for accomplishing all departmental actions necessary for the processing, technical evaluation of permit applications, and referral to the office of general counsel for scheduling of the public hearing. The chief of the bureau will be designated a party in accordance with the Administrative Procedures and Texas Register Act in all cases and will submit a recommendation for approval or denial of applications for permits, or for their renewal, amendment, or transfer. The chief of the bureau, or his designated representative, will designate a professional engineer as project engineer, and such other staff members as may be necessary, to assist him in performing all processing and evaluation actions for each application. The bureau chief, or his designated representative, will ensure that all information and data required by the regulations have been provided, except that the chief of the bureau, or his designated representative, may temporarily waive any requirement which he considers not essential to the evaluation of the application or for holding a public hearing. A temporary waiver/variance shall be affirmed, modified, or set aside at the public hearing.

ing or during the final decision-making process. The applicant is responsible for presenting justification at the public hearing for the waiver/variance temporarily granted by the chief of the bureau. If the applicant requests a variance from the requirements of these regulations, the chief of the bureau will ensure that the request is incorporated into the application

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 February 15, 1983.

TRD-831255 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption: April 16, 1983

For further information, please call (512) 458-7236.

25 TAC §§325.92-325.95

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

§325.92. Application Processing.

(a) Following receipt of all required information, the bureau [department] will provide copies of the application or summaries of its contents to those agencies, officials, or authorities which have or may have a jurisdictional interest in the case and request their comments or recommendations. These entities [The agencies] include:

(1)-(8) (No change.)

(9) health authority of the county in which the site is located ; and

(10) others as determined appropriate by the bureau [department].

(b) Additionally, a copy of the application will be provided to the appropriate regional director of environmental and consumer health protection [engineer] of the department [for his performance of a site evaluation, verifying insofar as possible the data submitted and technical feasibility of the proposed operation. In submitting his comments and recommendations, the regional engineer will consider the past operating record and current status of an existing site. The site operator's ability or lack of ability to comply with the department's regulations will also be discussed at the public hearing.]

(c) Normally, the entities to whom copies of the application are mailed shall have 30 days to present comments and recommendations on the permit application. If any of the review agencies or the bureau require [department requires] additional data in order to conduct a proper evaluation, the additional data will be requested by the bureau [department] following the time for receipt of comments and recommendations from various review agencies, the designated project engineer and other staff

members assigned under the supervision of the bureau chief [a professional engineer from the Department] will perform [make] a detailed technical [engineering] evaluation and prepare a written summary of the application taking into consideration all comments received from the review agencies. Consideration will be given [The department will give consideration] to any recommendation or action taken by the governing body of a city or county within whose jurisdiction the proposed site is to be located [concerning implications of the application with respect to public health, welfare, and physical property, including proper land use, reasonable projection of growth and development, and any other pertinent considerations].

§325.93. Scheduling and Preparation for a Public Hearing.

(a) The bureau may schedule a hearing on its own motion or will provide an opportunity for a public hearing and make available copies of its technical summary upon request. [Upon completion of the evaluation of the permit application, the department will normally make arrangements with the applicant for a time and place for the conduct of the required public hearing.]

(1) The bureau will provide to the applicant, through the office of general counsel, the notice advising the public that any person affected, as defined in the Solid Waste Disposal Act, has a right to request a public hearing. The applicant shall be responsible for ensuring that such notice is published at least once in a newspaper regularly published or circulated in the county in which the solid waste site is located. The notice shall be printed in boldface capitals surrounded by a heavy border in a conspicuous section of the news portion of the newspaper. The applicant shall be responsible for paying for and publishing the notice. The bureau and, or the office of general counsel, at their option in any individual case, may require that publication of the notice be made in additional newspapers in the county or in other adjacent or contiguous counties. The applicant shall provide the office of general counsel with proof that the publication was timely by submitting, within five days after the publication of the notice, an affidavit of the publisher which shows the date of publication. The affidavit shall be accompanied by a copy of the published notice. The notice shall provide that a hearing may be requested by any affected person within 30 days after the date of publication.

(2) If the bureau does not require or has not received a written request from a person deemed to have a justiciable interest for a public hearing, the chief of the bureau shall submit to the department's office of general counsel a brief containing the bureau's technical evaluation of the permit application, analysis, conclusions, and recommendations accompanied by the proposed permit.

(A) The office of general counsel shall then have 10 days to review the brief and proposed permit and forward them and its recommendation to the commissioner together with its findings of fact and conclusions of law.

(B) The commissioner reviews the bureau's brief, findings of fact, conclusions of law, and recommendations of the office of general counsel and either approves or denies the permit. Normally, the final decision will be made within 10 days after the office of general

counsel forwards its recommendations, but this time may be extended by the commissioner when required by circumstances. The applicant will be advised by the department of the commissioner's final decision by letter.

(b) If the bureau [department] receives a request for a hearing from a person affected (having a justiciable interest) or decides to schedule a hearing upon its own motion, it will provide the applicant with a public hearing notice announcing the time, place, and purpose of the public hearing and advising all citizens of their right to present competent evidence [comments] for or against the issuance of a permit. The applicant shall be responsible for ensuring [insuring] that such notice of the public hearing is published at least once in a newspaper regularly published or circulated in the county in which the solid waste [disposal] site is located. **The notice shall be published in the same form as described in subsection (a) of this section.** The applicant shall be responsible for paying for and publishing the hearing notice. The bureau and/or the department's office of general counsel [department], at their [its] option in any individual case, may require that publication of the notice be made in additional newspapers in the county or in other adjacent or contiguous counties. Publication shall not be less than 30 days before the date of the hearing. The applicant shall provide the office of general counsel [department] with proof that the publication was timely by submitting, within five days after the publication of the notice, an affidavit of the publisher which shows the date of publication. The affidavit shall be accompanied by a copy of the published notice.

§325.94. *Conduct of the Public Hearing.*

(a) The public hearing will be conducted by a hearing examiner designated by the commissioner [from the department's legal staff, assisted by a professional engineer from the Division of Solid Waste Management]. **The Bureau of Solid Waste Management will be represented at the hearing by the bureau chief, his designated representative, and/or the designated project engineer assisted by appropriate staff members.**

(b) The applicant or his duly authorized representative is required to [shall] be present at the public hearing to present the application and answer any questions that may arise during the hearing or to clarify any of the information previously submitted. In view of the possibility that legal questions may arise, the applicant should be accompanied by his legal counsel. The professional engineer who prepared the site development plan for the site and other technical personnel who conducted soils or site investigations should also be present at the hearing to answer any technical questions. Failure of an applicant to be present at the public hearing, or to be properly represented, could result in the denial of a permit.

(c) All hearings held by the department on solid waste permit applications are conducted in accordance with the department's formal hearing procedure rules and the Administrative Procedure and Texas Register Act [,] which requires that evidence submitted be legally admissible (as opposed to hearsay) if such evidence is to be used as a basis for a final decision. Because this statute requires that administrative hearings follow the same rules of evidence as those used in nonjury district court cases, ap-

plicants are advised to seek assistance from their legal counsel [attorneys] in preparing for a hearing and, although not required, it is advisable that the applicant's legal counsel [attorney] actually participate in the hearing, particularly if there is opposition to the permit application.

(d) (No change)

§325.95. *Final Determination on Application.*

(a) **Revision to application. If, during the public hearing, additional engineering or design data are necessary as a result of questions raised or introduction of conflicting data by witnesses, or if significant modifications or changes are proposed by the applicant regarding site design and/or development and operational concepts, the hearing examiner will entertain a motion for continuance. If the hearing examiner grants a continuance, he shall take the following actions, as appropriate:**

(1) **The applicant shall be directed to prepare an updated application incorporating the additional engineering or design data and other changes in facility design, construction, and operational concepts proposed or concurred in by the applicant through testimony and/or exhibits offered into evidence at the public hearing.**

(2) **The updated application shall be identified as an exhibit for the public hearing record in order that its contents may be considered in the commissioner's final decision.**

(3) **All persons designated as parties at the public hearing shall be afforded the option of receiving a copy of the revised application.**

(4) **The public hearing may be reconvened to allow crossexamination of the applicant to clarify, as necessary, the revised portions of the application.**

(b)(a) Unopposed cases. After the record is closed, the bureau [department] will complete the technical [engineering and legal] evaluation of all data submitted prior to and during the hearing and before the closing of the record, including comments received from the various review agencies. **The chief of the bureau will submit a brief containing the bureau's technical evaluation of the permit application, analysis, conclusions, and recommendations to the hearing examiner, providing a copy to the applicant. The hearing examiner reviews the bureau's brief and, if he does not receive any exceptions to the brief from the applicant, forwards the brief to the commissioner together with his findings of fact and conclusions of law.** The commissioner [of Health, Texas Department of Health,] reviews the findings of fact, conclusions of law, and recommendations and either approves or denies the [issuance of a] permit. Normally, the final decision will be made within 60 days after the closing of the hearing record, but this time may be extended by the hearing examiner at the public hearing when required by circumstances. The applicant will be advised by the department of the commissioner's final decision by letter. **If the applicant determines that the bureau's brief contains conclusions and recommendations that are adverse to the applicant and files exceptions with the hearing examiner, the hearing examiner will prepare a proposal for decision and provide copies to the applicant and the chief of the bureau. The ensuing actions and final determination will then be as for an opposed case, as described in subsection (c) of this section.**

(b) Design adjustments.

(1) If during the public hearing additional engineering or design data are considered necessary as a result of questions raised or introduction of conflicting data by opponents, the department will request the data to resolve such conflicts. Any data thus received at the public hearing or subsequent thereto and prior to the closing of the hearing record will be made a part of the application and subject to consideration during the final evaluation.

(2) Any data received at, or as a result of, the public hearing will be provided to those designated as parties to the action or review agencies who have an apparent interest and whose original comments could be influenced by the additional data.

(3) Following the receipt of comments on the supplemental data, a reevaluation will take place and the hearing examiner will prepare a proposal for decision in opposed cases or in such cases when such a proposed decision may be detrimental to the applicant or any party. The proposal for decision may contain special requirements that could necessitate a redesign of the facility or a revision in operating procedures.]

(c) Opposed cases. In opposed cases in which the commissioner neither hears the evidence nor reads the complete record, a proposal for decision shall be prepared by the hearing examiner based on initial briefs and reply briefs filed by all parties to the action. Prior to the closing of the hearing record, the hearing examiner shall establish a schedule for all ensuing actions through the final determination by the commissioner. All parties shall have an opportunity to file briefs with the hearing examiner, providing copies thereof to all other parties who shall then have an opportunity to file reply briefs with the hearing examiner. The chief of the bureau shall file a brief in all cases. The hearing examiner will then prepare a proposal for decision and provide copies to all parties. All parties filing exceptions and briefs to the proposal for decision shall provide copies of such exceptions and briefs to all other parties who shall then have an opportunity to file replies with the hearing examiner. Following the receipt of replies from all parties or the termination of the specified period of time for receipt of such replies, the office of general counsel shall forward the proposal for decision, together with all briefs, exceptions and replies received, through the associate commissioner of health for environmental and consumer health protection to the commissioner [provided to all parties to the action after the closing of the record. All parties to the action will be provided with a specified period of time to file exceptions and briefs to such proposal for decision. Notice of this time limitation will be provided to all parties in each case]. Following his review of the proposal for decision, exceptions, [and] briefs, replies [to such proposal], and [the] staff recommendations, the commissioner shall issue a final decision in the form of either a permit, with special provisions attached thereto, or a denial order, containing the grounds for such denial. Subsequent to this final decision by the commissioner, a motion for rehearing may be filed by any person affected by the decision. This must be filed within 15 days of the commissioner's decision and persons opposing or otherwise responding to the motion for rehearing will be

provided an opportunity to file a reply to the motion. The commissioner shall have 45 days from the time of the final decision (i.e., the issuance of the permit or denial order) to rule on the motions for rehearing, unless such time is extended by the commissioner by written order. Anyone who has filed a motion for rehearing may appeal the commissioner's final decision to a district court in Travis County within 30 days after a motion for rehearing has been overruled either by written order of the commissioner or by operation of law. Time limitations for the filing of motions, responses, exceptions, and briefs [,] shall be governed by the provisions of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

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 February 15, 1983

TRD-831248 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
April 16, 1983

For further information, please call (512) 458-7236.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part I. General Land Office

Chapter 13. Land Resources

Rules, Practice, and Procedure for Land Leases and Trades

31 TAC §13.1

The General Land Office proposes an amendment to §13.1, concerning leases for public lands. The proposed amendment eliminates reference to a specific filing fee for leases, allowing the commissioner flexibility in setting a fee based on the costs of processing the application and, in some instances, whether the proposed lessee holds a state oil and gas lease or a nonstate oil and gas lease.

Mike Hightower, Land Resources Program manager, has determined that for the first five-year period the rule will be in effect costs of administering the rule will not be affected, but the revenue received by the General Land Office will be raised or lowered according to the filing fees established by the commissioner.

Mr. Hightower 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 a more equitable filing fee based on the processing costs of the easement charged to lease applicants, thus defraying agency expenses formerly borne by the general public. The an-

anticipated economic cost to individuals who are required to comply with the rule as proposed will depend upon the amount of increase of the filing fee, if any, determined by the commissioner of the General Land Office to be equitable, based on the cost of processing the application and, in some instances, whether the applicant holds a state or nonstate oil or gas lease

Comments on the proposal may be submitted to Jack Boettcher, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701

The amendment is proposed under the Texas Natural Resources Code, §51.014 which allows the commissioner of the General Land Office to adopt rules necessary to carry out the provisions of the Texas Natural Resources Code, Chapter 51, and to amend the rules to protect the public interest

§13.1 Leases

(a)-(b) (No change)

(c) Application and delivery Applications to the commissioner for lease will specify and describe the particular lands desired and the purpose for which the lease is intended, together with the applicant's offer for the first year's rental and a [\$5.00] filing fee

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 February 17, 1983

TRD 831347 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-1539.

Rights-of-Way Over Public Lands

31 TAC §13.11

The General Land Office proposes an amendment to §13.11, concerning rights of way over public lands. The proposed amendment eliminates reference to a specific filing fee for right of way easement, allowing the commissioner flexibility in setting a fee based on the costs of processing the application

Mike Hightower, Land Resources Program manager, has determined that for the first five-year period the rule will be in effect costs of administering the rule will not be affected, but the revenue received by the General Land Office will be raised or lowered according to the filing fees established by the commissioner

Mr. Hightower 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 a more equitable filing fee based on the processing costs of the easement charged to lease applicants, thus defraying agency expenses formerly borne by the general public. The anticipated economic cost to individuals who are re-

quired to comply with the rule as proposed will depend upon the amount of increase of the filing fee if any, determined by the commissioner of the General Land Office to be equitable based on the cost of processing the application

Comments on the proposal may be submitted to Jack Boettcher, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701

The amendment is proposed under the Texas Natural Resources Code, §51.295, which allows the commissioner of the General Land Office to execute grants of easements across public land and to set conditions and fees for such easements

§13.11 Application

(a) Any person desiring an easement or lease across public lands shall make application to the commissioner of the General Land Office by submitting two fully executed and notarized copies of the contract forms approved by the commissioner. The application shall include all of the following unless specifically waived by the commissioner

(1)-(6) (No change)

(7) a nonrefundable [\$5.00] filing fee per easement contract made payable to the General Land Office;

(8)-(11) (No change)

(b)-(c) (No change)

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

Issued in Austin, Texas, on February 17, 1983

TRD-831348 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-1539.

31 TAC §13.17, §13.18

The General Land Office proposes new §13.17 and §13.18, concerning fees for right of way easements and fees for surface leases for certain facilities. The General Land Office is submitting these rates as rules of the agency for the first time

Mike Hightower, Land Resources Program manager, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing and administering the rule. The effect on state government will be an estimated increase in income of \$552,650.66 for each of the next five years as a result of increased filing fees and easement contract fees. Of this amount, \$544,680.66 will be deposited in the available school fund to support public education in Texas. The remainder will be reappropriated to the General Land Office to cover operating expenses. The increased income, if any, from surface leases for certain facilities cannot be estimated since one of the new means of determining fees will be appraisal of property values. The ef-

fect on local government cannot be precisely determined, but local governments that own their own utility companies will be affected by the increased rates

Mr. Hightower 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 availability of increased funds for the support of public education in Texas. The anticipated economic cost to individuals who are required to comply with the rule as proposed will be an average \$266 per right of way easement per year in the next five year period. It is not possible to estimate the economic cost, if any, of the new rates for surface leases for certain facilities

Comments on the proposal may be submitted to Jack Boettcher, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701

The rule is proposed under the Texas Natural Resources Code §51.295 and §51.299, which allow the commissioner of the General Land Office to establish payment terms for right of way easements over public lands and fees for surface leases of public lands for certain facilities

§13.17 Fees for Right-of-Way Easements The following table lists the terms and fees for easements for rights-of-way over public lands as established by the commissioner of the General Land Office

INSTRUMENT	FEES		TERM
	<u>Filing Fee</u>	<u>Contract Fee</u>	
RIGHT-OF-WAY (ROW) EASEMENT Pipeline	\$50.00	OD* \$/rod under 7" \$ 6.00 7"-13" \$12.00 13"-25" \$18.00 25"-37" \$24.00 over 37" \$48.00 \$500/10-yr. min.	10 years
Power and Telephone Lines 0-50 ft. ROW 51-100 ft. ROW 101-200 ft. ROW over 200 ft. ROW	\$50.00	\$/rod/10-yr. term \$10.00 \$15.00 \$25.00 \$35.00 or %/yr. return on appraised market value of area encumbered \$500/10-yr. min.	10 years

* Outside diameter.

§13.18. *Fees for Surface Leases for Certain Facilities* The following table lists the fees and terms for surface leases of public lands for certain facilities as established by the commissioner of the General Land Office.

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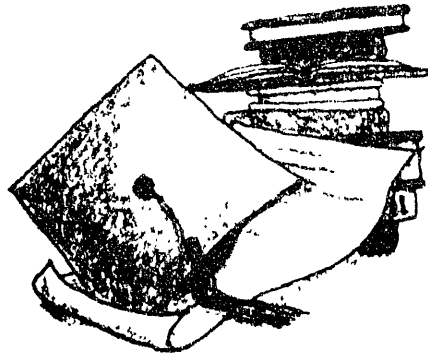
TRD-831349 Garry Mauro
Commissioner
General Land Office

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

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-5661.

INSTRUMENT	FEES		TERM
	Filing Fee	Contract Fee	
SURFACE LEASE Electric Substations, Pumping Stations, Loading Racks and Tank Farms	non-state oil & gas	\$100.00	10 year max.
	state oil/gas & other	\$ 50.00	
Directional Drilling Locations, Platforms etc.	non-state oil & gas	\$100.00	50 year max.
	state oil and gas	\$ 50.00	
other	\$50.00	negotiable \$100/yr. min.	negoti- able



Part IV. School Land Board
Chapter 155. Land Resources
Coastal Public Lands

31 TAC §155.3

The School Land Board proposes an amendment to §155.3, concerning coastal easements. The proposed amendment eliminates reference to a specific filing fee for coastal easements, allowing the board flexibility in setting a fee commensurate with the size of the project and with the use (for profit or nonprofit) of the project.

Mike Hightower, Land Resources Program manager, has determined that for the first five-year period the rule will be in effect costs of administering the rule will not be affected, but the revenue received by the General Land Office will be raised or lowered according to the filing fees established by the School Land Board. The filing fee costs to local governments will also be determined by the School Land Board.

Mr. Hightower 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 more equitable public compensation for the use of state-owned land because the board will be allowed to adjust fees. The anticipated economic cost to individuals who are required to comply with the rule as proposed will depend upon the size and use of the project.

Comments on the proposal may be submitted to Jack Boettcher, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Texas Natural Resources Code, §33.063, which provides the School Land Board with the authority to prescribe reasonable filing fees and fees for granting coastal easements.

§155.3. Easements.

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

(e) Application. An applicant desiring an easement must submit an application to the General Land Office on forms approved by the General Land Office, not less than 30 days prior to the desired approval date. If shoreline alteration is proposed, a survey plat and field notes may be required. In addition to submitting an applica-

tion form, applicants are encouraged to present reasons why the easement should be granted. It is the responsibility of the applicant to demonstrate affirmatively that the proposed structure is in the public interest. The board may request any additional information it deems necessary. A nonrefundable filing fee [of \$5.00] made payable to the General Land Office must accompany each application.

(f)-(l) (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 February 17, 1983

TRD 831350 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-1539.

31 TAC §155.4

The School Land Board proposes an amendment to §155.4, concerning permits authorizing limited continued use of previously unauthorized structures on coastal public lands. The proposed amendment eliminates reference to a specific filing fee for these permits, allowing the board flexibility in setting a fee based on the costs of processing the application for use of the structure.

Mike Hightower, Land Resources Program manager, has determined that for the first five-year period the rule will be in effect costs of administering the rule will not be affected, but the revenue received by the General Land Office will be raised or lowered according to the filing fees established by the School Land Board. The filing fee costs to local governments will also be determined by the School Land Board.

Mr. Hightower 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 a more equitable filing fee based on the processing costs of the permit charged to permit applicants, thus defraying agency expenses formerly borne by the general public. The anticipated economic cost to individuals who are required to comply with the rule as proposed will depend upon the amount of increase of the filing fee determined by the School Land Board to be equitable, based on the costs of processing the application.

Comments on the proposal may be submitted to Jack Boettcher, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendment is proposed under the Texas Natural Resources Code, §33.063, which provides the School Land Board with the authority to prescribe reasonable filing fees and fees for granting permits.

§155.4. Permits

(a)-(c) (No change.)

(d) Interest claim Any person claiming an interest in any structure on coastal public lands where interest claimed in such structure is not connected with the ownership of littoral property, shall apply for a permit for the continued use of the structure by submitting an application form to the board. The application shall be accompanied by a filing fee [of \$5.00] and the maps and plats requested on the form. The applicant may be required to submit additional information considered necessary by the board.

(e)-(k) (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 February 17, 1983.

TRD 831351 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-1539.

31 TAC §155.10

The School Land Board proposes new §155.10, concerning fees for the use of coastal public lands. The board is proposing new rates for the leases, easements, and permits it grants for the use of coastal public lands. The board is submitting these rates as rules for the first time.

Mike Hightower, Land Resources Program manager, has determined that for the first five-year period the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. Some rates charged for the use of coastal public lands will be increased and some decreased. The effect on state government will be an estimated overall increase in income of \$140,098.99 each year for the next five years. In addition, charges to state agencies seeking to use coastal public lands for allowable noncommercial purposes will be reduced to a single \$5.00 filing fee to be applied as a one-time rental charge. The ef-

fect on local government will be a reduction of fees for all allowable noncommercial purposes to a single \$5.00 filing fee to be applied as a one-time rental charge.

Mr. Hightower 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 that, in general, the builders of smaller, nonprofit projects will pay a smaller fee, and the costs of auditing the use of larger, profit projects will be defrayed by the larger fees.

The anticipated economic cost to individuals who are required to comply with the rule as proposed will depend upon the size and use of the project. An applicant who proposes, for example, to build a small private fishing pier will pay a smaller fee than an applicant who proposes to build a large fishing pier for the use of which the applicant will charge a user fee.

Comments on the proposal may be submitted to Jack Boettcher, Director, Coastal Division, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The new rule is proposed under the Texas Natural Resources Code, §33.063, which provides the School Land Board with the authority to prescribe reasonable filing fees and fees for granting leases, easements, and permits.

§155.10 Fees The following tables list the fees for coastal leases, coastal easements, cabin permits, and structure registrations as established by the School Land Board.

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 February 17, 1983.

TRD-831352 Garry Mauro
Commissioner
General Land Office

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-5661.

RATE SCHEDULE FOR THE USE OF COASTAL PUBLIC LANDS

INSTRUMENT	FEES		TERM
	<u>Filing Fee</u>	<u>Annual</u>	
COASTAL LEASE Nonprofit Cities, counties & state agencies*	\$ 5.00	No Charge**	Negotiable
	\$50.00	Negotiable \$5.00 min.	
	\$50.00	Negotiable/% of revenue or coastal easement rate \$100.00 min.	
COASTAL EASEMENT Piers/Docks Private/noncom- mercial*** greater than 100 ft. and up to 300 ft. in length and less than 2500 sq. ft. in area	\$ 5.00	No Charge**	One-time fee
	\$50.00	\$.10/sq. ft. for all area greater than 300 ft. long and/or greater than 2500 sq. ft. \$100.00 min.	Not to ex- ceed 5 yrs.
	\$ 5.00	No charge**	One-time fee
	\$50.00	\$.20/sq. ft. or negotiable \$100.00 min.	Not to ex- ceed 5 yrs.
Cities, counties & state agencies*	\$ 5.00	No charge**	One-time fee
Commercial	\$50.00	\$.20/sq. ft. or negotiable \$100.00 min.	Not to ex- ceed 5 yrs.

INSTRUMENT	FEES		TERM
	<u>Filing Fee</u>	<u>Annual</u>	
Marina	\$50.00	\$2.40/lin. ft./ boat slip \$3.00 lin. ft./ boat slip-Clear Lake x 12 mos. x 10% no min. or negotiate for value of specific use	Negotiable
Wharf	\$50.00	\$.30/sq. ft. or negotiable \$100.00 min.	Not to ex- ceed 5 yrs.
Breakwater, Jetty, and Groin			
private less than 300 ft. in length	\$ 5.00	No charge**	One-time fee
greater than 300 ft. in length	\$50.00	\$.10/sq. ft. \$25.00 min.	Not to ex- ceed 5 yrs.
commercial	\$50.00	\$.20/sq. ft. or negotiable \$100.00 min.	Not to ex- ceed 5 yrs.
cities, counties & state agencies*	\$ 5.00	No charge**	One-time fee
Dredging			
mineral interest holder	\$50.00	\$.02 or # \$.005/sq. ft. \$100.00 min.	One yr. min. Not to ex- ceed 5 yrs.
private activity	\$50.00	\$.03 or \$.005/sq. ft. \$100.00 min.	Not to ex- ceed 5 yrs.
commercial activity	\$50.00	\$.04 or \$.005/sq. ft. \$100.00 min.	Not to ex- ceed 5 yrs.
cities, counties & state agencies*	\$ 5.00	No Charge**	One-time fee

INSTRUMENT	FEES		TERM
	<u>Filing Fee</u>	<u>Annual</u>	
CABIN PERMIT	\$50.00	See Cabin Rates	Not to exceed 5 yrs.
STRUCTURE REGISTRATION ## private/noncommercial pier or dock, less than 100 ft. in length and 25 ft. in width and requires no dredging or filling	\$ 5.00	No Charge**	One-time fee

* Rates for cities, counties, and state agencies if no charge to public is made for facility use; otherwise, the commercial rates apply.

** The \$5.00 filing fee will be applied to the annual rental; thus, no income apart from the initial filing fee will be derived.

*** School Land Board approval is required prior to construction.

The first rate is for new dredging; the second is for maintenance dredging.

School Land Board approval is not required for construction; however, applicant must register location of the structure.

CABIN RATES

<u>CABIN SIZE*</u>	<u>RATE PER YEAR</u>	<u>RATE PER MONTH</u>
1 - 250 sq. ft.	\$180.00	\$15.00
251 - 500 sq. ft.	\$300.00	\$25.00
501 - 750 sq. ft.	\$420.00	\$35.00
751 - 1000 sq. ft.	\$720.00	\$60.00
1001 - 1250 sq. ft.	\$900.00	\$75.00
1251 - 1500 sq. ft.	\$1080.00	\$90.00
1501 - 1750 sq. ft.	\$1260.00	\$105.00
1751 - 2000 sq. ft.	\$1440.00	\$120.00
2001 - 2250 sq. ft.	\$1620.00	\$135.00
2251 - 2500 sq. ft.	\$1800.00	\$150.00

* All area covered by a roof will be included in calculating the square footage of a cabin and in determining the appropriate rate.

of the adoption is to conform this rule to Comptroller's Administrative Decision 11,660. The method of computation of the tax has been changed. Under the proposed new rule, the tax burden will be borne ratably by the nonexempt royalty and working interests on the basis of the division of the net cash proceeds from the sale of the processed gas. The current rule allocates the tax burden on the fractional interest of each taxpayer in the mineral estate. The new rule also provides an example of the computation of the tax.

Billy Hamilton, revenue estimating director, has determined that for the first five year period the rule will be in effect there will be fiscal implications as a result of enforcing and administering the rule. The estimated loss in revenue to state government will be \$546,000 in 1983, \$578,000 in 1984, \$607,000 in 1985, \$632,000 in 1986, and \$646,000 in 1987. There is no anticipated fiscal implication to local government.

Mr. Hamilton 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 a decrease in gas tax paid. Any cost to the individual would be in the form of lost state service as a result of lost revenues from the natural gas occupation tax.

Comments on the proposal may be submitted to G. C. Edgar, P.O. Box 13528, Austin, Texas 78711.

This new rule is proposed under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules and regulations relating to the enforcement and administration of the Tax Code.

§3.14. Exemption of Certain Interest Owners from Gas Occupation Taxes.

(a) Mineral and/or royalty interests owned by the federal government and its subdivisions and the State of Texas and its subdivisions are not subject to the gas occupation tax.

(1) Subdivisions of the federal government include, but are not limited to the following:

- (A) the Federal Land Bank,
- (B) the Department of the Interior,
- (C) the Bureau of Land Management, and
- (D) the Army Corps of Engineers.

(2) Subdivisions of the State of Texas include, but are not limited to the following:

- (A) Texas cities, towns, and villages;
- (B) Texas counties;
- (C) Texas independent and common school districts; and
- (D) Texas public colleges and universities.

(b) The tax on production from properties with an ownership interest exempt from tax, such as state royalty, shall be due from the nonexempt interest owners in the same proportion that the nonexempt owners share the net proceeds (wellhead value) from the sale of the production.

(c) For example, 10,000 MMBTU (million British Thermal Units) are sold for \$2.00 per MMBTU or \$20,000.00 gross proceeds. There is a 1.8 state royalty interest (exempt from tax) paid on gross proceeds, and

the working interest (not exempt from tax) has incurred \$5,000 transportation and processing fees.

Gross sales value	\$20,000.00
Transportation and processing	(5,000.00)
Wellhead value	\$15,000.00
Royalty payment	(2,500.00)
Net value to working interest	\$12,500.00
Tax rate	.075
Tax due	\$ 937.50

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 February 18, 1983.

TRD 831326 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption
March 28, 1983

For further information, please call (512) 475-3341.

Subchapter L. Fuels Tax Division

34 TAC §3.171

(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 Comptroller of Public Accounts, Room 806, 111 East 17th Street, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)

The Comptroller of Public Accounts proposes the repeal of §3.171, concerning a special purpose liquefied gas propelled motor vehicle. The provision of the fuels tax law which authorized the designation of certain vehicles as qualifying for a "Class S" decal was repealed by 1981 Texas General Laws, Chapter 752, §13e, at 2783.

Billy Hamilton, revenue estimating director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications to state or local government as a result of the repeal.

Mr. Hamilton 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 conformance of the comptroller's rules with the Tax Code. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Jim Ray, P.O. Box 13528, Austin, Texas 78711.

This repeal is proposed under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the enforcement and administration of the Tax Code.

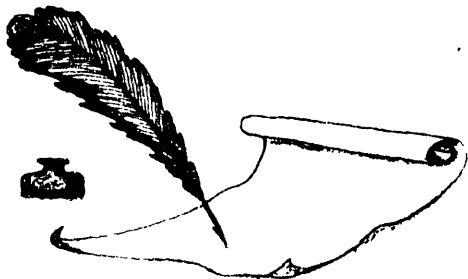
§3.171. Special Purpose Liquefied Gas Propelled Motor Vehicle.

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

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

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

Adopted Rules



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 February 16, 1983

TRD-831334

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

Effective date: March 11, 1983

Proposal publication date: October 26, 1982

For further information, please call (512) 458-4126

TITLE 22. EXAMINING BOARDS Part I. Texas Board of Architectural Examiners

Chapter 3. Landscape Architects Subchapter F. Landscape Architect's Seal

22 TAC §3.106

The Texas Board of Architectural Examiners adopts an amendment to §3.106, without changes to the proposed text published in the October 26, 1982, issue of the *Texas Register* (7 TexReg 3815). The rule is necessary to direct those concerned to the board's new address.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 249c, which authorizes the board to promulgate rules and regulations for the administration of this act.

TITLE 34. PUBLIC FINANCE Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter O. Sales Tax Division—State Taxes

34 TAC §3.283

The Comptroller of Public Accounts adopts new §3.283, concerning bartering clubs and exchanges, without changes to the proposed text published in the December 31, 1982, issue of the *Texas Register* (7 TexReg 4558). The rule explains the sales tax responsibilities of persons who are members of bartering clubs and bartering exchanges. Since many businesses are joining clubs for the purpose of accumulating credits, points, or trade units and trading these units for taxable items subject to sales tax, the businesses need to know how the comptroller regards these transactions for sales tax purposes.

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 of Agriculture

Wednesday, March 9, 1983, 10 a.m. The Agricultural Protective Act Unit of the Produce Recovery Fund Board of the Texas Department of Agriculture will meet in Room 1046, 17th Street and North Congress Avenue, Austin. According to the agenda, the board will consider Docket 64-82 APA—a contested hearing to discuss allegations of nonpayment of produce to Hoblitzelle Farms, Mercedes, Texas by 4R Fruit & Vegetable Company, Mission, as authorized by the Texas Agriculture Code, Chapters 101-103.

Contact: Bill Quicksall, P.O. Box 12847, Austin, Texas 78711, (512) 475-4304

Filed: February 18, 1983, 11:56 a.m.
TRD-831365

Texas Amusement Machine Commission

Monday, February 28, 1983, 9:30 a.m. The Texas Amusement Machine Commission will meet in the second floor conference room, Twin Towers Office Building 1100 Clayton Lane, Austin. According to the agenda summary, the commission will discuss the status of and correspondence re-

garding the budget request for fiscal year 1984-1985, a report on and correspondence concerning the pending litigation regarding the occupation tax requirements on coin-operated machines designed exclusively for showing motion pictures, the possibility of changing the rule requiring licensees to register coin-operated machines by make, model, and serial numbers, a report on the administrative fees paid by licensees to national account holders in order to secure contracts, the fiscal report for the first half of fiscal year 1983, a report on current operations, and a report and recommendations by the Advisory Committee members.

Contact: Jackie L. Vaughan, P.O. Box 13226, Austin, Texas 78711, (512) 475-5651

Filed: February 17, 1983, 10:27 a.m.
TRD-831313

State Board of Barber Examiners

Tuesday, March 8, 1983, 8 a.m. The State Board of Barber Examiners will meet in Suite C-275, 1300 East Anderson Lane, Austin. According to the agenda, the board will consider minutes of the previous meeting, sign teacher certificates and school permits, interview out-of-state applicants, and

hear reports by the executive director and letters. The board will also meet in executive session.

Contact: Jo King McCrorey, 1300 East Anderson Lane, Suite C-275, Austin, Texas (512) 835-2040

Filed: February 18, 1983, 2:46 p.m.
TRD-831382

Texas Education Agency

Friday, March 18, 1983, 8:30 a.m. The Apprenticeship and Training Advisory Committee of the Texas Education Agency will meet at the Quality Inn South, IH 35 at Oltorf, Austin. Items on the agenda summary include approval of minutes, apprenticeship slide presentation, a report by the apprenticeship coordinator, reports from the Ad Hoc Committee chairmen, the Finance Committee, and the Planning Committee, a recommendation to the State Board of Education; and election of officers.

Contact: Dan C. Lowe, 201 East 11th Street, Austin, Texas 78701, (512) 834-4207

Filed: February 17, 1983, 4:44 p.m.
TRD-831320

Texas Employment Commission

Tuesday, March 1, 1983, 1 p.m. The Texas Employment Commission will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider and act on higher level appeals in unemployment compensation cases listed on Docket 11 and set the date of the next meeting.

Contact: Courtenay Browning, TEC Building, Room 608, Austin, Texas, (512) 497-4415.

Filed: February 18, 1983, 3:02 p.m.
TRD-831381

State Board of Insurance

Tuesday, March 1, 1983, 9 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. The section will conduct a public hearing in Docket 6972—whether the insurance agent licenses issued to Arthur Raymond Hernandez should be canceled.

Contact: J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: February 18, 1983, 1:27 p.m.
TRD-831376

Thursday, March 3, 1983, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will consider the petition of C. A. White Trucking Company, Inc., for an amendment to the workers' compensation experience rating plan rules.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 21, 1983, 10:27 a.m.
TRD-831385

Friday, March 4, 1983, 9:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. The section will conduct a public hearing in Docket 7099—application for approval of a charter amendment increasing the authorized capital stock of Northeast United Life Insurance Company, Paris.

Contact: John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

Filed: February 18, 1983, 1:27 p.m.
TRD-831377

Wednesday, March 9, 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 hold a public hearing to consider the appeal of Derrill H. Methson from Commissioner's Order 82-3055.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: February 21, 1983, 10:28 a.m.
TRD-831406

Texas Juvenile Probation Commission

Friday, March 4, 1983, 9:30 a.m. The Texas Juvenile Probation Commission will meet at 4711 Harry Hines, Dallas. Items on the agenda include a public hearing, approval of the January 24, 1983 minutes, the director's report concerning operations, finances, and legislation, and review of the first draft of the commission standards.

Contact: Judy Culpepper, P.O. Box 13547, Austin, Texas 78711, (512) 443-2001.

Filed: February 17, 1983, 10:26 a.m.
TRD-831312

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. Days, times, and dockets follow.

Friday, March 4, 1983, 10:30 a.m. A prehearing conference in Docket 4952—complaint of Mrs. Danny Shillings against Upshur Rural Electric Cooperative, Inc.

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

Filed: February 17, 1983, 10:25 a.m.
TRD-831310

Wednesday, March 16, 1983, 9:30 a.m. A prehearing conference in Docket 4942—applications of the City of Round Rock to secure a certificate of convenience and necessity to provide sewer utility service and to amend a certificate of convenience and necessity to provide water utility service within Williamson and Travis counties.

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

Filed: February 17, 1983, 2:45 p.m.
TRD-831316

Wednesday, March 30, 1983, 9 a.m. A hearing in Docket 4223—appeal of Arbor Oaks Utilities, Inc., from a ratemaking ordinance of the City of Houston.

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

Filed: February 18, 1983, 9:05 a.m.
TRD-831337

Wednesday, April 13, 1983, 10 a.m. A hearing in Docket 497—application of Urban Community Water Service for a water rate increase within Deaton County.

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

Filed: February 17, 1983, 10:26 a.m.
TRD-831311

State Purchasing and General Services Commission

Thursday, February 24, 1983, 11 a.m. The State Purchasing and General Services Commission submitted an emergency addition to the agenda of a meeting held in Room 916, FBI Building, 111 East 17th Street, Austin. The revision concerned an executive session to discuss the acquisition of real property. The emergency status was necessary because a matter regarding a purchase, exchange, lease, or value of real property arose too late to be included with the regular agenda. Commission action is required on this matter pursuant to Texas Civil Statutes, Article 6252-17, §2(f).

Contact: Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, (512) 475-2211, or STS 822-2211.

Filed: February 17, 1983, 1:55 p.m.
TRD-831315

Railroad Commission of Texas

Monday, February 28, 1983, 9 a.m. The following divisions of the Railroad Commission of Texas will meet at 3124 114th South, Austin. The agendas and meeting rooms follow.

The Administrative Services Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget procedures, and personnel matters.

Contact: Roger Dillon, P.O. Drawer 32967, Austin, Texas 78711, (512) 445-1211.

Filed: February 18, 1983, 10:53 a.m.
TRD-831357

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

Contact: Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

Filed: February 18, 1983, 10:50 a.m.
TRD-831358

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: February 18, 1983, 10:49 a.m.
TRD-831359

The Gas Utilities Division will meet in Room 107 to consider Dockets 3258, 2645 Consolidated, 3658-3661, 3716, 3933-3936, 3938, 3940-3943, 3937, 3932, and the director's report.

Contact: Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461

Filed: February 18, 1983, 10:51 a.m.
TRD-831360

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: February 18, 1983, 10:50 a.m.
TRD-831361

The Liquefied Petroleum-Gas Division will meet in the first floor auditorium to consider §9.58 and §9.59 for emergency adoption and simultaneous publication for 30 day public comment period; §§9.171-9.190 for final adoption; §§8.181-9.192 presented for final repeal; and to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

Contact: Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711.

Filed: February 18, 1983, 10:53 a.m.
TRD-831362

The Oil and Gas Division will meet in the first floor auditorium to consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Contact: Jan Burriss, P.O. Drawer 12967,

Austin, Texas 78711, (512) 445-1307.

Filed: February 18, 1983, 10:50 a.m.
TRD-831364

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: February 18, 1983, 10:51 a.m.
TRD-831363

Consideration of Docket 3-79,801—request of Convest Energy Corporation for emergency temporary special allowables for the following Convest Energy Corporation wells: State Tract 193, Wells 2 and 3 in the Matagorda Bay, Northeast (Miocene 2650) Field; State Tract 159, Wells 1 and 4 in the Matagorda Bay, South (Miocene 2700) Field; and State Tract 159, Well 3 in the Matagorda Bay, South (Miocene 2800) Field.

Contact: Susan Cory, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286

Filed: February 18, 1983, 4:50 p.m.
TRD-831401

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: February 18, 1983, 10:49 a.m.
TRD-831366

The Office of Special Counsel will meet in the third floor conference room to consider and act on the division director's report relating to pending litigation, Sunset Commission review, and other budget, administrative, and personnel matters.

Contact: Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

Filed: February 18, 1983, 10:49 a.m.
TRD-831367

The Surface Mining and Reclamation 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: J. Randel (Jerry) Hill, 105 West

Riverside Drive, Austin, Texas, (512) 475-8751.

Filed: February 18, 1983, 10:52 a.m.
TRD-831368

The Transportation Division will meet in the first floor auditorium, Room 107, to consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Contact: Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

Filed: February 18, 1983, 10:52 a.m.
TRD-831369

Texas Rehabilitation Commission

Thursday, March 4, 1983, 9 a.m. Committees of the Governor's Planning Council for Developmental Disabilities of the Texas Rehabilitation Commission will meet at 3810 Medical Parkway and 118 East Riverside Drive, Austin. Items on the agenda include an Executive Committee meeting to consider council by-laws, open meetings, organizational structure and request for staff, long range planning group demographic study, council organization, memorandum of understanding, and task force assignments; and other committee meetings to consider old and new business.

Friday, March 5, 1983, 8:30 a.m. The Governor's Planning Council for Developmental Disabilities will meet at 118 East Riverside Drive, Austin. Items on the agenda include approval of the January minutes, introduction of the executive director, reports from the executive director, executive committee, other committees, and vice chairman, introduction of guests, legislative briefing, new business, Nominating Committee nominations, and election of officers.

Contact: Joellen Flores Simmons, P.O. Box 12668, Austin, Texas 78711, (512) 465-4659.

Filed: February 18, 1983, 3:23 p.m.
TRD-831399

School Land Board

Tuesday, March 1, 1983, 10 a.m. The School Land Board will meet in the General Land Office, Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the minutes of the previous board

meeting, pooling applications, and a good faith claimant application.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-4307.

Filed: February 18, 1983, 3:57 p.m.
TRD-831400

Tuesday, March 1, 1983, 10 a.m. The School I and Board submitted an addition to the agenda of a meeting to be held in the General Land Office, Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The revision concerns an easement application for coastal public lands.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-4307.

Filed: February 21, 1983, 1:58 p.m.
TRD-831411

State Securities Board

Thursday, March 10, 1983, 1 p.m. The Securities Commissioner of the State Securities Board will meet at 3100 West Alabama, Houston. According to the agenda summary, a hearing will be held to determine whether a cease and desist order should be issued prohibiting the sale of securities issued by Wendell Nance. This hearing was originally set for January 3, 1983, and it has previously been reset twice, for January 17 and February 17, 1983.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

Filed: February 18, 1983, 8:24 a.m.
TRD-831322

Texas Surplus Property Agency

Tuesday, March 8, 1983, 1:30 p.m. The Governing Board of the Texas Surplus Property Agency will meet in the deans conference room, fourth floor, University of Texas Health Science Center, Dental School, 7703 Floyd Curl Drive, San Antonio. Items on the agenda include approval of the November 29, 1982, minutes, midyear budget revisions, personnel matters, and the executive director's report.

Contact: Robert A. Davis, Jr., Box 8120, San Antonio, Texas 78208, (512) 661-2381.

Filed: February 22, 1983, 9:24 a.m.
TRD-831414

Teacher Retirement System of Texas

Friday, March 4, 1983, 10 a.m. The Investment Advisory Committee of the Teacher Retirement System of Texas will meet on the 49th floor, One Shell Plaza, Houston. According to the agenda, the committee will consider approval of minutes, an update on investments for the preceding quarter and a report on forward commitments, an update on investment objectives and the asset mix, discuss performance measurement, an update on real estate investments, the economic outlook, and market conditions, and allocate cash flow for the current quarter.

Contact: Clark Manning, 1001 Trinity, Austin, Texas, (512) 397-6400.

Filed: February 18, 1983, 2:19 p.m.
TRD-831378



University of Texas System

Monday, February 28, 1983, 1:30 p.m. The Intercollegiate Athletics Council for Men of the University of Texas at Austin will meet in Bellmont Hall 240, between 21st and 23rd Streets on San Jacinto, Austin. According to the agenda, the council will approve the November 22, 1982, minutes, team schedules, and recommend schedule changes, including the golf schedule for 1982-1983; special events schedule, Southwest Conference swim and diving meet; authorize the NCAA swim meet and baseball reunion; approve the 1982-1983 and 1983-1984 budgets, training room equipment, and office furniture; establish a new football coaching position and salary; approve ticket policies, and ratify a baseball ticket plan; receive development plans, review a fund raising

plan; hear a report on the Kerry Shawell gift; approve awards and policies, including letter awards for cross country and football, the Carl Raydale Johnson Award for track, and the new academic award; discuss old business, committee reports on athletic facilities, the tennis/football facilities, and new business, including a request for varsity status for the rowing club and the summer school scholarship plan. The council will also meet in executive session to discuss personnel matters and potential litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(g).

Contact: Haila Kauffman, P.O. Box 7399, Austin, Texas 78712, (512) 471-7348.

Filed: February 18, 1983, 11:13 a.m.
TRD-831370

University Interscholastic League

Tuesday, February 22, 1983, 2 p.m. The State Executive Committee of the University Interscholastic League met in emergency session in Room 2.118, Joe Thompson Conference Center, The University of Texas campus, Austin. According to the agenda, the committee conducted a hearing on the Corsicana-Mildred violation of 8-14-1 and interpretation of other rules. The emergency status was necessary because a protest was received from Cayuga High School regarding the eligibility of a student representing Mildred High School in a game scheduled for Friday of this week.

Contact: Bailey Marshall, P.O. Box 8028, Austin, Texas 78712, (512) 471-5883.

Filed: February 21, 1983, 1:43 p.m.
TRD-831410

Texas Water Commission

Monday, February 28, 1983, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda summary include water district bonds, release from escrow, use of surplus funds, water quality proposed permits amendments and renewals, extension of time, combining and amending permits, final decisions on permits, and the filing and setting of hearing dates.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 18, 1983, 11:29 a.m.
TRD-831371

Wednesday, March 9, 1983, 10 a.m. The Texas Water Commission will meet in

Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will conduct a hearing on applications for a water quality permit and amendment by Paul E. Orlando, doing business as Ed-Lou Mobile Home Park, for proposed Permit 12600-01 to authorize the discharge of 8,000 gallons per day of treated domestic sewage, San Jacinto River Basin, Harris County; and the application by Alpha Utility Services, Inc., for an amendment to Permit 12248-01 to change the discharge route in the existing permit, San Jacinto River Basin, Harris County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: February 18, 1983, 11:28 a.m.
TRD-831372

Tuesday, March 29, 1983, 9 a.m. The Texas Water Commission will meet in the assembly room, second floor, city hall, 126 West Main, Fredericksburg. According to the agenda summary, the commission will consider the application of Sunday House Foods, Inc., P.O. Box 818, Fredericksburg, Texas 78624, to the Texas Department of Water Resources for proposed Permit 02615 to authorize the disposal of agricultural waste from a confined feeding operation for turkeys. Waste control facilities shall be provided to retain all process generated wastewater produced by the facility plus all rainfall flowing from approximately 23 acres of feeding and associated area. No discharge is authorized into the waters in the state.

Contact: Gwen Webb, P.O. Box 13087, Austin, Texas 78711, (512) 475-1418.

Filed: February 18, 1983, 11:29 a.m.
TRD-831373

Thursday, March 31, 1983, 9 a.m. The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application by the City of Leander, P.O. Box 319, Leander, Texas 78641, to the Texas Department of Water Resources for proposed Permit 12644-01 to authorize a discharge of treated wastewater effluent at a volume not to exceed an average flow of 750,000 gallons per day. The applicant proposes to construct a new sewage treatment plant that will replace inadequate septic tank systems being utilized throughout the city.

Contact: Phillip Paine, P.O. Box 13087,

Austin, Texas 78711, (512) 475-1468.

Filed: February 18, 1983, 11:30 a.m.
TRD-831374

Texas Water Well Drillers Board

Tuesday, March 1, 1983, 9:30 a.m. The Texas Water Well Drillers Board will meet in Room 513-F, Stephen F. Austin Building, Austin. Items on the agenda summary include approval of minutes; certification of applicants for registration; the request of Raymond Korenek to discuss his water well drilling qualifications; adoption of a rule change; complaints for public hearing for Wendell Bisidas, Galyen Gilbert, Ronnie Lynch, Calvin Messer, Glenn G. Snook, Tommy Triplitt, and James Phillip Waller; applications for driller trainee registration; a briefing on the registration of drillers, examinations, and investigator's activities since the last meeting; and staff reports.

Contact: Jack Overton, P.O. Box 13087, Austin, Texas 78711, (512) 475-3191.

Filed: February 18, 1983, 11:28 a.m.
TRD-831375

Regional Agencies

Meetings Filed February 17

The Central Texas Mental Health and Mental Retardation Center, Board of Trustees, met at 408 Mulberry, Brownwood, on February 22, 1983, at 4:30 p.m. Information may be obtained from Gloria Willen, P.O. Box 250, Brownwood, Texas 76801, (915) 646-9574.

The Coastal Bend Council of Governments will meet in the central jury room, Nueces County Courthouse, 901 Leopard, Corpus Christi, on February 25, 1983, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78408, (512) 883-5743.

The Comal County Appraisal District, Board of Directors, met at 130 East Mill Street, New Braunfels, on February 21, 1983, at 7 p.m. Information may be obtained from Glenn L. Brucks, P.O. Box 1222, New Braunfels, Texas 78130, (512) 625-8597.

The Lower Colorado River Authority, Parks and Lands Committee, met at 3700 Lake Austin Boulevard, Austin, on February 23, 1983, at 8 a.m. The following committees met at the same location on the same date, at the following times:

Water and Flood Control
Committee—9 a.m.

Environmental, Safety, and Security
Committee—10 a.m.

Audit Committee—11 a.m.

Personnel, Compensation, Pension
Trust, and Benefit Committee—1 p.m.

Finance and Administration
Committee—2 p.m.

Power and Energy Committee—3 p.m.

The Board of Directors met at the same location on February 24, 1983, at 9 a.m. Information may be obtained from Elof H. Sonderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

The Lower Rio Grande Valley Development Council, Board of Directors, met in the Town Hall Room, Harlingen City Hall, 118 East Tyler, Harlingen, on February 24, 1983, at 1 p.m. Information may be obtained from Robert A. Chandler, 207 Texas Commerce Bank Building, McAllen, Texas 78501, (512) 682-3481.

The Lubbock Regional Mental Health and Mental Retardation Center met at 3800 Avenue H, Lubbock, on February 22, 1983, at 4:30 p.m. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 763-4213.

TRD-831308

Meetings Filed February 18

The Austin-Travis County Mental Health and Mental Retardation Center, Board of Trustees, met in the board room, 1430 Collier Street, Austin, on February 24, 1983, at noon. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141, ext. 27.

The Central Texas Council of Governments, Executive Committee, will meet at 302 East Central, Belton, on March 3, 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 Deep East Texas Council of Governments Area Agency on Aging, Regional Aging Advisory Council, will meet in the Angelina County Senior Citizens Center, 2801 Valley Avenue, Lufkin, on February 25, 1983, at 3 p.m. Information may be obtained from Martha Jones, P.O. Drawer 1170, Jasper, Texas 75951, (713) 384-5704.

The Heart of Texas Council of Governments, Executive Committee, met at 320

Franklin Avenue, Waco, on February 24, 1983, at 3 p.m. Information may be obtained from Mary A. McDow, 320 Franklin Avenue, Waco, Texas 76701, (817) 756-6631.

The Lampasas County Appraisal District, will meet at 403 East Second Street, Lampasas, on February 25, 1983, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

The Mental Health and Mental Retardation Authority of Brazos Valley, Executive Committee, Board of Trustees, met in Room 108, 3232 Briarcrest Drive, Bryan, on February 24, 1983, at 1 p.m. Information may be obtained from Ann Pye Shively, 707 Texas Avenue, Suite 225-C, College Station, Texas 77840, (713) 696-8585.

The Panhandle Regional Planning Commission, Board of Directors, met in the first floor conference room, Briercroft Building, Eighth and Jackson Streets, Amarillo, on February 24, 1983, at 1:30 p.m. Information may be obtained from Polly Jennings, Eighth and Jackson Streets, Suite 200, Amarillo, Texas, (806) 372-3381.

The San Jacinto River Authority, Board of Directors, met at the Lake Conroe office, Highway 105 West, Conroe, on February 24, 1983, at 2 p.m. Information may be obtained from Jack K. Ayer, P.O. Box 329, Conroe, Texas 77301, (713) 588-1111.

The West Central Texas Municipal Water District will meet in the conference room, Room 314, Cypress Building, 174 Cypress Street, Abilene, on March 1, 1983, at 9:30 a.m. Information may be obtained from

Virginia Duncan, P.O. Box 2363, Abilene, Texas 79604, (915) 673-8254.
TRD-831354

Meetings Filed February 21

The Bastrop County Appraisal District, Board of Review, will meet in the Bastrop County Commissioners Court Room, 804 Pecan Street, Bastrop, on February 28, 1983, at 7:30 p.m. Information may be obtained from Roy E. Humble, 705 Spring Street, Bastrop, Texas 78602, (512) 321-4316.

The Region IX Education Service Center, Board of Directors, met at 301 Loop 11, Wichita Falls, on February 24, 1983, at 1:30 p.m. Information may be obtained from Don Brewer, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928.
TRD-831402

Meetings Filed February 22

The Bexar-Medina-Atascosa Counties Water Control and Improvement District 1, Board of Directors, will meet in emergency session in the district office, Highway 81, Natalia, on February 25, 1983, at 8 a.m. Information may be obtained from C. A. Mueller, P.O. Box 170, Natalia, Texas 78059, (512) 663-2132.

The Fannin County Appraisal District, Board of Review, met in emergency session at 401 North Main, Bonham, on February 22, 1983, at 5 p.m. The meeting was originally scheduled for February 18, 1983. Information may be obtained from Bettye Manning, 401 North Main, Bonham, Texas 75418, (214) 583-9546.

The Mental Health and Mental Retardation Center of East Texas, Board of Trustees, met in emergency session in the board room, 2323 West Front Street, Tyler, on February 24, 1983, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (214) 597-1351.

The North Central Texas Council of Governments, Executive Board, met in emergency session in Suite 200, Centerpoint Two Building, 616 Six Flags Drive, Arlington, on February 24, 1983, at 12:30 p.m. Information may be obtained from Linda Keithley, P.O. Drawer COG, Arlington, Texas 76005-5888, (817) 461-3300.

The Northeast Texas Municipal Water District, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on February 28, 1983, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

The Palo Pinto Appraisal District, Board of Review, met in emergency session at 603 South Oak, Mineral Wells, on February 24, 1983, at 1 p.m. The Board of Directors met in emergency session at the same location, on the same date, at 7 p.m. Information may be obtained from Ruth Henderson, 100 Southeast Fifth Street, Mineral Wells, Texas 76067, (817) 325-6871.

The South Plains Health Provider Organization, Inc., Board of Directors, will meet at 715 Amarillo Street, Plainview, on February 28, 1983, at 8 p.m. Information may be obtained from Sue Terry, 706 Canyon, Plainview, Texas 79072, (806) 293-8561.

TRD-831413

For the purpose of public information, the *Register* publishes a listing of the bills that have been submitted to the governor and the status of these bills.

A bill will be listed after the bill has passed both the House and the Senate and again when the Governor acts upon the bill.

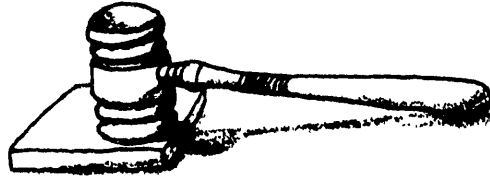
The Legislature

Bills Submitted to the Governor

February 22

SB 213 Relating to notice and probable cause hearings in connection with orders of protective custody.

Sponsor: Farabee



In Addition

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.

Texas Air Control Board Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the period of February 7-11, 1983.

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

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

Listed are the names of the applicants and the cities in which the facilities are located; type of facilities; location of the facilities (if available); permit numbers; and type of application—new source or modification.

Foxley Cattle Company, Tulia; cattle feeding; (location not available); 406A and 36A; modifications

Texas Industries, Inc., Clodine; aggregate terminal; (location not available); 8989A; modification

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

TRD-831240 Ramon Dasch
Director of Hearings
Texas Air Control Board

Filed: February 16, 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 February 16, 1983, the banking commissioner received an application to acquire control of Ellington Bank of Commerce, Houston, by Leslie C. Lewis, William F. Bradley, and Jacob E. Johnson, all of Houston; Charles M. Ghormley, Dayton; and John H. Moon, Sr., and Billy C. Harry, both of Pasadena.

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

Issued in Austin, Texas, on February 16, 1983.

TRD-831317 O. A. Cassity III
Assistant General Counsel
Banking Department of Texas

Filed: February 17, 1983
For further information, please call (512) 475-4451.

Comptroller of Public Accounts Consultant Contract Award

Description. This consultant contract award is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the November 26, 1982, issue of the *Texas Register*

(7 TexReg 4119). The consultant will provide temporary employees to the comptroller's office during peak periods of activity. The name and business address of the consultant is Adia Temporary Services, Inc., 1106 Clayton Lane, Suite 135 East, Austin, Texas 78723.

Costs and Dates. The total value of the contract is estimated at \$231,000. The hourly rate is \$6.25 for general clerical work and \$6.35 for skilled clerical work. The beginning date of the contract was February 11, 1983, and the contract ends on February 11, 1984.

Due Dates of Documents. There will be no interim or final reports.

The consultant has no employees who have been employed by an agency of the State of Texas during the past two years.

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

TRD-831314 Bob Bullock
Comptroller of Public Accounts

Filed: February 17, 1983
For further information, please call (512) 475-6953.

Texas Education Agency Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Education Agency furnishes this notice of contract award. The consultant proposal request appeared in the August 17, 1982, issue of the *Texas Register* (7 TexReg 3044).

Description of Service. The contractor will conduct a study to validate the content of the new pre-professional skills test published by Educational Testing Service in relation to the basic skills of reading, mathematics, and writing taught in Texas elementary and secondary schools. The study will develop and implement a process using student data to estimate test performance standards for college students with acceptable basic skills for use as a state-required criterion for teacher education programs.

Name and Address of Consultant. The contractor is IOX Assessment Associates, 11411 West Jefferson Boulevard, Culver City, California 90230.

Contract Value and Period. The total value of the contract is \$265,473. The beginning date of the contract is October 11, 1982, and the ending date is December 31, 1983.

Due Dates of Documents. The delivery date of the final report of the study is August 31, 1983. The contractor will provide consultative assistance to the Texas Education Agency until December 31, 1983.

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

TRD-831319 Raymon L. Bynum
Commissioner of Education

Filed: February 17, 1983
For further information, please call (512) 475-7077.

Texas Department of Health Public Hearing

In compliance with the National Health Planning and Resources Development Act of 1974 (Public Law 93-641), a public hearing on the Texas Department of Health Bureau of State Health Planning and Resource Development's proposed State Administrative Program will be held at 10 a.m. on Tuesday, March 15, 1983, at the Texas Department of Health auditorium, 1100 West 49th Street, Austin. The State Administrative Program must be submitted to the Department of Health and Human Services as a prerequisite for continued designation and funding as the state health planning and development agency for Texas, and it describes the activities of this program and the manner in which the mandated functions under Public Law 93-641 are proposed to be carried out.

A copy of the proposed State Administrative Program will be available from February 28 through March 15 for public inspection and copying at the Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, from 8 a.m. to 5 p.m. Monday through Friday and during the hearing. Oral and written comments pertaining to the State Administrative Program are invited and encouraged from members of the public. Written comments will be accepted through March 15, 1983.

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

TRD-831344 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Filed: February 18, 1983
For further information, please call (512) 458-7261.

Texas Health Facilities Commission Application Accepted for Amendment, Declaratory Ruling, and Notice of Intent

Notice is hereby given by the Texas Health Facilities Commission of an application accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to the above-stated application, that person must file a proper request to become a party to the application within 15 days after

the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to the application must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Kenneth L. Bruner, Martha M. Bruner, and La Dora Lodge Nursing Home, Inc., doing business as La Dora Lodge Nursing Home, Bedford AN81-1030-029A(021483)

CN/AMD—Request to extend the completion deadline from February 1, 1983, to May 2, 1983, in Certificate of Need AN81-1030-029, which authorized the construction of a 9,859 square foot building addition and renovation of 1,384 square feet in the existing building to provide 32 additional intermediate care nursing beds and expand the kitchen, dining, and living areas.

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

TRD-831353 John R. Neel
General Counsel
Texas Health Facilities
Commission

Filed: February 18, 1983
For further information, please call (512) 475-6940.

Texas Low-Level Radioactive Waste Disposal Authority Request for Proposals

The Texas Low-Level Radioactive Waste Disposal Authority, in cooperation with the Texas Department of Health, is soliciting proposals to study the feasibility of developing a health surveillance survey for the population located in the vicinity of a low-level radioactive waste disposal site. The authority has already received proposals to conduct the feasibility study from the University of Texas School of Public Health in Houston and the University of Texas Medical Branch in Galveston. The authority will receive proposals from other interested state agencies until March 15, 1983. Only interagency contracts will be considered. Proposals or requests for additional information should be directed to Thomas W. Blackburn III, Director of Special Programs, 1300-C East Anderson Lane, Suite 175, Austin, Texas 78752, (512) 835-6795.

Issued in Austin, Texas, on February 16, 1983.

TRD-831301 Lawrence R. Jacobi, P.E.
General Manager
Texas Low-Level Radioactive
Waste Disposal Authority

Filed: February 16, 1983
For further information, please call (512) 835-6795.

Public Utility Commission of Texas Correction of Error

A proposed amendment to a rule by the Public Utility Commission of Texas contained an error as published in the February 4, 1983, issue of the *Texas Register* (8 Tex-Reg 368). The proposed amendment to the text of §23.51(e)(7)(A) should read as follows.

(A) The utility shall maintain its network service in such a manner that the average monthly rate of customer trouble reports, excluding customer premises equipment (CPE) reports, per 100 customer access lines does not exceed:

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Texas Register Publication Schedule

Following are the deadline dates of the March 1983 issues of the *Texas Register*. Unless noted by a ★, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication.

March Publication Schedule for the *Texas Register*

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS, BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
Tuesday, March 1	Wednesday, February 23	Thursday, February 24
Friday, March 4	Monday, February 28	Tuesday, March 1
Tuesday, March 8		
Friday, March 11	Monday, March 7	Tuesday, March 8
Tuesday, March 15	Wednesday, March 9	Thursday, March 10
Friday, March 18	Wednesday, March 9	Thursday, March 10
Tuesday, March 22	Wednesday, March 16	Thursday, March 17
Friday, March 25	Monday, March 21	Tuesday, March 22
Tuesday, March 29	Wednesday, March 23	Thursday, March 24
	NO ISSUE PUBLISHED	

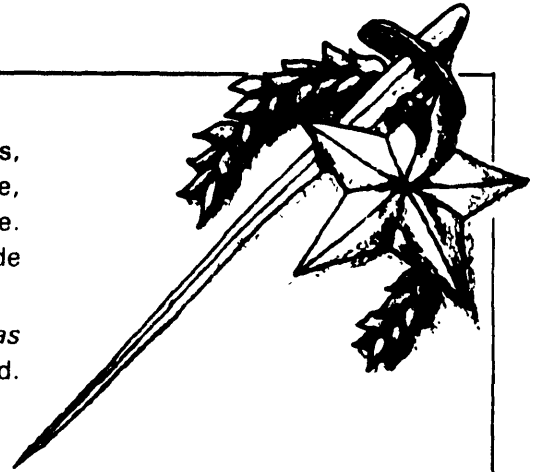
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