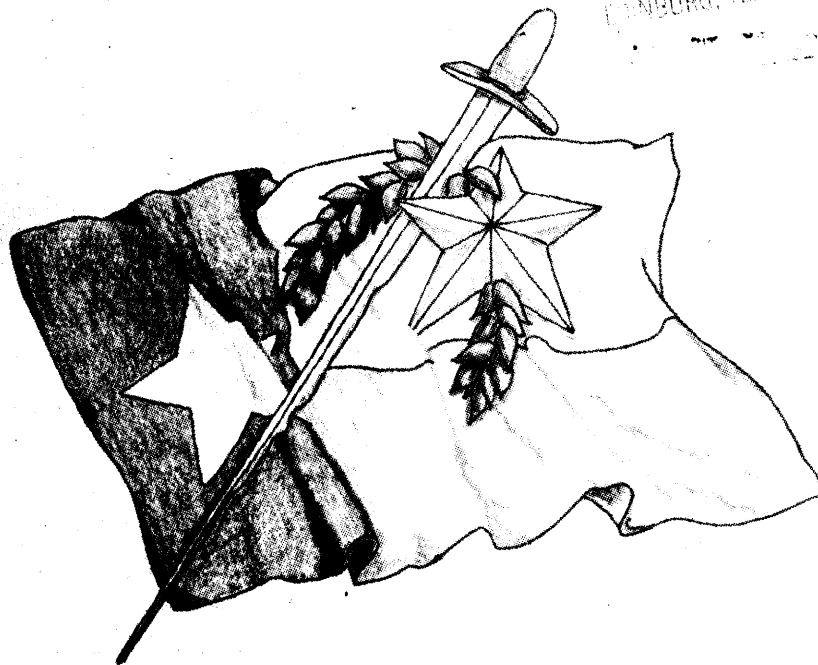


# Texas Register

GOVERNMENT DOCUMENT  
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APR 19 1982

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## Highlights

- ★ Texas Motor Vehicle Commission adopts on an emergency basis and proposes for permanent adoption new sections concerning the offering and advertising of consumer rebates and incentive programs by motor vehicle manufacturers and dealers; effective date-April 8; proposed date of adoption-August 6 ..... pages 1530 and 1536
- ★ Texas Department of Human Resources adopts on an emergency basis a new rule to provide persons affected by disasters with food stamp assistance due to deletion of current regulations by the USDA; effective date-April 8..... page 1531
- ★ Department of Mental Health and Mental Retardation proposes two new sections to establish uniform standards for quality of medical laboratory services throughout the department; proposed date of adoption-May 17..... page 1538

# How To Use the Texas Register

## Texas Register

The *Texas Register* (ISSN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1982 with the exception of January 5, April 27, November 16, November 30, and December 28, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

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

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of letters advisory, election law interpretations, and other written directives and instructions 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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register Division six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

**How To Cite:** Material published in the *Texas Register* is referenced by citing the volume in which a document appears,

the words "TexReg," and the beginning page number on which that document was published. For example, a document published on page 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: "7 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 7 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 Division office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code* (explained below), rule number, or TRD number.

## Texas Administrative Code

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

**How To Cite:** Under the TAC scheme, each agency rule is designated by a TAC number. For example, in the citation 1 TAC §27.15:

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

**TAC** stands for the *Texas Administrative Code*;

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

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Latest Texas Code Reporter  
(Master Transmittal Sheet): No. 6, July 81

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

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

# The Governor

## Appointments Made March 25 State Board of Plumbing Examiners

To represent home building contractors, for a term to expire September 5, 1983:

J. P. Franzen  
12034 Bencrest  
Dallas, Texas 75234

Mr. Franzen will be filling the unexpired term of William H. Williams of League City, Galveston County, who is deceased.

Issued in Austin, Texas, on April 6, 1982.

TRD-823071 William P. Clements, Jr.  
Governor of Texas

## Appointments Made March 26

### Texas Air Control Board

Pursuant to House Bill 726, 66th Legislature, to serve as a public member, for a six-year term to expire September 1, 1987:

Richard Hal Moorman IV  
P.O. Box 1808  
Brenham, Texas 77833

Mr. Moorman is replacing William D. Parish of Mercedes, Hildago County, whose term expired.

### Advisory Council on Community Affairs

For a term to expire January 31, 1983:

Robert E. Bolen  
5200 Rector  
Fort Worth, Texas 76133

Mayor Bolen will be replacing Woody Woods of Fort Worth, Tarrant County, whose term expired. Mr. Bolen will serve in the category of mayor of a municipality having a population of 250,000 or more.

### Texas Credit Union Commission

Pursuant to House Bill 1399, 67th Legislature, to serve as a public member, for a six-year term to expire February 15, 1987:

Major General Leroy W. Svendsen, Jr. (USAF Retired)  
Route 3, Box 500F  
San Antonio, Texas 78218

### Texas Board of Health Dental Advisory Committee

To serve as a public member, for a six-year term to expire February 1, 1988:

Mac Norwin Pool Churchill  
4808 Crestline Drive  
Fort Worth, Texas 76107

Mr. Churchill is replacing Norman Allen Cohen of Dallas, Dallas County, whose term expired.

To represent the Gulf States Dental Association, for a six-year term to expire February 1, 1988:

Foster Kidd, D.D.S.  
5914 McShann Road  
Dallas, Texas 75230

Dr. Kidd is being reappointed.

### Texas Advisory Commission on Intergovernmental Relations

To represent other political subdivisions, for a term to expire September 1, 1983:

Sam Collins  
Executive Vice President and General Manager  
Sabine River Authority of Texas  
P.O. Box 579  
Orange, Texas

Mr. Collins will be filling the unexpired term of Louisa Belle Kyles of Jasper who resigned.

### Lower Concho River Water and Soil Conservation Authority

For a term to expire January 1, 1983:

Harvey P. Williams  
P.O. Box 668  
Eola, Texas 76937

Mr. Williams will be filling the unexpired term of Drake L. McKinney who resigned.

### State Board of Veterinary Medical Examiners

Pursuant to Senate Bill 232, 67th Legislature, for a six-year term to expire August 26, 1987:

Ed B. Avery, D.V.M.  
Pearsall Veterinary Clinic  
1412 West Comal Street  
Pearsall, Texas 78061

Dr. Avery is being appointed to a new position on the board.

Issued in Austin, Texas, on April 6, 1982.

TRD-823072 William P. Clements, Jr.  
Governor of Texas

# Emergency Rules

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

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

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

## TITLE 1. ADMINISTRATION Part IV. Office of the Secretary of State

### Chapter 81. Elections Campaign Reporting and Disclosure

1 TAC §§81.165-81.168

The Office of the Secretary of State is renewing the effect. ~~ness~~ of the emergency adoption by reference of new §§81.165-81.168 for a 60-day period effective April 30, 1982. The text of the new sections as adopted on an emergency basis was originally published in the January 8, 1982, issue of the *Texas Register* (7 TexReg 46).

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

TRD-823126 Willis Whatley  
Counsel to the Secretary of  
State

Effective date: April 30, 1982  
Expiration date: June 29, 1982  
For further information, please call (512) 475-0545.

Section 105.20 is repealed solely for the purpose of renumbering the section. In a separate action, the commission has adopted on an emergency basis certain rules, one of which is identical to §105.20 without change from the original text, but which has been renumbered as §105.22.

The emergency repeal of §105.20 is authorized by the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and by §3.02 of the Texas Motor Vehicle Commission Code, Article 4413(36).

#### §105.22. *Finding of Violation.*

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

TRD-823127 Russell Harding  
Executive Director  
Texas Motor Vehicle Commission

Effective date: April 8, 1982  
Expiration date: August 6, 1982  
For further information, please call (512) 476-3587.

## TITLE 16. ECONOMIC REGULATION Part VI. Texas Motor Vehicle Commission Chapter 105. Advertising

16 TAC §§105.20

The Texas Motor Vehicle Commission repeals on an emergency basis §105.20 concerning the finding by the commission of violations of the commission's advertising rules.

#### 16 TAC §§105.20-105.22

The Texas Motor Vehicle Commission adopts on an emergency basis new §105.20 and §105.21, concerning the offering and advertising of certain consumer rebate and incentive programs by motor vehicle manufacturers, distributors, and dealers.

The commission finds that the adoption of such rules is necessary in the best interest of the citizens of the State of Texas to clarify the legal requirements applicable to the offering and advertising of such programs in Texas and to allow the implementation in Texas of certain programs presently available to consumers in other states. The public interest and welfare will be served by allowing consumers of the state to

avail themselves of the benefits afforded by such programs in connection with the purchase of new motor vehicles, particularly programs providing a favorable, low interest rate of financing new vehicles, which programs were not previously offered in Texas.

Section 105.22, also adopted on an emergency basis, represents only the renumbering of the commission's former §105.20, without any change in text. The renumbering is necessitated by the adoption of new §105.20 and §105.21.

This agency is simultaneously proposing the permanent adoption of these emergency rules.

These sections are adopted under the authority of the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, and the Texas Motor Vehicle Commission Code, Texas Civil Statutes, Article 4413(36), §3.02, §5.01(2) and §5.02(4).

**§105.20. Manufacturer and Distributor Rebates.** It shall be unlawful for any manufacturer or distributor, either directly or indirectly, to advertise, publicize, or represent to the public by any means or in any medium, any offer to purchasers of vehicles sold by the manufacturer or distributor, of a rebate, refund, discount, or other financial inducement or incentive, which is either payable to or for the benefit of the purchaser of the vehicle or which reduces the amount to be paid by the purchaser for the vehicle, whether such amount is the vehicle purchase price, the interest or finance charge expense, or any other cost accruing to the purchaser in connection with the purchase of the vehicle, where any portion of such rebate, refund, discount, or other financial incentive or inducement is paid by or financed by or in any manner contributed to by the dealer selling the vehicle, unless such advertising or publicizing discloses clearly and conspicuously the following:

(1) the maximum dealer portion or contribution of any rebate, refund, discount, or other financial inducement or incentive stated in numerical form (either dollar amount or percentage); and, that the dealer's contribution may affect the final negotiated price of the vehicle; or

(2) with respect to interest or finance charge expense programs only, that participating dealers contribute to the reduction of the financing rate and that the dealer's contribution may affect the final negotiated price of the vehicle.

**§105.21. Rebate and Financing Rate Advertising by Dealers.** It shall be unlawful for any dealer, either directly or indirectly, to advertise, publicize, or represent to the public by any means or in any medium, any offer to purchasers of vehicles sold by the dealer, of a manufacturer's or distributor's rebate, refund, discount, or other financial inducement or incentive of the type described in §105.20 of this title (relating to Manufacturer and Distributor Rebates), unless such advertising or publicizing clearly and conspicuously discloses the following:

(1) the maximum dealer portion or contribution of any rebate, refund, discount, or other financial inducement or incentive stated in numerical form (either dollar amount or percentage); and, that the dealer's contribution may affect the final negotiated price of the vehicle; or

(2) with respect to interest or finance charge expense programs only, that participating dealers contribute to the reduction of the financing rate, and that the dealer's contribution may affect the final negotiated price of the vehicle.

**§105.22. Finding of Violation.** No licensee shall be held to be in violation of the foregoing rules, including the general prohibition, except upon a finding thereof made by the commission after notice and hearing as provided in the Texas Motor Vehicle Commission Code.

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

TRD-823065      Russell Harding  
Executive Director  
Texas Motor Vehicle Commission

Effective date: April 8, 1982

Expiration date: August 6, 1982

For further information, please call (512) 476-3587.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department Human Resources

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

#### Food Stamps Food Stamp Assistance in Disasters 326.15.76

The Texas Department of Human Resources adopts the following rule, on an emergency basis, concerning food stamp assistance for persons affected by disasters. On March 5, 1982, the department proposed the repeal of the existing rules for assistance in disasters because the United States Department of Agriculture (USDA) deleted the current regulations. Therefore, because of the recent disaster in Paris, Texas, and since USDA has not issued final regulations, the department must file, as an emergency rule, the interim regulations issued by USDA. The following rule cites the federal regulations which describe the emergency Food Stamp Program in areas that have been declared by USDA as disaster areas. The department considers it necessary to adopt an emergency rule to ensure the continued health, safety, and welfare of the citizens in Paris, Texas.

This rule is adopted on an emergency basis under the Human Resources Code, Title 2, Chapters 22 and 33, which authorize the department to administer public assistance programs.

**.048. Emergency Food Stamp Assistance.** The Department of Human Resources will operate an emergency Food Stamp Program under the conditions

and procedures established by the United States Department of Agriculture. An emergency Food Stamp Program is authorized under §302(a) of the Disaster Relief Act of 1974, and §5(h)(1) of the Food Stamp Act of 1977, as amended.

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

TRD-823056      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Effective date: April 8, 1982  
Expiration date: August 6, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.





Thirty days before an agency intends to permanently adopt a new or amended rule, or repeal an existing rule, it must submit a proposal detailing the action in the *Register*. The 30-day time period gives interested persons an opportunity to review and make oral or written comments on the rule. A public hearing on the proposal may also be granted if such a procedure is requested by a governmental subdivision or agency, or by an association consisting of at least 25 members.

Unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice, the proposal may not be adopted until 30 days after publication. The document, as published in the *Register*, must include a brief explanation of the proposed action; a 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 legal authority under which the proposed rule is to be adopted (and the agency's interpretation of the legal authority); the text of the proposed action; and a certification statement. The certification information which includes the earliest possible date that the agency may file notice to adopt the proposal, and a telephone to call for further information, follows each submission.

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

# Proposed Rules

## TITLE 13. CULTURAL RESOURCES

### Part IV. Texas Antiquities

#### Committee

### Chapter 41. Practice and Procedure — Office of the State Archeologist

13 TAC §§41.2, 41.4, 41.6, 44.11,  
41.12, 41.16-41.18, 41.24

The Texas Antiquities Committee proposes amendments to §§41.2, 41.4, 41.6, 41.11, 41.12, 41.16-41.18, and 41.24, concerning state archeological landmarks.

LaVerne Herrington, Ph.D., resource conservation director, has determined that for the first five-year period the rules will be in effect, there will not be fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Herrington has also determined that for each year of the first five years the rules as proposed are in effect the public benefits anticipated as a result of enforcing the rules as proposed will be state archeological landmarks will be readily identifiable by governmental bodies and private citizens, thereby effecting more efficient and economical management of public properties. The Texas Supreme Court Decision B-6107 dictated the promulgation of these rules

which are now being completed. There is no economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Carol Andree, P.O. Box 12276, Austin, Texas 78711.

The amendments are proposed under Texas Civil Statutes, Article 6145-9, which provides the Texas Antiquities Committee with the authority to promulgate rules, determine the site of and designate landmarks, and to require permit conditions.

§41.2. *Scope.* State archeological landmarks include all sites, objects, buildings, pre-20th century shipwrecks and locations of historical, archeological, educational, or scientific interest including, but not limited to, prehistoric and historic American Indian or aboriginal campsites, dwellings, and habitation sites, archeological sites of every character, treasure embedded in the earth, sunken or abandoned ships and wrecks of the sea, or any part of the contents thereof; maps, records, documents, books, artifacts, and implements of culture in any way related to the inhabitants, prehistory, history, natural history, government, or culture in, on, or under any of the lands of the State of Texas, including the tidelands, submerged lands and the bed of the sea within the jurisdiction of the State of Texas. Section 191.092 [Section 6] of the Code provides that historical and archeological sites on lands belonging to any county, city, or other political subdivision of the State of Texas are state archeological landmarks and may not be taken, altered, damaged,

destroyed, salvaged, or excavated without a permit from the Texas Antiquities Committee. Also protected under the Antiquities Code of Texas are specially designated archeological landmarks on private property, as well as all American Indian or aboriginal paintings, hieroglyphics, or other marks or carvings on rock or elsewhere which pertain to early American or aboriginal habitation of the country. The Antiquities Committee is further empowered to provide for a system of permits and contracts for salvage or treasures embedded in the earth and the excavation or study of archeological and historical sites and objects.

**§41.4. Application for Permit.**

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

(c) Application for permit. Any institution, corporation, organization, museum, or individual desiring a permit for investigation of a state archeological landmark should file an application with the Texas Antiquities Committee, P.O. Box 12276, Austin, Texas 78711, at least **one month** [two months] prior to the proposed beginning date of the project. Special circumstances may require that a permit be issued on short notice when a site is threatened with immediate destruction, in which case the chairman may poll the committee for an immediate decision. When a permit is issued for emergency salvage of a site threatened with destruction, the same rules and regulations apply as with all other permits. The permit application should include:

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

**§41.6. Issuance of Permits.**

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

(c) Permit period. **Usually** no permit will be granted for a period of more than one year, but if the work has been diligently prosecuted under the permit, the time may be extended upon application showing good cause.

(d) (No change.)

(e) **Site forms. Site forms for all sites recorded as a result of activities undertaken through an antiquities permit will be completed and submitted to the Texas Antiquities Committee upon the completion of field work. Standard state site survey forms will be used.**

**§41.11. Investigation Reports.** Failure to comply with the following reporting standards will result in the rejection (pending rectification) of the report by the Texas Antiquities Committee. The fulfillment of these requirements should be considered the minimal threshold of acceptability, and a report should not be limited to addressing these responsibilities only:

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

(4) The report must contain a table of contents and abstract; a list of figures and/or illustrations; definitions of terms used; a map of the project area; a map that specifically locates all cultural resources discovered or investigated; a discussion of the history and previous investigations (including documentary evidence) in the general as well as surrounding areas; a statement and justification of research design and how it was fulfilled; appropriate environmental data; analysis and interpretation of all recovered data and materials; name of facility where recovered materials and other data are permanently stored; [site locations in universal transverse mercator

system;] specific recommendations of sites which are to retain state archeological landmark status and of sites which appear to be eligible for nomination to the National Register of Historic Places; recommendations, including complete budget estimates, for mitigation of loss or further investigation if cultural resources will be adversely affected by a proposed project; and a list of references cited.

(5) (No change.)

**§41.12. Disposition of Antiquities and Data.**

(a) (No change.)

(b) Ownership. All specimens, artifacts, materials, and samples plus original field notes, maps, drawings, photographs, and standard state site survey forms, resulting from the investigations remain the property of the State of Texas. Certain exceptions left to the discretion of the Texas Antiquities Committee are contained in **§191.052(b), Article 9 of the Texas Antiquities Code.** The Antiquities Committee will determine the final disposition of all artifacts, specimens, materials, and data recovered by investigations on state archeological landmarks which remain the property of the state. Antiquities from state archeological landmarks are of inestimable historical and scientific value and should be preserved and utilized in such a way as to benefit all the citizens of Texas. It is a policy of the Antiquities Committee that such antiquities shall never be used for commercial exploitation.

(c)-(d) (No change.)

**§41.16. Guidelines for Recognizing Historical Structures as State Archeological Landmarks.**

[(a)] Buildings of historical interest, as mentioned in **§191.092** [§6] of the Code, are structures, or remains thereof, located on lands owned or controlled by the State of Texas or one of its political subdivisions and which are listed on the National Register of Historic Places, are recorded Texas historical landmarks, have been granted a Texas historical marker, or have been otherwise certified as worthy of preservation under **§191.092 of Article 6145-9** [§15 of Article 6145]. The committee recognizes all such structures as state archeological landmarks, and they may not be altered, damaged, or destroyed without a permit from the committee. Structures which are considered eligible can be nominated to the national register by contacting the director of the National Register Program, Texas Historical Commission, P.O. Box 12276, Capitol Station, Austin, Texas 78711. Specific criteria for evaluation of historical buildings as state archeological landmarks include:

(1) (No change.)

(2) the structure is situated on private lands which have been specifically designated as a state archeological landmark following procedures specified in **§191.094** [§7] of the Code; and

(3) the structure **was significantly associated with the life of a famous person, or** [possesses integrity of location, design setting, materials, workmanship, and association; and]

(4) the structure **was the site of an event or is associated with events that have made a significant contribution to national, state, or local history; or**

(5) the structure **represents a distinctive architectural type and has value as an example of a period, style,**

or construction technique, [embodies the distinctive characteristics of a recognized architectural type, period, or method of construction, or it] represents the work of a particular master, or possesses high artistic values; or

(6)-(7) (No change.)

(b) Structures such as American Indian ruins, cabins, homes, farm or ranch buildings, schools, court-houses, libraries, museums, business and industrial buildings, and so forth may be designated as state archeological landmarks if they meet the appropriate criteria specified in this section. The agency, institution, corporation, society, or individual owning or controlling a structure recognized as state archeological landmark shall be notified of its being so designated and shall be notified of any change in its status as a landmark. A current list of all structures which have been designated as state archeological landmarks will be maintained in the office of the Texas Antiquities Committee at 105 West 16th Street in Austin, Texas.]

§41.17. *Guidelines for Recognizing State Archeological Landmarks.*

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

(c) In addition to the guidelines presented in this section, descriptions and examples of kinds of landmarks are included in a separate publication so that all interested parties can identify properties as being potential or designated state archeological landmarks. This publication, entitled *Texas State Archeological Landmarks*, is available from the Office of the State Archeologist, P.O. Box 12276, Austin, Texas 78711.

(1) Habitation sites. **Habitation sites are areas or structures where people live or have lived on a permanent or temporary basis.** Standing structures may or may not be present. Habitation sites may also contain evidence of activities that are listed in the following as site types in the nonhabitation category.

(A) Campsites.

(i) American Indian open campsites are occupied on a temporary, seasonal, or intermittent basis. Evidence of structure may or may not be present. American Indian campsites of both periods may have accumulations of shell or burned rock as well as hearths, hearth fields, bedrock mortars, burials, and/or scatters or accumulations of ceramics, stone debitage, flaked tools, and grinding stones. Campsites vary in size from a few square meters to several hectares. Additionally, American Indian sites near missions, forts, and trading posts were present during the historic period. These sites, termed encampments, are of varying degrees of permanence with the site generally being continuously occupied but not necessarily by the same group, tribe, or culture.

(ii) (No change.)

(iii) Non-Indian campsites are the cultural remains of activities by people who are not American Indian. Examples are sites that represent the activities of railroad workers, military units, settlers, slaves, and other groups as yet unidentified. These sites include the area and remains of temporary encampments such as Chinese railroad camps, wagon train campsites, shepherd's shelters, line camps, buffalo hunters camps, cavalry campgrounds, trail drive camps, camps at river fords,

candelilla wax camps, and others. [Standing structures may or may not be present.]

(B) Residence sites.

(i)-(ii) (No change.)

(iii) Non-Indian sites may include, **in addition to the main structure**, out buildings, water systems, trash dumps, garden areas, driveways, and other remains that were an integral part of the site when it was inhabited. Examples of structures or structural remains which might be present in addition to the residence include, **but are not limited to**, barns, silos, cisterns, corrals, wells, smokehouses, stables, gazebos, carriage houses, fences, walls, corn cribs, gins or mills, cellars, kitchens, and bunkhouses. Family cemeteries are often associated with early historic sites.

(2) Nonhabitation sites. Nonhabitation sites result from use during specialized activities. **Standing structures may or may not be present.** The kinds of sites included in this category are outlined [in subparagraphs (A)-(J)] in this paragraph. Descriptions of each kind of site are given.

(A)-(G) (No change.)

(H) Commercial and industrial structures and sites. The main purpose of these structures is [was] to provide a place of business where products or services are [were] produced, stored, distributed, or sold. Such sites include, **but are not limited to**, markets, stores, shops, banks, hostels, stables, inns, stage stops, breweries, bakeries, factories, kilns, mills, storage facilities, and railroad, bus, and transway depots. Trash or dump deposits, outbuildings, wells, cisterns, and other features associated with the principal structures are considered to be a part of the site. [Standing structures may or may not be present.]

(I)-(J) (No change.)

§41.18. *Specific Criteria for Evaluation of Archeological Sites as State Archeological Landmarks.* Specific criteria for evaluation of archeological sites as state archeological landmarks include the following:

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

§41.24. *Designation Procedure.*

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

(e) **Designation.** [Presentation.] After the comment period of 30 days has elapsed, the property will be period of 30 days has elapsed, the property will be presented to the Texas Antiquities Committee for designation. Interested parties will be informed of the agenda by written notice at least 15 days in advance of the meeting date and may present evidence at the meeting **when** [where] the final decision is to be made.

(f) (No change.)

(g) **Additional hearings.** Any owner of a state archeological landmark who is aggrieved by the designation procedure as applied to the property in question will receive a full evidentiary hearing upon request, or the formal designation will be removed by action of the committee.

(h)[(g)] Additional evidence. If a property is rejected, interested parties may submit additional evidence during the 30-day period immediately following the committee's decision. The evidence will be considered by the

Texas Antiquities Committee at the next regularly scheduled meeting following the end of the 30-day period.

(i)(h) Listing in inventory. If a property is accepted for state archeological landmark status, the property will be listed in the inventory of state archeological landmarks and may be marked with the standard state archeological landmark marker, if deemed advisable.

(j)(i) List of state archeological landmarks. [Site list.] A current [Current] list of all [sites, including] buildings, [and] structures, and sites that have been identified [designated] as state archeological landmarks, will be maintained in the office of the Texas Antiquities Committee at 108 [105] West 16th Street in Austin, Texas.

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

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

TRD-823061 Curtis Tunnell  
Executive Secretary  
Texas Antiquities Committee

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 475-3092.

The executive director has also determined that there are no public benefits anticipated, nor any economic costs to individuals as a result of repealing the rule.

Public comment on the proposal is invited. Comments may be submitted in writing to Russell Harding, executive director, Texas Motor Vehicle Commission, P.O. Box 2293, Austin, Texas 78768, within 60 days of publication of this proposal.

This repeal is proposed under Texas Civil Statutes, Article 4413(36), §3.02, which grants general rulemaking authority to the commission.

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 April 8, 1982.

TRD-823128 Russell Harding  
Executive Director  
Texas Motor Vehicle Commission

Proposed date of adoption: August 6, 1982  
For further information, please call (512) 476-3587.

**TITLE 16. ECONOMIC  
REGULATION  
Part VI. Texas Motor Vehicle  
Commission  
Chapter 105. Advertising**

**16 TAC §105.20**

*(Editor's note: The Texas Motor Vehicle Commission simultaneously adopts the following repeal on an emergency basis and proposes the permanent repeal of the rule. The rule title is listed in the Emergency Rules section of this issue. The text of the rule will not be published; it may be examined in the offices of the Texas Motor Vehicle Commission, 815 Brazos Street, Austin, or in the Texas Register Division of office, 503E Sam Houston Building, Austin.)*

The Texas Motor Vehicle Commission proposes to repeal §105.20 concerning the finding by the commission of violations of the commission's advertising rules.

Section 105.20 of the commission's advertising rules is proposed to be repealed solely for the purpose of the renumbering of the section. In a separate proposal, the commission is proposing the adoption of new advertising rules, one of which will be the existing §105.20 relating to the finding of violations by the commission, which section will be adopted without change from the original text, but which will be renumbered as §105.22.

Russell Harding, executive director of the commission, has determined that there will be no fiscal implications to state or local government as a result of the repeal of the subject rule.

**16 TAC §§105.20-105.22**

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

The Texas Motor Vehicle Commission proposes to adopt new §105.20 and §105.21 concerning the offering and advertising of certain consumer rebate programs by new motor vehicle manufacturers, distributors, and dealers. As a result of the adoption of the proposed new §105.20 and §105.21, the current §105.20 will be renumbered as §105.22.

Based upon the commission's study and analysis of the practice of certain motor vehicle manufacturers and distributors of offering to the public, rebates, refunds, discounts, and other financial incentives to promote the sale of new motor vehicles, a portion of which rebates, refunds, discounts, or other financial incentives is paid or funded by dealers, it has been determined by the commission that such practice has the capacity and tendency to deceive and mislead the public in that the consumer, the ultimate purchaser of the vehicle, may not in fact receive the full and complete benefit of the total amount of the rebate, refund, discount, or other financial incentive as represented in the advertisements for such programs. Accordingly, the commission has determined that the adoption of the proposed rules requiring clear and conspicuous disclosure in the advertising of such programs that dealers are contributing to the cost of such programs and that such dealer contribution may affect the price paid by the consumer for the vehicle is necessary to prevent any deception or misleading of the public which may result from the use of such sales promotion devices by motor vehicle manufacturers and distributors.

Russell Harding, executive director of the commission, has determined that for the first five-year period the rules will be in effect, there will not be fiscal implications to state or local government as a result of enforcing or administering the rules.

The executive director has also determined that for each year of the first five years the rules as proposed are in effect, the public benefits anticipated as a result of enforcing the rules as proposed will be the protection of the consumer by the elimination of a misleading and deceptive advertising and merchandising practice in connection with the sale of new motor vehicles. There will be no economic cost to individuals who are required to comply with the rules as proposed.

Public comment on the proposed rules is invited. Comments should be submitted in writing to the executive director, Texas Motor Vehicle Commission, P.O. Box 2293, Austin, Texas 78768, within 60 days of publication of this proposal. Any requests for public hearing on the proposed rules must also be filed with the commission within 60 days of publication of this proposal.

The new sections are proposed under Texas Civil Statutes, Article 4413(36), §3.02 and §5.02(4), which authorize the commission to make and enforce such rules as are reasonably required to enforce the provisions of the Texas Motor Vehicle Commission Code including the prohibition of false, deceptive, and misleading advertising practices.

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 April 8, 1982.

TRD-823066      Russell Harding  
                         Executive Director  
                         Texas Motor Vehicle Commission

Proposed date of adoption: August 6, 1982  
For further information, please call (512) 476-3587.

## TITLE 22. EXAMINING BOARDS

### Part VII. Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

#### Chapter 141. Definitions and Procedures

22 TAC §§141.16, 141.23, 141.25, 141.32

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids, 1212 Guadalupe, Austin, or in the Texas Register Division office, 503E Sam Houston Building, Austin.)*

The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids proposes the repeal of §§141.16, 141.23, 141.25, and 141.32, concern-

ing publication of notice of examination, proper application, misleading advertising and verification of reports which are being repealed as they no longer apply to Texas Civil Statutes, Article 4566. Section 141.16 was promulgated by Texas Civil Statutes, Article 4566, §1.03, which language has been repealed and no longer applies. Section 141.23 is a duplication of §141.20 and is therefore unnecessary. Section 141.25 is repealed per Texas Civil Statutes, Article 4566, 1.12A(4) and §141.32 is repealed per Texas Civil Statutes, Article 4566, 1.14(e).

R. B. Hall, executive director, has determined that there will not be fiscal implications to state or local government as a result of repeal.

Mr. Hall has also determined that there will be no public benefit or economic cost anticipated as a result of the repeal.

Comments on the proposal may be submitted to R. B. Hall, executive director, Penthouse Apartments, 1212 Guadalupe, Suite 105, Austin, Texas 78701.

The repeal is proposed under Senate Bill 604, §3, Acts of the 67th Legislature, which provides the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids with the authority to repeal these rules as they no longer apply to Texas Civil Statutes, Article 4566.

§141.16. *Publication of Notice of Examination.*

§141.23. *Proper Application.*

§141.25. *Misleading Advertising.*

§141.32. *Verification of Reports.*

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

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

TRD-823058      R. B. Hall  
                         Executive Director  
                         Texas Board of Examiners in the  
                         Fitting and Dispensing of  
                         Hearing Aids

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 475-3429.

22 TAC §§141.17, 141.19, and 141.31

The Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids proposes amendments to §§141.17, 141.19, and 141.31, concerning mailing notice of examination, written submission of complaints, and mail sales prohibited which are being amended per Texas Civil Statutes, Article 4566, as amended by Senate Bill 604, Acts of the 67th Legislature. Section 141.17 was amended per Texas Civil Statutes, Article 4566, §1.06(e); §141.19 was amended per Texas Civil Statutes, Article 4566, §1.02(a)(2), (3), (4); and §141.31 was amended per Article 4566, §1.14(e).

R. B. Hall, executive director, has determined that for the first five-year period the rules will be in effect, there will be no fiscal implications to state or local

government as a result of enforcing or administering the rules.

Mr. Hall has also determined that for each year of the first five-years the rules as proposed are in effect, there is no public benefit or economic cost anticipated as a result of enforcing the rules as proposed.

Comments on the proposal may be submitted to R. B. Hall, executive director, Penthouse Apartments, 1212 Guadalupe, Suite 105, Austin, Texas 78701, (512) 475-3429.

The amendments are proposed under Senate Bill 604, Acts of the 67th Legislature, which provides the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids with the authority to amend these rules in accordance with Texas Civil Statutes, Article 4566.

**§141.17. Mailing Notice of Examination.** Notice of all examinations shall be sent to all persons holding temporary training permits at least 45 days prior to the administration of the examination. To be eligible to participate in said examination all applications for said examination must be received by the board at least 15 days prior to the examination date [dated, by registered mail].

**§141.19. Written Submission of Complaints.** All examinees shall be informed that they have the right to submit in writing any complaint they may feel justifiable as a result of their participating in the examination process, but said complaint must be executed immediately at the conclusion of the examination period. Said complaint shall be to the executive director and reviewed by the [three] nondealers on the board. Further, their decision as to appropriate action shall be final in regard to board consideration; the examinee reserving the right of legal appeal. If a complaint involved one of the nondealer members of the board, he shall excuse himself from the deliberation.

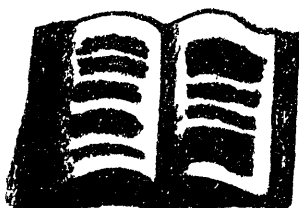
**§141.31. Mail Sales Prohibited.** The phrase "any individual licensed under this Act shall seek personally or through proper channels," ["conducted in person,"] as used in Texas Civil Statutes, Article 4566-1.14(e) [4566-1.15(a)(7)], implies that the sale of a hearing aid by mail is a prohibited act.

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 April 8, 1982.

TRD-823059 R. B. Hall  
Executive Director  
Texas Board of Examiners in the  
Fitting and Dispensing of  
Hearing Aids

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 475-3429.



## TITLE 25. HEALTH SERVICES Part II. Texas Department of Mental Health and Mental Retardation

### Chapter 405. Client (Patient) Care Standards for Quality of Medical Laboratory Services

#### 25 TAC §§405.805-405.808

The Texas Department of Mental Health and Mental Retardation proposes new §§405.805-405.808 (302.04.46.001-.004) concerning standards for quality of medical laboratory services. The proposed sections would establish uniform standards for quality of medical laboratory services throughout the various facilities of the department.

Pamela Carley, director of safety and health, has determined that for the first five-year period the rules will be in effect, there will be fiscal implications as a result of enforcing or administering the rules. Additional cost to state government will be \$11,450 each year during years 1984, 1985, and 1986. There is no additional cost anticipated for state government during 1982 or 1983 and none anticipated for local government. There will be no reduction in cost nor loss or increase in revenue for governments.

Ms. Carley has also determined that for each year of the first five years the rules as proposed are in effect the public benefits anticipated as a result of enforcing the rules as proposed will be improved laboratory services provided to clients served by the Texas Department of Mental Health and Mental Retardation. There is no economic cost anticipated for individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Gary E. Miller, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 5547-202, §2.11(b), which provides the commissioner with the authority to promulgate rules of the department subject to the basic and general policies formulated by the Texas Board of Mental Health and Mental Retardation

**§405.805 (302.04.46.001). Purpose.** The purpose of this subchapter is to establish uniform standards for quality of medical laboratory services within the facilities of the Texas Department of Mental Health and Mental Retardation.

**§405.806 (302.04.46.002). Application.** This subchapter applies to all facilities under the jurisdiction of the Texas Department of Mental Health and Mental Retardation.

**§405.807 (302.04.46.003). Definitions.** The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Facility**—A state mental hospital, a state school for the mentally retarded, a state center for human development, the Rio Grande Center, and the Texas Research Institute of Mental Sciences.

**Medical laboratory services**—Those services (determinations) concerned with the examination and analysis of clients, and specimens from clients, for the diagnosis, treatment, and prevention of disease. These services may include any or all of the following.

- (A) hematology;
- (B) clinical chemistry;
- (C) urinalysis;
- (D) microbiology (including parasitology);
- (E) immunochemistry (blood bank);
- (F) diagnostic immunology—syphilis serology;
- (G) toxicology (including therapeutic drug monitoring);
- (H) nuclear medicine;
- (I) cytogenetics;
- (J) anatomic pathology;
- (K) cytology.

**Standards for accreditation of medical laboratories**—Those standards promulgated by the Commission on Laboratory Accreditation of the College of American Pathologists.

*405.808 (302.04.46.004). Implementation of Standards.* Each facility shall implement the standards for accreditation of medical laboratories of the College of American Pathologists for all medical laboratory services within one year from the effective date of this subchapter.

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 April 8, 1982.

TRD-823069 Gary E. Miller, M.D.  
Commissioner  
Texas Department of Mental  
Health and Mental Retardation

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 465-4591.

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

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

#### Life, Health, and Accident Insurance

#### Limited Exemption for Insurance Coverage from the Requirements of Article 3.42, Texas Insurance Code 059.03.46

The State Board of Insurance proposes to adopt new Rules 059.03.46.001-.005 to provide for a limited ex-

emption of certain insurance coverage from the requirements of Texas Insurance Code, Article 34.2.

The State Board of Insurance is authorized by section (e) of Article 3.42 to enter an order exempting from the requirements of Article 3.42, for so long as it deems proper, any insurance document or form specified in such order to which in its opinion Article 3.42 may not practically be applied, or the filing and approval of which are, in its opinion, not desirable or necessary for the protection of the public. The board has determined that certain group insurance coverage which results from a collective bargaining agreement between a labor organization and an employer and from arms-length bargaining by an association and the insurer must often, for reasons of economic necessity, be effective within a short time. Because of the sophistication of the parties involved, it is not desirable or necessary that the effective date of such coverage be delayed pending review by the board.

No fiscal implications are expected for units of state or local government as a result of these rules. The rules will simply embody a standard procedure for exempting the forms specified in the rules. Moreover, coverage will be required to be reviewed in due course whether or not it is filed for review prior to its effective date. The State Board of Insurance relies on A. W. Pogue, division manager, Policy Approval Division, in making this determination.

A public benefit is expected to result from these rules because coverage of the type specified will be facilitated and the procedure for exemption will be standardized. No additional cost is expected for insurers which will be required to comply with the rules because effecting coverage will be facilitated; all coverage will eventually be required to be reviewed. The State Board of Insurance again relies on Mr. Pogue in making this determination.

Comments on the proposal may be submitted to A. W. Pogue, division manager, Policy Approval Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

These rules are proposed under the authority of Texas Insurance Code, Article 3.42(e), pursuant to which the board may, by written order, exempt from the requirements of Article 3.42 for so long as it deems proper, any insurance document or form specified in the order, to which in its opinion, Article 3.42 may not practically be applied, or the filing and approval of which are, in its opinion, not desirable or necessary for the protection of the public.

*.001. Purpose.* These rules provide for exempting certain contracts or coverage from the requirements of Texas Insurance Code, Article 3.42, for 45 days from the time the coverage becomes effective or until a later date as provided in these rules. The board has determined that the filing and approval of forms before the coverage becomes effective is not desirable or necessary for the protection of the public, and further that the Texas Insurance Code, Article 3.42, may not practically be applied to such

forms or coverage prior to its issuance or delivery in Texas.

.002. *Coverage Which May Be Exempted.* The following classes of insurance coverage may be exempted:

(1) group life or accident or health insurance coverage delivered or issued for delivery to the groups authorized by Texas Insurance Code, Articles 3.50, §1(1) and (2) and 3.51-6, §1(a)(1), and Texas Insurance Code, Article 3.51-6, §1(a)(2), insofar as it applies to a labor union as group policyholder if the coverage conforms to the following:

(A) it is a result of a collective bargaining agreement between a labor organization and an employer;

(B) it is required by the collective bargaining agreement to go into effect with 60 days of the final agreement;

(C) it is the subject of aggressive and knowledgeable bargaining in a fully arms-length fashion on the part of the policyholder; and

(D) due to the economic posture of the parties involved, it is impracticable to obtain prior approval before the policy is issued and delivered.

(2) group life or accident or health insurance coverage delivered or issued for delivery to the groups authorized by Texas Insurance Code, Articles 3.50, §1(10) and 3.51-6, §1(a)(2), if the coverage conforms to the following:

(A) it is the result of extensive bargaining over the benefits to be afforded and the rates to be charged;

(B) it is required by the policyholder to go into effect within 60 days of the final agreement between the parties;

(C) it is the subject of aggressive and knowledgeable bargaining in a fully arms-length fashion on the part of the policyholder;

(D) due to the economic posture of the parties involved, it is impracticable to obtain prior approval before the policy is issued and delivered.

.003. *Obtaining Exemption.* The exemption specified in Rule 059.03.46.002 is conditioned on the insurer's compliance with the following:

(1) the insurer must file with the State Board of Insurance a statement signed by an officer of the company certifying that each of the conditions specified in either paragraphs (1) or (2) of Rule 059.03.46.002 is satisfied, and stating the name of the insured, the nature and extent of benefits, and the effective date of coverage;

(2) the insurer must inform the group policyholder in writing that the coverage is exempted from review by the State Board of Insurance for a limited time;

(3) the insurer must file the statement required by paragraph (1) of this rule and a copy of the communication required by paragraph (2) of this rule with the State Board of Insurance within 10 days of the time coverage becomes effective; and

(4) the insurer must submit the exempted forms for review with the State Board of Insurance in the usual manner prescribed by Texas Insurance Code, Article 3.42, as soon as possible after the coverage is effective, but in no case later than 45 days.

.004. *Duration of Exemptions.* Contracts submitted in accordance with Rule 059.03.46.003 will be review-

ed in the normal course. An exemption provided for in these rules, unless otherwise determined on either an individual or class basis by the board, expires on the later of the following:

(1) 45 days from the date coverage becomes effective, or

(2) 20 days after the form is either approved or disapproved.

.005. *Disciplinary Measures.* The State Board of Insurance may at any time revoke the exemption specified in these rules on the grounds that a company has not complied with these rules or by failing to abide by other applicable law is found to be unworthy of the exemption. The board may, after hearing, revoke that company's right to future exemptions under these rules and may also administer any sanction provided by law.

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

Issued in Austin, Texas, on April 6, 1982.

TRD-823034

James W. Norman  
Chief Clerk  
State Board of Insurance

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 475-2950.

## General Provisions Rules of the State Board of Insurance in Respect of Unfair Claims Settlement Practices 059.21.26

The State Board of Insurance is proposing amendments to Rules 059.21.26.001-.005, which was formally numbered as 059.21.21.201, to delete surplus language which is not properly part of the rule and to make other editorial changes. There are no substantive changes in the rules.

Since there are no substantive changes in the rules, there are no fiscal implications to the proposed amendments. The State Board of Insurance relies on Ray Marek, division manager, Business Practices and Enforcement, in making the foregoing determination.

A public benefit is expected because of the deletion of surplus language and the editorial changes. Since there are no substantive changes, no additional costs to persons required to comply with the rules is expected. The State Board of Insurance again relies on Mr. Marek in making the foregoing determination.

Comments on the proposed amendments may be submitted to Ray Marek, division manager, Business Practices and Enforcement, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

These amendments are proposed under the authority of Texas Insurance Code, Article 21.21-2, §8, pursuant to which the board may promulgate such rules and regulations as are necessary to carry out the purposes and provisions of the Unfair Claim Settlement Practices Act and in augmentation thereof; under



authority of Texas Insurance Code, Article 21.21-2, §2(g), pursuant to which the State Board of Insurance may define unfair claims settlement practices; and pursuant to the board's authority to make nonsubstantive editorial changes to clarify its rules.

.001. **Short Title.** *Unfair Claim Settlement Practices.* On January 31, 1974, the State Board of Insurance, after notice, held a public hearing on unfair claim settlement practices rules. Based upon the necessity shown in such hearing for the issuance of rules and regulations pertaining to unfair claim settlement practices, the State Board of Insurance does hereby, under the provisions of Texas Insurance Code, Article 21.21-2, promulgate the following rules and regulations pertaining to unfair claim settlement practices: rules and regulations of the State Board of Insurance in respect of unfair claim settlement practices.

(1) Short title.] These regulations shall be known as the unfair claim settlement practices rules.

.002. [(2)] **Definitions.** The following words or phrases, as used in these regulations, shall have the meaning placed opposite them unless the explicit wording of a regulation shall otherwise direct:

[A] Claim—A request or demand reduced to writing and filed by a Texas resident with an insurer for payment of funds or the providing of services under the terms of a policy, certificate, or binder of insurance.

[B] Claimant—A person making or having made a claim.

[C] Complaint—Any written communication, not solicited by an insurer, primarily expressing a grievance relating to an unfair claim settlement practice as defined in **Rule 059.21.26.003**, [§3] hereof.

[D] First-party coverage Benefits and other rights provided by an insurance contract to an insured.

[E] Insurer—Any person, or persons acting in concert, doing or licensed to do business in Texas under Subchapter G of Chapter 3 or Subchapters A, B, or C of Chapter 5 of the Texas Insurance Code, as amended, and including (when applicable) proprietorships, partnerships, corporations, and unincorporated associations, stock and mutual life, health, accident, fire, casualty, fire and casualty, hail, storm, title, and mortgage guarantee companies; mutual assessment companies; local mutual aid associations; local mutual burial associations; statewide mutual assessment companies; stipulated premium companies, fraternal benefit societies; group hospital service organizations; county mutual insurance company; Lloyds; reciprocal or interinsurance exchanges, and farm mutual insurance companies when transacting such business.

[F] Policyholder—The owner of a policy, certificate, or binder of insurance, and an insured, named insured, or obligee under a bond.

[G] Third party coverage Benefits and other rights provided by an insurance contract to any person other than an insured.

.003. [(3)] **Unfair Claim Settlement Practices.** No insurer shall engage in unfair claim settlement practices. Unfair claim settlement practices means [shall mean] committing or performing with such frequency as to indicate a general business practice any of the following:

(1)[(A)] Misrepresenting to claimants pertinent facts or policy provisions relating to coverage at issue.

(2)[(B)] Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies, provided that pertinent communications shall exclude written communications that are direct responses to specific inquiries made by the insurer after initial report of a claim. An acknowledgment within 15 working days is [shall be] presumed to be reasonably prompt.

(3)[(C)] Failing to adopt and implement reasonable standards for prompt investigation of claims arising under its policies.

(4)[(D)] Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear.

(5)[(E)] Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

(6)[(F)] Failure of any insurer to maintain a complete record of all complaints which it has received during the preceding three years or since the date of its last examination by the commissioner of insurance whichever time is shorter. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. A record of such complaints maintained in substantially the form as indicated on Exhibit A attached hereto will be presumed to be in compliance with this requirement; but Exhibit A shall not be considered as the exclusive method to record such complaints. Exhibit A is incorporated herein by reference. A copy of Exhibit A may be obtained from the Business Practices and Enforcement Division, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

(7)[(G)] Failing to provide promptly, when provided for in the policy, claims [claim] forms when the insurer requires such forms as a prerequisite for a claim settlement.

(8)[(H)] Not attempting in good faith to settle promptly claims where liability has become reasonably clear under one portion of the policy in order to influence settlement under portions of the policy coverage. (This provision does [shall] not apply to those situations where payment under one portion of coverage constitutes evidence of liability under another portion of coverage.)

(9)[(I)] Failing to provide promptly to a policyholder a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(10)[(J)] Failing to affirm or deny coverage of a claim to a policyholder within a reasonable time after proof of loss statements have been completed. The taking of a nonwaiver agreement or the submission of a reservation of rights letter by an insurer to the policyholder within a reasonable time is [shall be] deemed compliance with the provisions of this paragraph.

(11)[(K)] Except as may be specifically provided in the policy to refuse, fail, or unreasonably delay offer of settlement under applicable first-party coverage on

the basis that other coverage may be available or third parties are responsible in law for damages suffered.

(12)(L) Attempting to settle a claim for less than the amount to which a reasonable person [man] would have believed she/he was entitled by reference to written or printed advertising material accompanying or made part of an application

(13)(M) Undertaking to enforce a full and final release from a policyholder when, in fact, only a partial payment has been made. (This provision [rule] shall not prevent or have application to the compromise settlement of doubtful or disputed claims.)

(14)(N) Failing to establish a policy and proper controls to make certain that agents calculate and deliver to policyholders or their assignees funds due under policy provisions relative to cancellation of coverage within a reasonable time after such coverages are terminated.

(15)(O) Refusing to pay claims without conducting a reasonable investigation based upon all available information.

(16)(P) Failing to respond promptly to a request by a claimant for personal contact about or review of the claim.

.004. [(4)] *Special Claims Reports and Statistical Plan.* If it should be found by the State Board of Insurance based on complaints of unfair claims settlement practices as described in Rule 059.21.26.003 [§3] hereof, that an insurer is substantially out of line and should be subjected to closer supervision with respect to such practices, it may require such insurer to file a report at such periodic intervals as the board deems necessary. For purposes of this section, the term substantially out of line means [shall mean] a patently disproportionate number of complaints to indicate the existence of a pattern of unfair claim settlement practices as that term is defined in Rule 059.21.26.003 [§3] hereof. Such periodical reports shall contain the following information:

(1)(A) the total number of written claims filed, including the original amount filed for by the insured and the classification by line of insurance of each individual written claim, for the past 12-month period or from the date of the insurer's last periodic report, whichever time is shorter;

(2)(B) the total number of written claims denied for the past 12-month period or from the date of the insurer's last periodic report, whichever is shorter;

(3)(C) the total number of written claims settled, including the original amount filed for by the insured, the settled amount, and the classification of line of insurance of each individual settled claim, for the past 12-month period or from the date of the insurer's last periodic report, whichever time is shorter;

(4)(D) the total number of written claims for which lawsuits were instituted against the insurer, including the original amount filed for by the insured, the amount of final adjudication, the reason for the lawsuit and the classification by line of insurance of each individual written claim, for the past 12-month period or from the date of the insurer's last periodic report, whichever time is shorter, and

(5)(E) the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. Such periodic reports shall be filed with the State Board of Insurance and the commissioner of insurance.

.005. [(5)] *Minimum Standard of Performance.* All insurers shall maintain their affairs so that no unfair claim settlement practices are committed and [the State Board of Insurance does hereby declare that] the minimum standard of performance for all insurers (as that term is used in the Texas Insurance Code, Article 21.21-2) is to comply [compliance] with the provisions of Rule 059.21.26.003 [§3] of these regulations. [This order is based upon the necessities and opinion of the board as to need to protect the public of this state as shown in prior public hearing. This order may be altered by further order of the State Board of Insurance to provide such additional material and to otherwise alter provisions of this order as the State Board of Insurance deems necessary concerning the matters raised at said hearing. Board Order Number 27085.]

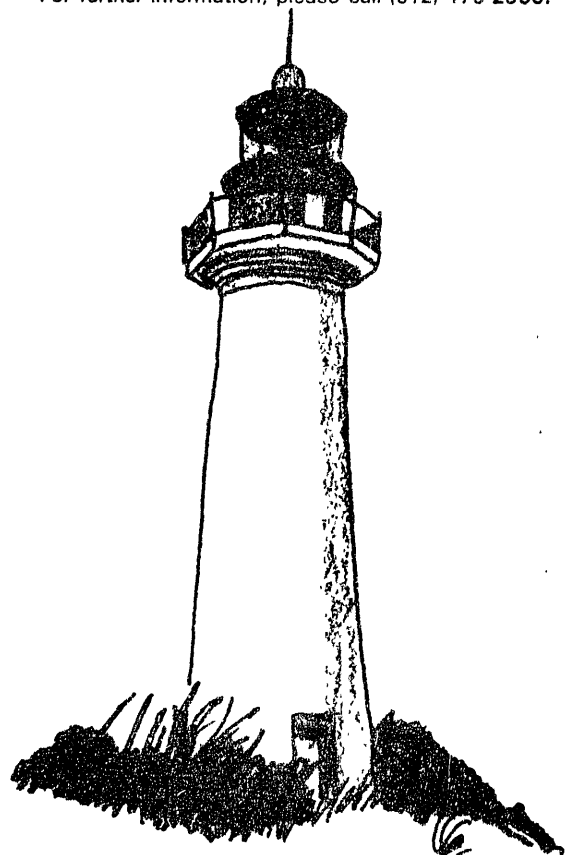
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on April 7, 1982

TRD-823048

James W. Norman  
Chief Clerk  
State Board of Insurance

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 475-2950.



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

**Chapter 3. Tax Administration**  
**Subchapter T. Motor Vehicle Sales Tax**  
**Division—Manufactured Housing**  
**Sales and Use Tax**

**34 TAC §§3.481-3.485**

The office of the Comptroller of Public Accounts proposes new §§3.481-3.485, concerning the manufactured housing sales and use tax. The rules were adopted on an emergency basis on March 10, 1982, and are now proposed for permanent adoption.

The purpose of these rules is to implement the Manufactured Housing Sales and Use Tax Act, effective March 1, 1982. The rules define several terms not defined in the Act and detail what records must be retained by manufacturers and dealers of manufactured housing. The rules also provide for determination of the tax due upon implementation of the Act.

Bill Allaway, director of revenue estimating, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government (estimated in millions) will be:

Year	Manufactured Housing Tax Revenue	Motor Vehicle Sales Tax Loss	Net Effect on State Revenue
1982	\$11.4	\$10.8	\$ .6
1983	25.6	24.2	1.4
1984	22.1	27.2	-5.1
1985	24.8	30.5	-5.7
1986	27.9	34.3	-6.4

The effect on local government (estimated in millions) will be a loss in county government service fees of \$.5 for 1982; \$1.2 for 1983; \$1.4 for 1984; \$1.5 for 1985; and \$1.7 for 1986.

Mr. Allaway has also determined that for each of the first five years the rules are in effect the benefits to the public (estimated in thousands) will be a decrease in tax liability due to the manufactured housing tax by \$5,100 for 1984, \$5,700 for 1985, and \$6,400 for 1986. There will be no decrease in tax liability for 1982 or 1983. For the first two years the provisions of §§3.481-3.485 are in effect, individuals required to comply with the rules will pay slightly more tax than they are presently required to pay. Tax liability will decrease in 1984, however, as a result of the rate reduction. The increase in tax paid by the public (estimated in thousands) due to the manufactured housing tax will be \$600 for 1982, \$1,400 for 1983. There will be no increase for years 1984-1986.

Public comment on the new sections is invited. Comments should be submitted in writing to Richard Montgomery, P.O. Box 13528, Austin, Texas 78711.

The new sections are proposed under the authority of 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.

**§3.481. Manufactured Home**

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

(1) **Manufactured home**—A mobile home or a modular home.

(2) **Mobile home**—A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

(3) **Modular home**—A dwelling that is manufactured in two or more modules at a location other than the homesite and which is designed to be used as a residence when the modules are transported to the homesite and are joined together and installed on a permanent foundation. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Modular home does not include:

(A) sectional or panelized housing in which the basic components assembled at the homesite are not at least three dimensional modules;

(B) a ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location; or

(C) a home constructed in modules incorporating concrete or masonry as the primary component.

(4) **Park model or house trailer**—A structure built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and which is less than eight body feet in width and 40 body feet in length in the traveling mode, and which is less than 320 square feet when installed or erected on site.

(5) **Recreational vehicle**—A vehicle which is not designed to be used as a permanent dwelling, and in which the plumbing, heating, and electrical systems are self-contained and may be operated without connection to outside utilities and which is self-propelled or designed to be towed by a motor vehicle.

(b) A manufactured home does not include a recreational vehicle, park model, or house trailer, as those terms are defined in this section. Further, it does not include a structure which is not designed as a residence and which, if constructed since June 15, 1976, would not have been required to have affixed a label or decal issued by the U. S. Department of Housing and Urban Development or by the Texas Department of Labor and Standards.

**§3.482. Imposition of Tax on Effective Date.**

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

(1) **Manufacturer**—Any person who constructs

or assembles manufactured housing for sale, exchange, or lease-purchase within this state.

(2) New manufactured home—One that has not been subject to a retail sale.

(3) Retailer—Any person engaged in the business of buying for resale, selling, or exchanging manufactured homes or offering such for sale, exchange, or lease-purchase to consumers. No person shall be considered a retailer unless engaged in the sale, exchange, or lease-purchase of two or more manufactured homes to consumers in any consecutive 12-month period.

(4) Sales price—The total amount to be paid as set forth in the invoice or bill of sale, excluding any separately stated shipping, freight, or delivery charges from the manufacturer to the retailer or other person.

(5) Used manufactured home—One that has been subject to a retail sale.

(b) The manufactured housing sales tax is due on all new manufactured homes sold by manufacturers on or after March 1, 1982, regardless of the date the manufacturing process was started or when the order for the home was placed.

(1) Invoices dated March 1, 1982, or after, for all new manufactured homes sold by manufacturers, must set forth the amount of the tax imposed, which is 6.5% of 65% of the sales price.

(2) The manufacturer must report and pay the tax to the comptroller on or before the last day of the month following the month in which the manufactured home was sold.

(3) A manufactured home is presumed to be sold at the time the home is sold or consigned by the manufacturer to a retailer or other person in Texas or is shipped to any point in Texas for the use and benefit of any person.

(c) The manufactured housing use tax is due on all manufactured homes which were purchased or acquired for resale by the retailer prior to March 1, 1982, and held by retailers in inventory on March 1, 1982.

(1) The tax applies to both new and used manufactured homes.

(2) The tax due is 6.5% of 65% of the sales price paid by or the acquisition cost to the retailer.

(A) If a retailer has acquired a manufactured home by way of a trade-in on another manufactured home sold prior to March 1, 1982, the taxable value of the trade-in is the amount allowed as a deduction from the selling price of the other manufactured home.

(B) This tax shall be due and payable to the comptroller on August 31, 1982, or at the time the manufactured home is removed from inventory, whichever occurs first, and becomes delinquent if not paid on or before the last day of the month following removal from inventory or September 30, 1982, whichever occurs first.

(d) Every retailer responsible for the use tax imposed on manufactured homes in inventory as of March 1, 1982, must prepare and send to the comptroller a report of all homes in inventory. The report must be provided by March 12, 1982, and must contain the following information:

(1) comptroller's issued retailer's Texas taxpayer

number or federal employer identification number or Social Security number;

(2) name and address of the manufacturer of each home;

(3) model designation of each home;

(4) HUD label, Texas seal, or decal number issued by the Texas Department of Labor and Standards for each home;

(5) serial numbers and size excluding the hitch of each section;

(6) the sales price paid or the acquisition cost of each manufactured home.

(e) Any person who has purchased a mobile home for personal use and not for resale prior to March 1, 1982, and who has not paid the motor vehicle sales and use tax imposed on mobile homes prior to March 1, 1982, will be held liable for the motor vehicle sales and use tax rather than the manufactured housing sales and use tax.

### §3.483. Exemption Certificates.

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

(1) Charitable or eleemosynary organization—One devoting all or substantially all of its activity to the alleviation of poverty, disease, pain, and suffering by providing foods, drugs, treatment, shelter, clothing, or counseling to needy persons, with its funds derived, at least in part, from sources other than fees or charges for its services.

(2) Educational organization - An entity devoted solely to systematic instruction with a regularly scheduled curriculum, a regular faculty, and a regularly enrolled student body or students in attendance at a place where the educational activities are regularly carried on, or has activities consisting solely of presenting public discussion groups, forums, panels, lectures, or other similar programs.

(3) Exempt use —A use to promote the purpose for which an exempt organization was created.

(4) Person—An individual, partnership, company, corporation, association, or other group, however organized.

(5) Religious organization—A regularly organized group of people associating for the sole purpose of holding, conducting, and sponsoring, according to the rites of the sect, religious worship. An organization supporting and encouraging religion as an incidental purpose or an organization with the general purpose of furthering religious work or instilling its membership with a religious understanding is not sufficient to qualify an entity as a religious organization unless all of its other purposes and activities are exempt under other provisions of this section.

(b) An exemption certificate may be issued by:

(1) The United States, its unincorporated agencies, or instrumentalities.

(2) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.

(3) Federal credit unions organized under 12 United States Code §1768.

(4) The State of Texas, its unincorporated agencies, and instrumentalities.

(5) Any county, city, special district, or other political subdivision of the State of Texas, and any college or university created or authorized by the State of Texas.

(6) Nonprofit corporations formed under the Development Corporation Act of 1979 or the Health Facilities Development Act of 1981 when purchasing items for their exclusive use and benefit. The exemption does not apply to items purchased by the corporation to be lent, sold, leased, or rented.

(7) Any organization created for religious, educational, charitable, or eleemosynary purposes, provided that such organization must have requested and been granted exempt status by the comptroller. In order to qualify for exempt status, the organization must meet all of the following requirements:

(A) An organization must be organized or formed solely to conduct one or more exempt activities. All documents necessary to prove the purpose for which an organization is formed will be considered when exempt status is sought.

(B) An organization must devote its operations exclusively to one or more exempt activities.

(C) An organization must dedicate its assets in perpetuity to one or more exempt activities.

(D) No profit or gain may pass directly or indirectly to any private shareholder or individual. All salaries or other benefits furnished officers and employees must be commensurate with the service actually rendered.

(c) A manufacturer who accepts an exemption certificate in good faith is relieved of the responsibility for collecting the tax as required by Texas Tax Code, §158.053. A retailer must submit to the manufacturer an exemption certificate which has been signed and completed by itself and the purchaser.

(1) A retailer must keep a copy of the exemption certificate attached to the invoice or bill of sale transferring title to the purchaser.

(2) The manufacturer must retain the original of the exemption certificate attached to the invoice or bill of sale.

(d) Any person who issues an exemption certificate for a manufactured home and then uses the home for other than exempt use will be liable for the tax. The tax will be based on the selling price of the manufactured home to the person who issued the exemption certificate.

(e) The exemption certificate must be substantially in the form set out below:

*(See page 1546 for the exemption certificate.)*

#### §3.484. Use Tax.

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

(1) New—When applied to a manufactured home means one that has not been subject to a retail sale.

(2) Retail sale—A sale to a consumer as opposed to a sale to a retailer for resale or for further processing and resale.

(3) Use—The exercise of any right or power over a manufactured home incident to its ownership, including the sale, lease, or rental, or the incorporation of any manufactured home into real estate or into improvements on real estate.

(4) Used—When applied to a manufactured home means one that has been previously subject to a retail sale.

(b) Manufactured homes purchased outside Texas.

(1) New manufactured homes. A use tax of 6.5% of 65% of the purchase price (equivalent to 4.225% of the purchase price) is due on a manufactured home that was purchased new outside of Texas for use, occupancy, resale, or exchange in Texas. The tax is to be paid by the person to whom or for whom the home was sold, shipped, or consigned. It is presumed that a manufactured home was not purchased for use or occupancy in this state if the purchaser has purchased the home at a retail sale at least one year prior to its being brought or shipped to Texas.

(2) Used manufactured homes. The use tax does not apply to a manufactured home that was purchased used at a retail sale outside of Texas. Use tax does apply to used manufactured homes acquired prior to March 1, 1982, for resale by a retailer.

(c) Manufactured homes purchased in Texas.

(1) New manufactured homes.

(A) A use tax of 6.5% of 65% of the purchase price (equivalent to 4.225% of purchase price) is imposed on a manufactured home that was purchased new in Texas.

(B) The use tax is not due if the manufacturer has paid the sales tax on the home to this state. It will be presumed that the sales tax has been paid on a manufactured home, sold, shipped, or consigned by the manufacturer to a retailer or other person in Texas. The comptroller, the manufacturer, the retailer, and the user of the home may introduce evidence to establish whether or not the sales tax has been paid.

(2) Used manufactured homes. The use tax does not apply to a manufactured home purchased used at retail in Texas. Use tax does apply to a used manufactured home acquired prior to March 1, 1982, for resale by a retailer.

(d) A credit equal to the amount of any legally imposed sales or use tax paid to another state on the manufactured home may be taken against the use tax imposed in this state.

(e) The use tax imposed is to be paid directly to the comptroller by the person to whom or for whom the home was sold, shipped, or consigned. The use tax is due and payable by the last day of the month following the month after the home is sold, shipped, or consigned to a person in Texas.

#### §3.485. Interstate Sales of Manufactured Housing.

(a) A manufacturer engaged in business in Texas but located outside this state must collect and remit to the comptroller the sales tax imposed by Texas Tax Code, Chapter 158, on the initial sale, shipment, or consignment of a manufactured home to a retailer or other person in this state.

(b) The sales tax is not imposed on a manufactured home that is sold, shipped, or consigned to a retailer or other person when a manufacturer located in Texas ships the home to a point outside this state by means of:

- (1) the facilities of the manufacturer; or
- (2) delivery by the manufacturer to a carrier for shipment under a bill of lading to a consignee at a location outside this state.

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

Issued in Austin, Texas, on April 12, 1982.

TRD-823138      Bob Bullock  
Comptroller of Public Accounts

Proposed date of adoption: May 17, 1982.  
For further information, please call (512) 475-7000.

**EXEMPTION CERTIFICATE**

**Retailer's Certification:**

The undersigned hereby claims an exemption from payment of the taxes imposed under Chapter 158, Manufactured Housing Sales and Use Tax, for the manufactured home described below.

Manufacturer name and address \_\_\_\_\_

Label/Decal No. \_\_\_\_\_ Serial No. \_\_\_\_\_

Weight \_\_\_\_\_ Size \_\_\_\_\_

Additional sections of same home:

Label/Decal No. \_\_\_\_\_ Serial No. \_\_\_\_\_

Weight \_\_\_\_\_ Size \_\_\_\_\_

Label/Decal No. \_\_\_\_\_ Serial No. \_\_\_\_\_

Weight \_\_\_\_\_ Size \_\_\_\_\_

Retailer name and address \_\_\_\_\_

Signature \_\_\_\_\_

The manufactured home is being sold to the purchaser below.

Purchased by \_\_\_\_\_

Address of Purchaser \_\_\_\_\_

Address where home will be installed \_\_\_\_\_

**Purchaser Certification:**

I certify that the manufactured home described herein is being purchased and will be used in accordance with the exemption provisions under Sec. 158.101 of the Manufactured Housing Sales and Use Tax.

Reason for exemption \_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

**Part VI. Texas Municipal  
Retirement System  
Chapter 123. Calculation or Types of  
Benefits**

34 TAC §123.3

The Texas Municipal Retirement System proposes amendments to §123.3 (337.02.00.003) concerning additional optional benefits. The proposed amendments will add a new optional benefit allowing a member to receive a monthly retirement annuity for life, with the provision that after his or her death, two-thirds of that annuity shall be paid to a designated beneficiary for life. Two other options are deleted, since they are now provided for in the statute governing the system and therefore are not subject to the rule.

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

Mr. Mormon has also determined that for each year of the first five years the rule as proposed is in effect, the public benefits anticipated as a result of enforcing the rule as proposed will be greater flexibility on the part of members of the system in selecting a retirement benefit plan. There will be no economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jimmie L. Mormon, director, Texas Municipal Retirement System, P.O. Box 2225, Austin, Texas 78768.

The amendments are proposed under Texas Civil Statutes, Title 110B, §65.102, which provides the Texas Municipal Retirement System with the authority to adopt rules it finds desirable for efficient administration of the system, and §64.104 and §64.3041 of the same title, which authorize the system to adopt additional optional annuities.

**§123.3 (337.02.00.003). Additional Optional Benefits.**

(a) A member entitled to service retirement may elect to receive, in lieu of a standard service retirement benefit, one of the optional benefits set forth in paragraphs (c)(1)-(c)(5) of §64.104 of Title 110B, Texas Civil Statutes, as amended, or may elect to receive option 5A, defined in subsection (c) of this section [defined as Options 1, 2, and 3 in subsection (3), section VII of the Act, or one of the following benefits, which shall be designated as follows].

[(1) Option 4A. A reduced monthly allowance that is the actuarial equivalent of the standard service retirement benefit, payable during the lifetime of the annuitant, but with 180 monthly payments guaranteed.

[(2) Option 4B. An increased monthly benefit that is the actuarial equivalent of the standard service retirement benefit, but is payable only during the lifetime of the member-annuitant, and which ceases upon his death.]

(b) A member entitled to disability retirement may elect to receive, in lieu of a standard disability retirement benefit, one of the optional benefits set forth in paragraphs(c)(1)-(c)(4) of §64.3041 of Title 110B, Texas Civil Statutes, as amended, or may elect to receive Option 5A, defined in subsection (c) of this section.

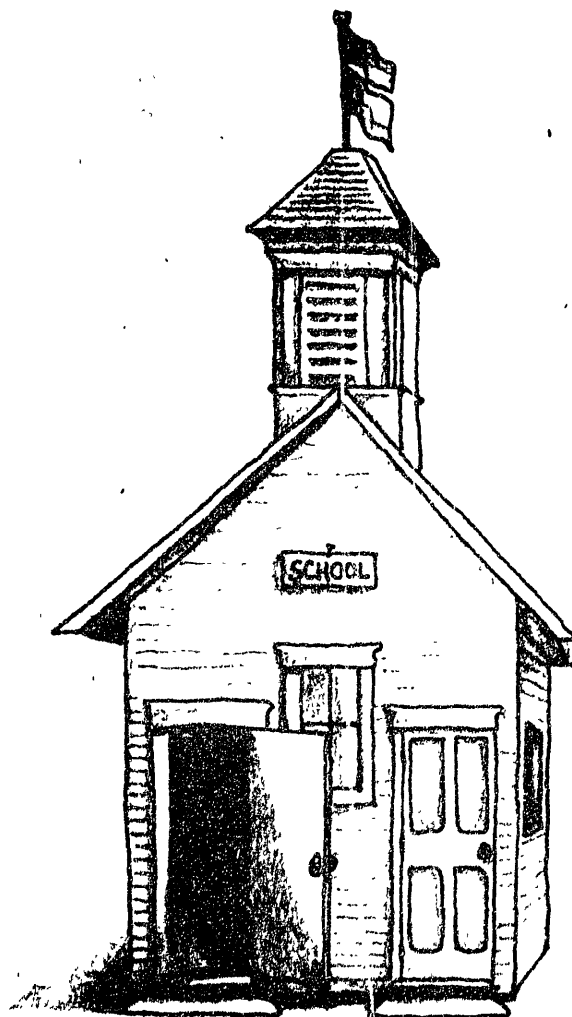
(c) Option 5A is a reduced monthly allowance that is the actuarial equivalent of the standard retirement benefit payable throughout the life of the retiree, provided that after the retiree's death, two-thirds of the reduced annuity is payable throughout the life of a person designated by the retiree.

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 April 6, 1982.

TRD-823060 Jimmie L. Mormon  
Director  
Texas Municipal Retirement  
System

Proposed date of adoption: June 19, 1982  
For further information, please call (512) 476-7577.



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

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

#### Family Self-Support Services Family Planning Services

326.17.32

As a result of the Omnibus Reconciliation Act of 1981, family planning services were reduced by approximately 17%. To help offset the cuts, the department proposes a client co-pay policy. The policy allows family planning providers to institute a client co-pay system consistent with the client co-pay feature most of the agencies have in effect under Title X family planning grantee rules. The proposed policy has a built-in incentive for family planning agencies to collect the client co-payment in that they can provide services to eligible clients for whom DHR would not have to pay.

The Family Self-Support Services Advisory Council has recommended that the department adopt policies calling for client co-pay of family planning services. The policy presented in the rule incorporates suggestions made by the advisory council during meetings held in September and December 1981.

The department proposes to require Title XX provider agencies to establish co-pay schedules and collection policies for income eligible individuals requesting family planning services. The provider agencies' co-pay schedule will be based on client income, family size, and ability to pay. The provider agency board or advisory group may establish policies and guidelines to reduce or waive co-pay amounts required of individuals due to family hardship or other extenuating circumstances. The co-payments collected by the provider agencies will be used by the agency to provide service to income eligible clients without cost to the department.

David Hawes, director of programs budget and statistics, has determined that for the first five-year period the rule is in effect, there will not be fiscal implications as a result of enforcing or administering the rule.

Mr. Hawes also determined that the public benefit anticipated will be community participation in the family planning program that will increase the program funding base. The combined cost to clients participating

in co-pay are estimated to be: \$700,000 in fiscal year 1982; and \$1.2 million—\$1.4 million in each fiscal year 1983-1986.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division-093, Department of Human Resources 153-B, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

The following rule is proposed under Chapters 22 and 31, Title 2, Human Resources Code, which authorizes the department to administer public assistance.

#### .010. Co-Pay for Family Planning Services.

(a) Co-pay amounts paid by recipients of family planning services. Family planning provider agencies may charge Title XX income eligible clients a co-pay amount not to exceed 25% of the authorized reimbursement amount. If a family planning provider agency chooses to establish a co-pay schedule, the agency must evaluate each client's ability to pay the co-pay amount and document the results of the evaluation in each client's case record. Family planning provider agencies may not assess a co-pay amount to adolescents attending group presentations and/or discussions.

(b) Policies to waive or reduce co-pay amounts. If a family planning provider agency board or advisory group wants to be able to waive or reduce co-pay amounts for clients, the board or advisory group must establish policies. The policies must include criteria for determining how much a co-pay amount is reduced, or why it is waived. The provider agency must get DHR approval of the policies and criteria before they are implemented. The provider agency must apply the reduction or waiver of co-pay amounts on an individual basis and document the basis for the reduction or waiver in the client's case record. Provider agencies must make a reasonable effort to collect co-pay amounts that have been assessed and document the efforts to collect.

(c) Denial for failure to pay co-pay amount. Provider agencies must not deny family planning services to eligible individuals because of their inability to pay for services.

(1) Provider agencies with waiver or reduced co-pay policies must use the established criteria to evaluate the circumstances of each Title XX income eligible individual to determine the need to waive or reduce the co-pay amount. Provider agencies may deny services to a Title XX income eligible individual who has been determined capable of making a full or reduced co-pay amount, but who has not done so. Before denying the individual, the provider agency must send the individual at least two notices of overdue payment with the second notice sent at least 60 days after the first notice.

(2) With the second notice, the family planning provider agency must send the client a notification of denial, reduction, or termination of services form informing him of his right to request a fair hearing. The family planning provider agency must wait 10 days from the date on the notification form before terminating the services.

(d) Collected co-pay amounts. Provider agencies must use co-pay amounts collected to expand services to



clients eligible under DHR guidelines or to defray costs incurred when providing services to these individuals.

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 April 9, 1982

TRD-823179      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

## Utilization Control Program Review

### 326.45.12

The Texas Department of Human Resources proposes rules concerning control of recipient utilization of Medicaid services. After adoption of the rules, the department will implement these policies and procedures to control unnecessary or inappropriate use of Medicaid services by Medicaid recipients and to improve the quality of medical care provided to recipients by encouraging continuity of care and informed use of medical benefits.

Recipients whose use of Medicaid services is excessive or inappropriate will be given information on appropriate utilization and the opportunity to voluntarily reduce their utilization or asked to choose a primary provider or providers for Medicaid services such as one physician or one pharmacy. This is known as "lock-in."

Recipients will be able to obtain emergency services and other special services when required and referred by the primary provider. To be paid by the Medicaid program, the emergency care providers must certify that there was a valid emergency medical care need.

Recipients who are "locked-in" to a designated provider will still be eligible for all Medicaid services; however, their freedom of choice of providers will be somewhat limited under the provisions of 42 CFR 431.54. Recipients will have the right to appeal any such limitations.

David Hawes, director of programs budget and statistics, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. Estimated savings to the state will be: \$4,744 in fiscal year 1982; \$1,267,393 in fiscal year 1983; \$2,751,831 in fiscal year 1984; \$4,141,206 in fiscal year 1985; and \$4,799,331 in fiscal year 1986. There is no estimated loss or increase in revenue, nor are there fiscal implications for units of local government.

Implementation of the recipient utilization control policies will reduce the amount of misspent Title XIX

Medicaid funds, thereby saving tax dollars. There are no economic costs to persons who are required to comply with the rules.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division-101, Department of Human Resources, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The following rules are proposed under Chapter 32, Title 2, Human Resources Code, which authorizes the department to administer medical assistance.

.002. *Monitoring and Review.* Unnecessary, excessive, or inappropriate use of Medicaid services by a recipient will be identified by the department in accordance with federal requirements. These determinations will be based on comparisons with statewide patterns of use and will take into consideration the medical necessity for such utilization.

.003. *Utilization Control Methods.* The department may restrict inappropriate use of medical services by recipients. Any recipient may discuss with agency staff his use of medical services. The department uses the following control methods:

(1) Voluntary reduction request. The department may notify a recipient that his use of Medicaid services has been identified as unnecessary, excessive, or inappropriate and request that he voluntarily reduce unnecessary or inappropriate utilization to avoid more restrictive measures.

(2) Lock-in. The department may restrict a recipient to a designated primary provider to obtain Medicaid services. This occurs when the department finds that a recipient has used Medicaid services at a frequency or amount that is not medically necessary. The restriction will remain in effect for no less than six months.

.004. *Recipient Rights.*

(a) Freedom of choice. When a recipient is notified that he is to be placed in a lock-in status, he has 15 days to choose the designated provider of services. If notification of the recipient's choice is not received by the department within 20 days of the notice, the department designates a provider or providers for the recipient. Recipients may request a change of primary providers once every three months, or at any other time medical or other reasonable justification is received by the department.

(b) Access to Medicaid services. In accordance with federal requirements, recipients who are in a lock-in status may receive necessary emergency services by providers other than the designated primary provider. To be paid by the Medicaid program, the emergency care provider must certify that the recipient required emergency treatment that could not be provided by the designated primary provider. The program will also reimburse providers to whom the recipient has been referred by his designated primary provider. Payment for unauthorized services is the responsibility of the recipient.

(c) Notification of lock-in. In accordance with federal and state regulations, the department gives the recipient timely and adequate notice of the action to

restrict the recipient to a designated provider or providers and of the opportunity for a fair hearing.

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 April 12, 1982.

TRD-823148      Marlin W. Johnson  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

## General Licensing Procedures

*(Editor's note: The text of rules proposed for repeal in this chapter will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Benister Lane, Austin, or the Texas Register Division office, 503E Sam Houston Building, Austin.)*

The Texas Department of Human Resources proposes the following new rules and repeals concerning general licensing procedures. The department is proposing to repeal existing rules which are internal operating procedures. The new rules proposed are existing rules which have been rewritten and reorganized. Rules which are quotes or paraphrases of Human Resources Code, Chapters 42 and 43, Title 2, are also being repealed. Therefore, interested persons who need to know the department's licensing requirements should refer to the Human Resources Code in addition to the rules.

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

Mr. Hawes has also determined that for each year of the first five years the rules as proposed are in effect the public benefits anticipated will be clearer and more concise rules for the public to follow. There is no economic cost to individuals who are required to comply with the rules.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Policy Development Support Division-302, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 20 days of publication of the *Texas Register*.

## Exemptions from Licensing

326.92.15.003, .004

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for

the regulation of child care facilities and child care administrators.

.003. *Nonregulated Activities.*

.004. *Exempt Facilities Requesting Regulation.*

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 April 8, 1982.

TRD-823082      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

## 326.92.15.005-.007

The following rules are proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

.005. *Facilities Exempt from Licensing.* The types of child care facilities or arrangements that are exempt from licensing are:

(1) A state-operated facility. State-operated facilities must have a certification from the department that they meet minimum standards. Certification is a regulatory procedure different from licensing. State-operated facilities do not include those operated by cities and counties. The certification requirements do not apply to a Texas Youth Council facility or to a facility providing services solely for the Texas Youth Council.

(2) An agency home certified by a child-placing agency as meeting minimum standards.

(3) A facility where the parents of the children in care are shopping or engaging in activities on or adjacent to the premises and children are cared for during short periods of time. On the premises means in the same building or shopping center, and adjacent to the premises means next to, across the street from, or in the same city block. The facility must be able to contact the parent at all times. The maximum length of time the child may be in care is four and a half hours per day or 12 hours per week. This exemption does not apply to facilities operated by an organization where parents are employed or enrolled as students.

(4) Religious programs including Sunday school, retreat, weekly catechism, or other classes for religious instruction.

(5) School or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization.

(6) A youth camp licensed by the Texas Department of Health.

(7) A hospital licensed by the Texas Department of Mental Health and Mental Retardation or the Texas Department of Health. This includes facilities which are subject to certification under standards for Intermediate Care Services in Facilities for Mentally Retarded, and nursing and maternity homes licensed by the Texas Department of Health to provide care for minors. This exemption does not include day care facilities operated by or on the premises of these hospitals. Licensure by another state agency to provide medical or maternity care does not exempt a facility from the need to be licensed/certified as a child-placing agency if child-placing activities are carried out.

(8) An educational facility accredited by the Texas Education Agency or by the Southern Association of Colleges and Schools that operates primarily for educational purposes in grades kindergarten and above.

(9) An educational facility that operates solely for educational purposes and that meets all of the following criteria:

(A) consists of grades kindergarten through at least grade two;

(B) does not provide custodial care for more than one hour during the hours before or after the customary school day; and

(C) is a member of an organization that publishes and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes.

(10) A kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day.

(11) A registered family home. Registration is a regulatory procedure different from licensing.

(12) An educational facility which does not provide custodial care for more than two hours per day, and that offers educational programs for children ages five and above in one or more of the following:

(A) kindergarten through at least grade three,

(B) elementary grades,

(C) secondary grades, or

(D) grades clustered the same as those in the public schools in the community in which the facility is located.

**.006. Nonregulated Activities.** The following types of facilities or activities are not subject to regulation by the department:

(1) Skills classes—Programs designated primarily to teach skills when these classes are not part of a school, kindergarten, or nursery school program, and are not child care arrangements. If the classes are sequential and continuous, they become child care arrangements and are subject to regulation. When the classes are operated in connection with a child care or kindergarten, or nursery school facility, they are not exempt. Facilities providing after school child care are subject to regulation.

(2) Programs that operate for less than 24 hours per day and for two days or fewer per week, if these programs are not part of a facility that is subject to regulation.

(3) Programs operated on or by federal installations.

**.007. Facilities Not Subject to Regulation Requesting Regulation.** If a facility that is exempt from regulation, requests a statement that the facility is meeting applicable minimum standards to receive funding, then the governing body of that facility must send a written request for standards compliance evaluation to the department and go through an abbreviated investigation.

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 April 8, 1982.

TRD-823083                      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

## Day Care Licensing Procedures

326.92.21.039-.048, .050-.105

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child-care facilities and child-care administrators.

- .039. Licensing Staff Responsibilities—Identification.**
- .040. Unregulated Facility.**
- .041. Regulated Facility.**
- .042. Immediate Danger to Children.**
- .043. Initial Activities.**
- .044. Closing Inquiries.**
- .045. Contact with Governing Body on Designee.**
- .046. Exemptions.**
- .047. Exemptions Under Human Resources Code, §42.041(b)(7).**
- .048. Exemptions Under Human Resources Code, §42.041(b)(8).**
- .050. Application—Submission and Acceptance.**
- .051. Application Naming Designee.**
- .052. Application Received After Revocation or Denial of License.**
- .053. Withdrawal of Application.**
- .054. Investigation—Constraints and Requirements.**
- .055. Personal Reference Information.**
- .056. Standard-by-Standard Evaluation—General.**
- .057. General Documentation.**
- .058. Due Notice Prior to Revocation/Denial without a Standard-by-Standard Evaluation.**
- .059. Evaluation After Expiration of Time Limit.**
- .060. Application Investigation—Summary Report.**
- .061. Separate Licenses.**
- .062. Criteria for Issuance of Provisional License.**
- .063. Issuance of Provisional License.**
- .064. Conditions of Provisional License.**
- .065. Monitoring of Provisional License.**

- .066. *Decision Not to Issue a Biennial License upon Expiration of a Provisional License.*
- .067. *Criteria for Issuance of Biennial License.*
- .068. *Issuance of First Biennial License.*
- .069. *Inspection Frequency.*
- .070. *Conduct of Inspections.*
- .071. *Notice of Expiration Letter.*
- .072. *Evaluation.*
- .073. *Evaluation—Summary Report.*
- .074. *Early Renewal.*
- .075. *Issuance of Biennial License.*
- .076. *Failure to Meet Application Time Limits.*
- .077. *Denial of Application for Renewal.*
- .078. *Changing the Restrictions on a License.*
- .079. *Suspension—Administrative.*
- .080. *Suspension—In Place of Revocation.*
- .081. *Standard-by-Standard Evaluation—Possible Denial of an Application or Suspension or Revocation of a License or Registration.*
- .082. *Evaluation After a Reasonable Time Limit.*
- .083. *Notice of Decision to Deny an Application or Revoke a License or Registration after a Standard-by-Standard Evaluation.*
- .084. *Appeal or Suspension Not Requested.*
- .085. *Appeal Request Received—Staff Responsibilities.*
- .086. *Regulation During Appeal Process.*
- .087. *Appointment of Advisory Review Board.*
- .088. *Appeal Review Committee.*
- .089. *Suit Not Filed.*
- .090. *Request for Suspension—General.*
- .091. *Regional Decision.*
- .092. *Suspension Granted—Follow Up.*
- .093. *Revocation/Denial without a Standard-by-Standard Evaluation.*
- .094. *Immediate Enforcement Action.*
- .095. *Revocation/Denial—After Due Notice.*
- .096. *Regulation of State-Operated Facilities.*
- .097. *Constraints and Requirements of State-Operated Facilities.*
- .098. *Special Report—Serious Harm to Children.*
- .099. *Reports of Unregulated Operating Facilities.*
- .100. *Initial Contact Procedures.*
- .101. *Report of Child Abuse/Neglect in an Unregulated Facility.*
- .102. *Refusal to Submit an Application.*
- .103. *Public Advertising.*
- .104. *Documentation for Referral.*
- .105. *Injunction Ordered—Follow Up.*

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

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

TRD-823084

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

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ext. 2037.

326.92.21.106-142

The following rules are proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

.106. *Investigation Visits.* Unregulated and regulated facility staff must admit licensing staff and not delay or obstruct licensing staff from making inspections during hours of operation. Although the licensee of a regulated facility may choose to limit children to certain areas of the structure, he must allow the licensing representative to inspect any area of the facility that affects or could affect the health, safety, or well-being of the children in care. When inspection is refused, obstructed, or delayed by facility staff to the extent that licensing staff cannot carry out their responsibility, the facility is entitled to be advised that these actions are in violation of §42.044 (a), Human Resources Code, and that the license may be revoked if resistance continues.

.107. *Exemptions.* If a facility claims that it is not subject to regulation under a provision of §42.041 of the Human Resources Code, the facility must send a written claim citing the subsection of the statute or the handbook provision under which the claim is made. The facility must include all documentation supporting the claim. If the facility's claim is under the provisions of Human Resources Code, §42.041(b)(7), (8), or (9), the facility must send the claim to the director of day care licensing. If the claim is made under another provision, the facility sends it to the licensing staff in the region.

.108. *Exemptions under Human Resources Code, §42.041(b)(8).*

(a) If a facility claims an exemption under §42.041(b)(8) of the Human Resources Code, the organization to which the educational facility belongs must send the following information to the director of day care licensing:

(1) Documentation that the organization issues, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes for the locality in which the member schools are located. This is done by either:

(A) the organization requiring that member schools comply with state, municipal, and county health, safety, and sanitation codes; or

(B) the organization issuing its own health, safety, fire, and sanitation records. The organization must send a copy of the health, safety, fire, and sanitation requirements to the director of day care licensing.

(2) A plan to ensure continued compliance by members of the organization with health, safety, fire, and sanitation requirements. The plan must require member schools to document that applicable state, municipal, and county health, safety, fire, and sanitation codes are met.

(3) Documentation that the organization has the means to monitor member schools for continuing compliance with the organization's health, safety, fire, and sanitation requirements. The department must review the

organization's plans for monitoring schools.

(4) A current list of the names and addresses of the member schools which meet the criteria stated in §42.041(b)(8). The organization must notify the department when new member schools meet the exemption criteria and advise the department if a school ceases to be a member of the organization or ceases to meet exemption criteria.

(b) A facility which is exempt under §42.041(b)(8), and operates a pre-kindergarten program solely for education purposes, can request that the pre-kindergarten program be exempt from regulation by the department. The facility must send documentation of compliance with all of the following to the director of day care licensing:

(1) That there is no child under two years of age in the facility.

(2) That no child is in the pre-kindergarten portion of the facility for more than four hours per day and that the facility does not provide custodial care for more than one hour during the hours before or after the school day.

(3) That the organization of which the facility is a member requires that the pre-kindergarten program meet health, safety, fire, and sanitation standards, and that the pre-kindergarten program's compliance with these standards be monitored.

*.109. Exemption under Human Resources Code, §42.041(b)(9).*

(a) A facility claiming that it is not subject to regulation under §42.041(b)(9) of the Human Resources Code must send documentation to the director of day care licensing which shows the existence of each of the following:

(1) That the facility is operated as a part of a public school or private school that is accredited by the Texas Education Agency.

(2) That the program follows an educational curriculum described by the administration of the school.

(3) That there is no custodial care offered during the hours before or after the customary school day as set by school district policy.

(4) That there are no children under age two in the program. If there are children under age two in the program, that part of the program is subject to licensing.

(b) To show that a facility is operated as a part of a public school, the facility must document that:

(1) The hours of operation are limited to the customary school day as set by school district policy.

(2) The program is under the jurisdiction of the local school board, which is evidenced by the fact that the staff or faculty of the program are contributing members of the Texas Teacher Retirement System.

*.110. Exemption under Human Resources Code, §42.041(b)(11).*

(a) A facility claiming that it is not subject to regulation under §42.041(b)(11) must send documentation to the regional director showing each of the following:

(1) That the facility is an educational facility.

(2) That no child younger than age five is in the facility.

(3) That there are no more than two hours of custodial care offered during the hours before or after

the customary public school day in the community where the facility is located.

(4) That the facility operates at least kindergarten through grades three or operates an elementary school, which includes at least grades one through six, or operates a secondary school, which includes at least grades nine through 12, or any combination of these, or an operation the same as the pattern of public school grade clustering in the community in which the facility is located.

(b) If the facility has a program which extends more than two hours beyond the customary school day, the facility is subject to regulation.

(c) If there are children under five years of age in the facility, the facility is subject to regulation.

*.111. Submission and Acceptance of Application.* Each governing body planning to operate a facility subject to licensing or certification must complete and send an application to licensing staff.

*.112. Personal History Statement.*

(a) Each applicant for a license must complete a personal history statement unless the applicant is a church, a corporation with a board of directors, or a non-incorporated governmental body. In these situations the designee of the governing body is required to submit a completed personal history statement. The person designated as director must complete a personal history statement.

(b) The department requires only one personal history statement if the director or primary caregiver is also the applicant. If an application to operate a child care facility or child-placing agency is submitted by more than one person, each applicant must complete the form.

(c) If an application is from an individually licensed/certified child care facility operated or managed together with other individually licensed/certified child care facilities by an individual, agency, corporation, association or partnership, the person who has primary responsibility for each child care facility must complete the form.

(d) If a facility has more than one director, each director must complete the form.

(e) Misrepresentation on the personal history statement is grounds for denial or revocation.

*.113. Application Received after Revocation or Denial of License.* If the department denies an application for a license or revokes a license because of non-compliance with standards or violation of the child care licensing law, time limits for appeal must have ended and the facility must have closed and remained closed before a new application for a license is accepted. If a facility ceases operation before the end of the time to request an appeal, and if that facility waives in writing the right to request an appeal, licensing staff accept a completed application. If the facility begins operation before the provisional license is issued, licensing staff deny the application.

*.114. Notification of Noncompliance.* When a licensee or applicant receives a notice of noncompliance from licensing staff, the licensee or applicant must correct the noncompliance by the time limit stated in the notification. The facility must maintain compliance with all other standards.

**.115. Notification of Inspection/Investigation Visit.** The facility is entitled to be notified of the results of an inspection or investigation visit, including:

- (1) Citation of standards or the law with which the facility was in noncompliance and specifics of any noncompliance. Noncompliance with the conditions of a license or a waiver/variance is included.
- (2) Correction(s) required.
- (3) Date by which correction(s) are to be made.

**.116. Separate Licenses.**

(a) If a facility wants separate licenses for a day care center, kindergarten and nursery school, or a school at the same location, the facility must submit separate applications for each license to the department.

(b) If a day care facility has separate licenses, and programs are provided in one location or by one governing body, on any given day a child must not participate in:

- (1) more than one kindergarten or nursery school session;
- (2) more than one school session;
- (3) both a kindergarten or nursery school program and a school program.

**.117. Issuance of Provisional License.**

(a) A provisional license is appropriate if:

- (1) A facility applies for a license and has not yet accepted children for care.
- (2) A facility's license has expired.
- (3) An operating facility is not currently licensed.
- (4) A licensed facility changes location.
- (5) A licensed facility changes ownership.
- (6) A licensed facility adds a different program subject to regulation.

(7) A facility changes from one type of licensed child care to another.

(8) A license has been denied, revoked, or has expired without issuance of another license, the facility has ceased operation, and an application is submitted for the same facility.

(b) A provisional license is issued if:

(1) A non-operating facility meets the appropriate minimum standards, except those for which compliance cannot be determined in the absence of children in care.

(2) An operating facility is meeting all applicable minimum standards.

(c) A provisional license is issued to a facility after a licensing investigation, if the facility is in compliance with the law and minimum standards.

(d) If a facility does not provide care for children not related to the caregiver, or if it begins operation so late in the provisional licensing period that there is not time to determine continuing compliance with standards, the department allows the provisional license to expire. Licensing staff may accept a new application without the facility having to close.

**.118. Restrictions.** A facility must comply with the child care licensing law, the minimum standards under which it is licensed, the restrictions stated on the license, and conditions placed on a waiver or variance.

**.119. Issuance of Biennial License.** A facility is eligible for a biennial license if:

(1) A facility has satisfied provisional licensing requirements by maintaining compliance with the minimum standards on a continuing basis.

(2) A facility has met the requirements for the renewal of a biennial license by maintaining compliance with minimum standards on a continuing basis.

**.120. Sampling Facility Records.** The department may use sampling, instead of reading all facility records, to evaluate substantial compliance with the minimum standards.

**.121. Notice of Expiration Letter.** At least two months before the expiration of a biennial license, the governing body of the facility must send an application for a new license. The governing body must identify changes from the original operation and must submit a current floor/yard plan if there are changes since the last license was issued.

**.122. Changing the Restrictions/Terms on a License—Requested by Licensee.** The department may amend the restrictions of a license based on the extent of the change and its impact on the facility.

**.123. Administrative Licensing Suspension.** If a facility wishes to request a suspension of its license under Human Resources Code, §42.071(a), the facility must notify the licensing representative in writing of specific plans for resuming operation after a temporary suspension of operation. The department requires that the suspension period requested by the facility must not exceed the time limits of the current license and must not exceed four months. The facility must show that standards can be met at the end of the suspension period and must not care for children during the suspension period.

**.124. Denial of an Application or Revocation of a License, Certificate, or Registration.**

(a) Licensing staff may deny a facility's application or revoke or deny a facility's license, registration, or certification for any of the following reasons:

(1) Violation of the child care licensing law.

(2) Failure to maintain compliance with minimum standards on a continuing basis.

(3) Refusal by facility personnel to admit licensing staff for inspection of the facility when there is evidence or cause to believe children's health or safety are in danger, or when the facility has been warned in writing that a second refusal to admit licensing staff causes revocation.

(4) Report from a law enforcement official or health or fire agency that a dangerous situation exists.

(5) Death of a child caused by violation of standards.

(6) Serious injury to a child or a child has contracted a serious illness due to violation of standards.

(7) An instance of abuse or neglect at the child care facility.

(8) Presence of a person at the facility which is a violation of standards or causes a serious threat of violation to exist, or when a person's behavior is believed to constitute an actual or potential threat to children in care.

(9) The facility has failed to obtain a fire or sanitation inspection, or has had a fire or sanitation inspection and the discrepancies in the report have not been corrected.

(10) Facility staff have refused to allow licensing staff to enter the facility during the hours of operation to inspect or investigate, or have obstructed or unreasonably delayed licensing staff in carrying out regulatory responsibilities.

(11) There is a violation of the restrictions on the license.

(12) The health or safety of children in care is endangered because children are mistreated or left unsupervised.

(13) An application has been accepted after revocation or denial of a license and the facility began operation before issuance of a license.

(14) False information is knowingly provided to the department on either the application, personal history form, or a request to register.

(15) Change of facility ownership.

(16) Change of facility location.

(17) Voluntary cessation of operation.

(18) The facility is in noncompliance with standards after a suspension period.

(19) Failure to comply with minimum standards or the child care licensing law within prescribed time limits after due notice of possible revocation/denial.

(20) Failure to comply on a regular basis with minimum standards or the child care licensing law during a period of not less than three months.

**.125. Appeal or Suspension Not Requested.** After a revocation or denial of a license, the facility must cease providing care for children after all appeals and challenges have been exhausted.

**.126. Appeal Requested.** To appeal a decision to deny an application or revoke a license or registration, the licensee/applicant must submit a written request for an appeal of the decision within 30 days after receipt of the denial letter. The licensee/applicant must send the letter to the director of licensing and must state the reasons against denial or revocation in the letter. If the licensee/applicant appeals a decision and continues to provide care for children, the appellant and the appellant's staff must permit licensing staff to inspect and investigate the facility during the appeal process.

**.127. Rehearing Requested.** If an applicant/licensee wants to request a rehearing, the applicant/licensee must send a written request to the director of licensing within 15 days after receiving the administrative decision.

**.128. Requesting the Waiver/Variance.** To request permission not to meet a standard or to meet the intent of the standard in a different manner, an applicant/licensee or a holder of registration must submit a completed waiver/variance request form to the licensing representative for that facility. The facility may only request a waiver/variance of standards. If the waiver/variance request is denied by the director of licensing, the applicant/licensee must bring the facility into compliance. The facility is entitled to be notified of the decision regarding the waiver/variance request. If the

waiver/variance request is granted, the applicant/licensee must meet all conditions of the waiver/variance.

**.129. Requesting an Administrative Review.** If a licensee/applicant or a holder of registration disagrees with a decision or action by licensing staff and wishes to request an administrative review, the requestor must describe the decision or action in dispute. The requestor must state whether he will have an attorney present for the review. If the request concerns a decision or action involving time limits for correction of noncompliance, the requestor must make the request for administrative review by phone, in person, or by letter, and before the expiration of the time limits. The requestor may contact any regional supervisory staff.

**.130. Requirements for an Advisory Opinion.** To request an advisory opinion, an individual must send a request in writing to the regional director. The requestor must include a detailed description of the plan for new construction or alteration, including the location of the area for infant care, if appropriate. The requestor must include specific standard-related questions to which the advisory opinion is addressed.

**.131. Change of Facility Ownership.** If a change in ownership occurs, the licensee must notify licensing staff of the change. A change in legal organizational structure is a change in ownership under the law even though there may not be a personnel change. Ownership changes include: proprietorship to partnership; proprietorship or partnership to corporation; corporation to partnership or proprietorship; partnership to proprietorship.

**.132. Opportunity To Show Rehabilitation.**

(a) If an applicant/licensee wishes to employ an individual in contact with children who has been convicted, within the preceding 10 years, of a criminal offense, the applicant/licensee must send a request to the director of licensing establishing that rehabilitation has occurred. The facility must establish that rehabilitation has occurred to the extent that the person's behavior is not a substantial risk to children. If children are in care at the facility, the individual must not be in contact with the children until rehabilitation is established. Documentary evidence to be submitted for consideration in determining rehabilitation includes:

(1) Copy of the record of conviction.

(2) If the individual was incarcerated:

(A) Copy of local, state, or federal release order.

(B) Information related to the amount of time that has elapsed since release from the correctional facility without conviction of a crime.

(C) Terms and conditions of parole.

(3) If the individual was given a probated sentence, information related to the terms and conditions of probation.

(4) Nature and seriousness of the crime.

(5) The extent and nature of the person's past criminal activity.

(6) Age of the person at the time of commission.

(7) The amount of time that has elapsed since the person's last criminal activity.

(8) Evidence of rehabilitative effort during and after incarceration.

(9) The conduct and work activity of the person before and after the criminal activity.

(10) Other evidence of the person's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility of the person; the sheriff, and chief of police in the community where the person lives; and any other people in contact with the convicted person.

(11) Documentation substantiating that the person has maintained a record of steady employment, has supported his dependents, has maintained a record of good conduct, and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered.

(12) Information related to job responsibilities which would be performed by the employee, plans for supervision of the employee, and hours and days of employment.

(b) The applicant/licensee is entitled to be notified of the department's decision on the request to employ persons with previous convictions.

*.133. Notification of Complaint Investigation.* The applicant/licensee is entitled to be notified by licensing staff when a complaint is being investigated.

*.134. Receiving and Recording the Complaint.* In accordance with the Attorney General's Opinion, Open Records Decision No. 176, the name of the complainant is confidential.

*.135. Disposition of the Complaint.* The applicant/licensee is entitled to be notified of the results of the investigation of the complaint, including all the allegation(s), citation of standards evaluated, noncompliance, corrections needed, and time limit for corrections.

*.136. Exemptions from Registration.* A facility that otherwise would be required to register is not subject to regulation if care is provided or expected to be provided for less than five consecutive weeks.

*.137. Failure To Register.* When a person who is providing care for children is subject to registration, and staff have set a time limit for the return of a registration request, the caregiver must send the registration request and be in compliance with all standards within the time frame or the caregiver must cease operations until the requirements are met.

*.138. Initial Registration.* When the department issues a notice of registration, it continues to be valid until a stated expiration date unless revoked by the department for just cause.

*.139. Re-registration.*

(a) To maintain its registration status, the caregiver must complete and return the registration card by the stated date.

(b) If the caregiver indicates "not operating" on the card, the registration expires and no further notification to the caregiver is required.

(c) When a caregiver has not returned a card within 30 days after the mail date, the department mails a se-

cond card to the registered family home. If the second card is not received from the caregiver within 30 days after the mail date, the registration expires with no further notice to the former caregiver.

*.140. Denial or Revocation of a Registration.*

(a) Reasons for revocation or denial are:

(1) Failure to comply with Minimum Standards for Registered Family Homes.

(2) Violation of the child care licensing law.

(3) Cessation of operation.

(4) Assumed cessation of operation based on failure to receive a returned notification card from the caregiver.

(5) Change of location of the individual who was registered.

(b) Registration staff may deny or revoke a registration if an individual knowingly and willfully provides false information on a registration request, or if an individual gives information on the registration request which shows noncompliance with minimum standards.

(c) The caregiver is entitled to be notified of the reasons for denial or revocation of registration.

(d) If the caregiver ceases operation, he is entitled to be notified that registration is revoked and that if he plans to provide care for children in the future, he must first register with the department.

*.141. Investigation of Complaints in an Agency Family Day Home.* Each child-placing agency must investigate any complaints about a violation of law or standards in an agency family day home and send a written report of the findings to the department.

*.142. Planning for Placement.* Planning for placement which includes those activities purposefully performed to facilitate or arrange day care placement is subject to regulation.

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 April 8, 1982.

TRD-823085

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

## **Day Care Licensing Administrative Action**

**326.92.22**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

*.010. Requesting the Waiver/Variance.*

*.011. Waiver/Variance Time Limits.*



- .012. *Processing the Waiver/Variance Request.*
- .013. *State Office-Waiver Variance Committee Action.*
- .014. *Action by the Director of Licensing.*
- .015. *Review of Denied Requests.*
- .016. *Opportunity To Show Rehabilitation.*
- .017. *Appointment of Review Panel.*
- .018. *Conduct of Review and Follow-Up.*
- .019. *Purpose and Limitation of Administrative Review.*
- .020. *Requesting an Administrative Review.*
- .021. *Presence of Counsel.*
- .022. *Assignment of a Reviewer.*
- .023. *Review Procedures.*
- .024. *Administrative Review Report.*
- .025. *Purpose of an Advisory Opinion.*
- .026. *Requirements for an Advisory Opinion.*
- .027. *Processing the Opinion.*
- .028. *Change of Facility Ownership.*
- .029. *Change of Facility Location.*
- .030. *Voluntary Cessation of Operation-Revocation.*

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 April 8, 1982.

TRD-823086      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

### **Complaints and Investigations in Day Care Licensing**

**326.92.23**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .004. *The Investigation Process-General.*
- .005. *Initial Evaluation of Complaint Information.*
- .006. *Establishing and Maintaining the Investigation File.*
- .007. *Initial Investigation Contact.*
- .008. *Investigation Documentation.*
- .009. *Sources of Information.*
- .010. *Photographs.*
- .011. *Disposition of the Complaint.*
- .012. *Preparing the Report.*
- .013. *Reporting Investigation Findings.*

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 April 8, 1982.

TRD-823087      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

### **Day Care Facility Records**

**326.92.24**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .002. *Day Care Facility Records—General.*
- .003. *Facility Records—Open Records Act.*

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 April 8, 1982.

TRD-823088      Marlin W. Johnston  
                         Commissioner  
                         Texas Department of Human  
                         Resources

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

### **Registered Family Homes**

**326.92.25**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .001. *Local Authorities.*
- .002. *Exemptions from Registration.*
- .003. *Registered Family Homes - Immediate Danger to Children.*
- .004. *Inquiries.*
- .005. *Failure To Register.*
- .006. *Reports of Operating Unregistered Facilities.*
- .007. *Refusal To Submit a Request To Register.*
- .008. *Assessing Conditions Harmful to Children.*
- .009. *Withdrawal of Registration Request.*
- .010. *Re-Registration.*
- .011. *Monitoring of Registered Family Homes.*
- .012. *Notification of Noncompliance with Standards.*
- .013. *Evaluation After Expiration of Time Limit.*
- .014. *Denial or Revocation of a Registration.*
- .015. *Request to Withdraw Registration.*

- .016. *Assumed Cessation of Operation.*
- .017. *Change of Address.*
- .018. *Misrepresentation of Registration Request.*
- .019. *Registered Family Homes—Requesting the Waiver/Variance.*
- .020. *Waiver/Variance Time Limits.*
- .021. *Processing the Waiver/Variance Request.*
- .022. *Purpose and Limitations.*
- .023. *Requesting an Administrative Review.*
- .024. *Review Procedures.*
- .025. *Administrative Review Report.*
- .026. *Purpose of an Advisory Opinion.*
- .027. *Requirements for an Advisory Opinion.*

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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Commissioner  
Texas Department of Human  
Resources

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

### Agency and Institutional Licensing Procedures

326.92.31.027-.067

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .026. *Initial Contact.*
- .027. *Inquiry Interview.*
- .028. *Closing Inquiries.*
- .029. *Exemptions.*
- .030. *Contact with Governing Body.*
- .031. *Application.*
- .032. *Personal Reference Information.*
- .033. *Withdrawal of Application.*
- .034. *Evaluation Process.*
- .035. *Conducting the Investigation Study.*
- .036. *Sampling Records To Be Reviewed.*
- .037. *Preparing the Written Licensing Report.*
- .038. *Criteria for Issuance.*
- .039. *Regulation during Provisional Licensing Period.*
- .040. *Decision Not To Issue a Biennial upon Expiration of a Provisional License.*
- .041. *Facilities Not Providing Services in Provisional Licensing Period.*
- .042. *First Biennial License.*
- .043. *Subsequent Biennial License.*
- .044. *Denial of Subsequent Biennial Application.*
- .045. *Failure To Apply for Subsequent License.*
- .046. *Request To Return a License.*

- .047. *Licensing Staff Responsibilities—Identification.*
- .048. *Licensing Staff Responsibilities—Inspection Visit Denied.*
- .049. *Regulation during the Biennial Licensing Period.*
- .050. *Children in Immediate Danger.*
- .051. *Notification of Noncompliance.*
- .052. *Evaluation after Expiration of Time Limit.*
- .053. *Standard-by-Standard—Failure To Comply with Standards.*
- .054. *Licensing Suspension—Administrative.*
- .055. *Suspension—In Place of Revocation.*
- .056. *Request for Suspension.*
- .057. *Suspension Requested—Follow-up.*
- .058. *Suspension Denied—Follow-up.*
- .059. *Extension of Suspension Period.*
- .060. *Notice of Intent To Deny or Revoke a License/Certificate—after a Standard-by-Standard Evaluation.*
- .061. *Appeal or Suspension Not Requested.*
- .062. *Suit Not Filed.*
- .063. *Monitoring during Appeal Process.*
- .064. *Notice of Intent To Deny or Revoke a License—without a Standard-by-Standard Evaluation.*
- .065. *Cessation of Operation.*
- .066. *Changes in Operation—Amending a License.*
- .067. *Change of Facility Ownership or Location—New License Required.*

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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Commissioner  
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ext. 2037.

### Agency and Institutional Licensing Procedures

326.92.31.068-.095

The following rules are proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .068. *Facilities Not Subject to Regulation.* If it is unclear that a facility is subject to regulation under §42.041, Human Resources Code, the administrator or governing body must make a written statement to the licensing representative, citing the subsection of the statute under which the facility is not subject to regulation and include documentation to support the facility's position.

**.069. Application.** The applicant is entitled to a written notice from the licensing representative if the application is incomplete or compliance is not substantiated.

**.070. Personal History Statement.**

(a) A personal history statement is required as a part of the application for:

- (1) applicants who are not a corporation with a board of directors, a church, or governmental entity, or
- (2) people responsible for the operation of a child-caring or child-placing facility who are not licensed administrators or applicants for an administrator's license.

(b) Misrepresentation on the personal history statement is grounds for denial or revocation.

**.071. Sampling Records To Be Reviewed.** The department may use sampling, instead of reading all facility records, to evaluate substantial compliance with the minimum standards.

**.072. Issuance of Provisional License.**

(a) A provisional license is appropriate for a facility if:

- (1) A facility applies for a license but has not yet accepted children for care.
- (2) A facility has suspended operation and the license has expired.
- (3) An operating facility is not currently licensed.
- (4) A facility licensed for one type of child care applies for a license for a different type of child care.
- (5) A facility licensed for one type of child care applies to add another type of child care to its program; a provisional license is issued for the new facility type.
- (6) A facility changes location.
- (7) A facility changes ownership.

(b) A provisional license is issued when a facility meets all the appropriate minimum standards except those where waivers or variances have been granted.

**.073. Notification of Inspection/Investigation Visit.** The facility is entitled to be notified of the results of an inspection or investigation visit, including the following:

- (1) Specifics of the noncompliance with standards and/or law.
- (2) Corrections necessary for compliance.
- (3) Date by which the facility must be in compliance.

**.074. Facilities Not Providing Services in Provisional Licensing Period.** Provisional licensees who do not become operational during the provisional licensing period are not eligible for a biennial license since the department cannot determine continuing compliance with all minimum standards. The facility is entitled to be notified in writing of the right to appeal. The only issue on an appeal is whether there was continuing compliance with all minimum standards based on information available to the department. The licensee may apply for another provisional license by completing another application form.

**.075. First Biennial License.** A facility is eligible for a first biennial license providing:

- (1) The provisional license has been in effect for at least three months,
- (2) Minimum standards have been met on a continuing basis, and
- (3) Three inspection visits have been made to the facility by the licensing representative or, with supervisory approval is secured to make fewer visits.

**.076. Subsequent Biennial License.** The facility must complete and return all application materials to the licensing representative no later than two months before the biennial license expires.

**.077. Denial of Subsequent Biennial Application.** The department denies the subsequent biennial license if standards are not met or have not been met on a continuing basis, or if other requirements of the licensing law are being violated.

**.078. Notice of Noncompliance.** When a facility receives a notice of noncompliance from licensing staff, the facility must correct the non-compliance by the time limit stated in the notification, and the facility must comply with all other standards.

**.079. Request for Suspension.** A facility requesting suspension in place of revocation must make its request in writing and must show specifically that standards can be met within the suspension period, in addition to recommending a suggested suspension period. The facility may request an extension of the suspension period if the extension period does not exceed the expiration date of the license.

**.080. Monitoring during Appeal Process.** During the appeal process, a facility is subject to regulation and must allow licensing staff to inspect and investigate the facility.

**.081. Denial or Revocation of a License without a Standard-by-Standard Evaluation.** Licensing staff may deny or revoke a license/certificate without completion of a standard-by-standard evaluation if they determine that a dangerous situation exists or that an incident resulting in one of the following has occurred as a result of a violation of minimum standards or the law:

- (1) Death of a child.
- (2) Serious injury to a child or a child has contracted a serious illness.
- (3) Incidents of abuse or neglect that have been classified as "reason to believe" or "adjudicated."
- (4) Report from a law enforcement, health, or fire agency that a dangerous situation exists.
- (5) Presence of a person(s) at the facility that is a violation of standards or causes a serious threat of violation to exist and when that person's behavior is believed to constitute an actual or potential threat to the children in care.
- (6) Refusal by facility personnel to admit licensing staff for inspection of the facility.
- (7) Violations of standards which threaten serious harm to children.

**.082. Cessation of Operation.** The department may deny or revoke a license without first conducting a

standard-by-standard evaluation in the following instances:

(1) A facility with an application pending does not plan to open, and refuses to withdraw the application.

(2) A licensed/certified facility ceases to operate, has no plan to reopen, and refuses to return the license/certificate.

**.083. Amending a License for Changes in Operation.** The department may amend the restrictions of a license based on the extent of the change and its impact on the facility.

**.084. Renewal of Certificate.** For renewal, the facility must return all documentation required by the department no later than two months before the certificate expires.

**.085. Agency Foster Group Home.** Child-placing agencies desiring a license for an agency foster group home must submit a completed licensing investigation report and any documentation required by standards.

**.086. Receiving and Recording the Complaint.** In accordance with the Attorney General's Opinion, Open Records No. 176, the name of the complainant is confidential.

**.087. Notification of Investigation of Complaints.** The administrator or board of directors of a facility is entitled to know the specific allegations of a complaint against the facility and the procedures for complaint investigations.

**.088. Reporting Investigatory Findings.** The administrator or board of directors of a facility is entitled to be notified of the findings of a complaint investigation including specification of unmet standards, facts supporting a determination of non-compliance, corrections needed, and time limit for correction.

**.089. Investigation of Complaints at State-Operated Facilities.** The facility must provide a written report containing at least the following information:

(1) Specifics of the complaint and details of the circumstances.

(2) The date and time it occurred.

(3) Staff member(s), foster parent(s), and/or child(ren) involved.

(4) Actions taken by facility staff and/or foster parent(s).

**.090. Operating Unlicensed Child Care Facilities.** An operating, unregulated facility must send an application to the department within the time frames established in writing by the licensing representative. The facility is entitled to be notified of the findings of an investigation and if legal action will be taken, unless immediate action is taken under other rules of the department.

**.091. Planning for Placement.** Planning for placement, which includes those activities purposefully performed to facilitate or arrange either adoptive or foster care placement, is subject to regulation.

**.092. Requesting the Waiver/Variance.**

(a) The licensee/applicant or authorized represen-

tative requests a waiver/variance from the licensing representative responsible for the facility. The licensee/applicant must send the request in writing to the department and include:

(1) Facility name and address and the name of the licensee/applicant and address.

(2) Specific standard identified for which the request is made.

(3) Reasons for the request.

(4) Length of time for which the waiver/variance is requested and justification for this period of time.

(b) The facility is entitled to be notified of the decision regarding the waiver/variance request. If the decision is to deny, the requestor may ask for a review of the decision by the director of licensing or may resubmit the request with additional information. The facility has the option of requesting the director of licensing to review the denial of a request for a waiver/variance.

**.093. Requesting an Administrative Review.** A licensee/applicant/certificate holder may request an administrative review when he disagrees with a decision or action of a licensing representative or a state supervisor. He makes the request to the director of agency and institutional licensing and describes the decision or action in dispute. When the request concerns a decision or action involving a time limit or limits for correction of non-compliance with standards, the licensee/applicant/certificate holder must make the request for administrative review before the end of the time limits.

**.094. Purpose of an Advisory Opinion.** An advisory opinion which is acted upon becomes a declaratory order, and is valid for the duration of the applicable minimum standards in effect at the time of the opinion or for a lesser period specified in the opinion. The requestor must make a written request for an advisory opinion to the licensing representative. He must include in the written request a detailed description of the plan or planned changes and must submit the request in triplicate. The requestor must include in the request the specific questions the advisory opinion is to address. The director of licensing only issues advisory opinions based on requests for answers to specific questions related to cited minimum standards.

**.095. Special Procedures for Facilities Wanting To Employ Persons with Previous Convictions.** Facilities wanting to employ persons with a history of certain criminal convictions must comply with Rule 326.92.21.132.

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 April 8, 1982.

TRD-823091

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

**Special Cases**

**326.92.32**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .012. *Prestudy Phase - Certification Process.*
- .013. *Conducting the Certification Investigation Phase.*
- .014. *Issuance of Certificate.*
- .015. *Renewal of Certificate.*
- .016. *Request to Return a Certificate.*
- .017. *Denial or Revocation of a Certificate.*
- .018. *Regulation of Child-Placing Agencies with Branch Offices.*
- .019. *Regulation of Agency Foster Family Homes.*
- .020. *Agency Foster Family Homes and Child-Placing Agencies Located in Different Regions.*
- .021. *Procedures for Regulating Foster Group Homes.*
- .022. *Determining Capacity of a Foster Group Home.*
- .023. *Agency Foster Group Home.*
- .024. *Assignment of Agency Foster Group Homes.*
- .025. *Regulation of Agency Foster Group Homes.*
- .026. *Provisional License for Agency Foster Group Homes (Not Applicable to State-Operated Facilities).*
- .027. *Noncompliance in Agency Foster Group Homes.*

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-823092      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

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

**Complaint Investigations in Agency and  
Institutional Licensing**

**326.92.33**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child-care facilities and child-care administrators.

- .008. *General—Complaint Investigation.*
- .009. *Receiving and Recording the Complaint Regarding Regulated Facility.*
- .010. *Complaints on Agency Homes.*
- .011. *Notifying Complainant of Action Taken.*
- .012. *Complaints of Child Abuse or Neglect Alleged.*
- .013. *Initial Investigation Contact.*
- .014. *Sources of Information.*
- .015. *Photographs.*

- .016. *Courtesy Investigation.*
- .017. *Writing the Report.*
- .018. *Reporting Investigatory Findings.*
- .019. *Notifying Complainant of Action Taken.*
- .020. *Regulated Facilities.*
- .021. *Investigation of Complaints on State-Operated Facilities.*
- .022. *Complaint on Facilities Not under DHR Regulation.*
- .023. *Serious Incidents.*
- .024. *Report Alleging Unlicensed Child-Placing Activity.*
- .025. *Initial Contact Procedures.*
- .026. *Assessing Conditions Harmful to Children.*
- .027. *Unlicensed Operations.*
- .028. *Writing the Report—Unlicensed Operations.*
- .029. *Disposition.*
- .030. *Referral for Legal Action.*

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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Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

**Administrative Actions in Agency and  
Institutional Licensing**

**326.92.34**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child-care facilities and child-care administrators.

- .002. *Requesting the Waiver.*
- .003. *Processing the Waiver Request.*
- .004. *Variances.*
- .005. *Requesting the Variance.*
- .006. *Processing the Variance Request.*
- .007. *Waiver/Variance Time Limits.*
- .008. *Waiver/Variance Committee Evaluation.*
- .009. *Waiver/Variance - Denied Requests.*
- .010. *Administrative Reviews.*
- .011. *Requesting an Administrative Review.*
- .012. *Presence of Counsel.*
- .013. *Review Procedures.*
- .014. *Administrative Review Report.*
- .015. *Purpose of an Advisory Opinion.*
- .016. *Requirements for an Advisory Opinion Request.*
- .017. *Action by Director of Licensing.*
- .018. *Special Procedures for Facilities Wanting To Employ Persons with Previous Convictions.*
- .019. *Determination of Rehabilitation.*
- .020. *Procedures To Be Followed When Noncompliance Is Determined.*

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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Commissioner  
Texas Department of Human  
Resources

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

### **Injunctions—Civil/Criminal Penalties**

**326.92.35**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

#### *.003. Injunctions—Civil/Criminal Penalties*

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

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Commissioner  
Texas Department of Human  
Resources

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ext. 2037.

### **Institutional Administrators Licensing**

**326.92.51.011-.019**

This repeal is proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

- .011. Applicant Qualifications*
- .012. Initiating Licensing.*
- .013. Handling Inquiries.*
- .014. Refusal To Apply.*
- .015. Handling Applications.*
- .016. Denied Applications.*
- .017. Continued Activity After Application Denied.*
- .018. Child Care Administrators Licensing Examination.*
- .019. Renewal.*

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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ext. 2037.

### **Child Care Administrators Licensing**

**326.92.51.021-.025**

The following rules are proposed under the authority of the Human Resources Code, Title 2, Chapters 42 and 43, which authorize the department to establish rules for the regulation of child care facilities and child care administrators.

*.021. Applicant Qualifications.* To qualify for a child care administrator's license, an applicant must meet the qualifications in Human Resources Code, §43.004, and must not be addicted to dangerous drugs or intemperate in the use of alcohol. An applicant must not have been convicted within the preceding 10 years of a misdemeanor classified as one of the following:

- (1) an offense against the person;
- (2) an offense against the family; or
- (3) public indecency, unless the director of licensing rules that proof of rehabilitation has been established.

*.022. Handling Applications.* To apply for a child care administrator's license, the applicant must submit an application, a personal history statement, and a check or money order for \$50. The applicant is entitled to be notified if he does not pass the examination for a child care administrator's license. The applicant may have another opportunity to take the examination. An applicant for a child care administrator's license may take the examination up to three times before he is disqualified from re-examination. The applicant must pay a \$25 examination fee for each examination he takes. Application and examination fees are not refundable to an applicant who fails to obtain a passing score on the examination.

*.023. Denied Application.* When the department denies an application for a license, an applicant is entitled to be notified of the decision to deny and an explanation of the reason(s). An applicant who wants to appeal must send the request to the department within 30 days of receipt of the denial notice.

#### *.024. Renewal Requirements.*

(a) A child care administrator must renew his license every two years. The requirements for renewing an administrator's license are:

(1) Documentation of at least 15 clock hours of acceptable continuing education.

(2) The administrator must apply for renewal on the child care administrator's license renewal form and submit a \$25 renewal fee.

(b) If a licensee allows his license to expire, the director may grant a 90-day grace period for just cause, subject to approval of the director of licensing. During this period, the licensee can renew his license without penalty. If the 90-day grace period expires without the license being renewed, the administrator must reapply and retake the examination to receive a license.

*.025. Procedures for Establishing Proof of Rehabilitation.* The applicant/licensee must send a request in writing to establish proof of rehabilitation to the

director. The applicant/licensee must include in the request information documenting rehabilitation. The applicant/licensee must establish that rehabilitation has occurred to the extent that the person's behavior is not a substantial risk to children. Documentary evidence to be submitted for consideration for determining rehabilitation is described in Rule 326.92.21.132.

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 April 8, 1982.

TRD-823097

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Proposed date of adoption: May 17, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.



# Withdrawn Rules

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

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

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

## TITLE 1. ADMINISTRATION Part V. State Purchasing and General Services Commission Chapter 113. Central Purchasing Division Purchasing

1 TAC §§113.1-113.3, 113.6, 113.7, 113.10

The State Purchasing and General Services Commission has withdrawn from consideration for permanent adoption proposed amendments to §§113.1-113.3, 113.6, 113.7, and 113.10 concerning the Central Purchasing Division. The text of the amended sections as proposed appeared in the February 24, 1981, issue of the *Texas Register* (6 TexReg 721).

Issued in Austin, Texas, on April 7, 1982.

TRD-823044

James H. Quick  
General Counsel  
State Purchasing and General  
Services Commission

Filed: April 8, 1982

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

## TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 5. Transportation Division Subchapter U. General and Special Rules of Practice and Procedure

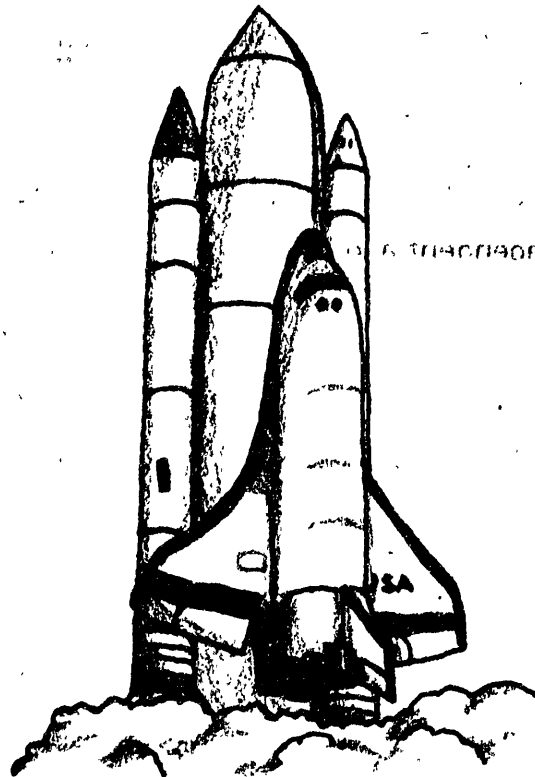
16 TAC §5.461

Pursuant to Texas Civil Statutes, Article 6252-13a, §5(b), and 1 TAC §91.24(b), the proposed amendments to §5.461 submitted by the Railroad Commis-

sion of Texas has been automatically withdrawn, effective April 12, 1982. The amendment as proposed appeared in the October 9, 1981, issue of the *Texas Register* (6 TexReg 3754).

TRD-823147

Filed: April 12, 1982.





**Part VI. Texas Motor Vehicle  
Commission  
Chapter 105. Advertising**

**16 TAC §105.20**

The Texas Motor Vehicle Commission has withdrawn from consideration for permanent adoption the proposed repeal of §105.20 concerning advertising. The proposed notice of repeal appeared in the January 12, 1982, issue of the *Texas Register* (7 TexReg 130).

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

TRD-823067      Russell Harding  
Executive Director  
Texas Motor Vehicle Commission

Filed: April 8, 1982  
For further information, please call (512) 476-3587.

**16 TAC §§105.20-105.22**

The Texas Motor Vehicle Commission has withdrawn from consideration for permanent adoption proposed new §§105.20-105.22 concerning advertising. The text of the new sections as proposed appeared in the January 12, 1982, issue of the *Texas Register* (7 TexReg 130).

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

TRD-823068      Russell Harding  
Executive Director  
Texas Motor Vehicle Commission

Filed: April 8, 1982  
For further information, please call (512) 476-3587.

**TITLE 37. PUBLIC SAFETY AND  
CORRECTIONS**

**Part III. Texas Youth Council  
Chapter 81. General Provisions  
Case Management System for  
Dependent and Neglected Youth**

**37 TAC §81.143**

The Texas Youth Council has withdrawn from consideration for permanent adoption proposed amend-

ments to §81.143 (203.01.11.003), concerning case management system for dependent and neglected youth. The text of the amended sections as proposed appeared in the March 16, 1982 issue of the *Texas Register* (7 TexReg 1096).

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

TRD-823135      Martha K. McCann  
Manuals System Coordinator  
Texas Youth Council

Filed: April 12, 1982  
For further information, please call (512) 452-8111.

**TITLE 40. SOCIAL SERVICES  
AND ASSISTANCE**

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

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

**General Licensing Procedures**

**Social Work Certification**

**326.92.61**

The Texas Department of Human Resources has withdrawn from consideration for permanent adoption proposed new Rule 326.92.61.005, concerning social work certification. The text of the new rule as proposed appeared in the January 8, 1982, issue of the *Texas Register* (7 TexReg 58).

Issued in Austin, Texas, on April 7, 1982.

TRD-823100      Susan L. Johnson  
Administrator  
Policy Development Support  
Division  
Texas Department of Human  
Resources

Filed: April 9, 1982  
For further information, please call (512) 441-3355,  
ext. 2037.

# Adopted Rules

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

The document, as published in the *Register*, must indicate whether the rule is adopted with or without changes to the proposal. The notice must also include paragraphs which: explain the legal justification for the rule; how the rule 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 it adopted the action under.

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

**TITLE 19. EDUCATION**  
**Part I. Coordinating Board, Texas**  
**College and University System**  
**Chapter 25. Administrative Council**  
**Subchapter C. Administration of**  
**Retirement Annuity Programs**  
**19 TAC §25.77**

The administrative council of the Coordinating Board, Texas College and University System, adopts amendments to §25.77 without changes to the proposed text published in the February 23, 1982, issue of the *Texas Register* (7 TexReg 728).

This amendment makes no substantive change to the rule, but imposes its provisions on the institutions of higher education rather than on insurance carriers. This amendment clarifies the requirements regarding solicitation practices, and more uniform procedures should be established by the institutions.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Insurance Code, Article 3.50-3, which provides the administrative council with the authority to develop policies, practices, and procedures as necessary to provide for greater uniformity in the administration of retirement annuity insurance programs available to employees of Texas state colleges and universities.

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 April 8, 1982.

TRD-823124

James McWhorter  
Executive Secretary to  
Administrative Council  
Coordinating Board,  
Texas College and University  
System

Effective date: April 30, 1982  
Proposal publication date: February 23, 1982  
For further information, please call (512) 475-2033.

**19 TAC §25.78**

The administrative council of the Coordinating Board, Texas College and University System, adopts amendments to 25.78 without changes to the proposed text published in the February 23, 1982, issue of the *Texas Register* (7 TexReg 729).

This amendment requires public institutions of higher education in Texas to require companies who participate in the Optional Retirement Program to include more accurate and more up-to-date information on the annual reports they provide to individuals regarding their retirement annuity accounts. The amendment provides that participants in the Optional Retirement Program receive more timely and accurate information regarding their annuity accounts.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Insurance Code, Article 3.50-3, which provides the administrative council with the authority to develop policies, practices, and procedures as necessary to

provide for greater uniformity in the administration of retirement annuity insurance programs available to employees of Texas state colleges and universities.

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 April 8, 1982.

TRD-823125 James McWhorter  
Executive Secretary to  
Administrative Council  
Coordinating Board, Texas  
College and University System

Effective Date: January 1, 1983.  
Proposal publication date: February 23, 1982  
For further information, please call (512) 475-2033.

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

#### Title Insurance

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

#### 059.09.07

The State Board of Insurance has amended its rule 059.09.07.001, the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas* (manual), by adopting by reference the following rules, rates and forms:

Existing procedural Rule P-20 (previously adopted on an emergency basis) authorizing an amendment of the standard exception in mortgagee policies relating to taxes will be made permanent.

Existing rate Rule R-19 (previously adopted on an emergency basis) authorizing an additional \$20 premium for amending a mortgagee policy pursuant to Rule P-20 will be made permanent.

Existing endorsement Form T-30 (previously adopted on an emergency basis) to be used to amend mortgagee policies pursuant to Rule P-20 will be made permanent.

New procedural Rule P-9.b(6) defining adjustable mortgage loan instruments and authorizing endorsement (T-33) of the mortgagee policy to insure liens securing adjustable mortgage loan notes.

New adjustable mortgage loan endorsement Form T-33 to be used to endorse mortgagee policies pursuant to Rule P.9.b.(6).

Amended rate Rule R-4 authorizing issuance of a mortgagee policy in amounts up to 125% of the original principal amount of indebtedness in order

to include legal interest (capitalized or otherwise) pursuant to new Rule P-9.b.(6) and setting the premium to be charged on new policies and on previously issued mortgagee policies insuring adjustable mortgage loans.

New rate Rule R-11.d. setting a \$20 premium for each endorsement issued pursuant to Rule P-9.b.(6) in instances where no additional premium has been charged pursuant to amended Rule R-4.

Amended mortgagee title policy binder on interim construction loan clarifying the obligations of the insurer.

Amended rate Rule R-8 extending the credit allowed upon the subsequent issue of a mortgagee policy to include situations where there has been a change in ownership of the property subject to the insured lien.

New procedural Rule P-9.a.(2) authorizing the endorsement (T-34) of an owner's policy to reflect the present value of the insured property.

New rate Rule R-3.c. setting the premium to be charged when an owner's policy is endorsed pursuant to new Rule P-9.a.(2).

New increased value endorsement Form T-34 to be used to endorse owner's policies pursuant to new Rule P-9.a.(2).

Notice of the proposed amendments was published in the February 9, 1982, issue of the *Texas Register* (7 TexReg 575). The proposed changes were adopted as proposed.

The justification for each of the amendments as set forth above is as follows:

Existing Rules P-20 and R-19 and existing Form T-30 which were adopted on a temporary and emergency basis will be made permanent.

Mortgagee title insurance coverage will be extended to adjustable interest rate mortgages, negative amortization mortgages and roll-over mortgages not currently covered.

The binder issued on interim construction loans will be more specific and more readily accepted by lenders.

The premium credit allowed upon the issuance of a mortgagee policy insuring a loan which refinances an existing loan presently insured will be extended to include those situations where there has been a change in the ownership.

Provision for an insured to "up grade" his coverage under an existing owner's policy to reflect the present value of the property rather than the original purchase price—commonly known as an "inflation endorsement."

All of the adopted rule amendments will appear in and be a part of the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* for use by agents, insurance companies, and other interested parties. The effect of the amendments

will be: to continue the present procedures, rate, and form used to delete the standard exception in mortgagee policies relating to taxes when appropriate; to extend and define the coverage afforded by mortgagee policies insuring the innovative type loans now available and to set a premium rate for endorsement of standard mortgagee policies to either increase the limits of liability or coverage or both; a new form of binder for interim construction loans; standardization of the premium credit allowed on refinancing of insured loans; and, provision for optional increases in limits of liability on owner's policies reflecting increased property values.

No comments for or against the proposed rule amendments were received from any interested party or the public during the 30-day publication period. However, during the November 10, 1981, public hearing and immediately thereafter while the record remained open prior to publication of the proposed action in the *Texas Register*, certain persons or organizations offered comments on each agenda item. A summary of the comments organized by agenda item and amendment is as follows:

**Concerning existing Rules P-20 and R-19 and existing Form T-30:**

*Proponents:* Procedural Rule P-20, rate Rule R-19 and endorsement Form T-30 were initially adopted by the board in July 1980 and readopted on a temporary basis in November 1980. The Omnibus Property Tax Code Revision passed in special session of the 1981 legislature contains provisions which allow the title industry to determine whether or not real property has been assessed and taxed at other than fair market value for any given year. The title industry may now determine its exposure for roll-back taxes and eliminate the exception in the mortgagee policy when appropriate. The tight mortgage market demands the continuation of these rules in order to remain competitive with other states in the national market place.

*Opponent:* Insurance against loss as a result of a future event or happening is not title insurance.

**Concerning mortgage title insurance coverage:**

*Proponents:* Adjustable rate mortgage loans which permit adjustment of the interest rate implemented through changes in the payment amount or through adjustments to the outstanding principal loan balance (negative amortization) or the loan term are not adequately insured under the present terms of the mortgagee policy. In some cases the principal balance can exceed 120% of the original balance; in other cases the maturity date is extended beyond the original term; and, in still other cases the terms of the loan are redetermined in a "roll over." The proposed changes will adopt the present mortgagee policy terms to insure the various forms of adjustable rate mortgages and provide the endorsement of existing policies when appropriate. The validity of the lien is being insured.

*Opponent:* Adjustments in interest rates are future events beyond the control of the insurer and are not generally a risk of title insurance.

**Concerning the binder issued on interim construction loans:**

*Proponent:* Lenders and attorneys question the legal obligation of the insurer to issue a policy upon payment of the premium and question whether or not that policy may have exceptions not shown on the binder. The proposed new form of Binder on Interim Construction Loan is more specific concerning the obligations of the insurer.

*Opponents:* The purpose of the binder (which is a misnomer) is a commitment to issue a mortgagee policy. It is not intended to provide coverage and the proposed form T-33 assumes liability that is not present in the existing form.

**Concerning the premium credit allowed upon the issuance of a mortgagee policy insuring a loan which refinances an existing loan presently insured:**

*Proponents:* The present rule authorizing a credit upon the purchase of a second mortgagee policy shortly after purchase of the first excludes those situations wherein there has been a change in ownership. Such exclusion is without basis or reason and creates many problems for lenders and other parties who finance construction and wish to participate in the ownership of the project.

*Opponents:* Extending the credit to additional situations would increase the number of transactions that the title companies would conduct in which they would not receive a full premium. Changes in ownership may increase the insurer's liability.

**Concerning the provision for an insured to upgrade his coverage:**

*Proponents:* In an inflationary economy, an owner's title policy in the amount of the purchase price is often inadequate protection in the event of a complete failure of title. Automatic inflation riders cause the purchase of insurance by some who do not need or want it. This proposal allows an owner to increase his coverage at his option.

*Opponents:* Inflation endorsements are considered dangerous and unnecessary by underwriters. An owner who has knowledge of a claim may increase his coverage without revealing that knowledge to the insurance company. Traditionally title insurance has been an indemnity contract and limited to actual damages sustained; this endorsement allows the insurance of gain or profitability above the investment level. This endorsement will limit the company's ability to recoup losses upon subrogation to the warranty of title of the previous owner which is limited to the consideration paid.

**Concerning existing Rules P-20 and R-19 and existing Form T-30:**

*Proponents:* Larry E. Temple, attorney, representing TMBA; David B. Irons, attorney, representing TUT; Robert C. Sneed, attorney, representing TLTA.

*Opponent:* Ira M. Goodrich, staff, State Board of Insurance.

**Concerning mortgage title insurance coverage:**

*Proponents:* Robert C. Sneed, attorney, representing TLTA; David B. Irons, attorney, representing TUT; Larry E. Temple, attorney, representing TMBA; Harry M. Roberts, Jr., at-

torney, representing SBTIC; James H. Garst, V.P. CLT, a witness for TLTA and TUT.

*Opponent:* Ira M. Goodrich, staff, State Board of Insurance.

Concerning the binder issued on interim construction loans:

*Proponent:* Harry M. Roberts, Jr., attorney, representing SBTIC.

*Opponents:* David B. Irons, attorney, representing TUT; Robert C. Sneed, attorney, representing TLTA; Robert M. Clark, V.P., USLIFE, a witness for TUT.

Concerning the premium credit allowed upon the issuance of a mortgage policy insuring a loan which refinances an existing loan presently insured:

*Proponents:* Harry M. Roberts, Jr., attorney, representing SBTIC; Robert C. Sneed, attorney, representing TLTA.

*Opponents:* David B. Irons, attorney, representing TUT; Jerei J. Hill, counsel, representing TUT; Edward S. Cutrer, president, Capital Title Company; Lupe Carmone, president, Capital Title Company; Ira M. Goodrich, staff, State Board of Insurance.

Concerning the provision for an insured to upgrade his coverage:

*Proponents:* Harry M. Roberts, Jr., attorney, representing SBTIC; \*David B. Irons, attorney, representing TUT; \*James H. Garst, V.P., CLT, a witness for TUT; \*Robert C. Sneed, attorney, representing TLTA.

*Opponents:* Ace Pickens, attorney, representing USLIFE Title of Dallas; Robert M. Clark, V.P., USLIFE, a witness for his company; Ira M. Goodrich, staff, State Board of Insurance; \*both TUT and TLTA support the concept but suggested alternate wording and amended form.

The board agreed with the proponents positions and arguments on each listed agenda item and disagreed with the opponents positions and arguments in the following manner:

Concerning existing Rules P-20 and existing Form T-30: The board felt that the determination whether or not a particular piece of property has been assessed and/or taxed at other than fair market value was an incident of the status of title in the same manner that determination of prior payment of taxes is an incident of title. The deletion of the exception in the mortgage policy is tantamount to an assurance that the tax assessment records have been searched and that the title insurance company has determined that the property has not been assessed or taxed at less than fair market value according to those records. If the property has been taxed or assessed at a reduced rate, the exception remains in the policy and serves as notice to the insured of the potential future tax liability.

Concerning mortgage title insurance coverage: The board found that extending the present coverage on

mortgage loans to include those with adjustable rates was required under present economic conditions and was a reflection of the actual lending practices accepted in all states.

Concerning the binder issued on interim construction loans: the board found that the proposed form was more specific than the existing form and that its use would eliminate some confusion as to the rights and obligations of the parties.

Concerning the premium credit allowed upon the issuance of a mortgage policy insuring a loan which refinances an existing loan presently insured: the board found little justification for the exclusion of changes in ownership from the benefit of the credit in the rule. Whether or not there has been a change in ownership, the title company must search the title from the date of the last policy to the date of the second policy. The board found that the credit allowed would reflect the reduced length of the search of title and adequately compensate the title company for its efforts.

Concerning the provision for an insured to upgrade his coverage: The board found that owners should be able to increase the amount of protection afforded by their policies and receive premium credit for the amount paid for the original policy. An owner can insure the present value of his property pursuant to rate Rule R-3. This rule will allow an owner to choose between a new policy at full premium or an endorsement to an existing policy with credit for the premium previously paid.

The board found that the rates set out in the above listed agenda items are proper and correct rates for title insurance and that the rates are reasonable to the public and adequate and nonconfiscatory to title insurance underwriters and title insurance agents.

The amendments are adopted under the Texas Title Insurance Act, Articles 9.07 and 9.21 which empower the State Board of Insurance with the power and duty to fix and promulgate the premium rates, to promulgate or approve all forms to be used by title insurance companies, and with the power and authority to promulgate and enforce rules and regulations prescribing underwriting standards and practices, and all other such rules and regulations which in the discretion of the board are deemed necessary to accomplish the purposes of the Act.

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

Issued in Austin, Texas, on April 6, 1982.

TRD-823035

James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: May 1, 1982

Proposal publication date: February 9, 1982

For further information, please call (512) 476-2950.

**TITLE 34. PUBLIC FINANCE**  
**Part I. Comptroller of Public**  
**Accounts**  
**Chapter 3. Tax Administration**  
**Subchapter F. Motor Vehicle Sales Tax**  
**Division**

**34 TAC §3.84**

The office of the Comptroller of Public Accounts adopts amendments to §3.84 without changes to the proposed text published in the February 2, 1982, issue of the *Texas Register* (7 TexReg 425).

The section is amended in order to reflect the amendments made to the Motor Vehicle Retail Sales and Use Tax Act by House Bill 254, 67th Legislature, 1981 Texas Session Law Service, Chapter 591 at 2340. The section as amended exempts motor vehicles which have been or will be modified to transport the orthopedically handicapped and specifies the documentation needed to claim the exemption.

No comments were received regarding adoption of the amendments.

These amendments are adopted under the authority of Texas Tax Code, §111.002, 1981 Texas Session Law Service, Chapter 389 at 1490, which provides that the comptroller may establish rules and regulations for the enforcement and collection of the taxes and other revenues under the tax code.

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 April 12, 1982.

TRD-823139      Bob Bullock  
Comptroller of Public Accounts

Effective date: May 3, 1982  
Proposal publication date: February 2, 1982  
For further information, please call (512) 475-7000.

**Subchapter O. Sales Tax Division—State**  
**Taxes**

**34 TAC §3.352**

The office of the Comptroller of Public Accounts adopts new §3.352 (026.02.20.072), concerning brokers and factors, with changes to the proposed text published in the February 23, 1982, issue of the *Texas Register* (7 TexReg 740).

The rule is needed so that brokers and factors would understand their sales tax liabilities. The sales tax responsibilities of these persons were covered by §3.311 concerning auctioneers, but were omitted when the section was amended. The new section provides definitions not found in the former section and clearly indicates when sales tax applies to a transaction.

No comments were received regarding adoption of the new section.

This new section is adopted under Texas Tax Code, §111.002, which provides the comptroller with the authority to adopt and enforce rules and regulations relating to the administration and enforcement of the sales tax.

**§3.352 (026.02.20.072). Brokers and Factors.**

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

(1) Broker—A person who brings other people together to bargain for the sale or purchase of taxable items. In absence of contractual provisions to the contrary, a broker:

(A) may not have possession of property;

(B) cannot cause title of property to be transferred to a purchaser without further action on the part of its owner; and

(C) has disclosed to the purchaser the identity of the broker's principal.

(2) Disclosed principal—A principal is considered to be disclosed if before or at the time of sale the purchaser has been given notice of the principal's identity.

(3) Factor—A person who sells taxable items belonging to a principal on consignment. A factor:

(A) has possession and control of property;

(B) can cause title of property to be transferred to a purchaser without further action on the part of its owner; and

(C) has not disclosed to the purchaser the identity of the factor's principal.

(4) Principal—A person who employs a broker or factor to act in the principal's behalf in negotiating with a purchaser for the sale of a taxable item.

(b) Sales tax is due on sales solicited by a broker if the principal is:

(1) a seller as defined by Texas Tax Code, §151.008; and

(2) the sale would otherwise meet the definition of occasional sale as found in §3.316 (026.02.20.036) of this title (relating to Occasional Sales). The principal is responsible for collecting and reporting the tax.

(c) Sales tax is not due on sales solicited by a broker if the principal is:

(1) not a seller; and

(2) the sale would otherwise meet the definition of occasional sale as found in §3.316 (026.02.20.036) of this title (relating to Occasional Sales).

(d) Sales tax is due on sales made by a factor. A factor is required to collect and report tax on all sales. For the responsibilities of a seller see §3.286 (026.02.20.006) of this title (relating to Seller's Responsibilities).

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

(e) Sales tax is due on sales made by pawnbrokers, storage men, mechanics, artisans, or others selling property to enforce a lien.

Issued in Austin, Texas, on April 12, 1982.

TRD-823140      Bob Bullock  
Comptroller of Public Accounts

Effective date: May 3, 1982  
Proposal publication date: February 23, 1982  
For further information, please call (512) 475-7000.



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

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

#### Purchased Health Services Medicaid Eyeglasses Program 326.36.02

The Texas Department of Human Resources adopts amendments to Rules 326.36.02.004 and .005, authorizing changes in optometric benefits and eyeglass specifications for the Medicaid Eyeglasses Program, without changes to the proposed text published in the February 12, 1982, issue of the *Texas Register* (7 TexReg 617).

The medical and cost-containment features of the amendments will improve the Medicaid Eyeglasses Program. The adoption of these amendments ensures more flexible program services and the relaxation of certain prescribing and purchasing restrictions applied to eyeglass providers.

No comments were received on the proposed amendments and no changes to the text of the rules were made.

The following amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public assistance.

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

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

TRD-823057      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: May 1, 1982  
Proposal publication date: February 12, 1982  
For further information, please call (512) 441-3355, ext. 2037.

## General Licensing Procedures Social Work Certification

### 326.92.61

The Texas Department of Human Resources adopts, with changes, the following new rules about social work certification to be added to the chapter on general licensing procedures. These rules were published in the January 8, 1982, issue of the *Texas Register* (7 TexReg 59).

Chapter 50 of the Human Resources Code, which became effective September 1, 1981, requires that under specified circumstances, social workers in Texas be certified. The statute also provides for issuance of certification without examination for applicants who apply before August 31, 1982. The following rules identify categories and minimum requirements for certification and orders of recognition for private practice. Also included are the rules for certification process, fees for the certification, and administrative actions.

On October 29, 1981, the Texas Board of Human Resources authorized the department to file emergency rules related to the certification process for social workers. The rules were also subsequently filed as proposed rules and six public hearings were held across the state to solicit public comments. The department received written comments from three individuals/organizations and heard verbal testimony from 25 persons, many of whom represented organizations as well as themselves. The following groups made comments for the rules with suggestions for improvements and clarifications: McMurray College, National Association of Black Social Workers, University of Houston, and Visiting Nurse Association of Dallas.

Comments were generally supportive of the proposed rules. Fourteen of those presenting comments, however, identified the need to reduce continuing education requirements. In response to those comments, the department has reduced the requirements and made them more flexible. Five persons indicated the need to lower the fee requirements for certification. Since the program for social work certification must be self-supporting, the department cannot lower the fee requirements at this time. If numbers of applicants for certification exceed the department's projection, it may be possible to lower fee scales at a later date. The department, however, added a category for inactive status which would reduce by one-half the regular certification fee for those who are not working as social workers or who are living and practicing

outside of Texas at the time for recertification. The department, in response to comments, clarified the private practice definition to include full-time and part-time practice. The department also decreased the time frame for the exception to the agency and institution employment requirement for private practice. Other comments received were related to Chapter 50 of the Human Resources Code or did not relate directly to the proposed rules.

The department also made editorial changes to the rules and deleted the internal operating procedures from the rules. Rule 326.92.61.005 is withdrawn because it contained only internal operating procedures.

These rules are adopted under the Human Resources Code, Title 2, Chapter 50, which provides this agency with the authority to establish rules for social work certification.

**.001. General Rule.** Individuals identifying themselves to the public as social workers must have a social work certification in accordance with the law and under the rules and procedures of the Texas Department of Human Resources.

**.002. Categories of Certification.** The department may issue the following types of certificates:

(1) Social work associate—minimum qualifications: education—high school diploma or its equivalent. Experience—persons with bachelors degrees must have one year of social work experience; those with associate degrees must have three years of experience; and those with high school diplomas must have five years of experience. The department will not grant new social work associate certificates after August 31, 1983.

(2) Social worker—minimum qualifications: education—bachelor of social work from a program accredited by the Council on Social Work Education or an equivalent program.

(3) Certified social worker—minimum qualifications: education—masters degree in social work from a program accredited by the Council on Social Work Education.

**.003. Recognition.**

(a) Private practice—a private practitioner of social work is one who, on either a full-time or part-time basis has responsibility for his own practice, establishes his own conditions of exchanges with his clients, and identifies himself as a social worker practitioner in offering services. Social workers are not in private practice if they are paid employees of an agency or institution and not compensated on a fee-for-service basis, if their role and functions are defined by the agency or institution, and if they are supervised by and accountable to the agency or institution.

(1) Only persons meeting the requirements may present themselves to the public as independent private practitioners.

(2) The requirements for independent private practice are:

(A) certification as certified social worker under Human Resources Code, Chapter 50;

(B) five years of full-time social work practice

in an agency or institution beyond the masters degree in social work;

(C) two years of these five years, or 3,000 hours of postmasters social work practice must have been completed under the supervision of a masters degree social worker who has had at least an equivalent amount of supervision. Until August 31, 1983, a private practitioner may substitute for social work supervision, supervision by a nonsocial work professional approved by the department;

(D) documentation of continued participation in the social work profession.

(3) Until August 31, 1986, the department may waive the agency and institutional employment requirement if the following requirements are met:

(A) five years of full-time social work experience;

(B) one year of experience in private practice of social work before March 1, 1983; and

(C) documentation of continued participation in the social work profession.

(b) Specialty practice—for the category of advanced clinical practitioner, a person may not use the names, titles, or related designations until he has received an order of specialty recognition.

(1) Clinical social work is the practice of providing direct, diagnostic, preventative or clinical services to individuals, families, and groups where functioning is threatened or effected by social or psychological stress or health impairment.

(2) Advanced clinical practitioner is a clinical social worker who meets the following requirements:

(A) certification as a certified social worker under Human Resources Code, Chapter 50;

(B) five years of full-time clinical social work practice in an agency or institution beyond the masters' degree;

(C) two years of these five years, or 3,000 hours of postmasters clinical social work practice must be completed under the supervision of a masters degree social worker who has had at least an equivalent amount of clinical social work supervision. Until August 31, 1983, the individual may substitute supervision by a mental health clinical professional approved by the department; and

(D) documentation of continued participation in the social work profession.

(3) Until August 31, 1986, the department may waive the requirement that the five years of clinical social work experience must be in an agency or institutional setting. This exception applies to individuals who graduate with a masters of social work degree before December 1, 1981.

**.004. Fees.**

(a) Applicants must pay the following fees to achieve and maintain certification:

(1) Application fee—\$15.

(2) Examination fee—\$50.

(3) Certification and official roster fees:

(A) Social work associate—\$15;

(B) Social worker—\$25;

(C) Certified social worker—\$35;

(D) Orders of recognition—\$45.



(b) Renewal fees are the same as the certification and roster fee.

*.006. Application.*

(a) An applicant must supply documentation of his qualifications, which includes, but is not restricted to, the following items:

- (1) education;
- (2) experience;
- (3) references; and
- (4) felony conviction statement.

(b) Falsification or misrepresentation by an applicant or certificate holder of his qualifications or any of the information requested is grounds for denial or revocation of the certification.

*.007. Examinations.* After August 31, 1982, the department may require applicants for certification to take an examination. Applicants must pay the examination fee before an examination is scheduled. Applicants are entitled to written notification of the results of the examination. If an applicant does not pass an examination, he may have an analysis of his performance by making a written request.

*.008. Reciprocity.*

(a) Applicants who are certified or licensed outside the state may request reciprocity.

(b) To be granted reciprocity, applicants must submit documentation to the department to establish that:

- (1) requirements met in the other jurisdiction are substantially equivalent to or greater than those in Texas, and
- (2) applicable fees have been paid.

*.009. Expiration and Renewal.*

(a) Certificates expire annually on the last day of the month of the certificate holder's birth. Certificate holders whose initial period of certification would be less than 12 months are entitled to extend their certification for an additional year. The department prorates fees and continuing educational requirements in these cases. Before the date of expiration, certificate holders and those holding orders of recognition must apply for renewal of their certificate, pay applicable fees, and provide documentation of acceptable continuing education.

(b) Continuing education requirements increase during the period 1983-1986. They may be met by completing the required number of continuing education units (CEU's), actual hours of training, or a combination of these. One CEU is equivalent to 10 actual hours of training. Training requirements for 1983 include one CEU or 10 actual hours of training. The continuing education requirements for 1983 are 10 hours; for 1984, 20 hours; and 1985, 30 hours. In 1985 and subsequent years, the 30 hours of continuing education requirements include at least one CEU.

(c) If the request for renewal is not received within 10 days of the expiration date, the certificate holder must reapply for certification.

(d) Certificate holders may request to be placed in an inactive status category rather than renew their certification if they are not currently employed as a social worker and are residing and practicing outside of Texas. The fee for inactive status category is half that of certification. Inactive status is for a 12-month period. Certificate holders may not renew their inactive status over

two times. In addition, the certificate holder must provide documentation for continuing involvement with the social work profession for renewal of the inactive status.

*.010. Denial Notification.*

(a) Applicants who are not certified are entitled to notification that includes:

- (1) the specific reason the application is denied;
- (2) the right to appeal the certification denial within 30 days of the department's notice; and
- (3) a copy of the appeal procedures.

(b) If the certificate holder does not request an appeal, the denial is final at the end of the 30-day period.

*.011. Request for Reconsideration.* An applicant may request reconsideration of his application if the director has determined that he does not meet requirements for certification or recertification. An applicant's request for reconsideration of an application does not negate or replace his right to appeal. The applicant or certificate holder is entitled to notification in writing of the decision following the director's reconsideration of the application. The applicant must make the request for reconsideration before the appeal board convenes.

*.012. Variances.*

(a) A variance is an alternative to an established requirement which meets the intent of the requirement and is approved by the director of social work certification. The director may not approve a variance of a law.

(b) Applicants or certificate holders who want a variance of a department requirement must request it in writing and provide the following information:

- (1) the specific requirement for which the variance is requested;
- (2) the reason(s) why the requirement cannot be met;
- (3) the proposed alternative to the requirement;
- (4) an explanation of how the proposed alternative meets the intent of the requirement; and
- (5) the time period for which the variance is requested.

(c) The director approves or denies the variance request in keeping with Human Resources Code, Chapter 50, and the regulations for social work certification. The applicant or certificate holder is entitled to be notified in writing of the director's decision.

*.013. Revocation and Suspension.*

(a) Violation of one or more of the provisions of Human Resources Code, Chapter 50, the regulations of the department, or conviction of a felony is grounds for revocation or suspension of the certification.

(b) The department may deny an applicant for certification or revoke or suspend a certification if a certificate holder is convicted of:

- (1) A felony under Texas Civil Statutes or the Texas Penal Code.
- (2) A felony in another state or jurisdiction which would also be considered a felony under Texas Civil Statutes or the Texas Penal Code.
- (3) A felony in a federal court.

(c) Certificate holders must notify the department in writing within 30 days of conviction of a felony. A certificate holder is entitled to be notified by certified mail before the department suspends or revokes his certification. The certificate holder is entitled to be:

- (1) Informed of the reason for suspension or revocation.
- (2) Informed of the period of suspension, if the certification is being suspended.
- (3) Advised of his right to appeal within 30 days of the revocation or suspension notice. If no appeal is requested, the action is final at the end of the 30-day period.
- (4) Provided a copy of the appeal procedures.

*.014. Probation.*

(a) Certificate holders whose social work certification is suspended or revoked may request probation. The certificate holder must make the request in writing to the director and include the following information:

- (1) the certificate holder's history of good conduct;
- (2) the names of individuals or other social work certificate holders who may attest to the certificate holder's good character;
- (3) written statements supporting probation rather than suspension or revocation;
- (4) information to substantiate the certificate holder's intent to comply with all requirements if probation is granted.

(b) The certificate holder is entitled to be notified of the director's decision by certified mail.

(c) If the director grants the request for probation, he states the terms and time period of the probation in a probation agreement. Any violation by the certificate holder of the terms of the agreement, the provisions of Human Resources Code, Chapter 50, or the department's rules is grounds for suspension or revocation of the certificate.

(d) If the certificate holder accepts the terms of the probation agreement, he must sign the probation agreement and send it to the director within 30 days. If the director does not receive a signed copy of the agreement within 30 days, he suspends or revokes the certification according to the original decision.

(e) Certificate holders on probation are entitled to written notification before their probation is rescinded and an opportunity to show why such action should not be taken.

*.015. Procedures for Establishing Proof of Rehabilitation.*

(a) Applicants who have been denied certification because of prior felony convictions, may establish proof of rehabilitation to qualify for eligibility requirements. The applicant must make a request in writing to establish proof of rehabilitation. An applicant must supply information documenting rehabilitation which may include, but is not limited to:

- (1) A copy of the record of conviction.
- (2) If the individual was incarcerated:
  - (A) a copy of the local, state, or federal release order;
  - (B) information related to the amount of time that has elapsed since release from a correctional facility without conviction of a crime; and
  - (C) information related to the terms and conditions of parole.
- (3) Information related to the terms and condi-

tions of probation if the individual was given a probated sentence.

(b) Information concerning proof of rehabilitation is considered by a committee composed of legal, medical, and program staff. In addition to review of information supplied by the applicant, the committee may also consider:

- (1) The nature and seriousness of the crime.
- (2) The extent and nature of the person's past criminal activity.
- (3) The age of the person at the time of commission.
- (4) The amount of time that has elapsed since the person's last criminal activity.
- (5) Evidence of rehabilitative effort during and following incarceration.
- (6) The conduct and work activity of the person before and after the criminal activity.
- (7) Other evidence of the person's present fitness, including letters of recommendation from: those who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and chief of police in the community where the person resides; and any other persons in contact with the convicted person.

(8) Documentation substantiating that the applicant has maintained a record of steady employment and has supported his dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he has been involved.

(c) Once a disposition has been made concerning the request, the applicant or certificate holder is entitled to be notified in writing of the decision.

*.016. Appeals.* Procedures for appeals are in Rules 326.92.41.012-.026. The following variations to these procedures are applicable for appeals by applicants for or holders of social work certificates:

(1) The review board is comprised of five members: the deputy commissioner for programs; the deputy commissioner for field management; and the deputy commissioner for support operations, or their designees; and, two social workers who are certified in the same category as the applicant. The chairman for the Council on Social Work Certification appoints the social workers for the review board. An attorney appointed by the general counsel chairs the review board. The chairman does not vote in the proceedings.

(2) The chairman of the review board notifies the appellant of the board's decision.

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

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

TRD-823099

Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: May 1, 1982

Proposal publication date: January 8, 1982

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

Agencies with statewide jurisdiction must give a 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 Air Control Board**

**Friday, April 23, 1982, 9:30 a.m.** The Monitoring and Research Committee of the Texas Air Control Board will meet in Room 332, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will consider proposed agency contracts.

**Contact:** Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

**Filed:** April 9, 1982, 3:46 p.m.  
TRD-823116

**Friday, April 23, 1982, 10:30 a.m.** The Texas Air Control Board will meet at 6330 Highway 290 East, Austin. Items on the agenda summary include: minutes of March 26, 1982, meeting; reports; proposed agency contracts; State Implementation Plan Revision—Alternate Emission Reduction, Shell Oil Company/Shell Chemical Company, Deer Park, Harris County; and the hearing examiner's report.

**Contact:** Ramon Dasch, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 354.

**Filed:** April 9, 1982, 3:46 p.m.  
TRD-823117

## **East Texas State University**

**Thursday, April 22, 1982, 2 p.m.** The Board of Regents Finance and Investment Committee of the East Texas State University will meet at the Sheraton Inn—Mockingbird West, 1893 West Mockingbird Lane, Dallas. Items on the agenda include: investment program of the university; possible retirement of debt service in pledged revenue properties; and 1982-1983 recommended budget for Commerce and Texarkana campuses.

**Contact:** Charles Morrow, East Texas State University, Commerce, Texas 75428, (214) 886-5024.

**Filed:** April 9, 1982, 3:39 p.m.  
TRD-823120

**Saturday, April 24, 1982, 10 a.m.** The Board of Regents Campus and Building Committee of the East Texas State University will meet in the conference room, Commerce. According to the agenda, the committee will consider the construction projects and facility needs at East Texas State University Commerce and Texarkana campuses. The meeting is for planning purposes, therefore, no formal action will be taken.

**Contact:** Charles Morrow, East Texas State

University, Commerce, Texas 75428, (214) 886-5024.

**Filed:** April 12, 1982, 1:45 p.m.  
TRD-823158

## **Texas Employment Commission**

**Tuesday, April 20, 1982, 9 a.m.** The Texas Employment Commission will meet in Room 644, TEC Building, 15th and Congress, Austin. Items on the agenda summary include: prior meeting notes; reports by administrative staff on legislation affecting state employment security agencies, status report on fiscal year 1982 funding, E.S. and U.I. program activities, public information and media update; outside consultant contracts; nepotism laws; construction projects on hold in McAllen and Mount Pleasant; and agenda items for May 4, 1982, meeting. The commission will also meet in executive session concerning leases and status report on local office reopenings; personnel matters; and status of litigation relating to outstanding suits and attorney general opinion requests.

**Contact:** Pat Joiner, 15th and Congress, Austin, Texas, (512) 397-4514.

**Filed:** April 12, 1982, 1:48 p.m.  
TRD-823156

**Texas State Board of Registration  
for Professional Engineers**

**Wednesday and Thursday, April 23 and 29, 1982, 8:30 a.m., daily.** The Texas State Board of Registration for Professional Engineers will meet in the board room, 1917 IH 35 South, Austin. Items on the agenda summary include: receiving reports from board members and staff; interview applicants; action on applications for registration; and reading of communications.

**Contact:** Woodrow W. Mize, 1917 IH 35 South, Austin, Texas 78741, (512) 475-3141.

**Filed:** April 12, 1982, 1:43 p.m.  
TRD-823157

**Commission of Fire Protection  
Standards and Education**

**Tuesday, April 20, 1982, 10:30 a.m.** The Recruitment and Selection Committee of the Commission on Fire Protection Personnel Standards and Education will meet in Suite 406, 510 South Congress, Austin. According to the agenda, the committee will consider the proposal of Wollack and Associates for the possibility of performing a statewide validation study of written employment tests for entry-level firefighter job applicants to be done at the expense of Wollack and Associates with costs to be recovered through test rentals.

**Contact:** Garland W. Fulbright, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

**Filed:** April 9, 1982, 3:40 p.m.  
TRD-823121

**Tuesday, April 20, 1982, 1 p.m.** The board of the Commission on Fire Protection Personnel Standards and Education will meet in Suite 406, 510 South Congress, Austin. According to the agenda, the board will consider reports of standing committee chairmen including a report by the Recruitment and Selection Committee relating to the possibility of statewide written employment test for entry-level firefighter job applicants, as proposed by Wallock and Associates, with contract costs to be borne by the cities interested.

**Contact:** Garland W. Fulbright, 510 South Congress, Suite 406, Austin, Texas 78704, (512) 474-8066.

**Filed:** April 9, 1982, 3:40 p.m.  
TRD-823122

**Texas Health Facilities  
Commission**

**Friday, April 23, 1982, 9:30 a.m.** The Texas Health Facilities Commission will meet in

the Jefferson Building, Suite 305, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications.

**Certificate of Need**

John Peter Smith Hospital, Fort Worth  
AH81-1113-056  
Texarkana Regional Dialysis Center,  
Texarkana  
AS81-1023-018

**Declaratory Ruling**

Carrollton Community Hospital,  
Carrollton  
AH81-0821-001

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

**Filed:** April 12, 1982, 9:20 a.m.  
TRD-823143

**Texas Department of Human  
Resources**

**Friday, April 16, 1982, 9 a.m.** The Texas Board of Human Resources will meet in Room 1B, 706 Banister Lane, Austin. Items on the agenda summary include: weatherization program proposals; Home Energy Assistance Program; proposed program changes and fee increase for early and periodic screening, diagnosis, and treatment dental services; final rule limiting new facilities to six beds or less for intermediate care for the mentally retarded; consolidated standards for participation in the Long-Term Care Program for intermediate and skilled nursing care; administrative fees for goal directed therapy; monthly income reporting and retrospective budgeting for AFDC and public assistance food stamp cases; approval of rules for certification of social workers; purchase of airplane; adjustments to fiscal year 1982, operating plan and budget; minimum standards for drop-in child care centers; final rules; appointments to advisory committees; technical amendments to program policies and procedures; various reports; and the commissioner's report.

**Contact:** Bill Woods, P.O. Box 2960, Austin, Texas 78769, (512) 441-3355.

**Filed:** April 8, 1982, 2:37 p.m.  
TRD-823054

**State Board of Insurance**

**Tuesday, April 20, 1982, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 350, 1110 San Jacinto Street, Austin, in Docket

6780—application of admission of American Transcontinental Life Insurance Company, Phoenix, Arizona.

**Contact:** J. C. Thomas, 1110 San Jacinto, Austin, Texas 78786, (512) 475-4353.

**Filed:** April 12, 1982, 1:17 p.m.  
TRD-823149

**Tuesday, April 20, 1982, 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 consider adoption of the following:

Rule 059.03.44.005, which appeared as a proposed rule at 7 TexReg 340;

amendments to Rules 059.50.01.001, .004, and .005, which appeared as a proposal at 7 TexReg 688;

amendments to Rules 059.21.25.001, .004, .005, .007-.016, which appeared as proposals at 7 TexReg 685;

amendments to Rules 059.03.43.001-.008, which appeared as a proposal at 7 TexReg 417;

repeal of Rule 059.03.42.003, which appeared in (7 TexReg 188);

repeal of Rules 059.03.71.001 and .002, which appeared at 7 TexReg 418;

repeal of Rules 059.03.42.004-.006, and .008, which appeared at 7 TexReg 188;

repeal of Rule 059.03.42.009, which appeared at 7 TexReg 189;

repeal of Rule 059.03.42.010, which appeared at 7 TexReg 190;

proposed amendments to Rules 059.03.28.001 and .002, (dealing with maximum guaranteed interest rates for annuities and miscellaneous funds to reflect recent statutory changes).

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** April 12, 1982, 3:11 p.m.  
TRD-823159

**Thursday, April 22, 1982, 2 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 350, 1110 San Jacinto Street, Austin, in Docket 6785—alleged violations of the Texas Insurance Code by agent Robert Kent Bell.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas, (512) 475-4353.

**Filed:** April 12, 1982, 1:18 p.m.  
TRD-823150

**Friday, April 23, 1982, 9 a.m.** The Commissioner's Hearing Section of the State

Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto, Austin, in Docket 6762—application for admission by Aetna Reinsurance Company, Wilmington, Delaware.

**Contact:** John Brady, 1110 San Jacinto, Austin, Texas, (512) 475-2287.

**Filed:** April 12, 1982, 1:18 p.m.  
TRD-823151

**Friday, April 23, 1982, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings at 1110 San Jacinto, Austin.

Room 342. In Docket 6779—application for admission by Indianapolis Life Pension and Insurance Company, Indianapolis, Indiana.

In Room 350. In Docket 6784—cancellation or revocation of local recording agent's license; denial of application for Group II insurance agent's license; and renewal of Group I legal reserve life insurance agent's license, Charles R. Wade.

**Contact:** John Brady and J. C. Thomas, 1110 San Jacinto, Austin, Texas, (512) 475-2287 and 475-4353, respectively.

**Filed:** April 12, 1982, 1:19 p.m.  
TRD-823152, 823153

**Monday, April 26, 1982, 10:30 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will conduct public hearings in Room 342, 1110 San Jacinto, Austin.

In Docket 6787—application for initial certificate of authority by Dallas General Life Insurance Company, Dallas.

In Docket 6789—application for Original Charter of Lewis Life Insurance Company, Marshall.

**Contact:** John Brady and J. C. Thomas, 1110 San Jacinto, Austin, Texas, (512) 475-2287 and 475-4353, respectively.

**Filed:** April 12, 1982, 1:19 p.m.  
TRD-8823154 and 823155

### **Lamar University**

**Wednesday, April 14, 1982, 9 a.m.** The Executive Committee of the Lamar University Board of Regents met in the board room, Plummer Administration Building, Lamar University, Main Campus, Beaumont. The board met in executive session to review litigation.

**Contact:** Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (713) 838-8403.

**Filed:** April 9, 1982, 2:01 p.m.  
TRD-823101

**Wednesday, April 14, 1982, 9:30 a.m.** The Lamar University Board of Regents met in the board room, Plummer Administration Building, Main Campus, Beaumont. Items on the agenda summary included: minutes of the January 22, 1982, meeting; president's reports; ratify policy on smallpox inoculation; revision of polio/tetanus policy; ratify appointment of Milton Bell-Architectural Services; ratify approval tenure/promotion recommendations—1982-1983; salary administration policy—1982-1983, construction bids, peace officers appointments, monthly financial report; policy statement defining faculty course load, addition to academic titles, regents professor/instructor awards, regents' staff/president's staff awards; food service bids; revised room/board charges; graphic program/policy; and university admissions policy. The board also met in executive session.

**Contact:** Andrew J. Johnson, P.O. Box 10014, Beaumont, Texas 77710, (713) 838-8403.

**Filed:** April 9, 1982, 2 p.m.  
TRD-823102

### **Board of Law Examiners**

**Monday, April 19, 1982, 9:15 a.m.** The Board of Law Examiners will meet at 1414 Colorado, Texas Law Center, Austin. Items on the agenda include: minutes of the February 1982 meeting; budget review; individual questions of eligibility; approval of forms for foreign attorneys; and discussion of legislation and examination procedures.

**Contact:** Wayne E. Denton, 1414 Colorado, Suite 505, Austin, Texas 78701, (512) 475-4137.

**Filed:** April 9, 1982, 8:47 a.m.  
TRD-823070

### **Texas State Board of Medical Examiners**

**Tuesday, April 13, 1982, 11 a.m.** The Examination Committee of the Texas State Board of Medical Examiners met in emergency session in Suite 201, 1101 Camino La Costa, Austin. According to the agenda, the committee discussed the letter with representatives of Osteopathic Associa-

tion. The committee also met in executive session under authority of Article 6252-17, as relating to Senate Bill 5, §5.06(e)(1), and Attorney General Opinion 1974, Number H-484. The meeting was rescheduled from 11:30 a.m. The emergency status was necessary to allow more time for preparation of a report for the board meeting.

**Contact:** Jean Davis, P.O. Box 13562, Austin, Texas.

**Filed:** April 9, 1982, 3:46 p.m.  
TRD-823118

### **State Board of Morticians**

**Monday, April 19, 1982, 9 a.m.** The State Board of Morticians will meet at 1513 IH 35 South, Austin. Items on the agenda summary include: formal hearing regarding the action of licensees; applicants for reciprocal licenses; request for an extension of six months to register as an apprentice; adopted and proposed rules; minimum standards of embalming; request from a licensee for a rule limiting religious and fraternal organizations from being licensed to practice funeral service; reports from committees; and complaints to be reviewed.

**Contact:** John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

**Filed:** April 8, 1982, 3:51 p.m.  
TRD-823063

**Tuesday, April 20, 1982, 9 a.m.** The State Board of Morticians will meet at 1513 IH 35 South, Austin. According to the agenda summary, the board will continue discussion on minimum standards for embalming and any material not covered on April 19, 1982.

**Contact:** John W. Shocklee, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

**Filed:** April 9, 1982, 3:39 p.m.  
TRD-823119

### **Board of Pardons and Paroles**

**Monday-Friday, April 26-30, 1982, 9 a.m.** The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will consider cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; reports regarding persons on parole; procedures affecting the day-to-day operation of support staff; initiate needed rule changes relating to general operation; executive clemency; parole and all hearings conducted by this agency; and to take action upon gubernatorial directives.

## Texas Register

**Contact:** Gladys Sommers, Stephen F. Austin Building, Room 711, Austin, Texas, (512) 475-3363.

**Filed:** April 12, 1982, 4:05 p.m.  
TRD-823168

### State Board of Plumbing Examiners

**Monday, May 3, 1982, 9:30 a.m.** The State Board of Plumbing Examiners will meet at 929 East 41st Street, Austin. Items on the agenda include: review of minutes; hardship requests; licenses issued; examination data; preliminary review of budget preparation for 1984-1985 biennium; and consideration of 1983 examination and license fees.

**Contact:** Lynn Brown, P.O. Box 4200, Austin, Texas 78765, (512) 458-2145.

**Filed:** April 9, 1982, 8:55 a.m.  
TRD-823073

### Texas State Board of Public Accountancy

**Monday and Tuesday, April 19 and 20, 1982, 9 a.m., daily.** The Texas State Board of Public Accountancy will meet in Suite 500, 3301 Northland Drive, Austin. Items on the agenda summary include: nominating committee report; election of officers; introduction of new board member; committee meetings; minutes; partnership/corporation applications; committee reports; mandatory continuing education discussion; review of proposed substantive rule; 1984-1985 appropriation; adoption of forms; pending litigation; financial matters; board communications; NASBA committee day; and future meeting schedule.

**Contact:** Bob E. Bradley, 3301 Northland Drive, Suite 500, Austin, Texas 78731, (512) 451-0241.

**Filed:** April 9, 1982, 10:59 a.m.  
TRD-823080

### Public Utility Commission of Texas

**Friday, April 23, 1982, 9 a.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4422—application of Farmers Electric Cooperative, Inc. for authority to change rates.

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

**Filed:** April 13, 1982, 8:49 a.m.  
TRD-823169

**Friday, May 14, 1982, 1:30 p.m.** The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 4404—inquiry into the rates of Arrowhead Lodge Water System within Hill County.

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

**Filed:** April 13, 1982, 8:48 a.m.  
TRD-823170

### State Purchasing and General Services Commission

**Thursday, April 15, 1982, 1:30 p.m.** The State Purchasing and General Services Commission made an emergency addition to the agenda of a meeting held in Room 916, LBJ Building, 111 East 17th Street, Austin. Items on the agenda included: review progress to date on award of telecommunications consultant contract; and adopt procedures for auditing delegated purchasing transactions. The reason for the emergency additions was that it was not known at the time the original agenda was drawn up that the above items would need to be taken up at the April meeting. These items needed the immediate attention of the board.

**Contact:** Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, (512) 475-2211.

**Filed:** April 8, 1982, 11:29 a.m.  
TRD-823052

### Railroad Commission of Texas

**Monday, April 12, 1982, 9 a.m.** The Transportation Division made an emergency addition to the agenda of a meeting held in Room 107, first floor auditorium, 1124 IH 35 South, Austin. According to the agenda, the division considered interim order in the application of Oil Field Haulers Association, Inc., Docket 024645ZZT; transit rates and charges; storage yard charges; OFHA Tariff 6-W; increase rates in Items 330, 350, 760, 1220, 1340, and 1350; and cancel Items 1310, 1320, 1330, 1370, and 1380. The emergency status was necessary because this matter was properly noticed for consideration by the commission in the open meeting on April 5, 1982, passed at such meeting, and was considered on less than seven days' notice.

**Contact:** Owen T. Kinney, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** April 9, 1982, 2:11 p.m.  
TRD-823103

**Monday, April 19, 1982, 9 a.m.** The following divisions of the Railroad Commission of Texas will meet at 1124 IH 35 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 12967, Austin, Texas 78711, (512) 445-1211.

**Filed:** April 9, 1982, 2:08 p.m.  
TRD-823104

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

**Filed:** April 9, 1982, 2:09 p.m.  
TRD-823105

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:** April 9, 1982, 2:08 p.m.  
TRD-823106

The Gas Utilities Division will meet in Room 107 to consider Gas Utilities Dockets 3290, 3414, 3428, 3429, 3430, 3431, 3433, 3434, 3435, 3436, 3453, 3454, 3455, 3456, 3457, and the director's report.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas, (512) 475-0461.

**Filed:** April 9, 1982, 2:12 p.m.  
TRD-823107

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:** April 9, 1982, 2:13 p.m.  
TRD-823108

The Liquefied Petroleum-Gas Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-1301.

**Filed:** April 9, 1982, 2:08 p.m.  
TRD-823109

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:** April 9, 1982, 2:09 p.m.  
TRD-823110

Additions to the above agenda: Category determinations under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978

**Contact:** Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas, 78711, (512) 445-1273.

**Filed:** April 9, 1982, 2:10 p.m.  
TRD-823111

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:** April 9, 1982, 2:10 p.m.  
TRD-823112

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, and other budget, administrative, and personnel matters. The commission will also consider signing a interagency cooperation contract with the State Department of Highways and Public Transportation.

**Contact:** Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1186.

**Filed:** April 9, 1982, 2:08 p.m.  
TRD-823113

The Surface Mining and Reclamation Division will meet in Room 107 to consider 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:** April 9, 1982, 2:13 p.m.  
TRD-823114

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:** Owen T. Kinney, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** April 9, 1982, 2:12 p.m.  
TRD-823115

### School Land Board

**Tuesday, April 20, 1982, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress, Austin. Items on the agenda include: approval of the minutes of the previous board meeting; pooling applications; assignments of state lease; final approval of Williamson County Land Trade, Part II; coastal public lands—easement applications; cabin permit transfer request; and report—cabin permit renewals.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas 78701, (512) 475-2071.

**Filed:** April 12, 1982, 2:55 p.m.  
TRD-823166

### Texas Sesquicentennial Museum Board

**Tuesday, April 27, 1982, 10 a.m.** The Texas Sesquicentennial Museum Board will meet in Room 346, State Capitol. Items on the agenda include: minutes from the previous meeting; ratification of administrative assistant appointment; building committee report, Henry Beck; budget committee report, Willis Johnson; and analysis/study—museum impact.

**Contact:** Texas Sesquicentennial Museum, P.O. Box AA, Refugio, Texas 78377.

**Filed:** April 9, 1982, 10:02 a.m.  
TRD-823075

### University of Texas System

**Monday, April 19, 1982, 2:30 p.m.**, The Intercollegiate Athletics Council for Men of the University of Texas at Austin will meet at Belmont Hall 240, San Jacinto between 21st and 23rd Streets, Austin. Items on the agenda include: personnel matters and potential litigation pursuant to Texas Civil Statutes, Article 6252-17, §2(g); minutes of March 8, 1982; team schedules and recom-

mend schedule changes—report on Arkansas football game; budgets and budget changes—second assistant baseball position; ratification of basketball coaching arrangements; ratification of arrangements with Coach Abe Lemons; athletics director's budget report; athletics ticket policies and policy changes—1982-1983, basketball ticket plan; concession prices and modifications to concessions facilities; receive reports on status of ongoing development plans; awards; old business—wrestling program, change May 21 council meeting date; committee reports—options, athletics facilities ad hoc committees—report on construction-restrooms, wheelchair seating, concessions, bat and water measures; new business—Tex Robertson expressing appreciation from WETS, report on academic counseling study, and office machinery—computer and word processors.

**Contact:** Haila Kauffman, P.O. Box 7399, Austin, Texas 78712, (512) 471-7348.

**Filed:** April 12, 1982, 9:25 a.m.  
TRD-823142

### Texas Tourist Development Agency

**Friday, May 7, 1982, 9 a.m.** The Texas Tourist Development Agency will meet at the Ramada Inn, Marshall. Items on the agenda include: status of fiscal 1982 budget; response to spring advertising; reception of new TTDA brochure; policy on "schoolboy" information requests; field appraisal of TTDA Program; status of new visitor origin study; consideration/adoption of fiscal 1983 budget; presentation/adoption of fiscal 1983 media plan; consideration/adoption of budget request for fiscal 1984-1985 biennium; status of Governor's Task Force on Industrial and Tourist Development; tentative program for Tour-Con 17; and reconsideration of December 1981 action regarding TourCon sites.

**Contact:** Margaret Younger, Stephen F. Austin Building, Room 1032, Austin, Texas, (512) 475-4326.

**Filed:** April 8, 1982, 3:40 p.m.  
TRD-823062

### Texas Water Commission

**Tuesday, April 13, 1982, 2 p.m.** The Texas Water Commission met in emergency session in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission conducted an emergency meeting regarding consideration of a request by Hercules, Inc., for a temporary order that

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would grant permission to process 52 drums of aluminum chloride with water in a modified bunker at the facility site near McGregor in McLennan County. The emergency status was necessary because the company needed to neutralize the material as soon as possible. It was necessary that the commission considered the request on an emergency basis.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 12, 1982, 2:56 p.m.  
TRD-823165

**Monday, April 19, 1982, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will conduct a hearing regarding applications for district bond issues, release from escrow, use of surplus funds, and approval of change in plans, water quality permits, amendments and renewals, production authorization, certification of water rights, application for extension of time, withdrawal and cancellation of claim, and the filing and setting of hearing dates. The commission will also discuss a supplemental addition to the agenda regarding consideration of motion to reconsider an application by West Central Texas Municipal Water District to amend Permit 1890.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 8, 1982, 11:34 a.m.  
TRD-823050, 823055

**Monday, April 26, 1982, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda, the commission will conduct hearings on the following:

Consideration of a production area authorization for Uranium Resources, Inc., Benavides insitu uranium mining project, Permit 02312-031, located 3.5 miles east of Bruni, Duval County.

Tenneco Uranium Inc. to determine whether a temporary order should be issued—project concerns disposal of mining wastewaters generated at the Uranium Resources, Inc., Benavides and Longoria insitu uranium mining projects, into Tenneco's waste disposal well operated pursuant to permit WDW-195. The disposal well is located approximately 2,200 feet from the northeast line and 1,000 feet from the nor-

thwest line of Section 6, Josefa Cuellar survey, Webb County.

Uranium Resources, Inc. to determine whether a temporary order should be issued—project concerns the disposal of mining wastewaters generated at its Benavides insitu uranium mining project located approximately 3.5 miles east of Bruni, Duval County, and the Longoria insitu uranium mining project located approximately eight miles northwest of Hebronville, Duval County.

Production area authorization for Uranium Resources, Inc., Benavides insitu uranium mining project, Permit 02312-021, located 3.5 miles east of Bruni, Duval County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 12, 1982, 3:15 p.m.  
TRD-823160-823163

**Thursday, April 29, 1982, 10 a.m.** The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress, Austin. According to the agenda summary, the commission will conduct a hearing regarding the matter of the adjudication of all claims of water rights in the Brazos-Colorado Coastal Basin for consideration of adoption of a proposed preliminary determination.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 12, 1982, 3:17 p.m.  
TRD-823164

**Wednesday, May 12, 1982, 10 a.m.** The Texas Water Commission has submitted a correction to the notice of a hearing to be held in Room 618, Stephen F. Austin Building, 1700 North Congress, Austin. According to the corrected agenda, the commission will conduct a hearing on application of G. W. Wilhite, (RE-0196), seeking approval of preliminary plans to construct certain improvements on the Colorado River in Fayette County.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 8, 1982, 11:34 a.m.  
TRD-823051

**Monday-Friday, May 17-21, 1982, 2:30 p.m., Monday, and 9 a.m., Tuesday-Friday.** The Texas Water Commission will meet in the Lower Neches Valley Authority Meeting Room, 7850 Eastex Freeway, Beaumont. According to the agenda, the commission will consider adjudication hear-

ings on the Lower Neches and Angelina Rivers segment.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 9 1982, 11:15 a.m.  
TRD-823078

**Monday-Friday, July 19-23, 1982, 2:30 p.m., Monday, and 9 a.m., Tuesday-Friday.** The Texas Water Commission will meet in the Lower Neches Valley Authority Meeting Room, 7850 Eastex Freeway, Beaumont. According to the agenda, the commission will consider adjudication hearings on the Lower Neches and Angelina Rivers Segment.

**Contact:** Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

**Filed:** April 9, 1982, 11:15 a.m.  
TRD-823079





**Regional Agencies  
Meetings Filed April 8**

**The Austin-Travis County Mental Health Mental Retardation Center**, Board of Trustees Personnel Committee, met in the executive director's conference room, 1430 Collier Street, Austin, on April 12, 1982, at 6:45 p.m. Information may be obtained from Cynthia C. Garcia, 1430 Collier Street, Austin, Texas 78704, (512) 447-3131, ext. 30.

**The High Plains Underground Water Conservation District Number 1**, Board of Directors, met in the conference room located at 2930 Avenue Q, Lubbock, on April 15, 1982, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181.

**The South Texas Health Systems Agency**, Board of Directors, will meet at the Holiday Inn, 2100 North ByPass, Port Lavaca, on April 17, 1982, at 1 p.m. Information may be obtained from Mario L. Vasquez, P.O. Box 2378, Kingsville, Texas 78363, (512) 595-5545.

**The West Texas Council of Governments**, Board of Directors, will meet in the Civic Center Plaza, 10th floor, El Paso, on April 16, 1982, at 9:30 a.m. Information may be obtained from Bernie Guy, Two Civic Center Plaza, El Paso, Texas 79901, (915) 541-4681.

TRD-823053

**Meetings Filed April 9**

**The Bell County Appraisal District**, will meet in the commissioner's courtroom, second floor, Bell County Courthouse, Belton, on April 28, 1982, at 7 p.m. Information may be obtained from Tolly Moore, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-3521, ext. 294.

**The Blanco County Central Appraisal District** met at the Blanco County Courthouse Annex, Johnson City, on April 13, 1982, at 6:30 p.m. Information may be obtained from Joan Smiley, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

**The Callahan County Appraisal District** will meet in the Callahan County Courtroom, Callahan County Courthouse, Baird, on April 20, 1982, at 7:30 p.m. Information may be obtained from Jane Ringhoffer, P.O. Box 1055, Baird, Texas 79504, (915) 854-1165.

**The Guadalupe-Blanco River Authority**, Board of Directors, met at the Authority's

offices, 933 East Court Street, Seguin, on April 15, 1982, at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

**The Kendall County Appraisal District**, Board of Directors, will meet in the Professional Building, Appraisal District Office, 207 East San Antonio Street, Boerne, on April 20, 1982, at 8 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

**The Northeast Texas Municipal Water District**, Board of Directors, met at 201 Jefferson Street, Daingerfield, on April 13, 1982, at 1:30 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The Panhandle Regional Planning Commission**, Project Notification and Review System Committee, met in the PRPC first floor conference room, Gibraltar Building, 8th and Jackson, Amarillo, on April 15, 1982, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381, ext. 17.

**The Panhandle Regional Planning Commission**, Texas Panhandle Employment and Training Alliance, met in the second floor conference room, Gibraltar Building, 8th and Jackson, Amarillo, on April 15, 1982, at 1:30 p.m. Information may be obtained from Polly Jennings, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381, ext. 17.

**The Scurry County Appraisal District**, Board of Directors, met at 2612 College Avenue, Snyder, on April 15, 1982, at 7 p.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

**The South Plains Health Provider Organization, Inc.**, Board of Directors, will meet at 715 Amarillo Street, Plainview, on April 27, 1982, at 8 p.m. Information may be obtained from Sue Terry, 706 Canyon, Plainview, Texas, 79072.

**The West Texas Health Systems Agency**, Governing Body, met in the Durango Room, Granada Royale Hometel, 6100 Gateway East, El Paso, on April 15, 1982, at 7:30 p.m. Information may be obtained from Cory Vaughan, 303 North Oregon, Suite 700, El Paso, Texas, 79901.

TRD-823074

**Meetings Filed April 12**

**The Brazos Valley Regional Mental Health Mental Retardation Center**, Executive Committee of the Board of Trustees, met in the executive director's office, 707 Texas Avenue South, Suite 225-C, College Station, on April 15, 1982, at 3:45 p.m. Information may be obtained from Ann Pye Shively, 707 Texas Avenue South, Suite 225-C, College Station, Texas 77840, (713) 696-8585.

**The Deep East Texas Regional Mental Health Mental Retardation Services**, Board of Trustees, will meet in the Ward R. Burke Community Room, Day Treatment/Administration Facility, 4101 South Medford Drive, Lufkin, Angelina County, on April 20, 1982, at 1:30 p.m. and 5:30 p.m. Information may be obtained from Wayne Lawrence, Ph.D., 4101 South Medford Drive, Lufkin, Texas 75901, (713) 639-1141.

**The Education Service Center, Region VI**, Board of Directors, met at Briarcrest Country Club, Bryan, on April 15, 1982, at 4 p.m. Information may be obtained from M. W. Schlotter, 3332 Montgomery Road, Huntsville, Texas 77340, (713) 295-9161.

**The Northeast Texas Municipal Water District**, Board of Directors, met in emergency session at 1003 Linda Drive, Daingerfield, on April 12, 1982, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The Northeast Texas Municipal Water District**, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on April 19, 1982, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The San Antonio River Authority**, Board of Directors, will meet in the Conference Room, 100 East Guenther Street, San Antonio, on April 21, 1982, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 9284, Guilbeau Station, San Antonio, Texas 78204, (512) 227-1373.

**The Upper Leon River Municipal Water District**, Board of Directors, will meet in the general office of the filter plant, Proctor Lake, Comanche County, on April 22, 1982, at 6:30 p.m. Information may be obtained from Lowell G. Pittman, P.O. Box 67, Comanche, Texas, (817) 879-2258.

TRD-823136

**Meetings Filed April 13**

**The Brazos River Authority, Oil and Gas Leasing Committee and Board of Directors,** will meet at 4400 Cobbs Drive, Waco, on April 19, 1982, at 8:30 a.m. and 9 a.m., respectively. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76710, (817) 776-1441.

**The Capital Area Planning Council, Executive Committee,** will meet in Suite 100, 2520 IH 35 South, Austin, on April 20, 1982, at 2 p.m. Information may be obtained from Richard G. Bean, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

**The South Texas Health Systems Agency, Lower Rio Grande Valley Subarea Advisory Council,** will meet at the Sevilla Apartments, 600 North Airport, Weslaco, on April 22, 1982, at 7 p.m. Information may be obtained from Mario L. Vasquez, Texas A&I University, Station 1, P.O. Box 2378, Kingsville, Texas 78363, 595-5545.

**The West Central Texas Municipal Water District** will meet in the Conference Room, Room 314, Cypress Building, 174 Cypress Street, Abilene, on April 27, 1982, at 9:30 a.m. Information may be obtained from Virginia Duncan, P.O. Box 2362, Abilene, Texas 79604, (915) 673-8254.

TRD-823174



The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

# In Addition

## Texas Air Control Board Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board of applications for construction permits received during the period of March 29-April 2, 1982.

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

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

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

Farmers Co-Op Society Number 1, Burkburnett; cotton gin; Route 1; 9059; new source

Valley Builders Supply Manufacturing Company, Inc., San Benito; block manufacturing; Highway 77 and 83 South; 9060; new source

Pennwalt Corp., Bryan; agricultural chemicals; Dodge Street; 9061; new source

Issued in Austin, Texas, on April 7, 1982.

TRD-823036      Ramon Dasch  
Director of Hearings  
Texas Air Control Board

Filed: April 7, 1982, 3:28 p.m.  
For further information, please call (512) 451-5711,  
ext. 354.

## Consultant Contract Awards

The contract award for consulting services set out herein is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the February 2, 1982 issue of the *Texas Register* (7 TexReg 463).

On March 30, 1982, two contracts were awarded to Thomas R. Fowler and Joseph P. Belle to provide a fully documented production version of the Control and Prevention Computer Data System to include the topics of bubble, offset, chemical compound table, enforcement functions, legal status, optical character reader (OCR) for source investigation system (SIS) forms, and board rules 31 TAC §101.6 and §101.7. Thomas R. Fowler was previously employed with this agency as a programmer I until January 14, 1981.

The name and business address of the first consultant is Thomas R. Fowler, 1306 Ardenwood, Austin, Texas 78722.

The total value of this contract is \$21,000. The contract will be effective on April 5, 1982 and end on October 1, 1982, with the final report due on October 1, 1982.

The name and business address of the second consultant is Joseph P. Belle, 1708 Travis Heights Boulevard, Austin, Texas 78704.

The total value of this contract is \$19,800. The contract will be effective on April 5, 1982, and end on October 1, 1982, with the final report due on October 1, 1982. Issued in Austin, Texas, on April 5, 1982.

TRD-823037      Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Filed: April 7, 1982, 3:28 p.m.  
For further information, please call (512) 451-5711,  
ext. 354.

## Public Hearing

Notice is hereby given pursuant to the requirements of the Texas Clean Air Act, Texas Civil Statutes, Article 4477-5, §3.09, and 40 Code of Federal Regulations 51.4 of the Environmental Protection Agency regulations concerning state implementation plans (SIP), that an examiner for the Texas Air Control Board (TACB) will conduct a public hearing at 6 p.m. on May 18, 1982, at the Galveston County Health District, Environmental Health Center, 1205 Oak Street, LaMarque, Texas 77568.

The purpose of the hearing will be to consider an alternate emission reduction (bubble) proposed by Monsanto Chemical Intermediates Company in lieu of controls otherwise required by TACB Rules 31 TAC §§115.101-115.105, and §115.412, which in this instance would control volatile organic compound emissions from their midplant and east plant methanol tank car loading facilities. The alternate emission reduction proposed is the modification of Monsanto's Texas City Department Styrene Vacuum System to incinerate hydrocarbon emissions. The executive director of the TACB has examined and approved this proposal under TACB Rule 31 TAC §101.23 and the TACB proposes to submit it to the Environmental Protection Agency as a SIP revision. The record of this hearing, including written comments submitted pursuant to this notice, will be used by the TACB to determine if the proposal meets federal requirements of "bubble" SIP revisions as set out in Volume 44, page 71780 (December 11, 1979), and Volume 45, page 77459 (November 24, 1980), of the *Federal Register*. Such requirements include, but are not limited to, equivalency of the proposed alternate emission reduction, no delay of compliance with SIP requirements, quantifiable emissions, and specific enforceable controls.

Copies of the proposal, background data, and the TACB approval are available for public inspection at the central office of the TACB located at 6330 Highway 290 East, Austin, Texas 78723, the regional office of the TACB located at 5555 West Loop, Suite 300, Bellaire, Texas 77401, and the office of Environmental Control Services, Galveston County Health District, 1205 Oak Street, LaMarque, Texas 77568.

Comments on this proposed SIP revision, both oral and written, are invited at the public hearing.

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

TRD-823146 Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Filed: April 12, 1982, 9:03 a.m.  
For further information, please call (512) 451-5711,  
ext. 354.

## Banking Department of Texas Application To Purchase Control of 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 April 7, 1982, the banking commissioner received an application to acquire control of Continental Bancshares, Inc. and Wynnewood Bancshares, Inc., Dallas, by Thomas A. Ewers of Dallas.

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

Issued in Austin, Texas, on April 7, 1982.

TRD-873049 O. A. Cassity  
Assistant General Counsel  
Banking Department of Texas

Filed: April 8, 1982, 1:45 p.m.  
For further information, please call (512) 475-4451.

## Comptroller of Public Accounts Administrative Decision 9,900 Sales Tax

For copies of the following opinion selected and summarized by the administrative law judges, contact the administrative law judges, P. O. Box 13528, Austin, Texas 78711. Copies will be furnished without charge and edited to comply with confidentiality statutes.

**Summary of Decision:** A foreign oil well servicing company registered to do business in Texas challenged the application of the use tax on several rigs used in Texas. The company leased and purchased the rigs from an out-of-state dealer. Article 20.03 imposes an excise tax on "the storage, use, or other consumption in this state of taxable items purchased—from any retailer for storage, use, or other consumption in this state—on the sales price of the taxable item." It was held that the petitioner failed to overcome the statutory presumption, Texas Civil Statutes, Article 20.03(L), that items used in the state were purchased "for use in this state;" and where "substantial local nexus" with Texas existed, the tax did not violate the commerce clause just because it was measured by the full purchase price of the rig, but the rig was only used for a small part of its useful life in Texas.

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

TRD-823076 Bob Bullock  
Comptroller of Public Accounts

Filed: April 9, 1982, 11:05 a.m.  
For further information, please call (512) 475-1938.

## Office of Consumer Credit Commissioner Rate Ceilings

Pursuant to the provisions of House Bill 1228, 67th Legislature of Texas, 1981, the consumer credit commissioner of Texas has ascertained the following rate ceil-

ings by use of the formulas and methods described in Texas Civil Statutes, Article 1.04, Title 79, as amended (Texas Civil Statutes, Article 5069-1.04).

Effective Period(1)	Type of Transaction	
	Commercial(3) Consumer(2)/thru \$250,000	Commercial(4) over \$250,000
Indicated Rate		
Weekly Rate Ceiling 4/19/82-4/25/82	24%	25.75%
Monthly Rate Ceiling (Variable Commercial Only) 4/01/82-4/30/82	24%	25.50%
Quarterly Rate Ceiling 4/01/82-6/30/82	24%	25.54%
Annual(5) Rate Ceiling 4/01/82-6/30/82	24%	27.33%

- (1) Dates set out above are inclusive.
- (2) Credit for personal, family, or household use.
- (3) Credit for business, commercial, investment, or other similar purpose.
- (4) Same as (3) above, except excluding credit for agricultural use.
- (5) Only for open end as defined in Texas Civil Statutes, Article 5069-1.01(f).

Issued in Austin, Texas, on April 12, 1982.

TRD-823137 Sam Kelly  
Consumer Credit Commissioner

Filed: April 12, 1982, 9:31 a.m.  
For further information, please call (512) 475-2111.

## Coordinating Board, Texas College and University System Notice of Open Meeting

This meeting is not subject to Texas Civil Statutes, Article 6252-17. The Advisory Committee of the Higher Education Insurance Program will meet on Friday, April 23, 1982 at 1 p.m. in Room 255 of the Bevington A. Reed Building, 200 East Riverside Drive, Austin.

The agenda items to be considered are: changes to the bylaws; research group recommendation on retiree insurance coverage and medicare coordination; research group recommendation on retiree program administration; research group recommendation on claims processing; research group recommendation on a legislative package; report on recent developments in the higher education insurance program; and the chairman's report.

Additional information may be obtained from James McWhorter, executive secretary to administrative council, P.O. Box 12788, Austin, Texas 78711, (512) 475-2033.

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

TRD-823123 James McWhorter  
Executive Secretary  
Coordinating Board, Texas  
College and University System

Filed: April 9, 1982, 3:41 p.m.  
For further information, please call (512) 475-2033.

## Texas Energy and Natural Resources Advisory Council Consultant Proposal Request

**Description of Project Objectives.** Texas Energy and Natural Resources Advisory Council (TENRAC) is soliciting proposals from hydrologic consultants for writing design specifications for hydrologic testing and for supervising of hydrologic pump tests in regions containing deep basin lignite (deeper than 200 feet below earth surface) in Texas. This solicitation forms a part of the TENRAC deep basin lignite evaluation and characterization program.

This solicitation is issued in accordance with the Texas Energy Development Act of 1977, Texas Civil Statutes, Article 4413(47b), as amended by Senate Bill 921, 66th Legislature, Regular Session, and pursuant to the rules adopted for administration of the Energy Development Act (4 TexReg 4604) and under the provisions of Texas Civil Statutes, Article 6252-11c. Furthermore, the characterization program described herein is in general conformity with the philosophy of spending state funds on the collection of needed energy data in cooperation with the private sector to generate public information essential for the state to foster an equitable development climate and to fulfill its responsibilities relative to environmental protection and optimal resource recovery.

Lignite resources in Texas are currently estimated at 58 billion short tons (755 quadrillion Btu's or Quads), constituting just over 1/4 or 26% of the state's total energy endowment of 2,915 Quads. Near-surface lignite resources, or those at depths between 20 and 200 feet, are about 23 billion tons (300 Quads) of which some 8.6 to 11.1 billion tons are exploitable by current surface mining methods. Projections are that approximately six to seven billion tons of lignite must be committed by the year 2000 to meet the needs of the electric and industrial sectors in Texas. Near-surface reserves are adequate to meet the energy needs of this century. Meeting demand in the early decades of the 21st century and beyond will require the recovery of deep-basin lignite, or that occurring at more than 200 feet below the surface.

Deep-basin lignite resources at exploitable depths between 200 and 2,000 feet and in seams greater than five feet thick are about 35 billion tons (455 Quads) or 16% of the state's energy endowment. They occur mainly north of the Colorado River in two geologic units, primarily the Wilcox Group and secondarily the Jackson Group. Approximately 200 Quads of energy are potentially recoverable by deep-recovery technology or more than twice the energy equivalent of Texas proven oil and gas reserves (95 Quads). However, at this time these resources are not economically extractable. Small tonnages are now technically exploitable by in situ gasification and potentially large tonnages are recoverable by deep-surface mining or in situ gasification or other methods. Few details are known about the deep-basin lignite. In fact, lack of data is perhaps a major factor contributing to industry's reluctance at this time to make major commitments in Texas to in situ gasification, a very site-specific

technology. There is concern over the economics of deep recovery and whether deep lignite is a reserve.

The overall program is being carried out by the Texas University Research Consortium presently comprising of Texas A & M University, Texas Tech University, University of Houston, and University of Texas at Austin. The hydrologic testing covered by this statement of program intent (SPI) will be carried out under the project direction of the Bureau of Economic Geology, University of Texas at Austin (UT-BEG). The present SPI covers regional hydrologic investigation to be conducted in the East Texas Sabine Uplift region in the Wilcox Group. Eventually similar work will be conducted over the entire Texas lignite belt on a region by region basis.

**Specific Areas of Work.**

Proposals for the following work are requested. Additional proposals may be solicited at a later date for similar work in other lignite regions of the state. Proposals must be submitted for the total work specified below. Both phases of specified work will be carried out by a single consultant to be selected.

SPI Number 82-L-4: Hydrologic consultancy services for investigation of deep Wilcox lignite in the Sabine Uplift region.

(i) General. Hydrologic well construction and testing is to be carried out at approximately four to five sites located in the Sabine Uplift vicinity, Northeast Texas. The purpose is to characterize hydrologic properties of strata in the Wilcox Group as related to exploitation of lignite at depths of 200 to 2,000 feet. The program includes construction and testing of four to five production wells and nine to 14 observation wells to depths of 200 to 2,000 feet. Data to be gathered will include hydraulic head, hydraulic conductivity, storativity, and water chemistry. The hydrogeologic consultant is needed to design detailed drilling and testing specifications and to supervise field activities.

(ii) Performance. The hydrologic consultant shall be responsible for the following two tasks. Costs shall be given separately for each task.

Task 1. Writing design specifications for construction and testing of production and observation wells. The sites for actual tests will be selected by UT-BEG project director. These specifications shall form the basis for TENRAC's solicitation for water well drilling and related field work.

Task 2. Supervising well construction, geophysical logging, pumping tests, and site restoration to be carried out by selected contractor. Separate bids shall be submitted for the two alternate field work specifications given below under clause (iv) general specifications, for field work. Interpretation of the test data will be carried out by UT-BEG project groups.

(iii) Experience. The consultant shall have experience with the following:

- (1) Writing of design specifications for water well construction.
- (2) Supervising conventional mud rotary drilling through semiconsolidated strata to depths of 2,000 feet. Experience in the Wilcox Group of Northeast Texas will strengthen the proposal's potential for selection.

(3) Supervising water well installation including:  
 (a) Selecting size of screen opening and grain size of sand pack material.

(b) Emplacement of casing, screen, and sand pack material to depths of 2,000 feet.

(c) Well development for maximum productivity.

(4) Supervising and executing aquifer pumping tests. It would be helpful if the proposer would supply with the proposal a copy of water well specifications from one of the proposer's previous jobs.

(iv) General specifications for field work. The proposal must indicate separate costs for the following two alternate scopes of work. A pumping test will be run on each production well to be drilled. Each pumping period will be followed by an equally long recovery period.

	Possible work Scope 1	Possible work Scope 2
Anticipated number of production wells	4	5
Anticipated number of observation wells	9	14
Number of production wells with anticipated maximum discharge rate of about 1,000 gpm	1	2
Anticipated maximum discharge rate from remaining production wells	20-300 gpm	20-300 gpm
Approximate total footage of production wells	3,100 feet	5,600 feet
Number of production wells deeper than 1,500 feet	None	1
Production well casing diameter (each production well will be cased and sandpacked)	6-10 inches	6-10 inches
Approximate total footage of observation wells	6,700 feet	14,200 feet
Number of observation wells deeper than 1,500 feet	None	2
Approximate observation well casing diameter (all observation wells will be cased)	5 inches	5 inches
Total anticipated time for pumping of all production wells	260 hours*	360 hours*
Pumping time duration for individual production wells	48-120 hours*	48-168 hours*

\*The time does not include pumping during well development. Work shall be confined to the East Texas counties of Gregg, Smith, Cherokee, Rusk, Panola, Nacogdoches, and Shelby. The hydrologic field testing is envisioned to be a continuous activity once begun.

**Funding.** Funding under this SPI will cover only the above named lignite region. Cost sharing either through contribution of funds or by providing services is encouraged and will strengthen a proposal's potential for

selection. The reasonableness of the budget and the experience of the proposer will be considered in proposal evaluation. TENRAC reserves the right not to fund any proposal if no satisfactory proposal is received.

**Eligibility.** The following criteria are established for acceptability of proposers:

(1) Texas-based proposers will be given priority consideration and only in unusual circumstances will this priority be disregarded.

(2) Individual members of the council, TENRAC staff, or their immediate families are not eligible.

(3) Individuals who are part of the TENRAC review team are eligible and their review function will be appropriately limited.

**State Universities and State Agencies.** TENRAC cannot contract to pay indirect costs for state universities and state agencies who may respond to this SPI. However, the full federally audited equivalent indirect costs would be listed as matching funds. This restriction does not apply to other proposers.

**Proposal Content.** Voluminous proposals are not desired. The proposals should include:

(1) Cover page. The cover page should include title; SPI number; name and address of the proposer(s); name, address, and telephone number of the person(s) to be contacted concerning technical and contractual questions; and the signature of the proposer's authorized representative(s);

(2) proposal summary;

(3) technical section;

(4) administrative section;

(5) financial section;

(6) experience and qualifications section; and

(7) appendices.

Appendices should be included as appropriate.

**Review Criteria and Procedures.** Evaluation of the submitted proposals will be in accordance with the rules adopted for the administration of the Energy Development Act cited above. A copy of the rules will be provided upon request.

**Deadline and Address for Proposal Submission.** In order to be considered for funding in June 1982, 10 copies of proposal must be received at TENRAC, Technology Development Division, Room 506, Employees Retirement System Building, 200 East 18th Street, Austin, Texas 78701, no later than 5 p.m., May 3, 1982.

**Contract Term.** The detailed terms of contract will be negotiated with the selected proposer. A blank contract form with standard terms and conditions will be supplied to interested proposers upon request.

**Schedule for Completion.** Work to be compensated with the current funding must be completed by not later than the end of the present State of Texas funding biennium, i.e., August 31, 1983.

**Target Date for Contract Awards.** It is anticipated that the contract awards will be made by about June-July 1982.

**Contract Person.** Address questions and requests for additional information pertaining to contractual matters

to C. D. Rao, Texas Energy and Natural Resources Advisory Council, 200 East 18th Street, Room 506, Austin, Texas 78701, (512) 475-0236, or STS 822-0236, and technical questions relating to the actual hydrologic testing and logging to Graham E. Fogg, Bureau of Economic Geology, University of Texas at Austin, Austin, Texas 78712, (512) 471-7721, or STS 821-7721.

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

TRD-823141

Lee Wilson  
Acting Director  
Technology Development  
Division  
Texas Energy and Natural  
Resources Advisory Council

Filed: April 12, 1982, 9:28 a.m.

For further information, please call (512) 475-0414.

## Texas Health Facilities Commission Application for Petition for Reissuance of Certificate of Need

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for petition of reissuance of certificate of need which have been filed with the commission.

The commission may require on a petition for reissuance of certificate of need when it is determined that good cause exists for such a hearing. A request for a hearing on a petition for reissuance of certificate of need must be submitted to the commission within 15 days after publication of notice and show reason why a hearing should be held. Requests for a hearing are to be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be postmarked no later than the day prior to the last day allowed for filing requests for hearing.

The petition will be approved only if the commission determines that it qualifies under the criteria of Texas Civil Statutes, Article 4418h, §3.13, and 25 TAC §§509.81-509.85 and §§513.51-513.53.

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; and NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day

that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Centro Medico Del Valle, Inc., El Paso  
AO80-1231-023R (040582)

Reissuance of CN—Petition for reissuance of Certificate of Need AO80-1231-023 which authorized the establishment and operation of a 4,000 square foot primary care outpatient clinic offering the services of medical care, limited laboratory, pharmacy, counseling, and family planning.

Issued in Austin, Texas, on April 12, 1982.

TRD-823145      Linda E. Zatopek  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: April 12, 1982, 9:23 a.m.  
For further information, please call (512) 475-6940.

### **Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent**

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; and NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Stonebrook Properties, Inc., Arlington  
AN82-0408-010

NIEH—Request for a declaratory ruling that a certificate of need is not required for Stonebrook Properties, Inc. to acquire by lease, Cantex Health Care Center—Real, an existing 204-bed ICF nursing facility located in Austin, from Jewell Enterprises.

Jewell Enterprises, Arlington  
AN82-0408-005

NIEH—Request for a declaratory ruling that a certificate of need is not required for Jewell Enterprises to purchase Cantex Health Care Center—Real, an existing 204-bed ICF nursing facility located in Austin, from Cantex Health Care Centers.

Tom Green County, Hospital Authority,  
San Angelo

AH82-0409-010

NIEH—Request for a declaratory ruling that a certificate of need is not required for Tom Green County Hospital Authority to acquire by lease portions of St. John's Hospital, an existing hospital located in San Angelo with 139 existing beds and 32 beds approved under CN AH81-0429-005.

Tom Green County, Hospital Authority  
San Angelo

AH82-0409-013

DR—Request for a declaratory ruling that neither a certificate of need nor a notice of intent is required for Tom Green County Hospital Authority to lease 50% of the square feet and 35% of the assets of Saint John's Hospital, an existing hospital located in San Angelo with 139 existing beds and 32 beds approved under CN AH81-0429-005.

Swiss Avenue Hospital, Dallas  
AH82-0406-022

DR—Request for a declaratory ruling that a certificate of need is not required to refurbish and remodel 12,830 square feet of the Swiss Avenue Hospital, which is a Texas nonprofit corporation.

Hermann Hospital, Houston  
AH82-0406-017

DR—Request for a declaratory ruling that a certificate of need is not required to renovate 3,105 square feet of clinic space within the Cullen Pavilion of the hospital and operate it as a sports medicine clinic.

Mary McCabe and Sally Mitter, Richardson  
AN82-0319-031

NIEH—Request for a declaratory ruling that a certificate of need is not required for Mary McCabe and Sally Mitter to purchase Fair Park Health Care Center, an existing 120-bed ICF nursing facility located in Dallas from Sunbelt Living Centers, Inc.



Central Care Systems, Inc., Richardson  
AN82-0409-007

NIEH—Request for a declaratory ruling that a certificate of need is not required for Central Care Systems, Inc. to acquire by lease, Fair Park Health Care Center, an existing 120-bed ICF nursing facility located in Dallas, from Mary McCabe and Sally Mitter of Richardson.

Issued in Austin, Texas, on April 12, 1982.

TRD-823144 Linda E. Zatopk  
Assistant General Counsel  
Texas Health Facilities  
Commission

Filed: April 12, 1982, 9:23 a.m.  
For further information please call (512) 475-8940.

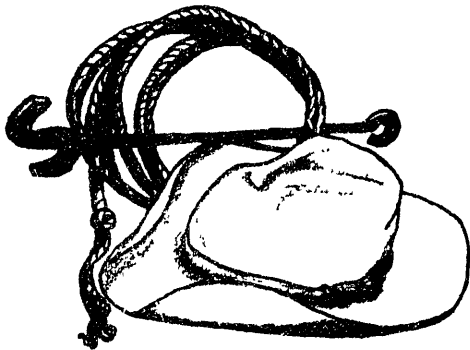
between the selected contractor(s) and the Red River Authority of Texas is dependent upon prior approval by the USEPA of a presently proposed contract between the TDWR and the Red River Authority, and TDWR/USEPA approval of the term of the proposed contractor/Red River Authority contract(s).

The procedure for consultant selection used by the Red River Authority shall conform to Attachment O of office of Management and Budget Circular A-102 (Procurement Standards), available from the Red River Authority of Texas.

Issued in Wichita Falls, Texas, on March 26, 1982.

TRD-823029 Fred Barkey  
General Manager  
Red River Authority of Texas

Filed: April 7, 1982, 2:03 p.m.  
For further information, please call (817) 723-8697.



## Red River Authority of Texas Consultant Proposal Request

The State of Texas Water Quality Management Planning Work Plan, fiscal year 1981, prepared by the Texas Department of Water Resources pursuant to §208 of the Federal Clean Water Act (PL 95-217), contains one special study in the Red River Basin State Planning Area which is to be conducted by the Red River Authority of Texas under contract with the Texas Department of Water Resources. This study covers the effects of urban runoff on the Wichita River, Wichita Falls area. It has been determined by the Red River Authority that certain work elements in the study can best be accomplished by a consultant(s).

The Red River Authority is requesting proposals from interested consultants. The proposals are required by April 30, 1982, and selection of a contractor(s) will take place after that date. Inquiries concerning this request for proposals should be directed to, copies of the request for proposals should be directed to, and copies of the request for proposals obtained from Fred Parkey, general manager, Red River Authority of Texas, 302 Hamilton Building, Wichita Falls, Texas 76301, 1-(817) 723-8697.

Payment for services pursuant to the proposed contract(s) will be funded in part by a planning grant from the U.S. Environmental Protection Agency to the Texas Department of Water Resources. Execution of the contract(s)

## Texas Water Commission Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of April 5-9, 1982.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; and (2) a brief description of how the requester, or person represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

### Period of April 5-9, 1982

Badische Corp., Freeport; manufacturing of organic and inorganic chemicals and monomers; in the southwest quadrant defined by the intersection of State Highway 288 and State Highway 332 near the City of Freeport, Brazoria County; 01802; renewal

City of Keller; treated domestic sewage effluent facility; approximately 0.4 mile south of FM Road 1709

in the southeast quadrant of the City of Keller, Tarrant County; 10235-01; renewal

U.S. Industrial Chemicals Company, Deer Park; plant manufacturing plastics and chemicals; approximately one mile north of the intersection of Miller Cutoff Road with State Highway 225 in Harris County; 00534; renewal

Mims Meat Company, Lufkin; slaughterhouse and meat processing plant; on the north side of FM Road 841 approximately 2.6 miles south of the intersection of FM Road 841 and Loop 287 around the City of Lufkin, Angelina County; 02062; renewal

City of Baytown; treated domestic sewage effluent facility; southeast of the intersection of Steinman and Winkler Street and approximately five miles northwest of the central business district of Baytown, Harris County; 10395-05; renewal

Associated Milk Producers, Inc., Muenster; milk products plant; approximately 850 feet east of FM Road 373 and further defined as located south of and adjacent to the city limits of the City of Muenster, Cooke County; 01982; renewal

Texas Power and Light Company, Bogata; Rivercrest steam electric station; approximately 5.4 miles southeast via U.S. Highway 271 of the City of Bogata, Red River County; 00945; renewal

D.B.C. Memorial, Inc., Houston; Interim Memorial Hill STP; on the east side of Detering Street approximately 700 feet north of the intersection of Detering Street and Memorial Drive within the City of Houston, Harris County; 11846-01; renewal

City of Navasota; treated domestic sewage effluent facility; on the southern bank of Cedar Creek one block north of State Highway 105 at the intersection of Chase Street and Peoples Street in the western part of Navasota, Grimes County; 10231-01; renewal  
Bluewater Maintenance, Inc., Brookshire; compressor

manufacturing and maintenance operation; at the southeast corner of the intersection of FM Road 529 and FM Road 2855 approximately 11 miles northeast of the City of Brookshire, Waller County; 12534-01; new permit

A.C. Boston, Temple; small residential development; at the northeast corner of the intersection of FM Road 1670 and Auction Barn Road and approximately 3,000 feet south of the intersection of FM Road 1670 and 190 in Bell County; 12506-01; new permit

Holmes Investment Corp., Houston; wastewater treatment plant; approximately 1,200 feet east of U.S. Highway 59 and approximately 2,200 feet north of Kingwood Drive in Montgomery County; 12530-01; new permit

Amerada Hess Corp., Channelview; bulk petroleum storage terminal; 15001 Moore Road in the community of Channelview, Harris County; 02568; new permit

W.R. Grace and Company, Deer Park; chemical manufacturing facility; 739 Battleground Road (Highway 134) approximately one mile north of the intersection of Highways 134 and 225 in the City of Deer Park, Harris County; 02558; new permit

E. Boone Coy, Houston; San Jacinto Heights sewage treatment plant; approximately 4½-miles along FM Road 1314 in a northwesterly direction from the intersection of U.S. Highway 59 and FM Road 1314 in Montgomery County; 12503-01; new permit

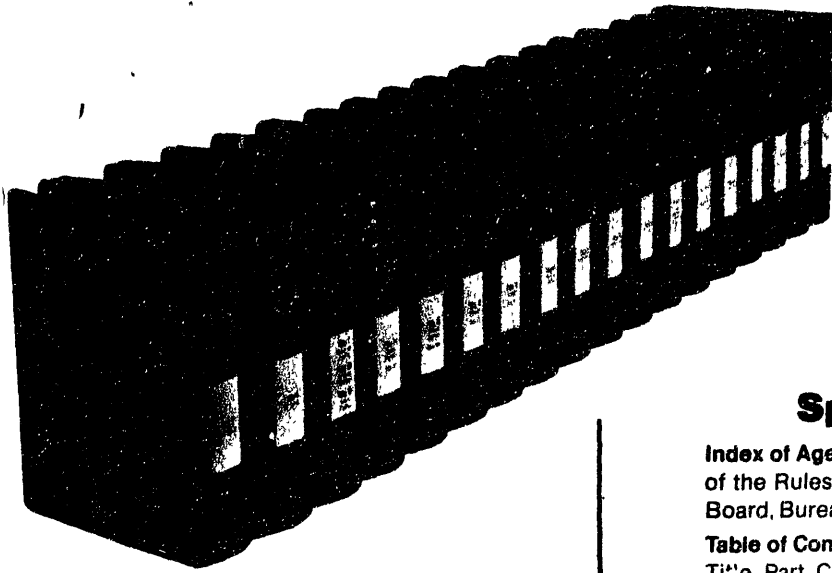
Texas Municipal Power Agency, Carlos; Gibbons Creek lignite mine; approximately two miles south of Carlos, Grimes County; 02460; amendment

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

TRD-823077      Mary Ann Hefner  
Chief Clerk  
Texas Water Commission

Filed: April 9, 1982, 11:16 a.m.  
For further information, please call (512) 475-4514.





# The Texas Administrative Code

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Each complete set of the **Code** will include: an index to locate each agency's rules in the **Code**; a table of contents listing each title, with its parts, chapters, and subchapters; a series of tables listing the constitutional and statutory authority for each rule; the full text of the Administrative Procedure and Texas Register Act; and the full text of the Texas Administrative Code Act.

#### Table of Titles

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TITLE 4 . AGRICULTURE  
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## Special Features

**Index of Agencies**, listing the location in the Code of the Rules issued by each Agency, Department, Board, Bureau or Commission of the State of Texas.

**Table of Contents** for the entire Code and for each Title, Part, Chapter, and Subchapter of the Code.

**Complete title contents for each title**, listing all currently active pages contained in that title by page number, so as to insure completeness and accuracy. Detailed index for each title.

**Parallel Reference Table** for each title, showing the section number used in the Code to designate a Rule and, where applicable, the ten-digit identification number assigned to it by the Texas Register Division.

**Tables of Authorities**, listing every statute and constitutional authority contained in the Code, and the various components of the Code issued under each.

**Authority Notes**, containing a reference to the statutory or constitutional authority for each Title, Part, Chapter, Subchapter, and Section contained in the Code.

**Source Notes**, containing a reference to the date and, when applicable the citation to the *Texas Register* issue in which each Title, Part, Chapter, Subchapter, and Section of the Code was adopted and became effective.

**Cross References**, showing every Part, Chapter, Subchapter, and Section of the Code cited in a Rule.

**Editor's notes**, containing clarifying comments or statements as appropriate.

**Notes of Decisions**, containing a summary of each court decision and Attorney General's opinion that construes a Rule.

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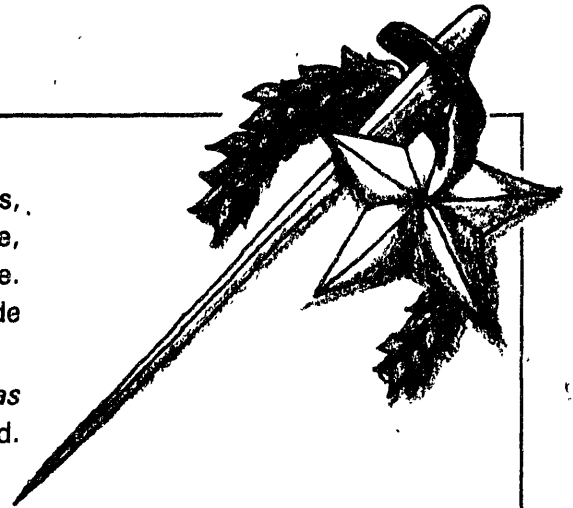
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