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TEXAS REGISTER

DEAN BERRY
JUL 30 1980
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In This Issue...

Savings and Loan Department of Texas adopts an emergency amendment creating a date on which adjustments may be made to variable rate loans; effective date—July 21 . 2997

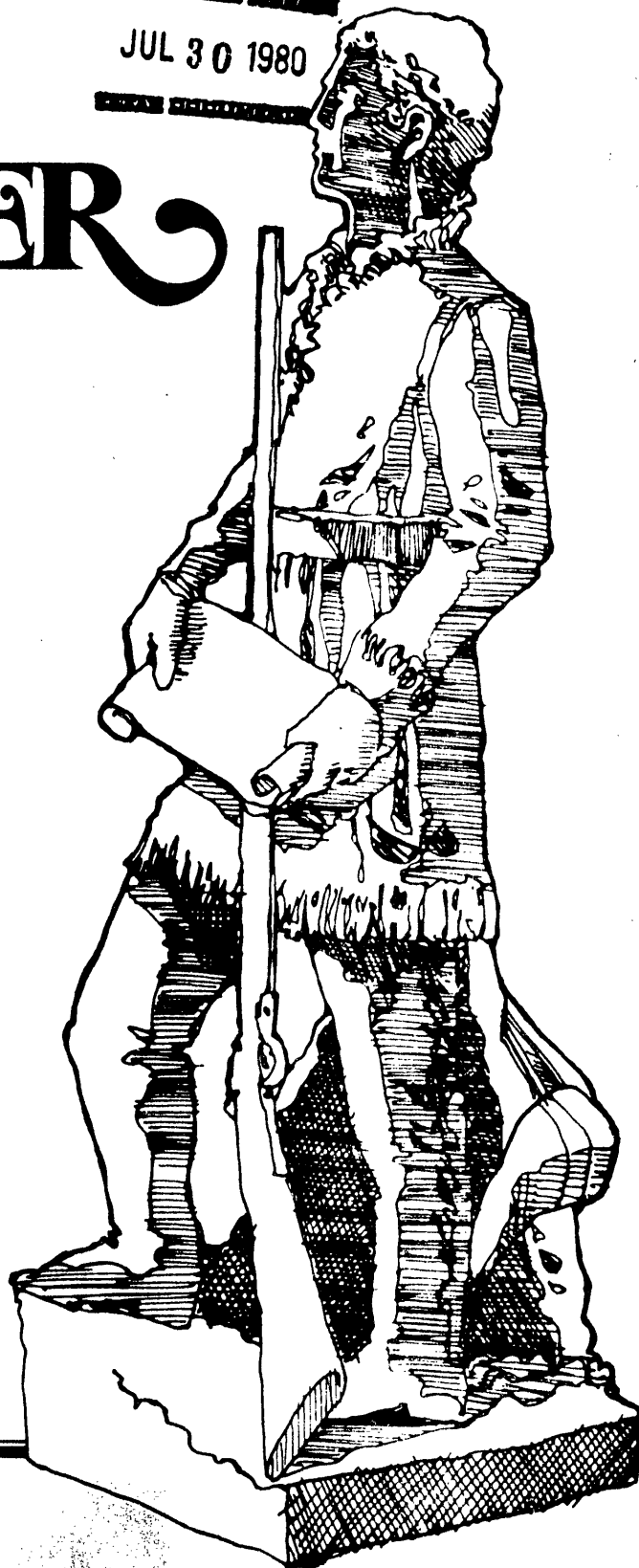
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Texas Water Development Board amends and repeals rules concerning the Texas Weather Modification Act; effective date—August 13 3050



The *Texas Register* is currently in the process of converting to the numbering system found in the *Texas Administrative Code* (TAC). To aid the reader in this conversion, both the 10-digit *Register* number and the new TAC number will be listed for agencies whose rules have been published in the TAC. Emergency, proposed, and adopted rules sections of the *Register* are divided into two classifications: codified and noncodified. Codified rules appear in title number order. Non-codified rules appear in alphabetical order as they have in the past. An "Index of TAC Titles Affected" appears at the end of this issue.

Titles 1, 4, 7, 10, 13, 22, 31, 34, 37, and 43 only of the TAC have now been published. Documents classified in the *Texas Register* to titles not yet published and certain documents affecting titles of the code have been accepted in the non-TAC format and may be renumbered or revised, or both, when initially codified in the TAC.

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

1 is the title (agencies grouped together by subject title which are arranged alphabetically)

TAC is the *Texas Administrative Code*

§27.15 is the section number (27 represents the chapter number and 15 represents the individual rule within the chapter)

Latest Texas Code Reporter
(Master Transmittal Sheet): No. 2, May 80

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 2404 of Volume 4 is cited as follows: 4 TexReg 2404.

Cover illustration represents Elisabet Ney's statue of Stephen F. Austin, which stands in the foyer of the State Capitol.

TEXAS REGISTER

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George W. Strake, Jr.
Secretary of State

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Appointments

Governor's Advisory Committee on Education

For terms to expire June 30, 1981:

Dr. Willis M. Tate
President Emeritus
Southern Methodist University
Room 162, Storey Hall
Dallas, Texas 75275 (chairman)

Mrs. William P. Clements, Jr.
Office of the Governor
Capitol Station
Austin, Texas 78711

Franklin Bass
President, Texas Association of School Boards
633 Moray
Corpus Christi, Texas 78411

Dr. Thomas J. Cleaver
Director, Division of Education
The University of Texas at San Antonio
San Antonio, Texas 78285

Peggy Crowder Coghlan, Ph.D.
No. 4 Pegues Place
Longview, Texas 75601

Dr. Cecil Drachenberg
Assistant Superintendent for Curriculum and Personnel
Alvin Independent School District
605 West House
Alvin, Texas 77511

Gerry Gillmore
Special Populations Department
Region IV Education Service Center
P.O. Box 863
Houston, Texas 77001

Johnnie Marie Grimes
3314 Drexel Drive
Dallas, Texas 75205

Dr. Calvin E. Gross
Superintendent, Alamo Heights Independent School
District
7101 Broadway
San Antonio, Texas 78209

Dr. June Hyer
Adjunct Professor, LBJ School of Public Affairs
Capitol Station, Box 13045
Austin, Texas 78711

Eldon M. Knox
Box 904
Coleman, Texas 76834

Mrs. Henry D. Lindsley III
4209 Arcady
Dallas, Texas 75205

Dr. Arnulfo L. Oliveira
President
Pan American University at Brownsville
80 Fort Brown
Brownsville, Texas 78520

Virginia Allred Stacey
8403 Chivalry
San Antonio, Texas 78520

Betty Tidwell
Teacher, Trinity Independent School District
P.O. Box 71
Trinity, Texas 75862

Floyd Trimble
Instructional Facilitator, Industrial Arts
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

Dr. Forrest E. Watson
Superintendent, Hurst-Eules-Bedford Independent School
District
1849 Central Drive
Bedford, Texas 76021

Dr. Linus D. Wright
Superintendent, Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

Sam D. Young, Jr.
President, El Paso National Bank
P.O. Drawer 140
El Paso, Texas 79980

H. B. Zachry, Jr.
President, H. B. Zachry Company
P.O. Box 21130
San Antonio, Texas 78285

All of the current membership is being reappointed to the committee.

Texas Work Furlough Advisory Board

For a six-year term to expire January 31, 1983:

James F. Johnson
State Board of Pardons and Paroles
721 Seminary South Office Building
Fort Worth, Texas 75115

Mr. Johnson will be filling the unexpired term of William T. Slaton, Jr., of Dallas, Dallas County, who resigned.

For a six-year term to expire January 31, 1985:

Dr. William A. Lufburrow
Goodwill Industries of Houston
5200 Jensen Drive
Houston, Texas 77026

Dr. Lufburrow is replacing Marvin M. Moore of Houston, Harris County, whose term expired.

G. Keith Jenkins
501 First National Bank Building
Conroe, Texas 77301

Mr. Jenkins is replacing Charles M. Bleil of Texarkana, Bowie County, whose term expired.

Issued in Austin, Texas, on July 21 and 22, 1980.

Doc. No. 805659 William P. Clements, Jr.
& 805695 Governor of Texas

For further information, please call (512) 475-3021.

Article 4399, Vernon's Texas Civil Statutes, requires the attorney general to give written opinions to certain public officials. The Texas Open Records Act, Article 6252-17a, Section 7, Vernon's Texas Civil Statutes, requires that a governmental body which receives a request for release of records seek a decision of the attorney general if the governmental body determines that the information may be withheld from public disclosure. Opinions and open records decisions issued under the authority of these two statutes, as well as the request for opinions and decisions, are required to be summarized in the *Texas Register*.

Copies of requests, opinions, and open records decisions may be obtained from the Opinion Committee, Attorney General's Office, Supreme Court Building, Austin, Texas 78701, telephone (512) 475-5445.

Requests for Opinions

Summary of Request for Opinion RQ-381

Request from L. Alvis Vandygriff, commissioner, Texas Savings and Loan Department, Austin.

Summary of Request:

(1) Does Section 1, Article 1513a, Vernon's Texas Civil Statutes, authorize a state-chartered savings and loan association to amend its articles of incorporation to offer trust services?

If the above question is answered in the affirmative, we request that you answer the following three questions:

(2) May such association earmark all or a portion of its capital stock fund to meet the condition that a trust company have a fully paid-in capital of at least \$500,000, as required in Section 4 of Article 1513a, Vernon's Texas Civil Statutes?

(3) Does a savings and loan association that has authority to accept demand time deposits pursuant to the Texas Savings and Loan Act, Article 852a, Vernon's Texas Civil Statutes, forfeit its authority to accept such deposits once it begins to offer trust services as a result of Section 5 of Article 1513a, Vernon's Texas Civil Statutes?

(4) Does Section 2(d) of Article 1513a, Vernon's Texas Civil Statutes, permit the banking commissioner to authorize the Savings and Loan Department to conduct examination of trust departments of state-chartered savings and loan associations?

Doc. No. 805621

Summary of Request for Opinion RQ-387

Request from Brent P. Burford, assistant city attorney, Irving.

Summary of Request: Are records relating to the transportation of patients by municipally operated emergency medical service public under the Open Records Act?

Doc. No. 805622

Summary of Request for Opinion RQ-388

Request from Joe Resweber, county attorney, Houston

Summary of Request: Is Section 11.01(d)(3), Property Tax Code, relating to goods temporarily in the state, constitutional?

Doc. No. 805623

Summary of Request for Opinion RQ-389

Request from Andy James, administrator, Texas Real Estate Commission, Austin.

Summary of Request: Is licensure as a residential service company required under Article 6573b, Vernon's Texas Civil Statutes, for a company to offer the mobile home service?

Doc. No. 805731

Opinions

Summary of Opinion MW-212 (RQ-338)

Request from George M. Cowden, chairman, Public Utility Commission of Texas, Austin, concerning whether the Texas Municipal Power Agency is a public utility under the Public Utility Regulatory Act.

Summary of Opinion: The Texas Municipal Power Agency is not a public utility as defined in the Public Utility Regulatory Act and the commission has no original or appellate jurisdiction over its rates and services. The TMPA is subject to the reporting requirements contained in Section 27 of the Act.

Doc. No. 805697

Summary of Opinion MW-213 (RQ-345)

Request from Warren G. Harding, Treasurer of the State of Texas, Austin, concerning whether the comptroller may initiate direct deposit procedures for payroll warrants by magnetic tape transfer service.

Summary of Opinion: The comptroller is authorized, at the instruction of a state employee, to transfer the employee's pay warrant directly to his designated bank for deposit in his account. Again, at the employee's direction, the comptroller may issue the employee's pay warrant in the name of his agent bank and transfer it directly to the bank. The comptroller may not issue a pay warrant covering multiple employees, and he may not issue warrants solely by means of magnetic tape.

Issued in Austin, Texas, on July 24, 1980.

Doc. No. 805730

C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

For further information, please call (512) 475-5445.

An agency may adopt emergency rules after determining what it considers to be an imminent peril to the public health, safety, or welfare. These rules may be effective immediately on filing with the secretary of state for no more than 120 days, renewable once for no more than 60 days. An agency must submit written reasons, published in the *Register*, for the emergency adoption of rules.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in **bold italics**. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 7. BANKING AND SECURITIES Part IV. Savings and Loan Department of Texas

Chapter 65. Loans

The Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas is adopting on an emergency basis an amendment to §65.3 (056.08.00.003) to take effect immediately on filing. It has been brought to the attention of the department by several associations that monthly payments on variable rate loans can only be adjusted at the expiration of five-year intervals which would create a greater indebtedness to the borrower, thus creating an imminent peril to public welfare.

This amendment creates the date which adjustments may be made to variable rate loans as being the first anniversary date of the note. This allows the association to make the adjustments with the borrower's agreement.

This section is amended pursuant to the Administrative Procedure and Texas Register Act, Article 6252-13a, Vernon's Annotated Civil Statutes, and under the statutory authority of Article 342-114, Vernon's Annotated Civil Statutes.

§65.3 (056.08.00.003). *Loan Limitations*. Every association may make real estate loans to members secured by a mortgage, deed of trust, or other instrument creating or constituting a first and prior lien on improved real estate within the limits as classified in the following paragraphs:

(1)-(5) (No change.)

(6) An association may make real estate loans with an overall term of not more than 481 months having [equal intermediate periods of not less than six **nor more than 60 months** at the end of which adjustments in the interest rate

may be made. The loan contract establishing such loans shall contain the following provisions:

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

(D) That the monthly payment for interest and/or principal will not be increased or decreased except on the [fifth] anniversary of the note, and **not more often than once each year nor less often than once each five years** [on each fifth anniversary thereafter]. This adjustment will be in an amount to amortize the unpaid balance of the loan within the remaining term.

Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805545 L. Alvis Vandygriff
Commissioner
Savings and Loan Department of Texas

Effective Date: July 21, 1980

Expiration Date: November 18, 1980

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

NONCODIFIED

Coordinating Board, Texas College and University System

Student Services

Hinson-Hazlewood College Student Loan Program for All Loans Made for or after Fall Semester 1971 and Which are Subject to the Provisions of the Federally Insured Student Loan Program 251.05.04

The coordinating board adopts an emergency amendment to Rule 251.05.04.007, which will allow graduate or postbaccalaureate professional school students continued access to loans in the coming school year. Due to increased costs, especially at several independent institutions, some law and other students have reached the current loan maximums but have need to continue to borrow. Unless the Hinson-Hazlewood loan limits are increased, it will be necessary for such students to seek loans from other student loan programs when such are available. Borrowing from more than one program is not recommended since the loans would have to be repaid simultaneously. This often results in repayment problems for both the borrower and the loan program.

This amendment is promulgated under the authority of Subchapter B, Chapter 56, Vernons' Texas Codes Annotated, 56.010-16.

.007. Amount of Loan.

(a) The maximum amount of loan to any qualified applicant in a fiscal year is \$2,500, except that qualified applicants enrolled in a **graduate or postbaccalaureate** professional school [of medicine, osteopathy, dentistry, veterinary medicine, optometry or public health] may borrow a maximum of \$5,000 in a fiscal year. The amount of loan shall not exceed the amount that the student needs in order to meet reasonable expenses as a student. A change in either financial resources or reasonable expenses of the student which

results in an increase in the financial need of the student may make the student eligible for additional loans. A change in either financial resources or reasonable expenses of the student which results in a decrease in the financial need of the student shall make the student responsible for the immediate repayment of any overcommitment of loan funds. Repayment may be restored to the fund by a cash payment or by the reduction of any pending loan disbursement to the student. Prior to recommending the loan, the Hinson-Hazlewood College Student Loan Program officer at the institution shall make certain that the student is properly utilizing his or her eligibility for the basic opportunity grant and all other forms of student assistance including a reasonable amount to be earned from employment during the period of the loan.

(b) **Aggregate maximum of loan.** The total outstanding principal balance to any individual student may not exceed \$7,500 at any time, except that a student enrolled in a gradu-

ate or *postbaccalaureate* professional school other than those enumerated below may borrow up to an aggregate maximum of \$10,000 (including amounts borrowed at the undergraduate level) and that a student enrolled in a professional school of medicine, osteopathy, dentistry, veterinary medicine, optometry, or public health may borrow up to an aggregate maximum of \$15,000 (including amounts borrowed at the undergraduate and/or graduate level).

(c)-(f) (No change.)

Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805720

Kenneth H. Ashworth
Commissioner of Higher Education
Coordinating Board, Texas College and
University System

Effective Date: July 24, 1980

Expiration Date: November 21, 1980

For further information, please call (512) 475-2033.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Non-codified."

Symbology—Changes to existing material are indicated in *bold italics*. [Brackets] indicate deletion of existing material.

CODIFIED

TITLE 7. BANKING AND SECURITIES

Part IV. Savings and Loan Department of Texas

Chapter 65. Loans

(Editor's note: The Savings and Loan Department of Texas is proposing for permanent adoption the emergency amendment of §65.3 (056.08.00.003) which it adopts in this issue. The text of the amended section appears in the Emergency Rules section.)

The Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas propose to adopt an amendment in Chapter 65 (056.08) dealing with loan limitations. The amendment proposed for adoption is to §65.3 (056.08.00.003).

This amendment is necessary in order that associations may make adjustments to variable rate loans on the first and on each anniversary of the note instead of on each fifth anniversary.

The Savings and Loan Section of the Finance Commission of Texas has determined that this amendment would have no fiscal implications for the state or units of local government.

Comments are invited and should be submitted in writing to the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas (one copy, directed to both) and should be mailed to P.O. Box 1089,

Austin, Texas 78767, or delivered to the department's offices at 1004 Lavaca, Austin, Texas. Comments must be received by 5 p.m. on Monday, August 25, 1980.

This amendment is proposed pursuant to Article 342-114, Texas Revised Civil Statutes.

Issued in Austin, Texas, on July 21, 1980.

Doc. No. 805546 L. Alvis Vandygriff
Commissioner
Savings and Loan Department of Texas

Proposed Date of Adoption: September 30, 1980
For further information, please call (512) 475-7991.

Part VII. State Securities Board

Chapter 109. Transactions Exempt from Registration

The State Securities Board proposes to amend §109.3 (065.05.00.008) of this title, by adding a new subsection concerning sales of securities to financial institutions named in Section 5.H of the Securities Act. Section 5.H exempts from the dealer and securities registration requirements of the Act sales of securities to the institutions named in 5.H. The amendment restates the current policy of the board that sales to these institutions is exempt only if the institutions are buying for their own account and not as agent for another nonexempt entity. The title of this section has also been amended.

The staff of the board has determined that this proposal will have no fiscal implications for the state or for any unit of local government.

Public comment on this proposal is invited and written comments may be mailed to Sue Roberts, State Securities Board, P.O. Box 13167, Austin, Texas 78711.

These amendments are proposed pursuant to Sections 5.H and 28-1, Article 581, Vernon's Annotated Texas Statutes.

§109.3 (065.05.00.008). Sales to Financial Institutions (Savings Institutions).

(a) Savings institution. The term "savings institution" as used in Section 5.H of the Securities Act, includes any federally chartered credit union or savings and loan association; and any credit union or savings and loan association chartered under the laws of any state of the United States.

(b) Sale to institutions acting as agent. The sale of securities to a bank, trust company, or other financial institution listed in Section 5.H of the Securities Act is not exempt if the financial institution is in fact acting only as agent for another purchaser that is not an institution listed in Section 5.H. Section 5.H exempts only sales to a financial institution named therein acting for its own account or as a bona fide trustee of a trust organized and existing other than for the purpose of acquiring the specific securities for which the seller is claiming an exemption under Section 5.H.

Doc. No. 805627

Chapter 115. Dealers and Salesmen

In order to avoid a possible conflict with the requirements of Rule 146 of the SEC, Transactions by an Issuer Deemed Not to Involve any Public Offering, the State Securities Board proposes to add a new subsection (f) to §115.1 (065.08.00.001) of this title. This amendment states that an issuer offering securities in reliance on Rule 146 is not deemed to be a dealer under the Texas Securities Act simply because its employees may answer questions about the offering. This amendment merely articulates current board policy and does not represent a substantive change in the board's interpretation of the Act, but is intended to clarify the board and staff's interpretation of "dealing in securities" under the Act.

The staff of the Securities Board has determined that this amendment will have no fiscal implications for the state or for any unit of local government.

Public comment on this proposal is invited and written comments may be mailed to Sue B. Roberts, State Securities Board, P.O. Box 13167, Austin, Texas 78711.

This amendment is proposed pursuant to Sections 4 and 28-1, Article 581, Vernon's Annotated Texas Statutes.

§115.1 (065.08.00.001). *General.*

(a)-(e) (No change.)

(f) Issuers in Rule 146 offerings. When an offering is made in compliance with Rule 146 of the SEC, which is also to be registered under Section 7 of the Securities Act, and the offering will be made by or through a registered securities dealer, the issuer and its directors, officers, agents, and employees may make themselves available to answer questions from offerees as required by paragraph (e)(2) of Rule 146 without being required to register as securities dealers, agents, or salesmen under Section 12 of the Securities Act.

Doc. No. 805628

Chapter 133. Forms

The State Securities Board proposes to adopt by reference an amended secondary trading exemption notice which would require officers and directors of issuers filing the notice to disclose material criminal, civil, or administrative actions taken against them. This amendment is proposed because it has come to the attention of the staff of the board that a few issuers have attempted to qualify for the secondary trading exemption in cases where information concerning material past litigation was not generally available to the public.

The staff of the Securities Board has determined that this proposal will have no fiscal implications for the state or any unit of local government.

Public comment on this proposal is requested and written comments may be mailed to Sue B. Roberts, State Securities Board, P.O. Box 13167, Austin, Texas 78711.

This amendment is proposed pursuant to Sections 5.0 and 28-1, Article 581, Vernon's Annotated Texas Statutes.

§133.5 (065.91.00.011). *Secondary Trading Exemption Notice.* The State Securities Board adopts by reference the attached secondary trading exemption notice, as amended in July

1980 (August 1979). This form is available from the Securities Board, P.O. Box 13167, Austin, Texas 78711.

Issued in Austin, Texas, on July 22, 1980.

Doc. No. 805633 Richard D. Latham
Securities Commissioner
State Securities Board

Proposed Date of Adoption: September 1, 1980

For further information, please call (512) 474-2233.

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

The Texas State Board of Examiners of Psychologists is proposing to amend §463.8 (400.02.00.008) of this title, which deals with the experience requirements for licensure and specialty certification as a health service provider. It was the determination of the board to clarify its intent by indicating that a year of supervision (1,500 hours) could not be obtained in less than a calendar year.

The members of the board have stated that this proposed amendment will have no fiscal implication for state or local government.

Public comment on the proposed amendment is invited. Persons should submit their comments in writing to Patti Bizzell, executive secretary, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, Texas 78751.

This amendment is proposed under the authority of Article 4512(c), Texas Civil Statutes.

§463.8 (400.02.00.008). *Experience.* A year of experience is defined as a minimum of 1,500 supervised hours obtained **in not less than a 12-month period or more than a 24-month period** [within a 24-month period] in not more than two facilities or placements.

Doc. No. 805733

The Texas State Board of Examiners of Psychologists is proposing to amend §463.19 (400.02.00.019) of this title, which deals with the requirements for persons graduating from foreign universities. It was the determination of the board to delete the phrase "educational psychology" because it is redundant and adds no meaning to the intent of the board's use of this section.

The members of the board have stated that this proposed amendment will have no fiscal implications for state or local government.

Public comment on the proposed amendment is invited. Persons should submit their comments in writing to Patti Bizzell, executive secretary, Texas State Board of Examiners of Psychologists, 5555 North Lamar, Building H, Suite 126, Austin, Texas 78751.

This amendment is proposed under the authority of Article 4512(c), Texas Civil Statutes.

§463.19 (400.02.00.019). Foreign Graduates. Applicants for licensure whose applications are based on graduation from foreign universities shall provide the board with such documents and evidence tending to establish that their formal education is equivalent to a doctoral degree in psychology [or educational psychology] granted by a school approved by this board. The applicant shall provide the board with the following:

- (1) An original diploma or other certificate of graduation which will be returned, and a photostatic copy of such a document which shall be retained.
- (2) A transcript or comparable document of all coursework completed.
- (3) A certified translation of all documents submitted in a language other than English.
- (4) Satisfactory evidence of supervised experience.
- (5) Evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the board may require an applicant to file a copy of the dissertation itself.
- (6) A statement prepared by the applicant based on the above documents, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.

Issued in Austin, Texas, on July 24, 1980.

Doc. No. 805737 Patti Bizzell
 Executive Secretary
 Texas State Board of Examiners of
 Psychologists

Proposed Date of Adoption: September 1, 1980
 For further information, please call (512) 458-3295.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IV. School Land Board

Chapter 155. Land Resources

Practice and Procedure for State-Owned Lands and Flats

The School Land Board proposes to adopt new §§155.25-155.28 (135.18.02.005-.008) of this title, which provide definitions, clarify board policy, clarify application requirements, and set standards that must be met before the board will consider granting a lease.

The proposed sections have no fiscal implications for the state or units of local government according to School Land Board staff.

Comments on the proposed sections should be submitted in writing to Mike Hightower, Coastal Operations, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701, telephone (512) 475-1166, on or before 5 p.m. Monday, September 1, 1980.

These sections are proposed under the authority of Texas Water Code, Sections 61.116 and 61.117.

§155.25 (135.18.02.005). Definitions.

- (a) Board. The School Land Board of Texas.
- (b) District. A navigation district organized under any special or general law for creation of navigation districts. The term "district" also applies to any incorporated city in this state which owns and operates wharves, docks, and other marine port facilities.
- (c) Navigation. Marine commerce and immediately related activities, including but not limited to port development; channel construction and maintenance; commercial and sport fishing; recreational boating; industrial site locations; transportation, shipping, and storage facilities; pollution abatement facilities; and all other activities necessary or appropriate to the promotion of marine commerce. Residential development is specifically excluded.
- (d) State-owned lands and flats. Any lands belonging to the state which are covered or partly covered by the water of any of the bays or other arms of the sea and the gulf.

§155.26 (135.18.02.006). Mineral Leasing on Navigation District Lands Acquired under Vernon's Civil Statutes, Article 8225.

- (a) Leasing of tracts for oil, gas, or mineral exploration and development shall follow the procedures set out in §§153.1-151.3 (135.16.01.001-.003) of this title. A lessee shall also follow the procedures in General Land Office §§9.1-9.12 (126.16.01.001-.012) of this title, to obtain a permit for geophysical exploration and in General Land Office §§13.11-13.16 (126.18.02.001-.006) of this title, to obtain an easement for any pipeline necessary to operation of the leased tract.
- (b) No surface drilling location may be nearer than 660 feet and special permission from the commissioner of the General Land Office is necessary to make any surface location nearer than 2,160 feet, measured at right angles from the nearest bulkhead line designated by a navigation district of the United States as the bulkhead line or from the nearest dredged bottom edge of any channel, slip, or turning basin which has been dredged, or which has been authorized by the United States as a federal project for future construction, whichever is nearer.

- (c) A district must file a description of any new project proposed for those lands patented to the district by the state.

§155.27 (135.18.02.007). Lease of Stated-Owned Lands and Flats to a District for Navigation Purposes.

- (a) General. This section prescribes, in addition to the definitions of §155.21 (.001) of this title, the general policies of §155.53 (135.18.04.003) of this title, and procedures of §155.54 (135.18.04.004) of this title, those special policies, practices, and procedures to be followed by the board in connection with the review of applications for board leases for navigation purposes on state-owned lands and flats pursuant to Section 61.116 and 61.117, Texas Water Code.

- (b) Policies of the board.
 - (1) The lease application and any related permit or easement applications for any proposed project shall be considered at the same time.
 - (2) The lease shall be for navigational purposes only.
 - (3) The lease shall include preliminary plans and shall outline project specifications, and the project shall conform to those plans and specifications.
 - (4) The lease shall be limited to those phases of the project presented to the board, and a lease shall not be construed to indicate approval of any future phases of a project.

(c) Content of application. In making application for a lease of state-owned lands and flats, the district shall satisfy the requirements of §155.54 (135.18.04.004) of this title and also submit the following to the commissioner:

(1) The name, address, and telephone number of the district and the name of the agent authorized by the district to execute documents.

(2) Proof of eligibility to qualify as a district: date and statutory authority under which the district was formed and is operating, the names of district commissioners and commission chairman (at the time of application submission), and a map of all leaseholds of state-owned lands and flats.

(3) A description of the lands and flats sought to be leased or subleased.

(4) A draft or final environmental impact statement (EIS) conforming to the requirements of the National Environmental Policy Act (Public Law 91-190, 42 United States Code 4321, et seq.) or an environmental report prepared in accordance with federal guidelines and regulations in effect at the time that the application materials are submitted to the board. However, an environmental impact statement is not required if the proposed project requires no dredging, filling, or bulkheading.

(5) Proof satisfactory to the board that the project is consistent with public convenience and necessity. Supporting materials should include:

(A) a statement of the conformity of the project as proposed with existing state, regional, and local land, air, water, recreation, transportation, and other such plans, and an explanation of any variance between the project and any such plans;

(B) an economic analysis of the impact of the proposed project of the local area; and

(C) a statement of how the proposed project would fill any recognized local, state, or federal need.

(6) The applicant's offer as to consideration and requested term for the lease or sublease of the state-owned lands.

(7) A filing fee.

(d) Maintenance operations.

(1) A district may perform maintenance dredging of channels across state-owned lands and flats and discharge the dredged material onto state-owned lands and flats provided:

(A) the district used these lands and flats for this purpose prior to and during May 27, 1975, and

(B) the district submitted acceptable maps and drawings depicting the structures and boundaries of the state-owned lands and flats used to the General Land Office before the effective date of these rules.

(2) A district must file notification of maintenance dredging with the General Land Office giving the date of dredging, the location of the dredging and of the dredged material disposal site, and the expected date of completion.

(e) No district may expand any operations on state-owned lands and flats without obtaining a lease from the board. Expansions include:

(A) widening or deepening of a navigation channel;

(B) disposal of dredged material on a new site on state-owned lands and flats;

(C) any other proposed operation which requires use of state lands.

(f) Oil, gas, and mineral leases.

(1) Lessees must observe the environmental codes specific to lands leased to districts.

(2) Lessees must apply to the General Land Office for appropriate permits or easements in connection with their lease.

(g) Any district granted a lease under these rules must adhere to the project performance standards under §155.58 (135.18.04.008) of this title.

§155.28 (135.18.02.008). *Subleases.*

(a) Districts may sublease lands leased from the state under the provisions of these sections to third parties for navigation purposes, but such sublease and any amendments thereto shall be subject to the approval of the board according to the requirements set forth in §155.27 (.007(c)-(g)) of this title.

(b) If the work, improvements, and uses specified in the sublease were included in the district's original lease and were authorized by the board or if the state-owned lands and flats to be subleased were included in the final amended lease to the district, no approval by the board will be required; however, the district must submit a copy of the sublease, and any amendments thereto, to the board for a determination that the sublease is for a purpose that was contemplated by the district in the district's original lease. No environmental impact statement will be necessary for any sublease which requires no dredging, filling, or bulkheading, and which would not have a substantial impact upon the environment, or which requires only insubstantial dredging, filling, or bulkheading, as determined by the board; nor will a district in obtaining approval for a sublease under any circumstances be required to reveal the name of the tenant to whom the sublease is to be made.

Doc. No. 805740

State-Owned Lands in the Coastal Area

The School Land Board proposes to adopt new §§155.51-155.59 (135.18.04.001-.009) of this title, that provide definitions, clarify board policy, clarify application requirements, and set out standards which must be met before the board will consider a permit, lease, or easement.

The proposed sections have no fiscal implications for the state or units of local government according to School Land Board staff.

Comments on the proposed sections should be submitted in writing to Mike Hightower, Coastal Operations, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701, telephone (512) 475-1166, before 5 p.m. Monday, September 1, 1980.

These sections are proposed under the authority of Texas Natural Resources Code, Sections 32.061, 32.062, 33.011, and 33.064.

§155.51 (135.18.04.001). *Scope of Rules.* These are rules of practice for the surface estate of state-owned lands in the coastal area and supersede any other rules of the School Land Board to the extent of any conflict.

§155.52 (135.18.04.002). Definitions. As used in this subchapter, the following terms have the following meanings:

(1) **Adverse impact.** Changes in physical, biological, or chemical relationships in state-owned coastal wetlands or in areas within tidewater limits that on balance significantly diminish the life support or ecological value of these areas; changes in socioeconomic factors that on balance have significant negative effects on communities.

(2) **Applicant.** A person applying for a permit, lease, or easement.

(3) **Board.** The School Land Board of Texas.

(4) **Bulkhead.** A structure usually built parallel to and abutting the shoreline to prevent shorefront property from eroding or sliding into the water.

(5) **Channel.** A waterway created or expanded by the moving of soil, sand, gravel, shell, or other material from its natural setting.

(6) **Coastal area.** The geographic area comprising all the counties of Texas having any tidewater shoreline, including that portion of the Gulf of Mexico within the jurisdiction of the State of Texas.

(7) **Coastal public lands.** All or any portion of state-owned submerged land, the water overlying that land, and all state-owned islands and portions of islands in the coastal area.

(8) **Coastal wetlands.** Marshes and other areas of high biologic productivity where seawater is present during times other than and in addition to storms or hurricanes as defined by the Beaufort Wind Scale. Coastal wetlands do not, however, include any mainland area where seawater is present only during storms or hurricanes as defined by the Beaufort Wind Scale. The presence at a given point of vegetation characteristic of marshes containing seawater is prima facie evidence that seawater is present at such point during times other than and in addition to storms or hurricanes as defined by the Beaufort Wind Scale.

(9) **Commercial structure.** Any structure located on state-owned lands in the coastal area that is used directly for the sale of goods, wares, services, or property of any kind, and including any structure on coastal public lands adjacent to littoral property used commercially.

(10) **Commissioner.** The commissioner of the General Land Office of Texas, who serves as chairman of the School Land Board.

(11) **Contaminating substance.** Any substance, excluding freshwater and normal-salinity seawater, that exists within, is introduced into, or is released within state-owned lands in the coastal area and can cause adverse impacts.

(12) **Cumulative impact.** The significant impacts that will result from a proposed project considered together with the impacts of existing projects in the area of the proposed project.

(13) **Dredging.** Excavating, displacing, or moving material from lands in the coastal area for the purpose of deepening or expanding a body of water or for obtaining fill material. Propwashing is included in this definition.

(14) **Fill material.** Any material purposely placed to raise the elevation of the land or to level or stabilize the land surface or water bottom, excluding any material discharged into coastal waters primarily to dispose of waste.

(15) **Groin.** A structure usually built perpendicular to the shore to protect it from erosion or to trap sand and other sediment.

(16) **Gulf lands.** The state-owned lands extending from the three-marine-league line shoreward to the line of mean higher high tide, excluding bays and arms of the Gulf.

(17) **Island.** Any body of land surrounded by the waters of a saltwater lake, bay, inlet, estuary, or inland body of water within the tidewater limits of this state, including man-made islands resulting from dredged material disposal or other operations.

(18) **Littoral owner.** Owner of any public or private land bordered by or contiguous to state-owned lands in the coastal area.

(19) **Major navigational channel.** A channel used for interstate or international commerce.

(20) **Marina.** A combination of docks or piers floating or constructed on pilings extending into or over state-owned lands, which is used for storing or docking boats, pleasure crafts, shrimp boats, and similar structures. Charges are made for any of its services.

(21) **Mean higher tide.** Average of the highest level of the two daily tides.

(22) **Other areas of high biologic productivity.** Areas in coastal wetlands that contain seawater, are adjacent to or within marshes, and contain submerged benthic, sparse emergent, or no vegetation. These areas may include small water bodies, creeks, pans, and bare spots. They contribute to or perform the same functions as marshes.

(23) **Owner.** A property owner or a property owner's legal representative.

(24) **Permit.** A license, certificate, approval, registration, or similar form of permission issued by the board authorizing use of state-owned lands in the coastal area. This excludes easements and leases.

(25) **Person.** Any individual, firm, partnership, association, corporation that is public or private and profit or non-profit, trust, political subdivision, agency of the state, or agency of the federal government.

(26) **Pier and dock.** Structures of timber or other material built onto or over state-owned lands in the coastal area that are used for fishing and recreational boating and that are not wharves or marinas as defined in this rule.

(27) **Project.** The planning, construction, operation, maintenance or modification of facilities, structures, channels, equipment, or material necessary to serve a particular purpose.

(28) **Rookery.** The nesting or breeding place of a colony of birds.

(29) **Seawater.** Any water containing a concentration of 1/20 of 1.0% or more by weight of total dissolved inorganic salts derived from the marine waters of the Gulf of Mexico.

(30) **Sensitive aquatic habitats.** Water environments that sustain coastal wildlife or fishery resources and are easily disturbed by structures, operations, or facilities. These areas include oyster reefs, grassflats, and bay and lagoon margins. Sensitive aquatic habitats may be adjacent to but are distinct from coastal wetlands.

(31) **Shoreline.** The Gulf Coast Low Water Datum as established by the National Ocean Survey.

(32) **State-owned lands.** The coastal public lands and the lands dedicated to the permanent school fund and asylum funds by the constitution and laws of this state.

(33) **Structure.** Any temporary or permanent improvement or alteration to real property including but not limited to fixed or floating piers, wharves, docks, jetties,

groins, breakwaters, certified reefs, fences, posts, retaining walls, levees, ramps, cabins, houses, shelters, landfills, excavations, canals, channels, and roads.

(34) Structures for protection from coastal hazards.

Levees, pumping stations, seawalls, groins, bulkheads, riprap, and other structures whose principal purpose is to protect lives and property from coastal natural hazards such as storms, hurricanes, and erosion.

(35) Submerged lands. The land beneath any salt-water lake, bay, inlet, estuary, or inland water within tidewater limits, excluding beaches bordering on and land beneath the waters of the open Gulf of Mexico.

(36) Washover channel. A local breach through a barrier island or peninsula in the Gulf of Mexico resulting from storm-generated high waters, current, or wave action. Washover channels are topographically lower than the beach itself.

(37) Wharf. A structure of timber, cement, masonry earth, or other material built onto or over state-owned lands for vessels to receive and discharge cargo, products, goods, or paying passengers, etc. This definition applies only to structures or portions of structures directly connected with and used for the loading and unloading of waterborne commerce and specifically excludes such structures used only for commercial fishing purposes.

§155.53 (135.18.04.003). Policies for Management of State-Owned Lands in the Coastal Area.

(a) Management goals and objectives.

(1) Pursuant to the powers and duties of the board, the goal of the board is to manage state-owned lands in the coastal area in a manner that furthers the following objectives:

(A) the orderly development of the mineral estate;
(B) the orderly growth of navigation necessary to the economic well-being of the state; and

(C) the maintenance of the productivity and stability of the renewable resources of the surface estate for present and future generations as they provide;

(i) habitat necessary for sustained populations of commercially and biologically important species of fish and wildlife;

(ii) protection of coastal residents from natural coastal hazards;

(iii) recreational opportunities to the general public;

(iv) aesthetic values that improve the quality of life of coastal residents and visitors.

(2) It is also the goal of the board to promote decision-making that furthers the long-term interests of the people of Texas and reduces conflict between objectives to the maximum extent practicable.

(3) The board does not purport to have administrative control over the activities of any private landowner; nor does the board purport to have the authority to regulate, control, or restrict the use or development of the property of a littoral owner. The project performance standards the board shall consider when exercising authority to grant leases, easements, and permits or when commenting to other agencies are contained in §155.58 (.008) of this subchapter.

(b) The board shall evaluate projects on state-owned lands in the coastal area, projects partially on state-owned lands in the coastal area, and projects directly and significantly affecting state-owned lands in the coastal area, and shall take such management actions as it is authorized to

take and as it deems proper to further the long-term interests of the people of Texas. The management actions available to the board with regard to actual or proposed projects include but are not limited to the following:

(1) Granting, granting with stipulations, or denying applications for permits, leases, or easements for projects on state-owned lands in the coastal area. Permit, lease, or easement stipulations will be based on the project performance standards contained in §155.58 (.008).

(2) Granting, granting with stipulations, or denying applications for permits, leases, or easements for that portion of a project on state-owned land. Stipulations will be based on the project performance standards contained in §155.58 (.008). Comments to other agencies may be made where that portion of the project off state-owned lands directly and significantly affects state-owned lands in the coastal area.

(3) Commenting favorably, conditionally, or adversely on applications for permits submitted to other governmental agencies in accordance with applicable rules, executive orders, state laws, and memoranda of understandings.

(c) The board shall employ the following policies in evaluating projects for possible management action.

(1) The following types of projects proposed to be located on state-owned lands in the coastal area, excluding coastal wetlands, are generally permissible to the extent such projects are subject to these rules and subject to other criteria contained in §§155.51-155.59 (.001-.009).

(A) exploration for and extraction of oil, gas, and geothermal resources;

(B) exploration and extraction of other mineral resources;

(C) access channels required for mineral extraction;

(D) access roads for approved projects;

(E) structures for protection from coastal hazards;

(F) recreational facilities, if dredging or filling is not required.

(G) pipelines;

(H) structures for purposes connected with ownership of littoral property.

(2) The following types of projects proposed to be located on state-owned lands in the coastal area, excluding coastal wetlands, to the extent such projects are subject to these regulations, may be permissible if the board finds that the net beneficial social, economic, and environmental impacts of the project outweigh the adverse impacts and if the criteria contained in this subchapter are satisfied:

(A) structures and channels for navigation;

(B) harbor and port facilities;

(C) highways, causeways, and bridges;

(D) recreational facilities, if dredging and filling are required;

(E) waste storage and disposal;

(F) surface drainage structures and impoundments;

(G) industrial facilities;

(H) all other projects not listed in §155.53(c)(1) (.003(c)(1)).

(3) The board will not grant an easement for a private residence to be built on state-owned lands in the coastal area.

(4) The board may allow groins only if a serious erosion problem exists, if there is no practicable alternative

means of stabilizing the shoreline, and if the proposed structure will not create adverse shoaling.

(5) The board will not grant an easement for any bulkhead to be built on state-owned lands in the coastal area.

(6) Excavation of private property is preferable to excavation of state-owned lands in the coastal area.

(7) When any person proposes to undertake any activity, place on coastal public lands any structure, or place on the boundary line between coastal public lands and private property any structure that alters the shoreline, the board may require that the boundary line be established by an on-the-ground survey and may require submission of a survey plat, field notes, and such other information as may be deemed necessary by the board.

(8) The board shall consider the direct and cumulative impacts and relative permanence of impacts of those portions of projects on or directly and significantly affecting state-owned lands in the coastal area.

(9) The board may require submission of a project plan for a proposed project only partially on state-owned lands to determine whether the project will directly and significantly affect state-owned lands.

(10) The board shall consider the extent to which those portions of a project on or directly and significantly affecting state-owned lands in the coastal area or the purposes of such a project can be practicably accomplished through the use of alternative sites that are more consistent with the management objectives specified in §155.53(a) (.003)(a) and the performance standards specified in §155.58 (.008).

(11) The board shall consider the direct and cumulative impacts of those portions of projects on or directly and significantly affecting state-owned lands in the coastal area.

(12) The board shall consider government agency comments on and nominations of areas of special environmental concern. The board may designate areas of environmental value that need special monitoring or protection.

(13) The board shall consider the national interest in those portions of projects on or directly and significantly affecting state lands in the coastal area that are relevant to the planning and siting of facilities.

(d) The board hereby delegates to the commissioner the authority to:

(1) receive all written communications for the board;

(2) establish and carry out, to the extent funding permits, a review of state-owned lands in the coastal area to identify:

(A) unauthorized uses of those lands;

(B) violations of the terms and conditions of permits, leases, and easements issued by the board and

(C) projects on state lands that have direct and significant impacts adverse to the standards of the board;

(3) process applications for permits, leases, and easements including but not limited to:

(A) determining, according to rules of the board, the administrative completeness of the application, and notifying the applicant of the completeness or deficiencies of the application;

(B) receiving filing fees and monies for permits, leases, or easements authorized by the board and depositing such funds in the proper account in accordance with state law;

(4) evaluate, and report to the board, the probable impacts of those portions of projects on or directly and signifi-

cantly affecting state-owned lands in the coastal area in conformance with the policies and standards contained in these sections;

(5) make detailed recommendations to the board regarding management actions necessary to further the goals and objectives specified in §155.53(a) (.003)(a).

§155.54 (135.18.04.004). Processing of Board Permits, Leases, and Easements.

(a) Application requirements. Any person proposing to undertake a project requiring board authorization as specified in these rules must apply for a permit, lease, or easement. Applications for permits, leases, and easements must be prepared in accordance with these rules and in accordance with other application procedures which vary depending on the purpose and use of state-owned lands. The application form for a permit, lease, or easement may be obtained from the General Land Office, Coastal Division, 1700 North Congress, Austin, Texas 78701. Variations of the application form exist for different types of uses.

(b) Content of application.

(1) The application shall contain the name, address, and telephone number of the applicant or of the person authorized to make the application. The application shall be signed by the person who desires to undertake the project or by an agent duly authorized by an accompanying statement. It shall be accompanied by the appropriate nonrefundable processing fee made payable to the General Land Office.

(2) In addition, the application shall include:

(A) a reasonably adequate legal description of the land in which rights are sought as specified by §155.54(b)(4) (.004)(b)(4);

(B) a statement of the legal instrument sought and the time period for which it is desired;

(C) a description of the project for which use of state-owned lands in the coastal area is sought as specified in §155.54(b)(3) and (4) (.004)(b)(3) and (4);

(D) Any additional information the board considers necessary for proper consideration of the application.

(3) Project description.

(A) General. The project description shall include necessary drawings, sketches, plans, maps, or plats required by the application form; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures relevant to the permit, lease, or easement for which application is being made; and a list of the approvals required by other state, federal, or local agencies, including to the extent possible all approvals received and denials made.

(B) If the project involves construction, modification, repair, or removal of a structure, the application shall include a description of any associated filling, dumping, excavating, and dredging.

(C) If the project involves dredging or discharge of dredged or fill material in or affecting state-owned lands in the coastal area, the application shall include a description of the source of the material; the type, composition, and quantity of material; the methods of dredging, transportation, and disposal; and the location of the disposal site.

(4) Maps and plats. Legal descriptions of lands in which rights are sought and project descriptions shall include maps or certified survey plats in accordance with the instructions of the particular type of permit, lease, or easement.

(c) Nature of permit, lease, or easement.

(1) A permit, lease, or easement, if granted, shall be subject to these sections in addition to those terms and conditions prescribed in the permit, lease, or easement. The permit, lease, or easement shall be for a specific purpose. An applicant, by accepting a permit, lease, or easement to occupy or otherwise place a structure on state-owned land or water surface areas in the coastal area, agrees and consents to comply with the be bound by the following:

(A) All structures on these state-owned lands shall be subject to inspection by the board, commissioner, or their authorized representatives at any time.

(B) The applicant shall keep the commissioner informed at all times of the applicant's address and the name and address of any agent authorized by the applicant to receive service of notice.

(C) The rights granted by the permit, lease, or easement shall not be exercised in a manner that unduly prevents or interferes with the management, administration, or granting of other rights by the board in any part of the area included in the permit, lease, or easement.

(D) The board reserves the right to review any maintenance dredging and disposal activities required for any project authorized by a permit, lease, or easement unless maintenance dredging or disposal is authorized in the permit, lease, or easement.

(E) The applicant agrees to pay to the General Land Office, when due, the necessary fee or rent determined by the board to be adequate compensation for the use of public lands.

(F) The applicant agrees to indemnify the board and commissioner against any and all liability for damage to life, person, or property arising from his occupation or use of the area covered by the interest or permit granted.

(2) Failure to comply with these rules and regulations or the terms of the permit, lease, or easement subject the permit, lease, or easement to forfeiture.

§155.55 (135.18.04.005). Environmental Codes for Oil and Gas Leases.

(a) Environmental codes.

(1) The Notice for Bids Booklet is distributed by the General Land Office 30 days before each lease sale. The environmental codes found in the booklet are a compilation of recommendations of various federal and state agencies. Codes are assigned to each state tract to forewarn potential lessees of developmental restrictions that apply to the tract. These codes have been agreed upon by federal and state agencies having jurisdiction over oil, gas, and mineral development. These agencies are: the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the National Park Service, the Environmental Assessment Division of the Department of Commerce, the General Land Office, the Texas Antiquities Committee, and the Texas Parks and Wildlife Department.

(2) Section 155.58 (.008) presents the performance standards that are a partial basis for code assignments.

(b) Project plans.

(1) The board may require a project plan of operations to be filed with the General Land Office. A project plan will be requested when the required information on the project is not available from the Corps of Engineers public notice.

(2) A plat showing all production facilities and ancillary facilities for the purpose of gathering, storing, com-

pressing, treating, processing, separating, transporting, or otherwise making the resource ready for sale or use must be filed with the General Land Office. The plat must be dated and filed 30 days after production begins. A revised plat must be dated and filed whenever the resource passes through an additional facility.

(3) If a lessee holds more than one lease in an area and the leased tracts are adjacent and share facilities, the required information may be filed in one plat.

(4) Section 155.55(b)(1)-(3) (.005(b)(1)-(3)) does not wave or otherwise limit the right of the state to require any additional information authorized by a lease agreement or state law.

§155.56 (135.18.04.006). Cabin Permits.

(a) The board may issue permits authorizing limited continued use of structures on coastal public lands where such use is sought by one claiming an interest in any such structure but is not incident to ownership of littoral property.

(b) Application for a permit shall follow the general procedures of §155.54 (.004).

(c) The term of a permit will be the period considered by the board to be in the best interest of the state and in no event may exceed five years.

(d) The board may renew existing permits upon receipt from the permittee of a renewal request accompanied by the required fees. Upon approval by the board, a new grant of interest right may be authorized.

(e) Permits granted pursuant to this section shall be subject to the following policies.

(1) The board may not grant a permit authorizing the continued use of any structure located within 1,000 feet of:

(A) privately owned littoral property, without the written consent of the adjacent littoral owner;

(B) any federal or state wildlife sanctuary or refuge;

(C) any federal, state, county, or city park bordering on state-owned lands in the coastal area.

(2) Such structures shall be used only for noncommercial recreational purposes.

(3) The board may not grant any permit that would be in violation of the public policy of this state as expressed in these sections; nor may it grant any permit for any structure not in existence on August 27, 1973.

(4) In the event a structure for which a permit has been issued is severely damaged or destroyed by any means, no major repairs or rebuilding may be undertaken by the permit holder without the approval of the board.

(5) A permit authorizing continued use of a heretofore unauthorized structure on coastal public lands should be deemed automatically revoked and terminated if the coastal public land where the structure is located is subsequently leased for public purposes or exchanged for littoral property or if such land is leased to a navigation district as provided by law.

(6) Every permit shall provide that in the event the terms of the permit are broken the board may terminate the permit.

(f) All structures for which a permit is required pursuant to this section have been declared by law to be the property of the state, and any construction, maintenance, or use of such structure, except as authorized in this section, is declared a nuisance per se and is expressly prohibited.

(g) Any structure for which a permit is required located in a rookery area may be permitted only if these restrictions are met:

(1) pets shall not be permitted on the island between February 15 and September 1.

(2) During the period of February 15 through September 1, activities shall be limited to the immediate area of the permitted structure unless special permission is granted by a representative of the General Land Office.

(3) Activities causing excessive noise or obviously harmful to birdlife, such as the use of fireworks, use of firearms, or large open fires, are prohibited during the nesting season of February 15 through September 1.

(4) Vegetation removal, such as clearing brush or cutting limbs, without written consent from the General Land Office is prohibited.

(h) The board may approve, approve with qualifications, or deny a request for the undertaking of major repairs or for the rebuilding of a structure under permit.

(1) Major repairs will include all of the following projects unless the board shall determine otherwise:

(A) modification or renovation of facilities or structures currently in existence;

(B) addition of any structure to existing facilities or structures;

(C) any activity requiring dredging or filling;

(D) any construction or building activity not listed as minor.

(2) A permittee may undertake minor repairs that will include the repair of existing docks, piers, catwalks, breakwaters, sheds, and cabins, and the normal maintenance of such structures in those instances where size and capacity remain the same, i.e.:

(A) the replacement of shingles or tin on roofs, and boards on floors, walls, or any associated appurtenances;

(B) the replacement of pilings and other foundations which do not require filling or dredging;

(C) the painting of any structure;

(D) clean-up activities such as removal of trash to keep the area litter-free, neat, and orderly.

(3) If the need for major repairs or rebuilding was caused by damage to the structure, the applicant must submit a written request to rebuild or make major repairs and a sworn affidavit attesting to the nature and cause of the damage to the structure. If the request is made for reasons other than damage, the applicant must submit a written request for permission to make major repairs or rebuild stating the reason for the request.

(4) The applicant must submit with the request a set of plans delineating the nature and extent of all proposed construction. The plans must show the existing and proposed structure including dimensions.

(i) Structures determined by the board to be abandoned may be removed from coastal public lands, renovated for the use of the general public, or permitted to any person through a public drawing or some other method approved by the board.

(j) An applicant, by accepting a permit to occupy a structure on state-owned lands in the coastal area, agrees and consents to comply with and be bound by the following terms and conditions:

(1) The permit number assigned by the board must be displayed by the permittee on the permitted structure in no less than four-inch block letters and numerals affixed to

the structure in a location that can readily be seen from the nearest access channel, and on the roof of the structure in no less than four-foot block letters and numbers in a way that can readily be seen from the air. These may be decals, metal, or painted in contrasting color.

(2) The allowance of the permit rights granted shall be subject to the express condition that the rights granted will not prevent or interfere in any way with the management, administration, or the granting of other rights by the board in any part of the area in which permit rights are granted.

(k) Assignment. A permittee may assign a permit upon approval of the board for a prescribed fee.

(1) The proposed assignee must submit in writing that he understands that he is receiving only the rights set out in the permit contract and that he will abide by the provisions of the contract.

(2) Upon notification of the approved assignment, the assignee shall be responsible for compliance with all sections, regulations, and contract provisions. The assignment shall be made upon the express condition that such assignment does not and shall not release or relieve the assignor from any liabilities accruing prior to the effective date of the assignment.

(l) Termination.

(1) Failure to comply with these rules subjects the permit to termination by the board. Upon termination of a permit, the permittee shall, at the option of the board, remove all of his personal property within 30 days, and shall remove all structures and manmade improvements authorized in the permit within a time agreed upon.

(2) The permittee shall abide by all federal, state, and local laws. The board may terminate a permit if the permittee breaches any of these laws.

(3) A permit once terminated may be re-permitted at the option of the board through a public drawing or some other method approved by the board.

§155.57 (135.18.04.007). Registration of Structures.

(a) A littoral owner may without obtaining an easement from the board construct on or over coastal public lands a pier which does not exceed 100 feet in length or 25 feet in width, requires no filling or dredging, and is not used for commercial purposes; however, the littoral owner shall be required to register the location and dimensions of the pier with the board.

(b) Any person registering a pier on coastal public lands with the board must submit the plat and registration form approved by the General Land Office.

(1) The commissioner may request any additional information deemed necessary.

(2) A nonrefundable registration fee made payable to the General Land Office must accompany the registration form for each structure.

(c) Upon receipt of a registration form the commissioner will, after review and evaluation of the information, authorize the registration of the structure.

(d) In the event a structure has been registered with the commissioner and the littoral owner subsequently desires to make modifications or additions or rebuild such structure, the littoral owner is required to obtain an easement or lease in lieu of the prior registration of such structure if such structure is for commercial purposes, requires dredging or filling, or exceeds 100 feet in length or 25 feet in width. If no easement or lease is required, the littoral owner shall notify the

General Land Office of the proposed modifications, additions, or rebuilding prior to undertaking the work.

(e) Assignment may be made of any structure registered with the commissioner subject to the written approval of the commissioner, provided that such structure is not used for commercial purposes, requires no dredging or filling, and does not exceed 100 feet in length or 25 feet in width, in which event an easement may be required. Any such assignment must be filed in triplicate and accompanied by a written request for approval in which the assignee agrees to comply with this section. An assignment shall not be effective to transfer any structure until approved by the commissioner, the assignor, and the assignee.

(f) The failure of any littoral owner to register a structure shall prevent such owner from making any further claim of right against the state in such structure and shall render the structure a nuisance per se, subject to abatement by the state at the expense of the littoral owner.

§155.58 (135.18.04.008). Project Performance Standards.

(a) The board will apply the project performance standards in §155.58 (.008) to the extent practicable in evaluating applications for permits, leases, and easements. The board may grant, grant with stipulations, or deny a permit, lease, or easement on the basis of these performance standards as indicated in §155.53 (.003). The board will use the project performance standards in commenting on or deciding whether to challenge projects that are deemed to cause direct and significant harm to state-owned lands in the coastal area. The project performance standards include but are not limited to §155.58(c)-(j) (.008(c)-(j)).

(b) An applicant may request a waiver or revision of a performance standard if evidence can be shown that the standard is unduly restrictive or inappropriate.

(c) Roads for ingress and egress to well sites:

(1) Roads may be allowed if alternative locations are not reasonable or practical for access and state-owned coastal wetlands and sensitive aquatic habitats are avoided to the maximum extent practicable.

(2) There will be no discharge of oil, gasoline, or other fuel or any other material capable of causing pollution on state-owned lands arising from the operation.

(3) Roads must be oriented parallel to the direction of water flow in a wetland area.

(4) Board roads laid directly on the marsh surface will be used whenever practicable.

(5) Roads will normally follow the higher elevations through the wetland.

(6) To the maximum extent practicable, road alignment will minimize disturbance of water flow regimes, specifically direction, duration, quantity, and pattern of flow.

(7) Culverts shall be placed at local topographic depressions along the road route.

(8) The top width of the levee should be no more than 10 feet; the side slope should be 2:1 or 3:1 unless the quality of the fill material requires a greater slope; the elevation of the road should be kept to a minimum and limited so that it provides a serviceable road (after settling and compaction) that may be traversed except under hurricane surge conditions. Turn arounds or widened areas for passing will be acceptable if they are no closer than 3,000 feet apart.

(9) If a board roadway is abandoned at the end of use, it shall be removed and the land surface restored to original contours to the greatest extent practicable.

(10) At the end of use, leveed roads will be removed; if removal is not practicable, breeches will be made in the levee system at locations sufficient to restore original water flows. Consultation and a site visit will almost always be required.

(11) Areas devegetated during construction will be replanted to the extent practicable after completion, to avoid excessive erosion and the runoff of turbid waters to waters of the state.

(12) Any roadway not oriented parallel to the dominant direction of waterflow or in a wetland area will always require site-specific inspection and consultation.

(d) Drilling for and extraction of oil, gas, mineral, or geothermal resources.

(1) Gulf of Mexico.

(A) In areas of recreational beach use, surface drilling in the Gulf of Mexico within two miles of the shoreline shall be avoided by use of such methods as directional drilling.

(B) In the Gulf areas offshore from the Padre Island National Seashore the restricted area extends two miles from shore and drilling between two and three miles offshore is prohibited between March 15 and September 15. However, any drilling begun prior to January 1 will be allowed to extend beyond March 15 to reach completion; any starts after January 1 must be finished by March 15.

(2) Alteration of state-owned coastal wetlands and sensitive aquatic habitats shall be avoided to the maximum extent practicable. This may be done by employing such means as directional drilling or by use of existing drilling sites.

(3) The work will be performed without increasing the ambient levels of turbidity in adjacent waters.

(4) There shall be no discharge of oil, gasoline, or other fuel or any other material capable of causing surface or ground water pollution on state-owned lands.

(5) Leveed, marsh floor drilling sites accessed by overland routes and subject to additional conditions below will be allowed.

(6) leveed, marsh floor sites accessed by a combination of overland routes and barged access may be allowed if complete overland routes are not practicable, and dredging only for a slip for offloading equipment from an existing navigation channel is necessary.

(7) Dredged well sites with keyways will be acceptable only if no overland or combination barge-overland route is possible; under these circumstances a site specific inspection and consultation with the appropriate agencies is required before certification.

(8) A ring levee is required, no more than 15 feet high, surrounding the entire marsh floor operation; two or three layers of boards will be required for flooring; the levee for single wells will be no larger than 250 by 250 feet. Larger leveed areas may be considered if the applicant is willing to directionally drill from one location.

(9) The ring levee will be constructed with material from borrow pits located outside the leveed area.

(10) An adequate berm of at least 15 feet will be left between the levee base and borrow pit edge. The top of the levee should be no more than four feet wide and the sides should slope between 2:1 and 3:1 unless construction material quality requires a lesser slope.

(11) The levee site should be stripped of surface litter and cored by dragline to mineral soil or to a depth of three

feet before fill material is placed upon it and shaped into a levee.

(12) Inside the levee around the perimeter and leading from the drilling rig to the perimeter, a sump should be dug to collect spilt materials, rain water, and leaking marsh fluids. The sump should have a low spot where a skimmer can remove drilling or petroleum fluids that may be spilled.

(13) The applicant agrees to use portable mud pits.

(14) All drilling fluids shall be contained in steel tanks. Cuttings may be stored within the leveed site within sublevees. However, no pits will be allowed outside the main levee system.

(15) When the well location site moves into the production phase a smaller leveed area will be established around the well head and production equipment and breeches made within the unused portion of the levee system.

(16) Drilling muds shall not be disposed onto coastal public lands or state-owned wetlands. Drill cuttings containing hydrocarbons or a toxic substance shall not be released onto Gulf lands or coastal public lands. No drill cuttings shall be disposed onto state-owned wetlands.

(17) Upon termination of all activities, breeches will be made in the remaining enclosed levees after all equipment has been removed.

(18) Drilling and ancillary operations shall not occur:

(A) within 1,000 feet of a rookery between February 15 and September 1;

(B) on or within 500 feet of an oyster reef, or where it results in a high turbidity plume impacting a living reef; or

(C) on the top or slopes of grouper or snapper banks.

(19) The applicant must otherwise comply with Railroad Commission and Department of Water Resources regulations.

(e) Channels.

(1) Existing channels shall be used wherever possible.

(2) Widening, deepening, and lengthening of existing channels shall be done in a manner that minimizes adverse impacts on the hydrological characteristics of the naturally functioning bay systems. These characteristics include freshwater inflow, tidal exchange, water circulation, salinity regime, and sediment transport processes.

(3) Channels shall be constructed to avoid nursery areas and shellfish beds.

(4) Channels through wetlands for petroleum activities shall be acceptable only if all other overland or barge-overland routes are not practicable. Even under these circumstances, approval will almost always require site inspection and consultation with the appropriate agencies.

(5) Channels through wetlands for recreational boat access, navigation, or pipeline placement will always require site inspection and consultation.

(6) To the maximum extent practicable, the number of mineral exploration and production sites in wetland areas requiring flotation access shall be held to the minimum number consistent with good conservation and recovery practices, by directional drilling and use of existing access canals.

(7) Channels should be designed to insure adequate flushing and to prevent the creation of pockets or other hydraulic conditions that would cause stagnant water pockets.

(8) Channels shall make maximum use of existing channels and minimize disruption of natural sheetflow, water flow, and drainage systems.

(9) To the maximum extent practicable, the channel alignment should avoid natural drainages through the wetland system. If bisecting such a drainage channel is unavoidable, and the area drained is not usually influenced by daily tidal action, the drainage water course should be plugged by a reinforced earthen plug at least 15 feet long and high enough so that on compaction channel water will not intrude into the drainage water course.

(10) Where water in areas normally subject to daily tidal inundation would be blocked by spoil bank placement, drainage structures, natural openings, or very low spoil banks should be provided to allow frequent flooding of tidal creeks and channels.

(11) The channel base should be no wider than 70 feet and no deeper than eight feet (measured at mean low tide). The sides should be gently sloping to minimize slumping.

(12) Spoil resulting from dredging is disposed of above mean high water or in a disposal area approved by Corps of Engineers and Texas Parks and Wildlife Department. Open water disposal will require site specific justification and additional approval by Texas Department of Water Resources and the General Land Office.

(13) For spoil placed adjacent to the channel, a berm of 15 to 30 feet should be left between the levee base and channel bank to help in the control of bank erosion.

(14) For channels connecting distal lower salinity marsh regions to proximate higher salinity marsh regions, water retention structures (gates or inflatable dams) may be required to preserve the integrity of the low salinity areas. Where such structures are not possible, levees should be constructed to minimize leakage of high salinity water into low salinity marshes. This may require stripping surface vegetation and coring to mineral soil to provide an effective barrier for salinity intrusion.

(15) Where possible dredging should take place behind a curtain or earthen plug to control turbidity into more downstream areas. When dredging of the reach is finished, the plug or curtain may be removed.

(16) Where dredged keyways for flotation rigs are planned, the maximum dimensions should not exceed 140 by 400 feet for a single well. Directional drilling agreements by the applicant may allow enlargement of this area subject to consultation.

(17) During use of channels with adjacent emergent spoils by vessels involved in petroleum activities, a five knot maximum speed should be established to minimize channel and spoil bank erosion.

(18) There shall be no discharge of oil, gasoline, or other fuel or any other material capable of causing water pollution arising from the operation.

(19) At the termination of exploration and production, old flotation canals protruding into low salinity wetland areas will be plugged with reinforced earthen plugs to prevent salinity intrusion. In wetlands subject to regular inundation, drainage structures, breeches, or low levees will be left in such a condition that frequent flooding of tidal creeks and channels will be assured.

(20) Channels for access to drainage systems, mosquito control projects, mineral extraction sites, and littoral property shall not exceed eight feet in depth, measured from

the shoreline, and shall be designed to insure adequate water circulation. This does not apply to major navigation channels.

(21) Channels adjacent to barrier islands or peninsulas shall not be constructed transverse to the Gulf shoreline if such construction will create washover channels or breaches. Channels across coastal wetlands or areas within tidewater limits that approach or are adjacent to washover channels shall not significantly increase the probability that storm erosion and deposition will damage areas within tidewater limits.

(f) Recreation facilities.

(1) A pier, dock, wharf, or marina shall not be constructed which:

(A) significantly restricts water flow and circulation;

(B) significantly shades out vegetation in coastal wetlands and grassflats;

(C) significantly impedes navigation or public access to coastal waters;

(D) uses solid fill across state-owned coastal wetlands and sensitive aquatic habitats;

(E) allows unlawful handling of sewage, refuse, or petroleum wastes; or

(F) unlawfully restricts public use of the beach.

(2) Open dockage to deep water shall be used instead of excavated boat basins where possible.

(3) The depth of an excavated basin shall not exceed that of access channels and canals leading to the basin.

(4) Excavation of private property is preferable to excavation of state coastal wetlands.

(g) Dredging and dredged material disposal:

(1) shall be planned to minimize adverse impacts;

(2) shall be scheduled to minimize the disturbance to living marine and wildlife resources.

(3) shall avoid areas important to fish and shellfish production, important recreational areas, and endangered species habitat as designated by the U.S. Fish and Wildlife Service;

(4) shall not alienate rights of public and private littoral owners;

(5) shall not occur within 1000 feet of a rookery;

(6) shall not create new disposal sites in state-owned coastal wetlands, bays, or estuaries unless it can be shown that disposal in this manner is of net benefit to these areas;

(7) shall not create significant erosion or other non-point sources of pollution;

(8) shall be compatible with sediment compositions and types at the disposal site;

(9) shall not expose state-owned lands in the coastal area to contaminating substances in concentrations greater than those established by the Texas Department of Water Resources; and

(10) shall be conducted using methods of safe practice and safety in navigation.

(h) Structures for protection from coastal hazards.

(1) Structures for protection from coastal hazards are generally permitted to protect existing commercial and residential land and improvements, but not in order to convert coastal wetlands to commercial and residential use if such coastal wetlands are state-owned or if the structure will directly and significantly affect state-owned lands in the coastal area.

(2) Structures for protection from coastal hazards shall not:

(A) be constructed with material dredged from coastal wetlands;

(B) alter the elevation, water level, or water circulation in coastal wetlands;

(C) create sediment transport patterns that induce erosion or shoaling in adjacent areas;

(D) reflect wave energy in a manner that alters stable marine bottom;

(E) be constructed of materials that will degrade water quality;

(F) restrict free public access to state beaches or waters; or

(G) be constructed as an erosion buffer where coastal wetlands are adequately serving this purpose.

(i) Structures below mean higher high tide. Any structure, whether fixed or floating, placed on state-owned lands in the coastal area below mean higher high tide shall be marked or lighted so as to prevent a navigation obstruction in accordance with Coast Guard regulations. Any such structure shall be removed or retrieved when no longer in use.

(j) Construction of walkways over state-owned land.

(1) Elevated walkways may be constructed over state-owned sand dune areas to provide access from private property, subject to the following criteria.

(A) Hand rails will be provided for safety and to deter individuals from walking onto the dune area.

(B) Spaces between planks in the decking will be provided to allow penetration of sunlight and to prevent the accumulation of sand.

(C) Walkways will be elevated a minimum of four feet above ground surface to allow for light penetration and continued growth of vegetation.

(D) Walkways will follow the natural ground contour as closely as possible for safety.

(E) The number of walkways will be minimized to prevent destruction of dune vegetation during construction.

(F) Walkways will be routed through washover channels or blowout areas where possible to minimize construction impact to stabilized dunes.

(G) Request for the permit will be accompanied by construction plans that will include materials to be used and the proposed route.

(2) Elevated walkways over other state-owned land will be considered by the board in light of the performance standards outlined in this section and on a case-by-case basis.

§155.59 (135.18.04.009). Assessment of Economic, Social, and Environmental Impacts of Major Projects on State-Owned Lands.

(a) For major projects for which an environmental impact statement, assessment, or review has been required by a federal agency or for which substantial environmental filings have been required by a state agency, the applicant must:

(1) submit estimates of those impacts of the proposed action that the board is allowed by the applicable statutes and regulations to consider in acting on the permit, lease, or easement application, or

(2) demonstrate that granting of the application will have no significant adverse impact that the board is allowed to consider. The board will not assess those impacts that are outside its jurisdiction.

(b) The procedures used for preparing estimates of impacts shall:

(1) specify geographic areas of impact and include a model or checklist showing that the proposed project's impacts on the components of each affected natural or social system subject to the board's review have been assessed;

(2) provide sufficient documentation of methodology to reasonably allow a person who did not perform the procedure to trace the reasoning process and professional judgments used in the estimate of impacts;

(3) produce a clear and concise summary of the significant impacts of the proposed action in a form understandable to policymakers and the general public.

(c) The commissioner shall determine whether the applicant's estimate of impacts meets the above criteria. In making this determination, the commissioner will not require the submission of data or analysis not necessary for a reasonably precise and accurate estimation of impacts. The demands on the applicant will be commensurate in scale with the anticipated impacts of the proposed action. The commissioner will make all reasonable efforts to coordinate the information requirements for the applicant with related requirements of other state and federal agencies to avoid unnecessary expense to the applicant.

Issued in Austin, Texas, on July 25, 1980.

Doc. No. 805741 Bob Armstrong
 Chairman
 School Land Board

Proposed Date of Adoption. September 16, 1980
 For further information, please call (512) 475-1166.



TITLE 34. PUBLIC FINANCE
Part VII. State Property Tax Board
Chapter 163. Reporting Procedures

The State Property Tax Board proposes to adopt by reference §163.4 (237.06.00.004) of this title, reporting forms for both current and delinquent state ad valorem taxes. The need for the forms arises out of the .0001% assessment ratio in Section 26.03 of the Property Tax Code, and the need for providing guidance to county assessors.

The staff of the State Property Tax Board has determined that there are no fiscal implications for the state or any unit of local government that would result from the adoption of these forms.

Public comment on these forms is invited. Persons may obtain copies of the forms by contacting Walter E. Lillie, general counsel, and should submit their comments in writing to the State Property Tax Board, P.O. Box 15900, 9501 North IH 35, Austin, Texas 78761.

The new section is proposed pursuant to the authority of the Property Tax Code, Section 5.07, and Attorney General Opinion MW-146.

§163.4 (237.06.00.004). *State Ad Valorem Tax Statement of Delinquent Collections—Statement of State Ad Valorem Tax.* The State Property Tax Board adopts by reference the forms which refer to §§163.1-163.3 (237.06.00.001-.003) of this title. This document is published by and available from the State Property Tax Board, P.O. Box 15900, Austin, Texas 78761.

Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805530 Walter E. Lillie
 General Counsel
 State Property Tax Board

Proposed Date of Adoption. September 1, 1980
 For further information, please call (512) 837-8622.

NONCODIFIED

**Coordinating Board, Texas College
 and University System**

Student Services

**Hinson-Hazlewood College Student Loan
 Program for All Loans Made for or after Fall
 Semester 1971 and Which are Subject to the
 Provisions of the Federally Insured Student
 Loan Program 251.05.04**

(Editor's note: The Coordinating Board, Texas College and University System is proposing for permanent adoption the emergency amendment of Rule 251.05.04.007 which it adopts in this issue. The text of the amended rule appears in the Emergency Rules section.)

The Coordinating Board, Texas College and University System is proposing to amend Rule 251.05.04.007. The proposed amendment would allow graduate or postbaccalaureate professional school students continued access to loans in the coming school year. Due to increased costs, especially at several independent institutions, some law and other graduate students have reached the current loan maximums but have need to continue to borrow. Unless the Hinson-Hazlewood loan limits are increased, it will be necessary for such students to seek loans from other student loan programs, when such are available. Borrowing from more than one program is not recommended since the loans would have to be repaid simultaneously. This often results in repayment problems for both the borrower and the loan program.

The staff of the coordinating board has determined that there are no fiscal implications for the state or any unit of local government that would result from these changes.

Public comments on the proposed amendment are invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the coordinating board at (512) 475-4361, or by writing to the coordinating board at P.O. Box 12788, Austin, Texas 78711.

This amendment is proposed under the authority of Subchapter B, Chapter 56, Vernons' Texas Codes Annotated 56.010-16.

Doc. No. 805721

Tuition Equalization Grants Program Certification and Disbursement Procedure 251.05.05

The Coordinating Board, Texas College and University System is proposing to amend subsection (b) of Rule 251.05.05.006 to provide for recognition of part-time students in determining the preliminary fund reservation established each year for participating institutions. This proposed amendment will permit the counting of part-time students in allocating funds among eligible schools. Students registered for at least 1/2 of a normal course load were made eligible for TEG grants in the last session of the legislature.

The staff of the coordinating board has determined that there are no fiscal implications for the state or any unit of local government that would result from these changes.

Public comments on the proposed amendment to subsection (b) of Rule 251.05.05.006 are invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the coordinating board at (512) 475-4361, or by writing to the coordinating board at P.O. Box 12788, Austin, Texas 78711.

This amendment is proposed under the authority of Subchapter F, Chapter 61, Vernons' Texas Codes Annotated, 61.221-29.

.006. *Certification and Disbursement Procedure.*

(a) (No change.)

(b) Disbursement of funds. To provide accessibility of funds to eligible students and to provide an orderly and timely method by which applicants may be notified of awards, the commissioner shall annually establish a preliminary fund reservation which each tuition equalization grants officer may certify to eligible students. Each preliminary fund reservation shall be based upon the number of full-time *and the number of half-time, but less than full-time*. Texas resident students of appropriate classification enrolled in a program other than a theological or religion degree program in each approved institution in the preceding fall term. Should any tuition equalization grants officer not certify grants totaling the amount of the preliminary fund reservation by December 1 of the fiscal year, then any uncertified funds shall be reallocated to meet the needs of eligible students applying for grants to other tuition equalization grants officers. Effective December 15 of each year, any uncommitted funds will be applied to individual applications in the order of receipt by the coordinating board. This processing,

on a first come/first serve basis, will continue until all appropriate funds have been granted or until all eligible applicants have received grants. Funds freed due to warrant cancellations and refunds will be available for reuse by the involved institution until February 15, at which time remaining funds will revert to processing on a first come/first serve basis as described above.

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

Doc. No. 805722

Texas Public Educational Grants Program Certification and Disbursement Procedures 251.05.07

The Coordinating Board, Texas College and University System is proposing to amend subsection (b) of Rule 251.05.07.008 to provide for recognition of part-time students in determining the preliminary fund reservations established each year for participating institutions. This proposed amendment will allow the administration of the grant program at public institutions to be as parallel as possible to that of the Tuition Equalization Grants Program at independent institutions. The comparable change in the Tuition Equalization Grants Program is based upon an action of the 66th Legislature, 1979.

The staff of the coordinating board has determined that there are no fiscal implications for the state or any unit of local government that would result from these changes.

Public comments on the proposed amendment are invited. Comments may be submitted for a period of 30 days from the date of publication by telephoning the office of the coordinating board at (512) 475-4361, or by writing to the coordinating board at P.O. Box 12788, Austin, Texas 78711.

This amendment is proposed under the authority of Subchapter C, Chapter 56, Vernons' Texas Codes Annotated, 56.031-38.

.008. *Certification and Disbursement Procedures.*

(a) (No change.)

(b) Disbursement of funds. To provide accessibility of funds to eligible students and to provide an orderly and timely method by which applicants may be notified of awards, the commissioner shall annually establish a preliminary fund reservation of any available matching funds which each Texas Public Educational-State Student Incentive Grants Program officer may certify to eligible students. Each preliminary funds reservation shall be based upon the number of prebaccalaureate, full-time students *and the number of half-time, but less than full-time prebaccalaureate students*, excluding aliens, who received need based financial assistance administered by the approved institution in the preceding fiscal year. Should any Texas Public Educational-State Student Incentive Grants Program officer not certify grants totaling the amount of the preliminary funds reservation by December 1, then any uncertified funds shall be reallocated to meet the needs of eligible students at other approved institutions. Reallocation of unencumbered and uncertified funds for matching Texas public educational grants shall occur February 15 and March 15,

and other dates to be determined by the commissioner until all available matching funds have been awarded.

(c) (No change.)

Issued in Austin, Texas on July 18, 1980.

Doc. No. 805724 Kenneth H. Ashworth
 Commissioner of Higher Education
 Coordinating Board, Texas College and
 University System

Proposed Date of Adoption: October 23, 1980
 For further information, please call (512) 475-2035.

Texas Education Agency

Comprehensive Instruction

Vocational Administrator, Vocational Counselor Units 226.32.34.010, .020

The Texas Education Agency proposes to amend Rules 226.32.34.010 and .020 concerning the allocation of vocational administrator, vocational supervisor, and vocational counselor units. The proposed change adds a provision concerning the allocation of job placement coordinator units.

Subsection (b) of Rule .010 is being moved to Rule .020 with the title, Definitions. A definition of the vocational job placement coordinator is added. Formulas for allocation are deleted from Rule .020 and are presented in proposed new Rule .030.

The Texas Education Agency estimates the cost of allocating vocational job placement coordinator units at approximately \$810,000 for the 1980-81 school year and \$1,600,000 for the 1981-82 school year and thereafter. These costs will be shared by the state and by local school districts under the financing provisions of the Foundation School Program, Chapter 16, Texas Education Code.

Public comment on the proposed amendments is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

These amendments are proposed under the authority of Sections 11.24, 16.005, and 16.103, Texas Education Code.

.010. Policy (Authorization).

[(a) Policy.] Vocational administrator, vocational supervisor [units], [and] vocational counselor, **and vocational job placement coordinator units** may be authorized as provided in the Foundation School Program and **these rules** [as defined by the commissioner of education].

[(b) Administrative procedure.

[(1) Vocational administrator units. "Vocational administrator unit" is defined as the equivalent of one full-time vocational administrator receiving an annual salary paid under the Foundation School Program, local funds, or

through contract with the Texas Education Agency. Vocational administrators are allocated for the purpose of furnishing, as assigned, administration and leadership to the vocational education programs, services, and activities conducted by the school district.

[(2) Vocational supervisor units. "Vocational supervisor unit" is defined as the equivalent of one full-time vocational supervisor receiving an annual salary paid under the Foundation School Program, local funds, or through contract with the Texas Education Agency. Vocational supervisory units are allocated for the purpose of providing administrative and supervisory services to the various vocational education programs, services, and activities conducted by the school district.

[(3) Vocational counselor units. "Vocational counselor unit" is defined as the equivalent of one full-time vocational counselor receiving an annual salary paid under the Foundation School Program, local funds, or through contract with the Texas Education Agency. Vocational counselor units are allocated to perform one or more of the following functions according to assignment: assist persons in making informed and meaningful occupational career choices; identify individuals who are suited to and who would benefit from vocational instruction; assist them in selecting a program of vocational instruction; aiding on job placement; and coordinating follow-up studies.]

.020. Definitions (Allocation).

(a) **Vocational administrator unit.** "Vocational administrator unit" is defined as the equivalent of one full-time vocational administrator. Vocational administrators are allocated for the purpose of furnishing, as assigned, administration and leadership to the vocational education programs, services and activities conducted by the school district.

(b) **Vocational supervisor unit.** "Vocational supervisor unit" is defined as the equivalent of one full-time vocational supervisor. Vocational supervisory units are allocated for the purpose of providing administrative and supervisory services to vocational education programs, services, and activities conducted by the school district.

(c) **Vocational counselor units.** "Vocational counselor unit" is defined as the equivalent of one full-time vocational counselor. Vocational counselor units are allocated to perform one or more of the following functions according to assignment: assist persons in making informed and meaningful occupational-career choices; identify individuals who are suited to and who would benefit from vocational instruction; assist them in selecting a program of vocational instruction; aid on job placement; and coordinate follow-up studies.

(d) **Vocational job placement coordinator unit.** "Vocational job placement coordinator unit" is defined as the equivalent of one full-time vocational job placement coordinator. The vocational job placement coordinator is responsible for student job placement and employability skills training.

[(a) Policy.

[(1) School districts. Vocational administrator, vocational supervisor units, and vocational counselor units are allocated in accordance with need to school districts having four-year accredited high schools. The number of units to be allocated shall be determined by application of formulas adopted by the State Board of Education and subject to approval of the Commissioner of Education.

(2) Texas Department of Corrections. Vocational administrator, vocational supervisor units, and vocational counselor units shall be allocated in accordance with the allocation of professional units to the Department of Corrections as provided in Allocation of Professional Units to the Department of Corrections (Rule 226.41.03.072).

(b) Administrative procedure. Applications by school districts for vocational administrator, vocational supervisor, and vocational counselor units are made to the Department of Occupational Education and Technology. Review and approval of applications by the Department of Occupational Education and Technology are based upon the requirements shown below. Vocational administrative units shall be approved on a 12 month contract basis, and vocational supervisor and vocational counselor units shall be approved up to an 11 month contract basis based on program needs.

(1) Vocational administrator unit. A school district is eligible to request one vocational administrator unit when it has a minimum of 10 full-time teaching units for in-school youth (or the equivalent of 10 full-time teaching units) in four or more vocational program areas.

(2) Vocational supervisor units. After the initial vocational administrator unit, vocational supervisor units are allocated to a school district based upon the local plan for utilizing these special units. They are allocated and reallocated on the basis of specific instructional need and according to the following table:

Proposed Positions	Required Vocational Teaching Units
one supervisor	25-54
two supervisors	55-84
three supervisors	85-114
four supervisors	115-144
five supervisors	145-174
six supervisors	175-204
seven supervisors	205 units up to . . .

[Vocational supervisor units will be placed on Pay Grade 10c for the total number of months authorized.]

(3) Vocational counselor unit. A school district is eligible to apply for the allocation of a vocational counselor unit on the basis of one counselor for the first 300 vocational students enrolled and one additional counselor for every additional 500 vocational students enrolled in approved vocational courses. Consideration will be given to requests for the allocation of 1/2 counselor units for 150 vocational students enrolled. Vocational counselor units will be placed on Pay Grade 10c for the total number of months authorized.]

Doc. No. 805726

226.32.34.030

The Texas Education Agency proposes to adopt new Rule 226.32.34.030 concerning the allocation of vocational administrator, supervisor, job placement coordinator, and vocational counselor units to school districts.

The proposed rule for the most part contains material previously contained in Rule .020. There are two substantive changes in the new material. First, a formula for the allocation of job placement coordinator units has been added. This change is also reflected in the proposed amendment to the title of Subchapter 34, where reference to the job placement

coordinator has been added. Second, where Rule .020 permitted the allocation of 1/2 a counselor unit for districts which had 150 enrolled vocational students, proposed new Rule .030 permits the allocation of "prorated" counselor units in districts with less than 300 enrolled vocational students.

The Texas Education Agency estimates the cost of allocating vocational job placement coordinator units at approximately \$810,000 for the 1980-81 school year and \$1,600,000 for the 1981-82 school year and thereafter. These costs will be shared by the state and by local school districts under the financing provisions of the Foundation School Program, Chapter 16, Texas Education Code.

Public comment is invited. Comments may be submitted by telephoning the office of Dr. J. B. Morgan, associate commissioner for policies and services, at (512) 475-7077, or by writing to him at 201 East 11th Street, Austin, Texas 78701.

All requests for a public hearing on proposed rules submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in rules has been published in the *Texas Register*.

This rule is proposed under the authority of Sections 11.24, 16.005, and 16.103 of the Texas Education Code.

.030. Allocation of Units to School Districts.

(a) Vocational administrator units, vocational supervisor units, vocational counselor units, and vocational job placement coordinator units are allocated in accordance with need to school districts having four-year accredited high schools. The number of units to be allocated shall be determined by application of formulas adopted by the State Board of Education and subject to approval of the commissioner of education.

(b) Vocational administrator unit. A school district is eligible to request one vocational administrator unit when it has a minimum of 10 full-time teacher units for in-school youth (or the equivalent of 10 full-time teaching units) in four or more vocational program areas.

(c) Vocational supervisor units. After the initial vocational administrator unit, vocational supervisor units are allocated to a school district based upon the local plan for utilizing these special units. They are allocated and reallocated on the basis of specific instructional need and according to the following table:

Proposed Positions	Required Vocational Teaching Units
one supervisor	25-54
two supervisors	55-84
three supervisors	85-114
four supervisors	115-144
five supervisors	145-174
six supervisors	175-204
seven supervisors	205 units up to . . .

Vocational supervisor units will be placed on Pay Grade 10c for the total number of months authorized.

(d) Vocational counselor unit. A school district is eligible to apply for the allocation of a vocational counselor unit on the basis of one counselor for the first 300 vocational students enrolled and one additional counselor for every additional 500 vocational students enrolled in approved voca-

tional courses. Consideration will be given to requests for the allocation of prorated counselor units for less than 300 vocational students enrolled. Vocational counselor units will be placed on Pay Grade 10c for the total number of months authorized.

(e) Vocational job placement coordinator units. A school district is eligible to apply for the allocation of a vocational job placement coordinator unit on the following basis:

Job Placement Coordinator Unit	Number of Prior Year Vocational Graduates from Units Preparing Students for Gainful Employment
One unit	250
Each additional unit up to a maximum of six units	500

(f) Applications by school districts for vocational administrator, vocational supervisor, vocational counselor, and vocational job placement coordinator units shall be made to the Department of Occupational Education and Technology.

(g) Vocational administrative units shall be approved on a 12-month contract basis, based on documented program needs. Vocational counselor units shall be approved on a 10- or an 11-month contract basis, based on documented program needs. Vocational supervisor and vocational job placement coordinator units shall be approved on a 10-, 11-, or 12-month contract basis, based on documented program needs.

(h) Texas Department of Corrections. Vocational administrator, vocational supervisor, vocational counselor, and vocational job placement coordinator units shall be allocated in accordance with the allocation of professional units to the Department of Corrections as provided in Allocation of Professional Units to the Department of Corrections. Rule 226.41.03.042.

Issued in Austin, Texas, on July 23, 1980.

Doc. No. 805727 A. O. Bowen
 Commissioner of Education

Proposed Date of Adoption: October 11, 1980
For further information, please call (512) 475-7077.

Texas Department of Human Resources

Medicaid Eligibility

The Department of Human Resources proposes additions, repeals, and amendments to its Medicaid eligibility rules. As a result of the legislative intent expressed in Rider 49 of the fiscal year 1980-81 DHR Appropriation Act, the Texas Board of Human Resources has established special provisions to protect certain individuals who were recipients of Title XIX long term care as of March 1, 1980, from adverse effects as a result of the discontinuance of the ICF-II Program on March 1, 1980, while encouraging those individuals to return to the community whenever possible. This material was adopted on an emergency basis, effective June 20, 1980. These special provisions are available to individuals who were ICF-II recipients on or after March 1, 1980, including those individuals

who were ICF-III or skilled recipients on that date and who were subsequently granted ICF-II level care due to improvement in their condition and the lack of suitable alternate care in their community. These provisions are

(1) Recipients of the ICF II nursing facility care on or after March 1, 1980, will continue to be entitled to ICF-II level care for as long as they continue to meet Medical eligibility program requirements and the ICF II level of care criteria.

(2) Recipients of ICF II nursing facility care on or after March 1, 1980, who choose to leave the nursing facility to return to their community may maintain entitlement to Medicaid benefits under the same criteria used to establish eligibility while in a nursing home setting.

Individuals who qualify for these special provisions are referred to as Rider 49 recipients. The rule changes are being adopted on an emergency basis to ensure the immediate health, safety and well-being of such recipients

The Medicaid eligibility rules have been revised to:

(1) Provide eligibility determination and budgeting procedures to be used for SSI related Rider 49 recipients who return to community living arrangements. As a result of the Rider 49 provisions and related changes in the SSI program, policy regarding budgeting of couple cases has also been changed to require immediate separation of a couple case if one member of an eligible couple resides in a nursing facility and the spouse resides in the community.

(2) Provide eligibility determination and budgeting procedures to be used for TP02 Rider 49 recipients who return to community living arrangements.

(3) Clarify Medicaid eligibility worker responsibilities for review of forms on preadmission applications and for information and referral to alternate care staff for individuals denied a preadmission level of care. Procedures are also established for annotation of the Social Evaluation of Need for Nursing Facility Care, to advise the long term care unit of a recipient's Rider 49 status, when applicable.

(4) Explain the limitations on the availability of ICF-II level nursing care after March 1, 1980.

(5) Add detailed instructions on processing redeterminations for recipients entitled to the special Rider 49 provisions.

Several of the department's nursing home rules are also being amended to reflect changes resulting from provisions of Rider 49. Those amendments and new rules are proposed in this issue of the *Texas Register*.

The department has determined that the cost of implementing the proposed rules and amendments, as appropriated by the 66th Legislature, will be approximately \$139,936 for fiscal year 1980. The budget recommendation for fiscal year 1981 is \$1,052,327. No fiscal impact is expected beyond fiscal year 1981; at that time the rules will be superseded by inclusion of the Rider 49 recipients in the ICF II waiver. Therefore, resumed federal financial participation should be available for those recipients.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division--212, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

Eligible Recipients for Title XIX (Medicaid) 326.25.21

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.001. *Categorically Needy.* The Medical Assistance Program, under the provision of Title XIX (Medicaid) of the Social Security Act, provides certain benefits to all individuals who meet the department's definition of categorically needy. The categorically needy are defined as:

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

(9) *Under Rider 49 provisions, individuals who were receiving Level II intermediate care in a Title XIX nursing facility on March 1, 1980, continue to be eligible for Title XIX medical benefits upon discharge from the facility, provided they:*

(A) *continue to meet the categorical and financial eligibility criteria last used to determine eligibility in the nursing facility, and*

(B) *continue to meet the criteria for Level II intermediate care, as determined by the long term care units of the Texas Department of Health.*

This provision is also available to individuals who were Medicaid eligible and receiving Level III immediate care or skilled nursing care in a Title XIX nursing facility on March 1, 1980, and are subsequently determined to need Level II intermediate care.

Individuals qualifying for Medicaid benefits under these provisions are referred to as Rider 49 recipients. Department staff determine continuing eligibility using the criteria for Type Program 02, 03, 14, or 51 depending upon which criteria applied when the recipient last resided in a Title XIX nursing facility.

Doc. No. 805641

Individuals for Whom SSI Eligibility Criteria Are Used 326.25.31

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.001. *Types of Applicants.* The eligibility criteria of the federal Supplemental Security Income (SSI) Program are used in determining Medicaid eligibility for the following categories of assistance:

(1) SSI related MAO (Type Program 14). Individuals residing in approved Title XIX long-term care facilities, who would be eligible for SSI except for income, may qualify for assistance under Type Program 14. Countable income must fall in a range between the appropriate SSI payment amount and a maximum established by the department. *Eligibility under this type program may also be extended to Rider 49 recipients discharged from a Title XIX facility to the community*

(2) Rider 51 MAO (Type Program 51). Individuals in long-term care facilities who became ineligible for SSI-related MAO on July 1, 1979, due solely to the July 1979 cost-of-living increase in RSDI benefits may continue eligibility for assistance under the provisions of Rider 51 of the Texas Department of Human Resources appropriation in the General Appropriations Act, 66th Legislature, Regular Session. To qualify, these individuals must continue to meet all

SSI-related MAO eligibility requirements with an additional exclusion from income equal to the amount of the July 1979 RSDI cost-of-living increase. *Eligibility under this type program may also be extended to Rider 49 recipients discharged from a Title XIX facility to the community.*

(3)-(4) (No change.)

Doc. No. 805642

Resources for Individuals Related to the SSI Program 326.25.33

The following amendment is proposed under the authority of the Human Resources Code, Title II.

.004. *Deeming of Resources.*

(a)-(e) (No change.)

(f) *Deeming does not apply to Rider 49 recipients discharged to the community whose eligibility is determined under the Medical Assistance Only Program criteria which applied when the individual was residing in a nursing facility. In this situation, the individual's resources continue to be considered separate from those of the ineligible spouse as they were when the individual was institutionalized.*

Doc. No. 805643

Income for Individuals Related to the SSI Program 326.25.34

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.003. *Procedures for Deeming Income.*

(a) (No change.)

(b) An individual's income includes all of his or her own income in cash or in kind, both earned and unearned. It also includes all of the income of his or her eligible spouse. In addition, an individual's income is deemed to include:

(1) Certain income of his or her ineligible spouse who lives in the same household during any part of a calendar month (if the ineligible spouse is not a member of an AFDC group). In determining the amount of the ineligible spouse's income available to the individual, the following procedures apply:

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

(H) *Deeming does not apply to Rider 49 recipients discharged to the community whose eligibility is determined under the medical assistance only criteria which applied when the individual was residing in a nursing facility. In this situation, even though the recipient lives in the same household with the ineligible spouse, the ineligible spouse's own income is completely excluded in determining continued eligibility for the Rider 49 recipient*

(2) (No change.)

.004. *Support and Maintenance (Nonvendor Situations Only).*

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

(e) *The 1/3 reduction does not apply in situations which:*

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

(5) *The individual (or eligible couple) residing in the household of another is a Rider 49 recipient(s) whose eligibility is continued under an institutional medical assistance only type program; that is, one of the institutional income limits is being used to determine eligibility. In this instance, the value of the in-kind support and maintenance must be determined as in paragraph (2) above, and considered as unearned income of the eligible individual(s).*

Doc. No 805644

Budgeting for Individuals Related to the SSI Program 326.25.35.004, .010

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.004. *Definitions of Budgeting in Nonvendor Living Arrangements.*

(a) (No change.)

(b) An individual budget is constructed when the client is a single person, that is, never married, widowed, or divorced, or is a married individual who is living apart from his or her spouse. Living apart means physically living in separate places of residency and is not necessarily a legal separation. An individual and spouse are considered to be living apart when:

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

(4) *one member of an eligible couple enters and is eligible for vendor payment in a Title XIX nursing facility, or*

(5) (4) when one member of an eligible couple is living as husband or wife with a person other than the legal spouse.

In an individual budget, only the needs and income of the individual are considered.

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

(e) A couple budget is also constructed when an individual is no longer residing with his or her eligible spouse if:

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

In a couple budget, the needs and income of both spouses are included. *If only one member of an eligible couple enters a Title XIX nursing facility and is entitled to vendor payment, the case may no longer be budgeted as a couple case. In this situation, eligibility for each member of the couple must be redetermined on an individual basis.*

.010. *Definitions of Budgeting in Vendor Living Arrangements.*

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

(d) A couple budget is constructed when an individual and his or her eligible spouse are both MAO applicants/recipients with the same type program and reside in the same room in a Title XIX nursing care facility. If one member of an eligible couple moves into a different room or a different Title XIX facility, they continue to be budgeted as a couple until they have been separated for six months. In this situation, the needs and income of both individuals are included. *If one member of an eligible couple is discharged from the nursing care facility (other than for hospitalization or a therapeutic home visit) and the spouse remains in the facility, the case may no longer be budgeted as a couple case. Eligibility must immediately be redeter-*

mined on an individual basis for each member of the couple. Applied income for the member of the couple remaining in the facility must also be adjusted to reflect the appropriate individual vendor budget effective with the day of the spouse's discharge from the facility.

(e) (No change.)

Doc. No. 805645

326.25.35.007

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The following repeal is proposed under the authority of the Human Resources Code, Title II.

.007. *Couples, One of Whom is in a Long-Term Care Facility (Type Program 03).*

Doc. No. 805646

326.25.35.018

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.018. *Special Provisions for Rider 49 Recipients.*

(a) Under Rider 49 provisions, individuals are entitled to continued eligibility under vendor budgeting criteria while residing in a nonvendor living arrangement. In order to qualify for these provisions, the recipient must meet the following criteria:

(1) the individual must have received ICF-II level care in a Title XIX nursing facility on or after March 1, 1980, and

(2) the individual must have maintained continuous Medicaid eligibility since March 1, 1980 (or since the date approved ICF-II level care began, if subsequent to March 1, 1980), and

(3) the individual must have never been denied an ICF-II level of care by a long-term care unit of the Texas Department of Health since March 1, 1980.

(b) If a recipient who meets the above criteria chooses to leave the nursing facility to reside in a nonvendor living arrangement, a determination should first be made as to whether the recipient would qualify for SSI benefits in the new living arrangement. If so, the recipient is referred to SSI for application services. The medical assistance only case for the recipient is denied when eligibility for SSI is established on the DHR computer files.

(c) If, however, the recipient has income in excess of the appropriate SSI eligibility standard, Medicaid eligibility should be extended in the new living arrangement as long as the recipient continues to meet the budgeting criteria which was last used to determine the recipient's eligibility in the vendor living arrangement. Since the individual is no longer residing in a vendor living arrangement, it will not be necessary to budget applied income in addition to determining eligibility.

(d) As long as the Rider 49 recipient continues to meet the appropriate income eligibility limits, as well as all other categorical requirements, eligibility for Medicaid benefits will be continued in the nonvendor living arrangement. If, at the time of review, the recipient's income exceeds appropriate limits or other categorical requirements are not met, eligibility under these special provisions must be denied. A denial resulting in a break in Medicaid coverage will result in the loss of Rider 49 status and entitlement to this special provision.

Doc. No. 805647

Budgeting for Type Program 02 326.25.45.002-.004

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.002. Definitions.

(a) All individuals certified for Type Program 02 must reside in vendor living arrangements, **with the exception of Rider 49 recipients whose eligibility in a nonvendor living arrangement is based on TP02 criteria.**

(b) (No change.)

.003. *Individual Budget.* An individual budget is constructed when the recipient has no spouse, or when the spouse is receiving assistance under another type program (Type Program 01, 03, 12, 13, 14, or 15). In this situation, only the needs and income of the individual are considered.

.004. *Companion Budget (Individual with Ineligible Spouse).* A companion budget is constructed when the recipient has an ineligible spouse who is not estranged from the recipient. In this situation, only the needs of the individual are included **but the income of the spouse must also be considered in determining eligibility.**

Doc. No. 805648

326.25.45.010

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.010. Special Provisions for Rider 49 Recipients.

(a) If a Type Program 02 recipient with Rider 49 status chooses to leave the Title XIX nursing facility to reside in a nonvendor living arrangement, a determination must first be made as to whether the recipient will be entitled to SSI benefits in the new living arrangement. If so, the recipient is referred to SSI for application services. The Type Program 02 case for the recipient is denied when eligibility for SSI is established on the DHR computer files.

(b) If, however, the Rider 49 recipient does not meet the criteria for SSI eligibility, Medicaid eligibility should be extended in the nonvendor living arrangement as long as the individual continues to meet all eligibility criteria for Type Program 02. Since the recipient is no longer residing in a vendor living arrangement, it will not be necessary to budget applied income in addition to determining eligibility.

(c) If, at the time of a review, the recipient fails to meet Type Program 02 eligibility requirements, eligibility must be denied. Since the individual is not residing in a Title XIX nursing facility, eligibility cannot be redetermined under

Type Program 14. However, eligibility for Type Program 03 based on the exclusion of the October 1972 RSDI increase and SSI income standards should be explored. Eligibility may be continued under Type Program 03, if appropriate. If denial of Type Program 02 assistance results in a break in Medicaid coverage, the recipient loses Rider 49 status and the entitlement to eligibility under the special Rider 49 provisions.

Doc. No. 805649

Vendor Payments in Title XIX Long-Term Care Facilities 326.25.55

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.002. Evaluation of Alternate Care.

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

(e) Nonrecipient procedures.

(1) For an applicant (nonrecipient), the Medicaid eligibility worker requests an application be completed when:

(A) Initial contact is made with the Medicaid eligibility unit by an individual who is not a **current Medicaid recipient** (recipient of SSI, or).

(B) (No change.)

(2) (No change.)

(3) The covering letter for the Medical-Nursing Care Evaluation must indicate that the form must be completed and signed by the client's treating physician and returned to the Medicaid eligibility worker. If the Application for Assistance and the Medical-Nursing Care Evaluation are not returned to the worker within 10 days, the worker will contact the applicant to advise him or her of the necessity of returning both forms. **When the Medical-Nursing Care Evaluation is received from the attending physician, the eligibility worker will determine that the form contains all the required items. If it does not the worker should try to obtain the additional information prior to submitting the form to the LTCU.**

(4)-(9) (No change.)

(10) **In situations where a level of care is denied by the LTCU, the Medicaid eligibility staff will advise the individual of the denial of the application. The medical assistance denial notice must be annotated to advise the individual that if they are now interested in exploring alternate care services, they should contact the local alternate care staff. The telephone number for such a contact must also be provided on the denial notice.**

(11) **If the individual advises the Medicaid eligibility staff of their interest in pursuing alternate care services. The eligibility staff will immediately refer the individual to the alternate care staff via Case Information form. If the individual has been previously referred to the alternate care staff, a Case Information form would again be provided to advise of the change in the individual's status.**

(f) Recipient procedures.

(1) When preadmission requests for care in a nursing facility are received from an individual who is a **current Medicaid recipient** (of SSI), the following circumstances may occur:

(A) (No change.)

(B) A referral from CCABD can occur when a recipient of SSI who is currently receiving CCABD services wishes care in a nursing facility; or when an assessment by the CCABD worker results in such a request. [The alternate care assessment must be completed within 30 days.]

(C) An initial contact is made with LTCU staff by a recipient [of SSI] who is not currently in a nursing facility. LTCU staff gathers identifying information from the individual and forwards this information to the Medicaid eligibility unit.

(D) In cases where the initial contact is made with a Medicaid eligibility unit by a Medicaid [an SSI] recipient requesting placement in a nursing facility, the following steps are taken:

(i) Within five working days of receipt of a request for care in a nursing facility, a contact is made with the client and/or family to determine the functional capacity of the client, as well as the social components surrounding the request for nursing home placement and the possibility of alternative arrangements for care. The alternate care assessment is completed and the worker will inform the recipient and/or family of the possible alternatives to nursing facility care. ***In the process of completing the Social Evaluation of Need for Nursing Facility Care, the worker must also determine whether the recipient currently has Rider 49 status. If so, the notation "Grandfathered ICF-II recipient" must be added to the upper right hand corner of the form. If the recipient continues to pursue nursing home placement, this notation will advise the LTCU that an ICF-II level of care may be considered for this recipient.***

(ii)-(iv) (No change.)

(2)-(5) (No change.)

.003. Level of Care.

(a) To qualify for vendor payments in Title XIX nursing facilities and state schools, it must be determined that an individual is in need of ICF-II, ICF-III, or skilled nursing care or that an individual would benefit from ICF-MR treatment, that is, intermediate care for the mentally retarded. ***After March 1, 1980, ICF-II level nursing care is only available to those individuals who have continued Rider 49 status. As long as Rider 49 status is continued, the recipient has a right to have current ICF-II level care sustained and to have ICF-II level care reinstated if he or she no longer qualifies for a higher level of care or if he or she re-enters a nursing facility from the community.***

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

Doc. No. 805650

Intra-State Requests for Assistance 326.25.56

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.011. *Special Provisions for Rider 49 Recipients.* Rider 49 of the 1980-81 DHR Appropriation Act authorized the discontinuance of the program for level II intermediate care (ICF-II) in Title XIX long-term care facilities effective March 1, 1980. The rider also provided for continued entitlement for ICF-II care for certain individuals who were eligible and residing in Title XIX facilities on March 1, 1980, and who subsequently met or continued to meet ICF-II criteria. In addition, special provisions were established to permit these in-

dividuals to continue Medicaid coverage after discharge from a long-term care facility under the same criteria used to determine eligibility while in the facility.

.012. Definition of a Rider 49 Recipient.

(a) In order to qualify for the special provisions established by Rider 49, a recipient must have met and continue to meet the following requirements:

(1) The recipient must have been eligible for Medicaid prior to March 1, 1980, and maintained continuous eligibility after that date. (Individuals who applied for and became eligible after March 1, 1980, with an approved ICF-II level of care in effect are considered to have met this requirement initially.)

(2) The recipient must have been residing in an approved Title XIX long-term care facility on and at least one day prior to March 1, 1980. (Individuals who on March 1, 1980, were temporarily absent from the facility due to hospitalization or a therapeutic home visit, and individuals who entered long-term care facilities after March 1, 1980, with an approved level of care in effect are considered to have met this requirement.)

(3) The recipient must have been approved for ICF-II level care on or after March 1, 1980, by the Long-Term Care Unit (LTCU) of the Texas Department of Health, and have never received a subsequent denial of ICF-II level care from the LTCU, or the recipient must have been approved for and receiving Title XIX ICF-III or skilled level care on March 1, 1980, and subsequently be granted ICF-II level care. Such individuals may be entitled to ICF-II level if they fail to meet the higher level of care criteria, have continuously resided in a Title XIX long-term care facility since March 1, 1980, meet the ICF-II level of care criteria, and no suitable alternate care is available at the time ICF-III level care is discontinued.

(b) Individuals who initially met and continue to meet these requirements are referred to as Rider 49 recipients. Rider 49 status, and entitlement to the related special provisions, is discontinued if, at any time, eligibility for Medicaid or for an ICF-II level of care is denied.

.013. Redetermination of Rider 49 Recipients.

(a) As long as a Rider 49 recipient continues to reside in a long-term care facility, eligibility and budgeting are determined under the criteria of the appropriate type program, following the same procedures which apply to other recipients in long-term care.

(b) If, however, the Rider 49 recipient chooses to leave the long-term care facility to reside in a nonvendor living arrangement (the recipient's own home, the home of a relative or friend, a room and board arrangement, etc.), continued eligibility under the special Rider 49 provisions must be explored.

(c) As soon as the eligibility worker learns of a Rider 49 recipient's discharge from the long-term care facility, a determination must be made as to whether the recipient is potentially eligible for supplemental security income (SSI) benefits in the new living arrangement. If so, the individual is referred to the Social Security Administration for application services. The recipient's Medicaid assistance only (MAO) case is sustained until the recipient's eligibility for SSI is reflected on the DHR computer files. When this occurs, the MAO case is denied and the recipient's continued eligible for Medicaid and Rider 49 status will be dependent upon his or her continued eligibility for SSI benefits.

(d) If the Rider 49 recipient is not entitled to SSI benefits in the new living arrangement, continued eligibility for MAO will be determined using the eligibility criteria and budgeting steps last used to determine eligibility for the individual while in the long-term care facility. As long as the Rider 49 recipient continues to meet these criteria, the MAO case is sustained under the appropriate type program. However, the base plan and budget entries on input documents are changed to reflect the new nonvendor living arrangement.

(e) One of the requirements for eligibility for this special Rider 49 provision is the recipient's continuous eligibility for Medicaid since March 1980. Therefore, new applications should never be processed for eligibility under these special provisions. The only time an input document may be processed indicating eligibility under these special provisions is when an active Rider 49 recipient has been denied in error.

Doc. No. 805651

The Department of Human Resources proposes rules and amendments to the nursing home agency rules concerning the continuation of eligibility for nursing home care for ICF-III and skilled recipients whose conditions improve to the extent that they no longer meet the criteria for ICF care. This revised policy permits payment for all Medicaid services (i.e., vendor drugs, hospital care, physician services, ICF-II nursing home care, etc.) from state funds for persons who had an ICF-III or skilled level of care on March 1, 1980, who meet ICF-II criteria but not ICF criteria, and for whom no alternate care arrangements are available.

It is the intent of the legislature that persons needing nursing home care receive the highest quality care available. Pursuant to the provisions of Riders 49 and 56 of the General Appropriations Act, the department adopted effective June 20, 1980, the rules and amendments on an emergency basis to ensure the continued health, safety, and well-being of such nursing home residents. Changes to the department's Medicaid eligibility rules are being adopted on an emergency basis on that date as a result of the provisions of Rider 49. The proposed version of the Medicaid rules appears in this issue of the *Register*.

The department has determined that the cost of implementing the proposed rules and amendments, as appropriated by the 66th Legislature, will be approximately \$139,936 for fiscal year 1980. The budget recommendation for fiscal year 1981 is \$1,052,327. No fiscal impact is expected beyond fiscal year 1981; at that time the rules will be superseded by inclusion of the Rider 49 recipients in the ICF-II waiver. Therefore, resumed federal financial participation should be available for those recipients.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—210, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

Intermediate Care II Facility

Admission Policies 326.30.04

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.009. Level of Care.

(a) ICF-II level of care determinations are limited to Title XIX recipient/patients who had an ICF-II, **ICF-III or skilled** level of care determination *on* (prior to) March 1, 1980.

(b) ICF-II level of care determinations are also available to persons who have filed an application for long-term care benefits with the department, and are residing in a long-term care facility *on* (prior to) March 1, 1980.

(c) ICF-II level of care determinations *will remain* (are also) available to persons who *had an ICF-II, ICF-III, or skilled level of care on March 1, 1980, and* (qualify under (a) or (b)) who leave a nursing home for a hospital stay, therapeutic home visit, or other Title XIX or XX service, without a break in Medicaid eligibility, and then return to the same or another nursing home.

Doc. No. 805652

Intermediate Care III Facility

Admission Policies 326.31.04

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.007. Level of Care.

(a) ICF-II level of care determinations are limited to Title XIX recipient/patients who had an ICF-II, ICF-III, or skilled level of care determination on March 1, 1980.

(b) ICF-II level of care determinations are also available to persons who have filed an application for long-term care benefits with the department, and are residing in a long-term care facility on March 1, 1980.

(c) ICF-II level of care determinations will remain available to persons who had an ICF-II, ICF-III, or skilled level of care on March 1, 1980, and leave the nursing facility for a hospital stay, therapeutic home visit, or other Title XIX or XX service, without a break in Medicaid eligibility, and then return to the same or another nursing facility.

(d) An ICF or skilled Title XIX recipient/patient who qualifies under (a), (b), or (c) above for an ICF-II level of care determination after March 1, 1980, will be referred to the regional alternate care staff for emergency search for alternate care. Efforts will be made to locate a foster home or other living arrangements suitable to the individual if there are no relatives or no other home possibilities.

Doc. No. 805653

Skilled Nursing Facility

Admission Policies 326.32.04

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.011. Level of Care.

(a) ICF-II level of care determinations are limited to Title XIX recipient/patients who had an ICF-II, ICF-III, or skilled level of care determination on March 1, 1980.

(b) ICF-II level of care determinations are also available to persons who have filed an application for long-term care benefits with the department, and are residing in a long-term care facility on March 1, 1980.

(c) ICF-II level of care determinations will remain available to persons who had an ICF-II, ICF-III or skilled level of care on March 1, 1980, and who leave the nursing facility for a hospital stay, therapeutic home visit, or other Title XIX or XX service, without a break in Medicaid eligibility, and then return to the same or another nursing facility.

(d) An ICF or skilled Title XIX recipient/patient who qualifies under (a), (b), or (c) above for an ICF-II level of care determination after March 1, 1980, will be referred to the regional alternate care staff for emergency search for alternate care. Efforts will be made to locate a foster home or other living arrangements suitable to the individual if there are no relatives or no other home possibilities.

Doc. No. 805654

Intermediate Care Facility for Mentally Retarded 326.35

(Editor's note: A lengthy proposal by the Texas Department of Human Resources involving the above chapter of rules will be published in the issue dated August 5. The subchapters and rules affected by the proposal are listed below. The proposed date of adoption for the entire proposal is September 1, 1980.)

Eligibility for Participation
326.35.03.003

Conditions for Participation
326.35.10.001

Definitions and General Criteria
326.35.11.001-.013
326.35.11.014-.022

Eligibility Criteria
326.35.12.001, .002

Admission Policies
326.35.13.001-.005
326.35.13.006-.011

Administrative Management
326.35.14.001, .002
326.35.14.003
326.35.14.005-.015

Professional Consultants
326.35.15.001-.006
326.35.15.007

Personnel Policies
326.35.16.001-.004
326.35.16.005-.012

Health Care Services
326.35.17.001-.003
326.35.17.004-.013

Active Treatment Services
326.35.18.001-.004
326.35.18.005-.014

Utilization Review and Re-Evaluation
326.35.19.001, .002, .004, .006-.007
326.35.19.008-.011

Pharmacy Services
326.35.20.001-.006
326.35.20.007-.010

Resident Records
326.35.21.001, .004
326.35.21.006
326.35.21.010-.020

Transfer Agreement
326.35.22.001, .002
326.35.22.003

Food and Nutrition Services
326.35.23.001-.005
326.35.23.006-.013

Housekeeping and Maintenance Services
326.35.24.004, .005

Physical Environment
326.35.25.010-.026

Change in Status of Intermediate Care MR Section
326.35.26.001-.003

Facilities with More Than 15 Beds
326.35.28.001

Special Criteria for Facilities with 15 Beds or Fewer
326.35.29.001-.009

Additional Conditions To Be Met
326.35.30.001-.036
326.35.30.037-.050

Early and Periodic Screening, Diagnosis, and Treatment

The Department of Human Resources proposes to amend, repeal, and add to various rules in its Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program. The department's EPSDT handbook has been reformatted and the corresponding rule material is being restructured for cross-referencing and future expansion purposes. Duplicative rules will be repealed and repropounded. The majority of the proposed rules and amendments is existing department policy which has been reorganized and reworded in most cases; no new material is being introduced. Two major changes proposed in these rules pertain to a change in the periodicity schedule for medical screening, Rule 326.39.22.002, and references to an expanded provider base whereby other approved public and private health providers will be doing screening along with the Texas Department of Health after September 1, 1980.

The department has determined that the proposed rules and amendments will have no fiscal implications for the state or units of local government.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division—565, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

Overview 326.39.11

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.001. Program Description.

(a) The Texas Department of Human Resources is the single state agency designated to administer the

Texas Medical Assistance Program under Title XIX of the Social Security Act (Medicaid).

(b)(a) The Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program is [unique because it is] a preventive health program **under Medicaid which** [that] provides [for] early detection and treatment of health problems that might be detrimental later in life.

(c)(b) The department **contracts** [of Public Welfare has contracted] with the Texas Department of Health **and with other approved private and public medical providers** [Resources (TDHR)] to provide medical screening [and dental] services to eligible recipients. Public and private providers **perform** [of] medical diagnosis and treatment **and** [services] file claims [for services rendered] with the **department's** [state's] health insuring agent. [Providers of] dental **providers** [services] file claims [for services rendered] with **the department** [TDHR]. **Outreach and follow-up services are provided by DHR field staff.**

Doc. No. 805563

Penalties 326.39.12.001, .002

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

.001. *Disciplinary Action.*

.002. *Fraud.*

Doc. No. 805674

326.39.12.003-.008

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.003. *Legal Base.*

(a) In 1967 Congress amended the Social Security Act to establish the EPSDT Program. In 1972, Congress amended the Social Security Act to include a penalty provision which would reduce by 1.0% a state's Title IV-A (aid to families with dependent children) funds in a quarter during which the state failed to:

(1) inform all families receiving AFDC in the state of the availability of child health screening services under Medicaid;

(2) provide or arrange for screening services in all cases where they are requested;

(3) arrange for corrective treatment for problems disclosed by health screening services.

(b) In 1979, HEW published penalty regulations clarifying requirements for the EPSDT Program. To avoid imposition of the penalty, the state must meet regulations which:

(1) prescribe the manner, timing, and content of informing requirements;

(2) establish standards for the timely delivery of services;

(3) require referral assistance for individuals whose treatment needs are not covered by the Medicaid state plan;

(4) require that transportation and scheduling assistance must be offered and provided, if requested.

(5) specify documentation requirements.

(c) DHR must provide required EPSDT screening and treatment services to eligible families or recipients who request these services. The periodicity schedule determines when specified screening services are delivered. DHR must provide any EPSDT services requested by the recipient according to periodic eligibility for service.

(d) Application of the penalty is based on meeting requirements for AFDC and AFDC-foster care recipients only; failure to meet the requirements for SSI recipients is not penalty liable.

.004. *Informing.*

(a) DHR must inform each family of the availability of EPSDT services no later than 60 days after the AFDC certification date. This must be done in writing and using face-to-face contact in clear, nontechnical language. DHR must use procedures suitable for informing persons who are illiterate, blind, deaf, or cannot understand the English language.

(b) All new eligibles and families who become eligible after a period of ineligibility must be properly informed. However, a family need not be informed more than twice in a 12-month period. Families with no member receiving any EPSDT services must be informed in writing of EPSDT at least once each year.

(c) When informing a family about the EPSDT Program, the following information must be given:

(1) the benefits of preventive health services;

(2) how EPSDT services can be obtained, including the location of EPSDT providers;

(3) the screening services available;

(4) a summary of the periodicity schedule;

(5) that both initial and periodic screenings are available;

(6) that treatment services covered by the Texas Medicaid Program will be provided for problems discovered during screening;

(7) that assistance in referrals to free or inexpensive sources of health care will be given for services not covered by the Texas Medicaid Program;

(8) that assistance with transportation can be provided if required;

(9) that assistance in scheduling appointments will be given if requested;

(10) that EPSDT services can be requested at any time while the family or recipient is eligible for Medicaid;

(11) that the family or recipient can choose among qualified providers to receive EPSDT services;

(12) that the family or recipient can request some or all EPSDT services;

(13) that EPSDT services covered by the Texas Medicaid Program are available at no cost to the family.

.005. *Timely Delivery of Services.*

(a) For families or recipients who request EPSDT services, screening must have been completed and treatment initiated within 120 days of the initial request for screening or the date rescreening was due under the periodicity schedule in at least 75% of the cases.

(b) In at least 95% of the cases, screening must have been completed and treatment initiated within 180 days of the initial request for screening or the date rescreening was due under the periodicity schedule.

(c) The "initiation of treatment" is the first encounter for treatment of problems disclosed during screening and the first encounter with the dentist for the direct dental referral.

(d) Federal regulations allow exceptions to the above standards. These exceptions are listed in Rule 326.39.24.003.

.006. *Referral Assistance.* If the recipient needs treatment for conditions disclosed during screening which are not covered under the Texas Medicaid Program, DHR must provide referral assistance. Referral assistance must include giving the recipient or family the names, addresses, and telephone numbers of providers who are willing to furnish the needed services at little or no expense to the family.

.007. *Transportation and Scheduling Assistance.* DHR must offer assistance with transportation and scheduling appointments for services to the family or recipient and must provide them if requested. Failure to provide support services is not subject to the penalty if EPSDT services are provided on a timely basis.

.008. *Documentation.* DHR must maintain accurate written documentation of certain administrative processes and case status information. This material must be available for review by HEW upon request.

Doc. No. 805565

Administration 326.39.13.001

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.001. *Organizations and Functions.*

(a) Responsibility **and authority** for administration of the Texas Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program rests with the Department of **Human Resources** (Public Welfare). Management of the EPSDT Program is under the administration of [the office of] the deputy commissioner for medical programs. [The EPSDT Program manager.] **Special Medical Services** [Specialties] Division develops policies and procedures **and monitors contracts in support of EPSDT Program activities** [affecting the delivery of all EPSDT services]. **Budgetary functions for EPSDT are handled by Medical Budget and Management Control Division.**

(b) **DHR field staff under the direction of the regional director for medical services perform activities to support a recipient's use of EPSDT services.**

Doc. No. 805566

326.39.13.005-.011

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

.005. *Contracts with Agencies Other Than State Department or Public Resources.*

.006. *Federal Regulation 45, Code of Federal Regulations 250.30—Doctors and Dentists.*

.007. *When Providers Have Not Rendered a Particular Service Before.*

.008. *Reimbursement of Providers.*

.009. *New Providers.*

.010. *Authorized Services.*

.011. *X-Ray Fees.*

Doc. No. 805567

Operation 326.39.14.002

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rule is proposed under the authority of the Human Resources Code, Title II.

.002. *Excuse from School.*

Doc. No. 805568

326.39.14.004-.008

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.004. *Early.*

(a) Early means:

(1) as early as possible in a child's life in the case of a family already receiving assistance;

(2) as soon as possible after a family's eligibility for assistance has been established.

(b) The purpose is to identify and treat disease and abnormalities early enough that treatment can be effective.

.005. *Periodic.* Periodic refers to specified intervals established for screening to ensure continuity of preventive health services. Examinations and treatment are prescribed at intervals by providers and authorized by DHR to ensure that disease or disability is not present or beginning to develop.

.006. *Screening.*

(a) Screening is the assessment of an individual's growth and development by quick and simple procedures. In the screening phase, health professionals identify those individuals with a disease or abnormality.

(b) The purpose of screening is to identify those individuals needing diagnosis and treatment.

.007. *Diagnosis.* Diagnosis combines the use of physical, developmental, and psychological examination, laboratory tests, and x rays to determine the nature or cause of physical or mental disease or abnormality. The purposes are:

(1) to confirm the positive results of screening tests and to detect false positive results;

(2) to develop a plan for treating an abnormality based on its nature or cause.

.008. *Treatment.* Treatment uses physician's or dentist's services; optometrist's or audiologist's services; hospital services (inpatient and outpatient); comprehensive health services centers; laboratory and x-ray services; prescribed drugs.

eyeglasses, hearing aids; rehabilitative services; and any other type of medical and dental care and services recognized under state law to prevent, correct, or ameliorate disease or abnormalities detected by screening and diagnostic procedures. The purpose is to prevent, correct, or limit diseases or abnormalities detected by screening and diagnostic procedures.

Doc. No. 805569

EPSDT Documentation 326.39.15

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *EPSDT Case Documentation.*
- .002. *Guide for Case Recording and Documentation.*
- .003. *Refusal of Service.*

Doc. No. 805570

Operating Policies 326.39.17

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Recipient Rights.*
- .002. *Coordination and Collaborative Efforts.*
- .003. *Referrals for SSI.*
- .005. *Use of Volunteer Services.*
- .006. *Transportation Support.*
- .007. *Civil Rights.*
- .008. *Secondary Liability of the Medicaid Program.*

Doc. No. 805571

Definitions 326.39.20

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Early.*
- .002. *Periodic.*
- .003. *Medical Screening.*
- .004. *Dental Examination and Treatment.*
- .005. *Screening.*
- .006. *Diagnosis.*
- .007. *Treatment.*

Doc. No. 805572

Periodicity 326.39.21.004

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rule is proposed under the authority of the Human Resources Code, Title II.

- .004. *Penalty Regulations.*

Doc. No. 805573

Eligibility 326.39.21.005

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.005. *Eligibility for Services.* All AFDC, SSI, and MAO recipients under age 21 are eligible for EPSDT services. Services can be continued through the month the eligible recipient becomes 21.

Doc. No. 805574

Transportation Services 326.39.22.001

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rule is proposed under the authority of the Human Resources Code, Title II.

- .001. *Transportation Arrangements.*

Doc. No. 805575

Periodicity 326.39.22.002-.004

The following new rules are proposed under the authority of the Human Resources Code, Title II.

- .002. *Periodicity Schedule.*

(a) Screening services are available once during each of the following time periods:

- (1) first month of life (neonatal);
- (2) one month through five months;
- (3) 6 months through 11 months;
- (4) 12 months through 23 months;
- (5) two years through three years;
- (6) four years through five years;
- (7) 6 years through 10 years;
- (8) 11 years through 15 years;
- (9) 16 years through 20 years.

(b) Up to six screening visits are allowed in the first two years of a child's life.

(c) Routine dental services are available to eligible recipients once every three years.

(d) All dental services, with the exception of emergency services, require prior authorization.

(e) All eligibles three years of age and over must be referred directly to a dentist for an examination with prior authorization.

(f) Eligibles under age three should go to medical screening to determine if there is a need for a dental referral; however, this is not required. Prior authorization is still required for children under three.

.003. Periodic Rescreening Due Date.

(a) For penalty liable purposes, the periodic rescreening due date is defined as the earlier of:

(1) the date of the offer of support services to have the child rescreened, or

(2) the last day of the month in which the child's age exceeds the oldest allowable age for that rescreening in the periodicity schedule.

(b) To avoid situations where a recipient is screened at the end of one time period and then at the beginning of another, at least six months should elapse between medical screening for recipients between age one year and six years, and 12 months should elapse between medical screening for recipients age six and over.

(c) Periodic dental examination and treatment are available three years from the date of last dental service.

.004. Exceptions to Periodicity. Exceptions to periodicity can be made when state or federal requirements for eligible children entering Headstart, foster care, and day care require medical screening or dental examination at times when the recipient may not be periodically eligible. State and/or federal requirements in these programs call for annual medical and dental examinations. Local requirements calling for examinations more often than annually are not exceptions to periodicity. EPSDT workers and their supervisors will determine when such requests are justified; however, services may not be authorized more often than every 12 months.

Doc. No. 805576

Outreach 326.39.23

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. New Eligibles.

(a) AFDC workers inform new and recertified eligibles of the EPSDT Program face-to-face and in writing at the application interview. Foster care eligibility workers inform foster care recipients through the recipient's child placing worker. AFDC workers and child placing workers may refer eligibles to EPSDT workers to arrange services. New or recertified eligibles need not be informed more than twice in one year.

(b) EPSDT workers outreach new eligibles to assist the recipient in making an informed decision about the use of EPSDT services. This must be done within 60 days of the certification date. EPSDT services should be approached as a package with all services offered at the same time. Methods of outreach by EPSDT workers include:

- (1) face-to-face interviews;
- (2) telephone contacts;
- (3) letters;
- (4) pamphlets;
- (5) presentations through the use of slide/sound media;
- (6) group meetings.

(c) When informing the illiterate, blind, and non-English speaking recipients, the following procedures will be used:

(1) all written material given to recipients must be in English and Spanish and in clear nontechnical terms;

(2) verbal explanations of EPSDT services will be given to the recipient;

(3) verbal explanations will be made in Spanish if required by the recipient.

(d) When informing deaf recipients about EPSDT services, the following procedures will be used: the regional deaf services coordinator can assist in arranging to inform the hearing impaired about EPSDT services; DHR contracts with the Commission for the Deaf to provide local interpreters; EPSDT workers should contact the regional deaf services coordinator to arrange for an interpreter when needed.

.002. Periodic Eligibles.

(a) EPSDT workers outreach periodic eligibles based on the individual's periodicity schedule to ensure the timely delivery of service.

(b) A recipient's periodic eligibility for medical and dental services should be considered in determining priorities for outreach. EPSDT services should be approached as a package with all services offered at the same time whenever possible.

.003. Nonparticipating Eligible. All families who have no member receiving EPSDT services must be contacted in writing at least once each year. To meet this requirement, these families will be sent a written explanation of EPSDT services in clear, nontechnical terms twice a year by direct mail from the State Office level. Families who have received any EPSDT services in the past, and are not periodically eligible, will not be contacted under this requirement.

Doc. No. 805577

Arranging EPSDT Services 326.39.24

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. Acceptance or Declination of Service. Acceptance of all EPSDT services must be voluntary and is not a prerequisite or impediment to eligibility for the receipt of any other service or aid. A recipient who refuses these services may, at a later time, request and be provided such services if still eligible.

.002. Timely Delivery.

(a) Appointments for screening, initial dental examination, and the first encounter for diagnosis and treatment must be made to conform with penalty regulation requirements.

(b) EPSDT staff must coordinate with screening providers to schedule screening services so that penalty regulation requirements can be met.

.003. Exceptions to Timely Delivery.

(a) Exceptions to standards for the timely delivery of services can be made if:

(1) The recipient or family loses eligibility. This means that the recipient or family does not have a valid medical care identification card or Medicaid verification letter for the date that a medical screening or the first encounter for diagnosis and treatment is scheduled.

(2) The recipient or family could not be located despite a good faith effort to do so. This means that no personal contact can be made with an adult member of the recipient's family.

(3) The recipient's failure to receive necessary services in a timely manner was due to an action or decision of the family or recipient rather than a failure of DHR to offer and provide support services.

(b) A minimum of one action by the worker is required following a "no show" for medical screening or for the first encounter for treatment. Worker and supervisory judgment are necessary to determine what additional actions are required before closing a case.

.004. Referral Assistance.

(a) Referral assistance must be given for those problems identified at medical screening for which treatment is not available under the Texas Medicaid Program.

(b) Referral assistance must include the names, addresses, and telephone numbers of providers who are willing to furnish the needed services at little or no expense.

(c) There is no requirement to ensure initiation of treatment in a timely manner for noncovered services. However, the referral assistance information must be provided in a timely manner. Regional staff should develop and maintain information about available provider resources on a local basis.

.005. Transportation and Scheduling Assistance.

(a) Assistance with transportation for EPSDT services must be offered and provided to any recipient requiring transportation.

(b) Assistance with scheduling appointments for EPSDT services must be offered and provided, if requested.

.006. *Transportation by EPSDT Staff.* EPSDT workers are not required to transport recipients. However, when workers do transport recipients, they must be aware of the need to maintain personal liability insurance for personal liability protection. The department cannot purchase liability insurance for vehicles not owned by the department.

Doc. No. 805578

Responsibilities of DHR Staff 326.39.25

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. *Primary Responsibilities of DHR.* Responsibilities of DHR staff are:

(1) to identify and inform eligible recipients of the program;

(2) to make appropriate referrals to the medical screening clinics;

(3) to remove barriers that would prevent the recipient's use of medical screening services and medical and dental diagnosis and treatment services;

(4) to maintain a DHR representative at all screening sites during hours of operation;

(5) to develop and maintain EPSDT regional statistical control functions;

(6) to maintain effective follow-up to referrals for diagnosis/treatment.

.002. *EPSDT Worker Responsibilities.* Responsibilities of workers include:

(1) Informing eligibles about EPSDT.

(2) Counseling to help remove barriers preventing eligibles from obtaining EPSDT services by interpreting the program and stressing the benefits.

(3) Determining the basis for reluctance to use EPSDT services, such as lack of transportation, child care problems, fear of screening procedures, or pressing financial or personal problems.

(4) Assisting in removing barriers to participation in EPSDT by offering and arranging transportation if required, scheduling appointments, arranging for babysitters, or accompanying the recipient to the scheduled service.

(5) Serving as a liaison, when necessary, between the provider and the recipient, and encouraging recipients to ask questions and describe health concerns to providers. This includes participation in the screening exit interview.

(6) Preparing for services by:

(A) completing necessary forms;

(B) reminding recipients to take immunization records and glasses, if appropriate, and any other pertinent health records to the screening;

(C) ensuring that eligibility is current and that the recipient brings a valid medical care identification card to the provider;

(D) ensuring that providers receive necessary forms;

(7) Mentioning the availability of family planning services with appropriate recipients and ensuring that recipients desiring family planning services are referred to a provider of their choice.

(8) Assisting the recipient in identifying appropriate resources for diagnosis and treatment, including providing referral assistance for services not covered by the Texas Medicaid Program.

(9) Determining whether requested or needed services were received, and assisting as needed, in rescheduling appointments.

(10) Ensuring that treatment recommendations are carried out and continuity of treatment is maintained.

(11) Maintaining accurate documentation.

(12) Being familiar with Medicaid and other DHR programs.

Doc. No. 805579

Coordination 326.39.26

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. *Coordination with Other Services.* DHR staff will establish and maintain collaborative efforts with local groups, organizations, and health care resources able to serve EPSDT recipients. Goals of coordination are to:

(1) provide information on the EPSDT Program;

(2) remove barriers to recipients' use of EPSDT services;

(3) provide outreach and supportive services to assist eligible individuals in using EPSDT as a health resource;

(4) follow-up on referrals;

(5) identify health care resources available at little or no cost for problems discovered at medical screening which are not covered by the Texas Medicaid Program;

(6) eliminate duplication of services.

.002. Referrals for Protective Services.

(a) When a parent, whose child has been screened and referred, refuses to take the child for diagnosis or treatment, the worker should assess the child's situation for possible abuse or neglect and in light of local protective services priorities.

(b) Child abuse is defined as nonaccidental infliction or threat of infliction of physical injury or emotional or mental damage to a child by a person responsible for the child's health or welfare.

(c) Neglect is defined by the department as depriving a child of the life necessities which provide the minimally adequate physical and emotional requirements for life, growth, and development by a person responsible for the child's health or welfare. A parent or guardian legitimately practicing his or her religious beliefs, who thereby does not provide specific medical treatment for that child for that reason alone, shall not be considered a negligent parent or guardian; however, this does not preclude a court from ordering that medical services be provided the child when his or her health requires it.

(d) If the child's situation possibly involves abuse or neglect, the situation should be referred to protective services. To make this decision, the EPSDT worker should consult with the supervisor or protective services staff. A referral or a statement of intent to refer to protective services should not be used to replace good outreach and follow-up techniques by the worker, such as removal of barriers and counseling with the parent.

.003. Referrals for SSI.

(a) EPSDT workers will identify and refer all current recipients of AFDC and MAO, for whom blindness or disability is suspected according to medical information in the case record, parent's statements, or worker's observation, to AFDC staff for referral for SSI.

(b) Since the Social Security Act sets no age limitations for the blind or disabled programs, eligibility for these programs can begin at birth and continue throughout an individual's life as long as he or she meets the SSI requirements. DHR staff is not responsible for determining the degree of blindness, disability, or other eligibility requirements for the SSI Program. Medical information from department records may only be released upon specific written request by the SSI administration and in accordance with department policy regarding confidentiality of records.

(c) Children eligible for financial assistance or services through the department, and referred to the Supplemental Security Income Program (SSI), will not be denied financial services to which they are entitled until the Social Security Administration notifies the department that the child has been awarded SSI benefits.

.004. Use of Volunteer Services. Volunteer services can be effectively used to support the EPSDT Program by:

- (1) providing outreach to eligible recipients and recipient groups through the use of EPSDT media presentations;
- (2) assisting families and children at medical screening sites;
- (3) providing transportation to medical screening sites, providers of diagnosis and treatment, and dental providers;
- (4) providing consultation related to the volunteers' areas of skill and expertise.

Doc. No. 805580

Documentation 326.39.27

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.001. EPSDT Documentation. The following items must be documented in the records of each eligible individual who is informed of, requests, or receives EPSDT services as a new or recertified eligible or those who are eligible on a periodic basis:

(1) The date and the type of contract that was used to inform the recipient of the availability of EPSDT services.

(2) The date the recipient requested or agreed to accept all or partial EPSDT services.

(A) Requests may be accepted by telephone, letter, or in person.

(B) An acceptance of EPSDT service during an explanation of the program is considered to be a request for service.

(C) Partial requests for service must include the type of provider who provided the nonrequested services.

(3) The date the recipient declined all EPSDT services, or the date the recipient lost Medicaid eligibility, or the date the worker verified the recipient was not periodically eligible for service and reminded the recipient of the next periodic date for service. For recipients who decline all services due to having received services from a non-EPSDT provider, the type of provider will be documented.

(4) The date medical screening was provided or the last scheduled appointment date when the recipient does not complete medical screening.

(5) For those recipients referred from medical screening to a Medicaid diagnostic and treatment provider or referred to a Medicaid dental provider:

(A) the date of the first encounter to initiate diagnosis/treatment of the medical problems disclosed during screening or to initiate dental diagnosis and treatment, or

(B) the last schedule appointment date when the recipient does not complete the first encounter to initiate diagnosis/treatment.

(6) For those individuals referred from medical screening for conditions not covered by Medicaid, document:

(A) efforts to refer the recipient to a provider (name, address, and telephone number) willing to treat them at little or no expense to the family, or

(B) community resources not available, or

(C) the provider or service not available in the community.

(7) Support services documentation:

(A) scheduling assistance declined or requested and provided;

(B) transportation assistance not required or required and provided.

(8) The number of actions:

(A) to reschedule the recipient for medical screening;

(B) to reschedule the recipient to complete the first encounter or initiation of medical diagnosis/treatment or dental treatment.

Doc. No. 805581

Recipient Rights 326.39.28

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. Recipient Rights.

(a) Acceptance of all EPSDT services must be voluntary. Acceptance or refusal of EPSDT services does not affect eligibility for or benefits of any other DHR service.

(b) A recipient who refuses EPSDT services may at a later time request and be provided such services if still eligible for Medicaid.

(c) All EPSDT records about recipients are considered confidential information.

.002. Confidentiality of Records.

(a) Public law and Medicaid regulations prohibit the disclosure of information about Medicaid recipients without consent, except for purposes directly connected to the administration of the program. Medicaid providers of screening, diagnosis, and treatment are not considered to be directly connected with the administration of the program. Consequently, screening, diagnosis, and treatment providers are not entitled to confidential information, including lists of names and addresses of recipients, without the consent of the recipient.

(b) Contract agencies performing certain administrative functions are considered an extension of DHR in exercising its responsibilities to ensure effective program operations. Such agencies, including TDH and contractors for outreach, follow-up, and transportation, may receive confidential information without an individual recipient's consent. However, these agencies are bound by the same standards of confidentiality as DHR. They must provide effective safeguards to ensure confidentiality.

.003. Authorization To Participate in EPSDT.

(a) Consent by a person who may legally give consent and an authorization to release information are necessary for participation in EPSDT.

(b) Consent for EPSDT screening services must be in writing.

.004. *Consent.* Consent requires the free exercise of choice without any force, fraud, deceit, constraint, or coercion by an individual or his or her legally authorized representative. The basic elements necessary to consent include:

(1) a fair explanation of the procedures to be followed and their purposes;

(2) a description of any discomforts and risks which can reasonably be expected;

(3) a description of benefits which can reasonably be expected;

(4) an offer to answer any questions about the procedures;

(5) a statement that the person is free to not consent or withdraw consent and discontinue participation at any time without any loss of other department benefits and services.

.005. Who May Consent for Medical Services.

(a) Persons 18 years of age or older may consent for themselves. Minors (persons under 18 years of age) may consent for themselves if:

(1) minority disability has been removed by a court;

(2) the minor is or has been legally married;

(3) the minor is 16 years of age or older, and lives separately from parents.

(b) The following individuals or agencies may sign the request for screening according to the conditions stated below. Those who may consent for a person under 18 years of age include:

(1) a parent;

(2) a managing conservator (for a foster child, an authorized DHR representative or the person to whom legal authority has been delegated);

(3) a guardian;

(4) any of the following persons may consent when the parent, managing conservator, or guardian cannot be contacted, and actual notice to the contrary has not been given:

(A) a grandparent;

(B) an adult brother or sister;

(C) an adult aunt or uncle;

(D) an educational institution in which the minor is enrolled; that has received written authorization to consent from the person having the power to give consent as otherwise provided by law;

(E) any adult who has care and control of the minor and has written authority to consent from the person having the power to give consent as otherwise provided by law;

(F) any court having jurisdiction of the child.

.006. Release of Medical Information.

(a) Authorization to release medical information is necessary to share screening results with diagnosis and treatment providers, such as those listed on the bottom of the screening form and for those providers to share information with DHR and TDH. The Authorization to Release Medical Information form meets this requirement.

(b) Only those adults who have legal authority over a minor may consent to the release of a minor's medical information. These adults are parents, guardians, or managing conservators. In the case of a foster child, an authorized DHR representative may consent to release information.

(c) Authorization to release medical information must be in writing. If the recipient requests that information be released, a written authorization must be filed in the case record.

(d) If another agency or individual, not contracted with DHR to provide services, requests information directly, that agency or individual must provide a release signed by the recipient. The release must be filed in the case record. In addition, that agency must be subject to a standard of confidentiality comparable to that of DHR, and the request information must be necessary to the administration of the Medical Assistance Program under Title XIX.

(e) Statistical information or other general information which does not identify individuals is not subject to the preceding restrictions.

(f) Recipients may give a copy of screening results in their possession to anyone they see fit. For this reason, recipients should be encouraged to keep their copy of the screening form, to be used for day care, foster care, Headstart, or any other program requiring medical records.

.007. Freedom of Choice.

(a) All EPSDT recipients have the right to choose providers of medical screening, dental, and diagnosis and treat-

ment services. In exercising this freedom of choice, the recipient would normally consider:

- (1) family doctor or dentist;
- (2) selection of a doctor or dentist from those lists available to the responsible DHR worker or contract agency employee;
- (3) a doctor or dentist the recipient has learned about from some other source.

(b) At the request of the recipient, the worker should assist in the selection of a provider. Selection of a provider should include consideration of:

- (1) the type of provider required;
- (2) availability of a family doctor or dentist;
- (3) participation of provider in Medicaid;
- (4) accessibility of the provider;
- (5) availability of transportation;
- (6) urgency of the referral.

(c) Selection assistance provided to the recipient must be free of worker preferences or prejudices.

Doc. No. 805582

Medical Phase 326.39.31.001, .003-.005, .007, .008

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.001. *Medical Screening Objectives.*

[(a)] *Medical screening services are provided under the EPSDT Program to ensure that children who are Medicaid recipients have continuous well child care. The objectives of screening are:*

- (1) *the identification of children who have suspected health problems or needs by using quick and simple procedures;*
- (2) *the referral of the child for definitive diagnosis/treatment if indicated by the screening so that health problems are prevented, corrected, or managed effectively.*

[Medical screening is the use of medical procedures by health professionals to sort out apparently healthy persons from those who may have a disease or abnormality. The immediate purpose is to identify persons whose health problems require diagnosis or further study. The ultimate purpose is to prevent disease, chronic illness, and disability.]

[(b)] *In order to meet these objectives, the following screening services will be available to clients:*

- (A)(1) health and developmental history;
- (B)(2) unclothed physical examination;
- (C)(3) developmental assessment;
- (D)(4) immunizations appropriate for age and health history;
- (E)(5) assessment of nutritional status;
- (F)(6) vision testing;
- (G)(7) hearing testing;
- (H)(8) laboratory procedures appropriate for age and population groups;
- (I)(9) for children three years of age and over, dental services furnished by direct referral to a dentist for diagnosis and treatment.

.003. *Approved Medical Screening Providers.*

[(a)] *DHR contracts with TDH and other approved private and public medical providers to provide screen-*

ing services. TDH uses mobile screening teams to perform screening. [Medical screening providers include local health department screening providers, Texas Department of Health Resources (TDHR) mobile teams, and other TDHR-approved medical screening providers.]

.004. *Primary Responsibilities of Screening Providers.* The primary responsibilities of screening providers are:

(1)(a) to conduct medical screening according to policies and procedures established by the Department of *Human Resources and TDH* [Public Welfare (DPW) and TDHR];

(2) *to record screening results on the appropriate form;*

(3)(b) to provide clinic surroundings which will establish a good relationship between clinic personnel and the recipient and his or her family;

(4)(d) to be familiar with the medical care identification card [and the Medical Assistance Record Book].

(5)(d) to interpret medical screening results to the parent, *conservator, responsible adult*, and/or recipient during the exit interview;

(6)(e) *for TDH screeners*, to interpret medical screening results to the assigned early and periodic screening, diagnosis, and treatment (EPSDT) worker at the screening site. In the event of a referral, the Medical Referral form will be used to explain abnormalities;

(7)(f) *for TDH screeners*, to maintain a daily log of recipients *scheduled and* screened.

.005. *Cooperative Responsibilities of TDH Screening Providers and DHR Staff (Local DPW Personnel).* The cooperative responsibilities of screening providers and *DHR staff* [local Department of Public Welfare (DPW) personnel] are:

(1)(a) to jointly *evaluate, select, and approve* screening sites convenient to the EPSDT Medicaid eligible populations;

(2)(b) to determine the days and hours screening will be conducted at each site;

(3)(c) to determine the number of recipients who will be screened per day and/or per week;

(4)(d) to notify concerned personnel as soon as possible in the event of a change or cancellation of scheduling;

(5)(e) to see that all items on the [Report of Medical History and] Screening/*Claim form* and the medical referral are completed as accurately and completely as possible;

(6)(f) to provide *family planning* information to recipients [females] known to have begun menses or *to members of their family in* [for any person expressing an interest in family planning or indicating a] need of [for] such medical, [or] social, *or* [educational services. *This includes the initiation of a discussion* [will be initiated] about the *services available from family planning providers, such as* [availability and benefits of family planning services,] annual physical exam, lab tests, counseling, education, and contraceptive method of their choice.

.007. *Medical Screening Procedures.*

(a) Screening procedures *are performed* [for each person are done] by competent professionals and their assistants. Children should be accompanied by one or both parents, *conservator* or guardian, or other responsible adult.

(b) *Screening procedures include but are not limited to health history, immunizations, developmental assessment, vision and hearing tests, unclothed physical,*

basic nutritional assessment, and laboratory procedures appropriate for age and population groups.

(c)(b) Clinic procedure should follow the most logical sequence afforded by the physical environment.

.008. Referrals for Diagnosis and Treatment from TDH Screeners.

(a) (No change.)

(b) **Questionable or nonurgent referrals (direct, on-site referral has not been made) are forwarded to a reviewing physician. The reviewing physician, upon receiving the completed report of medical history and screening (including laboratory reports) will complete the medical referral, if indicated. After receiving these forms from the reviewing physician, the screening nurse is responsible for providing the EPSDT worker with the forms and explaining the findings to the worker. The worker explains the reason for the referral to the parent or conservator.** (Emergency referrals for diagnosis and treatment are initiated at the point of medical screening. The reason for referral is explained by the screening staff to the parent and the DPW representative at the screening site.)

(c) **A direct, on-site referral is made by the screening nurse for emergency or urgent conditions and/or treatment. These obviously require diagnosis and/or treatment. The referral may be initiated without laboratory results and without the services of the reviewing physician. The screening staff explains the reason for the referral to the EPSDT worker, the parent, or conservator.** (All other referrals for diagnosis and treatment occur after receipt of laboratory work and review of the report of medical history and screening by the reviewing physician. The EPSDT follow-up worker is responsible for explaining to the parent the reason for referral.)

Doc No. 805583

326.39.31.002, .006, .009-.011

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II

- .002. *Eligibility*
- .006. *Primary Responsibilities of DPW.*
- .009. *Responsibilities of EPSDT Outreach Workers.*
- .010. *Confidentiality of Records.*
- .011. *Authorization.*

Doc. No 805584

Medical Diagnosis and Treatment 326.39.32

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Medical Diagnosis.*
- .002. *Provider Resources.*
- .003. *Responsibilities of EPSDT Follow-Up Workers.*
- .004. *DPW/TDHR Follow-Up on Immunization Referral.*
- .005. *History.*
- .006. *Referrals to the State Commission for the Blind (SCB).*
- .007. *Visual Conditions Appropriate for Referral to the State Commission for the Blind.*

Doc. No. 805585

EPSDT Follow-Up 326.39.41

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. General Follow-Up. It is the responsibility of the EPSDT worker to:

(1) verify that eligibility is current and remind the recipient to bring a valid medical care identification card to the provider;

(2) discuss referrals and provider alternatives with the recipient and assist recipients to make appointments with providers of their choice;

(3) assist in removing barriers to service by:

(A) offering and arranging transportation, if requested;

(B) offering and providing scheduling assistance, if requested;

(C) arranging babysitters when appropriate;

(D) accompanying the recipient to the service when appropriate;

(4) serve as liaison when necessary between the provider and the recipient and encourage recipients to ask questions and describe health concerns to providers;

(5) determine whether requested or needed services were received and assist in rescheduling appointments as needed;

(6) mention the availability of family planning services with appropriate recipients and ensure that recipients who desire family planning services are referred to a provider of their choice.

.002. Medical Follow-Up. it is the responsibility of the EPSDT worker to:

(1) complete referral forms and ensure that providers receive both the referral forms and necessary medical screening forms;

(2) provide referral assistance for services not covered by the Texas Medicaid Program.

Doc. No. 805586

Eligibility for Dental Services 326.39.42

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II

- .001. *Eligibility Requirements.*
- .003. *Medical Care Identification Card.*
- .004. *Medicaid Eligibility Letter.*

Doc. No. 805587

Dental Providers 326.39.43.001-.005

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Approved Dental Providers.*
- .002. *Change of Provider*
- .003. *Qualifications To Be a Participating Provider.*
- .004. *Professional Advisory and Review Committee.*
- .005. *Termination of Provider Participation.*

Doc. No. 805588

Medical Follow-Up Services 326.39.43.006, .007

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.006 TDH Follow-Up on Immunization Records. TDH has primary responsibility for follow-up on recipients' referral for immunization as the result of screening. However, EPSDT workers should coordinate their follow-up referrals for treatment diagnosis to reinforce TDH's efforts to ensure that recipients receive this preventive care.

.007 Referrals Following Screening—State Commission for the Blind.

(a) Recipients who are reluctant to follow through with scheduled or recommended appointments with ophthalmologists or optometrists to determine the extent of visual loss should be referred to State Commission for the Blind (SCB). Recommendations for procurement of glasses should not be referred

(b) Recipients should be referred who:

- (1) are in need of eye surgery;
- (2) have eye muscle imbalances;
- (3) are blind;
- (4) need special education because of visual handicap;
- (5) have problems listed in Appendix IV of the EPSDT handbook, Visual Conditions Appropriate for Referral to State Commission for the Blind (SCB).

(c) The following visual conditions are not appropriate for referral to SCB:

- (1) refractive error;
- (2) myopia;
- (3) myopic astigmatism;
- (4) conjunctivitis.

(d) A legible Medical Referral form should be sent to SCB when a referral is made.

Doc No 805589

Dental Program Benefits 326.39.44.001, .002, .004-.008

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Reasons for Limitations.*
- .002. *Scope of Services.*
- .004. *Denture Service.*
- .005. *Emergency Services.*
- .006. *Preventive Services.*
- .007. *Therapeutic Services.*
- .008. *Categories of Emergency Care.*

Doc. No 805590

Dental Follow-Up Services 326.39.44.010

The following new rule is proposed under the authority of the Human Resources Code, Title II.

.010 Worker Responsibilities for Dental Follow-Up. It is the responsibility of the EPSDT worker to:

(1) Refer all children three years old and over directly to a dentist for examination, unless the recipient refuses service or is not periodically eligible.

(2) Submit a Request for Dental Services form to obtain prior approval for routine dental services. The form should be sent to Texas Department of Human Resources, Dental Claims Payment Section, 612-A, P.O. Box 2960, Austin, Texas 78769.

(3) Upon receipt of an approved Request for Dental Services form, ensure that the provider receives the form.

(4) Upon receipt of a disapproved request form, ensure that the recipient is provided an explanation. Request forms are disapproved for the following reasons:

(A) recipient has had services in the past 36 months;

(B) recipient is 21 years old or older;

(C) recipient is not Medicaid eligible.

(5) Inform recipients with dental emergencies to go directly to a participating dentist. Emergency dental service does not require prior authorization.

(6) Coordinate activities of mobile dental units and utilization reviews.

(7) Refer questions from providers concerning claims and payment to the address shown in the first item above

Doc No 805591

Dental Program Responsibilities 326.39.45

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Responsibilities of the Texas Department of Health (TDH).*
- .002. *Responsibilities of EPSDT Workers.*
- .003. *Responsibilities of the Texas Department of Human Resources.*

Doc. No. 805592

Dental Office Practices 326.39.46

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Dental Appointments.*
- .002. *Personal Contacts with Recipients.*
- .003. *Transportation of Recipients.*
- .004. *Recipient Records.*

Doc. No. 805593

Fee Schedule 326.39.47

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Maximum Fee.*
- .002. *Determination of Fee Schedule*
- .003. *Importance of Reporting Usual Fee.*

Doc. No. 805594

Dental Provider Claims 326.39.48

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Requests for Prior Authorization and Billing (for Other Than Emergency Care and Denture Repair)*
- .003. *Emergency Treatment Claim*
- .004. *Treatment Plan Invoice.*
- .005. *Emergency Follow-Up Treatment Plan.*
- .006. *Changes to Original Treatment Plan.*
- .007. *Referrals*
- .008. *Claims Returned for Additional Information.*
- .009. *Inquiries*
- .010. *Void Claim Forms*
- .011. *Claim Denials.*
- .012. *Withholding of Payment on Claims Filed.*

- .013. *Method of Payment.*
- .014. *Reimbursement.*
- .015. *Denture Repair Plan.*

Doc. No. 805595

Dental Services 326.39.51

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. *Dental Examination and Treatment.* Three types of services are available as funds permit: emergency, preventive, and therapeutic. To reinforce the fact that different request procedures are followed to obtain these services, the definitions are presented in the following rules.

.002. *Emergency Services.* Emergency dental services are those procedures necessary to control bleeding, relieve pain, and eliminate acute infection; operative procedures which are required to prevent the imminent loss of teeth; and treatment of injuries to the teeth or supporting structures. Prior authorization is not required for emergency dental services. A maximum of \$40 can be paid for emergency work done without any prior authorization and only one \$40 emergency invoice can be submitted on any one day for each recipient.

.003. *Preventive Services.* Preventive dental services include the cleaning of teeth (oral prophylaxis).

.004. *Therapeutic Services.* Examples of therapeutic services are pulp therapy for permanent and primary teeth; restoration of carious (decayed) permanent and primary teeth, maintenance of space, limited provision of removable prosthesis when masticatory function is impaired, when existing prosthesis is unserviceable, or in instances when aesthetic considerations interfere with employment or social development.

Doc. No. 805596

Providers 326.39.52

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. *Approved Dental Providers.* Dental providers include:

- (1) Licensed private dentists in Texas who have established a provider relationship with the Texas Department of Human Resources under the EPSDT Program
- (2) Local public health dental clinics with established provider relationships with DHR under the EPSDT Program.
- (3) DHR mobile dental units staffed by DHR dentists and assistants.

.002. *Notification to Staff of Provider Participation.*

- (a) The Texas Department of Human Resources prepares a list of participating dental providers each quarter. DHR sends this list to regional directors for medical services.
- (b) If it is determined that a provider is no longer participating in the program or is not accepting additional referrals, EPSDT dental services, DHR notifies the appropriate regional director for medical services through the DHR dental field coordinator and sends a copy of the notification to the Special Medical Services Division, State Office, 612 A

.003. Responsibilities of Providers. The EPSDT Dental Provider Manual suggests the following office procedures and responsibilities for participating dental providers:

- (1) to ask for a telephone number to contact each recipient for appointment confirmation;
- (2) to check well in advance of the dental appointment to ensure that the recipient will keep the appointment on the correct hour and day;
- (3) to encourage recipients to use their own initiative to get to the dental office at the time of the appointment;
- (4) to notify recipients of office rules as to "no shows" and "drop of recipient" policy;
- (5) to encourage recipients to understand the benefits of good dental health, and to explain dental procedures which are necessary;
- (6) to contact the local DHR officer for any of the following purposes:
 - (A) to check the validity of eligibility information if there is any problem or doubt;
 - (B) to request assistance in the scheduling of appointments for recipients;
 - (C) to arrange for needed transportation services for recipients;
 - (D) to obtain explanations of program benefits for any "drop in" recipients.

Doc. No. 805597

Special Cases 326.39.53

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. Change of Provider. A change of provider can be made for one or more of the following reasons:

- (1) treatment by a specialist is indicated;
- (2) the provider does not want to continue treatment with this particular recipient because of "no shows," personality conflict, or unavailability of appointment time;
- (3) the recipient prefers a provider nearer to home or place of employment;
- (4) the recipient does not want to continue treatment with the provider because of conflicts with the provider's office.

.002. Interrupted or Incomplete Treatment Plans.

- (a) An interrupted or incomplete treatment plan occurs when all the services authorized in the treatment plan are not rendered and the dental provider is paid for the portion of the services actually rendered
- (b) To be eligible for subsequent treatment, the recipient must have a valid medical care identification card or Medicaid verification letter.
- (c) If the recipient returns to the initial provider, the Request for Dental Services form is not required. The provider submits a new Dentist's Statement form for approval.
- (d) If the recipient chooses to change to a different provider, the DHR worker prints or types "treatment incomplete" or "treatment interrupted" across the top of the Request for Dental Services form. Additional documentation should be sent if necessary to explain the reason for the change. The worker then submits the form to DHR.

.003. Problems Discovered during Medical Screening by TDH Screeners.

- (a) EPSDT workers are responsible for initiating all routine requests for dental services by using the Request for Dental Services form.
- (b) If an emergency need for dental services is discovered during medical screening, the following steps are taken:
 - (1) The screening nurse indicates the need for dental care on the Screening/Claim form.
 - (2) The nurse explains to the recipient the need for dental care and how a DHR worker can help the recipient get that care.
 - (3) The worker assists the recipient in arranging dental services. The Request for Dental Services form should not be sent to the dentist for emergency services; however it should be used to document the emergency dental referral. A Medical Referral form is not used for dental referrals.

.004. Absence of Services Reported by Utilization Review Dentist.

- (a) In some cases, the utilization review shows unacceptable or questionable results and the review dentist reports an absence of services and a need for the procedure in question.
- (b) The director, EPSDT dental services, DHR, can permit the initial provider to complete the service involving the absence. After the provider makes an overpayment settlement covering discrepancies, he or she can submit a new treatment plan for authorization to complete needed treatment.
- (c) If the recipient cannot or does not want to return to the initial provider, he or she can go to another provider. In this case the DHR worker prints or types "absences found on review" across the top of the Request for Dental Services form. The worker submits the form to DHR for special handling.

Doc. No. 805598

Dental Utilization Review 326.39.54

The following new rules are proposed under the authority of the Human Resources Code, Title II.

.001. Purpose. A utilization review is an oral examination to verify the extent, quality, and appropriateness of dental services provided to recipients. Federal regulations require the EPSDT Program to conduct utilization reviews of dental providers.

.002. Selection of Providers. Normally, providers to be reviewed are chosen randomly and by volume of claims. In some cases, the director of EPSDT Dental Services, DHR, selects providers for review. The selection of a provider for review does not mean that the provider has done anything illegal or fraudulent.

.003. Notification and Coordination

- (a) DHR coordination must be accomplished in time to provide a schedule of reviews and a list of scheduled recipients to the local EPSDT staff approximately one month in advance of the review dates.
- (b) The names of recipients selected for review are confidential. They are to be shared only with authorized persons.

.004. *Dental Providers.*

(a) The Utilization Review Section, EPSDT dental services, DHR, notifies the provider of the scheduled review date at least one month in advance of that date. EPSDT dental services, DHR, sends a list of recipients to be reviewed to the provider seven days before the date of the review.

(b) The provider is invited to the review and is encouraged to furnish pertinent office records for verification in case of discrepancies or errors.

.005. *EPSDT Workers.* EPSDT workers support utilization reviews by ensuring the attendance of the selected recipients at the review sites. The validity of the reviews depends on recipient attendance rates and the number of services reviewed.

.006. *Method of Review.*

(a) The review team is headed by a dentist working under EPSDT dental services, DHR. A mobile dental unit normally is used as the review facility. Recipients served by those providers undergoing a review are selected at random by the Utilization Review Section and are examined against claims paid. The review is conducted during the hours of 8:30 a.m.-11:30 a.m. and 1 p.m.-4:30 p.m., with approximately 10 minutes allotted for each recipient.

(b) The first consideration in selecting a review site is to locate the review van for the convenience of the recipients and the EPSDT workers. Other considerations include a flat paved surface and waiting room facilities in the event of inclement weather. Electrical power and water hook-up are not required by the review van.

Doc. No. 805599

Dental Utilization Review 326.39.62

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

- .001. *Purpose.*
- .002. *Notification of Providers.*
- .003. *Notification of DPW Field Staff.*
- .004. *Method of Review.*
- .005. *Coordination.*
- .006. *Site Location.*
- .007. *Special Cases.*
- .008. *Utilization of Peer Review or Grievance Committees.*
- .009. *Utilization of State Board of Dental Examiners.*

Doc. No. 805600

Mobile Dental Units 326.39.64

(Editor's note: The texts of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rules is proposed under the authority of the Human Resources Code, Title II.

.001. *Request for Mobile Dental Unit.*

.002. *Concept of Mobile Dental Units.*

.003. *Coordinating Use of Mobile Dental Units.*

.004. *EPSDT Worker's Support of Mobile Dental Unit.*

Doc. No. 805601

Requests for Dental Services 326.39.65

(Editor's note: The text of the following rule proposed for repeal will not be published. The rule may be examined in the offices of the Texas Department of Human Resources, 706 Banister, Austin, or in the Texas Register Division offices, 503E Sam Houston Building, Austin.)

The repeal of the following rule is proposed under the authority of the Human Resources Code, Title II.

.001. *Request Card Procedures.*

Doc. No. 805602

Utilization Review

Long-Term Care Unit Procedures 326.44.08

The Department of Human Resources proposes rules and amendments to the nursing home agency rules concerning the continuation of eligibility for nursing home care for ICF-III and skilled recipients whose conditions improve to the extent that they no longer meet the criteria for ICF care. This revised policy permits payment for all Medicaid services (i.e., vendor drugs, hospital care, physician services, ICF-II nursing home care, etc.) from state funds for persons who had an ICF-III or skilled level of care on March 1, 1980, who meet ICF-II criteria but not ICF criteria, and for whom no alternate care arrangements are available.

It is the intent of the legislature that persons needing nursing home care receive the highest quality care available. Pursuant to the provisions of Riders 49 and 56 of the General Appropriations Act, the department adopted effective June 20, 1980, the rules and amendments on an emergency basis to ensure the continued health, safety, and well-being of such nursing home residents. Changes to the department's Medicaid eligibility rules were adopted on an emergency basis on that date as a result of the provisions of Rider 49. The proposed version of the Medicaid rules appears in this issue of the *Register*.

The department has determined that the cost of implementing the proposed rules and amendments, as appropriated by the 66th Legislature, will be approximately \$139,936 for fiscal year 1980. The budget recommendations for fiscal year 1981 is \$1,052,327. No fiscal impact is expected beyond fiscal year 1981; at that time the rules will be superseded by inclusion of the Rider 49 recipients in the ICF-II waiver. Therefore, resumed federal financial participation should be available for those recipients.

Written comments are invited and may be sent to Susan L. Johnson, administrator, Handbook and Procedures Development Division--210, Department of Human Resources, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

The following amendments are proposed under the authority of the Human Resources Code, Title II.

.001. Preadmissions.

(a)-(e) (No change.)

(f) Appeals procedure:

(1)-(11) (No change.)

(12) ICF-II level of care determinations are limited to Title XIX recipient/patients who had an ICF-II, **ICF-III**, or **SNF** level of care determination on March 1, 1980.

(A) (No change.)

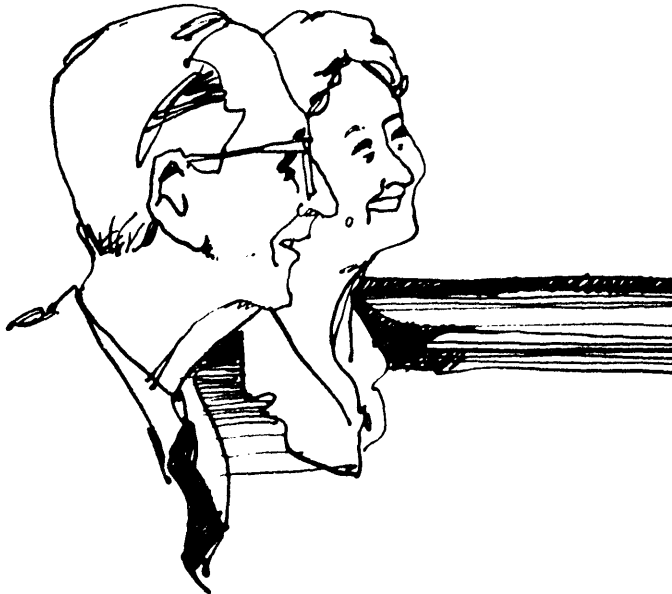
(B) ICF-II level of care determinations will remain available to persons who had an ICF-II, **ICF-III**, or **skilled** level of care *on* (prior to) March 1, 1980, and leave the nursing home for a hospital stay, therapeutic home visit, or other Title XIX or XX service, without a break in Medicaid eligibility, and then return to the same or another nursing home.

(C) **An ICF or skilled Title XIX recipient/patient who qualifies under (12)(A) or (B) above for an ICF-II level of care determination after March 1, 1980, will be referred to the regional alternate care staff for emergency search for alternate care. Efforts will be made to locate a foster home or other living arrangements suitable to the individual if there are no relatives or no other home possibilities.**

Issued in Austin, Texas, on July 22, 1980.

Doc. No. 805655 Jerome Chapman
Commissioner
Texas Department of Human Resources

Proposed Date of Adoption, September 1, 1980
For further information, please call (512) 441-3355.



State Board of Insurance

Rating and Policy Forms

Rating and Policy Forms 059.05.01

The State Board of Insurance proposes to amend effective January 1, 1981, Rule 059.05.01.005, which adopted by reference the rules governing the Insuring of Automobiles and Standards Endorsements II (Texas Automobile Manual).

The State Board of Insurance proposes to amend Rule 135, Single Interest Coverages—Fire and Theft Collision and Conversion, Embezzlement or Secretion, on page 79 and page 80 of the Texas Automobile Manual to update the rules and rate groups applicable to single interest coverages, adding comprehensive single interest coverage references and rates, and adding appropriate rule references for the Finance Master Policy form which is being separately proposed. In addition, provisions for optional deductibles of \$100 and \$250 have been included.

The endorsement supplement of the Texas Automobile Manual is to be revised to delete the following endorsements:

(36) automobile finance master policy endorsement—single interest collision coverage;

(37) automobile finance master policy endorsement—conversion, embezzlement, or secretion coverage;

(38) individual policy endorsement—single interest collision coverage;

(39) individual policy endorsement—conversion, embezzlement, or secretion coverage;

(42) individual policy endorsement—single interest fire and theft coverage.

These endorsements will be obsolete since the State Board of Insurance is separately proposing to adopt a self-contained single interest automobile physical damage insurance (Individual Policy form) and a self-contained single interest automobile physical damage insurance policy (Finance Master Policy form).

The endorsement supplement of the Texas Automobile Manual is to be revised to include a new endorsement TX-10-92 for use with the aforementioned new single interest policies to implement the optional deductibles which have been added to the manual rule.

The State Board of Insurance proposes to amend Section I, paragraph B.8 of Rule 120, Mobile Homes, to include appropriate references to comprehensive single interest coverage and rates for such coverage.

The proposed amendment has no known fiscal effects for the state or for units of local government (source: State Board of Insurance staff).

Public comment on the proposed amendment is invited and may be submitted in writing to D. E. O'Brien, director, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

This amendment is proposed under the authority of Article 5.06 of the Texas Insurance Code.

.005. Insuring of Automobiles and Standards Endorsements II. The State Board of Insurance adopts by reference the rules contained in the Insuring of Automobiles and Standard Endorsements II as amended **January 1, 1981** (August 1980). This document is published by and available from the Texas Automobile Insurance Service office, Suite 350, American Bank Tower, 221 West 6th Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 805665

Policy Forms and Endorsements 059.05.06

The State Board of Insurance proposes to amend effective January 1, 1981, Rules 059.05.06.001, which adopted by

reference the Standard Provisions for Automobile Policies written on and after October 1, 1974, and add new provisions for a single interest automobile physical damage insurance policy (Finance Master Policy form) and single interest automobile physical damage insurance policy (Individual Policy form). The proposed policy forms are intended to replace the various single interest endorsements used with the 1955 basic physical damage policy.

The two forms are self-contained and are in a more readable format. The forms contain essentially the same single interest coverages available in the present single interest endorsements except for certain substantive broadenings of coverage. The broadened features include the following:

(1) Unlike the present forms which require an actual repossession as a condition precedent to payment of loss, these two new single interest policies have been broadened to also allow payment for loss in those situations in which the retail purchaser has voluntarily surrendered the financed automobile and title.

(2) The present policy condition requiring the bank or finance company to make all reasonable efforts to collect overdue payments has been deleted.

(3) The present policy condition requiring that there be no payments more than 60 days past due on financed automobile as condition precedent to the attachment of coverage has been deleted.

(4) The present single interest endorsements limit the company's liability for conversion coverage to the cost of returning the converted automobile. The new single interest policies have eliminated this provision and now allow the same recovery for conversion losses as is provided for all other single interest coverages.

(5) The waiver of subrogation against the retail purchaser provision which formerly applied only to the fire and theft collision coverages has now been extended to the conversion, embezzlement, and secretion coverage.

(6) Comprehensive single interest coverage has been incorporated in the forms.

The proposed amendment has no known fiscal effects for the state or for units of local government (source: State Board of Insurance staff).

Public comment on the proposed amendment is invited and may be submitted in writing to D. E. O'Brien, director, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

This amendment is proposed under the authority of Article 5.06 of the Texas Insurance Code.

.001. *Standard Provisions for Automobile Policies Written on and after October 1, 1974.* The State Board of Insurance adopts by reference the attached Standard Provisions for Automobile Policies written on and after October 1, 1974, as amended in *January 1, 1981* (June 1980). This document is published by and available from the Texas Automobile Insurance Service office, Suite 350, American Bank Tower, 221 West 6th Street, Austin, Texas 78701, or the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

Doc. No. 805666

Workers Compensation Rate Administration 059.05.58

The State Board of Insurance proposes to amend Rule 059.05.58.001, which adopted by reference the Texas *Workers'* [Workmen's] Compensation Unit Statistical Plan Manual. There are two categories involved in this amendment.

The first amendment, other than editorial changes, provides for revised exposure coverage codes and expanded loss coverage codes as well as more precise individual claim reporting requirements. The purpose is the collection of more accurate description of loss data by identifying in greater detail causes of losses and provide more information on the effectiveness of loss prevention activities.

The second amendment deals with a revised system of coding (four digit) the "nature of injury" and the "part of body," the purpose of which is to define the specifics of an injury more accurately than the present three-digit system is capable of doing.

The staff of the State Board of Insurance has determined that there are no fiscal implications for the state or any unit of local government resulting from the proposed amendments.

Public comment on the proposed amendments is invited and may be submitted in writing to Rex Wimmer, Staff Actuarial Unit, State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786.

These amendments are proposed pursuant to Articles 1.04, 5.58, and 5.62 of the Texas Insurance Code.

.001. *Texas Workers'* [Workmen's] *Compensation Unit Statistical Plan Manual.* The State Board of Insurance adopts by reference the *attached* Texas *Workers'* [Workmen's] Compensation Unit Statistical Plan Manual, *amended in July 1979*, which contains instructions for the preparation and filing of experience on *workers'* [workmen's] compensation and employers' liability policies. This document is published by *and is available from the* National Council on Compensation Insurance, *One Penn Plaza*, [200 East 42nd Street,] New York, New York 10119 [10017], *or from the State Board of Insurance, 1110 San Jacinto, Austin, Texas 78786* [and available from Insurance Services Office, 125 Maiden Lane, New York, New York 10038], *where it is available for inspection. Purchase price is \$4.20.*

Issued in Austin, Texas, on July 17, 1980.

Doc. No. 805639 Pat Wagner
Chief Clerk
State Board of Insurance

Proposed Date of Adoption: September 1, 1980
For further information, please call (512) 475-3906.

Railroad Commission of Texas Liquefied Petroleum Gas Division

The Railroad Commission of Texas proposes new rules and the amendment of existing rules in the LP-Gas Division safety regulations to implement legislative changes effective September 1, 1980. New rules will require employees to be tested, set examination fees, exempt master or journeyman

plumbers from the license requirements for certain general installation and repair activities, and eliminate the license requirements for servicing and repairing certain types of appliances. The amendments will revise and update: (1) the list of forms; (2) license category designations; (3) insurance requirements; (4) examination requirements; and (5) the rules requiring tags on piping and converted appliances to apply to exempt master or journeyman plumbers. Finally, a new provision is proposed to the present rule on granting exceptions to the safety rules that would allow the LP-Gas Division director to grant temporary exceptions to the examination requirements. Such exceptions may be necessary to prevent undue hardship in some cases, particularly those involving sole proprietorships.

The staff of LP-Gas Division has determined that the proposed new rules and amendments will have no fiscal impact on any unit to state or local government.

Public comments will be received for 30 days following publication in the *Texas Register*. Comments should be submitted in writing to Guy G. Mathews, director, LP-Gas Division, P.O. Drawer 12967, Austin, Texas 78711.

LP-Gas Docket No. 1 Safety Rules

051.05.03.015, .016, .019, .020, .195, .215,
.300, .305

These amendments are proposed under the authority of Chapter 113, Texas Natural Resources Code.

.015. LP-Gas Report Forms. Under the provisions of **Chapter 113, Texas Natural Resources Code** [Article 6066d, Revised (Civil Statutes of Texas)], the Railroad Commission has adopted by reference the following forms for use by the Liquefied Petroleum Gas Division. These forms are available to the public upon request directed to the LP-Gas Division in Austin, Texas.

(1) LPG Form No. 1. Application for License.

(2) LPG Form No. 2. Liquefied Petroleum Gas Licensee's Bond.

(2)(3) LPG Form No. 3. Liquefied Petroleum Gas License.

(3)(4) LPG Form No. 4. Liquefied Petroleum Gas Vehicle Identification.

(4)(5) LPG Form No. 5. Manufacturer's Data Report, which shall be filed within 10 days after sale of containers by manufacturer.

(5)(6) LPG Form No. 7. Liquefied Petroleum Gas Tank Registration.

(6)(7) LPG Form No. 8. Manufacturer's Report of Pressure Vessel Repair or Modification.

(7) **LPG Form No. 15. Master or Journeyman Plumber Affidavit.**

(8) LPG Form No. 16A. **Representative's** Application for Examination for License.

(9) LPG Form No. 16B. Application for Examination for Manager's Qualification.

(10) LPG Form No. 16C. Application for **Employee's** Examination [Pending Future Licensing]

(11) LPG Form No. 17. Report of Odorization of Liquefied Petroleum Gases, which shall be filed within 30 days following calendar quarters ending March 31, June 30, September 30, and December 31, by any persons, firms, or corporations who odorize liquefied petroleum gases.

(12) LPG Form No. 18. Affidavit of Lost or Destroyed License.

(13) **LPG Form No. 18B. Affidavit of lost or destroyed LPG Form No. 4 decal.**

(14)(13) LPG Form No. 19. Inventory of Liquefied Petroleum Gas Bulk Storage Plants.

(15)(14) LPG Form No. 20. Inventory of Liquefied Petroleum Gas Service Stations and Bottle Filling Plants.

(16)(15) LPG Form No. 21. Respondent's Answer (cross reference: Rule .017).

(17)(16) LPG Form No. 996A. Certificate of Insurance, **Workers'** [Workmen's] Compensation **and Employers'** [or Employer's] Liability [Insurance].

(18)(17) LPG Form No. 996B. Affidavit in Lieu of **Workers'** [Workmen's] Compensation **and Employers'** [or Employer's] Liability Insurance.

(19)(18) LPG Form No. 997A. Certificate of Insurance, Automobile Bodily Injury and Property Damage Liability [Insurance].

(20)(19) LPG Form No. 997B. Affidavit in Lieu of Automobile Bodily Injury and Property Damage Liability Insurance.

(21)(20) LPG Form No. 998A. Certificate of Insurance, **General Liability** [Manufacturers' and Contractors' Liability, evidencing lower limits of insurance coverage].

(22)(21) LPG Form No. 998B. Certificate of Insurance, **Completed Operations and Products Liability** [Manufacturers' and Contractors' Liability, evidencing upper limits of insurance coverage].

(23)(22) LPG Form No. 998C. Affidavit in Lieu of Manufacturers' and Contractors' **and/or Completed Operations and Products** Liability Insurance.

(24)(23) LPG Form No. 999. Notice of Insurance Cancellation.

.016. Examination of Representative [for Future Licensing].

(a) **Each applicant for a license or license renewal shall file with the division LPG Form No. 1 designating a representative, who shall be an owner or employee of the licensee and shall be directly responsible for actively supervising LP-gas operations of the licensee. Sole proprietors and all members of partnerships licensed under Category "E" shall be examined by the commission.** [Posting of notice of examination for future licensing. To expedite the resumption of operations under a different LP-gas license following:

(1) the death of a sole proprietor or partner;

(2) the dissolution of a corporation;

(3) the dissolution of a partnership by change in membership or otherwise;

(4) a change in the business form under which operations are conducted; or

(5) other changes in ownership not specifically set out herein, the division will accept applications for examination for future licensing and post notice of such examination:

(A) for devisees and heirs expectant of a sole proprietor/dealer and;

(B) for members of a resulting partnership where dissolution of an existing partnership is anticipated; and

(C) in those other cases where early posting of notice would be beneficial to successors in interest to an operation.]

(b) *A licensee may not engage in LP-gas related activities governed by Chapter 113, Texas Natural Resources Code, until its designated representative has passed the examination administered by the commission. The commission shall not issue or renew a license unless the designated representative has passed this examination.* [Content of application. Each application for examination for future licensing must state the name(s) of the person(s), firm(s), or corporation(s) who will be the owner(s) of the business at the time it becomes licensed, even though the person(s), firm(s), or corporation(s) so named do not actually own the business at the time the application for examination is made and even where the corporate entity or firm named as owner is not an existing corporation or firm when application is made. Each application for examination must further state any other information that the division may reasonably require.]

(c) *The licensee shall notify the commission in writing upon termination of its representative of record and shall at the same time designate a replacement by submitting a new LPG Form No. 1.* [When examination should be taken. The person(s) who are to actively supervise operations of a dealership, when and if such operations become property of the applicant for future licensing, are to be named as examinee(s) on the application for examination and should take the examination as soon as possible after the 30-day notice period has expired. Once the examination for future license has been passed, the applicant is immediately eligible for license issuance, subject to the provisions and exceptions of subsection (d) herein].

(d) *Testing must demonstrate a representative's knowledge of the applicable safety requirements and penalties in Chapter 113, Texas Natural Resources Code, and the safety rules of the division.* [When license may be issued. Successor(s) in interest may apply for and be issued a new license as a different dealership prior to the expiration of the existing dealership's license or at any time thereafter upon making proper application for same and complying with all other provisions applicable to the licensing procedure, except that in no event may a license be issued more than five years after an examination for future licensing has been taken and passed or where the examinee for license is unable or unwilling to actively supervise the operations for which LP-gas license is sought.]

(e) *An application for examination (Form 16A) must be submitted to the commission prior to the examination.* [Any procedure for future licensing which has not complied or does not comply with this rule is legally insufficient for the purpose of issuing an LP-gas license authorizing dealership operations.]

(f) *A representative who does not pass the examination shall not be re-examined for a 24-hour period.*

(g) *The commission may administer any examination in the field.*

.019. Exception to Safety Rules [Docket].

(a)-(g) (No change.)

(h) *For good cause shown, the director of the LP-Gas Division may grant a temporary exception, not to exceed 30 days, to the examination requirements of the LP-Gas Division.*

.020. Original Testing of Operations Supervisors.

(a) *A licensee that maintains additional outlets or locations shall designate a person as operations super-*

visor at each outlet or location. The operations of the licensee at the outlet or location may not continue when the operations supervisor has not passed an examination administered by the commission. [Testing requirement. At no time may operations of any licensee continue at an outlet or location where the person directly responsible for and actively supervising the dealership's operations at that outlet or location has not passed required examination(s) administered by the Railroad Commission.]

(b) *Testing must demonstrate the operations supervisor's knowledge of the safety requirements and penalties in Chapter 113, Texas Natural Resources Code, and related safety rules of the division.* [Original testing. Testing must demonstrate a supervisor's ability and willingness to meet the safety requirements provided in Texas Revised Civil Annotated, Article 6066d, and in the rules and regulations of the Railroad Commission insofar as the same apply to the category of license(s) held by the dealership.]

(c) *An operations supervisor who does not pass the examination shall not be re-examined for a 24-hour period.*

(d) *The commission may administer any examination in the field.*

.195. Piping Installation Identification Tag.

(a) *LP-gas piping shall be installed, altered, or repaired and tested only by those persons, firms, corporations, or associations that [whol] have been licensed or who are master or journeyman plumbers exempt from licensing by the Railroad Commission of Texas, in accordance with the provisions of Chapter 113, Texas Natural Resources Code [Article 6066d, Revised Civil Statutes of Texas].*

(b) *Upon completion of the installation, alteration, or repair and testing of an LP-gas piping system, the licensee shall attach to the end of the piping nearest the container a metal tag bearing the firm name of the licensee, his current license number, and the year the piping is installed, altered, or repaired.*

(c) *The master or journeyman plumber exempt by Rule .308 upon completion of the installation, alteration, repair, or testing of an LP-gas piping system, shall attach to the end of the piping nearest the container a metal tag bearing the master or journeyman plumber's name, State Plumbing Board number, and the year the piping is installed, altered, or repaired.*

.215. Approved Appliances.

(a) *All LP-gas appliances shall be approved by the Railroad Commission or certified by a nationally recognized testing laboratory, such as American Gas Association, Inc., or Underwriters' Laboratories, Inc. If such gas appliances are not certified for use with LP-gas, they may be converted to use LP-gas as a fuel by a licensed dealer or master or journeyman plumber, provided that he tests [test] such appliances for proper operation before placing them in service [and further provided that he attach a metal tag to each such appliance bearing the words: "converted to LP-gas," the dealer's name, date, and his LP-gas license number].*

(b) *Upon completion of the conversion and testing of LP-gas appliances, the licensee shall attach to each such appliance a metal tag bearing the words: "converted to LP-gas," the licensee's name and LP-gas license number, and the year the appliance is converted.*

(c) *The master or journeyman plumber exempt by Rule .308, upon completion of the conversion and testing of LP-gas appliances, shall attach to each such appliance a metal tag bearing the words: "converted to LP-gas, the master or journeyman plumber's name, his State Plumbing Board number, and the year the appliance is converted.*

.300. Insurance Requirements.

(a) Pursuant to *Chapter 113, Texas Natural Resources Code* [Section 24 of Article 6066d, Texas Revised Civil Statutes Annotated], the Railroad Commission of Texas has adopted the following amounts of insurance for LP-gas dealers licensed by the State of Texas. *A valid certificate of insurance shall be filed with the LP-Gas Division before the commission grants or renews a license.*

(1) *Category "A"—manufacturers or fabricators.*

(A) *General liability, including premises and operations coverage and products and completed operations liability coverage: \$300,000 bodily injury; \$100,000 property damage; \$300,000 aggregate; or \$300,000 combined single limits* [Manufacturers and contractors liability: \$10,000, \$20,000, \$10,000].

(B) *Workers' [Workmen's] compensation, including employers' liability.*

(2) *Category "B"—transport outfitters.*

(A) *General liability, including premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 aggregate; or \$25,000 combined single limits.*

(B) *Workers' compensation, including employers' liability.*

(2) Limited installers or repairmen.

(A) *Manufacturers and contractors' liability:* \$10,000, \$20,000, \$10,000.

(B) *Workmen's compensation.*

(3) Wholesalers or jobbers.

(A) *Manufacturers and contractors' liability:* \$10,000, \$20,000, \$10,000.

(B) *Workmen's compensation.*

(3)(4) *Category "C"—carriers.*

(A) *General liability, including premises and operations coverage and products and completed operations liability coverage: \$300,000 bodily injury; \$100,000 property damage; \$300,000 aggregate; or \$300,000 combined single limits* [Automobile bodily injury and property damage: \$100,000, \$300,000, \$100,000].

(B) *Automobile bodily injury and property damage liability: \$100,000 bodily injury per person; \$300,000 bodily injury per occurrence; \$100,000 property damage; or \$300,000 combined single limits* [Manufacturers and contractors': \$50,000, \$100,000, \$50,000].

(C) *Workers' [Workmen's] compensation, including employers' liability.*

(4)(5) *Category "D"—general installers and/or repairmen.*

(A) *General liability including premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 aggregate; or \$25,000 combined single limits* [Manufacturers and contractors': \$10,000, \$20,000, \$10,000].

(B) *Workers' [Workmen's] compensation, including employers' liability.*

(5)(6) *Category "E"—retail and wholesale dealers.*

(A) *General liability including premises and operations coverage and products and completed operations liability coverage: \$300,000 bodily injury; \$100,000 property damage; \$300,000 aggregate; or \$300,000 combined single limits* [Automobile bodily injury and property damage: \$100,000, \$300,000, \$100,000].

(B) *Automobile bodily injury and property damage liability: \$100,000 bodily injury per person, \$300,000 bodily injury per occurrence; \$100,000 property damage; or \$300,000 combined single limits* [Manufacturers and contractors': \$50,000, \$100,000, \$50,000].

(C) *Workers' [Workmen's] compensation, including employers' liability.*

(7) Carburetors.

(A) *Manufacturers and contractors':* \$10,000, \$20,000, \$10,000.

(B) *Workmen's compensation.*

(6)(8) *Category "F"—bottle exchanges.*

(A) *General liability including premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 combined single limits* [Manufacturers and contractors': \$10,000, \$20,000, \$10,000].

(B) *Worker's [Workmen's] compensation, including employers' liability.*

(7)(9) *Category "G"—service station.*

(A) *General liability including premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 aggregate; or \$25,000 combined single limits* [Manufacturers and contractors': \$10,000, \$20,000, \$10,000].

(B) *Worker's [Workmen's] compensation, including employers' liability.*

(10) Municipal corporations.

(A) *Manufacturers and contractors':* \$10,000, \$20,000, \$10,000.

(B) *Workmen's compensation.*

(8)(11) *Category "H"—bottle dealers.*

(A) *General liability including premises and operations coverage: \$300,000 bodily injury; \$100,000 property damage; \$300,000 aggregate; or \$300,000 combined single limits.*

(B)(A) *Automobile bodily injury and property damage liability: \$100,000 bodily injury per person; \$300,000 bodily injury per occurrence; \$100,000 property damage; or \$300,000 combined single limits.*

(B) *Manufacturers and contractors':* \$50,000, \$100,000, \$50,000.

(C) *Worker's [Workmen's] compensation, including employer's liability.*

(9) *Category "I"—service station and bottle exchanges.*

(A) *General liability including premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 combined single limits.*

(B) *Worker's compensation including employers' liability.*

(10) *Category "J"—service station and bottle dealerships.*

(A) *General liability including premises and operations: \$300,000 bodily injury; \$100,000 property damage; \$300,000 aggregate; or \$300,000 combined single limits.*

(B) *Automobile bodily injury and property damage liability; \$100,000 bodily injury per person, \$300,000 bodily injury per occurrence; \$100,000 property damage; or \$300,000 combined single limits.*

(C) *Worker's compensation, including employers' liability.*

(11) *Category "K"—distribution system.*

(A) *General liability including premises and operations coverage: \$50,000 bodily injury; \$25,000 property damage; \$50,000 aggregate; or \$50,000 combined single limits.*

(B) *Worker's compensation including employers' liability.*

(12) *Category "L"—carburetion.*

(A) *General liability including premises and operations coverage: \$25,000 bodily injury; \$10,000 property damage; \$25,000 aggregate; or \$25,000 combined single limits.*

(B) *Worker's compensation including employers' liability.*

(12) *Bottle installers.*

(A) *Manufacturers and contractors: \$10,000, \$20,000, \$10,000;*

(B) *Workmen's compensation.*

(b) *A licensee or applicant for a license that does not employ or contemplate employing any employee in LP-gas-related activities may file LPG Form No. 996B in lieu of a certificate of workers' compensation, including employers' liability insurance. The licensee or applicant for a license must file the required insurance certificate with the division before hiring any person as a dealership employee. In the event that an applicant for LP-gas license or a licensed LP-gas dealer has no employee for such dealership, LPG Form No. 996B, an affidavit to such effect, may be filed in lieu of a certificate of workmen's compensation or employer's liability insurance on the express condition, to be stated in the affidavit, that the applicant or licensee will file such a certificate with the division prior to hiring any person or persons to serve as employee(s) of the dealership.*

(c) *A Category "C," "E," "H," or "J" licensee or applicant for a license that does not operate or contemplate operating a motor vehicle equipped with an LP-gas cargo tank or does not transport or contemplate transporting LP-gas by vehicle in any manner may file LPG Form No. 997B in lieu of a certificate of automobile bodily injury and property damage insurance, if this certificate is otherwise required. The licensee or applicant for a license must file the required insurance certificate with the division before operating a motor vehicle equipped with an LP-gas cargo tank or transporting LP-gas by vehicle in any manner. In the event that an applicant for an LP-gas license or a licensed LP-gas dealer is required to take out and maintain automobile bodily injury and property damage liability insurance in order to secure or retain a particular category license and in the event that such an applicant or dealer does not operate a motor vehicle equipped with an LP-gas cargo tank or tanks or transport LP-gas in any manner by vehicle, LPG Form No. 997B, an affidavit to such effect, may be filed in lieu of a certificate of automobile bodily injury and property damage liability insurance on the express condition, to be stated in the affidavit, that the applicant or licensee will file such a certificate with the division prior to the delivery or transport of LP-gas by motor vehicle.*

(d) *A Category "A," "C," or "E" licensee or applicant for a license that does not engage in or contemplate engaging in any LP-gas operations that would be covered by completed operations and products liability insurance may file LPG Form No. 998C in lieu of a certificate of completed operations and products liability insurance. The licensee or applicant for a license must file the required insurance certificate with the division before engaging in any operations that require completed operations and products liability insurance. In the event that an applicant for LP-gas license or a licensed LP-gas dealer is required to take out and maintain manufacturers' and contractors' liability insurance in order to secure or retain a particular category license and in the event that such an applicant or dealer does not engage in any LP-gas operations, LPG Form No. 998C, an affidavit to such effect, may be filed in lieu of a certificate of manufacturers' and contractors' liability insurance on the express condition, to be stated in the affidavit, that the applicant or licensee will file such a certificate with the division prior to engaging in any LP-gas activities.*

(e) *A licensee or applicant for a license that does not engage in or contemplate engaging in any operations that would be covered by general liability insurance may file LPG Form No. 998C in lieu of a certificate of general liability insurance. The licensee or applicant for a license must file the required insurance certificate with the division before engaging in any operations that require general liability insurance.*

305. *Re-examination of Operations Supervisor*

(a) *Re-examination of the person responsible for and actively supervising operations at any licensee [dealership] outlet or location shall be required five years from the date of original testing and prior to or on that date every five years thereafter and shall be a condition precedent to continued licensee [dealership] operations.*

(b) *The substance of those tests administered pursuant to subsection (a) herein shall include any or all areas of knowledge evaluated on original testing and/or those changes in relevant laws and rules effected since supervisory qualifications have [has] last been determined by the commission.*

(c) *This rule shall become effective September 1, 1985 [1979].*

Doc. No 805636

051.05.03.306-.309

These new rules are proposed under the authority of Chapter 113, Texas Natural Resources Code.

306. *Examination of Employees*

(a) *An LP-gas licensee may not employ any person as a service and installation person of LP-gas systems or motor fuel systems, delivery or transport truck driver, bottle filler, or motor or mobile fuel filler, unless the employee has passed an examination prepared and administered by the commission to determine competency to perform safely the duties required in handling or dealing with LP-gas in the capacity in which the person is to be employed. Any employee applying for the delivery truck driver examination must also submit to and pass the service and installation examination for LP-gas systems.*

(b) *Notwithstanding the provisions of subsection (a) of this rule, a trainee employee is exempt from the examination*

requirement for 45 days or until examined by the commission. The trainee employee shall file with the commission LPG Form No. 16C within the 45-day period so that an examination may be scheduled. An LP-gas licensee who employs a trainee employee shall provide direct supervision of the trainee until the trainee has filed Form 16C. Direct supervision shall be conducted by a person who has previously passed the examination qualifying him for the same duties as the trainee will perform. The licensee may be required to provide the commission with the social security number of all examined employees.

(c) A trainee who does not pass the examination shall immediately cease all LP-gas activities pertaining to the examination and shall not be re-examined for a 48-hour period.

(d) The commission may administer any examination in the field.

(e) A licensee shall notify the commission when a previously qualified employee is hired. Notification will include the employee's name as recorded on the current driver's license, social security number, previous licensee-employer, and LP-gas-related work to be performed.

.307. Examination Fees. Each applicant shall pay to the commission in advance a nonrefundable examination fee for each required examination in the following amounts:

- (1) Representative's examination.
 - (A) Categories "A" and "E"—\$50 each.
 - (B) Categories "B" and "C"—\$25 each.
 - (C) All other categories in Section 113.082, Texas

Natural Resources Code—\$10 each.

- (2) Supervisor's examination.
 - (A) Initial examination—No charge.
 - (B) Failure examination—\$50.
- (3) Employee's examination.
 - (A) Initial examination—No charge.
 - (B) Failure re-examination—\$15.

.308. Exemption of Master or Journeyman Plumber.

(a) Master or journeyman plumbers licensed by the Texas State Board of Plumbing Examiners shall be exempt from all Category "D" licensing requirements, except as provided in (b) below, if he:

- (1) actually performs or provides continuous on-site supervision of LP-gas installation; and
- (2) complies with the safety rules of the LP-Gas Division; and
- (3) files LPG Form No. 15 with the LP-Gas Division, stating that he or she has read the safety rules of the LP-Gas Division and will comply with these rules when installing, repairing, altering, or testing any LP-gas system or installing, repairing, modifying, or testing LP-gas appliances. This statement shall be renewed every five years and must be on file prior to performing any LP-gas installation, repair, or alteration activity.

(b) This exemption does not permit a master or journeyman plumber licensed by the Texas State Board of Plumbing Examiners to sell, service, or install containers without a LP-gas license.

.309. Service, Installation, and Repair of LP-Gas Appliances. The service and repair of a LP-gas appliance not required by the manufacturer to be vented to the outside atmosphere is exempt from Category "D" and "E" licensing. The installation of these unvented appliances to LP-gas

systems by means of LP-gas appliance connectors is also exempt from Category "D" and "E" licensing.

Issued in Austin, Texas, on July 21, 1980.

Doc. No. 805637 Guy G. Mathews, Director
LP-Gas Division
Railroad Commission of Texas

Proposed Date of Adoption: September 1, 1980

For further information, please call (512) 445-1189.

Surface Mining and Reclamation Division

The Surface Mining and Reclamation Division of the Railroad Commission of Texas is simultaneously proposing a new rule, as well as the amendment and repeal of specified existing rules in order to be consistent with the Texas Surface Mining and Reclamation Act of 1975 as amended in 1977 and 1979, and now short titled the Texas Uranium Surface Mining and Reclamation Act of 1979.

Specifically, the new rule provides for the issuance of temporary orders relating to surface mining operations. The amendments to existing rules clarify the definition of "party," delete all reference and application to coal, and change the rules to apply only to uranium mining operations. Specific rules which were similar to or repeated provisions of the Administrative Procedure and Texas Register Act (APA) or the Railroad Commission of Texas general procedural rules, or which placed restrictions on the Railroad Commission not required by the Uranium Surface Mining and Reclamation Act, are proposed for repeal.

The staff of the Surface Mining and Reclamation Division of the Railroad Commission of Texas has determined that the proposed new rule, amendments, and repeal of existing rules will have no fiscal impact on any unit of state or local government.

Public comments are invited. Persons should submit their comments in writing to J. Randel (Jerry) Hill, director, Surface Mining and Reclamation Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711.

Chapter II. Special Exceptions to the Rules of Practice and Procedure 051.07.02.011, .031, .034, .035, .050, .100, .101

These repeals are proposed under the authority of Chapter 131 of the Natural Resources Code.

- .011. *Scope of Rules.*
- .031. *Complete Application.*
- .034. *Transcript.*
- .035. *Continuance.*
- .050. *Decision after Public Hearing.*
- .100. *Time Extensions.*
- .101. *Petition for Adoption of Rules.*

Doc. No. 805522

051.07.02.012, .024, .051

These amendments are proposed under the authority of Chapter 131 of the Natural Resources Code.

.012. *Definitions. The following words and terms, when used in Chapter II, shall have the following meanings, unless the context clearly indicates otherwise:*

(1) (No change.)

(2) *"Party," as defined in the Administrative Procedure and Texas Register Act and used in the commission's general rules of practice and procedure and the Surface Mining and Reclamation Division's special rules of practice and procedure, does not mean "party to the administrative proceedings" as defined in the Texas Uranium Surface Mining and Reclamation Act, Chapter 131, et seq., Natural Resources Code.*

(3)(2) *"Person affected" means any person who is a resident of a county or any county adjacent or contiguous to the county in which a mining operation is or is proposed to be located, including any person who is doing business or owns land in the county or adjacent or contiguous county and any local government, and who demonstrates* [Such person affected shall also demonstrate] *that he has suffered or will suffer actual injury or economic damage.*

.024. *Who May Appear.*

(a) Any person or agency interested in a petition to declare lands unsuitable for surface mining or petition for adoption of rules may appear formally before the commission. [Any person affected may appear in a proceeding concerning a permit application.]

(b) (No change.)

.051. *Decision without Public Hearing.* If there has been no public hearing held pursuant to Rule .033, except in the instance of an application to revise a permit, the commission shall notify the applicant and any objectors within 45 days after the last publication of the notice required in Rule .030, whether the application has been approved or disapproved. [If the application is disapproved, specific reasons therefor shall be set forth in the notification. Within 30 days after the applicant is notified that the application or any portion thereof has been denied, the applicant may request a hearing on the reasons for the disapproval. The commission shall hold a hearing within 30 days of the request and provide at least 15 days notification of the hearing to the applicant and all persons affected. Within 30 days after the hearing, the commission shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the commission based on the record granting or denying the application in whole or in part and stating the reasons therefor.]

Doc No. 805523

051.07.02.052

This new rule is proposed under the authority of Chapter 131 of the Natural Resources Code.

.052. *Temporary Orders Prior to Notice and Hearing.*

(a) The commission may issue temporary orders relating to a surface mining operation without notice and hearing, or with the notice and hearing as the commission considers practical under the circumstances, when necessary to enable action to be taken more expeditiously than is otherwise provided by the Act to effectuate the policy and purposes of the Act.

(b) If the commission issues a temporary order under this authority without a hearing, and if the subject matter of the order is such as to require a public hearing under Section 131.163 of the Act, the order shall set a time and place for a public hearing to be held. The hearing shall be held as soon after the temporary order is issued as is practical.

(c) At the hearing, the commission shall affirm, modify, or set aside the temporary order. If the nature of the commission's action requires, further proceedings shall be conducted as appropriate under provisions of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) The requirements of Sections 131.159 and 131.160 of the Act relating to the time for notice, newspaper notice, and method of giving a person notice do not apply to the hearing, but general notice of the hearing shall be given that the commission considers practical under the circumstances.

Issued in Austin, Texas, on July 14, 1980.

Doc. No. 805524

J. Randel (Jerry) Hill, Director
Surface Mining and Reclamation Division
Railroad Commission of Texas

Proposed Date of Adoption: September 1, 1980

For further information, please call (512) 445-1176.

An agency may adopt a proposed rule no earlier than 30 days after publication in the *Register*, and the adoption may go into effect no sooner than 20 days after filing, except where a federal statute or regulation requires implementation of a rule on shorter notice.

Upon request, an agency shall provide a statement of the reasons for and against adoption of a rule. Any interested person may request this statement from the agency before adoption or within 30 days afterward. The statement shall include the principal reasons for overruling objections to the agency's decision.

This section now contains two classifications: codified and noncodified. Agencies whose rules have been published in the *Texas Administrative Code* will appear under the heading "Codified." These rules will list the new TAC number, which will be followed immediately by the *Texas Register* 10-digit number. Agencies whose rules have not been published in the TAC will appear under the heading "Noncodified." The rules under the heading "Codified" will appear first, immediately followed by rules under the heading "Noncodified."

CODIFIED

TITLE 7. BANKING AND SECURITIES Part IV. Savings and Loan Department of Texas

Chapter 65. Loans

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendment to §65.3 (056.08.00.003) to read as follows:

§65.3 (056.08.00.003) Loan Limitations Every association may make real estate loans to members secured by a mortgage, deed of trust, or other instrument creating or constituting a first and prior lien on improved real estate within the limits as classified in the following paragraphs:

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

(3) A real estate loan that does not exceed 90% of the appraised valuation of such real estate, or 90% of the actual sales price of such real estate if the purpose of the loan is for purchase money funds to buy such real estate, whichever is less, provided that the total funds of the association invested in loans qualifying under this provision does not exceed 40% in amount of the total assets of the association, and provided the following requirements are met:

(A)-(B) (No change.)

(C) The loan shall be repayable in monthly installments which shall include, in addition to interest payment, the equivalent of 1/12 of the estimated annual taxes, assessments, and insurance premiums on the real estate security.

Doc. No. 805547

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendment to §65.8 (056.08.00.008) to read as follows:

§65.8 (056.08.00.008) Consumer and Mobile Home Loans. With regard to consumer and mobile home loans:

(1) Net amounts.

(A) An association may make loans, secured or unsecured to borrowers, and it may purchase participations in like loans provided the net amount advanced and outstanding on any such loan or loans to any one borrower, shall not exceed \$50,000 and provided the payments on said loan shall be collected by the association, another insured institution, or an approved FHA mortgagee.

(B) (No change.)

(2)-(7) (No change.)

Doc. No. 805548

Under the authority of Article 342-114, Texas Revised Civil Statutes, the Savings and Loan Section of the Finance Commission of Texas and the Savings and Loan Commissioner of Texas have adopted the following amendment to §65.12 (056.08.00.012) to read as follows:

§65.12 (056.08.00.012) Association Investment in Real Property. An association may purchase and invest in real property in the course of its business and such investments may include subdividing, developing, and improving of the real property, and building homes and other buildings on such property principally for residential use. Other buildings authorized herein shall be designed as facilities for the offering of retail commercial and service uses to the residential occupants in the area of such improvements. An association may own, rent, lease, manage, operate for income, or sell such property. Investments of an association under this section shall not at any one time, without the prior written approval of the commissioner, aggregate more than an amount equal to 50% of the sum of the association's loss reserves, surplus, permanent reserve fund stock and undivided profits. All investments in real property under the authority of this section shall be subject to the following conditions.

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

(3) Loans.

(A) (No change.)

(B) An association selling raw land or developed building sites hereunder may receive as part of the consideration a promissory note which provides for complete payment within 20 years; the note shall require a minimum annual payment of not less than 5.0% of the principal, plus interest, payable at least annually as it accrues. In no event shall the cash consideration received at the time of sale of such raw land or developed building sites be less than 10% of the sales price and the balance shall be secured by a first mortgage on the real property sold. In the event an appraisal was secured at the time of original investment, which supported the amount of the investment, then no appraisal shall be required as to the value of the real property sold if the sale exceeds the association's investment in said real property. Upon consummation of the sale, the real property sold shall no longer be used in calculating the amounts allowed to be invested by the association under the authority of this section.

but in the event of foreclosure, then the property shall become foreclosed real estate.

(4)-(7) (No change.)

Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805549 L. Alvis Vandygriff
Commissioner
Savings and Loan Department of Texas

Effective Date: August 11, 1980

Proposal Publication Date: June 6, 1980

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

Part VI. Credit Union Department

Chapter 91. Credit Union Regulations

Capital Deposit Accounts

The following amended sections are adopted under the authority of the Texas Credit Union Act, Article 2461, Chapters 1 et seq., Vernon's Texas Civil Statutes.

§91.94 (.058.01.06.004). Types of Deposit Accounts. Deposit accounts may be made available only to members, in accordance with the following provisions:

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

(3) Remote withdrawal draft accounts.

§91.95 (.058.01.06.005). Definitions and Limitations of Deposit Accounts.

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

(c) Remote withdrawal deposit accounts (RWD accounts).

(1) Definition. Remote withdrawal deposit accounts (herein called RWD account) are special deposit accounts from which members are authorized to withdraw funds by means of drafts or other procedures authorized by the board of directors. By contract with the member, a credit union may authorize the member to withdraw funds from the RWD account, by drawing drafts on the credit union, payable through a financial institution, subject to such RWD account contract.

(2) Interest on RWD accounts shall be earned, computed, and paid as authorized by the board of directors. No credit union may pay interest on RWD accounts at a rate exceeding 6.0% per annum unless prior written approval has been given by the commissioner. Interest may be compounded daily, monthly, or quarterly, as authorized by the board of directors, subject to this regulation.

(3) Liquidity reserve

(A) The credit union shall maintain a liquidity reserve against all RWD accounts in an amount not less than:

(i) 50% of the total balance in all RWD accounts during the first three months of operation, and

(ii) 25% of the total balance in all RWD accounts during the next three months, and thereafter,

(iii) 20% of the total balance in all RWD accounts or 125% of the average daily payable-through bank clearings from RWD accounts during the previous calendar month, whichever is less.

(B) The liquidity reserve shall consist of any credit union investments authorized by law and payable or withdrawable within one year or less, or an irrevocable line of credit from a bank or credit union; provided, that if such line

of credit is used, the total amount of the credit union's borrowed funds shall not exceed the limit allowed by law.

(4) Accounting requirements. The credit union shall furnish a statement to the holder of each RWD account, not less often than once each month for active accounts and not less often than once each quarter for accounts without activity during the quarter. The statement must include opening and closing account balances, account number, and charges for the account service. The statement shall also show each deposit and withdrawal and shall identify each transaction by amount, date, and source of transaction. Records shall be maintained in accordance with generally accepted credit union accounting principals, and a credit union with RWD accounts shall reconcile transactions at payable through financial institutions not less than once each calendar month.

(5) Report requirements.

(A) Each credit union president shall make a written report to the board on the activity and status of the credit union's RWD program not less often than once each month.

(B) The board of directors shall report to the Credit Union Department the activity of the RWD program as at the close of each year, or more frequently as requested on a form prescribed by the commissioner, for good cause.

(A) The credit union commissioner may order a credit union to discontinue offering RWD accounts when such action is reasonably deemed to be in the best interest of the members, under the authority of Section 5.09(a)(4) or 5.09(a)(6) of the Texas Credit Union Act, Vernon's Texas Civil Statutes 2461 et seq.

(B) The commissioner may direct changes in a program and record keeping and require additional reports, in lieu of discontinuance of an RWD program.

(6) Service fees. A credit union may charge reasonable service fees for services including, but not limited to the following: (Fees shall approximate related costs.)

(A) furnishing draft forms;

(B) monthly service fee,

(C) account research, reconciliation, and documentation;

(D) overdraft, stop payment order, etc.

(7) Closure of accounts. An RWD account may be closed at any time for good cause shown or for violation of this regulation or the credit union bylaws, as authorized by the board of directors. The principal owner-member of any such closed RWD account shall be given notice of such closure by mail addressed to the member's last known address within five working days. Such members may appeal to the board of directors.

(8) Commissioner sanctions:

(C) The commissioner may require special liquidity reserves, in addition to those herein prescribed, when warranted.

(D) Deposit accounts issued or authorized by the credit union, and which remain outstanding prior to the effective date of this regulation, may continue in force and effect according to the terms and conditions under which they were issued and accepted, provided that any renewal,

extension, reissuance, or exchange thereof may be affected only in compliance with this regulation.

Issued in Austin, Texas, on July 21, 1980.

Doc. No. 805541 John P. Parsons
Commissioner
Credit Union Department

Effective Date August 11, 1980

Proposal Publication Date: September 7, 1979

For further information, please call (512) 837-9236.



Part VII. State Securities Board

Chapter 115. Dealers and Salesmen

The State Securities Board has amended §115.3 (065.08.00.003), by adopting a new subsection (c)(3)(G) exempting chartered financial analysts from the general securities examination requirements under Section 13 D of the Securities Act with no changes from the proposed text.

This amendment is adopted pursuant to the authority of Sections 13 D and 28.1, Article 581, Vernon's Annotated Texas Statutes.

§115.3 (065.08.00.003) Examination

(a) (b) (No change)

(c) Exemptions

(1) (2) (No change)

(3) A partial waiver of the examination requirements of Section 13 D is granted by the board to the following classes of persons:

(A) (F) (No change)

(G) Applicants who are certified by the Federation of Chartered Financial Analysts to be chartered financial analysts are not required to take the general securities portion of the examination, but must pass the examination on the Texas Securities Act.

(4) (5) (No change)

(d) (f) (No change)

Issued in Austin, Texas, on July 22, 1980.

Doc. No. 805629 Richard D. Latham
Securities Commissioner
State Securities Board

Effective Date August 12, 1980

Proposal Publication Date April 1, 1980

For further information, please call (512) 474-2233.

Chapter 127. Miscellaneous

The State Securities Board has repealed §127.2 (065.14.00.002), concerning filing and distribution of advertising for securities sales. New, more comprehensive rules are being adopted to replace this rule. The proposed repeal was published in the *Texas Register* on June 12, 1979 (4 TexReg 2138).

Section 127.2 (065.14.00.002) is repealed pursuant to the authority of Sections 22 and 28.1, Article 581, Vernon's Annotated Texas Statutes.

Issued in Austin, Texas, on July 22, 1980

Doc. No. 805630 Richard D. Latham
Securities Commissioner
State Securities Board

Effective Date August 12, 1980

Proposal Publication Date June 12, 1979

For further information, please call (512) 474-2233.

Chapter 129. Administrative Guidelines for Minimum Standards in Tender Offers

No comments from the public were received concerning the proposed amendment of §129.8 (065.15.00.500).

Pursuant to the authority of Sections 22, 23, and 28.1, Article 581, Vernon's Annotated Texas Statutes, the State Securities Board has adopted the amendment to paragraph (5) of §129.8 (065.15.00.500) with minor changes from the proposed text.

§129.8 (065.15.00.500) *Disclosure Standards* A sworn statement on forms prescribed by the commissioner shall be filed with the commissioner no less than 21 days, at least 15 of which are business days of the agency, prior to making the tender offer by an offeror who, no later than the date of filing, shall send a copy of such statement by certified or registered mail, return receipt requested, to the target company at its principal executive offices. The disclosure required by this section may be made on Form 133.26 (065.91.00.090) or on SEC Schedule 14D-1 with said schedule's required attachments and Texas Supplemental Form 133.27 (065.91.00.091). As used in this section, the term "offeror" as defined in §129.2(5) (200.5) is restricted to mean only the entity making the tender offer (which may be a natural person). Such statement shall be accompanied by a consent of the offeror to service of process as provided in Section 8 of the Securities Act and shall contain at least the following information:

(1) (4) (No change)

(5) Complete information on the organization and operations of the offeror including, without limitation, the year of organization, form of organization, jurisdiction in which it is organized, and a description of its capital structure including its long term and short term debt. Where the offeror is other than a natural person, the offeror must furnish certified financial statements for the most recent fiscal year, audited by independent certified public accountants or independent public accountants, containing a balance sheet and related statements of income, changes in stockholders' equity and changes in financial position. If the statements above are as of a date more than 90 days prior to the filing

date, interim statements as of a date within 90 days of such date must also be filed. Such interim financial statements need not be audited but must be prepared in accordance with generally accepted accounting principles applied on a basis consistent with those used in the most recent audited financial statements. Offerors who are natural persons must disclose any financial statement or information concerning themselves which would, to the best of the offeror's knowledge and belief, be material to a decision by a security holder of the target whether to tender securities being sought by the offeror. Also required is a brief description of the location and general character of the principal physical properties of the offeror, a brief description of the business done by the offeror and its affiliates and associates, and the general development of such business over the past five years. Further, the filing must include the names of the directors and executive officers of the offeror and of its affiliates and associates, together with biographical summaries of each for the preceding five years to date and the nature and amount of any material interest, direct or indirect, of any of such directors or executive officers in any material transactions, in which the offeror and or its affiliates or associates was or is to be a party. Executive officers, directors, and holders of 10% or more of the securities of corporate offerors and persons holding similar positions in unincorporated entities making a tender offer are not required to file financial statements as part of an initial filing. Such financial information on any such person or company will be required to be filed by the commissioner only when such information appears to him to be a material disclosure to a specific tender offer.

(6) (21) (No change)

Issued in Austin, Texas, on July 22, 1980.

Doc. No 805631 Richard D Latham
 Securities Commissioner
 State Securities Board

Effective Date August 12, 1980

Proposal Publication Date April 1, 1980

For further information, please call (512) 475-4561.

Chapter 137. Guidelines for Regulation of Offers

The State Securities Board has adopted a new Chapter 137 (065.17), setting forth regulations for filing and use of advertising under Section 22 of the Securities Act. As adopted, a provision in the proposed rule requiring notice to the commissioner before a preliminary prospectus is used as advertising has been deleted. "Generic" advertising has been exempted from the filing requirements of Section 22 of the Act, as have certain ads which are to be used repeatedly in a series of similar issues of securities.

This chapter is adopted pursuant to Sections 22, 23.B, 28-1, and 29 G, Article 581, Vernon's Annotated Texas Statutes.

§137.1 (065.17.00.100) Application These guidelines relate to offers to sell securities which must be filed with the commissioner under Section 22 of the Securities Act. This section does not apply to advertising for sales made in reliance upon exemptions contained in Section 5 or 6 of the Act. Sections 29, 32, and 33 of the Act prohibit the use of false or misleading statements in connection with the purchase or sale of any security, whether exempt or not.

§137.2 (065.17.00.200) Filing Requirements.

(a) Written or printed offers required to be filed with the commissioner pursuant to Section 22.A(1) of the Securities Act must be received by the commissioner at least five business days prior to distribution of the offers in Texas, including distribution of the offers to dealers; provided this five-day period shall not apply to offers by preliminary or final prospectus or to tombstone ads. The commissioner may on written request waive or reduce this five day period. Material filed under this section may be used after five business days from the date of filing unless expressly prohibited by the commissioner.

(b) Draft copies of material, galley proofs, and scripts of film or slide presentations may be submitted to the commissioner to satisfy the filing requirement of Section 22.A(1) and the five day requirement of subsection (a) of this section but true final copies of any such material or filmed presentation must be provided to the commissioner, and adequate equipment or facilities made available to actually view the material or presentation in advance of its use in Texas.

(c) "Generic" advertisements, which under Rule 135.A of the SEC are not deemed to offer any security for sale, need not be filed pursuant to this section.

(d) If with respect to any issues of securities which are part of a series of offerings of similar nature, an advertisement is proposed to be used in substantially the same form for more than one issue of securities in the series, the offeror or sponsor may file a draft of such an advertisement together with written notice that the ad will be used to advertise more than one issue in the series, and the advertisement need not thereafter be filed in advance of offering each subsequent issue of securities in the series. The draft filed in advance of first use need not contain technical information, such as interest rates, prices, yields, etc., which is peculiar only to one individual issue in the series, but a final copy of each advertisement used for the series must be filed with the commissioner within 10 days after its first use.

§137.3 (065.17.00.300) Preliminary Prospectus. The language adopted by Rule 433 of the Securities and Exchange Commission is approved for use on preliminary prospectuses in Texas pursuant to Section 22.A(4) of the Act.

§137.4 (065.17.00.400) Tombstone Advertisements

(a) "Tombstone" advertisements need not be filed pursuant to §137.2 (200(a)) and are not subject to the requirements of §137.6 (600(a)) if they contain no more than one or more of the following:

- (1) date of issuance or release;
- (2) name and address of issuer;
- (3) identity or title of securities;
- (4) per unit offering price;
- (5) amount of offering;
- (6) brief statement of character or business taken from summary in the preliminary or final prospectus;
- (7) name of underwriters;
- (8) address where prospectus or offering circular may be obtained.

(9) Any statement or legend required by state law or administrative authority.

§137.5 (065.17.00.500) Materials for Dealer Use. Materials intended for dissemination to dealers only must bear a legend stating that the materials are not for public dissemination and are intended only for the use of dealers.

§137.6 (065.17.00.600) Standards for Supplemental Advertising.

(a) Advertising or sales material, other than tombstone ads, must be consistent with and conform to disclosures contained in the prospectus. Advertising and sales materials which depict predominately the positive elements of an offering and exclude such negative elements as are required to be disclosed in the offering prospectus may be found by the commissioner to be false, misleading, and likely to deceive a reader thereof. Sales materials which refer to specific issuers of securities by name must be accompanied by or preceded by a prospectus. Sales materials that include comparisons to other investment vehicles or indexes which are unwarranted or not fully explained may be considered misleading.

(b) References in advertising or sales materials to an exemption from or reduction in taxation under any laws should be consistent with the information or summaries of information which are contained in the prospectus.

(c) Projections, generalizations, conclusions, and opinions which tend to be misleading or likely to deceive a reader thereof shall not be permitted.

(d) All advertisements of and oral invitations to group sales meetings or "seminars" at which specific issue(s) of securities are to be offered or sold shall clearly indicate that the purpose of the meeting is to offer such securities for sale and shall disclose the name of the sponsor, underwriter, or selling agent.

(e) Any bonus, prize, gift, or similar consideration which is offered to investors as an inducement to buy securities or offered to dealers or salesmen as an inducement to sell a specific offering or issue of securities (but not as an inducement in connection with general public relations or goodwill building activities unrelated to the sale of a specific issue) must be fully disclosed to investors and to the commissioner.

§137.7 (065.17.00.700) Advertisements in Texas Publications. Advertisements in newspapers or periodicals whose circulation is directed primarily to residents of Texas or placed solely in a local edition of an otherwise nationally distributed newspaper or periodical which offer securities which may not be legally offered to Texas residents should indicate in the text of the advertisement that the securities are not offered for sale to Texas residents.

Issued in Austin, Texas, on July 22, 1980.

Doc No 805632 Richard D. Latham
 Securities Commissioner
 State Securities Board

Effective Date: August 12, 1980

Proposal Publication Date: April 15, 1980

For further information, please call (512) 474-2233.

TITLE 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

Chapter 51. General Operating Policies

The Texas 1986 Sesquicentennial Commission adopted §§51.5-6 (367.01.00.001-.006), concerning general operating policies, to satisfy those provisions of responsibility, operation, and management entrusted to the commission under Ar-

ticle 6145-11, Section 10. As a result of comments received by the commissioners at the third quarterly meeting, there are some changes in the policies. The sections cover the purpose of the commission, program, meetings, organization, staff, and committees. The sections create a consistent framework for daily operations and management.

§51.1 (367.01.00.001) Purpose of the Commission. The Texas 1986 Sesquicentennial Commission (hereafter referred to as commission) shall fulfill all duties and purposes assigned by law. The commission may, upon responsible and deliberate evaluation, expand its specifically assigned duties to satisfy any requirements prescribed by law.

§51.2 (367.01.00.002) Program of the Commission

(a) It shall be the responsibility of the commission to set policy, identify objectives, and to approve all programs and activities of the commission and its staff.

(b) The commission shall develop and implement a master plan designed to fulfill its responsibilities, and to successfully plan and execute the appropriate observance of the 150th anniversary of Texas independence, and its subsequent progress as a state. Included in this plan shall be historic, economic, cultural, environmental, and social aspects of Texas, including appropriate past, present, and future highlights.

(c) The commission shall create and maintain a working relationship with other public and private sector groups interested in the sesquicentennial celebration. Whenever possible, the resources of these two groups will be developed, supported, and utilized by the commission to insure maximum efficiency and economy of operation. The commission is authorized to enter into contracts with other state agencies or institutions and with qualified private institutions or non-profit organizations to carry out the purposes of the Act.

(d) The eight duties assigned the commission by statute shall be incorporated into the master plan. The master plan shall be published and adopted as commission policy and delineate all programs, activities, goals, and functions of the commission.

(e) The commission shall have the authority to enter into contracts with a recognized and financially responsible advertising and/or public relations firm having a minimum of five years experience, and to contract for time for broadcasting facilities, space in periodicals for the publication of publicity information, historical facts, statistics, drawings, and photographs which will be useful and informative to persons within and outside the state, and to enter into contract with recognized and financially responsible media production companies for the production of moving pictures and still pictures in the state, and to provide for the distribution of such productions or publicity matter to other governmental, quasigovernmental, or private organizations.

§51.3 (367.01.00.003) Meetings of the Commission

(a) There shall be four regular meetings of the commission each calendar year. They shall be held on the second Friday in February, the second Friday in May, the second Friday in August, and the second Friday in November, or as near these days as the commission may find practicable. Notice of every regular meeting shall be mailed to the commissioners at least 20 days before the time appointed for the meeting.

(b) Special meetings of the commission may be called by the chairman of the commission when he deems necessary, or shall be called by the chairman within 14 days of

receipt of a written request of 2/3 of the commission, as then constituted. Notice of any special meeting shall be mailed to commission members at least 10 days in advance, with a statement of the time and place of the special meeting, and information as to the subject or subjects to be considered.

(c) A majority of the members of the commission shall constitute a quorum.

(d) All matters submitted to members of the commission for their vote, including the election of vice chairman of the commission, shall be decided by plurality vote.

(e) No proxies are permitted at any meeting of the commission other than those provided by law for statutory members.

§51.4 (367.01.00.004) *Organization of the Commission*

(a) Officers of the commission shall include the chairman who, as required by law, is appointed by and serves at the pleasure of the governor, and a vice chairman who shall be elected by the commission from either remaining membership category from which the chairman has not been drawn.

(b) The chairman shall direct the activities of the commission and its staff to accomplish the goals and objectives set by law and by the commission. The chairman shall preside at all meetings of the commission, shall act as spokesman for the commission, and shall be an ex officio member of all committees of the commission. The vice chairman shall act in behalf of the chairman in his absence, and carry out whatever additional duties may be assigned him by the chairman.

(c) The commission shall elect the vice chairman for a one year term at its regular May meeting, and the term shall begin immediately.

(d) Should resignation, death, or incapacity for any reason create a vacancy in the vice chairmanship, the chairman shall, at the next regular meeting of the commission, conduct an election for a new vice chairman to fill the unexpired portion of the former vice chairman's term.

(e) All commissioner's activities requiring expense reimbursement, other than commission and committee meetings, shall require the prior approval of the chairman.

§51.5 (367.01.00.005) *Staff of the Commission*

(a) The commission shall employ an executive director to serve at the pleasure of the commission as chief administrative officer of the Texas 1986 Sesquicentennial Commission.

(1) In addition to his general administrative duties, he shall keep full and accurate minutes of all transactions and proceedings of the commission.

(2) With the consent of the commission, and in the name of the Texas 1986 Sesquicentennial Commission, he may accept donations and gifts of property and money which may be made to further the purposes of the commission.

(3) He shall have full authority to employ or dismiss any and all personnel necessary to the discharge of the commission's staff responsibilities. He shall, however, consult the commission on candidates for the position of assistant executive director or that staff member who, although otherwise designated, acts as chief administrative assistant to the executive director.

(4) The commission shall review annually the performance of the executive director.

(b) No employee of the commission shall accept any office, employment, or position on any committee, governing board, or other position of possible influence, authority, or

responsibility with any organization connected with the sesquicentennial program, with or without compensation, without the prior consent of the commission. No employee of the commission shall accept any honorarium or other remuneration for himself for services rendered to any sesquicentennial-related organization, other than reimbursement for actual travel expenses, nor own any interest in any sesquicentennial-related organization, nor engage in any business, or enterprise connected with the sesquicentennial program without the prior consent of the executive director and the commission. Any honorarium or remuneration paid to an employee should be returned or donated to the general fund of the commission.

(c) The term "employee" as used herein is not deemed to include consultants or advisors to the commission who are engaged on a contractual basis from time to time to advise the commission on limited, specific matters.

§51.6 (367.01.00.006) *Committees of the Commission*

(a) There shall be five standing committees of the commission.

(1) The Program Development and Special Projects Committee (Program Committee) shall maintain a close and continuing liaison with the executive director. It shall oversee development of the master plan for the sesquicentennial celebration. The committee shall, at least annually, review program performance and recommend to the full commission program priorities, program changes, and or new programs. The committee shall be responsible for special projects. It shall develop and recommend to the full commission potential research and or special projects related to the sesquicentennial. It shall at the request of the executive director review, revise, and determine which special presentations or projects are to be brought to the attention of the entire commission.

(2) The Marketing Committee shall maintain a close and continuing liaison with the executive director and its public relations or advertising firm. It shall review and recommend to the full commission advertising concepts, publicity policies and guidelines, public relation themes, media plans, copy and art themes and concepts, layouts, proposed media schedules, and budgets. When it has been determined to open the commission's advertising and publicity account to solicitation by qualified firms, the committee shall assist the executive director in screening qualified companies prior to their presentations before the full commission. It shall also assist the staff in developing and encouraging participation by the private sector in the sesquicentennial celebration.

(3) The Finance Committee shall be responsible for developing the commission's biennial budget request. The committee shall maintain a close working relationship with the executive director of the commission and the Program and Marketing Committees, in the development of the commission's budget, and shall consider changes in budget allocations when necessary for recommendation to the full commission. The committee shall also assist the executive director in developing matching fund programs, and encouraging financial participation by the private sector in supporting sesquicentennial programs.

(4) The Administration Committee shall maintain a close working liaison with the executive director of the commission. The committee shall be responsible for operations oversight including personnel, facilities, and acquisitions.

The committee shall review and report annually to the full commission on the performance of the executive director. It shall recommend salary adjustments, classification changes, and staff requirements.

(5) The Public Affairs Committee shall assist the executive director in representing the commission and its programs to the legislature, the Office of the Governor, the Office of Lieutenant Governor, and the Office of Speaker. It shall establish and maintain liaison with such other state agencies and local jurisdictions as the commission may deem advantageous. It shall also maintain liaison, and close working relationships, with the state's units of local government, regional chambers of commerce, and the various sesquicentennial related private sector bodies within the state.

(b) The chairman of the commission shall designate for each committee a chairman who shall serve annually at the pleasure of the commission chairman. Each committee chairman shall be designated from among the membership of the committee.

(c) All vacancies on any committee shall be filled by the chairman in an expeditious manner. The chairman of the commission shall appoint five or more members to each of the five standing committees. In making appointments, he shall attempt to utilize fully each member's professional background and experience and special interests. He shall also attempt to balance the commission tenure of committee members in an attempt to insure maximum continuity of committee memberships. Every commission member shall be appointed to at least one standing committee.

(d) Each committee shall meet at the call of its chairman, or the chairman of the commission.

(e) The executive director of the Texas 1986 Sesquicentennial Commission or his designee, shall be a nonvoting ex officio member of each committee and, at the request of each committee chairman, provide such staff assistance as the committee from time to time may require.

(f) A quorum at each committee meeting shall consist of a majority of its membership.

(g) Summary minutes shall be kept of all standing and special committee meetings, copies of which shall be promptly approved by the committee chairman for review and then distributed to all commissioners.

Issued in Austin, Texas, on July 16, 1980.

Doc No 805626 Randy M Lee
Executive Director
Texas Sesquicentennial Commission

Effective Date August 12, 1980
Proposal Publication Date June 13, 1980
For further information, please call (512) 475-1986.



TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

Chapter 51. Practice and Procedure Examinations and Licensing

The State Board of Barber Examiners has amended §51.53 (378.01.03.003) with no changes.

Public comment was received and no comments were received that resulted in changes in the section by the board.

This amendment is promulgated under authority of Articles 8401-8407 and 8407a, Texas Civil Statutes, and reads as follows.

§51.53 (378.01.03.003) *Out-of-State Applicant*

(a) (g) (No change.)

(b) Reciprocity of licensing, from May 6, 1980, forward, will no longer be granted by the State Board of Barber Examiners, and out of state applicants must comply with board §51.53 (003) to obtain a Texas barber license.

Doc No. 805536

The State Board of Barber Examiners has adopted §51.82 (378.01.03.033) with no changes.

This new section is promulgated under authority of Articles 8401-8407 and 8407a, Texas Civil Statutes, and reads as follows.

§51.82 (378.01.03.033.) *Late Renewals of Teachers' Licenses*
No teachers' licenses may be renewed after November 1 of the renewal year, other than within a 30-day grace period. If not renewed within that grace period, another teachers' license examination will be required.

Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805543 Mary Jo McCrorey
Executive Secretary
State Board of Barber Examiners

Effective Date August 11, 1980
Proposal Publication Date May 27, 1980
For further information, please call (512) 458-2241.

Part XIX. Board of Polygraph Examiners

Chapter 399. Out-of-State Polygraph Examiners

The Texas Board of Polygraph Examiners has adopted §399.1 (397.05.00.001) that relates to licensing of polygraph examiners in Texas from another state whose licensing laws are substantially equivalent to the requirements in Texas.

This section is promulgated under the provisions of Section 12, Article 4413(29cc), Vernon's Civil Statutes (Polygraph Examiners Act).

§399.1 (397.05 00.001.) *Reciprocal Licensing.* The following states, having been determined by the Texas Board of Polygraph Examiners to have polygraph licensing laws substantially equivalent to the requirements now in force in this state, are granted licensure for their polygraph examiners on an individual basis upon application and upon approval of that individual by the Texas board. These states have granted similar reciprocity to license holders of this state:

- (1) Arkansas;
- (2) Georgia;
- (3) Mississippi;
- (4) Oklahoma

Issued in San Antonio, Texas, on July 17, 1980.

Doc No 805732 Ryerson D. Gates
System Administrator
Board of Polygraph Examiners

Effective Date August 15, 1980
Proposal Publication Date June 10, 1980
For further information, please call (512) 227-6100

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IV. School Land Board

Chapter 155. Land Resources

Leasing of State-Owned Lands and Flats

The School Land Board has withdrawn from consideration proposed §§155.25-155.28 (135.18.02.005-.008). The texts of the rules appeared in the March 2, 1979, issue of the *Texas Register* (4 TexReg 686).

Doc No 805742

State-Owned Lands in the Coastal Area

The School Land Board has withdrawn from consideration proposed §§155.51-155.59 (135.18.04.001-.009). The text of the sections appeared in the March 2, 1979, issue of the *Texas Register* (4 TexReg 687).

Issued in Austin, Texas, on July 25, 1980.

Doc No 805743 John Foshee
Legal Counselor
School Land Board

Filed July 25, 1980, 10:40 a.m.
For further information please call (512) 475-1166.

Part X. Texas Water Development Board

Chapter 317. Texas Weather Modification Act

Definitions

The following section is adopted under the authority of Sections 5.131 and 5.132, Texas Water Code

§317.1 (156.11 01 001.) *Definitions of Terms.* The following definitions of terms apply, unless the subject matter or context clearly requires otherwise.

(a)-(e) (No change.)

(f) "Target area" means the area described by metes and bounds or other specific bounded description, which is intended to be affected by the operation. If hail suppression activity is included, the "target area" means the area within or the same as with the operational area, described by metes and bounds or specific other bounded description, which is intended to be affected by the operation.

(g) "Operational area" means that area, described by metes and bounds or other specific bounded description, not intended to be affected by the operation, which may be outside the target area but within which it is reasonably necessary to effectuate the purposes of a permitted operation within the target area. If hail suppression activities are included, the operational area shall not exceed eight miles from the limits of the target area.

(h) (No change.)

(i) "Hail suppression" means the release of appropriate ice-nucleating materials or other chemicals into or adjacent to a cloud for the purpose of artificially limiting natural hailstone growth within the cloud, so as to reduce, at ground level, the size, frequency, and damage without decreasing the cloud's natural precipitation efficiency.

Issued in Austin, Texas, on July 16, 1980.

Doc No. 805667 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Effective Date August 26, 1980
Proposal Publication Date April 18, 1980
For further information, please call (512) 475-7845.

Issuance of Licenses and Permits

The Texas Water Development Board has adopted the repeal of §§317.11-317.20 (156.11 05 001-.010). The proposed repeal was published in the May 6, 1980, issue of the *Texas Register* (5 TexReg 1716). The repeal of §§317.11-317.20 (156.11.05.001-.010) was proposed to allow their redesignation as §§317.11-317.20 (156.11 05 101-111). The rationale for the repeal is to allow the logical, sequential numbering of the steps in the issuance of licenses and permits which is impossible under the present numerical designation as it is restricted by rules of style for numbering regulations.

The Texas Water Development Board has adopted §§317.11-317.21 (156.11 05 101-111) in lieu of the repealed §§317.11-317.20 (156.11 05 001-.010), to become effective 20 days after filing with the Secretary of State's Office.

These sections are repealed under the authority of Sections 5.131 and 5.132, Texas Water Code.

Doc No 805668

The following subchapter is adopted under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.11 (156.11 05 101.) *License and Permits Required.* Unless specifically exempted by §317.12 (102) of this subchapter, no person may engage in weather modification

and control activities without first obtaining a license and permit issued by the commission.

§317.12 (156.11.05.102) License and Permit Not Required. Persons may engage in weather modification and control activities without obtaining a license or permit from the commission provided:

- (1) the activities consist of research performed wholly within laboratory facilities;
- (2) the activities are of an emergency nature for protection against fire, frost, sleet, or fog;
- (3) the activities are conducted by the United States government.

§317.13 (156.11.05.103) Application for License. An application for a license shall be filed with the executive director of the Texas Department of Water Resources and in order to be considered as complete and ready for processing shall meet the following requirements:

- (1) applications shall be submitted on a form provided by or approved by the executive director;
- (2) include a license fee of \$50; and
- (3) include evidence of:
 - (A) the possession by the applicant of a baccalaureate or higher degree of meteorology or related physical science or engineering and at least five years experience in the field of meteorology; or
 - (B) such other training and experience as may be acceptable to the commission as indicative of sufficient competence in the field of meteorology to engage in weather modification activities. If the applicant is an organization, the above educational and experience qualifications must be demonstrated by the individual or individuals who will be in control and in charge of the applicant's operations and at the applicant's discretion, at least one alternate who may be placed in control and in charge in case of emergency.

§317.14 (156.11.05.104) Expiration Date. Each original or renewal license expires on August 31 of the state's fiscal year for which it was issued.

§317.15 (156.11.05.105) Renewal of License. At the expiration of a license, the commission shall issue a renewal license to each applicant who pays the license fee and who has the qualifications necessary for issuance of an original license. The commission may refuse to renew the license of any applicant who has failed to comply with any provision of this act or this subchapter.

§317.16 (156.11.05.106) Referral of Application to Commission. When the executive director has determined that the application for a license or a renewal is complete, he or she shall submit the application to the commission for setting of a hearing date.

§317.17 (156.11.05.107) Notice of Intention.

- (a) Any person seeking to obtain a weather modification permit shall file a notice of intention with and obtain approval from the executive director before newspaper publication.
- (b) The applicant shall include the following in the notice of intention:
 - (1) The name and address of the applicant;
 - (2) The date on which the Texas Water Commission issued the applicant a Texas weather modification license and all dates of renewal.

(3) The nature and the object of the proposed operation.

(4) If applicable, the person or organization on whose behalf it is to be conducted.

(5) The operational area, described by metes and bounds or other specific bounded descriptions, in which, and the approximate dates and times during which, the proposed operation will be conducted. The description of the proposed operation area should be in sufficient detail to permit plotting on a general map.

(6) The target area, which is intended to be affected by the proposed operation, described by metes and bounds or other specific bounded descriptions, in sufficient detail to permit the plotting on a general map.

(7) The materials and methods to be used in conducting the proposed operation.

(8) A statement that persons interested in such permit application should contact the executive director.

(c) The applicant shall submit supporting data with the notice of intention which reflects the nature of the proposed operation. Such data shall be the form prescribed by the executive director and shall include at least a plan of operation detailing the type of weather modification activity, maps illustrating the proposed target and operational areas, equipment and personnel, the seeding situation, seeding methodology, and anticipated results. The applicant shall attach all of his contracts which pertain to the proposed operation and which relate to the above items.

(d) The executive director shall decide whether the notice of intention should include hail suppression as an objective of the proposed operation. The executive director may seek the advice of the Weather Modification Advisory Committee.

(e) If the notice of intention is disapproved as submitted to the executive director for its failure to include hail suppression as an objective of the proposed operation, the applicant may, within 10 days, request that the commission determine whether the proposed operation includes hail suppression. If the commission determines that hail suppression is not an objective of the operation, the commission shall enter a preliminary order to that effect. If the commission determines that hail suppression is an objective of the proposed operation, the commission shall enter a final order to that effect at the hearing reviewing the executive director's decision.

(f) Publication of notice. The notice of intention shall be published at least once a week for three consecutive weeks in a newspaper of general circulation published in each county in which the operation is to be conducted and in each county which includes any part of the affected area. If in any such county no newspaper of general circulation is published, then publication shall be made in a newspaper having circulation in the county.

(g) Proof of publication. The applicant shall file proof of publication, together with the publisher's affidavits, with the executive director during the 15 day period immediately following the date of the last publication. The applicant's submission of a publisher's affidavit which includes the name of the newspaper, the title of the affiant, the dates of publication, the county in which the newspaper is published, and the county or counties in which the newspaper is of general circulation, to which is attached a copy of a newspaper tear sheet of the notice that was published, will be admissible in the hearing before the commission as prima facie evidence of

the facts contained therein. Forms for a publisher's affidavit are available upon request to the executive director.

§317.18 (156.11.05.108) Application for Permit. An application for a permit may be filed with the executive director at any time but shall not be considered as complete and ready for processing until the following requirements are met:

- (1) The application shall be submitted on a form provided by or approved by the executive director.
- (2) Include a permit fee of \$25.
- (3) Include proof that the applicant holds a valid weather modification license.
- (4) Include sufficient information to satisfy the executive director that the applicant is able to respond in damages for liability which might reasonably arise as a result of the proposed operation. The applicant may satisfy this requirement by submitting a copy of a comprehensive liability insurance policy or a certificate guaranteeing coverage for the proposed operation for the term requested.
- (5) Include proof of publication that a notice of intention, which has been approved in form by the executive director, was published as prescribed in §317.17 (107) of this title.
- (6) Include a list containing the name and post office address of each individual who will participate or assist in the operation, as required by Section 18.091(a)(5), of the Act.

§317.19 (156.11.05.109) Referral of Application to Commission. When the executive director has determined that the application for a permit is complete, he or she shall submit the application to the commission for setting of a hearing date in accordance with the procedural rules of the Texas Water Commission.

§317.20 (156.11.05.110) Action on Application.

- (a) If the commission determines the following:
 - (1) that the applicant has satisfied the requirements of Section 18.081, Texas Water Code, and
 - (2) if Section 18.084, Texas Water Code, is appropriate to the application, that the results of elections held pursuant to the section reveal
 - (A) the results of all elections held in precincts, in whole or in part, in the target area, have approved the inclusion of hail suppression as a part of the weather modification operation, and
 - (B) the results of the elections held in precincts, in whole or in part, in the operational area, which approved the inclusion of hail suppression as a part of the weather modification operation yield an operational area which remains feasible for the conduct of the weather modification operation.

then the commission shall enter an order granting the applicant a permit.

(b) If the application for a permit that includes a request for authorization to conduct hail suppression activities does not describe a proposed operational area, the commission may designate an operational area within the proposed target area which can be not more than eight miles inside of the outer limits of the proposed target area.

§317.21 (156.11.05.111) Description of Permit. A permit shall include the following:

- (1) The effective period of the permit, which shall not exceed four years. If the permit is for more than one year, that the permit is effective for so long as the permittee continues to operate during the months authorized in the permit.

If a weather modifier is authorized to conduct an operation on behalf of a sponsoring person, the term of the permit is limited to the duration of the contract in effect between the weather modifier and the sponsor at the date that the commission issues the permit:

- (2) The location of the operation.
- (3) The methods which may be employed.
- (4) A requirement that the permittee maintain insurance coverage or other financial assurance of the types and amounts satisfactory to the commission for the term of the permit.
- (5) A requirement that the permittee maintain his license. Suspension of the license shall automatically suspend any permit issued under the license. Revocation of the license shall automatically revoke any permit issued under the license.
- (6) Other necessary terms, requirements, and conditions that the commission deems advisable.

Issued in Austin, Texas, on July 16, 1980.

Doc No 805669 M Reginald Arnold II
General Counsel
Texas Department of Water Resources

Effective Date August 13, 1980
Proposal Publication Date May 6, 1980
For further information, please call (512) 475-7845

Records Required

This section is adopted under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.31 (156.11.10.001) Information To Be Recorded. Any person conducting an operation in Texas shall keep and maintain a record of each operation. For all operations, the daily log (NOAA Form 17-4B) required by Title 15, Chapter IX, Subchapter A, Part 908, Section 908.8(a), Code of Federal Regulations, November 1, 1972, as amended, and the supplemental information required by Sections 908.8(b), (c), and (d) thereof shall be provided by each operator. In addition, for all operations in which aircraft are employed for reconnaissance and seeding purposes, information consisting of the dates on which operations are conducted, each period (in minutes of local time) of operation, a description of the track of each flight, the rates of dispersion of the seeding agent for each flight, and the total amount of seeding agent dispensed during each operation shall be submitted. The tracks of all seeding and reconnaissance missions shall be logged in such a manner so as to allow a complete and accurate reconstruction of each run. The tracks may be identified by either radial distance from a standard reference point or by ground fixes in statute miles from a nearby town or landmark at the beginning and ending of each aerial event. Furthermore, each applicant shall promptly report to the executive director any changes or additions to the list, submitted with the application, which contained the names and post office addresses of individuals involved in the operation.

Doc No 805670

Amendment, Revocation, and Suspension of Licenses and Permits

These sections are adopted under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.41 (156.11.15.001). *Amendment, Revocation, or Suspension* The executive director may initiate proceedings before the commission in the following instances:

(1) to amend a permit if it appears that an amendment is necessary to protect the health or property of any person.

(2) to suspend or revoke a permit or license if he has probable cause to believe that the permit or license should be suspended or revoked;

(3) to approve changes in operational personnel or information material to the weather modification license. The executive director may seek the advice of the Weather Modification Advisory Committee.

§317.42 (156.11.15.002). *Probable Cause*. Probable cause to believe that a permit or license should be revoked or suspended shall include but not be limited to the following:

(1) Licenses

(A) (C) (No change.)

(D) The operational personnel or other information which were the basis for the issuance of the license have changed materially

(2) (No change.)

Issued in Austin, Texas, on July 16, 1980.

Doc No 805671 M Reginald Arnold II
General Counsel
Texas Department of Water Resources

Effective Date August 13, 1980

Proposal Publication Date April 18, 1980

For further information, please call (512) 475-7845.

Hail Suppression Election Provisions

The Texas Water Development Board has adopted the repeal of §317.51 (156.11.20.001). The proposed repeal was published in the May 6, 1980, issue of the *Texas Register* (5 TexReg 1719). The repeal of §317.51 (156.11.20.001) was proposed to allow its redesignation as §§317.51 and 317.52 (156.11.20.101 and 102). The rationale for the repeal is to allow the logical sequential numbering of the aspects of hail suppression elections which is impossible under the present numerical designation as it is restricted by the rules of style for numbering regulations.

The Texas Water Development Board has adopted §§317.51 and 317.52 (156.11.20.101 and 102) in lieu of the repealed §317.51 (156.11.20.001) to become effective 20 days after filing with the Secretary of State's Office.

This section is repealed under the authority of Sections 5.131 and 5.132, Texas Water Code.

Doc No 805672

These sections are adopted under the authority of Sections 5.131 and 5.132, Texas Water Code.

§317.51 (156.11.20.101). *Election Provisions*. If the notice published pursuant to Section 18.086, Texas Water Code, does not include notice that the applicant proposes to suppress hail as an objective of the operation, any qualified voter in the proposed target or operational area may request that the commission determine whether or not the purpose of the proposed operation covered by the application for weather

modification permit includes hail suppression. The commission shall hold a preliminary hearing concerning the nature of the proposed operation. The commission shall enter a preliminary order which determines the nature of the operation. If the commission determines that the proposed operation includes hail suppression as an objective, the commission shall dismiss the application unless the applicant republishes the notice of intention in accordance with these sections and in a form prescribed by the commission within the time limitation provided in the commission order of dismissal.

§317.52 (156.11.20.102). *Canvass of Elections*. If, within 30 days of the first publication of a notice of intention which includes hail suppression, qualified voters in counties or parts of counties included in the target area or operational area petition and cause an election or elections to be held, under this Act the commission must evaluate the results of the election or elections, as certified by the respective county commissioners court, before issuing a permit. If, as a result of the election or elections certain areas are excluded from the coverage of the permit as applied for, the commission must determine if the proposed operation is still feasible for those areas in which no election was requested and in those areas in which the voters gave their approval. No permit can be issued if a majority of the qualified voters voting in the election precincts which are wholly within the target area voter in opposition to the issuance of the permit. Also, no permit can be issued covering all or part of a target area or an operational area that was previously excluded from the coverage of a permit by virtue of an election, unless as a result of the publication of notice of the new application, an election was called and a majority of qualified voters voted in favor of the proposition. After the results of an election or elections are received, the commission may conduct a hearing for the sole purpose of determining the feasibility of the proposed operation, or may include consideration of this issue in the hearing on the application for the permit.

Issued in Austin, Texas, on July 16, 1980.

Doc No 805673 M Reginald Arnold II
General Counsel
Texas Department of Water Resources

Effective Date August 13, 1980

Proposal Publication Date May 6, 1980

For further information, please call (512) 475-7845.

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter Q. Business Tax Division—Franchise Tax

Under the authority of Texas Taxation General Annotated Article 12.12, the Comptroller of Public Accounts has adopted §3.403 (026.02.12.013) to read as follows:

§3.403 (026.02.12.013). *Gross Receipts: Determining Percent of Texas Business*.

(a) (No change.)

(b) General rules of application.

(1) (No change.)

(2) Receipts of a car company subject to the Gross Receipts Tax, Texas Taxation-General Annotated, Chapter 11, which are not based on its car company operations are not exempt from the franchise tax.

(3)-(12) (No change.)

(13) In the absence of an election to report under one of the two optional reporting methods below, a transportation company is required to report as Texas receipts only those receipts derived from the transportation of goods or passengers in intrastate commerce (wholly within Texas). Optional methods: Transportation companies transporting goods or passengers in interstate commerce may determine their percentage of business in Texas using: (1) total mileage inside the borders of Texas and total mileage everywhere; or (2) total mileage in transporting goods or passengers picked up and delivered within Texas and total mileage everywhere. The taxpayer must maintain adequate records to validate the percentage of business in Texas determined under this rule. Should the taxpayer report using one of the alternative methods allowable under this rule, such action will constitute an irrevocable election of the alternate reporting method for the reporting period. A prospective election for a different reporting method may be made at any time.

(14)-(29) (No change.)

(c) Transactions not resulting in Texas gross receipts:

(1)-(5) (No change.)

(6) Article 12.02(1)(c) allows a deduction from Texas receipts based on sales of drugs, medicines, or other products exempted under Section (M), Article 20.04 of Texas Taxation General Annotated (Vernon 1969), to the extent such sales are shipped from outside the State of Texas. The sale of drugs, medicines, or other products are exempt under Section (M) only when prescribed or dispensed for humans or animals by a licensed practitioner of the healing arts. Consequently, the deduction in Article 12.02(1)(c) is allowable for drugs, medicines, or other products shipped into Texas from outside the state only when prescribed for humans or animals by a licensed practitioner.

(d) (No change.)

Issued in Austin, Texas, on July 25, 1980.

Doc No 805739 Bob Bullock
Comptroller of Public Accounts

Effective Date August 15, 1980
Proposal Publication Date June 20, 1980
For further information, please call (512) 475-1933.

NONCODIFIED

Texas Commission on Alcoholism State Planning 303.04.00

The Texas Commission on Alcoholism adopts Rule 303.04.00.001 under authority of Article 5561c, Texas Civil Statutes

.001. *State Plan.* In compliance with Public Law 94-371, this rule adopts by reference all rules contained in the 1980-81 Texas State Plan for the Prevention, Treatment, and Control of Alcohol Addiction and Abuse which is attached to this rule as Exhibit A, and is available upon request at the offices of the Texas Commission on Alcoholism, eighth floor, Sam Houston State Office Building, Austin, Texas 78701, and for public inspection at the Texas Register Division of the Office of the Secretary of State, located on the fifth floor, Sam Houston State Office Building, Austin, Texas 78701.

Issued in Austin, Texas, on July 21, 1980.

Doc. No 805539 Ross Newby
Executive Director
Texas Commission on Alcoholism

Effective Date August 11, 1980
Proposal Publication Date: June 17, 1980
For further information, please call (512) 475-2577.

Coordinating Board, Texas College and University System

Program Development

Procedures To Be Followed in the Creation of Public Junior Colleges in Texas 251.02.14.005

Under the authority of Section 61.062, Vernon's Texas Civil Statutes, the Coordinating Board, Texas College and University System has adopted Rule 251.02.14.005 to read as follows:

.005. *Certification of Petition*

(a) A junior college steering committee shall submit its petition to the commissioner's court.

(b) The petition should be supported by:

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

(3) A statement from the appropriate local official certifying to the validity of signatures on the petition (Deleted invalid signatures should be clearly identified.)

(4)-(6) (No change.)

Doc. No. 805717

251.02.14.006

Under the authority of Section 61.062, Vernon's Texas Civil Statutes, the Coordinating Board, Texas College and University System has adopted Rule 251.02.14.006 to read as follows:

.006. *Presentation of Petition to the Coordinating Board*

(a) When the petition has been certified it shall be presented to the commissioner of higher education who then shall present it to the Coordinating Board, Texas College and University System.

(b) The validated petition and other documents must be submitted to the commissioner of higher education prior to the date established by the commissioner. As a rule, a committee of the coordinating board will visit the community and hear interested parties to the question, and report its recommendations to the full board. The petition should be received by the commissioner 45 days prior to a regular meeting of the

coordinating board or at least in sufficient time for the commissioner to schedule a public hearing in the local community and to prepare his recommendations for a regular quarterly meeting of the coordinating board.

Doc. No. 805718

Operational Provisions for Texas Public Junior Colleges 251.02.17

Under the authority of Section 61.062, Vernon's Texas Codes Annotated, the Coordinating Board, Texas College and University System has adopted Rule 251.02.17.013 to read as follows:

013. Reporting for State Reimbursement The following guidelines shall be used in determining the enrollment of each class to be reported on the CBM-004.

(1) Students in attendance on the official reporting date. Enrollment may be reported for all students in attendance on the official reporting date provided all other legal requirements are met.

(2) Students not in attendance on the official reporting date:

(A) Provided all other legal requirements are met, students may be reported as enrolled who attended at least one class meeting prior to the official reporting date and attended at least once during the two weeks following the official reporting date.

(B) A student enrolling after the last class meeting prior to the official reporting date may be reported, provided the student attends at least two class meetings during the two weeks following the official reporting date and provided all other legal requirements are met.

(C) A student may be reported as enrolled if the first meeting of a class did not occur by the official reporting date provided the student attends at least two class meetings during the two weeks following the official reporting date and provided all other legal requirements are met.

Note: For terms of eight weeks or less, the extended period for attendance shall be only one week.

(3) **Maintenance of attendance records.** In order that the state auditor can verify compliance with these guidelines, the community college will maintain complete and accurate attendance records on all students in all classes through the two weeks following the official reporting date. Positive documentation of student participation both before the official reporting date and extending through the two weeks following the official reporting date is required for self-paced classes, instructional television, and other nontraditional forms of instruction.

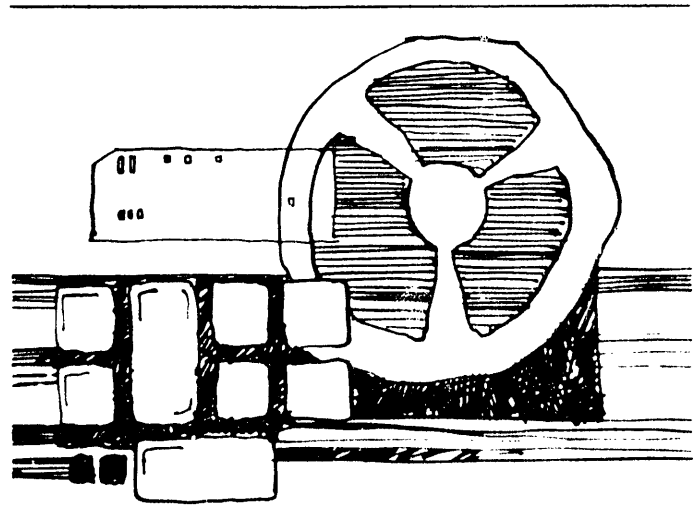
Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805719 Kenneth H. Ashworth
Commissioner of Higher Education
Coordinating Board, Texas College and
University System

Effective Date: August 14, 1980

Proposal Publication Date: May 13, 1980

For further information, please call (512) 475-2033



Texas Department of Human Resources

Intermediate Care Facility for Mentally Retarded

Admissions Policies 326.35.13

The Department of Human Resources adopts Rule 326.35.13.012 about recipient-resident therapeutic visits away from the facility in its ICF-MR rules, as proposed in the April 11, 1980, issue of the *Texas Register* (5 TexReg 1408). The rule establishes the criteria to be met in order for vendor payments to continue during a therapeutic home visit. This policy clarification allows a qualified mental retardation professional (QMRP) to document need for the visit instead of the physician, as was formerly required in the medical plan of care.

The department received one comment on the proposed rule. The commentator requested extended visits away from the facility; the comment is being considered and may be proposed at a later date.

The following rule is adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.012. Visits Away from the Facility.

(a) In order for vendor payments to be made for ICF-MR recipient-residents who are away from the facility on therapeutic visits, only the following criteria must be met:

(1) The recipient-resident's individual habilitation plan must provide for therapeutic visits away from the facility.

(2) Each therapeutic visit away from the facility must be authorized and documented by the recipient-resident's QMRP, if not contraindicated by the attending physician.

(3) Each therapeutic visit shall not exceed three days duration. If a visit extends beyond the third day, the facility shall submit the discharge form effective on the fourth day of absence.

(4) The facility must maintain a record of each therapeutic visit. These records shall be available for review by staff of the Texas Department of Human Resources. The facility's records must provide statistics concerning the number of visits for which vendor payments have been made as well as those visits for which vendor payments have not been made.

(5) Verification of therapeutic visits shall be a part of the audit procedures during the Texas Department of Human Resources' audit of the facility.

(6) The facility may not receive vendor payments for recipient-residents away from the facility due to hospitalization.

(b) The frequency of visits away from the facility for therapeutic purposes is not limited to a specific number of days per year.

Issued in Austin, Texas, on July 21, 1980.

Doc. No. 805603 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: August 11, 1980
Proposal Publication Date: April 11, 1980
For further information, please call (512) 441-3355

Legal Services

Hearing Procedure 326.79.14

The Department of Human Resources adopts the amendment to Rule 326.79.14.006 about action by a DHR hearing officer in its legal services rules, as proposed in the May 2, 1980 issue of the *Texas Register* (5 TexReg 1656). The amendment incorporates policy that gives a hearing officer the authority to reverse a department decision in an appeal, when the appellant or representative is not present and the case record clearly shows an error was made.

No comments were received and the amendment is adopted without changes to the proposed text.

The following amendment is adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.006. Action by Hearing Officer.

(a) (No change.)

(b) Dismissal. If neither the appellant nor the appellant's representative appears for the hearing and no reason is given for the failure to appear, the hearing officer sends an inquiry to the appellant as to whether the appellant wishes any further action on the request for a hearing. If within 10 days after mailing of the inquiry, no reply is received, the hearing officer summarizes the pertinent facts and records them on the appropriate form. If the record alone clearly indicates that the caseworker's decision should be reversed, the hearing officer may enter a decision for the appellant. In all other cases, the hearing officer dismisses the appeal on the basis that the request for hearing has been abandoned by the appellant.

If the appeal is dismissed, the hearing officer records the decision as the official action. A letter will be directed to the appellant advising of the dismissal.

In 10-day appeals, the appeal is considered abandoned if the appellant or representative does not appear and has not requested a postponement for sufficient cause. He will notify the recipient that the worker's recommended action will become effective. If the hearing officer notes error(s) which would affect the recommended decision of the worker, the hearing officer will notify the recipient and the worker so that appropriate action may be taken to correct the error(s). The recipient retains the right to request a regular hearing without continued assistance if not more than 90 days have passed since the recipient was notified of the department action which is being appealed.

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

Issued in Austin, Texas, on July 21, 1980.

Doc. No. 805604 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: August 11, 1980
Proposal Publication Date: May 2, 1980
For further information, please call (512) 443-3355.

Contract Appeals 326.79.17

The Department of Human Resources adopts Rules 326.79.17.002-.014 about administrative hearings for contractors in its legal services rules, as proposed in the May 16, 1980, issue of the *Texas Register* (5 TexReg 1908). These rules are designed to more clearly state the procedures to be used in the hearings, and to more clearly specify who has a right to appeal under these rules.

No comments were received on the proposed rules, however, minor changes have been made to the text. The wording in Rule .008 has been revised in anticipation of an agency reorganization, and minor nonsubstantive changes were made in Rules .004 and .014 to correct errors in the proposed rules.

The following rules are adopted under the authority of the Human Resources Code, Title II, with the approval of the Texas Board of Human Resources.

.002. Preliminary Matters.

(a) These appeal procedures apply to contractors who have a contract which provides that the contracting parties are the contractor and the department.

(b) These appeal procedures do not apply to contracts that expire by their own terms, except as provided in Rule .003 with regard to nursing facilities.

(c) Individual providers of social services do not have a right of appeal under these rules.

(d) The appeal procedures are available when the department initiates or directs the cancellation or termination of a contract or payments to:

(1) providers of medical services who are paid by the department's health-insuring agent; and

(2) subcontractors operating under a prime contract between the department and a contractor.

(e) Department administrative staff and regional administrators have the responsibility for:

(1) making reasonable attempts to keep contractors informed of compliance issues;

(2) resolving, whenever possible, compliance issues before adverse action is necessary; and

(3) attempting to settle audit problems with the contractor even after adverse action occurs.

.003. Right to Appeal. A contractor has the right to appeal any action of the Texas Department of Human Resources which:

- (1) cancels any contract;
- (2) denies or suspends payments for any claim arising under a contract;
- (3) requires the repayment or settlement of audit exceptions arising under a contract; or
- (4) constitutes nonrenewal of a nursing facility contract.

.004. Definitions.

- (a) Adverse action is any action in which:
 - (1) a contract between a person and the department has been cancelled by the department; or
 - (2) payment for any claim(s) accruing under a contract between a person and the department has been denied or suspended in whole or in part; or
 - (3) the department makes a request for reimbursement for settlement of audit exceptions accruing under a contract; or
 - (4) the department directs that one of its contractors terminate a subcontract with payments to any subcontractor or provider of medical services; or
 - (5) the department chooses not to renew a nursing facility contract.
- (b) An appellant is any person who has filed a written appeal of adverse action.
- (c) An appellee is the individual who made the initial decision to take the adverse action which is the subject of an appeal.
- (d) The commissioner is the commissioner of the Texas Department of Human Resources.
- (e) A contract is any written document (or series of documents) which obligates the department to pay money to a person in exchange for goods or services from that person, or which obligates the department to provide goods or services to a person in exchange for money. Contract does not mean any agreement with an individual provider of social services.
- (f) A contractor is any person with whom the department has a contract, except an individual provider of social services.
- (g) A person in this context means an individual, partnership, corporation, association, governmental subdivision or agency, or a public or private organization of any character.

.005. Notice of Adverse Action.

- (a) The commissioner or his designee is authorized to make decisions concerning adverse action.
- (b) The commissioner or designee will send the contractor a letter notifying him or her of any adverse action. The letter will be sent by certified mail, return receipt requested. The letter must include the details of the contractor's noncompliance with the provisions of the contract or other basis for the action. If previous efforts to obtain contract compliance have been made, these should be summarized in the letter. The letter must also inform the contractor that he or she has the right to appeal the adverse action within 10 days after the receipt of the notice of the adverse action by sending a written notice to the chief counsel.

Legal Division. Letters notifying contractors of contract cancellations must specify whether the contract will remain in force pending completion of the appeal process, if an appeal is requested.

(c) If the department is unable to state the matters in detail at the time the initial notice of adverse action is served, the initial notice may be limited to a statement of the issues involved. Later, and with a timely written application from the appellant, a more definite and detailed statement must be furnished by the department's legal representative to the appellant not less than three days prior to the date set for the hearing.

.006. Request for Appeal.

- (a) A contractor may appeal an adverse action by filing a written request within 10 days after receipt of the official notice of the action from the department. The request for an appeal hearing must be addressed to the chief counsel, Legal Division. The request for the hearing may be in the form of a formal petition or a letter setting forth the reasons why the contractor considers he or she was not in violation of the contract provisions as alleged by the department.
- (b) If the contractor files a written request for a hearing which is postmarked within the 10-day period, the matter will be referred to the Contract Appeals Committee for a hearing to be set.

.007. Effective Dates of Contract Cancellations.

- (a) When the department proposes to cancel a Title XIX contract with a provider of medical assistance and the contractor has asked for a hearing, the department may not carry out its proposed action before the completion of a hearing. This is true except when federal matching funds for continued contract payments are no longer available or when the contract expires by its own terms. If a nursing facility contract is to be denied, terminated, or not renewed before a requested hearing is completed, a designee of the deputy commissioner for medical programs must offer the facility an informal reconsideration of the action before the effective date of the action and attempt to resolve the dispute. Payment may be withheld pending the hearing, but must be reinstated retroactively if the hearing decision is favorable to the contractor.
- (b) Contracts with contractors other than Title XIX providers may be cancelled prior to the completion of the hearing process as indicated in Rule .005, Notice of Adverse Action.

.008. Contract Appeals Committee.

- (a) A Contract Appeals Committee has been established to hear appeals by contractors. It is composed of:
 - (1) A chairman without vote. This is to be the chief counsel of the department or his or her designee.
 - (2) Three department employees, each of whom shall have one vote, and who shall be the deputy commissioners responsible for medical services, financial and social services, and management, or the designees of such deputies.
- (b) All three voting members of the committee, or their designees, are required for a quorum. A majority vote is required to make a finding, conclusion, or determination.
- (c) A member of the committee or a designee sitting in a particular case will not later review any decision actually made by himself or herself. Neither will a designee review a decision made by his or her immediate supervisor.

.009. *Hearing Guidelines.*

(a) **Preparation for the hearing.** State Office Legal Division will designate a staff attorney or an attorney from the region to represent the department. The designated attorney has authority over the manner and substance of the presentation.

(b) **Notice of hearing.** Within 30 days after the department's receipt of an appellant's request for a hearing, the chairman of the committee will select a date for a hearing. The appellant must be notified of the hearing date set, at least 10 days before the date of the hearing.

(c) **Written notice.** The chairman must provide the appellant with a written notice which includes:

(1) a statement of the time, place, and nature of the hearing;

(2) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) a reference to the particular sections of the statutes and rules involved; and

(4) a concise statement of the matters asserted by the department.

(d) **Representation for appellant.** Any appellant may appear and be represented by an attorney at law authorized to practice law before the highest court of any state. The appellant may appear on his or her own behalf or appearance may be made by a bona fide employee. If the appellant is a corporation or an association, appearance may be made by an officer, board member, or bona fide employee of such appellant upon presentation of written authority.

.010. *Withdrawal of Hearing Request and Informal Disposition.*

(a) At any time prior to the conclusion of the hearing, the appellant may submit written notification to the department of withdrawal of the hearing request.

(b) Informal disposition may be made of any case by written stipulation, agreed settlement, consent order, or default.

(c) Department employees who are not the members of the committee or a designee may confer with any person dissatisfied with a department decision affecting a contract.

(d) On motion of the appellant, the department, or on his or her own motion, the chairman may direct the parties and their attorneys or representatives to appear before the chairman at a specified time and place for a conference prior to the hearing for the purpose of formulating issues and considering:

(1) the possibility of making admissions of certain averments of facts or stipulations to avoid the unnecessary introduction of proof;

(2) the simplification of issues;

(3) the procedure at the hearing;

(4) the limitation, when possible, of the number of witnesses; and

(5) such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy, including settlement of such issues as are in dispute.

.011. *General Requirements for Hearings.* The chairman of the committee is in charge of proceedings. The chairman has authority to administer oaths, examine witnesses, and to rule on admissibility of evidence and amendments to pleadings. He or she also may establish reasonable time limits for

conducting individual hearings, request additional information, and issue intermediate orders.

(1) Opportunity must be given to all parties to respond to and present evidence and argument on all issues involved.

(2) The appellant and the department will have an opportunity to call any witnesses or representatives desired.

(3) If the appellant does not appear for the hearing, a default decision may be entered.

(4) Postponement or continuance of hearings may be granted by the chairman for just cause.

(5) A record must be made of the proceedings. The record in the case includes:

(A) all pleadings, motions, and intermediate rulings;

(B) evidence received or considered;

(C) a statement of matters officially noticed;

(D) questions and offers of proof, and objections and rulings on them;

(E) proposed findings and exceptions;

(F) any decision, opinion, or report by the committee; and

(G) all staff memoranda or data submitted to or considered by the committee in making its decision.

(6) A tape recording or stenographic record of the hearing must be made. The proceedings, or any part of them, must be transcribed on written request of any party. The department may assess the cost of transcribing the record to those parties requesting the transcript.

(7) The parties to the hearing may conduct cross-examinations required for a full and true disclosure of the facts.

(8) Unless required by the disposition of ex parte matters authorized by law or as otherwise authorized under Texas Revised Civil Statutes, Article 6252-13a, the Administrative Procedure and Texas Register Act, members or employees of the department assigned to render a decision or make findings of fact and conclusions of law concerning an adverse action appeal may not communicate, directly or indirectly, in connection with any issue of fact or law with any party or their representative, except on notice and opportunity for all parties to participate. A department member may communicate ex parte with other members of the department, and members or employees of the department assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with employees of the department who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the agency and its staff in evaluating the evidence.

(9) Records of the hearing will be kept in department files for four years after a final decision is rendered or until any subsequent litigation arising from the hearing has been resolved.

.012. *Rules of Evidence.*

(a) In hearings before the committee, irrelevant, immaterial, or unduly repetitious evidence will be excluded. The rules of evidence as applied in nonjury civil cases in the district courts of the state must be followed. When necessary to determine facts not reasonably susceptible of proof under those rules, evidence not admissible under those rules may be admitted. This is true except when precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The rules of privilege recog-

nized by law are in effect. Objections to evidentiary offers may be made and must be noted in the record. Subject to these requirements, any part of the evidence may be received in written form if a hearing will be expedited and the interests of the parties will not be substantially prejudiced.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. On request, parties can compare the copy with the original.

(c) Official notice may be taken of all facts judicially known. In addition, notice may be taken of generally recognized facts within the area of the department's specialized knowledge. Parties must be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data. Parties must be given an opportunity to contest the material so noticed. The special skills or knowledge of the department and its staff may be used in evaluating the evidence.

(d) On its own motion or on the written request of any party, on a showing of good cause, and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under this rule, the department may issue a subpoena addressed to the sheriff or any constable to require the attendance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purposes of the proceedings. Such subpoena must be issued by the commissioner of the Texas Department of Human Resources or designee.

(e) On its own motion or on the written request of any party, on a showing of good cause, and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under this rule, the department may issue a commission, addressed to the several officers authorized by statute to take depositions, to require that the deposition of a witness be taken. The commission authorizes the issuance of any subpoenas necessary to require that the witness appear and produce, at the time the deposition is taken, books, records, papers, or other objects as may be necessary and proper for the purposes of the proceeding. The commission must be issued by the commissioner of the Texas Department of Human Resources or designee. The deposition of a member of an agency board may not be taken after a date has been set for hearing. The deposition will be taken in accordance with the requirements set out in Texas Revised Civil Statutes, Article 6252-13a, the Administrative Procedure and Texas Register Act.

(f) A deposition may be returned to the department either by mail, by a party interested in taking the deposition, or by any other person. If returned by mail, the department must endorse the deposition to show that it was received from the post office. The department employee receiving the deposition must sign it. If not sent by mail, the person delivering it to the department must make an affidavit before a representative of the department:

(1) that he or she received it from the hands of the officer before whom it was taken;

(2) that it has not been out of his or her possession since; and

(3) that it has undergone no alteration. After being filed with the department, a deposition may be opened by any department employee at the request of either party or his or her counsel. The employee must endorse the deposition by entering the date and who requested it be opened. The employee then signs the deposition. The deposition must re-

main on file with the department and may be inspected by any party.

(g) A witness or deponent who is not a party and who is subpoenaed or compelled to attend any hearing or proceeding to give a deposition or to produce books, records, papers, or other objects that are necessary for the proceeding is entitled to receive:

(1) Reimbursement for travel expenses in amounts generally applicable to state employees for traveling to and from the place of the hearing or the place where the deposition is taken. This is true if the place is more than 25 miles from the person's place of residence; and

(2) A fee in an amount equal to the rate of per diem generally applicable to state employees or \$10 a day, whichever is greater, for each day or part of a day the person must be present as a witness or deponent.

(h) If a person fails to comply with a subpoena or commission, the department, acting through the Attorney General, or the party requesting the subpoena or commission may bring suit to enforce the subpoena or commission in a district court in Travis County.

(i) Inspection, measurement, or survey.

(1) Upon motion of any party showing good cause therefore and upon notice to all other parties, and subject to such limitations of the kind provided in Rule 186b of the Rules of Civil Procedure as the commissioner or designee may impose, the commissioner or designee may order any party:

(A) to produce and permit the inspection and copying or photographing by or on behalf of the moving party any of the following which are in his possession, custody, or control: any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged, which constitute or contain, or are reasonably calculated to lead to the discovery of, evidence material to any matter involved in the action; and

(B) to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon which may be material to any matter involved in the action.

(2) The order shall specify the time, place, and manner of making the inspection, measurement, or survey and taking the copies and photographs and may prescribe such terms and conditions as are just.

(3) The identity and location of any potential party or witness may be obtained from any communication or other paper in the possession, custody, or control of a party, and any party may be required to produce and permit the inspection and copying of the reports, including factual observations and opinions, of an expert who will be called as a witness. Provided, that the rights herein granted shall not extend to other written statements of witnesses or other written communications passing between agents or representatives or the employees of any party to the suit or to other communications between any party and his agents, representatives, or other employees, where made subsequent to the occurrence or transaction upon which the suit is based, and made in connection with the prosecution, investigation, or defense of such claim or the circumstances out of which same has arisen.

(4) Any person, whether or not a party, shall be entitled to obtain, upon request, a copy of any statement he has previously made concerning the action or its subject matter and which is in the possession, custody, or control of any par-

ty. If the request is refused, the person may move for an agency order under this rule. For the purpose of this paragraph, a statement previously made is a written statement signed or otherwise adopted or approved by the person making it, or a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

.013. *Deliberation.* After all evidence has been heard, the committee adjourns the hearing to enter a closed session for deliberation. Within 60 days from the date of adjournment, the committee must make a final decision upon the appeal.

.014. *Decisions.*

- (a) The final decision will be based solely upon the record of the individual case.
- (b) The final decision will be in writing and will include the findings of fact and conclusions of law separately stated.
- (c) Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- (d) Findings of fact must be based exclusively on the evidence and on matters officially noticed. If a party submitted proposed findings of fact, the decision will include a ruling on each proposed finding.
- (e) If the committee finds that the adverse action was not justified:

(1) in the case of a contract cancellation, it will recommend to the commissioner that such contract be reinstated or a new contract be entered into;

(2) in all other cases, it will direct the appropriate department staff to carry out its decision.

(f) If the committee finds that the adverse action was justified, it will sustain the action. The committee may also make such other recommendations as it considers appropriate.

(g) The decision will be mailed via certified mail, return receipt requested, or personally delivered to the appellant or his or her attorney of record.

(h) Either party may file a written motion for rehearing. The written motion for rehearing must be filed within 15 days after the date of rendition of the final decision. This motion must be addressed to the chairman. The committee will take action to either grant or deny the motion for rehearing within 45 days after the date of rendition of the final decision.

Issued in Austin, Texas, on July 25, 1980.

Doc. No. 805780	Jerome Chapman
	Commissioner
	Texas Department of Human Resources

Effective Date: August 15, 1980
 Proposal Publication Date: May 16, 1980
 For further information, please call (512) 441-3355.

The Open Meetings Act (Article 6252-17, Texas Civil Statutes) requires that an agency with statewide jurisdiction have notice posted for at least seven days before the day of a meeting. A political subdivision covering all or part of four or more counties, or an institution of higher education, must have notice posted for at least 72 hours before the scheduled meeting time. Notice of an emergency meeting or an emergency addition or amendment to an agenda must be posted for at least two hours before the meeting is convened. Although some notices may be received and filed too late for publication before the meetings are held, all filed notices will be published in the *Register*. Each notice published includes an agenda or a summary of the agenda as furnished for publication by the agency and the date and time of filing. Notices are posted on the bulletin board outside the offices of the secretary of state on the first floor in the East Wing of the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Governor's Committee on Aging

Tuesday, July 29, 1980, 10 a.m. The Governor's Committee on Aging conducted an emergency meeting at 210 Barton Springs Road, Texas Department of Community Affairs Building, Austin. According to the agenda, the committee considered the approval of minutes of June 26, 1980 meeting; reports by the Advisory Committee members on the public hearings; discussion and action taken on the State Plan on Aging. This matter had to be approved by the Advisory Committee before being submitted to the board meeting on August 8, 1980.

Additional information may be obtained from Chris Kyker, P.O. Box 12786, Austin, Texas, telephone (512) 475-2717.

Filed: July 22, 1980, 10:20 a.m.
Doc. No. 805611

Texas Animal Health Commission

Wednesday, July 30, 1980, 1 p.m. The Texas Animal Health Commission met in Room 100-B, John H. Reagan Building, Austin. According to the agenda summary, the commission approved actions of the executive director for the period of June 27-29, 1980; discussed brucellosis regulations (Proclamation 429) dated February 29, 1980—(a) inclusion of Bosque County in to the Class "A" brucellosis control area, (b) truck sealing in lieu of "S" branding untested slaughter cattle; considered herd testing fees, reduced dosage of vaccine in calves; USDA'S policy on the card test; and met in executive session.

Further information may be obtained from Jo Anne Conner, Sam Houston Building, Austin, Texas, telephone (512) 475-4111.

Filed: July 21, 1980, 2:57 p.m.
Doc. No. 805550

Texas Department of Community Affairs

Wednesday, July 30, 1980, 10 a.m. to 2 p.m. The Prime Sponsor Planning Council Manpower Services Division of the Texas Department of Community Affairs met in the first floor auditorium, TDCA Building, 210 Barton Springs Road, Austin. The meeting concerned a review of fiscal year '80 third quarter activities; Title VI projects; reports on fiscal year '81 allocations and fiscal year '81 request for proposal process; review of fiscal year '81 draft of CETP and the Texas Department of Human Resources' proposed Title XX Social Services Plan.

Additional information may be obtained from L. C. Harris III, P.O. Box 13166, Austin, Texas, telephone (512) 475-6216.

Filed: July 22, 1980, 10:19 a.m.
Doc. No. 805610

Texas Conservation Foundation

Wednesday, August 6, 1980, 10:30 a.m. The Texas Conservation Foundation will meet at 1511 Colorado, Austin. According to the agenda, the foundation will consider minutes of the previous meeting; report of the executive director; action on the Nature Conservancy proposal; and disposition of McManus donation.

Additional information may be obtained from Mary Jane Hutchinson, Suite 105, 1300 Guadalupe, Austin, Texas 78701, telephone (512) 475-0342.

Filed: July 24, 1980, 9:42 a.m.
Doc. No. 805708

Texas Commission for the Deaf

Saturday, August 2, 1980, 10 a.m. The Texas Commission for the Deaf will meet in Suite 106, 510 South Congress, Austin. According to the agenda summary, the commission will consider personnel matters (in executive session); interagency contracting (DHR Title XX Services); and a proposal for services to deaf/blind individuals.

Additional information may be obtained from Fred R. Tammen, 510 South Congress, Suite 106, Austin, Texas 78704, telephone (512) 475-2492.

Filed: July 24, 1980, 9:42 a.m.
Doc. No. 805709

Texas Education Agency

Thursday, July 31, 1980, 10 a.m. The Foundation School Program Budget Committee of the Texas Education Agency met in Room 114, LBJ Building, 111 East 17th Street, Austin, to consider revision of budgets for the 1978-79, 1979-80, and 1980-81 school years.

Additional information may be obtained from Richard L. Bennett, 201 East 11th Street, Austin, Texas, telephone (512) 475-1735.

Filed: July 21, 1980, 4:53 p.m.
Doc. No. 805607

Office of the Governor

Thursday, July 24, 1980, 2 p.m. The Highway Cost Index Committee makes an emergency addition to the agenda of a meeting held in Room 220, State Capitol. The additions concern approved changes to the elements and control items in the Highway Cost Index procedures, as requested by the State Department of Highways and Public Transportation on May 16, 1980, and April 29, 1980. This was deemed an emergency matter because new data had been received since original posting which impacted the other items.

Additional information may be obtained from Donald E. Harley, Room 713, Sam Houston Building, Austin, Texas, telephone (512) 475-6021.

Filed: July 22, 1980, 10:21 a.m.
Doc. No. 805612

Texas Department of Health

Thursday, July 31, 1980, 1:30 p.m. The board members of the Texas Department of Health met in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the members considered the following: (1) minutes of the June 21, 1980, meeting; (2) commissioner's report; (3) report on the current status of the Texas Department of Health's Minority Recruitment Program and Equal Employment Opportunity Activities; (4) report on the joint study concerning temporary medical personnel agencies—SCR 87; final rules—Crippled Children's Services Program and Hemophilia Assistance Program. The board also met in executive session.

Additional information may be obtained from Joe Klinger, 1100 W. 49th Street, Austin, Texas 78756, telephone (512) 458-7487.

Filed: July 23, 1980, 3:56 p.m.
Doc. No. 805692

Friday, August 1, 1980, 9:30 a.m. The board members of the Texas Department of Health will meet in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the members will consider the following: (1) relationship of the Texas Department of Health with local health departments; (2) final data collection rules; (3) proposed rules covering standards for the collection and analysis of water samples for total trihalomethanes; (4) proposed revisions to the municipal solid waste management regulations; (5) request for approval to revise the Emergency Medical Services Advisory Council—(a) increase the number of participating members, (b) tenure designation and staggered membership for EMS Advisory Council appointments; (6) requests for approval to transfer unexpended tuberculosis services funds to the state chest hospitals, fiscal year 1981 budgets for the state chest hospital, pay the superintendent of the San Antonio Chest Hospital, transfer of unexpended funds to the San Antonio Chest Hospital for the purchase of ultrasound equipment; (7) executive session; (8) personnel committee reports on appointments to the Hypertension Advisory Committee, the Sanitarian Advisory Committee, and the Technical Advisory Committee for the Texas Cancer Control Act, and request for employment beyond age 70; (9) meeting date for September 1980.

Additional information may be obtained from Joe Klinger, 1100 W. 49th Street, Austin, Texas 78756, telephone (512) 458-7487.

Filed: July 23, 1980, 3:55 p.m.
Doc. No. 805693

Tuesday, Wednesday, and Friday, August 19, 20, and 22, 1980, 1:30 p.m., 9:30 a.m., and 10 a.m., respectively. The Texas Department of Health will conduct hearings at the following times and addresses:

August 19—1:30 p.m., City Hall, Hubbard. Application 1350 of the City of Hubbard to operate an existing Type II municipal solid waste disposal site located 1.3 miles south-southeast of the State Highway 31/State Highway 171 Intersection in Hubbard, on the northeast side of a county road, in Hill County.

August 20—9:30 a.m. County Court, Courthouse, Gainesville. Application 1381 of Cooke County to operate a proposed Type II municipal solid waste disposal site to be located east-northeast of Valley View, 0.9 mile north of FM Highway 922, 1,000 feet west of Farm-to-be 2071, in Cooke County.

August 22—10 a.m. Brazoria County, Courtroom, Courthouse, Angleton. Application 1399 of Texas Department of Corrections, Ramsey Unit to operate a proposed Type II municipal solid waste disposal site to be located approximately 0.5 mile south of FM 655, approximately 4.5 miles west of SH 288 on the Ramsey Unit of the Texas Department of Corrections in Brazoria County.

Additional information may be obtained from Jack C. Carmichael, 1100 W. 49th Street, Austin, Texas 78756, telephone (512) 458-7271.

Filed: July 23, 1980, 4:05 p.m.
Doc. No. 805694

Texas Health Facilities Commission

Friday, August 1, 1980, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider the following applications:

Certificate of Need

DJT Management Inc., Longview
AO79-0712-015

Community Action Agency—Dental Clinic, Lockhart
AS79-0913-015

Austin State School, Austin
AA80-0331-001

Amendment of Exemption Certificate Order

Southern Manor Nursing Home No. 2, San Antonio
AN76-0614-016A (041480)

Amendment of Certificate of Need Order

Golden Triangle Dialysis Center, Beaumont
AS79-0521-011A (062080)

Pinelan Nursing Home, Lufkin
AN78-0926-001A (052880)

Declaratory Ruling

St. John's Hospital, San Angelo
AH80-0414-002

Exemption Certificate

Rosewood General Hospital, Houston
AH80-0609-017

Coronado Community Hospital, Inc., Pampa
AH80-0522-008

Wadley Hospital, Texarkana,
AH80-0606-012

Memorial Hospital, Marshall
AH80-0523-031

Memorial Hospital, Dumas
AH80-0523-040

Hotel Dieu Hospital and Medical Center, El Paso
AH80-0527-037

Pasadena Bayshore Hospital, Pasadena
AH80-0527-033

Coronado Community Hospital, Inc., Pampa
AH80-0522-010

Coronado Community Hospital, Inc., Pampa
AH80-0522-014

Coronado Community Hospital, Inc., Pampa
AH80-0522-016

Further information may be obtained from O.A. Cassity III,
P.O. Box 15023, Austin, Texas 78761, telephone (512)
475-6940.

Filed: July 23, 1980, 11:24 a.m.
Doc. No. 805678

Friday, August 8, 1980, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider applications for Certificate of Need—Clear Lake Hospital, Webster, AH80-0331-003, and Memorial Hospital, Lufkin, AH79-1203-023; and an application for Exemption Certificate—Ennis Nursing Home, Ennis, AN80-0602-052. A routine business meeting will follow.

Additional information may be obtained from O. A. Cassity III, P.O. Box 15023, Austin, Texas 78761, telephone (512) 475-6940.

Filed: July 25, 1980, 11:34 a.m.
Doc. No. 805782

Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids

Saturday, August 2, 1980, 10 a.m. The Budget and Finance Committee of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids will meet at 6249 San Felipe, Houston, to study and review the fiscal year 1982-83 budget.

Additional information may be obtained from R. B. Hall, Penthouse Apartments, Suite 105, 1212 Guadalupe, Austin, Texas 78701, telephone (512) 475-3429.

Filed: July 24, 1980, 9:43 a.m.
Doc. No. 805710

Saturday, August 2, 1980, 10 a.m. The Examination Committee of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids will meet at 6249 San Felipe, Houston, to upgrade and revise the state examination.

Additional information may be obtained from R. B. Hall, Penthouse Apartments, Suite 105, 1212 Guadalupe, Austin, Texas 78701, telephone (512) 475-3429.

Filed: July 24, 1980, 9:44 a.m.
Doc. No. 805711

Texas Department of Human Resources

Tuesday, July 29, 1980, 11 a.m. The board members of the Texas Department of Human Resources met in emergency executive session in Room 2G2, 706 Banister, Austin, to consider pending and contemplated litigation.

Additional information may be obtained from Bill Woods, P.O. Box 2960, Austin, Texas 78769, telephone (512) 441-3355.

Filed: July 23, 1980, 2:33 p.m.
Doc. No. 805684

Tuesday, July 29, 1980, 11 a.m. The board members of the Texas Department of Human Resources made an emergency addition to the agenda of a meeting held in Room 2G2, 706 Banister, Austin. The addition concerned the purchased health services contract beginning September 1, 1981.

Additional information may be obtained from Bill Woods, P.O. Box 2960, Austin, Texas 78769, telephone (512) 441-3355.

Filed: July 25, 1980, 2:22 p.m.
Doc. No. 805780

Thursday, July 31, 1980, 9 a.m. The Advisory Committee on Child Care Facilities of the Texas Department of Human Resources met in Room 3.106, Sid Richardson Hall, University of Texas, Austin, to plan and set goals for the fiscal year 1980, and to review and discuss the fiscal year 1979 annual report.

Additional information may be obtained from Doug Sanders, P.O. Box 2960, Austin, Texas 78769, telephone (512) 441-3355, ext. 6039.

Filed: July 22, 1980, 3:33 p.m.
Doc. No. 805640

Thursday, August 7, 1980, 1:30 p.m. The Alternate Care Subcommittee of the Financial and Social Services Advisory Committee of the Texas Department of Human Resources will meet in Room 4A17, 1708 East Anderson Lane, Austin. According to the agenda summary, the subcommittee will consider information on the award of demonstration project grants; review comments on the proposed CASP; update DHR reorganization related to alternate care; discuss adult day activities and health services development; and consider budgets for 1981, 1982, and 1983.

Additional information may be obtained from Cris Ros-Dukler, 1708 East Anderson Lane, Austin, Texas 78769, telephone (512) 835-0440, ext. 2009.

Filed: July 25, 1980, 10:15 a.m.
Doc. No. 805738

State Board of Insurance

Thursday, July 24, 1980, 2 p.m. The State Board of Insurance conducted an emergency meeting in Room 342, 1110 San Jacinto, Austin. The board considered the repeal, amendment, and supplementation of the basic manual of rules, rates and, forms for the writing of title insurance in the State of Texas. There was an emergency and urgent public necessity that consideration and action be taken by the board on these matters to alleviate the imminent severe diminution in mortgage funds available for lending to the public by mortgage lenders in Texas resulting from the recent decision by the Federal National Mortgage Association to curtail its secondary mortgage market purchases in Texas.

Additional information may be obtained from Ira Goodrich, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2957.

Filed: July 22, 1980, 1:18 p.m.
Doc. No. 805616

Thursday, July 24, 1980, 2 p.m. The State Board of Insurance made an emergency addition to a meeting held in Room 342, 1110 San Jacinto, Austin. The addition concerned an amendment to Texas general basis schedules concerning application of package modification for Texas commercial multi-peril policies. This was deemed an emergency because the amendment must become effective with rate change effective August 1, 1980.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 10:28 a.m.
Doc. No. 805700

Tuesday, July 29, 1980, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance conducted a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6045—application for admission of Loyalty Life Insurance Company, Southfield, Michigan.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:45 p.m.
Doc. No. 805551

Tuesday, July 29, 1980, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance conducted a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6073—application for extension of time within which to sell real estate by Great Southwest Life Insurance Company, Houston.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:45 p.m.
Doc. No. 805552

Tuesday, July 29, 1980, 2 p.m. The State Board of Insurance conducted an emergency meeting in Room 408, 1110 San Jacinto, Austin. The board considered National Credit Union Association bond rate filing by Cumis Insurance Society. This was deemed an emergency because filing would be approved by operation of law if board did not take action prior to August 1, 1980.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 25, 1980, 10:46 a.m.
Doc. No. 805784

Thursday, July 31, 1980, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance conducted a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6052—application for admission of NRG American Life Reinsurance Corporation, Philadelphia, Pennsylvania.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:45 p.m.
Doc. No. 805553

Thursday, July 31, 1980, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance conducted a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6058—application for admission of First Kansas Life Insurance Company, Newton, Kansas.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:45 p.m.
Doc. No. 805554

Friday, August 1, 1980, 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 Street, Austin, in Docket 6095—incorporation of Warranty Underwriters Insurance Company, Houston, to conduct the business of Fire Insurance and its Allied Lines.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:46 p.m.
Doc. No. 805555

Monday, August 4, 1980, 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 Street, Austin, to consider whether addressee's Title Insurance Agent's License should be suspended or revoked for failure to furnish a statistical report within the time required; Re: Bastrop Abstract Company, Inc., Bastrop—Docket 6078.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:46 p.m.
Doc. No. 805556

Monday, August 4, 1980, 10 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, to consider whether title insurance agent's license of Erath County Abstract and Title Company, Stephenville, should be suspended or revoked for failure to furnish a statistical report within the time required—Docket 6079.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:46 p.m.
Doc. No. 805557

Monday, August 4, 1980, 10:30 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6101—application of Investors Life Insurance Company of North America, Philadelphia, for authority to issue variable annuity contracts.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 22, 1980, 8:23 a.m.
Doc. No. 805614

Monday, August 4, 1980, 11 a.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, to consider whether Title Insurance Agent's License of First Texas Title Company, Houston, should be suspended or revoked for failure to furnish a statistical report within the time required—Docket 6080.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:46 p.m.
Doc. No. 805558

Monday, August 4, 1980, 1 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, to consider whether title insurance agent's license of Freas Abstract Company, Glen Rose, should be suspended or revoked for failure to furnish a statistical report within the time required—Docket 6081.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:46 p.m.
Doc. No. 805559

Monday, August 4, 1980, 2 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6082—whether title insurance agent's license of Garza County Abstract and Title Company, Post, should be suspended or revoked for failure to furnish a statistical report within the time required.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:47 p.m.
Doc. No. 805560

Monday, August 4, 1980, 3 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6083—whether title insurance agent's license of Groesbeck Abstract Company, Inc., Groesbeck, should be suspended or revoked for failure to furnish a statistical report within the time required.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:47 p.m.
Doc. No. 805561

Monday, August 4, 1980, 4 p.m. The Commissioner's Hearing Section of the State Board of Insurance will conduct a public hearing in Room 342, 1110 San Jacinto Street, Austin, in Docket 6084—whether title insurance agent's license of Guardian Title Company of Houston, Inc., Houston, should be suspended or revoked for failure to furnish a statistical report within the time required.

Additional information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, telephone (512) 475-4353.

Filed: July 21, 1980, 3:47 p.m.
Doc. No. 805562

Tuesday, August 5, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to consider the commissioner's report and meet in executive session to discuss personnel matters.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:40 a.m.
Doc. No. 805701

Wednesday, August 6, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to discuss the fire marshal's report.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:41 a.m.
Doc. No. 805702

Tuesday, August 12, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to discuss the commissioner's report and to conduct an executive session on personnel matters.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:40 a.m.
Doc. No. 805703

Wednesday, August 13, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to discuss the fire marshal's report.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:41 a.m.
Doc. No. 805704

Tuesday, August 19, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to discuss the commissioner's report and to conduct an executive session on personnel matters.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:40 a.m.
Doc. No. 805705

Wednesday, August 20, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to discuss the fire marshal's report.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:42 a.m.
Doc. No. 805706

Tuesday, August 26, 1980, 2 p.m. The State Board of Insurance will meet in Room 408, 1110 San Jacinto, Austin, to discuss the commissioner's report and to conduct an executive session on personnel matters.

Additional information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, telephone (512) 475-2950.

Filed: July 24, 1980, 9:41 a.m.
Doc. No. 805707

Texas Advisory Commission on Intergovernmental Relations

Thursday, July 24, 1980, 3 p.m. The County Personnel Orientation Project Committee of the Texas Advisory Commission on Intergovernmental Relations conducted an emergency session in room 623B, Stephen F. Austin Building, 17th and Congress, Austin, to review the final report on county government personnel, and the accompanying slide show. The emergency status of the meeting was deemed necessary because the quorum for the meeting was not met until recently.

Additional information may be obtained from Cynthia Keever, Stephen F. Austin Building, Room 622, 17th and Congress, Austin, Texas.

Filed: July 22, 1980, 1:17 p.m.
Doc. No. 805613

Texas Department of Mental Health and Mental Retardation

Friday, August 1, 1980, 9 a.m. The Texas State Mental Health Advisory Council of the Texas Department of Mental Health and Mental Retardation will conduct an emergency session at the department headquarters, central office auditorium, 909 West 45th Street, Austin. According to the agenda, the council will review the "1981 Annual Review and Progress Report," an update of the Texas State Plan for Comprehensive Mental Health Services—1977. This review is necessary prior to review by the Statewide Health Coordinating Council on August 22nd and prior to submission to HEW, Dallas, on August 26th.

Additional information may be obtained from the Planning and Resource Development Division, P.O. Box 12668, Austin, Texas 78711, telephone (512) 465-4620.

Filed: July 28, 1980, 11:29 a.m.
Doc. No. 805819

Midwestern State University

Friday, July 25, 1980, 3:30 p.m. The Midwestern State University Board of Regents met in emergency session in the board room, Administration Building, Midwestern State University, Wichita Falls, to discuss a personnel matter. The emergency status of the meeting was warranted because the situation had become evident and action had to be taken immediately so a solution might be decided upon. This was the earliest possible time the board could meet to discuss the matter.

Additional information may be obtained from Jesse W. Rogers, 3400 Taft Boulevard, Midwestern State University, Wichita Falls, Texas 76308, telephone (817) 692-6611, ext. 211.

Filed: July 23, 1980, 9:31 a.m.
Doc. No. 805681

Wednesday, July 30, 1980, 4:30 p.m. The Student Affairs Committee of the Board of Regents of Midwestern State University met in emergency session in the Hardin Administration board room, Midwestern State University, Wichita Falls. According to the agenda, the committee considered the construction of student housing. This was deemed an emergency because information was received which had to be distributed to the committee, and the July 30, 1980, date was the only time the committee was available to make immediate decisions.

Additional information may be obtained from Jesse W. Rogers, 3400 Taft Boulevard, Wichita Falls, Texas 76308, telephone (817) 692-6611.

Filed: July 28, 1980, 9:30 a.m.
Doc. No. 805818

Texas National Guard Armory Board

Saturday, August 2, 1980, 2 p.m. The Texas National Guard Armory Board will meet in Building 64, Camp Mabry, Austin. According to the agenda summary, the board will consider facility acquisition, construction, remodeling, and renovation; and fiscal and administrative matters.

Additional information may be obtained from T. W. Meek, West Austin Station, Austin, Texas 78763, telephone (512) 475-5481.

Filed: July 23, 1980, 1:21 p.m.
Doc. No. 805683



Pan American University

Tuesday, August 5, 1980. The following committees and boards of Pan American University will meet at the times and locations listed below:

8:30 a.m. The Board of Regents will meet in the Conference Room, Administration Building, Edinburg, in a workshop session to consider the proposed budget for 1980-81.

10:30 a.m. The Buildings and Grounds Committee of the Board of Regents will meet in the same location to consider awarding bids for purchase of snack bar furniture and for paving construction; purchase of highlift; board policy for acceptance of buildings that have been renovated; and renovation of Natatorium.

11:30 a.m. and 12:30 p.m. The Academic and Developmental Affairs Committee of the Board of Regents will meet in the conference room at 11:30 a.m. to conduct a hearing concerning courses taught at San Juan for residence credit. At 12:30 p.m., the committee will adjourn to the faculty lounge in the University Center, Pan American University, Edinburg, in executive session (as authorized by Article 6252-17, Section 2g, Vernon's Annotated Texas Statutes) to consider employment of personnel.

3 p.m. The Board of Regents will again meet in the Conference Room. According to the agenda for this meeting, the board will consider minutes of the previous meeting; reports of Buildings and Grounds Committee and Academic and Developmental Affairs Committee; leaves of absence; armored car service; holiday schedule; sale of music equipment and band uniforms; transfer of funds; vending contracts; budget changes; 1980-81 budget; and appropriations request.

Additional information may be obtained from Dr. Ralph F. Schilling, Pan American University, Edinburg, Texas 78539, telephone (512) 381-2101.

Filed: July 25, 1980, 3:54 p.m.
Doc. Nos. 805805-805809

Board of Pardons and Paroles

Monday-Friday, August 4-8, 1980, 9 a.m. daily. The Board of Pardons and Paroles will meet in Room 711, Stephen F. Austin Building, Austin. According to the agenda, the board will review cases of inmates for parole consideration; act on emergency reprieve requests and other acts of executive clemency; review reports regarding persons on parole; review procedures affecting the day-to-day operation of support staff; review and initiate needed rule changes relating to general operation, executive clemency, parole, and all hearings conducted by this agency; and take action upon gubernatorial directives.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: July 22, 1980, 10:19 a.m.
Doc. No. 805618

Wednesday, August 6, 1980, 9 a.m. The Board of Pardons and Paroles will meet in the Diagnostic Unit, Texas Department of Corrections, Huntsville. According to the agenda, a parole panel consisting of members of the Board of Pardons and Paroles and members of the Texas Parole Commission will conduct parole violation hearings.

Additional information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, telephone (512) 475-3363.

Filed: July 22, 1980, 10:20 a.m.
Doc. No. 805619

Texas Parks and Wildlife Department

Wednesday, July 23, 1980, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department made an emergency addition to a public hearing held in Building B at the department headquarters, 4200 Smith School Road, Austin. The addition covered the Battleship Texas Operation, fiscal year 1981 (requested by the Secretary of State's Office) and the 1981 operating budget. Action had to be taken on these items in order for the department to meet its responsibilities for the 1981 fiscal year.

Additional information may be obtained from Maurine Ray, 4200 Smith School Road, Austin 78744, telephone (512) 475-4954.

Filed: July 22, 1980, 2:02 p.m.
Doc. No. 805620

Board of Plumbing Examiners

Monday, August 11, 1980, 9:30 a.m. The Board of Plumbing Examiners will meet in 204 John H. Reagan Building, Austin. The board will review the financial report; hear a re-

port of licenses issued; review examination data; consider hardship cases; discuss classification salary schedule; and health insurance coverage.

Additional information may be obtained from Lynn Brown, 204 Reagan Building, Austin, Texas 78701, telephone (512) 472-9221.

Filed: July 23, 1980, 9:31 a.m.
Doc. No. 805682

Texas Prosecutors Coordinating Council

Monday, August 4, 1980, 9 a.m. The Texas Prosecutors Coordinating Council will meet at the Sheraton Inn Downtown, Kansas and Main Streets, El Paso. According to the agenda summary, the council will cover the following items: call to order; call to roll; approval of May 6, 1980 minutes; report of the executive director for May and June; executive session on disciplinary matters; consideration of technical assistance guidelines; consideration of grant adjustments for technical assistance; consideration of amendments to council statutes; consideration of reasonable fees for publications in accordance with Article 4413(33), Vernon's Texas Civil Statutes; technical assistance authority of the council and policy; approval of budget request for 1982-83; set date for next meeting.

Additional information may be obtained from Andy Shuval, P.O. Box 13555, Austin, Texas 78711, telephone (512) 475-6825.

Filed: July 22, 1980, 12 noon
Doc. No. 805615

Texas State Board of Public Accountancy

Thursday and Friday, July 31 and August 1, 1980, 8 a.m. and 9 a.m., respectively. The Texas State Board of Public Accountancy met in Suite 500, 3301 Northland Drive, Austin. According to the agenda summary, the board considered the following items: committee meetings; approval of minutes of June 23-24, 1980, board meeting; consideration of questions relating to papers written during the May, 1980, examination; review of May, 1980, uniform certified public accountant examination papers written and release of results; consideration/ratification of approved applications for registration of firms; consideration and approval/ratification of certified public accountant certificates; consideration of reinstatement of certified public accountant certificate; reciprocity under Sections 13 and 14 of the Act—individuals who have passed the exam and those who have not passed the exam; enforcement hearings and other enforcement matters; pending litigation; communications received; status of central swearing-in ceremony; hearing regarding legislative budget request for FYE August 31, 1982-83; FYE August 31, 1981, operating budget; fee schedule to be effective January 1, 1981; computerized examination and licensing systems and procedures; review of proposed substantive rule relating to granting of credit for attorneys.

Additional information may be obtained from Bob E. Bradley 3301 Northland Drive, Suite 500, Austin, Texas 78731, telephone (512) 451-0241.

Filed: July 23, 1980, 4:04 p.m.
Doc. No. 805696

Public Utility Commission of Texas

Wednesday, July 30, 1980, 10 a.m. The Hearings Division of the Public Utility Commission of Texas conducted a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3320—application of Houston Lighting and Power Company for authority to change rates.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 22, 1980, 2:13 p.m.
Doc. No. 805624

Tuesday, August 5, 1980, 9 a.m. The Public Utility Commission of Texas will conduct an open meeting in Suite 450N, 7800 Shoal Creek Boulevard, Austin, to consider final orders and hear oral argument in the following dockets: 3117; 3040; 3114; 3094; 3105 and 3109; 3162; 2960; 3168; 2856 and 2880; 2914; 3086; 3124; 2616; 2964; 3190; 3268; 3211; 3221; 3179; 3253; 3295; 3303; 3306; 3312; 3316; 3329; and 3343.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 25, 1980, 2:38 p.m.
Doc. No. 805802

Friday, August 8, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3244—application of Chandler Water Company for a rate increase within Henderson County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 25, 1980, 9:42 a.m.
Doc. No. 805734

Monday, August 25, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas has rescheduled a hearing to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin, for Docket 3047—application of Lackland City water and sewer for rate increase within Bexar County. The hearing was originally set for July 2, 1980.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 25, 1980, 1:36 p.m.
Doc. No. 805798

Thursday, September 11, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3319—application of Crest Utility Company for authority to increase rates and to revise its tariff within Harris County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 24, 1980, 2:07 p.m.
Doc. No. 805714

Monday, September 15, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, on the merits of Docket 3320—application of Houston Lighting and Power Company for authority to change rates.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 22, 1980, 2:13 p.m.
Doc. No. 805625

Tuesday, September 16, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3314—application of Nitsch and Son for a sewer rate increase within Harris County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 25, 1980, 1:36 p.m.
Doc. No. 805799

Tuesday, October 28, 1980, 9:30 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a hearing in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 2644—application of South Plains Electric Cooperative, Inc., to amend its certificated service area boundaries within Lubbock County.

Additional information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, telephone (512) 458-0100.

Filed: July 24, 1980, 2:06 p.m.
Doc. No. 805715

Railroad Commission of Texas

Monday, July 28, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas made an emergency addition to the agenda of a meeting held in Room 107, 1124 South IH 35, Austin. The addition concerns consideration of Gas Utilities Docket 2658—request of Sentry Refining, Inc., for permission to purchase gas from Valero Transmission Company. Consideration of this matter on less than seven days notice is required as a matter of urgent public necessity in

order that the commission may properly consider this matter prior to the plant start-up date of August 3, 1980, which falls before the next scheduled general commission meeting.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1146.

Filed: July 25, 1980, 11:55 a.m.
Doc. No. 805786

Monday, July 28, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an emergency addition to the agenda of a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerned consideration of application of Mobil Producing Texas and New Mexico, Inc., for temporary gas field rules in the Arriola, S. (Yegua 11060) Field, Hardin County. This item was considered on less than seven days notice as a matter of urgent public necessity because of the loss of gas to the public if the action was postponed.

Additional information may be obtained from Eugene W. Day, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1293.

Filed: July 25, 1980, 11:52 p.m.
Doc. No. 805787

Monday, July 28, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas made an emergency addition to a meeting held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerned consideration of Dockets 83526A73, 4-75374A70, 7C-75376A70, 7C-75377A70. These items were properly noticed for the meeting of July 21, 1980, and were passed at that time. Consideration of less than seven days notice is required as a matter of urgent public necessity.

Additional information may be obtained from William E. Black, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1282.

Filed: July 25, 1980, 11:53 a.m.
Doc. No. 805788

Monday, August 4, 1980, 9 a.m. The Railroad Commission of Texas will meet in the third floor conference room, 1124 South IH 35, Austin. Following the regular agenda, the commission will go into executive session to discuss personnel actions for all divisions and to consult with its legal staff on prospective and pending litigation pursuant to Sections 2g and 2e of the Act, respectively.

Additional information may be obtained from Carla S. Doyme, 1124 South IH 35, Austin, Texas 78704, telephone (512) 445-1186.

Filed: July 25, 1980, 11:54 a.m.
Doc. No. 805789

Monday, August 4, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda, the division will consider Gas Utilities Dockets 2685, 2695, 2701, 2702, and the director's report.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1146.

Filed: July 25, 1980, 11:55 a.m.
Doc. No. 805790

Monday, August 4, 1980, 9 a.m. The Gas Utilities Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in Room 107, 1124 South IH 35, Austin. According to the agenda, the division will consider Gas Utilities Docket 2706.

Additional information may be obtained from Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1126.

Filed: July 25, 1980, 3:45 p.m.
Doc. No. 805801

Monday, August 4, 1980, 9 a.m. The Liquefied-Petroleum Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda, the division will consider the director's report.

Additional information may be obtained from Guy G. Mathews, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1189.

Filed: July 25, 1980, 11:54 a.m.
Doc. No. 805791

Monday, August 4, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's oil and gas regulatory jurisdiction.

Additional information may be obtained from Jan Burris, P.O. Drawer 12967, Austin, Texas 78704, telephone (512) 445-1307.

Filed: July 25, 1980, 11:52 a.m.
Doc. No. 805792

Monday, August 4, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. According to the agenda summary, the addition concerns category determinations under Sections 102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: July 25, 1980, 11:53 p.m.
Doc. No. 805793

Monday, August 4, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas is making an addition to a meeting to be held in the first floor auditorium, 1124 South

IH 35, Austin. According to the agenda, the addition concerns the withdrawal of Rules 051.02.04.001-.004, the proposed NGPA state alternative filing requirements. Consideration will also be given to a proposal to repeal the existing railroad commission NGPA determination procedures (Rules 051.02.03.001-.004) when the alternative filing requirements are adopted.

Additional information may be obtained from Linda D. Carr, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1273.

Filed: July 25, 1980, 11:56 a.m.
Doc. No. 805794

Monday, August 4, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns consideration of initiating rulemaking proceedings to require that plats filed with the commission be certified by a registered public surveyor.

Additional information may be obtained from Carla S. Doyne, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1186.

Filed: July 25, 1980, 11:53 a.m.
Doc. No. 805795

Monday, August 4, 1980, 9 a.m. The Oil and Gas Division of the Railroad Commission of Texas makes an addition to the agenda of a meeting to be held in the first floor auditorium, 1124 South IH 35, Austin. The addition concerns consideration of application of Humble Exploration, Inc., to amend field rules, Giddings (Austin Chalk) Field, Lee County—Docket 3-73,110.

Additional information may be obtained from Willis C. Steed, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1293.

Filed: July 25, 1980, 2:21 p.m.
Doc. No. 805800

Monday, August 4, 1980, 9 a.m. The Surface Mining Division of the Railroad Commission of Texas will meet in the first floor auditorium, 1124 South IH 35, Austin, to consider permit application approval for the Texas Municipal Power Agency (Docket 026) to conduct surface coal mining operations in Grimes County; and the director's report.

Further information may be obtained from J. Randel (Jerry) Hill, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1176.

Filed: July 25, 1980, 11:56 a.m.
Doc. No. 805796

Monday, August 4, 1980, 9 a.m. The Transportation Division of the Railroad Commission of Texas will meet in Room 107, 1124 South IH 35, Austin. According to the agenda summary, the division will consider various matters falling within the Railroad Commission's transportation regulatory jurisdiction.

Additional information may be obtained from Owen T. Kinney, P.O. Drawer 12967, Austin, Texas 78711, telephone (512) 445-1330.

Filed: July 25, 1980, 11:55 a.m.
Doc. No. 805797

School Land Board

Tuesday, August 5, 1980, 10 a.m. The School Land Board will meet in Conference Room 831 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the board will consider the following items: pooling applications; application for suspension; applications to drill two directional wells to federal leases from surface location on state leases; consideration and approval of nominations, terms, conditions, and procedures for the October 7, 1980, lease sale; discussion of the new proposed appraisal report form; excess acreage applications; vacancy applications; coastal public lands—easement applications, public drawing by the board members for the purpose of leasing a total of 18 cabins located in Brazoria, Kenedy, and Cameron Counties on coastal public lands; coastal public lands report—cabin permit renewals; rescheduling of tentative September 5, 1980, small tracts sell to November 4, 1980; consideration of sealed bids received for the sale of liquids from Block 14-L.

Additional information may be obtained from Linda Fisher, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701, telephone (512) 475-2071.

Filed: July 28, 1980, 11:51 a.m.
Doc. No. 805820

State Securities Board

Monday, August 4, 1980, 10 a.m. The Securities Commissioner of the State Securities Board will conduct a hearing at 1800 San Jacinto Street, Austin, for the purpose of determining whether a cease and desist order should be issued prohibiting the sale of securities issued by Haydon Allen Associates.

Additional information may be obtained from Lee Polson, 1800 San Jacinto Street, Austin, Texas.

Filed: July 23, 1980, 10:36 a.m.
Doc. No. 805679

Texas Surplus Property Agency

Friday, August 1, 1980, 2:30 p.m. The Governing Board of the Texas Surplus Agency will meet in C. A. Roberson's Office, 1400 Electric Service Building, Fort Worth. The board will cover the following items: approval of the minutes of the last board meeting; consideration and approval of the budget for fiscal year 1980-81; discussion of the surcharge impact; approval of a vending machine for the San Antonio district; and the executive director's report.

Additional information may be obtained from Robert A. Davis, Jr., P.O. Box 8120, Wainwright Station, San Antonio, Texas 78208, telephone (512) 661-2381.

Filed: July 22, 1980, 4:06 p.m.
Doc. No. 805657

Teacher Retirement System of Texas

Thursday, July 24, 1980, 1:30 p.m. The Board of Trustees of the Teacher Retirement System of Texas conducted an emergency session at 1001 Trinity, Austin, to consider administrative matters raised by the death of the executive secretary.

Additional information may be obtained from Shari Cooper, 1001 Trinity, Austin, Texas 78701, telephone (512) 477-9711, ext. 201.

Filed: July 22, 1980, 4:05 p.m.
Doc. No. 805634

Texas Turnpike Authority

Tuesday, July 29, 1980, 10:30 a.m. The Board of Directors of the Texas Turnpike Authority made an emergency addition to the agenda of a meeting held in the main conference room, Pennzoil Place, South Tower, Rusk and Louisiana Streets, Houston. The addition concerned approval of Addendum 1 to Supplemental Agreement 2 to contract MLB 17 providing for transfer of certain toll collection equipment to Automatic Toll Systems, Inc. Reason for emergency—this item was directly related to item 4d of the original agenda and had to be discussed at the same meeting.

Additional information may be obtained from Harry Kabler, P.O. Box 5547, Arlington, Texas 76011, telephone (817) 261-3151.

Filed: July 24, 1980, 9:38 a.m.
Doc. No. 805699

Texas Water Commission

Monday, July 28, 1980, 10 a.m. The Texas Water Commission made an emergency addition to the agenda of a meeting held in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned an application by Jasper County Water Control and Improvement District 1 for approval of \$550,000 sewer system tax bonds. The emergency status of the addition was warranted because the bond approval and issuance was necessary to assure continued EPA grant funding and Texas Water Development Board financial assistance, and because a prompt construction start was required to alleviate overloading the existing wastewater treatment facilities.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 25, 1980, 9:33 a.m.
Doc. No. 805735

Thursday, July 31, 1980, 10 a.m. The Texas Water Commission met in Room 124A of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider a production area authorization for U.S. Steel Corporation, Texas Uranium Operations Pawlik in situ uranium mining project in Live Oak County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 23, 1980, 1:48 p.m.
Doc. No. 805685

Tuesday, August 12, 1980, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider an application by the County of Victoria for an amendment to Water Quality Permit 12226-0 and also an application by Rollins Environmental Services (TX) Inc., for a Water Quality Permit 39041.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 25, 1980, 9:33 a.m.
Doc No 805736

Wednesday, August 20, 1980, 10 a.m. The Texas Water Commission will meet in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing to consider an application by T. W. Weston, trustee, for a permit to authorize discharge of treated domestic sewage effluent from a proposed motel, restaurant, and club complex which is to be located north of Buffalo Bayou and east of Sabine Street, approximately 300 feet due south of intersection of Sabine Street with the eastbound access road to Memorial Drive in Houston, Harris County.

Additional information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: July 28, 1980, 9:48 a.m.
Doc No. 805813

Thursday, August 21, 1980, 9 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on application by Gerald Hazelhurst for a permit to authorize discharge of 1,000 gallons per day of treated domestic sewage effluent from wastewater treatment facilities which are to be located at 6209 Windfern Road within the City of Houston, Harris County.

Additional information may be obtained from Lee H. Mathews, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1311.

Filed: July 24, 1980, 2:04 p.m.
Doc. No. 805713

Tuesday, August 26, 1980, 10 a.m. The Texas Water Commission will meet in the Houston-Galveston Area Council Annex-I conference room, 3701 West Alabama, Houston. According to the summarized agenda, the commission will con-

duct a hearing on an application by Thomas D. Simmons, Jr., for a permit to authorize discharge of 250,000 gallons per day of treated domestic sewage from wastewater facilities which are to be constructed to serve domestic needs of proposed commercial development of offices and warehouses. The plant is located approximately 0.3 mile southwest of intersection of Fisher Road and old Hempstead Road (U.S. Highway 290) at a point on the south bank of Cole Creek, approximately 1,200 feet southwest of U.S. Highway 290 in Harris County.

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: July 21, 1980, 4:25 p.m.
Doc. No. 805605

Tuesday, August 26, 1980, 10 a.m. The Texas Water Commission will meet in the Houston-Galveston Area Council Annex I-conference room, 3701 West Alabama, Houston. According to the agenda summary, the commission will conduct a hearing on an application by Texas Instruments, Inc., for an amendment to Permit 02391 (previously numbered 12154) to include wastewater generated from fabrication and assembly of computer and recorder equipment. The plant is located at 24500 Highway 290, approximately one mile southwest of the Town of Cypress, north of U.S. Highway 290 Cypress Creek Bridge, and on the east side of Dry Creek in Harris County.

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: July 21, 1980, 4:25 p.m.
Doc. No. 805606

Thursday August 28, 1980, 10 a.m. The Texas Water Commission will meet in Room 118 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on an application by Palo Duro River Authority of Texas for an extension of time for commencement of construction of a dam and reservoir on the Palo Duro Creek, tributary of North Canadian River, tributary of Canadian River, Canadian River Basin, in Hansford County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 23, 1980, 1:49 p.m.
Doc. No. 805686

Thursday, August 28, 1980, 10 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on Application 4062 of Jay M. Easley for a permit to directly divert not to exceed 90 acre-feet of water per annum from the Guadalupe River for irrigation purposes in Victoria County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 23, 1980, 1:49 p.m.
Doc. No. 805687

Friday, August 29, 1980, 10 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the summarized agendas, the commission will conduct hearings on the following:

Application 4064 of Alice M. Adkins and Estate of Edgar D. Adkins for a permit to directly divert 150 acre-feet of water per annum from Middle Bernard Creek, tributary of San Bernard River, Brazos-Colorado Coastal Basin for irrigation purposes in Wharton County and Colorado County.

Application 4063 of John W. Adkins for a permit to divert 150 acre-feet of water per annum from an unnamed tributary of Middle Bernard Creek, tributary of San Bernard River, Brazos-Colorado Coastal Basin, for irrigation purposes in Colorado County.

Additional information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-4514.

Filed: July 23, 1980, 1:49 p.m.
Doc. Nos. 805688 and 805689

Thursday, September 4, 1980, 10 a.m. The Texas Water Commission will meet in the Houston-Galveston Area Council, Annex I conference room, 3701 West Alabama, Houston. According to the agenda summary, the commission will conduct a hearing on an application by Oxirane Chemical Company for amendment to Permit No. 02041 to authorize increase in discharge of industrial wastewater from its Channelview petrochemical manufacturing plant which is located south of Wallisville Road, east of the Missouri Pacific Railroad, north of Wood Drive, and west of the San Jacinto River, in Harris County.

Additional information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: July 23, 1980, 1:50 p.m.
Doc. No. 805690

Friday, September 5, 1980, 9 a.m. The Texas Water Commission will meet in Room 618 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a hearing on an application by Jack E. Ray, doing business as Texas Tumbleweed Restaurant, for amendment to Permit No. 11352 to authorize disposal by irrigation of disinfected secondary treated domestic sewage effluent generated at Texas Tumbleweed Restaurant. The disposal site is located immediately east of Texas Tumbleweed Restaurant, which is located on the north side of RM Road 2222, approximately two miles southeast of the intersection of FM Roads 2222 and 620 in northwest part of Travis County.

Additional information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, telephone (512) 475-1468.

Filed: July 23, 1980, 1:50 p.m.
Doc. No. 805691

Regional Agencies

Meetings Filed July 22, 1980

The Education Service Center, Region IV, Board of Directors, will meet in the Nantucket Room, Anchorage Restaurant, 2504 North Loop West, Houston, on August 12, 1980, at 6 p.m. Further information may be obtained from Dr. Tom Pate, Jr., P.O. Box 863, Houston, Texas 77001, telephone (713) 868-1051.

The Middle Rio Grande Development Council, A-95 Project Review Committee, met in City Council Chambers, City Hall, Uvalde, on July 30, 1980, at 2 p.m. Further information may be obtained from Charles M. Trost, P.O. Box 1461, Del Rio, Texas 78840, telephone (512) 775-1581.

Doc. No. 805617

Meetings Filed July 23, 1980

The North Plains Water District, Board of Directors, will meet at 702 East 1st Street, Dumas, on August 4, 1980, at 10 a.m. Further information may be obtained from Orval E. Allen, P.O. Box 935, Dumas, Texas 79209, telephone (806) 935-6401.

The Panhandle Regional Planning Commission, Area Agency on Aging Advisory Council, met at the Amarillo Senior Citizens Association, 1311 South Tyler Street, Amarillo, on July 29, 1980, at 10 a.m. Further information may be obtained from Perna Strickland, P.O. Box 9257, Amarillo, Texas 79105, telephone (806) 372-3381.

The Tri-Region Health Systems Agency, joint meeting of the Nortex Cardiovascular and Maternal and Child Health Task Forces, was conducted in the conference room, Mediacenter, Wichita Falls, on July 31, 1980, at 7 p.m. Further information may be obtained from Linda Moody or Susan Bennett, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

The West Central Texas Council of Governments, Alcoholism/Drug Abuse Advisory Committee, will meet in the administrative offices, West Central Texas Council of Governments, Abilene, on August 14, 1980, at 10:30 a.m. Further information may be obtained from Sue Johnson WCTCOG, P.O. Box 3195, Abilene, Texas 79601, telephone (915) 672-8544.

Doc. No. 805680

Meetings Filed July 24, 1980

The Amarillo MH/MR Regional Center, Executive Committee of the Board of Trustees, met at Psychiatric Pavilion, 7201 Evans Street, Amarillo, on July 31, 1980, at noon. The Board of Trustees met at the same location, on the same date, at 1 p.m. Further information may be obtained from Claire Rigler, P.O. Box 3250, Amarillo, Texas 79106, telephone (806) 353-7235.

The Brazos Valley Region MH/MR Center, Board of Trustees, met in rescheduled session at 202 East 27th Street, Bryan, on July 31, 1980, at 4:30 p.m. Further information may be obtained from Linda S. Davis, Ph.D. 202 East 27th Street, Bryan, Texas 77801, telephone (713) 779-2000.

The Central Texas MH/MR Center, Board of Trustees, will meet at 308 Lakeway Drive, Brownwood, on July 20, 1980, at 4:30 p.m. Further information may be obtained from Janie Clements, P.O. Box 250, Brownwood, Texas 76801, telephone (915) 646-9574, ext. 35.

The Gulf Bend MH/MR Center, Board of Trustees, met at 2105 Port Lavaca Drive, Victoria, on July 31, 1980, at noon. Further information may be obtained from T. G. Kelliher, Jr., 2105 Port Lavaca Dr., Victoria, Texas 77901, telephone (512) 578-5262.

The Lone Star Transportation Authority, Interim Executive Committee, met in the board room, Administration Building, Dallas/Fort Worth Airport, on July 29, 1980, at 8 a.m. Further information may be obtained from Cinde Weatherby, P.O. Box 5888, Arlington, Texas 76011, telephone (817) 640-3300.

The Northeast Texas Health Systems Agency, Executive Committee, will meet at Marshall Civic Center, 2501 East End Boulevard, South, Marshall, on August 5, 1980, at 7 p.m. Further information may be obtained from Bayard S. Galbraith, Suite 201, 505 East Travis Street, Marshall, Texas 75670, telephone (214) 938-8331.

The Texas Municipal Power Agency, Personnel Committee, met in the Arlington Room, Rodeway Inn, Highway 360 at Six Flags Drive, Arlington, on July 30, 1980, at 5 p.m. The Board of Directors met in Suite 319, agency offices, 600 Arlington Downs Tower, Arlington, on July 31, 1980, at 10 a.m. Further information may be obtained from Joel T. Rodgers, 2225 East Randol Mill Road, Arlington, Texas 76017, telephone (817) 461-4400.

The West Central Texas Council of Governments, Executive Committee, met in rescheduled session at 1025 East North 10th Street, Abilene, on July 30, 1980, at 12:45 p.m. Further information may be obtained from Bobbie T. Gallagher, P.O. Box 3195, Abilene, Texas 79604, telephone (915) 672-8544.

Doc. No. 805698

Meetings Filed July 28, 1980

The Angelina and Neches River Authority, Board of Directors, will meet at Crown Colony Country Club, 900 Crown Colony Drive, Lufkin, on August 5, 1980, at 11 a. m. Further information may be obtained from William A. Elmore, P.O. Box 387, Lufkin, Texas 75901, telephone (512) 632-7795.

The Education Service Center, Region XIV, Board of Directors, will meet in Room 203/204, Abilene Civic Center, 1100 North 6th, Abilene, on August 13, 1980, at 5 p.m. Further information may be obtained from Dr. Thomas Lawrence, 3001 North 3rd Street, Abilene, Texas, telephone (915) 677-2911.

The Education Service Center, Region XVIII, Board of Directors, will meet at Region XVIII Education Service Center, LaForce Boulevard, Midland, on August 14, 1980, at 7:30 p.m. Further information may be obtained from J. W. Donaldson, P.O. Box 6020, Midland, Texas 79701, telephone (915) 563-2380.

The High Plains Underground Water Conservation District 1, Board of Directors, will meet at 2930 Avenue Q, Lubbock, on August 4, 1980, at 10 a.m. Further information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, telephone (806) 762-0181.

The Panhandle Regional Planning Commission, Plan Development Committee of the Panhandle Health Systems Agency, will meet at Texas Tech University Regional Academic Health Center, 1400 Wallace Boulevard, Amarillo, on August 7, 1980, at 7:30 p.m. Further information may be obtained from George Loudder, P. O. Box 9257, Amarillo, Texas, telephone (806) 372-3381.

The Tri-Region Health Systems Agency, Concho Valley Cardiovascular Task Force, will meet in the Art Room, Hotel Cactus, 36 East Twohig, San Angelo, on August 7, 1980, at 7 p.m. The Concho Valley Maternal and Child Health Task Force will meet in the English Room of the Hotel Cactus on the same day and time. Further information may be obtained from Linda Moody and Susan Bennett, respectively, 2642 Post Oak Road, Abilene, Texas 79605, telephone (915) 698-9481.

Doc. No. 805811

Texas Air Control Board

Applications for Construction Permits

Notice is given by the Texas Air Control Board of applications for construction permits received during the period of July 14-18, 1980.

Information relative to these applications, 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 name of the applicant and the city in which the facility is located; type of facility; location of the facility (if available); permit number; and type of application—new source or modification.

Week Ending July 18, 1980

E.W. Hable and Sons, Inc., Waxahachie; rock crusher; 8468; new source

Jack County Crusher Stone, Jacksboro; rock crusher; Highway 59 East; 8569; new source

Phillips Petroleum Company, Borger; 600—PSIG steam boilers; Borger Refinery; 8470; new source

Mobil Producing Texas and New Mexico, Inc., Waskom; field compressor; compressor facility; 8471; new source

K-B Asphalt and Materials, Inc., Ranger; drum mixer asphalt concrete plant; 6224B; new source

Chaparral Refining Company, Ingleside; topping unit; Ingleside Plant; 8472; new source

Kohler Company, Brownwood; pottery; 8473; new source

Texas Refining Company, Giddings; topping unit; U.S. Highway 77; 8474; new source

Independent Refining Corporation, Winnie; naphtha desulfurizer reformer; Independent Refining; 8475; new source

Browning-Ferris Industries, Inc., (Chemical Services Division), Port Arthur; 10,000 gallon bulk storage tanks, gasoline, diesel; 8300 Old Ferry Road; 8476; new source

GATX Terminals-Pasadena; Pasadena; barge dock 2; 530 North Witter Street; 8477; new source

Mobil Producing Texas and New Mexico, Inc., Maryneal; production tank battery; J.D. Maddox 1; 8478; new source

Eisenhour Construction Company, Inc., Dallas; portable concrete batch plant; 3518 Ash Lane; 8479; new source

Norton Concrete Company, Mesquite; concrete batch plant; Lot 1, Speed addition; 4165A; new source

Sunoco Terminals, Inc., Nederland; two boilers, 30,000 pounds per hour capacity each; Smith's Bluff; 8480; new source

Chemical Exchange Company, Inc., Baytown; alcohol dehydration unit; 5501 Baker Road; 8481; new source

Issued in Austin, Texas, July 18, 1980.

Doc. No. 805656 Ramon Dasch
Hearing Examiner
Texas Air Control Board

Filed: July 22, 1980, 4:05 p.m.

For further information, please call (512) 451-5711, ext. 401.

Comptroller of Public Accounts

Administrative Decision

Summary of Administrative Decision 10,572

For copies of the following recent 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 our confidentiality statutes.

Summary of Decision: Taxpayer, a wholesaler, had been assessed sales and use tax upon sample items (primarily carpet and flooring samples) sold or given to retail merchants. While the taxpayer did avoid most of the asserted tax liability on the basis of good faith acceptance of resale certificates, good faith acceptance of resale certificates with respect to sample items will be more closely scrutinized in the future. Because a seller can be charged with knowledge of what it sells, and since sample items are seldom purchased for the sole purpose of resale (see Rule 026.02.20.005), a person selling samples should assure itself that they are not to be used as samples but in fact simply resold. Discount and rebate programs conducted by sellers with respect to sample items do not constitute bona fide renegotiations of the sales price and thus do not result in a decreased tax liability. The fact that sample items are given away by a seller does not avoid tax liability; in that situation the "seller" owes a use tax to the state computed upon the cost of the item to him.

Issued in Austin, Texas, on July 18, 1980.

Doc. No. 805676 Fred Conder
Chief Administrative Law Judge
Comptroller of Public Accounts

Filed: July 23, 1980, 11:33 a.m.

For further information, please call (512) 475-1938.

Texas Education Agency

Consultant Proposal Requests

Description. The Texas Education Agency is requesting proposals from individuals to direct the implementation of the agency's financial management system during the transitional period from September 1, 1980, through December 31,

1980. A contract is expected to be awarded on September 1, 1980, to one individual. The last day on which proposals will be accepted for evaluation will be August 15, 1980. The right to reject any and all proposals is reserved.

Procedure for Selecting Consultant. The person selected for cost and contract negotiations will be a certified public accountant having the broadest and deepest knowledge of the agency's financial management system.

Continuation of a Service Previously Performed. The service desired is a continuation of a service previously performed by Robert L. Baker, C.P.A. The agency intends to award the contract to Mr. Baker unless a better offer is submitted.

Contact. Information on the nature of the services required may be obtained by writing or calling Georgina Chu, director, Accounting Division, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3515.

Doc. No. 805608

Description. The Texas Education Agency is requesting proposals for assistance by a consulting firm to the agency in the period following the implementation of the agency's financial management system on September 1, 1980. A contract is expected to be awarded on September 1, 1980. The last day on which proposals will be accepted for evaluation will be August 15, 1980. The right to reject any or all proposals is reserved.

Procedure for Selecting Consultant. The respondent deemed to be best qualified by knowledge of the agency's financial management system will be selected for cost negotiations.

Continuation of a Service Previously Performed. The consulting service desired is a continuation of a service previously performed by Arthur Young and Company unless a better offer is submitted.

Contact. Information on the nature of the services required may be obtained by writing or calling Robert L. Baker, director, FMS Project, Texas Education Agency, 201 East 11th Street, Austin, Texas 78701, telephone (512) 475-3956.

Issued in Austin, Texas, July 21, 1980.

Doc. No. 805609 A. O. Bowen
Commissioner of Education

Filed: July 21, 1980, 4:53 p.m.

For further information, please call (512) 475-3272.

Texas Energy and Natural Resources Advisory Council

Consultant Contract Awards

In compliance with Article 6252-11c, Vernon's Annotated Civil Statutes, the Texas Energy and Natural Resources Advisory Council hereby furnishes this notice of contract award. A description of the study is as follows:

To design a solar collection and thermal storage system suitable for interfacing with a distillation column; to design a laboratory scale distillation apparatus incorporating maximum flexibility of operation; to fabricate the laboratory scale solar distillation apparatus; to distill ethanol from water in the solar still under a variety of operating conditions and concentrations; to analyze the data to define energy optimum operation and to produce a recommended prototype configuration; and to perform an economic analysis of a prototype system.

The contractor is Southwest Research Institute, 6220 Culebra Road, P.O. Drawer 28510, San Antonio, Texas 78284. The total value of the contract is \$49,499. The beginning date of the contract is July 21, 1980, and the ending date of the contract is August 31, 1981.

Progress reports are due the tenth of each calendar month; an interim report is due May 1, 1981; a draft final report is due August 31, 1981; and a final report is due October 31, 1981.

Doc. No. 805662

In compliance with Article 6252-11c, Vernon's Annotated Civil Statutes, the Texas Energy and Natural Resources Advisory Council hereby furnishes this notice of contract award. A description of the study is as follows:

To contact appropriate experts at SERI for guidance, and review literature and assess range of liquid and solid desiccants capable of achieving load parameters; to design test modules which can measure water absorption properties of the candidate desiccants as a function of temperature and humidity of entering air in passive system configuration; to construct and instrument and calibrate modules; to test candidate materials in range of temperature and vapor pressure conditions encountered in humid Texas climate under conditions simulating passive or hybrid systems; to design dehumidification systems applicable to passively cooled residences; to develop a computer model for systems and apply it to a range of humid Texas climates; to assess cost benefits of most promising materials in systems and determine commercialization potential for each within the next 10 years; to assess system potential for retrofit in existing buildings; to design a demonstration system for incorporation into Trinity's Passive Test Facility.

The contractor is Trinity University, 715 Stadium Drive, San Antonio, Texas 78284. The total value of the contract is \$28,570. The beginning date of the contract is July 9, 1980, and the ending date of the contract is August 31, 1981.

Progress reports are due the tenth of each calendar month; an interim report is due May 31, 1981 (or draft final); a draft final report is due August 31, 1981; and a final report manuscript is due October 31, 1981.

Doc. No. 805663

In compliance with Article 6252-11c, Vernon's Annotated Texas Statutes, the Texas Energy and Natural Resources Advisory Council hereby furnishes this notice of contract award. A description of the study is as follows:

To characterize: (1) a hypothetical optimum-sized lignite mine-mouth gasification facility, medium BTU gas pipeline, and the product gas combustion in existing boilers along the Gulf Coast; and (2) a hypothetical "strip and ship" operation in which an equivalent amount of lignite is mined, transported, and directly fired in new industrial boilers at the Gulf Coast location; to estimate and compare the environmental and resource demands for both scenarios at both the mine-end and the user-end; to identify and summarize the post mine-mouth federal and state environmental requirements highlighting the regulations that are particularly significant to each scenario, and with emphasis on those that serve to avoid or mitigate the anticipated impacts resulting from the gasification scenario, and on those that differ significantly from the requirements for transportation and utilization of natural gas; to analyze legal and regulatory requirements, gaps, and conflicts in greater detail, focusing on the requirements of the State of Texas and applying the most attention to those areas where the impacts of the gasification scenario may be greater than the impacts of lignite utilization by the "strip and ship" scenario. The analysis shall include considerations that may influence unit capacity planning at the users' end such as (1) the users' need to have the same output energy from either scenario, and (2) any regulatory concessions related to unit capacity that may seem to favor certain capacities.

The contractor is Radian Corporation, P.O. Box 9948, 8500 Shoal Creek Boulevard, Austin, Texas 78766. The total value of the contract is \$53,474. The beginning date of the contract is July 15, 1980, and the ending date of the contract is March 10, 1981.

Project status reports are due by the 10th of each month, starting August 1980; a draft final report is due January 10, 1981; and a final report is due March 10, 1981.

Issued in Austin, Texas, on July 23, 1980.

Doc. No. 805712 Roy R. Ray, Jr., Manager
Technology Development Section
Texas Energy and Natural Resources
Advisory Council

Filed: July 24, 1980, 9:39 a.m.

For further information, please call (512) 475-5588

Consultant Proposal Request

Description of Project Objectives. In accordance with the Texas Energy Development Act of 1977, Article 4413(47b), Vernon's Annotated Civil Statutes, as amended by Senate Bill 921, 66th Legislature, Regular Session, and pursuant to rules adopted for administration of the Energy Development Act, (4 TexReg 4604), the Texas Energy and Natural Resources Advisory Council (TENRAC) is soliciting proposals for lignite research, development, and demonstration (RD&D).

The lignite resources of Texas have been recognized as vast and capable of sustaining large industrial use in the future. Lignite currently provides approximately 16% of Texas' electric power. This percentage is expected to grow significantly in the next decade. Technologies for the large scale combustion of lignite (greater than 1 by 10⁹ Btu/hr) are currently available and/or are being researched and developed by the electric utility industry, equipment manufacturers,

and the federal government. Technologies for smaller scale uses of lignite, such as the production of steam in industrial boilers and the conversion of lignite into a combustible gas which can be substituted for natural gas, are less well developed. Also, lacking at the present time is a detailed quantitative and qualitative characterization of the lignite resources of the state to a degree that would enable the private sector to carry out site-specific studies on lignite-based industries and/or to help the state in policy formulation on lignite use. Additionally, the assessment and control of environmental impacts from increased lignite use are matters of public concern and importance.

Given the above factors and the expressed interest of TENRAC through extensive staff investigation and council deliberation, the following solicitations are being made.

Specific Project Areas. Proposals in the following lignite areas are requested. Additional proposals may be solicited at a later date.

SPI Number 80-L-7. Research and/or development related to (i) the detailed quantitative assessment of lignite resources of the state, of the deep-basin reserves in particular, and their complete geological characterization, (ii) detailed physical and chemical characterization of Texas lignites and the analytical work needed for its recovery and use, and (iii) the technological needs of mining, resources recovery, and utilization of Texas lignites either as an industrial fuel or as an industrial feedstock.

SPI Number 80-L-8. Demonstration of advanced technologies for the use of Texas lignite as an industrial fuel or as feedstock. Advanced technologies are defined as technologies that are not currently in widespread use in the U.S. and that offer potential economic and environmental advantages over the existing commercial technologies. Such technologies include but are not limited to beneficiation, gasification, liquefaction, carbonization, and fluidized bed combustion.

Proposals submitted against this SPI shall be user-coupled, that is, a potential end user should exist with a demonstrated interest in the project in the form of financial participation or a letter of intent about the intended end use. As an impetus to speedy commercialization of technologies, TENRAC encourages participation in the demonstration projects by all sectors of industry, i.e., small, medium, and large. End use participation can include utilization of the whole or a reasonable part of the fuel resource that may be potentially generated by the demonstration project.

SPI Number 80-L-9. Research, development, and/or demonstration related to control systems for hazardous pollutants and particulates resulting from technologies utilizing lignite. Control systems as defined herein include precombustion beneficiation, the combustion system itself, and post combustion flue gas cleaning. Areas of interest include but are not limited to (i) characterization of the emissions including the relationships between lignite and/or lignite ash and any additives used, and their effect on the emissions of pollutants such as sulfur oxides and particulates, (ii) chemical and/or physical mechanisms of the capture of sulfur in the ash, or of the particulates present in the gases, and/or (iii) the characterization of lignites and lignite ashes and their relationships to the performance of the control systems.

SPI Number 80-L-10. Research, development, and/or demonstration related to the disposal or use of large scale solid wastes resulting from technologies utilizing lignite. Specific attention should be directed at the impact of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) on the use of lignite.

SPI Number 80-L-11. Research, and/or development related to environmental issues and to issues and strategies affecting the environment and/or other regulations and influencing the definition of future policy on lignite resource utilization in the state. This includes the scale of utilization and its effects and implications on short- and long-term state policy. Proposals submitted under this SPI should discuss (i) the significance to Texas of the issue at which the study is directed, (ii) the potential impact of the issue on lignite development, and (iii) earlier studies pertinent to the proposed study.

Funding. TENRAC expects to fund several projects but not necessarily one under each SPI nor limited to one under any SPI. Cost sharing with the proposers and with third-party interests is encouraged and will strengthen a proposal's potential for selection. Projects extending beyond August 31, 1981, are invited, but funding for work to be carried out after that date is contingent upon appropriation of funds by the 67th Texas Legislature and upon satisfactory evaluation of the work accomplished before that time.

Eligibility. The following criteria are established for eligibility of proposers:

(a) Texas-based proposers will be given priority consideration and only in unusual circumstances will this priority be disregarded.

(b) Projects to be conducted in Texas will be given priority consideration and only in unusual circumstances will this priority be disregarded.

(c) Individual members of the council, TENRAC staff, or their immediate families are not eligible.

Projects which TENRAC considers as appropriate for performance by the Texas University Coal Research Consortium, which was established by TENRAC in February 1980, will be referred to the consortium.

Proposal Content. Voluminous proposals are not desired. It is suggested that the body of proposals for research and development be limited to 25 pages, plus appendices. Proposals for demonstration should include additional information and emphasis relating to such factors as user-orientation, compliance with regulations and other requirements, public visibility, and the potentiality of commercial development. Proposers considering the submission of a proposal for demonstration should contact TENRAC to obtain the details on the additional information on proposal preparation. Research and development proposals should include the following:

(a) Cover page. The cover page should include the project 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).

(b) Proposal summary. The proposal summary should include a summary of the complete project highlighting the technical merit and the significant contributions of the intended study, the activities for which TENRAC participation is requested, the role of proposer(s) and other major partici-

pants, the total time and funds involved, and TENRAC funds requested.

(c) Technical section. The technical section should include a description of the project including the objectives, technical description, significance to Texas within the next 25 years, economic and environmental considerations, proprietary aspects of the project, bibliography, and other materials as appropriate.

(d) Administrative section. The administrative section should include the organizational structure of the project team and the responsibilities of the major participants and key individuals, and a project time schedule showing major milestones and project reporting dates (except in special circumstances, project status reports will be required every month).

(e) Financial section. The financial section should include the total project budget itemized by major cost category (salaries and wages, fringe benefits, materials and supplies, capital equipment, travel, subcontracts, other direct costs, indirect costs, fee), by the state fiscal year, and by major project components (as appropriate) detailing the proposed use of TENRAC funds, the source of other funds, and the proposed contracting mechanism.

(f) Qualification section. The qualification section should include a summary of the qualifications of major organizational participants and the key individuals, highlighting relevant experience. Resumes should be placed in the appendix.

(g) Appendices. Appendices should be included as appropriate.

The additional instructions for preparing demonstration proposals will be provided upon request.

Review and 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.

Deadline and Address for Proposal Submission. In order to be considered for funding in October 1980, 10 copies of a proposal must be received in Room 900, 411 West 13th Street, Austin, Texas 78701, no later than 5 p.m. August 21, 1980. In order to be considered for funding in January 1981, 10 copies of a proposal must be received at the above address no later than October 31, 1980.

Schedule for Completion. Work to be compensated with the current funding must be completed by not later than August 31, 1981. Projects for longer periods are invited but are subject to the funding limitations described above in item 3. All projects will provide a draft final report or comprehensive technical progress report by not later than May 1, 1981, so that program development for the next biennium can proceed expeditiously.

Designation of Contact Person for Additional Information. Address questions and requests for additional information to C. D. Rao, Texas Energy and Natural Resources Ad-

visory Council, 411 West 13th Street, Room 900, Austin, Texas 78701, telephone (512) 475-5588 or STS 822-5588.

Issued in Austin, Texas, on July 25, 1980.

Doc. No. 805781 Roy R. Ray, Jr., Manager
Technology Development Section
Texas Energy and Natural Resources
Advisory Council

Filed: July 25, 1980, 11:22 a.m.

For further information, please call (512) 475-5588.

Notice of Hearing

The Solar Advisory Committee of the Texas Energy and Natural Resources Advisory Council, chaired by Railroad Commissioner Mack Wallace, will hold a statewide public hearing on Thursday, August 21, 1980, at the Joe C. Thompson Center on the campus of the University of Texas at Austin. The mission of the Committee is to develop a comprehensive statement of the appropriate role of the State of Texas in supporting research, development, demonstration, commercialization, and information dissemination activities related to solar and wind.

Comments and testimony are invited from concerned individuals and organizations on the draft text and recommendations of the Solar Advisory Committee to TENRAC. Copies of the proposed recommendations are available from the Texas Energy and Natural Resources Advisory Council upon request.

Advance notification of intent to speak is desirable and may be used to request a particular time of day. Please notify at least two days prior to hearing John Carlson, TENRAC, 411 West 13th Street, Suite 804, Austin, Texas 78701, telephone (512) 475-5407. Speakers without advance notification will be accepted on a first come, time available basis.

Each speaker will be allotted 10 minutes to present testimony, to be followed by questions from the committee. Submission of written material is encouraged without limit. Each submission should contain the name, address, and telephone number of someone who can answer questions about the material. Written material is also invited from interested parties who cannot be present at the hearing.

The public hearing will be held on Thursday, August 21, 1980, from 9 a.m. to 5 p.m. in Room 1-110 at the Joe C. Thompson Center, adjacent to the LBJ Library, on the University of Texas at Austin campus.

For submission of written testimony, to obtain additional information, or to obtain copies of the committee's proposed recommendations, contact John Carlson, TENRAC, Conservation Division, 411 West 13th Street, Austin, Texas 78701, telephone (512) 475-5407.

Issued in Austin, Texas on July 21, 1980.

Doc. No. 805664 Roy R. Ray, Jr., Manager
Technology Development Section
Texas Energy and Natural Resources
Advisory Council

Filed: July 23, 1980, 8:29 a.m.

For further information, please call (512) 475-5407.

Executive and Legislative Budget Offices

Joint Budget Hearing Schedule

The Executive and Legislative Budget Offices will jointly conduct the following budget hearings to consider appropriations requests for the 1982-83 biennium, for the period August 4-8, 1980:

Agency	Date	Place
Kerrville State Hospital	8:30 a.m. August 4	Austin State Hospital, Austin
State Property Tax Board	9 a.m. August 4	Senate Finance Room 301, State Capitol
Board of Tax Assessor Examiners	9 a.m. August 4	Senate Finance Room 301, State Capitol
Corpus Christi School	1:30 p.m. August 4	Austin State Hospital, Austin
Austin State Hospital	8:30 a.m. August 5	Austin State Hospital, Austin
Department of Corrections	9 a.m. August 5	Sergeants Committee Room 215, State Capitol
Department of Banking	9:30 a.m. August 5	Senate Finance Room 301, State Capitol
Texas A&M University System	10:30 a.m. August 5	Memorial Student Center, Room 145, Texas A&M University, College Station
Agriculture Experiment Station	1:30 p.m. August 5	Memorial Student Center, Room 145, Texas A&M University, College Station
Lufkin State School	1:30 p.m. August 5	Austin State Hospital, Austin
Texas Forest Service	3 p.m. August 5	Memorial Student Center, Room 145, Texas A&M University, College Station
Beaumont State Center for Human Development	8 a.m. August 6	Central Office Auditorium, 909 West 45th Street, Austin
Texas A&M University	9 a.m. August 6	Memorial Student Center, Room 145, Texas A&M University, College Station
Tarleton State University	10:30 a.m. August 6	Memorial Student Center, Room 145, Texas A&M University, College Station
Laredo State Center for Human Development	10:30 a.m. August 6	Central Office Auditorium, 909 West 45th Street, Austin
Veterinary Medical Diagnostic Laboratory	1 p.m. August 6	Memorial Student Center, Room 145, Texas A&M University, College Station

Rio Grande State Center for Mental Health and Mental Retardation	2 p.m. August 6	Central Office Auditorium, 909 West 45th Street, Austin
Agriculture Extension Service	2:30 p.m. August 6	Memorial Student Center Room 145, Texas A&M University, College Station
Rodent and Predatory Animal Control Service	4 p.m. August 6	Memorial Student Center, Room 145, Texas A&M University, College Station
Prairie View A&M University	8:30 a.m. August 7	Memorial Student Center, Room 145, Texas A&M University, College Station
Department of Human Resources	9 a.m. August 7	Department of Human Resources Building, Board Room, 106 Banister Lane, Austin
Moody College	10:30 a.m. August 7	Memorial Student Center, Room 145, Texas A&M University, College Station
Department of Health	10:30 a.m. August 7	Committee Conference Room G-107, 1100 West 49th, Health Department, Austin
Engineering Experiment Station/TTI	1 p.m. August 7	Memorial Student Center, Room 145, Texas A&M University, College Station
Comptroller of Public Accounts	2 p.m. August 7	Senate Finance Room 301, State Capitol
Engineering Extension Service	3 p.m. August 7	Memorial Student Center, Room 145, Texas A&M University, College Station
Employees Retirement System and Judicial Retirement Administration	9 a.m. August 8	Senate Finance Room 301, State Capitol
Harlingen State Chest Hospital	9 a.m. August 8	Committee Conference Room G-107, 1100 West 49th, Health Department, Austin
San Antonio State Chest Hospital	1:30 p.m. August 8	Committee Conference Room G-107, 1100 West 49th, Health Department, Austin

Issued in Austin, Texas, on July 25, 1980.

Doc. No. 805728 James P. Oliver
Assistant Director
Legislative Budget Board

Filed: July 25, 1980, 8:35 a.m.

For further information, please call (512) 475-3426.

Office of the Governor Consultant Proposal Request

This announcement of availability of financial assistance and invitation of applications is published by the Governor's Budget and Planning Office in accordance with Public Law 91-648, the Intergovernmental Personnel Act of 1970, as amended.

Availability of Funds. Approximately \$450,000 in federal funds under the Intergovernmental Personnel Act (IPA) Grant Program will be available for award after October 1, 1979. Awarding of these federal funds from the U.S. Office of Personnel Management may be up to 50% of the total cost of the approved project.

Eligible Recipients. Entities which are eligible to receive financial assistance under this program include state agencies, state colleges and universities, and the 24 regional councils of governments. Preference will be given to the selection of acceptable proposals submitted by state agencies and state colleges and universities. Proposals from regional councils of governments must be areawide rather than local in scope. (Note: any present grantees which desire a continuation of their IPA grant must fulfill all application requirements set forth in this notice.)

Eligible Projects. Projects to receive assistance under this program should specifically address one or more of the elements of concern addressed in the Texas State Government Effectiveness Program (TSGEP). As an outgrowth of TSGEP, the governor is in the process of developing a centralized first line supervisory training course which concentrates on a core curriculum applicable to all state agencies. Further, the operational audit segment of TSGEP has developed basic guidelines for the development of many segments of an integrated personnel system. All proposals should be carefully designed to build upon and complement, rather than conflict with, the past and projected accomplishments of TSGEP. Examples of projects which would be considered in direct support of this program are as follows: development of an integrated personnel performance and evaluation system; development of uniform reduction in-force procedures; implementation of management by objective techniques; development of uniform procedures for merit compensation; and development of an internal management training program.

Application Content. Each proposal should contain the following: (1) a completed Standard Form 424; (2) a completed Part III form outlining budgetary information; (3) a separate and concise program narrative for each project under the application; and (4) signed assurances of compliance with all applicable regulations, policies, guidelines, and requirements as they relate to the application. More specific information regarding the application procedures may be found in the publication by the U.S. Office of Personnel Management entitled "Guidelines for the IPA Grant Program." Potential applicants may obtain one copy of this publication and all application forms by contacting Becky Heflin of the Budget and Planning Office at (512) 475-6156 or TEX-AN 822-6156.

This office strongly encourages and will make staff available for consultation with potential applicants on their priorities and needs prior to the development of a grant application.

Such consultation often helps to prevent unnecessary work in the preparation and processing of an application.

Timing. To be eligible for consideration, two copies of each completed application must be received by the Budget and Planning Office not later than noon on September 15, 1980. Although funds will be available for award after October 1, 1979, the grant period shall not begin before November 15, 1980.

Issued in Austin, Texas, on July 15, 1980.

Doc. No. 805729 Paul T. Wrotenbery
Director
Governor's Budget and Planning Office

Filed: July 23, 1980, 2:02 p.m.

For further information, please call (512) 475-6156.

Texas Health Facilities Commission

Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of July 17-22, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of 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 an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, Rules 315.17.05.010-.030, Rules 315.18.04.010-.030, and Rules 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption

certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Alice Physicians and Surgeons Hospital, Alice
(7/18/80)
AH80-0715-011
EC—To purchase a Picker Linear Ray B-Mode
Realtime Ultrasound Unit

Wichita General Hospital, Wichita Falls (7/18/80)
AH80-0715-021
EC—To acquire a portable EEG Unit

North Texas State University/Health Sciences/Texas
College of Osteopathic Medicine, Godley (7/18/80)
AH79-0409-011A (071580)
AMD/CN—Request to extend the completion
deadline from June 20, 1980, to July 31, 1980, in Cer-
tificate of Need AH79-0409-011, which authorized
the establishment of a family practice outpatient
health care clinic in Godley

St. Elizabeth Hospital of Houston, Houston (7/18/80)
AH80-0715-017
EC—To acquire a multipurpose ultrasound
electronic scanner

Trinity Terrace Med-Center, Fort Worth (7/18/80)
AN79-0712-017A (071480)
AMD/CN—Request to extend the completion
deadline from March 7, 1982, to October 1, 1982, and
increase the project cost limitation by \$59,570 in
Certificate of Need AH79-0712-017, which
authorized the construction of a 60-bed skilled nurs-
ing facility as an integral part of a 294-unit apart-
ment complex for retired citizens

McAllen General Hospital, McAllen (7/18/80)
AH79-1029-008E (070380)
AMD/EC—Request to extend the completion
deadline from July 3, 1980, to December 1980, in Ex-
emption Certificate AH79-1029-008, which
authorized the purchase of ultrasound equipment

Gulf Coast Medical Center and Caney Valley
Memorial Hospital, Wharton (7/21/80)
AH80-0701-023
EC—To replace the existing manual telephone
systems at Gulf Coast Medical Center and at Caney
Valley Memorial Hospital in Wharton with an auto-
mated dimension computer system to serve both hos-
pitals, to be located at the Gulf Coast Medical Center
facility

East Texas Home Health Agency, Jacksonville
(7/22/80)
AS80-0714-004
EC—To relocate the East Texas Home Health Agency
office from 1518 East Rusk Street to 1648 East Rusk
Street in Jacksonville

Irving Community Hospital, Irving (7/21/80)
AH80-0718-024
EC—To purchase a Honeywell ACS 1000 for automa-
tion of leukocyte differential analysis

Hospital Affiliates International, Inc., Houston
(7/21/80)

AO80-0718-021

DR—Request for a declaratory ruling that neither a certificate of need nor an exemption certificate is required prior to the construction of a 50,000 square feet medical office building in El Paso, which when completed, will be exchanged for a 40,000 square feet office building which is attached to the Eastwood Hospital, and is currently owned by a group of local physicians

Issued in Austin, Texas, on July 23, 1980.

Doc. No. 805677 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: July 23, 1980, 11:23 a.m.
For further information, please call (512) 475-6940.

Notice is hereby given by the Texas Health Facilities Commission of application (including a general project description) for declaratory ruling, exemption certificate, transfer of certificate, and amendment of certificate accepted during the period of July 23-24, 1980.

Should any person wish to become a formal party to any of the above-stated applications, that person must file a request to become a party to the application with the chairman of the commission within 25 days after the application is accepted. The first day for calculating this 25-day period is the first calendar day following the date of acceptance of the application. The 25th day will expire at 5 p.m. on the 25th consecutive day after the date said application is accepted. If the 25th day is a Saturday, Sunday, or state holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, or state holiday. A request to become a party should be mailed to the chairman of the commission, P.O. Box 15023, Austin, Texas 78761, and must be received at the commission no later than 5 p.m. of 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 an application for a declaratory ruling, exemption certificate, transfer of certificate, or amendment of certificate must meet the minimum criteria set out in Rule 315.20.01.050. Failure of a party to supply the minimum necessary information in the correct form will result in a defective request to become a party and such application will be considered uncontested.

The fact that an application is uncontested will not mean that it will be approved. The application will be approved only if the commission determines that it qualifies under the criteria of Sections 3.02 or 3.03 of Article 4418(h), Texas Revised Civil Statutes, and Rules 315.17.04.010-.030, Rules 315.17.05.010-.030, Rules 315.18.04.010-.030, and Rules 315.18.05.010-.030.

In the following list, the applicant and date of acceptance are listed first, the file number second, the relief sought third, and description of the project fourth. EC indicates exemption certificate, DR indicates declaratory ruling, TR indicates transfer of ownership of certificate, AMD indicates amendment of certificate, and CN indicates certificate of need.

Brazos Valley Mental Health/Mental Retardation
Center, Bryan (7/23/80)

AA80-0722-024

EC—To relocate the administrative office and certain service delivery staff from existing office space at 202 East 7th Street in Bryan into 10,454 square feet of space in Building B of Briercrest Commons on Briercrest Drive in Bryan

Harris Hospital—Methodist, Fort Worth (7/23/80)

AH80-0721-036

EC—To purchase a Corning blood gas analyzer, Model 618, for the intensive care nursery

Brownsville Medical Center, Brownsville (7/23/80)

AH80-0721-001

EC—To purchase one single-patient hemodialysis unit and provide acute renal dialysis service to inpatients

Harris Hospital—Methodist, Fort Worth (7/23/80)

AH80-0207-005A (072180)

AMD/EC—Request to extend the completion deadline in Exemption Certificate AH80-0207-005 from July 19, 1980, to December 15, 1980. The project authorized is the creation of a birthing room as part of the existing obstetrical services

Harris Hospital—Methodist, Fort Worth (7/23/89)

AH80-0721-039

EC—To purchase an ADR ultrasound real-time scanner for use in the labor and delivery rooms area

Care One MH/MR Services, Inc., doing business as
Lancaster MR-I, Lancaster (7/24/80)

AN80-0724-006

EC—To establish an eight-bed ICF-MR Level I facility in Lancaster

Robinson Development Center, Robinson (7/24/80)

AN79-0828-010A (072480)

AMD/EC—Request to extend the completion deadline from July 26, 1980, to January 26, 1981, in Exemption Certificate AN79-0828-010 which authorized the construction of an addition required for ancillary space necessary to meet ICF-MR-VI standards

Issued in Austin, Texas, on July 25, 1980.

Doc. No. 805783 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: July 25, 1980, 11:34 a.m.
For further information, please call (512) 475-6940.

Houston-Galveston Area Council Consultant Proposal Requests

(Editor's note: Parts B through G (Scope of Work) which are referenced in this proposal can be obtained by contacting William F. Kopecky or Kathy Hogue, Houston-Galveston Area Council at (713) 627-3200. They are also available for public inspection at the Texas Register Division offices, 503E Sam Houston Building, Austin.)

Part A. General Outlines

Subject. This request for proposals contains five packages for the analysis of transportation control measures.

Submittal Deadline. Submit 10 copies of the proposal(s) by 5 p.m. August 15, 1980. Proposals for each package must be separately bound.

Submit To. William F. Kopecky, P.E., transportation manager, Houston-Galveston Area Council, P.O. Box 22777, Houston, Texas 77027.

Background. The Houston-Galveston Area Council (H-GAC) is the metropolitan planning organization (MPO) for the Gulf Coast State Planning Region. In its role as MPO, H-GAC has been designated by the governor to perform transportation air quality planning for Harris County as input to the State Implementation Plan. To assist in conducting this planning effort, H-GAC is the recipient of planning funds under Section 175 of the Clean Air Act Amendments of 1977. This Section 175 grant is administered by the Urban Mass Transportation Administration (UMTA) and is the funding source for these proposed contracts. Any contracts resulting from this RFP will be governed by the rules and regulations of UMTA and H-GAC's procurement procedures. Work products from these proposed contracts are subject to review by H-GAC, the Environmental Protection Agency (EPA), and the Texas Air Control Board (TACB).

Objective. The objective of these studies is to evaluate 18 transportation control measures (TCM) and determine their potential for reduction in transportation-related emissions, particularly volatile organic compounds and oxides of nitrogen, by the target date of 1987. The reason for inclusion of both VOC and NO_x is that Houston has been designated as a Level I city for air quality modeling purposes (*Federal Register*, November 14, 1979). It is anticipated that in the near future, a dispersion model for ozone will be in use which will require as input emissions of both VOC and NO_x by geographical location by time of day.

For purposes of this RFP, 14 of the 18 TCMs have been grouped into five packages. The analysis of the remaining four TCMs will be performed by H-GAC staff. The results of these analyses will become the basis for H-GAC's submittal to the TACB as the mobile source portion of the 1982 State Implementation Plan (SIP).

Packages. The scope of services is basically the same for each of the five packages and is contained in Part B of this request for proposals. Specific requirements for each package are contained in Parts C-G of this RFP. The five packages are as follows:

Package C—Traffic Related
bus and carpool lanes
common carriers
on-street parking
extended idling
traffic flow

Package D—Bicycling/Pedestrian
nonmotorized and pedestrian usage
bicycle lanes and storage facilities

Package E—Employer Programs
carpool programs
employer sponsored programs
staggered work hours

Package F—Fuel Related
decreased fuel availability
increased fuel cost

Package G—Miscellaneous
road user charges
conversion of fleet vehicles
retrofit

Proposals may be submitted for one, more than one, or all packages. Proposals for each package, however, must be separately bound. Qualifications common to one or more of the packages need be submitted only once.

Proposal Content. Proposals should be limited to 15 pages per package, not including resumes of assigned personnel and firm experience, and should contain at least the following items:

(1) Abstract. The abstract should focus upon highlights of the proposal for each package. Limit—one page.

(2) Study methodology. This should outline the firm's approach and tasks to perform the work outlined in scope of work, Parts B-G of this RFP.

(3) Management plan. The management plan must contain a schedule of work, qualifications and assignment of personnel, and an outline of the way the work will be coordinated with other related work. One-paragraph summaries of qualifications and experience should be submitted for all personnel assigned to each package. The assignment of personnel must show the percent of time by each person for each task included in the scope of work for that particular package.

(4) Budget. A preliminary outline budget shall be presented in this part of the proposal. The purpose of this budget is not to solicit competitive bids, but rather to specify the distribution of dollars between the prime contractor and each subcontractor for each task described in the scope of work for a particular package. A preliminary total project budget shall also be prepared for each package specifying total personnel salaries, overhead, billables, and fixed fee for the prime contractor and each subcontractor.

(5) Related work. This part of the proposal shall briefly describe any work closely related to this study, which has been conducted by the prime contractor, any subcontractors, or individuals named in the management plan. Specific emphasis should be placed upon related work undertaken within the H-GAC planning area. Limit—two pages.

Budget Limitations. The total dollar amount available for the five packages is \$330,000. H-GAC staff estimates the dollar value for the individual packages are as follows:

Package C—Traffic Related	\$120,000-140,000
Package D—Bicycling/ Pedestrian	40,000-50,000
Package E—Employer Programs	65,000-80,000
Package F—Fuel Related	40,000-50,000
Package G—Miscellaneous	30,000-40,000

These dollar figures are for initial use only and may be modified by proposers as necessary. In any case, the total amount cannot exceed \$330,000.

Preproposal Meeting. A preproposal meeting will be held at 1:30 p.m. July 28, 1980, at the H-GAC offices, large conference room, 3701 West Alabama. The purpose of this meeting will be for H-GAC staff to answer any questions or to make any clarifications in the RFP. In order to be fair to all

potential proposers, questions regarding the RFP will be answered at this meeting only. No inquiries will be entertained by H-GAC staff either before or after the meeting.

Minority Business Enterprise Provisions. H-GAC has developed a minority business enterprise plan, the provisions of which govern these contracts. The MBE plan seeks to encourage participation by minority-owned business in contracts let by H-GAC for Department of Transportation-funded projects. A 12% goal has been set for minority participation. Copies of the plan are available and may be requested from the Transportation Department.

Reports and Presentations. It is anticipated that interim reports and presentations will be required, in addition to both a technical and summary version of the final report. The number of separate reports and presentations and the financial responsibility for producing the final reports will be subjects for negotiation with the selected firm(s).

Criteria for Evaluation. The proposals will be evaluated based upon:

- (1) Comprehension of study requirements and the approach and methodology to be applied. Innovativeness in approach is a significant factor in the evaluation.
- (2) Management plan.
- (3) Qualifications of personnel assigned.
- (4) Related work experience.

Consideration will also be given to experience in and knowledge of the H-GAC region, and to the effort made to use minority business enterprises in performing the work. Price alone will not be used as a criteria in ranking. However, it will be considered in conjunction with other factors.

Selection Procedures. The proposals will be evaluated after the submission deadline, and it is anticipated that several firms will be selected for oral presentations and interviews during late August or early September. Selections will be recommended to the H-GAC Board of Directors by its Consultant Selection Committee at the September board meeting. The H-GAC may select from the firms initially asked to make oral presentations, or may call in additional firms for interviews. H-GAC also retains the prerogative of forming new teams from among those firms proposing as either prime contractors or subcontractors.

Assurances. The H-GAC will comply with Title VI of the Civil Rights Act of 1964 (Public Law 880352), and in accordance with Title VI of the Act, no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives federal financial assistance and will immediately take any measures necessary to effectuate this agreement.

Type of Contract. It is the policy of H-GAC and UMTA that contracts negotiated for planning studies be of the "cost plus fixed fee" type with a "not to exceed" amount. UMTA's policy is that the fixed fee is generally about 10% of the direct labor costs plus labor overhead costs. Estimates of costs in the

proposals should be in a format similar to that used on GSA Optional Form 60.

Issued in Houston, Texas, on July 18, 1980.

Doc. No. 805638 William F. Kopecky
Transportation Manager
Houston-Galveston Area Council

Filed: July 22, 1980, 9:33 a.m.

For further information, please call (713) 627-3200.

Railroad Commission of Texas

Transportation Division

State Rail Planning Meeting

The Railroad Commission of Texas, the agency designated by the governor to monitor the state's rail system, will hold a public meeting on August 4, 1980, in Dallas. The purpose of this meeting will be to receive comments from the public on a draft economic analysis of the Missouri-Kansas-Texas Railroad's Company's railroad line segment extending from Dallas to Carrollton. This study has been conducted by the Railroad Commission of Texas in accordance with federal guidelines under a grant from the Federal Railroad Administration, Department of Transportation.

The Railroad Commission of Texas is proposing to apply for federal grant funds to rehabilitate the 14 miles of MKT track which runs from the Deny Yard in Dallas to Carrollton. The analysis is a result of surveys/interview with the affected MKT rail users and a compilation of regional and statewide economic data.

Affected communities and users of rail freight transportation will be provided this opportunity to correct errors of fact or interpretation which might appear in the draft. The commission is also interested in error of omission—facts that if included might change the results of a line segment analysis. Copies of the draft analysis will be available upon request at the meeting, and will be mailed at a later date.

The meeting has been scheduled for 3 p.m. Monday, August 4, in Room 7A23 of the Federal Office Building located at 1100 Commerce Street in Dallas.

For further information and assistance, please call Joyce Goodman or Sherry Bryan at (512) 445-1350.

Issued in Austin, Texas, on July 21, 1980.

Doc No. 805785 Michael Calhoun
Rail Plan Administrator
Railroad Commission of Texas

Filed: July 25, 1980, 11:51 a.m.

For further information, please call (512) 445-1350.

Senate

Special Committee on Delivery of Human Services in Texas

Cancellation of Meeting

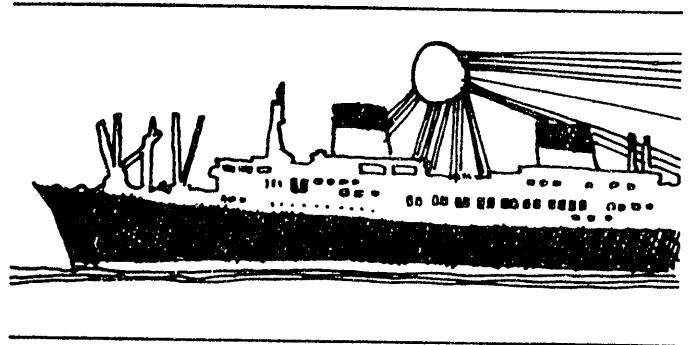
The Special Committee on Delivery of Human Services in Texas has cancelled a full committee meeting scheduled for

August 5, 1980, in the Lieutenant Governor's Committee Room, State Capitol. Additional information may be obtained from Don Neumann at (512) 475-1284.

Issued in Austin, Texas, on July 24, 1980.

Doc. No. 805725 June Hyer
 Executive Director
 Special Committee on Delivery
 of Human Services in Texas

Filed: June 24, 1980, 3:19 p.m.
For further information, please call (512) 475-1284.



REGULATORY DRAFTING WORKSHOP

TUESDAY AND WEDNESDAY
 SEPTEMBER 9 AND 10, 1980
 SAM HOUSTON BUILDING
 AUSTIN, TEXAS

Drafting regulatory documents is a complex, tedious task, but one of vital importance to each state agency. To assist you in the formulation of these documents, the Texas Register Division is presenting a two-day course in regulations drafting.

A panel of experts from the Office of the Federal Register in Washington, D. C. will be present to explain methods that have proven effective, and will be available to answer any questions you might have concerning your agency's specific problems. Discussions will emphasize the basics of drafting and organizing rules and the need for audience identification.

Participants will examine technique of design, style, arrangement and review in order to make documents more readable and useful to their audiences. The program includes lectures, discussions and drafting exercises critiqued by the workshop staff.

Cost for two day.seminar \$125.00/person

Purchase voucher issued by Texas Register Division upon receipt of application from agency.

Payment must be received by August 8, 1980.

Questions about seminar should be directed to Dee Wright, Sally Connally, or Charlotte Scroggins at (512) 475-7886.

REGISTRATION FORM

Please complete the following information and return to:
 Regulatory Drafting Workshop Committee
 ATTN: Texas Register Division
 201 East 14th Street
 Room 503E Sam Houston Bldg.
 Austin, Texas 78701

TO INSURE A RESERVATION, COMPLETED FORM MUST BE RECEIVED IN THE ABOVE OFFICE BY JULY 25.

NAME _____

TITLE _____

AGENCY _____

MAILING ADDRESS _____

TELEPHONE NUMBER _____

If any other agency representative plans to attend, please list their names: _____

Workshop charges _____ (no. persons attending) X \$125 equals _____

Please make checks payable to Regulatory Drafting Workshop Committee. _____ payment enclosed _____ bill me

Texas Department of Water Resources Consultant Proposal Request

Notice of Invitation. The Texas Department of Water Resources announces its request for proposals (RFP) for the purpose of establishing a statewide recycling information system and a directory of industrial recycling activities within the state. These projects shall be designed to assist industry, local government, and the citizens of Texas in their recycling and resource conservation efforts.

The recycling information system will include: 1) development of an information base which includes resource recovery technologies and activities within the state; and 2) the publication of a recycling directory for general distribution to Texas industries and any interested citizen. The directory will categorize recycling enterprises by company name, location within the state, and product recycled. The contractor will conduct a survey of the state and use department records and information supplied by recycling industries, local chambers of commerce, conservation organizations, and local officials.

The goal of these endeavors is to increase awareness of the public and the industrial community in the field of resource conservation and recovery.

The funds available for this project are part of the Texas Industrial Solid and Hazardous Waste Management Program Grant and are authorized by the 1976 Resource Conservation and Recovery Act (Public Law 94-580).

Services provided must be in accordance with the United States Environmental Protection Agency's regulations pertaining to such funds.

Person to Contact. Contractors wishing to submit proposals and statements of qualifications should do so in writing to Jay Snow, P.E., chief, Solid Waste Section, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

Deadline for Receipt of Proposals. Responses must be received by 5 p.m., 30 days after the publication in the *Texas Register*. It is anticipated that the contract award will be made in August or September, 1980.

Evaluation Criteria. Contractors wishing to respond to this notice should be familiar with industrial solid waste recycling. The department estimates that the proposed work will require between 800 and 1,000 man hours, and has budgeted a maximum amount of \$25,000.

Statements of qualifications should address each of the following criteria: (1) qualifications of personnel to complete this project; (2) demonstrated competence of contractor; (3) demonstration of understanding of solid waste issues and technical approaches to resolve them; and (4) reasonableness of fee for the services.

When other considerations are equal, the department will give preference to a contractor whose principal place of business is within the State of Texas.

For further information, please call Daniel Eden at (512) 475-2041.

Issued in Austin, Texas, on July 21, 1980.

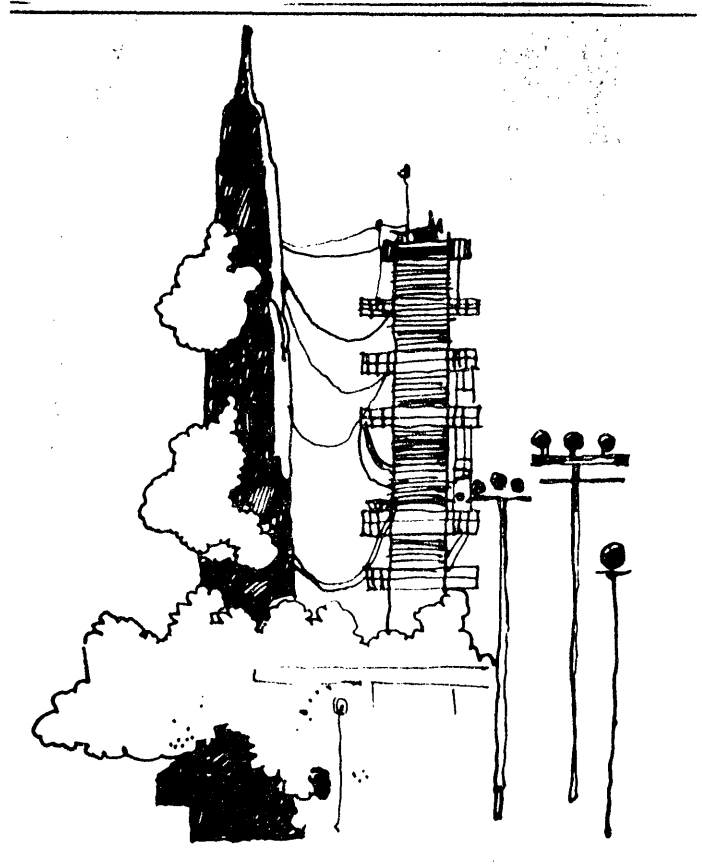
Doc. No. 805675 M. Reginald Arnold II
General Counsel
Texas Department of Water Resources

Filed: July 23, 1980, 9:28 a.m.

For further information, please call (512) 475-2041.

Texas Youth Council Correction of Error

The adopted repeal of §§97.62 and 97.63, concerning transfer between field placements, contained an error as published in the June 10, 1980, issue of the *Texas Register* (5 TexReg 2308). The notice of repeal should read: "Sections 97.62 and 97.63 (203.42.06.002 and .003) is repealed under the provisions of Chapter 61, Human Resources Code."



TAC Titles Affected in This Issue

The following is a list of the chapters of each title of the *Texas Administrative Code* affected by documents published in this issue of the *Register*. The listings are arranged in the same order as the table of contents of the *Texas Administrative Code*.

TITLE 7. BANKING AND SECURITIES

Part IV. Savings and Loan Department of Texas

7 TAC §65.3 (056.08.00.003)	2997, 2999, 3043
7 TAC §65.8 (056.08.00.008)	3043
7 TAC §65.12 (056.08.00.012)	3043

Part VI. Credit Union Department

7 TAC §§91.94, 91.95 (058.01.06.004, .005)	3044
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Part VII. State Securities Board

7 TAC §109.3 (065.05.00.008)	2999
7 TAC §115.1 (065.08.00.001)	3000
7 TAC §115.3 (065.08.00.003)	3045
7 TAC §127.2 (065.14.00.002)	3045
7 TAC §129.8 (065.15.00.500)	3045
7 TAC §133.5 (065.91.00.011)	3000
7 TAC §§137.1-137.7 (065.17.00.100-700)	3046

TITLE 13. CULTURAL RESOURCES

Part V. Texas Sesquicentennial Commission

13 TAC §§51.1-51.6 (367.01.00.001-006)	3047
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TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Noncodified (051.07.02.011, .031, .034, .035, .050, .100, .101)	3041
Noncodified (051.07.02.012, .024, .051)	3041
Noncodified (051.07.02.052)	3042
Noncodified (051.05.03.015, .016, .019, .020, .195, .215, .300, .305)	3036
Noncodified (051.05.03.306-309)	3040

TITLE 19. EDUCATION

Part I. Coordinating Board, Texas College and University System

Noncodified (251.02.14.005)	3054
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Noncodified (251.02.17.013)	3055
Noncodified (251.05.04.007)	2997, 3011
Noncodified (251.05.05.006)	3012
Noncodified (251.05.07.008)	3012

Part II. Texas Education Agency

Noncodified (226.32.34.010, .020)	3013
Noncodified (226.32.34.030)	3014

TITLE 22. EXAMINING BOARDS

Part II. State Board of Barber Examiners

22 TAC §51.53 (378.01.03.003)	3049
22 TAC §51.82 (378.01.03.033)	3049

Part XIX. Board of Polygraph Examiners

22 TAC §399.1 (397.05.00.001)	3049
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Part XXI. Texas State Board of Examiners of Psychologists

22 TAC §463.8 (400.02.00.008)	3000
22 TAC §463.19 (400.02.00.019)	3000

TITLE 28. INSURANCE

Part I. State Board of Insurance

Noncodified (059.05.01.005)	3035
Noncodified (059.05.06.001)	3035
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TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part IV. School Land Board

31 TAC §§155.25-155.28 (135.18.02.005-.008)	3001, 3050
31 TAC §§155.51-155.59 (135.18.04.001-.009)	3002, 3050

Part X. Texas Water Development Board

31 TAC §317.1 (156.11.01.001)	3050
31 TAC §§317.11-317.20 (156.11.05.001-.010)	3050
31 TAC §§317.11-317.21 (156.11.05.101-.111)	3050
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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

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Part VII. State Property Tax Board

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

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