

550.6
F.R. 63
8/12/80
CB

TEXAS REGISTER

TEXAS REGISTER
AUG 13 1980
DCAE CHICAGO

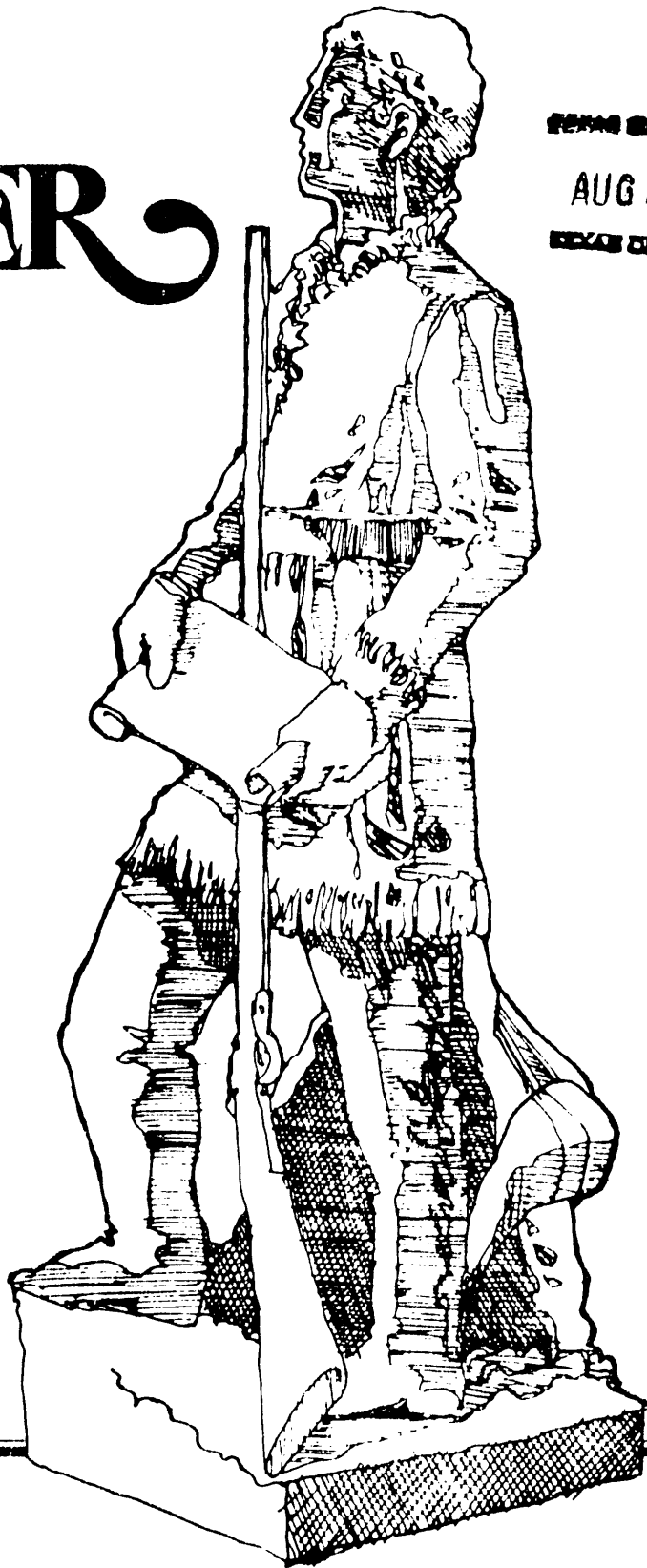
In This Issue...

Board of Pardons and Paroles proposes to amend sections regarding subsequent review dates for inmates who are recommended for parole to the governor but not approved by the governor, proposed date of adoption—September 12 3192

Texas Department of Health simultaneously proposes new rules and repeals on municipal solid waste management; proposed date of adoption—September 12 3193

Texas Air Control Board adopts sections on facilities for loading and unloading of volatile organic compounds in certain counties, effective date—August 22 3243

Texas Department of Human Resources adopts new rules concerning minimum standards for juvenile correctional institutions, camps, and reception centers; effective date—August 25 3270



Office of the Secretary of State

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.

Civil Statute in reprint, Elisabet Ney statue of Stephen F. Austin, which stands in the tower of the State Capitol.

TEXAS REGISTER



George W. Strake, Jr.
Secretary of State

The *Texas Register* (ISSN 0362-4781) is published twice weekly, at least 100 times a year, except January 4, May 30, September 5, December 2, and December 30, by the Texas Register Division, Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711, telephone (512) 475-7886. The *Register* contains executive orders of the governor, summaries of attorney general's opinions and summaries of requests for opinions, emergency rules, proposed rules, and adopted rules of state agencies, notices of open meetings, and miscellaneous notices of general interest to the public of Texas. Subscriptions are \$40 for units of Texas state government and nonprofit schools and libraries in Texas, and \$60 for all others. Six-month subscriptions are also available for \$30 and \$45, respectively. Back issues, when available, are \$1.50 each.

Material in the *Texas Register* is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person for any purpose whatsoever without permission of the Texas Register Division director provided no such republication shall bear the legend "Texas Register" or "Official" without the written permission of the director, Texas Register Division. The *Texas Register* is published under the Texas Civil Statutes, Article 6252-13a. Second class postage is paid at Austin, Texas, and additional entry offices.

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

Texas Register Division
Charlotte Scroggins, Director

Linda Cump
Gail Myrick
Landy Writtington

Emma Lawrence
Dee Wright
Sally Connally

Debbie Swift
Jeff Kanipe
Linda Starks

Governor

Appointments

3190 *Education Commission of the States*

Attorney General

Opinions

3191 *MW-214 (RQ 376) (concerning the authority of the Board of Regents of North Texas State University to designate the chief executive officer of the university as chancellor)*

Proposed Rules

Texas Department of Agriculture

3192 *Seed Certification Standards*

Board of Pardons and Paroles

3192 *Parole*

Texas Department of Health

3193 *Solid Waste Management*

3235 *Water Hygiene*

Texas Department of Mental Health and Mental Retardation

3236 *Client (Patient) Care*

Adopted Rules

State Board of Morticians

3241 *Licensing and Enforcement—Specific Substantive Rules*

Texas Air Control Board

3241 *General Rules*

3243 *Volatile Organic Compounds*

3261 *Permits*

Board of Pardons and Paroles

3261 *Parole*

State Commission for the Blind

3262 *Facilities Program*

Texas Department of Health

3262 *Maternal and Child Health Services*

3270 *Licensing and Regulation*

Texas Department of Human Resources

3270 *24 Hour Care Licensing*

State Board of Insurance

3288 *Trade Practices*

Open Meetings

3289 *State Aircraft Pooling Board*

3289 *Texas Alcoholic Beverage Commission*

3289 *State Banking Board*

3289 *Battleship Texas Commission*

3289 *Texas Department of Community Affairs*

3289 *State Employment and Training Council*

3290 *Texas Health Facilities Commission*

3290 *Texas Historical Commission*

3290 *Texas Housing Agency*

3290 *University of Houston*

3291 *State Board of Insurance*

3292 *Texas Department of Mental Health and Mental Retardation*

3293 *Merit System Council*

3293 *Midwestern State University*

3293 *State Board of Morticians*

3293 *Texas National Guard Armory Board*

3293 *Board of Pardons and Paroles*

3294 *Texas Parks and Wildlife Department*

3294 *Public Utility Commission of Texas*

3294 *Texas Water Commission*

3296 *Regional Agencies*

In Addition

Texas Air Control Board

3297 *Applications for Construction Permits*

Executive and Legislative Budget Offices

3297 *Amended Joint Budget Hearing Schedule*

General Land Office

3297 *Consultant Contract Award*

Texas Health Facilities Commission

3297 *Applications for Declaratory Ruling, Exemption Certificate, and Transfer and Amendment of Certificate*

Texas Department of Human Resources

3298 *Proposed State Plan for the Home Energy Assistance Program*

Legislative Budget Board

3299 *Consultant Contract Award*

Savings and Loan Department of Texas

3299 *Notice of Interest Rate*

Texas Tourist Development Agency

3299 *Consultant Proposal Request*

Texas Water Commission

3300 *Applications for Waste Discharge Permits*

Index

3302 *TAC Titles Affected in This Issue (Conversion Table)*

3302 *Table of TAC Titles*

Appointments

Education Commission of the States

For a term at the pleasure of the governor:

Oscar Mauzy
State Senator
Capitol Station
Austin, Texas 78711

Senator Mauzy is replacing Representative Tom Massey of San Angelo who resigned.

Issued in Austin, Texas, on August 1, 1980.

Doc No 806021 William P. Clements, Jr.
Governor of Texas

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

COMMUNICATIONS



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.

Opinions

Summary of Opinion MW-214 (RQ-376)

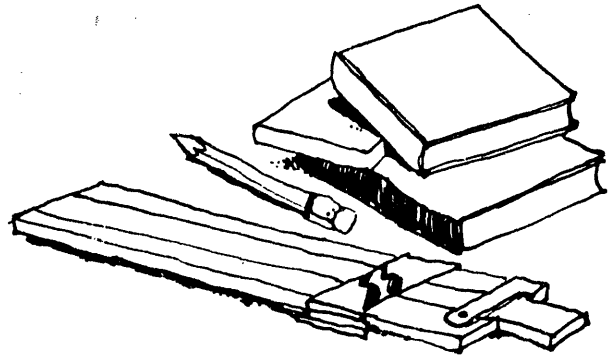
Request from Gibson D. (Gib) Lewis, chairman, Committee on Intergovernmental Affairs, Texas House of Representatives, concerning authority of the Board of Regents of North Texas State University to designate the chief executive officer of the university as chancellor.

Summary of Opinion: The Board of Regents of North Texas State University may validly designate the chief executive officer of the university as chancellor.

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 806019 C. Robert Heath
Opinion Committee Chairman
Attorney General's Office

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



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 "Noncodified."

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

CODIFIED

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 21. Seed Certification Standards

Genetic Seed Chart

The Texas Department of Agriculture is proposing to amend §21.51 (176.83.27.001), Seed Certification Standards, which was originally adopted by reference and promulgated by the State Seed and Plant Board to effect conformity with the seed certification requirements of the Federal Seed Act. The proposed amendment as promulgated by the State Seed and Plant Board involves footnotes 8 and 20 and will change the number of red rice plants and red rice seed permitted in the field and seed standards of registered and certified rice seed production. The changes are considered to be necessary by the majority of the Texas certified rice seed producers due to the unrealistic nature of the present standards and the prevalent red rice problem. The director, Seed Division, emphasizes that all rice seedsmen and Texas Agricultural Experiment Station personnel involved in the breeders and foundation seed increases are fully cognizant of the red rice problem; that corrective procedures to reduce and essentially eliminate red rice contamination from Texas certified rice seed production are a necessity and have been initiated; and that the State Seed and Plant Board will likely review the situation prior to the 1981 season with the objective of maintaining the most stringent standards possible.

The Texas Department of Agriculture has determined that proposed amendments to these regulations will cause no fiscal implications for the state or for units of local government.

Public comment on the proposed amendment is invited. Comments may be submitted in writing to Don Ator, director, Seed Division, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, or telephoning (512) 475-2038.

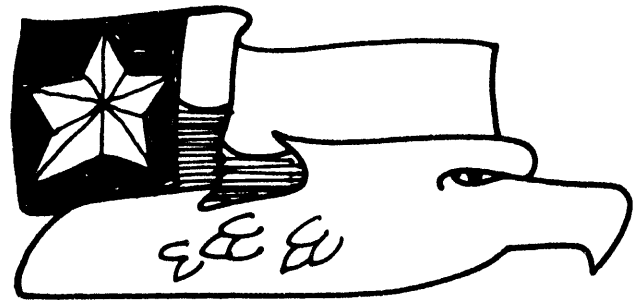
The amendment is proposed under the authority of Article 67b, Texas Civil Statutes.

§21.51 (176.83.27.001). *Genetic Seed Certification Standards*. The Seed Certification—Isolation Distances Chart and Footnotes, as amended August [June] 1980, that delineated isolation distances are adopted by reference for the purpose of seed certification by genetic identity only. Copies may be obtained from Seed Division, Texas Department of Agriculture, P.O. Box 12847, Capitol Station, Austin, Texas 78711, or by telephoning (512) 475-2038.

Issued in Austin, Texas, on August 5, 1980.

Doc. No. 806035 Reagan V. Brown
Commissioner of Agriculture

Proposed Date of Adoption: September 12, 1980
For further information, please call (512) 475-2038.



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

Chapter 145. Parole

Parole Process

The Texas Board of Pardons and Paroles is proposing to amend §145.10(a) (205.03.01.010(a)) regarding subsequent review dates for inmates who are recommended for parole to the governor but not approved by the governor (governor denial cases).

The executive director of the Board of Pardons and Paroles has determined that the amendment entails no adverse fiscal implications.

The Texas Board of Pardons and Paroles proposes to adopt this amendment 30 days after publication. Public comment on this amendment is invited. Any such comment shall be

accepted for 20 days following publication and should be directed to Charls E. Walker, Jr., general counsel, Board of Pardons and Paroles, Room 711, Stephen F. Austin Building, P.O. Box 13401, Austin, Texas 78701.

These amendments are proposed under the authority of Article 42.12, Sections 1, 12, 15(a), and 18, Texas Code of Criminal Procedure.

§145.10 (205.03.01.010). Parole Denied by Governor; Subsequent Parole Review Date.

(a) If the parole panel recommends parole and parole is denied by the governor, the next parole review month and year of the inmate will be computed by the board from the prior review month and year to the discharge date and calculated as follows:

(1) twelve months or less to serve—the case is made a serve all;

(2) twelve months and one day or more to serve—**set off one year from prior parole review month and year** up to 18 months—divide number of months by two and add amount to prior parole review month and year;

(3) **cases having prior status of special review—apply serve all or set-off rules from month and year case was placed in special review** leighteen months add one day or more to serve—set off one year from prior parole review month and year.

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

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

Doc. No. 806037 Connie L. Jackson
Chairman
Board of Pardons and Paroles

Proposed Date of Adoption: September 12, 1980
For further information, please call (512) 475-3675.

NONCODIFIED

Texas Department of Health

Solid Waste Management

Environmental and Consumer Health Protection

Rules on Municipal Solid Waste Management

301.82.01

The Texas Department of Health proposes to repeal Rules 301.82.01.001-.015, of the department's Solid Waste Management Division on municipal solid waste management, and replace them with proposed new Rules 301.82.01.016-.031.

The reasons for the proposed repeal of the existing rules and replacement by a new set of rules are delineated in the preamble to the proposed new Rules 301.82.01.016-.031, which are being published in this same issue of the *Register*.

Comments on the proposed repeal of the existing rules and replacement by a new set of rules are invited and should be submitted in writing no later than 30 days after publication in the *Texas Register* to Jack Carmichael P.E., director, Divi-

sion of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; telephone (512) 458-7271.

The Texas Board of Health proposes to repeal these rules pursuant to Article 4477-7, Vernon's Texas Civil Statutes.

- .001. General Information.
- .002. Municipal Solid Waste Storage.
- .003. Municipal Solid Waste Collection.
- .004. Classifications of Municipal Solid Waste Facilities.
- .005. Permit Procedures and Design Criteria.
- .006. Solid Waste Land Disposal Sites.
- .007. Solid Waste Processing and Experimental Sites.
- .008. Compliance and Enforcement.
- .009. Variances.
- .010. County Governments with Licensing Authority.
- .011. Solid Waste Management Technical Assistance.
- .012. Permit Application—Part A (General Data) (Appendix A).
- .013. Permit Application—Part B (Technical Data) (Appendix B).
- .014. Notice of Appointment (Appendix C).
- .015. Affidavit to the Public (Appendix D).

Doc. No. 805948

301.82.01.016-.031

The Texas Department of Health proposes to adopt new rules on municipal solid waste management. These rules will replace the current rules on municipal solid waste management (see Texas Department of Health, Environmental, and Consumer Health Protection, Rules on Municipal Solid Waste Management, Rules 301.82.01.016-.031) and are being prepared pursuant to the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes.

The department first issued rules on municipal solid waste management in November 1970. Minor revisions were incorporated in 1972 and 1973. Replacement rules, which included significant changes, were approved and published in October 1974, January 1976, and April 1977. The rules are under continuous review and analysis to ensure compliance with new statutory requirements and currency with the advances being accomplished in the techniques and methods of improved management of solid wastes. As a result of a comprehensive review and analysis of the current edition of the rules, changes are being made mainly to incorporate requirements contained in the U.S. Environmental Protection Agency's regulations promulgated pursuant to the Federal Resource Conservation and Recovery Act of 1976. Other changes elaborate on procedures or requirements involved in the permitting process as a result of input received during public hearings and workshops. Some of the significant changes are:

- (1) Addition of definitions relating to the EPA regulations.
- (2) Provision for establishment of "Rural Collection Stations" to serve residents in rural areas not served by house-to-house collection.
- (3) Assignment of an interim classification to Type III sites with a planned upgrading of these sites to Type II status within five years.

(4) Addition of Type VII sites for the land application of solid waste (primarily sewage sludge) following the EPA criteria requirements.

(5) Addition of specific requirements for applying for a permit transfer.

(6) Revision of the date requirements pertaining to land use.

(7) Elaboration on the ground water and surface water protection requirements as well as the content of all attachments for an engineering report (site development plan).

(8) Addition of requirements to consider the need for monitoring for leachate and methane.

(9) Addition of requirements with respect to the protection of endangered species.

(10) Addition of a section on management of hazardous wastes in accordance with interim and final regulations promulgated by EPA on May 19, 1980. This section will require subsequent revision (possibly in April 1981) to incorporate the final phase of hazardous waste regulations to be promulgated by EPA.

(11) Inclusion of provisions for management of low-level radioactive wastes.

Public hearings will be held in order to afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing, which are relevant and material to the proposed adoption of the rules on municipal solid waste management. The public hearings are scheduled to be held as follows:

(1) Grand Prairie—August 28, 1980, at 9:30 a.m. in the city council chambers, City Hall.

(2) Midland—August 29, 1980, at 9:30 a.m. in the city council chambers, City Hall.

(3) Corpus Christi—September 2, 1980, at 9:30 a.m. in the city council chambers, City Hall.

(4) Houston—September 3, 1980, at 9:30 a.m. in the large conference room, Houston-Galveston Area Council of Governments.

(5) Austin—September 11, 1980, at 9 a.m. in the Texas Department of Health Auditorium, 1100 West 49th Street.

Copies of the document are available for inspection at the following locations:

(1) Texas Register Division of the Office of the Secretary of State.

(2) Division of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(3) County clerk of each county.

(4) Texas Department of Health's Public Health regional offices located as follows:

(a) Public Health Region 1, P.O. Box 968, West Texas State University Station, old Health Center Building, 300 Victory Drive, Canyon, Texas 79016, telephone (806) 655-7151.

(b) Public Health Region 2, 3411 Knoxville, Suite 100, Lubbock, Texas 79413, telephone (806) 797-4331.

(c) Public Health Region 3, P.O. Box 10736, 2300 East Yandell, El Paso, Texas 79903, telephone (915) 533-4972.

(d) Public Health Region 4, old courthouse, second floor, 301 Oak Street, Abilene, Texas 79602, telephone (915) 673-5231.

(e) Public Health Region 5, 701 Directors Drive, Arlington, Texas 76011, telephone (817) 460-3032.

(f) Public Health Region 6, P.O. Box 190, Alexander Nursing Building, Scott and White Hospital, 2401 South 31st Street, Temple, Texas 76501, telephone (817) 778-6744.

(g) Public Health Region 7, P.O. Box 2501, Cotton Belt Office, 1517 West Front Street, Tyler, Texas 75710, telephone (214) 595-3585.

(h) Public Health Region 8, P.O. Box 592, 500 South Rangerville Road, Harlingen, Texas 78550, telephone (512) 423-0130.

(i) Public Health Region 9, P.O. Drawer 630, Old Memorial Hospital Building, Garner Field Road, Uvalde, Texas 78801, telephone (512) 278-7173.

(j) Public Health Region 10, P.O. Box 2501, Cotton Belt Office, 1517 West Front Street, Tyler, Texas 75710, telephone (214) 595-3585.

(k) Public Health Region 11, 1110 Avenue G, Rosenberg, Texas 77471, telephone (713) 342-8685.

(l) Public Health Region 12, 3411 Knoxville, Suite 100, Lubbock, Texas 79413, telephone (806) 797-4331.

Any comments or questions concerning the proposed rules may be sent to Jack C. Carmichael, P.E., director, Division of Solid Waste Management, 1100 West 49th Street, Austin, Texas 78756, telephone (512) 458-7271. Comments will be accepted until 5 p.m. September 15, 1980.

The proposed rules on municipal solid waste management will be presented to the Texas Board of Health at its regularly scheduled September 1980 meeting in the board room, Texas Department of Health Building, 1100 West 49th Street, Austin.

The approximate additional cost of administering this program for the first five years is as follows: \$1,213,150 federal, \$160,000 state for the fiscal year 1981; \$1,213,150 federal, \$160,000 state for the fiscal year 1982; \$1,400,000 federal, \$270,000 state for the fiscal year 1983; \$1,400,000 federal, \$270,000 state for fiscal year 1984; and \$1,400,000 federal, \$270,000 state for fiscal year 1985 (source: department's Budget Office and Division of Solid Waste Management).

These rules are being proposed under authority of Article 4418a, 4477-7, and 6252-13a, Texas Revised Civil Statutes.

.016. General Information.

(a) Basis for regulatory controls. The regulations promulgated herein cover all aspects of solid waste management under the authority of the Texas Department of Health and are based primarily on the stated purpose of the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes, as amended by the 66th Legislature, hereafter referred to as the Solid Waste Disposal Act.

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

(1) Article 4477-1, Vernon's Texas Civil Statutes, Texas Sanitation and Health Protection Law (as amended by the 65th Legislature). The provisions of this statute which

have particular significance relating to public health and solid waste management include:

(A) Section 2(a),(b),(f),(g),(j) (Nuisances).

(B) Section 4(a),(c),(d),(e) (garbage and refuse).

(2) Article 4477-7, Vernon's Texas Civil Statutes, Solid Waste Disposal Act (as amended by the 66th Legislature). The provisions of this statute which have particular significance relating to solid waste management include:

(A) Section 1 (Short Title; Policy).

(B) Section 3(a)-(c) (State Solid Waste Agency; Designations; Duties).

(C) Section 4(b)-(d),(e)(4),(5),(7),(8) (State Agencies; Authority and Powers; Permits).

(3) Article 4477-8, Vernon's Texas Civil Statutes, County Solid Waste Control Act. The provisions of this statute which have particular significance relating to solid waste management are summarized in Section 1.

(4) Article 4477-9, Vernon's Texas Civil Statutes, Dumping Solid Waste on Property or Into Waters; Penalty. The provisions of this statute which have particular significance relating to solid waste management are summarized in the title of the Act.

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

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

(7) Public Law 94-580, The Resource Conservation and Recovery Act of 1976.

(A) The Resource Conservation and Recovery Act (RCRA) establishes the requirement to regulate the treatment (processing), storage, transportation, and disposal of hazardous waste. The RCRA requires that the U.S. Environmental Protection Agency (EPA) identify and list hazardous wastes; establish standards applicable to generators, transporters, and owners or operators of treatment, storage, or disposal facilities; and establish guidelines to assist states in the development of state hazardous waste programs. The Act provides that any state may seek to administer and enforce a hazardous waste program under federal authorization. The authorized state may carry out its hazardous waste program in lieu of the federal program and issue and enforce permits for the storage, treatment or disposal of hazardous waste. The department has applied for authorization to regulate hazardous waste that comes under its jurisdiction. Interim department regulations for the management of hazardous waste are contained in Rule .027 herein. A revised and expanded Section L is expected to be published in April 1981 following the planned publication by the EPA of an additional listing of hazardous wastes and standards applicable to owners or operators of hazardous waste treatment, storage, or disposal facilities.

(B) The RCRA also requires that the EPA publish regulations containing criteria for determining the classification of disposal facilities as sanitary landfills or as open dumps. The RCRA further requires that each state shall prohibit the establishment of open dumps. These department regulations are responsive to the RCRA and the criteria con-

tained in Part 257, Chapter 40, Code of Federal Regulations, as published in the *Federal Register* dated September 13, 1979.

(C) Applicability. The provisions of these regulations apply to any individual, corporation, organization, government, or governmental subdivision or agency business trust, partnership, association, or other legal entity, including all federal installations (see Section 6001 of the Resource Conservation and Recovery Act of 1976) involved in any aspect of the management and control of municipal solid waste including but not limited to storage, collection, handling, processing, and disposal. Section 8 of the Solid Waste Disposal Act states that no person may cause, suffer, allow, or permit the collection, storage, handling, or disposal of solid waste or the use or operation of a disposal site in violation of the Act or the rules, permits, licenses, or other orders of the department. Any person who violates any provision of the Act, regulation, permit, or order of the department is subject to civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, as the court may deem proper.

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

(e) Definition of terms and abbreviations. For the purposes of these regulations, the following definitions shall apply. Other definitions, pertinent to specific sections, are contained within the appropriate sections.

(1) "Brush" means the cuttings or trimmings from trees, shrubs, or lawns and similar materials.

(2) "Class I Industrial Solid Waste" means any industrial solid waste designated as Class I by the executive director of the Texas Department of Water Resources as any industrial solid waste or mixture of industrial solid wastes which because of its concentration or physical or chemical characteristics is toxic, corrosive, flammable, a strong sensitizer or irritant, a generator of sudden pressure by decomposition, heat, or other means, and may pose a substantial present or potential danger to human health or the environment when improperly treated, stored, transported, or otherwise managed, including hazardous waste.

(3) "Collection" means the act of removing solid waste (or materials which have been separated for the purpose of recycling) for transport elsewhere.

(4) "Collection system" means the total process of collecting and transporting solid waste. It includes storage containers; collection crews, vehicles, equipment and management; and operating procedures. Systems are classified as municipal, contractor, or private.

(5) "Composting" means the controlled biological decomposition of organic solid waste under aerobic conditions. (Article 4477-7, Vernon's Texas Civil Statutes).

- (6) "Construction-demolition waste" means waste resulting from construction or demolition projects.
- (7) "Controlled burning" means the combustion of solid waste with:
- (A) control of combustion air to maintain adequate temperature for efficient combustion.
 - (B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and,
 - (C) control of the emission of the combustion products, i.e., incineration in an incinerator.
- (8) "Department" means the Texas Department of Health (Article 4477-7, Vernon's Texas Civil Statutes, and Article 4414a, Texas Revised Civil Statutes).
- (9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwaters.
- (10) "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Federal Endangered Species Act of 1973 (Public Law 93-205), as amended.
- (11) "Experimental project" means any new proposed method of managing municipal solid waste, including resource and energy recovery projects, which appears to have sufficient merit to warrant departmental approval.
- (12) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including floodprone areas of offshore islands, which are inundated by the 100-year frequency flood.
- (13) "Garbage" means municipal solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling, and sale of produce and other food products (Article 4477-7, Vernon's Texas Civil Statutes).
- (14) "Hazardous waste" means any solid waste identified or listed as a hazardous waste by the Administrator of the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976. (An initial listing was published by the administrator in the *Federal Register* dated May 19, 1980, in Part III, Book 2 of three books.)
- (15) "Industrial solid waste" means solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operations.
- (16) "Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.
- (17) "Low-level radioactive waste" means radioactive waste material that is produced as a result of industrial, medical, agricultural, or scientific activities and that has a half-life of not more than 100 years or an activity level of not more than five curies per gram.
- (18) "May" means that the stated action is optional.
- (19) "Mixed waste" means solid waste that contains both municipal solid waste and industrial solid waste (Rule .021(b)(5) are requirements.)
- (20) "Municipal hazardous waste" means any municipal solid waste that has been identified or listed as a hazardous waste.
- (21) "Municipal solid waste" means solid waste resulting from or incidental to municipal, community, commercial, and recreational activities, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and all other solid waste other than industrial solid waste.
- (22) "Open burning" means the combustion of solid waste without:
- (A) control of combustion air to maintain adequate temperature for efficient combustion.
 - (B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and
 - (C) control of the emission of the combustion products.
- (23) "Opposed case" means a case when one or more parties appear, or make their appearance in opposition to an application, and are designated as opponent parties by the hearings examiner either at or before the public hearing on the application.
- (24) "Permit or license" means the formal written approval issued to the applicant for a solid waste site by the appropriate regulatory body. To conform with terminology usage in Article 4477-7, Vernon's Texas Civil Statutes, and Article 4477-8, Vernon's Texas Civil Statutes, a permit shall mean approved by the department and a license shall mean approval by a county.
- (25) "Person" means individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity (Article 4477-7, Vernon's Texas Civil Statutes).
- (26) "Population equivalent" means the hypothetical population which would generate an amount of solid waste equivalent to that actually being processed or disposed of based on a generation rate of five pounds per capita per day and applied to situations involving solid waste not necessarily generated by individuals.
- (27) "Processing" means the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal, including the treatment or neutralization of low-level radioactive waste and hazardous waste so as to render such waste less hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.
- (28) "Processing facility" means a facility used to transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, or provide other processing of solid waste. Processing facilities used for rendering fats and oils, reclamation of yeast for animal feed, cooking of garbage for animal consumption, or plants of a similar nature are not included in this definition. (These latter facilities are regulated by the Texas Department of Water Resources.)
- (29) "Public highway" means the entire width between property lines of any road, street, way, thoroughfare, bridge, public beach, or park in this state, not privately owned or controlled, when any part thereof is opened to the public for vehicular traffic and/or over which the state has legislative jurisdiction under its policy power (Article 6674v-2, Vernon's Texas Civil Statutes).
- (30) "Putrescible waste" means solid wastes which are capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for, or attracting, birds and disease vectors.

(31) "Radioactive waste" means waste material which emits ionizing radiation spontaneously.

(32) "Resource recovery" means the recovery of material or energy from solid waste.

(33) "Resource recovery site" means a solid waste processing site at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

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

(35) "Salvaging" means the controlled removal of waste materials for utilization.

(36) "Sanitary landfill" means the controlled removal of waste materials for utilization.

(36) "Sanitary landfill" means a facility for the land disposal of solid waste which complies with all applicable standards and regulations so as to ensure that there is no reasonable probability of adverse effects on health or the environment from disposal of solid waste at such facility.

(37) "Scavenging" means the uncontrolled and unauthorized removal of materials at any point in the solid waste management system.

(38) "Shall" means that the stated action is mandatory.

(39) "Should" means that the stated action is recommended as a guide in completing the overall requirement.

(40) "Site development plan" means a document, prepared by the design engineer, which provides a detailed design with supporting calculations and data for the development and operation of a solid waste site.

(41) "Site operating plan" means a document, prepared by the design engineer in collaboration with the site operator, which provides guidance to site management and operating personnel in sufficient detail to enable them to conduct day-to-day operations throughout the life of the site in a manner consistent with the engineer's design and the department's regulations.

(42) "Site operator" means the holder of, or the applicant for, a permit (or license) for a municipal solid waste site.

(43) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.

(44) "Solid Waste" means all putrescible and nonputrescible discarded or unwanted materials including garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include:

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

(B) soil, dirt, rock, sand and other natural or man-made inert solid waste materials used to fill land if the object

of the fill is to make the land suitable for the construction of surface improvements;

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

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

(45) "Solid waste disposal site" means a plot of ground designated for the disposal of solid waste.

(46) "Solid waste facility" means any land and appurtenances thereto used or designated for the storage, processing, or disposal of solid waste.

(47) "Solid waste processing site" means a plot of ground designated for the processing of solid waste.

(48) "Special waste" means any nonhazardous solid waste requiring special handling other than that normally used for municipal solid waste.

(49) "Storage" means the interim containment of municipal solid waste under one of the following conditions:

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

(B) Postcollection. That storage by the processor, at a processing site, while the waste is awaiting processing or transfer to a disposal or recovery facility.

(50) "TRCS" means Texas Revised Civil Statutes.

(51) "Transfer station" means a fixed facility used for transferring solid waste from collection vehicles to long-haul vehicles. It is not a storage facility such as one where individual residents can dispose of their wastes in bulk storage containers which are serviced by collection vehicles.

(52) "Trash (rubbish)" means nonputrescible solid waste (excluding ashes), consisting of both combustible and noncombustible waste materials; combustible trash (rubbish) includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; noncombustible trash (rubbish) includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials which will not burn at ordinary incinerator temperatures (1600°F to 1800°F).

(53) "Vector" means rodents, flies, and mosquitoes capable of transmitting disease.

(54) "VACS" means Vernon's Annotated Civil Statutes.

(55) "VTCS" means Vernon's Texas Civil Statutes.

(f) Relationships with other governmental entities.

(1) Texas Department of Water Resources. The department shares joint responsibility with the Department of Water Resources in the administration of the Solid Waste Disposal Act. As stipulated in the Act, the department shall have jurisdiction over all solid waste activities concerned with municipal solid waste or with a combination of both municipal and industrial solid waste and shall consult with the Texas Department of Water Resources concerning matters of water quality. The Department of Water Resources has jurisdiction over industrial solid waste activities and shall consult with the department on matters relating to public health. Where both municipal solid waste and industrial solid waste are involved in any activity of collecting, handling, storing, processing, or disposing of solid waste, the department is the state agency responsible and has jurisdiction over the activity (Article 4477-7, Vernon's Texas Civil Statutes).

It is the policy of the department to seek the recommendations of the Department of Water Resources regarding the requirements of the Texas Water Code under its purview. Accordingly, the department shall coordinate the review of all permit applications for municipal solid waste facilities to be constructed within the 100-year floodplain of all rivers, streams or water courses with the Department of Water Resources to determine the need for that agency to approve any construction that would have an effect on the safe passage of floodwaters within the floodplain (Section 16.238, Texas Water Code).

(2) **Texas Air Control Board.** The department shall consult with the Texas Air Control Board on aspects of solid waste management that relate to air pollution control and ambient air quality (Article 4477-7, Vernon's Texas Civil Statutes). The Texas Air Control Board has a separate statutory responsibility for evaluating all types of incinerators, including air curtain destructors, and, when appropriate, issuing construction and operating permits for incinerators (Texas Clean Air Act, Article 4477-5, Vernon's Texas Civil Statutes).

(3) **State Department of Highways and Public Transportation.** In view of the responsibilities of the State Department of Highways and Public Transportation regarding the junk and control provisions of the Highway Beautification Act, the department shall coordinate the review of all permit applications for municipal solid waste land disposal facilities existing or proposed within 1,000 feet of an interstate or primary highway to determine the need for screening or special operating requirements (Highway Beautification Act, Article 6674v-1, Vernon's Texas Civil Statutes).

(4) **U.S. Army Corps of Engineers.** In view of the requirements under Section 404 of the Federal Clean Water Act for any person to obtain a permit from the Corps of Engineers prior to discharging any fill materials into navigable waters or contiguous or adjacent wetlands thereof, the department shall coordinate the review of all permit applications for municipal solid waste landfill disposal facilities with the appropriate district engineer to determine the need for a Corps of Engineers permit (Section 404, Clean Water Act).

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

(6) **Special districts.** Section 6 of the Solid Waste Disposal Act applies to political subdivisions of the state to which the legislature has given waste handling authority for two or more counties. The relationship between the department and any such waste disposal authority will be similar to that between the department and a county.

(7) **Regional planning agencies.** The department will provide educational, technical, and advisory assistance to the various councils of governments and regional planning commissions throughout the state.

(8) **Municipal governments.** Municipalities are encouraged to enforce the provisions of these rules and regulations. The department is committed to assist municipal governments in an educational and advisory capacity. The

department is a necessary party to any suit filed by a municipality under the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes.

(9) **County governments.** The department encourages the county governments to exercise the authority provided in Articles 4477-7 and 4477-8, Vernon's Texas Civil Statutes, regarding the management of solid waste including the enforcement of the requirements of the Solid Waste Disposal Act and these regulations. The provisions of Articles 4477-7 and 4477-8 allow county governments to require and issue licenses authorizing and governing the operation and maintenance of sites used for the disposal of solid waste not in the territorial limits or extraterritorial jurisdiction of a municipality. Article 4477-7 requires that no license for disposal of solid waste may be issued, renewed, or extended without the prior approval, as appropriate, of the department or the Department of Water Resources. Under subsection 8(g) of Article 4477-7, the department and the Department of Water Resources are necessary and indispensable parties to any suit filed by a local government for the violation of any provision of the Act. If a permit is issued, renewed, or extended by the department, the owner or operator of the site does not need to obtain a separate license for the same site from a county or from a political subdivision as defined in Section 6 of the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes (see Rule .025 for regulations concerning county governments).

(g) **Relationship with county licensing system.** The Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes, empowers counties to require and issue licenses authorizing and governing the operation and maintenance of solid waste disposal sites not within the territorial limits or extraterritorial jurisdiction of incorporated cities and towns. The county shall mail a copy of the license application to the department to receive comments and recommendations on the license application before the county acts on the application. No license for the use of a site for the disposal of solid waste may be issued, renewed, or extended without prior approval of the department. The County Solid Waste Control Act, Article 4477-8, Vernon's Texas Civil Statutes, excludes both the territorial limits and the extraterritorial jurisdiction of incorporated cities and towns from counties' authority to make regulations for the governing and controlling of solid waste collection, handling, storage, and disposal (refer to Section J for other requirements).

(h) **Severability.** If any section or provision of these regulations or the application of that section or provision to any person, situation, or circumstances is adjudged invalid for any reason, the adjudication does not affect any other section or provision of these regulations or the application of the adjudicated section or provision to any other person, situation, or circumstance. The Texas Board of Health declares that it would have adopted the valid portions and applications of these regulations without the invalid part, and to this end the provisions of these regulations are declared to be severable.

.017. *Municipal Solid Waste Storage.*

(a) **Applicability.** This section shall be applicable to all public and private storage systems. Additional requirements for storage of hazardous wastes are contained in Rule .027.

(b) **Storage requirements.** All solid waste shall be stored in such a manner that it does not constitute a fire, safety, or health hazard or provide food or harborage for animals and vectors, and shall be contained or bundled so as

not to result in litter. It shall be the responsibility of the occupant of a residence or the owner or manager of an establishment to utilize storage containers of an adequate size and strength, and in sufficient numbers, to contain all solid waste that the residence or other establishment generates in the period of time between collections.

(c) Approved containers. All solid waste containing food wastes shall be stored in covered or closed containers which are leakproof, durable, and designed for safe handling and easy cleaning.

(1) Nonreusable containers. Nonreusable containers shall be of suitable strength to minimize animal scavenging or rupture during collection operations.

(2) Reusable containers. Reusable containers shall be maintained in a clean condition so that they do not constitute a nuisance and to retard the harborage, feeding, and propagation of vectors.

(A) All containers to be emptied manually shall be capable of being serviced without the collector coming into physical contact with the solid waste.

(B) Containers to be mechanically handled shall be designed to prevent spillage or leakage during storage, handling, or transport.

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

.018. Municipal Solid Waste Collection.

(a) Applicability. This section shall be applicable to all public and private collection systems. Additional requirements for the collection and transportation of hazardous wastes are contained in Section L.

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

(c) Collection vehicles and equipment.

(1) Sanitation standards. All vehicles and equipment used for the collection and transportation of municipal solid waste shall be constructed, operated and maintained to prevent loss of liquid or solid waste material and to minimize health and safety hazards to solid waste management personnel and the public. Collection vehicles and equipment shall be maintained in a sanitary condition to preclude odors and fly breeding.

(2) Operating condition of vehicles. Collection vehicles should be maintained and serviced periodically and should receive periodic safety checks. Safety defects in a vehicle should be repaired before the vehicle is used.

(d) Collection Spillage.

(1) Cleanup at collection point. The agency operating the collection system should provide for prompt cleanup of all spillages caused by the collection operation.

(2) Cleanup along disposal route. The agency operating the collection system should provide for prompt collection of any waste materials lost from the collection vehicles along the route to the disposal site.

.019. Classification of Municipal Solid Waste Sites.

(a) Basis for classification. Classifications are based on the method of processing or disposal of municipal solid waste. Representatives of the department are available for consultation to determine the proper site classification applicable to a specific situation.

(b) Types of municipal solid waste sites. The department has classified all solid waste sites and facilities into seven types which are described below. The first four types are land disposal sites and each provides for the disposal of solid waste on land without creating nuisances or hazards to public health or safety and without posing a reasonable probability of adverse effects to the environment by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to periodically cover it with a layer of earth to minimize unhealthy, unsafe, or unsightly conditions. As indicated below, the department may authorize different frequencies of cover, commensurate with the potential for creating nuisances or hazards to public health or safety. Subject to the limitations in Rule .021(b)(5), a municipal solid waste landfill site may also receive mixed wastes, and with the written approval of the department may also receive special wastes, including Class I industrial solid waste, if properly handled and safeguarded in the landfill site.

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

(2) Municipal solid waste site—Type II. A Type II site or operation may be authorized by the department for a site serving less than 5,000 persons or same population equivalent when relevant factors indicate a frequency or less than daily compaction and cover will not result in any significant health problems. A Type II operation shall not be conducted within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed location will be acceptable. The operational standards prescribed in Rule .021(b) shall be followed except that the frequency of compaction and cover may be extended up to seven days. The prescribed frequency will constitute the minimum standard for the site with the obligation of the operator to cover more frequently when conditions so warrant. Areas designated to receive only brush and/or construction-demolition wastes shall be covered at least monthly. The department may authorize the designation of special-use areas for processing, storage, and disposal or any other functions involving solid waste.

(3) Municipal solid waste site—Type III. A Type III site or operation is an interim classification which may be authorized by the department for a site serving less than 1,500 persons or same population equivalent for a period of time no longer than five years while pending its upgrading to a Type II operation. A Type III site shall not be operated within 300 yards of a public road unless the department determines that the site, after upgrading, will be acceptable as a Type II site in the final classification. The operational

standards prescribed in Rule .021 (b) shall be followed, except that the interim frequency of compaction and intermediate cover will be specified by the department. The prescribed interim frequency will constitute the minimum standard for the site with the obligation of the operator to cover more frequently when conditions so warrant.

(4) Municipal solid waste site—Type IV. A Type IV site or operation may be authorized by the department for the disposal of brush and/or construction-demolition wastes that are free from other solid waste. A Type IV operation shall not be operated within 300 yards of a public road unless the department, after a site evaluation, determines that the proposed operation in the proposed location will be acceptable. The minimum operational standards are prescribed in Rule .021(c).

(5) Municipal solid waste site—Type V. Separate solid waste processing sites are classified as Type V. These sites shall encompass processing plants that transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, or provide other processing of solid waste including air-curtain destructors (trench burners) designed to burn trees, brush and other wood-type materials in a safe controlled burning process. The operational standards are prescribed in Rule .022(b).

(6) Municipal solid waste site—Type VI. A Type VI site or operation may be authorized by the department for a site involving a new or unproven method of managing or utilizing municipal solid waste, including resource and energy recovery projects. The minimum operational standards are prescribed in Rule .022(b).

(7) Municipal solid waste site—Type VII. A Type VII site or operation may be authorized by the department for the land application of solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for the production of food-chain crops. The operational standards for Type VII sites are prescribed in Rule .022(c).

.020. Permit Procedures and Design Criteria.

(a) Permit requirements. No municipal solid waste site shall be operated without a permit from the department or a license from a county exercising licensing authority, except as authorized herein. Sites in operation prior to October 16, 1974, or previously licensed by a county, for which a permit application has been submitted may remain in operation pending completion of processing of the application, providing the site is otherwise in full compliance with these regulations. A separate permit or license shall be required for each site or facility, and the department, at its discretion, may include one of more different types of facilities in a single permit if the facilities are collocated on the same site. A permit or license may be issued by the department or a county, respectively, only after a public hearing is held (see Rule .020(b) and (c) for departmental procedures, and Rule .025 for minimum requirements for a county licensing program).

(1) Permits issued under previous regulations. Permits issued by this department under previous regulations will remain valid for the period specified in the permit. When a permittee has made timely and sufficient application for the renewal of a permit, the existing permit does not expire until the application has been finally determined by the department. As required by the standard provisions of the permit, permittees will be required to comply with operational procedures contained in these regulations. Require-

ments established by permit special provisions will remain in force unless amended by the department.

(2) Duration and limits of permits. A permit is normally issued for the life of the site but may be revoked at any time if the operating conditions do not meet the minimum standards set forth in these regulations, or for any other good cause. A permit is issued to a specific person (as defined in Rule .016(e)(25) and may not be transferred from one person to another without departmental approval. A permit is attached to the realty to which it pertains and may not be transferred from one location to another.

(3) Transfer of permits. Any person seeking to obtain the transfer of a permit which has been issued to another person by the department for a solid waste site shall make application to the department for transfer approval. The transfer of the permit shall be for the remaining life of the permit. Upon submission of required information to the satisfaction of the department, the decision will be made concerning the permit transfer. Pending a decision on the permit transfer, the department will hold the "permittee of record" responsible for the proper operation of the site. Failure to give complete information, or the submission of false information, in the application shall constitute grounds for rejection of the application. The application shall be submitted in the form of a letter and shall provide the following information:

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

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

(C) Evidence of financial responsibility which assures the department that the applicant has sufficient assets to properly operate the site and to provide proper closure. This assurance may be in the form of performance bonds, letters of credit from recognized financial institutions, company stockholder reports, etc., in the case of privately-owned facilities and by commissioner court or city council resolution in the case of publicly owned facilities.

(D) Evidence of competency to operate the site to include landfilling and earthmoving experience of key personnel and the numbers, makes, models, and condition of all equipment to be dedicated to site operation. A firm commitment to provide backup equipment by lease, purchase, or diversion from other activities is also required.

(E) An up-to-date site development plan showing any changes to the drainage throughout the site area; ground and surface water protective measures; depths of trenches;

special-use areas; and final topographies, etc., which differ from the original engineering site development plan.

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

(4) Revocation or amendment of a permit. A permit may be revoked or amended by the department at any time if the operating conditions do not meet the minimum standards set forth in these regulations, or for any other good cause. If, during the life of a permit, conditions change that would mandate a stricter or less strict type of operation (e.g., a change in population served), the permittee shall file a request for amendment within three months of the changed conditions. Prior to revoking or amending a permit, the department shall provide notice to the permittee and to appropriate governmental entities, and shall conduct a public hearing and make its determination in accordance with the general procedures contained in this section for the initial issuance of a permit. Requests for amendments involving changes such as increase in site acreage, an addition of an area fill above natural ground, or the addition of other on-site processing or disposal facilities, should normally be submitted in the same manner and similar detail as for an initial application, including an up-dated site development plan. In all cases, however, consultation with the department is recommended to determine specific data requirements for the proposed amendment.

(5) Property rights. It is the responsibility of a permittee to possess or acquire a sufficient interest in or right to the use of the property for which a permit is issued, including the access route thereto. The granting of a permit does not convey any property rights or interest in either real or personal property; nor does it authorize any injury to private property, invasion of personal rights, or impairment of previous contract rights, nor any infringement of federal, state, or local laws or regulations outside the scope of the authority under which a permit is issued. In this connection, see subsection (b)(2) of Rule .020(b)(1). The permittee should also retain the right of entry to the site for at least a year after termination of solid waste operations for inspection and maintenance of the site.

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

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

(8) Preparation of application. The application for a permit shall be prepared and signed by the applicant on a form to be provided by the department. In general, the application shall include information necessary to make an evaluation of the proposed operation to ensure that the facility is located, designed, and operated so that the health, welfare, and physical property of the public, as well as the environment and endangered species are protected. Failure to give complete information as requested on the application form, or the submission of false information, may constitute grounds for rejection of the application. See Rule .020(b)(1)-(4) for specific requirements for the type of facility for which a permit is desired.

(A) Data presented in support of an application for a permit for Type I and Type IV municipal solid waste sites serving 5,000 persons or more, or same population equivalent, shall be prepared under the direction of a registered professional engineer authorized to practice in the State of Texas, under the Texas Engineering Practice Act, Article 3271a, Vernon's Texas Civil Statutes. An engineer who prepares the supporting data for an application is not authorized to sign the application unless he is an official of the applicant's organization. If a consultant is employed, a letter of appointment shall be submitted by the proper city, county, agency, company, official, or individual, confirming that the engineer is authorized to prepare plans and specifications (see Rule .030 for suggested format).

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

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

(9) Submission of application. The application for a permit will be submitted to the department with all the supporting data in the number of copies prescribed in the instructions on the application form unless otherwise advised. Upon receipt of the application, the department will forward to the applicant a Notice of Filing of Application which the applicant, at his own expense, will cause to be published one time in a newspaper of general circulation in the area of the location of the site. Such publication shall be accomplished within 15 days after receipt of such notice by the applicant, and a publisher's affidavit relative to such publication shall be forwarded to the department immediately thereafter. The publication of this notice of filing of application shall be in addition to the publication of the notice of public hearing required by Rule .020(c)(2) of these regulations. For a facility to be located within a county which exercises licensing authority but not within the territorial or extraterritorial ju-

risdiction of a city or town, the prospective applicant should consult with the appropriate county for any special application requirements.

(b) Application and data requirements. The department recognizes that some persons desiring to operate municipal solid waste land disposal sites may not be sure of the type classification of their proposed operation and the amount of supporting data that must be submitted with a permit application for their particular site. Accordingly, the Permit Application form has been designed in two parts as a means of relieving applicants for permits for small facilities, and those who may be uncertain of the type of operational level required, of the need to submit more information than that required to evaluate the characteristics of the facility or site. The first part of the application, Part A, is designed to provide information which is required regardless of the type of site involved. If the applicant is sure of the type classification of the facility and operation for which a permit is desired, he may proceed to complete the second part, Part B, and supporting data, to provide the more detailed information and technical data required for evaluation of the particular type of site. If the applicant is not sure of the type classification of the site and amount of supporting data required, he may submit only Part A to the department for evaluation and determination of additional supporting information. The director of the Division of Solid Waste Management, or his representative, shall determine the actual data requirements for a specific site and may waive any requirements not essential to the evaluation of the site. The department strongly recommends that the prospective applicant confer as early as possible with appropriate representatives of the department to discuss the information contained in Part A and to obtain guidance for conducting the soils investigation, the design, and the operation of the proposed facility. Discussions at such a conference can result in determining the degree of detail required in the preparation of supporting data or in the identification of data that may not be required for the particular facility.

(1) General information required for all sites—Permit Application, Part A.

(A) In general, the following type of information will be included in Part A (see Rule .028 for sample format) of the permit application. Normally, 11 copies of Part A are required to effect the necessary coordination with other agencies. However, a lesser number of copies may be established through consultation with the department:

- (i) name and address of the individual, corporation, city, or county who is applying for the permit and who will be responsible for site operation;
- (ii) type of site or operation proposed;
- (iii) description of the proposed disposal process;
- (iv) current status of site—proposed or existing;
- (v) types of wastes proposed to be accepted;
- (vi) distance in feet to the nearest public road;
- (vii) distance in miles to the nearest airport or airfield;
- (viii) distance in miles or feet to the nearest occupied structure;
- (ix) specific location of site by street address if within the city limits or distance and direction from a city or road intersection;
- (x) location of site by county, city, or extrajurisdictional jurisdiction of a city;

- (xi) estimated tons or cubic yards of waste to be received daily;
- (xii) size of the site in acres;
- (xiii) population or population equivalent to be served;
- (xiv) estimated life of the facility.

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

(i) A half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, annotated as necessary to show the location of the site; prevailing wind direction; water wells within 500 feet of the site; residences, cemeteries, and recreational areas within one mile of the site; and location and type surface of all roads within one mile which will be used for entering or leaving the site (same number of copies as for Part A).

(ii) When the applicant is not the owner of the land on which the site is (to be) located, there shall be submitted with the application a statement in the general format provided in Rule .031 signed by the owner of the land acknowledging that he is aware that his land as described in the legal description submitted is to be used for the disposal or processing of solid waste and, that the owner will be responsible for the proper maintenance of the site after termination of the permit (two copies).

(2) Technical information required for landfill sites serving less than 5,000 persons—Permit Application, Part B. Part B of the permit application (see Rule .029 for sample format) shall be submitted in support of Part A for all Type II and III sites and for all Type I and IV sites serving less than 5,000 persons or same population equivalent. When deemed necessary, however, the department may require that, in lieu of using Part B, permit applicants for these types of sites submit supporting technical information in the format and amount of detail as required for sites serving 5,000 persons or more, or same population equivalent (see Rule .020(b)(3)). Even though an applicant may not be required to submit detailed supporting data, it is recommended that he consider the guidelines provided in subparagraph (E) of Rule .020(b)(3) in selecting a suitable site location, developing the operational plan, and preparing for the required public hearing. Part B shall be supported by the following:

(A) a report of on-site characteristics prepared in accordance with guidance obtained through consultation with the department;

(B) an operational plan showing drainage throughout the site area; ground and surface water protective measures; depth of trenches; location of streams; special-use areas; etc. (see Rule .029 for complete requirements);

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

(3) Technical information required for landfill sites serving 5,000 persons or more—site development plan. For all Types I and IV sites serving 5,000 persons or more, or same population equivalent, the technical information submitted in support of Part A, in lieu of using Part B, shall be prepared in the form of an engineering site development plan as described below. In the interest of expediting the development of complete technical data requirements and reducing costs to the applicant, a draft copy of the site development

plan shall be submitted to the department for review prior to reproduction in final form. The department will review the plan and advise of any required changes or additions and, if considered necessary, will request that the design engineer meet with appropriate staff members when clarification of data is necessary. Following this review, the department will advise the applicant, or his design engineer, of the number of copies required of the plan for distribution to review agencies which may need to make a detailed review with respect to matters under their jurisdiction. It is advisable that a copy of the soils report be submitted to the department for review as soon as it has been prepared so that the department can provide timely guidance if soil conditions will require special considerations. Individual site drawings shall be signed and sealed by the registered professional engineer responsible for their preparation. Bound plans shall be signed and sealed by the engineer, preferably on the first page. The plan shall be prepared in the format and content described below:

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

(B) The table of contents shall list the following main sections of the application which are described in the clauses below:

- (i) engineer's appointment;
- (ii) solid waste data;
- (iii) design data;
- (iv) attachments.

(C) The engineer's appointment consists of a letter from the applicant to the commissioner, Texas Department of Health, identifying the registered professional engineer or consulting engineering firm under whose direction the plans and specifications will be prepared (see Rule .030 for a suggested format).

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

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

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

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

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

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

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

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

(v) Availability and adequacy of roads.

(vi) Volume of vehicular traffic in the area, both existing and expected, during the expected life of the proposed facility.

(B) Sites disposing of putrescible waste shall not be located in areas where the attraction of birds can cause a significant bird hazard to low-flying aircraft. Guidelines regarding location of landfills near airports can be found in Federal Aviation Administration Order 5200.5. As a general rule, land disposal sites should not be located closer than 10,000 feet to any runway used or planned to be used by turbojet aircraft or closer than 5,000 feet to any runway used only by piston-engine aircraft and not located in such a position so as to place a runway or approach/departure paths between the landfill and bird feeding, watering, or roosting areas. However, under certain circumstances, landfills beyond 10,000 feet may also pose a safety hazard to an airport. Therefore, all landfill sites within four miles of an airport will be critically evaluated to determine if an incompatibility exists. For the purposes of these regulations, an "airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities. "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.

(C) A minimum separating distance of 20 feet shall normally be maintained between the disposal operation and the adjacent property line. However, the design engineer shall consider the need for a greater distance when soil conditions, depth of excavations, or character of adjacent property use requires a greater distance. As a minimum, this buffer should be sufficient to accommodate passage of fire-fighting or other emergency vehicles. If a lesser distance is provided, the design engineer shall include proper justification.

(D) Unless otherwise required by special circumstances, a minimum separating distance of 25 feet shall normally be maintained between the disposal operation and any pipeline, underground utility, or electrical transmission line easement. The buffer should provide not only enough distance to ensure the safety of the operating personnel and facilities to be protected, but should provide space for drainage controls. The applicant shall provide the names and mailing addresses of all parties possessing valid easements, rights-of-way, or ownership of any property within the site boundaries. The site development plan shall show the loca-

tion of such easements and provide such protective measures as buffer zones, drainage structures, etc., as may be necessary to protect the parties' interest. The protective measures plan must be approved in writing by the parties involved and a copy submitted with the site development plan.

(5) Access. In the interest of both safety and operational efficiency, proper access to and within the land disposal site shall be provided. The following data shall be submitted with a permit application:

(A) Data to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, and recent average daily traffic counts (estimated, when counts not available). A statement must also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes. For county or city maintained streets or roads, the application shall include confirmation, in writing, that these access roads can safely accommodate the additional traffic to be generated by future waste disposal operations. This confirmation must be from the agency exercising maintenance responsibility of the access roadway(s). For state-maintained highways, the department will obtain such confirmation, when necessary.

(B) Provisions for all-weather access from access routes to the disposal site and from the entrance of the site to unloading areas used during wet weather. Interior access road locations shall be indicated on a site plan. The interior roadway design shall include a cross-sectional view detailing roadway width, depth and type of surfacing, and location of related drainage ditches. Maintenance and dust control procedures including all-weather serviceability of interior roads shall also be addressed in the overall site design and operational concept. A design of the intersection of the public access road with the site entrance road shall be included with the overall site design. The intersection design should address turning radii, pavement widths, traffic storage lanes, gates, signalization, and landscaping, as appropriate.

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

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

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

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

(C) Provisions for handling special wastes and large items.

(D) Provisions for control of windblown solid waste.

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

(F) Intended subsequent use of the site.

(G) Adequacy of supply, and soil characteristics, of on-site cover material and any lining material that may be required. Soil balance calculations should be provided to indicate the need for importing any materials.

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

(I) Provisions for inspection of the site for erosion, ponding, leachate migration and methane migration during the first year after closure and for corrective actions when indicated.

(J) Existence or nonexistence of zones of active faulting and/or differential surface subsidence in the vicinity of the site. Areas experiencing withdrawal of subsurface crude oil, natural gas, sulfur, etc., or significant amounts of groundwater should be investigated in detail for the possibility of faulting, which could rupture impermeable landfill lines.

(7) Ground water protection.

(A) A facility shall be designed so as not to contaminate an underground drinking water source beyond the solid waste boundary. As a general rule, the main concern is to protect the existing water quality from deterioration. Depth of ground water in the area shall be indicated. If the ground water is not suitable for any lawful or reasonable purpose, such a statement should be included along with a chemical analysis of the ground water for evaluation by the department. Water well locations shall be shown on the map provided as Attachment No. 2. Information shall be presented about area wells within 1,000 feet of the site boundaries indicating locations, ownership, depths, usage, and encasement protections. In addition, the applicant shall also furnish the estimated number of water wells within one mile of the site boundaries. For the purposes of these regulations, the protection of ground water includes the protection of perched water or shallow surface infiltration which may now or in the future have value in low-volume, low-demand water wells. The minimum acceptable protection separating solid waste from groundwater or perched water shall be the equivalent of three feet of soil with a permeability of not more than $1 \text{ by } 10^{-7} \text{ cm/sec}$ with a liquid limit of not less than 30 and a plasticity index of not less than 15. These soil parameters shall be determined by ASTM test procedures or those tests which have been discussed and approved by the department. When soils with a permeability of $1 \text{ by } 10^{-8} \text{ cm/sec}$ or less are used, the liner thickness may be reduced to not less than two feet.

(B) A soil and liner quality control plan shall be included in the site development plan to provide operating personnel adequate procedural guidance for assuring continuous compliance with the groundwater protection requirements specified above. The plan should be portrayed graphically in Attachment No. 8 (Ground and Surface Water Protective Facilities) and described narratively in Attachment No. 12 (Site Operating Plan). It should be keyed to the sectorized fill layout (Attachment No. 6) for area or trench identification. The design should include construction methods and specifications for compaction of clay soils to form a liner or barrier of the equivalent of three feet of compacted clay with a permeability of $1 \text{ by } 10^{-7} \text{ cm/sec}$ between the deposited solid waste and the ground water when permeable zones and/or fissures, cracks, or joints are encountered in excavations. As a guide, ground water is encountered in the disposal excavations, the equivalent of one foot of compacted clay liner or barrier with a permeability of $1 \text{ by } 10^{-7} \text{ cm/sec}$ for every two feet of static water head encountered shall be used as a basis for construction of a liner or a barrier between the deposited solid waste and the ground water. Other methods, such as

use of French drains or other pressure release systems, may be used to reduce the amount of barrier construction. The cohesive strength and shearing resistance of the lining material may not be considered for lining thickness justification. Unless alternate construction procedures are approved by the department in writing, all constructed liners shall be keyed into an underlying formation of sufficient strength to ensure stability of the constructed lining. In no case, should the thickness of this liner be less than three feet when groundwater is encountered. The use of disposal excavations below the static groundwater level is not recommended, however. The liner or barrier details where lining of complete trenches is necessary should be depicted on cross sections for a typical trench showing the slope, widths, and thicknesses for compaction lifts, and the specifications should be expressed in terms of Proctor densities. Similar typical cross sections shall be provided for those instances in which over-excavation of permeable zones and backfilling with impermeable clay may be necessary. The proposed procedures for lining, as well as for the scarification and recompaction of zones containing fissures, cracks, or joints, when necessary, should be discussed in the site operating plan describing the step-by-step procedure necessary to evaluate and, where appropriate, modify disposal excavations under each of the three conditions described above. This discussion shall outline test procedures, frequency of professional evaluations, and methods for lining as described above.

(i) Constructed lining other than compacted clay (e.g., asphalt or treated soils) may be utilized with prior written approval by the department. All such lining shall be placed in strict accordance with the manufacturer's specifications and recommendations.

(ii) As an aid in determining whether or not the lining of trenches will be required, the department will calculate the potential percolation of precipitation into deposited solid waste and potential for leachate generation using the water-balance method based on rainfall, evapotranspiration, and soils data as described in U.S. Environmental Protection Agency Report SW-168 entitled "Use of Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites," or other equivalent method.

(C) The need for monitor wells shall be considered. The design engineer should consult with the department during the design of the facility for guidance. If departmental evaluation deems it necessary, monitor wells will be required. Location, construction, and sampling of monitor wells shall be in accordance with departmental guidelines and/or permit special provisions. The department may require that earth electrical resistivity surveys be used in lieu of or as a supplement to monitor wells. Use of these surveys shall be in accordance with departmental guidelines.

(D) For the purposes of these regulations, the following definitions apply:

(i) "Contaminate" means to introduce a substance that would cause the concentration of that substance in the ground water to exceed the specified maximum contaminant level or an increase in the concentration of that substance in the ground water where the existing concentration of that substance exceeds the specified maximum contaminant level.

(ii) "Underground drinking water source" means an aquifer supplying drinking water for human con-

sumption or an aquifer in which the ground water contains less than 10,000 mg/l total dissolved solids.

(iii) "Ground water" means water below the land surface in the zone of saturation.

(iv) "Aquifer" means a geological formation, group of formations, or portion of a formation capable of yielding usable quantities of ground water to wells or springs.

(v) "Solid waste boundary" means the outermost perimeter of the solid waste (projected in the horizontal plane) as it would exist at completion of the disposal activity.

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

(9) Surface water protection.

(A) A facility shall be designed to prevent:

(i) A discharge of solid wastes or pollutants adjacent to or into the water in the state that is in violation of the requirements of Section 21.251, Texas Water Code, Vernon's Texas Codes Annotated.

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

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

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

(B) The surface drainage on a land disposal site shall be controlled to minimize surface water run-off onto, within, and off the working area. Dikes, embankments, drainage structures, or diversion channels of adequate size and grade shall be smooth and graded for adequate drainage, and the slopes of the sides and toe shall be graded in such a manner so as to minimize the possibility of erosion. Drainage calculations should be based upon the heaviest 24-hour rainfall in a 25-year period and submitted with the design. Calculations for areas of 200 acres or less should follow the rational method, and utilize appropriate surface run-off coefficients, as specified in the State Department of Highways and Public Transportation Bridge Division Hydraulic Manual. Discharges from areas greater than 200 acres shall be computed by using USGS/DHT hydrologic equations compiled by the U.S. Geological Survey and the State Department of Highways and Public Transportation (SDHPT Administrative Circular 80-76); the HEC-1 and HEC-2 computer programs developed through the Hydrologic Engineering Center of the U.S. Army Corps of Engineers; or an equivalent method approved by the department. All drainage facility designs within the site area shall include such features as cross-sectional end areas, and flow line elevations.

(C) Handling and temporary storage of contaminated surface water shall be considered. If required, contaminated surface water storage areas shall be designed with regard to size (verifying calculations included), locations, and methods and amounts of lining of the sides and bottoms of the storage areas. The linings shall conform to the requirements of Rule .020(b)(7), Ground Water Protection.

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

(E) Any construction, fill, or levee within a 100-year floodplain shall receive plan approval, if required, by the Texas Department of Water Resources prior to construction.

(F) For the purposes of these regulations, the following definitions apply:

(i) "Discharge of pollutant" means any addition of any pollutant to navigable waters from any point source, or any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source.

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

(iii) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, munitions, chemical wastes, or biological materials discharged into water.

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

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

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

(vii) "Discharge of dredged material" means any addition of dredged material into the waters of the United States. The term includes, without limitation, the addition of dredged material to a specified disposal site located in waters of the United States and the run-off or overflow from a contained land or water disposal area.

(viii) "Dredged material" means material that is excavated or dredged from waters of the United States.

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

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

(xi) "Nonpoint" source means any origin from which pollutants emanate in an unconfined and unchanneled manner, including but not limited to surface run-off and leachate seeps.

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

(xiii) "Washout" means the carrying away of solid waste by waters of the 100-year frequency flood.

(10) Protection of endangered species.

(A) The impact of a solid waste disposal facility upon endangered or threatened species shall be considered. The facility and the operation of the facility shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species.

(B) If the facility is located in the range of an endangered or threatened species, a biological assessment shall be made by a qualified biologist to determine the effect of the facility on the endangered species. The biological assessment shall be prepared in accordance with standard procedures and meet with the approval of the U.S. Fish and Wildlife Service. It shall be included as an appendix to the site development plan. The U.S. Fish and Wildlife Service, 300 East 8th Street, Room G-121, Austin, Texas 78701, may be contacted for locations and specific data relating to endangered and threatened species in Texas.

(C) For the purposes of these regulations, the following definitions apply:

(i) "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Federal Endangered Species Act.

(ii) "Taking" means harassing, harming, pursuing, hunting, wounding, killing, trapping, capturing, or col-

lecting an endangered or threatened species or attempting to engage in such conduct.

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

(12) Soil data.

(A) Prior to finalizing a boring plan, the applicant may choose to perform a resistivity survey of the proposed site and, based on data obtained, request a reduction in the number of borings that would normally be required without this supplemental information. The applicant is encouraged to discuss any available supplementary data and to finalize a boring plan with the department to ensure that only essential borings are made. Sufficient borings or other suitable geological data to provide a representative sampling of the types of soil contained in the site are required. The minimum number of borings required can only be determined when the general characteristics and field tests of the specific site are analyzed. The following table is provided as a guide for planning, and the borings indicated are the minimum required when an alternate plan is not proposed by the applicant and approved by the department.

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

Note: The depth of borings, under optimum soil conditions, i.e., relatively impermeable soils, should be not less than five feet below the deepest proposed excavation. With less favorable soil conditions, the depth of borings should be at least 20 feet below the deepest proposed excavation.

(B) A report of each columnar section obtained by borings shall be submitted, along with a site map showing the location and elevation of each boring. Each boring log should report the soil layers present, describing the soil or rock constituents, color, degree of compaction, and amount of moisture present plus any additional information necessary for an adequate description. A total thickness of each soil or rock layer should be represented on the boring log and enough information should be obtained to classify each soil stratum based on the Unified Soils Classification System. If subsurface water is encountered, the test hole should be bailed of all drilling fluids for its entire depth and the initial depth and the static water depth at the end of a 24-hour period should be noted on the boring log. If drilling in the vicinity of an existing disposal site and water is encountered, the hole shall be bailed of all drilling fluids and a sample of the subsurface water shall be taken following the 24-hour static water level reading and analyzed to determine the exis-

tence of any contaminants. Consideration should be given to the conversion of bore holes into monitor wells.

(C) A laboratory report of soil characteristics shall be submitted consisting of a minimum of one sample from each soil layer that will form the bottom and sides of the proposed excavations and should be analyzed by a competent laboratory for dry unit weight, particle size gradation, coefficient of permeability, liquid limit, and plasticity index. These tests shall be performed by ASTM test procedures. The method used to determine permeability shall be either the constant head method as described in ASTM or the falling head method as described in Appendix VIII of the Corps of Engineers' Engineering Manual EM110-2-1906. No laboratory work need be performed on highly permeable soil layers which obviously will require lining.

(13) Attachments.

(A) Attachment No. 1—general location map. This map should be all or a portion of a half-scale county map, prepared by the Transportation Planning Division of the State Department of Highways and Public Transportation, with the site marked and labeled thereon in a manner that will facilitate determining the general location of the site. If only a portion of the map sheet is used, the portion should include the scale, date, north arrow, latitudes, and longitudes. These maps may be obtained at a nominal cost from the nearest district highway engineer office or by writing to State Department of Highways and Public Transportation, Attention: Transportation Planning Division (D-10), P.O. Box 5051, Austin, Texas 78763. If the site is located within a city and a city map is available showing all of the above information, the city map may be used for this purpose.

(B) Attachment No. 2—topographic map. This map should be a United States Geological Survey 7-1/2-minute quadrangle sheet or equivalent, encompassing the area of the site and showing the location of area streams (particularly those entering and leaving the site), and marked to show site boundaries, roadway access, direction of prevailing wind, and airfields within four miles of the site. If these airfields are off the map, indicate distance and direction. These maps may be obtained at a nominal cost from Branch of Distribution, United States Geological Survey, Federal Center, Denver, Colorado 80225.

(C) Attachment No. 3—land use map. This is normally a constructed map of the site showing the boundary of the property and any existing zoning on the property and actual uses (e.g., agricultural, industrial, residential, etc.), both within the site and surrounding the site within one mile of the boundary of the area to be filled. Location of water wells, residences, commercial establishments, schools, churches, cemeteries, ponds or lakes, and recreational areas within one mile of the site boundary should be shown. Drainage, pipeline, and utility easements within the site should be shown.

(D) Attachment No. 4—aerial photograph. This should be an aerial photograph approximately nine inches by nine inches with a scale approximating one to 3,000 and showing the area surrounding the site within at least one mile of the site boundaries. The site boundaries or actual fill areas should be marked. Aerial photographs are usually available at a nominal fee from Aerial Photography Field Office, Administrative Services Division, ASCS—USDA, 2505 Parley's Way, Salt Lake City, Utah 84109. The Agricultural Stabilization and Conservation Office in the county where

the site is located should be contacted prior to ordering to determine identifying data for the coverage desired and cost.

(E) Attachment No. 5—contour map. This is normally a constructed map showing the contours prior to any filling operations on the site. Appropriate vertical contour intervals should be selected so that contours are not further apart than 100 feet as measured horizontally on the ground. The map should show the location and quantities of surface drainage entering, existing, or internal to the site, and the area subject to flooding by a 100-year frequency flood.

(F) Attachment No. 6—sectorized fill layout. This is the basic element of the site development plan consisting of a site layout on a constructed map showing the outline of the fill sectors with appropriate notations thereon to communicate the types of wastes to be disposed of in individual sectors, the general sequence of filling operations, locations of all interior site roadways to provide access to all fill areas, location of monitor wells, dimension of trenches, location of buildings, and any other graphic representation or marginal explanatory note necessary to communicate the proposed step by step construction of the site. The layout should include fencing; sequence of excavations, filling, and final cover, provisions for the maintenance of natural windbreaks, such as greenbelts, where they will improve the appearance and operation of the site; and, when appropriate, plans for screening the site from public view. A generalized design of all site entrances from public access roads should be included. All designs of proposed public roadway improvements such as turning lanes, storage lanes, etc., associated with site entrances shall have prior written approval from the agency exercising maintenance responsibility of the public roadway involved. This plan is the basis for operational planning and budgeting, and therefore should contain sufficient detail to provide an effective site management tool.

(G) Attachment No. 7—typical fill cross section. This is normally a plan profile across the site reflecting the information usually found on a profile—namely, the top of the levee, top of the proposed fill, top of the final cover, top of the wastes, existing ground, bottom of the excavations, side slopes of trenches and fill areas, plus the profile of any water encountered. These sections should go through or very near one or more soil borings in order that the boring logs obtained from the soils report (Attachment No. 11) can also be shown on the profile. A large site may require several of these cross sections, both laterally and longitudinally, so as to depict the existing and proposed depths of all fill areas within the site. The plan portion can be handled on an inset key map somewhere on the typical section shape in order to devote the maximum space to the critical considerations reflected on a profile. Construction and design details of compacted perimeter berms built in conjunction with above-ground (area-fill) waste disposal areas must be included in the overall site design, as applicable. Side slopes of all above ground disposal areas shall not exceed a 25% grade (four feet horizontal to one foot vertical). All other gradients of final cover of disposal areas shall not exceed 4.0% (100 feet horizontal to four foot vertical). Intermediate perimeter horizontal terraces with associated berms shall be included in the design of all fill areas exceeding 20 feet in height. The terraces shall be of sufficient width to accommodate equipment operation and shall be constructed at vertical increments of not greater than 20 feet of vertical rise of the area fill.

(H) Attachment No. 8—ground and surface water protective facilities. This is normally a sheet reflecting typical sections of levees, dikes, drainage channels, culverts, holding ponds, trench liners, storm sewers, or any other facilities relating to protection of the site from ground and surface water. Adequacy of provisions for safe passage of any internal or externally adjacent floodwaters should be reflected here. Cross sections or elevations of levees should be shown tied into contours. This plan should show sufficient area around the site to clearly determine the effect of flooding in the area.

(I) Attachment No. 9—landfill completion plan. This is a constructed map showing the final contour of the entire landfill to include internal drainage and side slopes plus accommodation of surface drainage entering and departing the completed fill area plus areas subject to flooding due to a 100-year frequency flood.

(J) Attachment No. 10—legal description of the site. This is normally a typed page of the official metes and bounds description or, if platted property, the book and page number of the plat record of only that acreage encompassed in the application.

(K) Attachment No. 11—soils report. This is a copy of a professional soils laboratory report of borings and analyses of soil conditions as required by paragraph (12), Rule 020(b).

(L) Attachment No. 12—site operating plan. This document is to provide guidance from the design engineer to site management and operating personnel sufficient to enable them to conduct day to day operations in a manner consistent with the concept of operations depicted in the "sectorized fill layout" through the life of the site. As a minimum, the site operating plan should include:

(i) the minimum number of personnel and their qualifications and the types of equipment and minimum number of each type to be provided by the site operator in order to conduct the operation in conformance with the design and operational standards;

(ii) security, site access control, screening traffic control, and safety;

(iii) sequence of site development, such as roads, ditches, berms, retaining ponds, trenches, buildings;

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

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

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

(vii) control of windblown material;

(viii) vector control;

(ix) dewatering of excavations prior to lining or waste disposal;

(x) dust and mud control measures for access roads;

(xi) compaction, intermediate cover, and final cover procedures;

(xii) description of and responsibilities and instructions for carrying out the soil and liner quality control plan;

(xiii) monitoring for leachate and methane;
 (xiv) posting of signs and enforcement of site rules to include proper covering of waste-hauling vehicles;
 (xv) protection of on-site utilities;
 (xvi) wet weather operations;
 (xvii) inspection and maintenance of completed sections of the site, and of the site after closure.

(14) Technical information required for solid waste processing, experimental, and land application sites.

(A) Report preparation. For all Type V sites, including air-curtain destructors (trench burners), the technical information submitted in support of Part A shall be prepared in the form of a site development plan as described below. For all experimental land disposal sites (Type VI) and all sites for land application of solid waste used for the production of food-chain crops (Type VII), the technical information submitted with an application shall include all applicable items as required for Type I disposal sites (see Rule .020(b)(3)). Individual drawings shall be signed and sealed by the registered professional engineer responsible for their preparation. Bound plans shall be signed and sealed by the engineer, preferably on the first page. The preliminary instructions contained in Rule .020(b)(3) with respect to consultation, submittal of draft plans, and determination of number of copies apply to this subsection. The site development plan shall be prepared in the format and content described below:

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

(ii) The table of contents shall list the following main sections of the application which are described in subparagraphs (D)-(H), below:

- (I) engineer's appointment;
- (II) solid waste data;
- (III) legal description of site;
- (IV) engineering plan;
- (V) site location map.

(iii) The engineer's appointment consists of a letter from the applicant to the commissioner of health, Texas Department of Health, identifying the registered professional engineer of consulting engineering firm under whose direction the plans and specifications and other technical data will be prepared (see Rule .030 for suggested format).

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

(v) The legal description is normally a typed page of the official metes and bounds description or, if platted property, the book and page number of the plat record of only that acreage encompassed in the application.

(vi) The site development plan shall include the following:

(I) A report describing the process to be used, including proposed pollution control devices and estimated quantities of solid waste to be processed.

(II) Site location and layout, adjacent land use, and distances to nearby residences or structures.

(III) Structural details of all planned facilities (only that amount of detail which is necessary to enable a complete evaluation of the operational capabilities, the

design safety features, and the environmental protection measures).

(IV) A plan for alternate processing or disposal of solid waste in the event that the on-site processing facility becomes inoperative for a period longer than 24-hours.

(V) The character of land uses within 1/2 mile of the proposed site. If no zoning ordinance exists, so state. Comments as to whether or not the requirements of the zoning ordinance will be met, if a processing facility is installed, shall be included, if applicable.

(VI) If an incineration facility is to be constructed, an estimate of the amount and planned method for final disposal of incinerator ash, an estimate of the volume of quench or process water, and the planned method of its treatment and disposal.

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

(B) Design considerations. The following should be considered in the selection and design of a site and discussed in the site development plan

(i) Access. Solid waste processing facilities shall be so planned that they result in a minimum disruption of normal traffic patterns. Data shall be submitted to substantiate adequacy of public access roadways, including types of surfacing, pavement widths, and recent daily traffic counts (estimated, when counts not available). A statement shall also be included stating if any significant roadway limitations (structures, surfacing, sight distances, alignment, dust hazards, weight limits, etc.) exist on these public access routes. For county or city maintained streets or roads, the application shall include confirmation, in writing, that these access roads can safely accommodate the additional traffic to be generated by future waste processing operations. This confirmation shall be from the agency exercising maintenance responsibility of the access roadway(s). For state-maintained highways, the department will obtain such confirmation when necessary.

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

(I) controlling surface drainage in the vicinity of the facility to minimize surface water run-off onto, into, and off the treatment area;

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

(III) providing necessary connections and equipment to permit thorough cleaning with water or steam;

(IV) providing adequate floor drains to remove wash water.

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

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

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

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

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

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

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

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

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

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

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

(II) All windblown material resulting from the operation shall be collected and returned to the processing site by the person responsible for the operation of the facility.

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

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

(c) Application review process. Upon receipt of an application, the department will make a preliminary evaluation

to determine if the application is administratively and technically complete. If additional information is required, it will be requested of the applicant before continuing with the processing of the application.

(1) Application processing.

(A) Following receipt of all required information, the department will provide copies of the application to those agencies which have or may have a jurisdictional interest in the case and request their comments or recommendations. The agencies include:

(i) Texas Department of Water Resources (a separate permit may be required);

(ii) Texas Air Control Board (a separate permit may be required);

(iii) State Department of Highways and Public Transportation;

(iv) Federal Aviation Administration;

(v) U.S. Army Corps of Engineers (a separate permit may be required);

(vi) mayor of the city in whose territorial or extraterritorial jurisdiction the site is located;

(vii) health authority of the city in whose territorial or extraterritorial jurisdiction the site is located;

(viii) county judge of the county in which the site is located;

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

(x) others as determined appropriate by the department.

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

(C) Normally, the entities to whom copies of the application are mailed shall have 30 days to present comments and recommendations on the permit application. If any of the review agencies or the department requires additional data in order to conduct a proper evaluation, the additional data will be requested by the department. Following receipt of comments and recommendations from various review agencies, a professional engineer from the department will make a detailed engineering evaluation of the application taking into consideration all comments received from the review agencies. The department will give consideration to any recommendation or action taken by the governing body of a city or county within whose jurisdiction the proposed site is to be located concerning implications of the application with respect to public health, welfare, and physical property, including proper land use, reasonable projection of growth and development, and any other pertinent considerations.

(2) Scheduling and preparation for a public hearing.

(A) Upon completion of the evaluation of the permit application, the department will normally make arrangements with the applicant for a time and place for the conduct of the required public hearing.

(B) The department will provide the applicant with a public hearing notice announcing the time, place, and pur-

pose of the public hearing and advising all citizens of their right to present comments for or against the issuance of a permit. The applicant shall be responsible for insuring that such notice of the public hearing is published at least once in a newspaper regularly published or circulated in the county in which the disposal site is located. The applicant shall be responsible for paying for and publishing the hearing notice. The department, at its option in any individual case, may require that publication of the notice be made in additional newspapers in the county or other counties. Publication shall not be less than 20 days before the date of the hearing. The applicant shall provide the department with proof that the publication was timely by submitting within five days after the publication of the notice, an affidavit of the publisher which shows the date of publication. The affidavit shall be accompanied by a copy of the published notice.

(3) Conduct of the public hearing.

(A) The public hearing will be conducted by a hearing examiner from the department's legal staff and a professional engineer from the Division of Solid Waste Management.

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

(C) All hearings held by the department on solid waste permit applications are conducted in accordance with the Administrative Procedure and Texas Register Act, which requires that evidence submitted be legally admissible (as opposed to hearsay) if such evidence is to be used as a basis for a final decision. Because this statute requires that administrative hearings follow the same rules of evidence as those used in nonjury district court cases, applicants are advised to seek assistance from their attorneys in preparing for a hearing and, although not required, it is advisable that the applicant's attorney actually participate in the hearing, particularly if there is opposition to the permit application.

(D) The hearing record may be closed by the hearing examiner upon conclusion of the public hearing, or he may keep the record open for a specified period of time to receive specific documents or additional information not available during the hearing.

(4) Final determination on application.

(A) Unopposed cases. After the record is closed, the department will complete the engineering and legal evaluation of all data submitted prior to and during the hearing and before the closing of the record, including comments received from the various review agencies. The commissioner of health, Texas Department of Health, reviews the findings and recommendations and either approves or denies the issuance of a permit. Normally, the final decision will be made within 60 days after the closing of the hearing record, but this time may be extended by the hearing examiner at the public hearing up to 90 days when required by circum-

stances. The applicant will be advised by the department of the commissioner's final decision by letter.

(B) Design adjustments.

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

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

(iii) Following the receipt of comments on the supplemental data, the department will re-evaluate all data and will prepare a proposal for decision in opposed cases or in such cases when an intended decision may be detrimental to the applicant. The proposal for decision may contain special requirements that could necessitate a redesign of the facility or a revision in operating procedures.

(C) Opposed cases. In opposed cases in which the commissioner neither hears the evidence nor reads the complete record, a proposal for decision shall be provided to all parties to the action after the closing of the record. All parties to the action will be provided with a specified period of time to file exceptions and briefs to such proposal for decision. Notice of this time limitation will be provided to all parties in each case. Following his review of the proposal for decision, exceptions and briefs to such proposal, and the staff recommendations, the commissioner shall issue a final decision in the form of either a permit, with special provisions attached thereto, or a denial order, containing the grounds for such denial. Subsequent to this final decision by the commissioner, a motion for rehearing may be filed by any person affected by the decision. This must be filed within 15 days of the commissioner's decision and persons opposing or otherwise responding to the motion for rehearing will be provided an opportunity to file a reply to the motion. The commissioner shall have 45 days from the time of the final decision (i.e., the issuance of the permit or denial order) to rule on the motions for rehearing, unless such time is extended by the commissioner by written order. Anyone who has filed a motion for rehearing may appeal the commissioner's final decision to a district court in Travis County within 30 days after a motion for rehearing has been overruled either by written order of the commissioner or by operations of law. Time limitations for the filing of motions, responses, exceptions, and briefs, shall be governed by the provisions of the Administrative Procedure and Texas Register Act, Article 6252-13a, Texas Civil Statutes.

.021. Solid Waste Land Disposal Sites.

(a) General requirements. The site development plan, consisting of the design, site operating plan and related data, submitted in support of a permit application, as modified by permit special provisions, becomes an operational requirement of the permit and any significant deviation from the plan without prior approval of the department is a violation of this section. If at any time during the life of the site the permittee becomes aware of any condition in the site development plan which makes it impractical to keep the site in compliance with this section without modification of the plan, the

permittee shall submit to the department a revised plan prior to implementation of any necessary deviation. In the event that a necessary deviation is the result of unforeseen circumstances and there is insufficient time to prepare and submit a revised plan, the permittee shall immediately contact the department by telephone or telegram and obtain interim authorization pending the submission and review of the revised plan. Interim authorization shall not exceed 30 days during which time the revised plan shall be prepared and submitted to the department.

(b) Operational standards for Types I, II, and III sites.

(1) Fire protection. An adequate supply of water under pressure at the site or an adequate stockpile of earth reasonably close to the disposal area shall be provided, or there shall be a nearby organized fire department providing service when called. The department may approve alternate methods for fire protection. Accidental fires shall be promptly extinguished. The potential for accidental fires shall be minimized by the application and compaction of soil or other suitable material over disposed solid waste at frequent intervals so as to reduce the risk of fires.

(2) Unloading of municipal solid waste. Unloading of solid waste shall be confined to as small an area as practical. An attendant shall be on duty during operating hours and during special site utilization to direct unloading of solid waste, or appropriate signs shall be posted to indicate where vehicles are to unload. Uncontrolled access and dumping of unauthorized materials shall be prevented.

(3) Control of windblown material. A portable fence or other suitable means shall be employed to confine windblown materials from unloading, spreading, and compaction operations to the smallest area practical. A water source and necessary equipment may be required for dust control or for wetting deposited waste. It shall be the responsibility of the site operator to collect and return to the disposal site all windblown materials as necessary to minimize unhealthy, unsafe, or unsightly conditions.

(4) Ground and surface water protection. A site shall not be operated in such a manner that an underground drinking water source beyond the site boundary is contaminated.

(A) Prior to depositing any solid waste in any disposal area or excavation, the site operator shall notify the department that the area or excavation complies with the minimum standards which are prescribed in Rule .020(b)(7) of these regulations. Where sufficient impermeability does not occur in the native soils, man-made compacted clay liners or some other means of protecting natural waters shall be provided, and prior to depositing solid waste in such area or excavation, the site operator shall show or demonstrate in his notification to the department that the installed liner or other corrective measures taken will provide adequate protection. Following receipt of such notification, regional personnel of the department may inspect the site and advise the site operator if the site is considered adequate to receive solid waste.

(B) Solid waste shall not be placed in unconfined waters which are subject to free movement on the surface, in the ground, or within a larger body of water.

(C) If departmental inspections or evaluation deem it necessary, monitor wells and/or resistivity surveys may be required to monitor ground water quality.

(D) The site shall be protected from flooding by any nearby streams with suitable levees constructed to pro-

vide protection from a 100-year frequency flood and to prevent the washout of solid waste from the site.

(E) Suitable water diversion methods shall be provided to divert the flow of uncontaminated runoff or other surface water away from the active disposal area to minimize contact between the water and solid waste.

(F) Rainfall runoff within the landfill area that has become contaminated by solid waste, or other polluted waters, shall not be discharged from the site unless the site operator has furnished the department evidence that such discharge is authorized by the Texas Department of Water Resources. Water which has come in contact with solid wastes may be used for firefighting, dust control, or compaction of active fill areas.

(5) Disposal of mixed and special wastes (Class I industrial solid waste and nonhazardous waste). The department does not regulate the acceptability of industrial or municipal solid waste by its point of origin. Municipal, agricultural, or industrial waste can contain hazardous material and therefore the department regulates such wastes in relationship to the degree of hazard the waste will create in specific municipal solid waste collection, handling, storage, or disposal activities. Class I industrial solid waste, as defined in Rule .016(e)(2) may be accepted at a municipal solid waste site only if special provisions for such disposal and special handling procedures are approved by the department. Radioactive materials are not authorized for disposal at municipal solid waste disposal sites. Instructions for their disposal will be provided by the department upon request. Mixed and special wastes as defined in Rule .016(e)(19) and (48), respectively, may be accepted subject to the following provisions:

(A) Water treatment plant sludges and stabilized sludges from secondary wastewater treatment plants containing 10% to 100% solids, in such quantities as may be adequately handled by the site operator, may be placed on the working face along with municipal solid waste and covered with soil or municipal solid waste. At the option of the site operator, grease and grit trap wastes may be accepted at Type I sites provided the liquid content does not exceed the local condition requirement established by the site operator and the waste is mixed with the municipal solid waste without interfering with the requirement to bury all waste on the day of acceptance. Prior approval by the department is required for acceptance of such wastes at Type II and III sites. Other sludges may be disposed of only if special provisions are made and approved by the department. Any sludges or trap wastes accepted for disposal should be applied at the top of the working face to allow maximum dispersion and absorption, and consequently more rapid biochemical degradation.

(B) Dead animals and slaughterhouse wastes mixed with municipal solid waste shall be covered with a minimum of two feet of earth promptly upon receipt.

(C) Minor amount of Class I industrial solid wastes may be accepted at Type I sites which have a permit from or have filed a permit application with the Texas Department of Health without special department approval if all of the following conditions are met:

(i) The Class I industrial solid waste is routinely collected with municipal solid waste and does not exceed an estimated 5.0% or less by weight or volume. This exemption does not apply to any waste identified as hazardous by the U.S. Environmental Protection Agency unless exempted by the rules, regulations, or guidelines of that agency.

(ii) The Class I industrial solid waste will not in itself or in combination with municipal solid waste significantly increase the danger of fire or endanger operating personnel during any phase of collection, storage, transportation or disposal.

(iii) The Type I municipal solid waste site accepting the waste is in compliance with the operational requirements contained in this Subsection F-2 with specific regard to daily coverage and has adequate provisions for the protection of natural waters in the state.

(D) Significant amounts of Class I industrial solid wastes, which are in excess of an estimated 5.0% by weight or volume of the total combined waste during any phase of collection, handling, storage, transportation, or disposal shall not be accepted by or deposited in a municipal solid waste disposal site unless prior written approval has been obtained from the Texas Department of Health. Requests for approval to accept Class I industrial solid wastes shall be submitted to the Texas Department of Health by the municipal solid waste disposal site operator and must include:

(i) a letter or certification from the producer or generator of the waste containing a complete description of the chemical and physical characteristics of each waste and the quantity and rate at which they are produced and/or disposed;

(ii) an operational plan, prepared by the site operator, outlining in detail the proposed collection, handling, storage and disposal procedures including clauses (iii)-(vii) below:

(iii) description of collection equipment and the frequency of collections;

(iv) handling safeguards, personal protective equipment, and emergency equipment which will be provided to minimize potential danger to the site operating personnel and the surrounding environment;

(v) contingency plans for effective action to minimize danger in the event of accidental spills;

(vi) names and technical qualifications of site management and site operating personnel;

(vii) record keeping and reporting methods necessary to conform with the Texas Department of Water Resources Rules of the Texas Water Development Board Pertaining to Industrial Solid Waste Management, §§335.1-335.14 (156.22.01.001-.014) of Title 31 Natural Resources and Conservation.

(E) Class I industrial solid wastes shall not be accepted for disposal at a Type II or III site without written approval from the department.

(6) Disposal of hazardous wastes. Hazardous wastes shall not be accepted for disposal at any solid waste facility without prior written approval of the department. See Rule .027 for hazardous waste management procedures.

(7) Disposal of large items. Special provisions shall be made for the disposal of large, heavy, or bulky items that cannot be incorporated in the regular spreading, compaction, and covering operations.

(8) Open burning. Open burning of solid waste is under the jurisdiction of the Texas Air Control Board and shall have specific approval of that board.

(9) Vector control. Conditions favorable to the production of vectors shall be minimized through proper compaction and covering procedures. Approved pesticides shall be employed for vector control when necessary.

(10) Wet weather operations. All weather roads shall be provided within the site to the unloading area designated for wet weather operations.

(11) Salvage and reclamation. Salvaging shall not be allowed to interfere with prompt sanitary disposal of solid waste or create public health nuisances. All salvaged materials shall be removed from the site at such intervals as necessary to prevent excessive accumulation of the material at the site. Scavenging shall not be permitted.

(12) Endangered species protection. The facility and the operation of the facility shall not cause or contribute to the taking of any endangered or threatened species.

(13) Gas control. Methane and other decomposition gases shall not be allowed to migrate laterally from the landfill site so as to endanger structures or occupants of adjacent properties. Any structures subsequently constructed on the landfill site should contain provisions for the venting of decomposition gases to preclude their accumulation in explosive or toxic concentrations beneath or within the structures. The concentration of methane generated by the solid waste site should not exceed 25% of its lower explosive limit in on-site structures (excluding gas control or recovery system components) and its lower explosive limit at the property boundary. The "lower explosive limit" is the lowest percent by volume of a mixture of methane which will propagate a flame in air at 25°C and atmospheric pressure.

(14) Compaction, intermediate cover, and final cover.

(A) Solid waste shall be spread and compacted evenly by repeated passages of suitable compaction equipment. Each layer of solid waste shall be thoroughly compacted to a thickness of approximately two feet.

(B) Unless a lesser frequency of cover has been authorized by the department, all solid waste deposited each day shall be completely covered with a minimum of six inches of well-compacted earthen material not previously mixed with garbage, trash, or other solid waste to prevent insect and rodent problems and blowing waste materials. Maximum allowable frequencies of cover for the various types of landfills are prescribed in Rule .019(b).

(C) A final cover of at least two feet of earthen material, compacted in layers of no more than 12 inches, shall be placed over the entire surface of each completed portion of the fill within 30 days after completion unless inclement weather would prevent the application of dry cover material. The top six inches of final cover shall consist of a suitable topsoil which will sustain the growth of vegetation.

(D) The final cover gradient shall not exceed 4.0% (four feet vertical to 100 feet horizontal) to prevent the erosion of cover material which shall be graded and compacted to prevent the ponding of water on the landfill surface and minimize infiltration of water into the landfill.

(E) Side slopes shall not exceed a 25% grade (one vertical to four horizontal).

(F) Erosion on intermediate and final cover shall be repaired by restoring the cover material and grading and compacting it as necessary to prevent ponding of water.

(15) Odor and air pollution control.

(A) Any ponded water at the site shall be controlled to avoid its becoming a source of obnoxious odors. In the event objectionable odors do occur, appropriate measures, such as chemical treatment, shall be taken.

(B) All applicable Texas Air Control Board regulations concerning air pollution control shall be observed.

(16) Site completion and closure procedures.

(A) At least 60 days prior to completion of disposal operations or abandonment of a site, the site operator shall notify the department and provide a closure plan and schedule. The department will conduct a final inspection of the site to ensure proper closure.

(B) After the site has been properly closed, the site operator shall prepare an affidavit to the public and cause the same to be filed in the deed records in the office of the county clerk of the county in which the site is located. The affidavit shall include a legal description of the property on which the site is located and shall specify the area actually filled with solid waste.

(C) Concrete markers shall be installed to mark the boundaries of the landfill site. If the actual fill area is considerably less than the total site area, additional markers shall be placed to outline the limits of the fill area. These latter markers shall be tied in to one or more of the boundary markers by survey performed by a registered professional engineer or surveyor. The location of all markers shall be shown on a site plan filed with the affidavit to the public.

(D) A certified copy of the affidavit to the public shall be obtained from the county clerk and filed with the department (see Rule .031 for a suggested format for the affidavit required by this section).

(E) When area-fill operations are conducted which will bring the final elevation higher than 10 feet above natural ground, the site operator shall submit a report to the department indicating that a survey made after final grading of the site verifies that final contours and elevation are in accordance with the site plans as approved in the permit. The final survey shall be performed under the direct (on-site) supervision of a registered professional engineer or surveyor and the report shall be signed and sealed by the engineer or surveyor, as appropriate. The report will include as an attachment a landfill completion plan properly annotated to reflect the as-built conditions of the site. Contours shall be shown at no greater than five-foot intervals.

(F) Following receipt of the above-required documents, as applicable, and an inspection report from the department's regional office indicating satisfactory closure of the site, the department will acknowledge the termination of operations and closure of the site.

(G) Operational standards for Type IV sites.

(1) Fire protection. An adequate supply of water under pressure at the site or an adequate stockpile of earth reasonably close to the disposal area shall be provided, or there shall be a nearby organized fire department providing service when called. Accidental fires shall be promptly extinguished. The department may approve alternate methods of fire protection.

(2) Unloading of municipal solid waste. Every load of waste brought to the site shall be examined at the site entrance. Only brush or construction-demolition waste shall be accepted at the site. Garbage, liquids, sludges, paints, solvents, putrescibles, and hazardous or toxic wastes shall not be allowed. Unloading of waste shall be confined to as small an area as practical. The site shall be closed and locked, and its use prohibited, when a supervisor is not on duty.

(3) Control of windblown material. It shall be the responsibility of the site operator to collect and return to the

disposal site all windblown materials as necessary to minimize unhealthy, unsafe, or unsightly conditions.

(4) Ground and surface water protection. The requirements contained in Rule .021(b)(4) are applicable to all Type IV sites.

(5) Endangered species protection. The facility and the operation of the facility shall not cause or contribute to the taking of any endangered or threatened species.

(6) Open burning. Open burning of solid waste is under the jurisdiction of the Texas Air Control Board and must have specific approval of that board.

(7) Vector control. Conditions favorable to the production or harboring of insects, rodents, and snakes shall be minimized by effective compaction and earth covering. Approved pesticides shall be employed for vector control when necessary.

(8) Wet weather operation. All weather roads shall be provided within the site to the unloading area designated for wet weather operations.

(9) Compaction, intermediate cover, and final cover.

(A) All wastes deposited shall be compacted with suitable compaction equipment as frequently as necessary to minimize voids and covered with a minimum of six inches of well-compacted earthen material at least monthly to minimize windblown waste materials and to eliminate the harborage of insects, rodents and snakes. Where insects, rodents, and snakes are in evidence, they should be exterminated by the use of approved pesticides prior to covering deposited waste to ensure that they are not driven to populated areas when the landfill harborage is eliminated.

(B) A final cover of at least two feet of earthen material, compacted in layers of no more than 12 inches, shall be placed over the entire surface of each completed portion of the fill within 30 days after completion unless inclement weather would prevent the application of dry cover material. The top six inches of final cover shall consist of a suitable topsoil which will sustain the growth of vegetation.

(C) The final cover gradient should not exceed 4.0% (four feet vertical to 100 feet horizontal) to prevent the erosion of cover material which shall be graded and compacted to prevent the ponding of water on the landfill surface and minimize infiltration of water into the landfill.

(D) Side slopes shall not exceed a 25% grade (one vertical to four horizontal).

(E) Erosion on intermediate and final cover shall be repaired by restoring the cover material and grading and compacting it as necessary to prevent ponding of water.

(9) Odor and air pollution control.

(A) Any ponded water at the site shall be controlled to avoid its becoming a source of obnoxious odors. In the event objectionable odors do occur, appropriate measures, such as chemical treatment, shall be taken.

(B) All applicable Texas Air Control Board regulations concerning air pollution control shall be observed.

(10) Site completion and closure procedures. The procedures outlined in Rule .021(b)(15) shall be followed when completing and closing a Type IV site.

.022. Solid Waste Processing, Experimental, and Land Application Sites.

(a) General requirements. The engineering site development plan, consisting of the design, site operating plan, and related data submitted in support of a permit application, as modified by permit special provisions, becomes

an operational requirement of the permit and any significant deviation from the plan without prior approval of the department is a violation of this section. If at any time during the life of the site the permittee becomes aware of any condition in the site development plan which makes it impractical to keep the site in compliance with this section without modification of the plan, the permittee shall submit to the department a revised plan prior to implementation of any necessary deviation. In the event that a necessary deviation is the result of unforeseen circumstances and there is insufficient time to prepare and submit a revised plan, the permittee shall immediately contact the department by telephone or telegram and obtain interim authorization pending the submission and review of the revised plan. Interim authorization shall not exceed 30 days during which time the revised plan shall be prepared and submitted to the department.

(b) Operating standards for Types V and VI sites. Certain practices should be followed to ensure that the health, safety, and aesthetic aspects of a community are not endangered by the location and operation of solid waste processing or experimental sites. Depending on the specific solid waste handling or processing operation involved, several of the operational standards prescribed for Type I, II, or III sites may be applicable and shall be followed if appropriate. The following criteria are intended to minimize health and safety hazards and assist in the maintenance of an appearance compatible with other activities in the vicinity of such sites:

(1) Overloading and breakdown.

(A) The design capacity of a solid waste processing or experimental facility shall not be exceeded during operation. The facility shall not accumulate solid waste in quantities that cannot be processed within such time as will preclude the creation of odors, fly-breeding, or harborage of other vectors. If such accumulations occur, additional solid waste shall not be received until the adverse conditions are abated.

(B) If a significant work stoppage should occur at a solid waste processing or experimental facility due to a mechanical breakdown or other causes, the facility shall accordingly restrict the receiving of solid waste. Under such circumstances, incoming solid waste shall be diverted to an approved back-up processing or disposal facility. If the work stoppage is anticipated to last long enough to create objectionable odors, fly-breeding, or harborage of vectors, steps shall be taken to remove the accumulated solid waste from the site to an approved back-up processing or disposal facility.

(2) Sanitation and vector control. The presence of insects and rodents at solid waste facilities is a threat to public health. These vectors can be controlled by good sanitation practices. Conditions favorable to the production of insects and rodents shall be minimized. When applicable, all working surfaces that come in contact with wastes shall be washed down on a daily basis at the completion of processing. For systems which operate on a continuous basis, wash-down shall be accomplished a minimum of once each 24-hour cycle. Pesticides shall be used for vector control as needed.

(3) Safety. The reduction of safety hazards is of personal benefit to facility employees and is of economic benefit to the operating agency. A safety plan adapted to the nature of the facility shall be developed and followed. An educational program in safety procedures for all employees shall be conducted. Adequate supervision of all activities shall be

maintained to ensure the safety of all persons on the premises.

(4) Air pollution control. All applicable Texas Air Control Board regulations concerning air pollution control shall be observed.

(c) Operational standards for Type VII sites. Certain practices shall be followed to ensure that the health, safety, and aesthetic aspects of a community are not endangered by the location and operation of sites for the land application of solid waste and which are used for the production of food-chain crops. Several of the operational standards prescribed for Type I, II, or III sites in Section F may be applicable and shall be followed if appropriate. The following additional operational standards shall be followed for the specific situations described.

(1) Application of sewage sludge or septic tank pumpings to land at a solid waste disposal site when crops for direct human consumption are grown within 18 months subsequent to application and the edible portion of the crop is not in contact with the solid waste.

(A) Sewage sludge or septic tank pumpings shall be treated by a process to significantly reduce pathogens as described in Rule .022(c)(8) prior to application or incorporation.

(B) Public access to the site shall be controlled for at least 12 months and grazing by animals whose products are consumed by humans shall be prevented for at least one month.

(C) Operational standards for control of cadmium and PCBs described in Rule .022(c)(4)-(6) as applicable, shall be followed.

(2) Application of sewage sludge or septic tank pumpings to land at a solid waste disposal site when crops for direct human consumption are grown within 18 months subsequent to application and the edible portion of the crop is in contact with the solid waste.

(A) Sewage sludge or septic tank pumpings shall be treated by a process to further reduce pathogens as described in Rule .022(c)(9) prior to application or incorporation.

(B) Operational standards for control of cadmium and PCBs described in Rule .022(c)(4)-(6) as applicable, shall be followed.

(3) Application of sewage sludge or septic tank pumpings to land at a solid waste disposal site when crops for direct human consumption are not grown within 18 months subsequent to application. Both of the following standards shall be followed for land application of sewage sludge. One of the following standards shall be followed for land application of septic tank pumpings.

(A) The sludge or pumpings shall be treated by a process to significantly reduce pathogens as described in Rule .022(c)(8) prior to application or incorporation.

(B) Public access to the site shall be controlled for at least 12 months, and grazing by animals whose products are consumed by humans shall be prevented for at least one month.

(4) Operational standards for control of cadmium in the application of solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for the production of food-chain crops for direct human consumption.

(A) The pH of the solid waste and soil mixture shall be 6.5 or greater at the time of each solid waste applica-

tion, except for solid waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less.

(B) The annual application of cadmium from solid waste shall not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food-chain crops, the annual cadmium application rate shall not exceed:

Time Period	Annual Cd Application Rate (kg/ha)
Present to June 30, 1984	2.0
July 1, 1984, to December 31, 1986	1.25
Beginning January 1, 1987	0.5

(C) The cumulative application of cadmium from solid waste shall not exceed the levels in either clause (i) or clause (ii), below.

(i)

Soil Cation Exchange Capacity (meq/100)	Maximum Cumulative Application (kg/ha)	
	Background Soil pH Less Than 6.5	Background Soil pH Equal to or Greater Than 6.5
less than 5	5	5
5-15	5	10
greater than 15	5	20

(ii) For soils with a background pH of less than 6.5, the cumulative cadmium application rate shall not exceed the levels below; provided that the pH of the solid waste and soil mixture is adjusted to and maintained at 6.5 or greater whenever food chain crops are grown.

Soil Cation Exchange Capacity (meq/100g)	Maximum Cumulative Application (gh/ha)
less than 5	5
5-15	10
greater than 15	20

(5) Operational standards for control of cadmium in the application of solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for the production of feed for animals whose products are consumed by humans.

(A) The pH of the solid waste and soil mixture shall be 6.5 or greater at the time of solid waste application or at the time the crop is planted, whichever occurs later, and this pH level shall be maintained whenever food chain crops are grown.

(B) There shall be a facility operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The facility operating plan shall describe measures to be taken to safeguard against possible health hazards from cadmium entering the food chain which may result from alternative land uses.

(C) Future property owners shall be notified by a stipulation in the land record or property deed which states that the property has received solid waste at high cadmium application rates and that food chain crops should not be grown due to a possible health hazard.

(6) Operational requirements for control of PCBs in the application of solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for producing feed

for animals whose products are consumed by humans. Solid waste containing concentrations of PCBs equal to or greater than 10 mg/kg (dry weight) shall be incorporated into the soil when applied to land used for producing animal feed, including pasture crops for animals raised for milk. Incorporation of the solid waste into the soil is not required if it is assured that the PCB content is less than 0.2 mg/kg (actual weight) in animal feed or less than 1.5 mg/kg (fat basis) in milk.

(7) Definition of terms. For the purposes of these regulations, the following definitions apply:

(A) "Crops for direct human consumption" means crops that are consumed by humans without processing to minimize pathogens prior to distribution to the consumer.

(B) "Disease vector" means rodents, flies, and mosquitos capable of transmitting disease.

(C) "Incorporated into the soil" means the injection of solid waste beneath the surface of the soil or the mixing of solid waste with the surface soil.

(D) "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed solid waste at the end of each operating day or at such frequencies and in such a manner as to reduce the risk of fire and to impede vectors' access to the waste.

(E) "Trenching or burial operation" means the placement of sewage sludge or septic tank pumpings in a trench or other natural man-made depression and the covering with soil or other suitable material at the end of each operating day such that the wastes do not migrate to the surface.

(F) "Animal feed" means any crop grown for consumption by animals, such as pasture crops, forage, and grains.

(G) "Background soil pH" means the pH of the soil prior to the addition of substances that alter the hydrogen ion concentrations.

(H) "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous, or saline soils ("Methods of Soil Analysis, Agronomy Monograph No. 9," C. A. Balck, editor, American Society of Agronomy, Madison, Wisconsin, pages 891-901, 1965).

(I) "Food-chain crops" means tobacco, crops grown for human consumption, and animal feed for animals whose products are consumed by humans.

(J) "Pasture crops" means crops such as legumes, grasses, grain stubble, and stover which are consumed by animals while grazing.

(K) "pH" means the logarithm of the reciprocal of hydrogen ion concentration.

(L) "Root crops" means plants whose edible parts are grown below the surface of the soil.

(M) "Soil pH" is the value obtained by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the electrometric method. ("Methods of Soil Analysis, Agronomy Monograph No. 9," C. A. Balck, editor, American Society of Agronomy, Madison, Wisconsin, pages 914-926, 1965.)

(8) Processes to significantly reduce pathogens.

(A) Aerobic digestion. The process is conducted by agitating sludge with air or oxygen to maintain aerobic conditions at residence times ranging from 60 days at 15°C to 40 days at 20°C, with a volatile solids reduction of at least 38%.

(B) Air drying. Liquid sludge is allowed to drain and/or dry on under-drained sand beds, or paved or unpaved basins in which the sludge is at a depth of nine inches. A minimum of three months is needed, two months of which temperatures averaging on a daily basis above 0°C.

(C) Anaerobic digestion. The process is conducted in the absence of air at residence times ranging from 60 days at 20°C to 15 days at 35°C to 55°C, with a volatile solids reduction of at least 38%.

(D) Composting. Using the within-vessel, static aerated pile, or windrow composting methods, the solid waste is maintained at minimum operating conditions of 40°C for five days. For four hours during this period the temperature exceeds 55°C.

(E) Lime stabilization. Sufficient lime is added to produce a pH of 12 after two hours of contact.

(F) Other methods. Other methods or operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

(9) Processes to further reduce pathogens.

(A) The following are independent processes:

(i) Composting. Using the within-vessel composting method, the solid waste is maintained at operating conditions of 55°C or greater for three days. Using the static aerated pile composting method, the solid waste attains a temperature of 55°C or greater for at least 15 days during the composting period. Also, during the high temperature period, there will be a minimum of five turnings of the windrow.

(ii) Heat drying. Dewatered sludge cake is dried by direct or indirect contact with hot gases, and moisture content is reduced to 10% or lower. Sludge particles reach temperatures well in excess of 80°C, or the wet bulb temperature of the gas stream in contact with the sludge at the point where it leaves the dryer is in excess of 80°C.

(iii) Heat treatment. Liquid sludge is heated to temperatures of 180°C for 30 minutes.

(iv) Thermophilic aerobic digestion. Liquid sludge is agitated with air or oxygen to maintain aerobic conditions at residence times of 10 days at 55°C-60°C, with a volatile solids reduction of at least 38%.

(v) Other methods. Other methods of operating conditions may be acceptable if pathogens and vector attraction of the waste (volatile solids) are reduced to an extent equivalent to the reduction achieved by any of the above methods.

(B) Any of the processes listed below, if added to the processes described in Rule .022(c)(8), further reduce pathogens. Because the processes listed below, on their own, do not reduce the attraction of disease vectors, they are only add-on in nature.

(i) Beta ray irradiation. Sludge is irradiated with beta rays from an accelerator at dosages of at least 1.0 megarad at room temperature (ca. 20°C).

(ii) Gamma ray irradiation. Sludge is irradiated with gamma rays from certain isotopes, such as ⁶⁰Cobalt and ¹³⁷Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20°C).

(iii) Pasteurization. Sludge is maintained for at least 30 minutes at minimum temperature of 70°C.

(iv) Other methods. Other methods or operating conditions may be acceptable if pathogens are reduced to an extent equivalent to the reduction achieved by any of the above add-on methods.

(10) Record keeping requirements for the application of solid waste (including but not limited to sewage sludge or septic tank pumpings or mixture of shredded waste and sewage sludge) to land used for the production of food chain crops.

(A) Records shall be maintained to document that sewage sludge or septic tank pumpings have been treated by an appropriate process to significantly reduce pathogens or further reduce pathogens prior to application or incorporation.

(B) Records shall be maintained so as to ensure compliance with the access restrictions for the particular situation.

(C) Records shall be maintained to document the application rates for cadmium and PCBs, and the pH of the solid waste and soil mixture for the particular situation.

.023. Compliance and Enforcement.

(a) Enforcement policy. The department's policy is to gain improvements in solid waste management through voluntary operational compliance by providing the site operator with technical assistance and guidance during routine inspections or upon the operator's request. The department recognizes that proper solid waste management may require contractual and financial arrangements which require a reasonable time to resolve. Reasonable time schedules for necessary improvements which consider such problems are granted to a site operator who has demonstrated a cooperative attitude toward expediting all improvements over which the operator has control. Although department policy is to make a reasonable effort to obtain compliance without legal action, civil penalties and injunctive relief will be sought in cases where a site operator's cooperation is not adequate.

(1) Local enforcement. Both incorporated cities and counties are authorized to enforce the department's regulations as well as applicable sections of the Solid Waste Disposal Act. Particular emphasis should be placed on the closure of illegal common dump grounds, taking appropriate legal action on both the landowners and users of the dump grounds when necessary under the provisions of Section 8 of the Solid Waste Disposal Act. The department encourages such local enforcement and, where local enforcement is active and effective, it is the department's policy to support the local efforts in lieu of taking independent action. The department will initiate enforcement action when local efforts have not caused operational compliance within a reasonable period of time.

(2) Levels of enforcement. When the environmental impact of noncompliance does not support a need for immediate injunctive relief, the department seeks compliance in a two-step process as indicated below:

(A) Advisory and enforcement letters. When site inspection reveals site operational noncompliance, the violations will be discussed with the site operator and he will also be advised by a follow-up letter outlining the noncompliance and what is required to bring the operation of the site into compliance.

(B) Compliance schedule. When subsequent site inspections reveal that improvements resulting from advisory and enforcement letters are not satisfactory, the department will impose on the site operator a written compliance schedule outlining specifically what must be done and the date by which it must be completed. Violation of a compliance schedule is a further violation of the department's regulations, and failure to comply with a compliance schedule or to obtain an extension of time prior to the compliance deadline will normally result in the site operator's noncompliance being referred to the attorney general for appropriate legal relief.

(b) Surveillance policy.

(1) Site inspection. All legally established sites will be inspected periodically by local health officials and regional personnel of the department. Inspection frequency will vary depending on the site history, its size, and its potential environmental impact. Illegally established sites will be kept under surveillance to ensure that no further wastes are dumped and the sites will be inspected as often as necessary to ensure their prompt and proper closure.

(2) Permit special provisions. Municipal solid waste permits requiring specific actions as a result of special provisions of the permit will be monitored, and the sites inspected by the department when appropriate, to assure timely compliance.

.024. *Variances. Granting of variances.* The department may approve a variance from the requirements of these regulations when, in the opinion of the department, an operation can be conducted without creating a significant hazard to the health, welfare, and physical property of the people. Requests for variances shall be made a part of the permit application prior to or at the public hearing.

.025. *County Governments with Licensing Authority.*

(a) Licensing procedures. The following pertain only to those counties which have chosen to exercise licensing authority in accordance with the Solid Waste Disposal Act, Article 4477-7, Vernon's Texas Civil Statutes, and the County Solid Waste Control Act, Article 4477-8, Vernon's Texas Civil Statutes.

(1) Licensing authority.

(A) Before exercising licensing authority for municipal solid waste sites, a county government shall promulgate regulations which are consistent with those established by the department and which have been approved by the department. A county exercising authority shall use the same evaluation processes as prescribed for use by the department to include providing appropriate agencies, in accordance with Rule .016(f) and Rule .020(c) an opportunity to review and comment on those applications for which they may have a jurisdictional interest. In view of the technical evaluations and site investigations which must be made by some review agencies, ample time shall be allowed to receive review agency comments prior to a public hearing. To ensure that review agencies are provided sufficient information on which to base a determination, counties will include in their permit application forms the data requirements as specified in permit applications used by the department, supplemented by any other requirements deemed necessary by the individual counties.

(B) A county may not make regulations for municipal solid waste management within the extraterritorial or territorial jurisdiction of incorporated cities or towns.

(C) The department will issue permits for municipal solid waste sites located within the extraterritorial or territorial jurisdiction of incorporated cities or towns within the county.

(D) A county license for a municipal solid waste site may not be issued, extended, or renewed without prior approval of the department.

(E) Once a license is issued by a county and remains valid, a permit from the department is not required.

(2) Public hearing requirements. A county shall hold a public hearing prior to issuance, amendment, extension, revocation, or renewal of a license.

(b) Duration of a license. The duration of a county license should normally be for the life of site.

(c) Licensee's responsibilities. Solid waste sites licensed by a county shall be operated in compliance with regulations of the department and the county.

.026. *Solid Waste Management Technical Assistance. Provision of technical assistance.* The department will provide educational and technical assistance as required to other state agencies, regional planning agencies, local governments, local health officials, special districts, institutions, and individuals involved with any phase of solid waste management. The department will also assist other state agencies, regional planning agencies, local governments, special districts, and institutions in acquiring federal grants for the development of solid waste facilities and management programs, and for research to improve the state of the art, particularly in the area of energy and resource recovery.

.027. *Municipal Hazardous Waste Management.*

(a) Purpose and scope. The purpose of these regulations is to protect the health, welfare, and environment of the people through the proper management of municipal hazardous waste and industrial hazardous waste when treated, stored, or disposed at a municipal solid waste management site and establish standards for the control of such hazardous wastes that are substantially equivalent to federal requirements under the Resource Conservation and Recovery Act as promulgated in 40 Code of Federal Regulations, Parts 260-265. These regulations will be effective from November 19, 1980, for the control of hazardous waste.

These municipal hazardous waste management regulations are applicable to all persons who generate, transport, treat, store, or dispose of municipal hazardous waste or industrial hazardous wastes treated, stored, or disposed at a municipal solid waste management site. Municipal solid wastes which are listed in 40 Code of Federal Regulations Part 261 or which meet the criteria of 40 Code of Federal Regulations Part 261 are municipal hazardous wastes and are subject to control under this Section I.

(b) Definitions. For the purposes of this Rule .027, the following definitions apply:

(1) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(2) "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste which could threaten human health or the environment.

(3) "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has achieved in-

terim status pursuant to 40 Code of Federal Regulations Part 122, or has been permitted by the department or the Texas Department of Water Resources and has been designated on the manifest to receive the generator's shipment of municipal hazardous waste.

(4) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of municipal hazardous waste into or on any land or water.

(5) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.

(6) "EPA identification number" means the number assigned by the U.S. Environmental Protection Agency to each generator, transporter, and treatment, storage, or disposal facility.

(7) "Facility" means a site to include all contiguous land, fixtures, structures, appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste.

(8) "Generator" means any person who produces hazardous waste at a location.

(9) "Hazardous waste" means any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976. (An initial listing and criteria for identifying hazardous waste are published as 40 Code of Federal Regulations Part 261 in the *Federal Register* dated May 19, 1980.)

(10) "Incinerator" means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down hazardous waste.

(11) "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

(12) "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

(13) "International shipment" means transportation of hazardous waste into or out of the jurisdiction of the United States.

(14) "Management" or "municipal hazardous waste management" means the systematic control of the processing, treatment, recovery, and disposal of municipal hazardous waste.

(15) "Manifest" means the shipping document originated and signed by the generator which contains the information required by the department.

(16) "Manifest document number" means the serially increasing number assigned to the manifest for recording and reporting purposes.

(17) "On-site" means on the same or geographically contiguous property which may be divided by a public or private right-of-way, provided the entrance and exit between the properties are at a cross-roads intersection and access is by crossing as opposed to going along the right-of-way.

(18) "Owner" means the same as "site operator" and is the person responsible for the overall operation of the facility.

(19) "Permit" means the formal written approval issued to the applicant for a hazardous waste treatment, storage, or disposal site by the appropriate regulatory body.

(20) "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of these regulations.

(21) "Publicly owned treatment works" or "POTW" means any device or system used in the treatment of municipal sewage or industrial wastes of a liquid nature which is owned by a local government.

(22) "Storage" means the interim containment or control waste after generation and prior to ultimate disposal.

(23) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

(24) "Transportation" means the movement of hazardous waste by air, rail, highway, or water.

(25) "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(24) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to the generator process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

(c) Determination of hazardous waste activity. A person who generates a municipal solid waste facility must determine if that waste is a hazardous waste using the following steps:

(1) He should first determine if the waste is excluded from regulation under Rule .027(d).

(2) If the waste is not excluded under Rule .027, he must then determine if the waste is listed as a hazardous waste in 40 CFR Part 261 of the Code of Federal Regulations.

(3) If the waste is not listed in Subpart D of 40 Code of Federal Regulations Part 261, he must determine if the waste meets the characteristics of Subpart C of 40 Code of Federal Regulations Part 261 by testing the waste according to the methods set forth in 40 Code of Federal Regulations Part 261 or by applying knowledge of the hazard characteristics of the waste in light of the material processes used.

Municipal solid wastes which are listed in 40 Code of Federal Regulations Part 261 or which meet the criteria of 40 Code of Federal Regulations Part 261 are municipal hazardous waste and are subject to control by these regulations.

(d) Excluded wastes. The following solid wastes are not municipal hazardous waste for the purpose of these regulations:

(1) Household waste including household waste that has been collected, transported, stored, treated, disposed, recovered, or reused.

(2) Solid wastes which are generated by the growing and harvesting of agricultural crops or the raising of animals which are returned to the soil as fertilizers.

(3) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated by the combustion of fossil fuels, or household wastes.

(e) Special requirements for small quantities of municipal hazardous waste. If a generator meets the following requirements, he is not subject to regulation under subsections (f)-(k) of Rule .027.

(1) He must not generate in any calendar month or accumulate at any time, the following quantities of municipal hazardous waste:

(A) One kilogram of any discarded commercial product listed in Section 261.33(e) of 40 Code of Federal Regulations Part 261.

(B) Ten kilograms of discarded container inner liner or discarded 20 liter containers if previously used for a material listed in Section 261.33(e) of 40 Code of Federal Regulations Part 261 unless the container has been triple rinsed with an appropriate solvent or equivalently cleaned.

(C) One thousand kilograms of any other waste listed in Subpart D of 40 Code of Federal Regulations Part 261 or any waste that exhibits any of the characteristics identified in Subpart C of 40 Code of Federal Regulations Part 261.

(2) And, the generator treats or disposes of the above excluded quantities of waste in a permitted on-site facility or ensure delivery of the waste to an off-site treatment, storage or disposal facility which is:

(A) permitted as a hazardous waste site;

(B) in interim status in compliance with subsection (k) of Rule .027, or

(C) a Type I sanitary landfill permitted by the Texas Department of Health.

(f) Special requirements for hazardous waste which is used, reused, or recycled. A hazardous waste that is being beneficially used, reused, recycled, or reclaimed, or is being accumulated, stored, or treated prior to beneficial reuse or recycling and which is not transported off-site is not subject to regulations under Rule .027(g)-(k).

(g) Notification of hazardous waste activity.

(1) This section is applicable to persons who generate, transport, treat, store, or dispose of municipal hazardous waste.

(2) Anyone who generates or transports municipal hazardous waste, or who owns or operates a facility for treating, storing, or disposing of municipal hazardous waste must notify the Texas Department of Health of their hazardous waste activity.

(3) Notification shall be made to the Texas Department of Health within 30 days of the effective date of these regulations.

(4) Any person who has notified the U.S. Environmental Protection Agency of their hazardous waste activity is not required to notify the department.

(5) A person who becomes subject to these regulations because of an amendment to 40 Code of Federal Regulations Part 261 must file the notification within 90 days of the effective date of the amendment.

(6) A person who plans to initiate a new activity which involves the generation, transportation, treatment, storage, or disposal of municipal hazardous waste must notify the department prior to engaging in this new hazardous waste activity.

(7) Notifications shall be sent to the department addressed as follows: Division of Solid Waste Management, At-

tention: Hazardous Waste Branch, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756.

(h) Identification number. Persons who generate or transport municipal hazardous waste, or who own or operate a facility for treating, storing, or disposing of municipal hazardous waste and has not received an EPA identification number from the U.S. Environmental Protection Agency must obtain an identification number from the department prior to engaging in any hazardous waste activity conducted after the effective date of these regulations.

(i) Regulations for generators of municipal hazardous waste.

(1) This subsection (i) is applicable to persons who generate municipal hazardous waste where not exempted under subsections (e) and (f) of this Rule .027.

(2) A generator may accumulate municipal hazardous waste on-site for no more than 90 days providing such accumulation does not present a hazard to human health or the environment. A generator who accumulates municipal hazardous waste for more than 90 days is required to obtain a permit for a storage facility.

(3) When transporting municipal hazardous waste off-site, a generator must furnish a manifest to the transporter which designates one or two facilities authorized to receive the waste. The manifest must accompany all municipal hazardous wastes transported off-site. The generator must sign and execute the manifest in the manner described by the department on a manifest form provided by the department.

(4) A generator shall retain a copy of each manifest that is required by this Rule .027(i)(3) for a minimum of three years from the date the waste is shipped. The generator shall prepare a monthly summary from the manifest forms summarizing the quantity and classification of each waste shipment itemized by manifest document number. Monthly summaries shall be submitted to the department on or before the 25th day of each month for shipments originating during the previous month. Monthly summaries shall be submitted on forms provided by the department.

(5) The generator will prepare a monthly exception report as part of the monthly summary identifying shipments of municipal hazardous waste that are not delivered to a designated facility. In the case of interstate shipments for which the manifest was not returned to the generator, the department will notify the state in which the designated facility is located and the U.S. Environmental Protection Agency.

(6) A generator shall keep records for three years of his municipal hazardous waste activities including information regarding the waste description, classification, quantity, and method of storage, processing, or disposal. Each generator shall submit an annual storage, processing, and disposal summary on a form provided by the department on or before March 1 of each year.

(7) No generator shall ship municipal hazardous waste outside the United States unless notification and written approval is obtained from the department and the U.S. Environmental Protection Agency at least four weeks prior to the date of shipment of the waste.

(j) Requirements for transporters of municipal hazardous waste.

(1) This section is applicable to all persons who transport municipal hazardous waste shipped off-site by generators subject to this Rule .027.

(2) When transporting municipal hazardous waste, the transporter must:

- (A) receive a signed manifest which has been properly executed by the generator;
- (B) sign, date, and execute the manifest in the manner prescribed by the Texas Department of Health on the manifest form;
- (C) retain a copy of the manifest with the waste shipment; and,
- (D) deliver the waste to a hazardous waste facility designated on the manifest or to the next designated transporter and obtain the signature of the facility owner or operator or the next transporter.

(3) In the event of a discharge of municipal hazardous waste during transport, the transporter must take immediate action to protect human health and the environment. Such action shall include:

(A) notification and coordination with the Texas Department of Water Resources and local authorities as provided in the Texas Oil and Hazardous Substances Spill Contingency Plan; and

(B) containment and spilled material, or other corrective action as required or approved by a local, state, or federal official having jurisdiction over spill containment or control, so that the discharge no longer presents a hazard to human health or the environment.

(4) Transporters must retain a copy of each manifest executed in accordance with Rule .027(j)(2) for a minimum of three years from the date the municipal hazardous waste was accepted by the initial transporter.

(5) Transporters shall not ship any municipal hazardous waste outside the United States or import hazardous waste to a municipal facility unless advance written approval is obtained from the department.

(k) Requirements for owners/operators of municipal hazardous waste treatment, storage, or disposal facilities.

(1) Applicability. This Rule .027(k) is applicable to all owners/operators of facilities which treat, store, or dispose of:

(A) municipal hazardous waste, or

(B) industrial hazardous waste, which comes under the department's jurisdiction,

with the exception of those facilities excluded under subsections (d) and (f) of Rule .027.

(2) Authorization requirements. No municipal solid waste site used for the storage, treatment, or disposal of municipal hazardous waste or industrial hazardous waste shall be operated without the owner/operator having obtained interim status by completing Part A--Permit Application, and mailing it to the U.S. Environmental Protection Agency, complying with the provisions of these regulations and receiving written approval from the department by December 19, 1980.

Municipal solid waste management sites used for the storage, treatment, or disposal of municipal hazardous waste, or industrial hazardous waste, shall comply with the design standards for Type I, sanitary landfill, and Type V, solid waste processing site, contained in Section E of these regulations and operational requirements contained in Section F of these regulations.

In addition to the requirements contained in this Rule .027(k)(2), the owner/operator of a municipal solid waste management site used for the treatment, storage, or disposal of hazardous wastes shall comply with Rule .027(k)(3)-(17).

(3) Identification of waste. The owner/operator of a facility must inspect and obtain a complete analysis of all hazardous waste received in order to insure its safe treatment, storage, or disposal. The facility must have a waste analysis plan delineating test parameters, test methods, sampling methods, frequency of analysis, inspection procedures and/or waste analysis supplied by generator.

(4) Facility security. A security system must be in operation at the facility to prevent the entry of animals or unauthorized persons. Access may be restricted through the use of a barrier surrounding the facility with controlled entry, or a 24-hour surveillance system. Warning signs must be posted at each entry point.

The facility must be equipped with emergency devices, including an internal system capable of providing emergency instruction, a device capable of summoning emergency assistance, fire control equipment, and sufficient water supplies to fire fighting equipment. Access to emergency equipment and alarm devices and to all areas of the facility must be maintained at all times. The local emergency agencies must be informed of the type and extent of operations at the facility and the properties of waste handled.

A contingency plan must be developed by the owner/operator describing actions to be taken in case of an emergency. The plan must include arrangements made with local emergency agencies, designation, and location of persons empowered to act as emergency coordinator, list of emergency equipment, and evacuation plan. An emergency coordinator must be available at all times. The contingency plan must be kept up-to-date, and should be submitted to all local emergency agencies.

(5) Emergency procedures. Whenever an emergency situation occurs, the emergency coordinator must notify all facility personnel and contact the local emergency agencies trained to deal with the situation. The coordinator must locate and access the type and extent of the emergency and its effect on health and environmental aspects. If it is determined that the effects may cause a threat, the coordinator must contact the state coordinator or national response center and report the following:

(A) name and location of facility and emergency coordinator;

(B) time and type of incident;

(C) type and quantity of waste involved; and

(D) extent of injuries, if any, and the possible hazards to health or the environment.

The emergency coordinator must provide the immediate management of any materials which may be contaminated resulting from the emergency. The owner/operator must file a written report to the department within 15 days following the incident to include the above information along with the name and location of the owner/operator and the quantity and disposition of material recovered from the episode.

(6) Facility inspection. The owner/operator must conduct and log regular inspections of his facility to insure proper operation and maintenance of equipment and control devices. An inspection plan must be developed to include a schedule of equipment inspection, method of inspection, and frequency. All equipment and control devices shall be properly maintained and operated to prevent any adverse environmental or health effects.

(7) Facility personnel. All personnel employed at the facility must complete a training program, directed by an individual versed in hazardous waste management, within six months of their employment. The training program must cover all aspects of hazardous waste management and must be renewed annually. Personnel records must be maintained until facility closure on each employee noting the type and amount of training received.

(8) Manifest system. Shipments of hazardous waste received at the facility must be accompanied by a manifest form. The form must be signed and dated, and any discrepancies noted. The transporter retains one copy of the manifest form, the owner/operator forwards one copy to the generator, and retains one copy for his records for a three-year period.

Any significant discrepancy in a shipment received must be resolved with the transporter or generator. If the discrepancy is not resolved, a copy of the manifest form must be submitted within 15 days accompanied by a report describing the discrepancy. Any hazardous waste accepted by a facility which does not have an accompanying manifest form must submit a written report to the department within 15 days. The report must identify the facility and the generator, provide the date of shipment receipt, description and quantity of waste, method of disposition, certification of acceptance, and an explanation of why waste was unmanifested.

An annual report must be submitted to the department by March 1 describing the disposition of waste accepted by the facility. The report must designate the facility (number, name, and address), reporting period covered, identification number of all generators from whom waste was received, quantity of waste received, method of waste disposition, and a signed certification.

(9) Record keeping. The facility must maintain an operating record describing the type, quantity, method of disposition, waste analyses, and location of all hazardous waste received. Any reports, records and plans described in these regulations must be available at the facility and retained for length of time specified. All waste location records must be submitted to the department and local land authority upon closure.

(10) Facility closure. The facility owner/operator must prepare a written closure plan, establishing the steps necessary to securely close the facility. The plan must include a description of when and in what manner the facility will be closed, an estimate of the quantity of wastes at the facility, equipment decontamination procedures, and expected dates of last waste shipment and final closure. The closure plan must be submitted 180 days before closure program is begun. Closure operations should be completed six months following the receipt of the last waste shipment. Upon final closure, the owner/operator and a registered professional engineer certifying that the facility was closed according to the approved closure plan.

The owner/operator of a disposal facility must submit a survey plat to the local land authority and the department, describing the site and location of waste areas. A notation must be affixed on the property deed stating that the land has been used to manage hazardous waste and that its use has been limited.

(11) Postclosure care. The facility owner/operator must prepare a written postclosure plan identifying the activities which will be employed at the facility prior to closure.

The plan must include a description of the ground water monitoring activities and frequencies, and maintenance procedures for monitoring equipment and control devices.

The owner/operator of the facility must provide for postclosure care for a period of 30 years, unless it is demonstrated that care is not required for that length of time. The postclosure plan must be submitted to the department 180 days prior to beginning closure operations.

(12) Financial requirements. The owner/operator of a facility must complete written estimates of the cost of closing the facility, and maintaining postclosure care (disposal facility only), to be revised annually. State and federal facilities are exempted from this requirement.

(13) Containers. Waste must be stored in containers compatible with the waste to be stored. Containers must be managed in such a manner to insure that spills, leaks mixture of incompatible wastes, and other mishaps do not occur.

(14) Land treatment. Hazardous waste may not be placed on a land treatment facility unless it can be shown that the waste is rendered less hazardous through its contact with the soil. Control structures must be provided to control runoff to and from active areas of the facility. The waste must be analyzed and a determination made if the waste contains any hazardous constituents (see Rule .027(3)) which exceed the maximum allowable concentrations. If food crops are grown, it must be demonstrated that the hazardous constituents of the waste does not occur in any portion of the crop which is ingested in concentrations greater than for crops grown on untreated soils in the area.

The owner/operator must complete and implement a monitoring plan of the unsaturated zone which will detect the vertical migration of any hazardous waste, and provide information on background concentrations. The plan must include the taking of soil cores and soil pore water monitoring and frequency of monitoring. The samples must be analyzed for all constituents which were present in the applied waste. Records must be maintained on the quantities, rates of application, and location of hazardous waste placed on the facility.

(15) Landfills. A record must be maintained at the site which shows the location and contents of each hazardous waste cell.

(16) Ground water monitoring. The owner/operator of a landfarm or landfill must implement a ground water monitoring program unless it can be demonstrated that there is low potential for ground or surface water pollution. The monitoring system must consist of at least one monitoring well located hydraulically upgradient from the site to provide background information and at least three monitoring wells installed hydraulically downgradient from the site to determine if any waste constituents have migrated from the site to the uppermost aquifer. All wells are to be located and of a depth to yield samples representative of ground water quality in the aquifer. The wells are to be cased, screened, or perforated, packed with gravel or sand, and sealed at the surface in order to obtain representative samples and a void contamination from other sources.

The owner/operator must complete a ground water sampling plan which delineates the method of sample collection, sample preservation, and analytical procedures. Background

concentrations on all wells must be established quarterly during the first year for the following parameters:

- (A) chloride;
- (B) iron;
- (C) manganese;
- (D) phenols;
- (E) sodium;
- (F) sulfate;
- (G) pH;
- (H) specific conductance;
- (I) total organic carbon;
- (J) total organic halogen;
- (K) arsenic;
- (L) barium;
- (M) cadmium;
- (N) chromium;
- (O) fluoride;
- (P) lead;
- (Q) mercury;
- (R) nitrate (as N);
- (S) selenium;
- (T) endrin;
- (U) lindane;
- (V) methoxychlor;
- (W) toxaphene;
- (X) 2, 4-D;
- (Y) 2, 4, 5-TP silvex;
- (Z) radium;
- (AA) gross alpha;
- (BB) gross beta;
- (CC) turbidity (surface water);
- (DD) coliform bacteria.

After the first year, samples must be collected and analyzed at least once a year for water quality parameters (first six above) and at least twice per year for the indicators of waste contamination (G)-(J) above).

The owner/operator of the facility must outline a ground water quality assessment program which would determine the rate and extent of waste migration if any, and the concentrations present in the ground water. The indicator parameters are statistically compared with initial background values to determine if there is any significant in-

creases in constituent concentrations. If there has been any significant detrimental change in constituent concentrations, the owner/operator must inform the department and a water quality assessment plan must be developed delineating the number, location, and depth of monitor wells, sampling methods, evaluation procedures, and implementation schedule. After a determination of the rate, extent, and concentration of constituents present in ground water, the owner/operator must submit a report to the department containing the assessment of ground water quality. If significant degradation is discovered, sampling must continue on a quarterly basis until closure and an abatement procedure may be imposed.

Records must be maintained on all aspects on ground water monitoring throughout the postclosure period. A report must be submitted during the first year establishing the background values for monitor wells on a quarterly basis. Concentrations of indicator samples must be reported annually and any significant differences noted.

(17) Incinerators. Facilities which incinerate hazardous waste shall operate the incinerator in a manner to insure the health and safety of the public and the environment, and in accordance with the rules and regulations of the Texas Air Control Board (TACB) and the Texas Department of Health (TDH).

(A) In addition to the general waste analyses, waste to be incinerated must be analyzed to determine steady state operating conditions and the type of pollutants emitted, to include heating value, halogen and sulfur content, and lead and mercury content, if present. Steady state conditions must be maintained during the incineration process.

(B) Incineration equipment must be inspected at least once each day and maintained to prevent any fugitive emissions. Instrumentation must be monitored frequently to insure the maintenance of steady state conditions in the incinerator, and the normal appearance of emissions in the plume.

(C) Any incinerator waste residue must be removed and disposed of in accordance with Rule .027(i) unless the residue is determined to be nonhazardous.

.028. Application for a Permit to Operate a Municipal Solid Waste Facility.

TEXAS DEPARTMENT OF HEALTH
 1100 West 49th Street
 Austin, Texas 78756

APPLICATION FOR A PERMIT TO OPERATE A
 MUNICIPAL SOLID WASTE SITE

PART A - GENERAL DATA

This form must be submitted in eleven copies unless otherwise authorized by the Department. See supporting documents as noted. The applicant is encouraged to read this Department's "Municipal Solid Waste Management Regulations", Sept. 1980 Edition, thoroughly before filling out this form. Failure to complete all entries and provide all necessary attachments will delay processing the application. Notes 1 and 2 at the end of Part A should be read before proceeding to complete Part B. PLEASE TYPE OR PRINT IN BLACK INK.

PERMIT APPLICATION NO. _____ (Applicant Leave Blank)

Name of Applicant _____
 (City, County, individual or company)

TYPE OF FACILITY (*)

<u>Landfill</u>	<u>Processing Site</u>	<u>Experimental Site</u>
____ Type I	____ Type V	____ Type VI
____ Type II	____ Incinerator	<u>Land Application Site</u>
____ Type III	____ Transfer Station	____ Type VII
____ Type IV	____ Other	

(*) See Section D of "Municipal Solid Waste Management Regulations", April 1977.

Facility is: Existing _____ : Proposed _____ (Check One)
 (Date Established)

Facility is: _____ feet to the nearest road _____ ;
 (Name of Road)

_____ miles to nearest airport/airfield _____ ; _____ feet (miles) to
 nearest occupied structure.

Street Address or Location of the Site: (Distance and direction from city, roads,
 interaactions, etc.)

Geographic coordinates: _____

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA-A)
 TDH (Sept., 1980)

Name of Applicant _____

Site is located in: (fill in appropriate blanks)

County of _____ City Limits of City of _____

Extraterritorial jurisdiction (ETJ) of City of _____

Nearest town _____

(Applicable only if site is outside the city limits or ETJ of any city)

Application is for amendment or renewal of Permit No. _____

List any other existing permits or licenses issued by this or any other government agency, whether local, state, or federal which pertain to this facility.

SUBMIT ELEVEN COPIES OF AN AREA MAP WITH THE COMPLETED PART "A" WHICH CLEARLY SHOWS:

1. Date and scale of map.
2. Site boundaries.
3. Prevailing wind direction and north arrow.
4. Location of drainage structures, streams, waterways and lakes.
5. Water wells within 500 feet of the site.
(If there are no wells in the vicinity, please add a note to that effect.)
6. Residences and other significant structures within one (1) mile of the site.
7. Cemeteries within one (1) mile of the site.
8. Designated recreational areas within one (1) mile of the site.
9. Land use (i.e. farm or ranch land, commercial, residential, wooded areas, etc.) within one (1) mile of the site (1/2 mile for processing plants).
(Annotate as needed)
10. Political boundaries, including municipal extraterritorial jurisdictional limits.
11. Names or designations of main public roadways within one (1) mile of the site.
Indicate type of surfacing of roads providing access to the site.
12. Boundaries and names of all airports within four (4) miles of the site.

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA - A)
TDH (Sept. 1980)

Name of Applicant _____

13. Drainage and utility easements within one (1) mile of site.

14. Latitudes and longitudes.

For all types of applications other than for Type I and IV sites serving 5,000 or more persons, the map shall be all or a portion of half-scale State Department of Highways and Public Transportation County Map or a United States Geological Survey 7 1/2-Minute Quadrangle Sheet. For applications for Type I and IV sites serving 5,000 or more persons, both types of maps shall be submitted. Equivalent maps may be submitted with any application provided they meet the prior approval of this Department.

The facility will serve approximately _____ persons and it is estimated that it will receive an average of approximately _____ tons per day of municipal solid waste. The estimated life of the facility is _____ years. Open burning of solid waste _____ (is) (is not) contemplated.

It is requested that the permit be issued for a site of _____ acres. The name, address, and telephone number of the owner of the site is as follows:

The name, address, and telephone number of the governmental entity or firm responsible for the operation of the facility is as follows:

SUBMIT TWO COPIES OF A RECORDED LEASE AGREEMENT OR A WRITTEN OPTION TO PURCHASE THE LAND, IF THE APPLICANT IS NOT THE OWNER OF THE LAND, AS REQUIRED BY SECTION .005(b)(1)(B) OF THE "MUNICIPAL SOLID WASTE MANAGEMENT REGULATIONS", Sept. 1980. It is the responsibility of the applicant to possess or acquire a sufficient interest in or right to the use of the property described for the purposes for which a permit may be issued. A permit, if issued, does not convey any property rights or interest in either real or personal property, nor does it authorize any injury to private property or invasion of personal rights, nor any infringement of Federal, State or local laws or regulations outside the scope of the authority under which a permit may be issued.

SUBMIT THREE COPIES OF A SOILS REPORT, IF THE APPLICATION IS FOR A TYPE II OR III FACILITY OR FOR A TYPE I OR IV FACILITY SERVING LESS THAN 5,000 PERSONS. The report shall contain as much information as available on soil characteristics at the site, such as permeability, clay and sand content, soil structure, and underlying geology. This type of information may be obtained from the nearest office of the U.S. Soil Conservation

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA - A)
TDH (Sept. 1980)

Name of Applicant _____

Service. A report containing this information should be obtained from that agency and submitted to the Department with this application. The Department may require borings for these types of sites when soil conditions are considered questionable. Applicants for Type I and IV sites serving 5,000 or more persons will submit soils and geological information as required by Sec. .005(b)(3) of the "Municipal Solid Waste Management Regulations", Sept. 1980. Applicants for Type V or VI land disposal facilities shall submit such soils information as may be determined in consultation with the Department.

Note 1: If the applicant is sure of the type classification of the facility and operation for which a permit is desired, he may proceed to complete Part B of the application which pertains to more detailed information and technical data required for evaluation of the particular type of facility and operation. Before proceeding to Part B, the applicant is advised to read Sec. .005 of the "Municipal Solid Waste Management Regulations", Sept. 1980, for guidance in providing the necessary detail required for each item in Part B. Applicants for Type I and IV sites serving 5,000 or more persons and for Types V and VI will not use Part B.

Note 2: If the applicant is not sure of the type classification of the facility and operation for which a permit is desired, only Part A should be completed, signed, and submitted to the Department. Upon receipt of Part A, the Department will evaluate it and advise the applicant of the appropriate classification for the operation and facility so that unnecessary expenditures for the preparation of Part B can be avoided when a detailed technical report may be required in lieu of Part B.

(Signature of Applicant or Authorized Agent)

(Typed or Printed Name and Title)

(Street or P. O. Box)

(City) (State) (Zip Code)

(Area Code) (Telephone)

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA - A)
TDH (Sept. 1980)

.029. Application to Operate a Municipal Solid Waste for a Permit Facility.

TEXAS DEPARTMENT OF HEALTH
1100 West 49th Street
Austin, Texas 78756

APPLICATION FOR A PERMIT TO OPERATE A
MUNICIPAL SOLID WASTE SITE

Part B - Technical Data

Please read notes 1 and 2 at the end of Part A before starting to complete Part B. This form and supporting documents must be submitted in three copies unless otherwise noted. The applicant is encouraged to read this Department's "Municipal Solid Waste Management Regulations", Sept. 1980 edition, thoroughly before filling out this form. Failure to complete all entries and provide all necessary attachments will delay processing the application. PLEASE TYPE OR PRINT IN BLACK INK.

I. SITE DATA (Complete this section only if Part B is submitted separately from Part A.)

A. Site Location: _____

B. Name of Applicant: _____

Mailing Address: _____ Telephone _____
_____ Zip Code _____

C. Type of Operation:
Type I___/Type II___/Type III___/Type IV___/Type V___/Type VI___

D. Type of Facility:
Landfill___/Incinerator___/Transfer Station___/Other (Specify)_____

II. AGENTS FOR THE APPLICANT

Name, address, telephone number and title of persons authorized to act for the applicant. If a registered engineer has been employed to act for the applicant, a letter of appointment, as required by Sec. .005(a)(8) of the "Municipal Solid Waste Management Regulations", Sept. 1980, shall be submitted.

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA-B)
TDH (Sept. 1980)

Name of Applicant _____

III. LAND USE

- A. Describe general land use within a one (1) mile radius of the site: (for example: residential, commercial, industrial, agricultural, etc.)

(Submission of an aerial photograph, though not required, is recommended as it may clarify land use, topography, vegetation, etc., within vicinity of the site.)

- B. Will the operation of this solid waste facility conform with existing zoning ordinances? (yes)____(no)____ If no, give status of any proposed zoning change which will apply to this site.
- C. Growth trends of the area within a one (1) mile radius of the site during the preceding five (5) years, if known.

- D. Provisions by the applicant for inspection and maintenance of site during first year after closure: (If applicant plans to utilize site on a phased sequence, explain phase schedule.)

- E. Has use of the site after closing been determined? Yes____ No____
If yes, specify type of use.

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA-B)
TDH (Sept. 1980)

Name of Applicant _____

IV. TWO COPIES SHALL BE SUBMITTED (IF NOT ALREADY PROVIDED SEPARATELY WITH PART A) OF A LEGAL DESCRIPTION OF TRACT OR TRACTS OF LAND UPON WHICH THE FACILITY IS LOCATED. The term "Legal Description" means either a metes and bounds description, a plat showing the block and lot number of a recorded subdivision with a reference to the volume and page numbers of the latest conveyance as recorded in the Deed Records of the county in which the tract of land is located, or any other description which would be suitable to effectuate the transfer of title to real property. The legal description should include a copy of the latest conveyance to the owner. Where only a portion of the tract is to be used for the landfill, a metes and bounds description of that portion of land is required.

V. PLANS AND MAPS:

A. Eleven copies shall be submitted of an area map (if not previously submitted separately with Part A) showing all information required by Sec. .005(b)(1) of the "Municipal Solid Waste Management Regulations", Sept. 1980.

B. Three copies of a large-scale plan of the site shall be submitted, prepared in accordance with the design criteria contained in Section .005(b)(3) of the "Municipal Solid Waste Management Regulations", Sept. 1980, and supported by a narrative statement when necessary. The plan should show all of the information required below:

1. Site location. (Show boundaries and dimensions of tract of land on which site is to be developed.)
2. Location of structures, water wells, any utility easements, and distance to nearest residences. (Identify pipelines by type and ownership)
3. Streets and roads providing ingress and egress to site.
4. Locations of fences and gates.
5. Provisions to be made for controlling windblown solid waste.
6. Provisions for handling large items.
7. The landfill method proposed, e.g., trench, area fill, or combination.
8. The depth of existing groundwater.
9. The maximum depth of excavation or fill.
10. Manner and sequence of site development as they pertain to disposal activities.
11. The amount of land actually available for landfill.
12. Provisions for wet-weather operations.
13. Drainage provisions for controlling surface water on or near the site. Show locations of any proposed dikes, berms, or levees to be located along or near streams, rivers, etc.

MUNICIPAL SOLID WASTE PERMIT APPLICATION (SWA-B)
TDH (Sept. 1980)

Name of Applicant _____

- 14. Fire control facilities, e.g., fire hydrants, fire breaks, earth stockpiles, water tanks.
- 15. If an existing pit is to be used, or if sufficient suitable cover material is not available on site, indicate source and soil characteristics of cover material.

VI. STATEMENT OF APPLICANT

I, _____,

state that I have knowledge of the facts herein set forth and that these facts are true and correct, to the best of my knowledge and belief. I further state that, to the best of my knowledge and belief, the project for which application is made will not in any way violate any law, rule, ordinance, or decree of any duly authorized governmental entity having jurisdiction. I further state that I am the applicant or am authorized to act for the city/county/applicant.

(Signature)

(Title)

(Date)

VII. NOTARY PUBLIC'S CERTIFICATE

Subscribed and sworn to before me, by the said _____
_____, this _____ day of _____, 19 _____,
to certify which witness my hand and seal of office.

Notary Public in and for _____
County, Texas.

(seal)

Name of Applicant _____

VIII. ENGINEER'S SEAL (NOT REQUIRED UNLESS APPLICANT UTILIZES SERVICES OF AN ENGINEER)

If the application and supporting data for a permit are prepared under the direction of a registered professional engineer authorized to practice in the State of Texas, place the signature and seal of the engineer in the spaces below.

Engineer's Signature _____

Seal

.030. Notice of Appointment.

NOTICE OF APPOINTMENT

Robert Bernstein, M.D.
Commissioner of Health
Texas Department of Health
1100 West 49th Street
Austin, Texas 78756

Dear Doctor Bernstein:

This is to advise you that the officials of _____,
Texas, at a regular or called meeting on _____,
have duly appointed _____
as consulting and designing engineer for the purpose of submitting engineer-
ing reports, planning material, plans and specifications, and for supervision
of construction of _____.
Mr. _____ is a registered professional engineer in good
standing in accordance with State statutes and has had experience in the
design and construction of similar facilities at the following locations:

We herewith authorize you to review and comment on such reports, planning
material, data, and plans and specifications on this proposed project as he
may submit to you.

ATTEST:

Secretary's Signature

Secretary's Typed Name

Official's Signature

Official's Typed Name & Title

Official Mailing Address

DATE: _____

.031. Affidavit to the Public.

(The following is a suggested format for the "Affidavit to the Public" mentioned in Section .006(b)(15) of these regulations. The same general form may be used when preparing, as applicable, the sworn statement also referred to in that Section.)

STATE OF TEXAS

AFFIDAVIT TO THE PUBLIC

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____ who, after being by me duly sworn, upon oath states that he is the record owner of that certain tract or parcel of land lying and being situated in _____ County, Texas, and being more particularly described as follows:

The undersigned further states that from the year _____ to the year _____ there was operated on the aforesaid tract of land a Solid Waste Disposal Site. Specifically, such operation was conducted on that portion of the aforesaid tract described as follows:

Further, the undersigned, _____ was the operator of such Solid Waste Disposal Site.

WITNESS MY/OUR HAND(s) on this the _____ day of _____, 19__.

Owner

Operator

SWORN TO AND SUBSCRIBED before me on this the _____ day of _____, 19__.

Notary Public in and for
_____ County, Texas

Water Hygiene

Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems 301.83.01

In June 1977, the Texas Department of Health adopted the subject drinking water standards to enable the department to qualify as the state agency primarily responsible for implementing the Federal Safe Drinking Water Act, Public Law 93-523, in the State of Texas. These subject standards were developed pursuant to requirements in Public Law 93-523 and in U.S. Environmental Protection Agency regulations governing primary enforcement responsibility for safe drinking water in the various states throughout the country.

The department now proposes to amend the subject drinking water standards by adding a rule on the control of trihalomethanes in drinking water. The purpose of this proposed new rule is to implement new EPA requirements on the control of trihalomethanes in drinking water.

The approximate cost of administering this proposed rule for the first five years will be \$24,850 for fiscal year 1981; \$101,750 for fiscal year 1982; and \$71,750 for each of the remaining three fiscal years (source: department's Budget Office and Division of Water Hygiene).

Written comments on the proposed rule are invited and should be submitted in writing no later than 30 days after publication in the *Register* to: Charles K. Foster, P.E., director, Division of Water Hygiene, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. In addition, a public hearing on the proposed rule will be held in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin, Texas, beginning at 9 a.m. on September 29, 1980.

This rule is being proposed under authority of Article 4477-1, and 6252-13a, Texas Revised Civil Statutes

.017. *Control of Trihalomethanes in Drinking Water.*

(a) For the purposes of this section the following definitions will apply

(1) "Halogen" means one of the chemical elements chlorine, bromine, or iodine.

(2) "Trihalomethane" (THM) means one of the family of organic compounds named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

(3) "Total trihalomethanes" (TTHM) means the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane, chloroform, dibromochloromethane, bromodichloromethane, tribromomethane, bromoform), rounded to two significant figures.

(4) "Maximum total trihalomethane potential" (MTP) means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after seven days at a temperature of 25° C or above.

(5) "Disinfectant" means any oxidant added to water in any part of the treatment or distribution process that is intended to kill or inactivate pathogenic microorganisms.

(b) The maximum contaminant level for total trihalomethanes established in Rule .017(c) shall take effect on November 29, 1981, for all community water systems serv-

ing 75,000 or more individuals and shall take effect on November 29, 1983, for those community water systems serving 10,000 to 74,999 individuals.

(c) The maximum contaminant level for total trihalomethanes shall be 0.10 mg/l. The MCL shall not apply to those systems which supply less than 10,000 individuals.

(d) Sampling and analytical requirements for total trihalomethanes.

(1) Initial analyses for determining total trihalomethanes shall begin not later than November 29, 1980, for community water systems serving 75,000 or more individuals. Initial analyses for determining total trihalomethanes shall begin not later than November 29, 1982, for those systems serving between 10,000 and 74,999 individuals.

(2) For the purpose of this rule, the minimum number of samples required to be taken shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer shall be considered as one treatment plant for determining the minimum number of samples. All samples taken within one sampling period shall be collected within a 24-hour period.

(3) For all community water systems utilizing surface water sources in whole or in part, and for all water systems utilizing only ground water sources that have not been determined to qualify for the monitoring requirements of Rule .017(d)(5), analyses for total trihalomethanes shall be performed on at least four samples of water per quarter from each treatment plant used by the system. At least 25% of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the system. The remaining 75% shall be taken at representative locations in the distribution system, taking into account number of persons served, different sources of water, and different treatment methods employed. The results of all analyses per quarter shall be arithmetically averaged and reported to the department within 30 days of the system's receipt of such results. All samples collected shall be used in computing the average, unless the analytical results are invalidated for technical reasons.

(4) Upon the written request of a community water system, the monitoring frequency required by Rule .017(d)(3) may be reduced by the department to a minimum of one sample analyzed for TTHMs per quarter taken at a point in the distribution system reflecting the maximum residence time of the water in the system, upon a written determination by the department that the data from at least one year of monitoring in accordance with Rule .017(d)(3) and local conditions demonstrate that total trihalomethane concentrations will be consistently below the maximum contaminant level.

(A) If at any time during which the reduced monitoring frequency prescribed under this subsection applies, the results from any analysis exceed 0.10 mg/l of TTHMs and such results are confirmed by at least one check sample taken promptly after such results are obtained, or if the system makes any significant change to its source of water or treatment program, the system shall immediately begin monitoring in accordance with the requirements of Rule .017(d)(3).

(B) If a system is required to begin monitoring in accordance with Rule .017(d)(3), such monitoring shall continue for at least one year before a reduction in monitoring frequency may be considered.

(5) Upon the written request to the department, a community water system utilizing only ground water sources may seek to have the monitoring frequency reduced to a minimum of one sample for maximum TTHM potential per year for each treatment plant used by the system taken at a point in the distribution system reflecting maximum residence time of the water in the system. The system shall submit to the state the results of at least one sample analyzed for maximum TTHM potential for each treatment plant used by the system taken at a point in the distribution system reflecting the maximum residence time of the water in the system. The system's monitoring frequency may only be reduced upon a written determination by the department that, based upon the data submitted by the system, the system has a maximum TTHM potential of less than 0.10 mg/l and that, based upon an assessment of the local conditions of the system, the system is not likely to approach or exceed the maximum contaminant level for TTHMs. The results of all analyses shall be reported to the department within 30 days of the system's receipt of such results. All samples collected shall be used for determining whether the system must comply with the monitoring requirements of Rule .017(d)(3), unless the analytical results are invalidated for technical reasons.

(A) If at any time during which the reduced monitoring frequency prescribed under this subsection is in effect, the result from any analysis taken by the system for the maximum TTHM potential is equal to or greater than 0.10 mg/l and such results are confirmed by at least one check sample taken promptly after such results are received, the system shall begin immediately to monitor in accordance with the requirements of Rule .017(d)(3).

(B) If it becomes necessary to begin monitoring in accordance with Rule .017(d)(3), such monitoring shall continue for at least one year before the monitoring frequency may be reduced.

(C) In the event of any significant change to the system's raw water or treatment program, the system shall immediately analyze an additional sample from maximum TTHM potential taken at a point in the distribution system reflecting the maximum residence time of the water in the system for the purpose of determining whether the system must comply with the monitoring requirement of Rule .017(d)(3).

(6) Compliance with the MCL of 0.10 mg/l for total trihalomethanes shall be determined based on a running annual average of quarterly samples collected by the system as prescribed in Rule .017(d)(3). If the average of samples covering any 12 month period exceeds the maximum contaminant level, the supplier of water shall report to the department within 30 days and notify the public as required under Rule .003(h). Monitoring after public notification shall be at a frequency designated by the department and shall continue until a monitoring schedule as a condition of a variance, exemption, or enforcement action shall become effective.

(7) Before a community water system makes any significant modification to its existing treatment process for the purpose of achieving compliance with Rule .017(d), the system must submit and obtain department approval of a detailed plan setting forth its proposed modifications and those safeguards that it will implement to ensure that the bacteriological quality of the drinking water served by such system will not be adversely affected by such modifications.

(8) All analyses for determining compliance with the provision of Rule .017(d) shall be conducted in accordance with the procedures required by the United States Environmental Protection Agency.

Issued in Austin, Texas, on August 1, 1980.

Doc. No 805950

A M Donnell, Jr. MD
Deputy Commissioner
Texas Department of Health

Proposed Date of Adoption September 12, 1980
For further information, please call (512) 458-7271



Texas Department of Mental Health and Mental Retardation

Client (Patient) Care

Client Abuse and Neglect 302.04.19

The Texas Department of Mental Health and Mental Retardation proposes to amend Rule 302.04.19.001, .003, .007, and .009 which govern client abuse. These amendments are proposed pursuant to the recommendations of a task force appointed to study client and employee safety. The amendments would incorporate a progressive disciplinary scheme whereby serious acts of client abuse result in severe disciplinary action and less serious acts result in less severe disciplinary action. The amendments would also incorporate changes in reporting requirements that were recommended by the task force.

The proposed amendments would add "and neglect" to the title of this subchapter of rules and after the term "client abuse" wherever it appears in this subchapter of rules.

The proposed amendment to Rule .003 would add a new subsection (g) which would define serious injury and would include examples of what constitutes a serious injury. The proposed amendment would also add a new subsection (h) that would define nonserious injury and would include examples of what constitutes a nonserious injury. Further, the proposed amendment would add a new subsection (i) which would define negligence as the doing of something that a person of ordinary prudence would not have done under the

same or similar circumstances, or the failure to do something that a person of ordinary prudence would have done under the same or similar circumstances.

The proposed amendment to Rule .004 would amend subsections (a) and (b), and would add new subsections (c), (d), and (e). Subsection (a), (b), and (c) would define client abuse as Class I abuse which would be abuse that results in serious injury; Class II abuse which would be abuse that results in injury other than serious injury; and Class III abuse which would be the use of abusive or threatening language toward a client. New subsection (d) would add "neglect" as grounds for disciplinary action. The current definition of client abuse would be deleted. The provision which excepts the proper use of restraints, seclusion, or behavior modification techniques as well as such actions as an employee may reasonably believe to be immediately necessary to avoid harm to himself or others which is currently found in subsection (b) would be moved to a new subsection (e).

The proposed amendment to Rule .005 would amend subsections (a), (b), (c), and (d). Subsection (a) would be amended so that client neglect would be grounds for disciplinary action. Subsection (b) would be amended to permit a designee of the head of the facility to place an employee who is accused of client abuse or neglect on emergency leave. Subsection (b)(2) would be amended to require the head of the facility or his designee to report any complaint of client abuse immediately to the client abuse committee chairperson. The requirement that the client abuse investigation occur within five days would be moved to subsection (b)(3). Subsection (b)(5) would be amended to set forth disciplinary measures to be used for each type of client abuse or neglect. The proposed amendment would amend subsection (b)(6) to provide that if the head of the facility determines that an employee committed Class I abuse, the employee is dismissed from employment. Subsection (b)(5)(B) would be amended so that for Class II abuse, an employee would be suspended for up to 10 days, demoted, or dismissed from employment. If the act of Class II abuse is the employee's second violation he or she would be dismissed from employment. Subsection (b)(5)(C) would be amended so that for Class III abuse, which is an employee's first violation, the employee would receive a written reprimand, or would be suspended for up to 10 days. For a second violation, the employee would be placed on suspension for up to 10 days, demoted, or dismissed from employment. A new subsection (b)(5)(D) would be added which would provide that if the head of the facility has determined that an employee is guilty of neglect, the employee shall receive a written reprimand or shall be placed on suspension for up to 10 days, or demoted, or dismissed from employment. Subsection (c) would be amended to require the head of each facility to appoint a Client Abuse Committee. The amendment would also require one person to be designated as chairperson who would be responsible for maintaining all records of investigations conducted by the committee.

The proposed amendment to Rule .006 would amend subsections (a)-(f) and would add a new subsection (h). Subsection (a) would be amended to require that a written report of any incident of client abuse be made within two hours instead of 24 to the head of the facility or his designee. Subsection (b) would be amended to require the head of the facility to immediately report any incident of client abuse to the chairperson of the Client Abuse Committee and to report any client

abuse related crime to local law enforcement agencies. The provision that would allow any person to report client abuse to the Public Responsibility Committee would be deleted from subsection (b) and moved to subsection (c). The requirement for reporting client abuse related crime as well as submitting the Criminal Occurrence Report would be deleted. The language from Sections 34.01, 34.02, and 34.03 of the Texas Family Code would be deleted from subsection (d) since the requirements of those provisions are set forth in the rule. Subsection (c) would be amended to require the parents, guardian, spouse, or other appropriate relative of a client who has been abused to be notified immediately if possible and in no case later than 24 hours. Subsection (f) would be amended to require the head of the facility to report by telephone all incidents of client abuse that result in serious injury to the appropriate deputy commissioner within 24 hours of learning of the incident. A new subsection (h) would be added that would require the head of the facility to submit to the commissioner the confirmed and unconfirmed Client Abuse and Neglect Report. The proposed subsection (h) would also add Exhibit "B"—Rule .006, which is the form that would be used for making the confirmed and unconfirmed client abuse and neglect report.

The proposed amendment to Rule .007 would amend subsections (a) and (b) and would delete subsection (e). The proposed amendment would amend subsection (a) so that the Office of Staff Development of the Central Office of the Texas Department of Mental Health and Mental Retardation would approve any audiovisual or other teaching aides to be used in training staff in the prevention of client abuse. Subsection (c) would be amended so that the language of that section reads "all supervisory personnel shall insure that each employee receive continued training at least once each calendar year."

The proposed amendment to Rule .009 would add a new subsection (i) that would add Article 5547-300, Vernon's Texas Civil Statutes as a reference.

The proposed amendments will have no known fiscal implications for the state or for units of local government (source: Legal and Claims Division).

Public comment on the proposed amendments is invited. Persons may submit their comments by writing to John J. Kavanagh, M.D., commissioner, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711, or by telephone at (512) 454-3761.

These amendments are proposed under the authority contained in Section 2.11(b) of Article 5547-202, Texas Civil Statutes.

.001. Purpose. The purpose of these rules is to identify and prohibit client abuse *and neglect* by employees of the Texas Department of Mental Health and Mental Retardation and to prescribe procedures for its report and prevention.

.003. Definitions. In these rules:

(a)-(f) (No change)

(g) "*Serious physical injury*" means any injury determined to be serious by the physician who examines the client. Examples of serious injury include but are not limited to the following: death, complete fracture, dislocation of any major joint, internal injury, any contusion larger than 2-1/2 inches in diameter, concussion, second

or third degree burn, or any laceration beyond the first layer of skin.

(h) "Nonserious physical injury" means any injury determined not to be serious by the physician who examines the client. Examples of nonserious injury include but are not limited to the following: superficial laceration, contusion, or abrasion, incomplete fracture, dislocation of any minor joint, or first degree burn.

(i) "Negligence" means the doing of something that a person of ordinary prudence would not have done under the same or similar circumstances, or the failure to do something that a person of ordinary prudence would have done under the same or similar circumstances.

.004. Client Abuse and Neglect Defined.

(a) **Class I abuse means any act or failure to act done knowingly, recklessly or intentionally, including incitement to act, which caused or may have caused serious physical injury to a client. Without regard to injury, any sexual activity between an employee and a client will be considered to be Class I abuse.** ["Client abuse" means any act or failure to act if it is done knowingly, recklessly, or intentionally, and which results in physical, mental, or emotional harm to the client and which are not actions included in paragraph (b) of this Rule .004.]

(b) **Class II abuse means any act or failure to act done knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused non-serious physical injury to a client.** ["Client abuse" shall not include:

(1) the proper use of restraints or seclusion (Rules of the Commissioner of MH/MR, Restraint and Seclusion, 302.04.06), the approved application of behavior modification techniques (Rules of the Commissioner of MH/MR, Behavior Modification, 302.04.07), or other actions taken in accordance with the rules of the commissioner of mental health and mental retardation.

(2) such actions as an employee may reasonably believe to be immediately necessary to avoid imminent harm to himself, clients, or other persons if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances.]

(c) **Class III abuse means any use of verbal or other communication to curse, vilify, or degrade a client, or threaten a client with physical or emotional harm, or any act which vilifies, degrades, or threatens a client with physical or emotional harm.**

(d) "Neglect" means the negligence of an employee which causes any physical or emotional injury to a client. Examples of neglect shall include but are not limited to failure to carry out a prescribed individual program plan or treatment plan; failure to provide adequate nutrition, clothing, or health care; or failure to provide a safe environment.

(e) **Client abuse shall not include:**

(1) the proper use of restraints or seclusion (Rules of the Commissioner of MH/MR, Restraint and Seclusion, 302.05.06), the approved application of behavior modification techniques (Rules of the Commissioner of MH/MR, Behavior Modification, 302.04.07), or other actions taken in accordance with the rules of the commissioner of mental health and mental retardation;

(2) such actions as an employee may reasonably believe to be immediately necessary to avoid imminent

harm to himself, clients, or other persons if such actions are limited only to those actions reasonably believed to be necessary under the existing circumstances.

.005. Administrative Enforcement.

(a) Client abuse or neglect by department employees is prohibited and shall be grounds for disciplinary action.

(b) The head of the facility or his designee shall be responsible for:

(1) determining whether the employee accused of client abuse or neglect should be granted emergency leave immediately after the reporting of the suspected client abuse or neglect pending investigation pursuant to Rules of the Commissioner of MH/MR Governing the Internal Management of Facilities of the Department, Personnel, Emergency Leave, 302.05.03.035;

(2) reporting any complaint or report of client abuse immediately to the Client Abuse Committee chairperson [investigating fully, within five calendar days, all reports of client abuse];

(3) investigating fully, within five calendar days, all reports of client abuse and neglect and implementing prompt and proper preventative [preventive] action when a charge of client abuse or neglect is substantiated; and

(4) implementing prompt and proper disciplinary action when a charge of client abuse or neglect is substantiated, based on criteria including but not limited to:

(A) the seriousness of the client abuse or neglect,

(B)-(C) (No change.)

(5) disciplinary action referred to in subsection (b)(4) of this rule shall [may] include the following [but is not necessarily limited to]

(A) **Class I abuse.** If the head of the facility has determined that an employee has committed Class I abuse as defined by these rules, that employee shall be dismissed from employment. [removal from a direct-care position to another position.]

(B) **Class II abuse.** If the head of the facility has determined that an employee has committed Class II abuse as defined by these rules, and if the act of abuse is the employee's first violation, the employee shall be placed on suspension for up to 10 days, demoted, or dismissed from employment. If the act of abuse is the employee's second violation, that employee shall be dismissed from employment. [suspension for less serious cases of abuse such as those involving poor judgment or failure to report on the part of the employee (Rules of the Commissioner of MH/MR, Personnel, 302.05.03.047).]

(C) **Class III abuse.** If the head of the facility has determined that an employee has committed Class III abuse as defined by these rules, and if the act of abuse is the employee's first violation, the employee shall receive a written reprimand which shall become a part of the employee's personnel file or shall be placed on suspension without pay for up to 10 days. If the act of abuse is the employee's second violation, that employee shall be placed on suspension for up to 10 days, demoted, or dismissed from employment [dismissal for cause for substantiated cases of client abuse (Rules of the Commissioner, Personnel, 302.05.03.048)].

(D) **Neglect.** If the head of the facility has determined that an employee is guilty of neglect as defined by these rules, the employee shall receive a written reprimand, shall be placed on suspension for up to 10 days, demoted, or dismissed from employment.

(c) The head of a facility *shall* [may] appoint a multidisciplinary committee or committees comprised of five persons to assist in the investigation of alleged incidents of client abuse. ***This committee shall be called the Client Abuse Committee.*** Four members of the committee shall be staff persons representative of the professional staff, administrative staff, and [nonprofessional] direct care staff. One member of the committee shall also be a member of the Public Responsibility Committee for the facility. The terms of membership shall be one year. ***One person shall be designated to act as chairperson of this committee and shall be required to maintain all records of investigations conducted by the committee.***

(d) It shall be the duty of the multidisciplinary committee established pursuant to subsection (c) of this rule:

(1) to investigate fully alleged incidents of client abuse ***or neglect*** within five calendar days from the date the alleged incident is reported; and

(2) to report to the head of the facility whether it is of the opinion that there is cause to believe that client abuse ***or neglect*** has occurred in the incident investigated. Such opinion is not binding on the head of the facility.

(e) (No change.)

.006. Procedure for Reporting Incidents of Client Abuse.

(a) It is the obligation of each employee who has knowledge of, or is involved in, client abuse to make an immediate verbal report and a written incident and/or accident (if appropriate) report within *two* [24] hours of the incident to the head of the facility ***or his designee***. Employees failing to make such reports shall be considered in violation of this rule and subject to disciplinary action.

(b) The head of the facility shall immediately report to the ***chairperson of the Client Abuse Committee*** [Public Responsibility Committee for the facility] each report of an alleged incident of client abuse ***or neglect*** that is made to the head of the facility. ***Whenever the head of a facility has reason to believe, after appropriate investigation, that any client abuse related crime has been committed, the head of the facility shall report the occurrence to local law enforcement agencies.*** [Any person who is of the belief that any abuse has occurred to a client (resident or patient) may make his or her concerns known to the Public Responsibility Committee under existing Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Public Responsibility Committee, 302.04.09.]

(c) ***Any person who is of the belief that any abuse or neglect has occurred to a client (resident or patient) may make his or her concerns known to the Public Responsibility Committee under existing Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Public Responsibility Committee, 302.04.09*** [Whenever the head of a facility has reason to believe, after appropriate investigation, that any client abuse related crime has been committed, the head of the facility, shall report the occurrence to local law enforcement agencies and make a criminal occurrence report as provided in Rules of the Commissioner of MH/MR Affecting Client (Patient) Care, Unusual Incidents at Institutions, 302.04.03.]

(d) Each employee who believes that a child has been or may be adversely affected by abuse and/or neglect (whether or not by departmental employees), shall make a report as required by Section 34.01 and 34.02 of the Texas Family Code. Any employee making such a report shall also report the

situation to the head of the facility if the child is a client of the facility. If the head of the facility believes that a child has been or may be adversely affected by abuse and/or neglect (whether or not by departmental employees), the head of such facility or his or her designee, shall make a report as required by Sections 34.01 and 34.02 of the Texas Family Code. It shall be the responsibility of the head of the facility to insure that such reports are made, when appropriate. Initial verbal reports can be made to the Texas Department of Human Resources Child Abuse hotline, or the local Department of Human Resources field office. A final report concerning the completed investigation of the alleged abuse or neglect will be sent to the Department of Human Resources. When such reports are made, the person who initiated the report to the head of the facility shall be so informed in writing. [Sections 34.01, 34.02, and 34.03 of the Texas Family Code provide as follows:

[Section 34.01] Persons Required to Report. Any person having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect shall report in accordance with Section 34.02 of this code.

[Section 34.02. Contents of Report—To Whom Made.

(a) Nonaccusatory reports reflecting the reporter's belief that a child has been or will be abused or neglected shall be made to:

(1) the Texas Department of Human Resources;

(2) the agency designated by the court to be responsible;

(3) any local or state law enforcement agency.

(b) All reports must contain the name and address of the child, the name and address of the person responsible for the care of the child, if available, and any other pertinent information.

(c) All reports received by any local or state law enforcement agency shall be referred to the Texas Department of Human Resources or to the agency designated by the court to be responsible for the protection of the children.

(d) An oral report shall be made immediately on learning of the abuse or neglect as prescribed in subsection (a) of this section, and a written report shall be made within five days to the same agency or department. Anonymous reports, while not encouraged, will be received and acted on in the same manner as acknowledged reports.

[Section 34.03] Immunities. Any person reporting pursuant to this chapter is immune to liability, civil or criminal, that might otherwise be incurred or imposed. Immunity extends to participation in any proceedings resulting from this report. Persons reporting in bad faith or with malice are not protected by this section.

(e) The parents, guardian, spouse or other appropriate relative of a client who has been abused shall be notified ***immediately if possible and in no case later than 24 hours*** [within 24 hours] after the client abuse has been confirmed by preliminary investigation unless such notification is specifically prohibited by law (Rules of the Commissioner of MH/MR, Rights of Patients and Residents, 302.04.16 and other rules of the commissioner of mh/mr relating to confidentiality). If notified of the incident, they shall also be informed of the results of any investigation of the incident.

(f) When it appears, after preliminary investigation, that client abuse may have occurred (and) which ***results in a serious injury*** [is either serious in nature or results in contact with parents], the head of the facility shall report the occurrence by telephone to the appropriate deputy commissioner within 24 hours of learning of the incident. When death or serious injury results, this report can be made in conjunction with the report required by Rules of the Commis

sioner of MH/MR Affecting Client (Patient) Care, Unusual Incidents at Institutions, 302.04.03.

(g) (No change.)

(h) **Upon completion of the investigation the head of the facility shall submit to the commissioner the confirmed and unconfirmed Client Abuse and Neglect Report (Exhibit B-.04.19.006).**

.007. *Staff Training in Prevention of Client Abuse.*

(a) These rules concerning client abuse shall be read and explained to or read by all employees of each facility, or [approved] audiovisual and/or other teaching aids **concerning these rules that have been approved by the Office of Staff Development of Central Office** [concerning these rules] may be presented to all employees of each facility, as follows:

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

(b) (No change.)

(c) All supervisory personnel shall **insure that each employee receives** [be responsible for] continued training **at least** [which shall occur not less than] once each calendar year.

(d) (No change.)

(e) A department facility may use audiovisual and/or other teaching aids as a means of providing the instruction required by this rule; provided, however, that such audiovisual and/or other teaching aids may be used only if prior approval for their use has been obtained from the Staff Development Section of the Central Office.

.009. *References.* Reference is made to the following statutes, Rules of the Commissioner of Mental Health and Mental Retardation, and Attorney General opinions:

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

(9) **Article 5547-300, Vernon's Texas Civil Statutes.**

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 805994

John J. Kavanagh, M.D.
Commissioner

Texas Department of Mental Health and
Mental Retardation

Proposed Date of Adoption: September 12, 1980

For further information, please call (512) 454-3761.

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 "Non-codified."

CODIFIED



TITLE 22. EXAMINING BOARDS

Part X. State Board of Morticians

Chapter 203. Licensing and Enforcement— Specific Substantive Rules

The State Board of Morticians adopts a new section as it relates to clarification of Article 4582b, Section 1, Item C, Texas Revised Civil Statutes. The agency adopts this new section to define and state its interpretation to further clarify

the intent of this Act to alleviate problems arising from misinterpretation of this portion of the Act.

This new section is adopted under authority of Article 4582b, Texas Revised Civil Statutes.

§203.16 (387.02.00.016). Clarification of First Call Definition.

(a) A morgue shall be defined as a place where the bodies of unidentified persons or those who have died of violence or unknown causes are kept until released for burial or other lawful disposition.

(b) The pickup of a dead human body at a morgue constitutes a first call if that is the beginning of the relationship and duty of the funeral director to take charge of that dead human body for preparation for burial or other lawful disposition.

(c) The transfer of a dead human body from a funeral home to and from a morgue is not a first call if the above relationship between the funeral director and the dead human body has already been established.

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 805999 Ann Lloyd
Executive Secretary
State Board of Morticians

Effective Date. August 25, 1980
Proposal Publication Date. July 1, 1980
For further information, please call (512) 442-6721.

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 101. General

In §101.1 (131.01.00.001, .002), Definitions, several minor changes have been made in the proposed list of definitions by the TACB. Several definitions were deleted because the defined term is in common usage and was not being given any specialized meaning. Others were deleted because the sections where the terms appear were not adopted.

This section is adopted under the authority of Article 4477-5, Vernon's Texas Civil Statutes

§101.1 (131.01.00.001, .002). Definitions.

(a) In addition to the terms which are defined by the Texas Clean Air Act (Article 4477-5, Vernon's Annotated Civil Statutes), the following terms shall have the meanings given herein:

De minimis impact. A change in ground level concentration of an air contaminant as a result of the operation of any new major stationary source or of the operation of any existing source which has undergone a major modification, which does not exceed the following specified amounts.

<u>AIR CONTAMINANT</u>	<u>ANNUAL</u>	<u>24-HOUR</u>	<u>8-HOUR</u>	<u>3-HOUR</u>	<u>1-HOUR</u>
TOTAL SUSPENDED PARTICULATE	<u>1.0 ug/m³</u>	<u>5 ug/m³</u>			
SULFUR DIOXIDE	<u>1.0 ug/m³</u>	<u>5 ug/m³</u>		<u>25 ug/m³</u>	
NITROGEN DIOXIDE	<u>1.0 ug/m³</u>				
CARBON MONOXIDE			<u>0.5 mg/m³</u>		<u>2 mg/m³</u>

Gasoline bulk plant. A gasoline loading and/or unloading facility having a gasoline throughput less than 20,000 gallons (75,700 liters) per day, averaged over any consecutive 30-day period.

Internal floating cover. A cover or floating roof in a fixed roof tank which rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell.

Liquid mounted seal. A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof around the circumference of the tank.

Major modification. Any modification to an existing stationary source which increases (1) potential emissions by 100 tons per year, 2,000 pounds per day, 200 pounds per hour or more, and (2) actual or allowable emissions by 50 tons per year, 1,000 pounds per day, or 100 pounds per hour or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Major stationary source. Any stationary source which (1) emits, or has the potential to emit, 100 tons per year, 2,000 pounds per day, 200 pounds per hour or more, and (2) which has or will have actual or allowable emissions of 50 tons per year, 1,000 pounds per day, or 100 pounds per hour or more of any air contaminant (including volatile organic compounds) for which a national ambient air quality standard has been issued.

Petroleum refinery. Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of crude oil, or through the redistillation, cracking, extraction, reforming, or other processing of unfinished petroleum derivatives.

Property. All land under common control or ownership coupled with all improvements on such land, and all fixed or movable objects on such land, or any vessel on the waters of this state.

Surface Coating Processes. Continuous or assembly-line surface coating operations using solvent-containing liquids.

(A)-(1) (No change.)

(J) Miscellaneous metal parts and products coating. The coating of miscellaneous metal parts and products in the following categories:

(i) large farm machinery (harvesting, fertilizing, and planting machines, tractors, combines, etc.);

(ii) small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);

(iii) small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);

(iv) commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);

(v) industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

(vi) fabricated metal products (metal-covered doors, frames, etc.); and

(vii) any other category of coated metal products except the specified list in subparagraphs (A)-(I) of surface coating processes, which are included in the standard industrial classification code Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (nonelectrical machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries).

(K) Factory surface coating of flat-wood paneling. Coating of flat-wood paneling products, including hardboard, hardwood plywood, particle board, printed interior paneling, and tileboard.

Vapor tight. Not capable of allowing the passage of gases at the pressures encountered except where other acceptable leak tight conditions are prescribed in the regulations.

Volatile organic compound (VOC). Any compound of carbon or mixture of carbon compounds excluding methane, ethane, methyl chloroform, Freon 113, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

Waxy, high pour point crude oil. A crude oil with a pour point of 50 F (10 C) or higher as determined by the American Society for Testing and Materials Standard D97-66, "Test for Pour Point of Petroleum Oils."

(b) (No change.)

Issued in Austin, Texas, on July 30, 1980.

Doc. No. 805955 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: August 22, 1980
Proposal Publication Date: March 25, 1980
For further information, please call (512) 451-5711. GAT

Chapter 115. Volatile Organic Compounds

Storage of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

As a result of the evaluation of comments received on the proposed rules and further consideration, significant changes have been made to the original proposed revisions as published in the March 28, 1980, issue of the *Texas Register* (5 TexReg 1182). Since section number changes and additions are also involved, a brief summary is presented for each major deviation from the proposed rules.

In §115.101 (131.07.51.101), the requirements for secondary seals on storage tanks have been removed from §115.103 and incorporated within Table I and Table II of this section in order to list all storage tank control devices including secondary seals in the same tabular format.

In §115.102 (131.07.51.102), secondary seal requirements and maximum gap allowed were proposed as §115.102 (.102(b)) and have been adopted with only minor changes.

Section 115.103 is a new section for secondary seal inspection. Secondary seal inspection requirements have been placed in a separate section to emphasize an important control requirement. The proposed §115.103 (.103) (title: Double Seal Requirements) is withdrawn and a new §115.103 (title: Inspection Requirements), adopted.

Section 115.104 is a new section added as a result of comments received on the proposed sections, which requires that

records be kept concerning the storage of certain types of volatile organic compounds. Proposed §115.104 (.104) (title: Exemptions) is withdrawn and this new §115.104 (title: Record Keeping Requirements) adopted.

Section 115.105 (131.07.51.104) text has not been changed from that proposed as §115.104 (.104), but the number has been changed to §115.105 (.104) to provide for the insertion of the new §115.104. Section 115.105 (.105) (title: Counties and Compliance Schedules) is withdrawn, and re-established as §115.106 (.105), and the new §115.105 (.104) (title: Exemptions) adopted.

Section 115.106 (131.07.51.105) was proposed as §115.105 (.105), but has been renumbered to provide for the insertion of new §115.104. The compliance date for retrofit with double seals has been changed from December 31, 1983, to December 31, 1982, as the result of comments received on the proposed section.

These sections are adopted under the authority of Article 4477-5, Vernon's Texas Civil Statutes, Texas Clean Air Act.

§115.101 (131.07.51.101). Control Requirements. No person shall place, store, or hold in any stationary tank, reservoir, or other container any volatile organic compound (VOC) with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) unless such container is capable of maintaining working pressure sufficient at all times to prevent any vapor or gas loss to the atmosphere, or is equipped with at least the control device specified in Table I (for VOC other than crude oil and condensate) or Table II (for crude oil and condensate) or any other control device which will provide substantially equivalent control and is approved by the executive director.

TABLE I

REQUIRED CONTROL DEVICES FOR STORAGE TANKS FOR
VOC OTHER THAN CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Tank Type	Minimum Emission Control Requirements
< 1.5 psia (10.3 kPa)	Any	Any	None
≥ 1.5 psia (10.3 kPa) and < 4 psia (28 kPa)	< 1,000 gal (3,800 l)	Any	None
	> 1,000 gal (3,800 l) ≤ 25,000 gal (94,600 l)	Any	Submerged fill
	> 25,000 gal (94,600 l) ≤ 42,000 gal (159,000 l)	Any	Internal or external floating roof (any type)
	≥ 42,000 gal (159,000 l)	Welded	Internal floating roof or External floating roof with metallic-type shoe seal, or liquid-mounted, liquid filled seal, or liquid mounted foam seal or External floating roof with vapor mounted primary seal <u>and</u> secondary seal
		Riveted	Internal floating roof or External floating roof with primary seal (any type) <u>and</u> secondary seal

TABLE I (continued)

REQUIRED CONTROL DEVICES FOR STORAGE TANKS FOR
VOC OTHER THAN CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Tank Type	Minimum Emission Control Requirements
≥ 4 psia (28 kPa) and < 11 psia (76 kPa)	$\leq 1,000$ gal (3,800 l)	Any	None
	$> 1,000$ gal (3,800 l)	Any	Submerged fill
	$\leq 25,000$ gal (94,600 l)		
	$> 25,000$ gal (94,600 l)	Any	Internal or external floating roof (any type)
	$\leq 42,000$ gal (159,000 l)		
$> 42,000$ gal (159,000 l)	Any	Internal floating roof or External floating roof with primary seal (any type) and secondary seal	
≥ 11 psia (76 kPa)	$\leq 1,000$ gal (3,800 l)	Any	None
	$> 1,000$ gal (3,800 l)	Any	Submerged fill
	$\leq 25,000$ gal (94,600 l)		
	$> 25,000$ gal (94,600 l)	Any	vapor recovery system

TABLE II

REQUIRED CONTROL DEVICES FOR STORAGE TANKS
FOR CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Tank Type	Minimum Emission Control Requirements
< 1.5 psia (10.3 kPa)	Any	Any	None
≥ 1.5 psia (10 kPa) and < 4 psia (28 kPa)	≤ 1,000 gal (3,800 l)	Any	None
	≥ 1,000 gal (3,800 l) ≤ 42,000 gal (159,000 l)		Submerged fill
	> 42,000 gal (159,000 l)	Welded	Internal floating roof or External floating roof with metallic-type shoe seal, or liquid-mounted, liquid filled seal, or liquid mounted foam seal or External floating roof with vapor mounted primary seal <u>and</u> secondary seal
		Riveted	Internal floating roof or External floating roof with primary seal (any type) <u>and</u> secondary seal

TABLE II (continued)
 REQUIRED CONTROL DEVICES FOR STORAGE TANKS
 FOR CRUDE OIL AND CONDENSATE

True Vapor Pressure of Compound at Storage Conditions	Nominal Storage Capacity	Tank Type	Minimum Emission Control Requirements
≥ 4 psia (20 kPa) and < 11 psia (76 kPa)	$\leq 1,000$ gallons (3,800 l)	Any	None
	$> 1,000$ gallons (3,800 l) $\leq 42,000$ gallons (159,000 l)	Any	Submerged fill
	$> 42,000$ gallons (159,000 l)	Any	Internal floating roof or External floating roof with primary seal (any type) and secondary seal
≥ 11 psia (76 kPa)	$\leq 1,000$ gallons (3,800 l)	Any	None
	$> 1,000$ gallons (3,800 l) $\leq 42,000$ gallons (159,000 l)	Any	Submerged fill
	$> 42,000$ gallons (159,000 l)	Any	Vapor recovery system

§115.102 (131.07.51.102). Floating Roof Storage Tank Requirements. For floating roof storage tanks subject to the provisions of §115.101 (101) of this title (relating to control requirements), the following requirements shall apply:

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

(6) For secondary seals, the seal shall be continuous from the floating roof to the tank wall (rim mounted secondary seal), with an accumulated area of gaps that exceed 1/8-inch (0.3 cm) in width between the secondary seal and tank wall no greater than 1.0 inch² per foot (21.2 cm²/meter) of tank diameter.

§115.103. Inspection Requirement. The following inspection requirements apply to secondary seals required by §115.101 (101) of this title (relating to control requirements):

(1) all secondary seals shall be inspected annually to insure compliance with §115.102(5) (102(5)) of this title (relating to floating roof storage tank requirements);

(2) If the primary seal is vapor mounted, secondary seal gap measurements shall be conducted annually to insure compliance with §115.102(6) (102(6)) of this title (relating to floating roof storage tank requirements);

§115.104. Record Keeping Requirements. The owner or operator of any storage vessel with an external floating roof used to store petroleum liquids with a true vapor pressure of greater than 1.0 psia (6.9 kPa) shall maintain records of the type of VOC stored and the average monthly true vapor pressure of the stored liquid, as well as the results of any inspections required by §115.103 of this title (relating to inspection requirements). Records shall be maintained for two years and be made available for review by authorized representatives of the Texas Air Control Board and/or pollution control agencies.

§115.105 (131.07.51.104). Exemptions. The following are exemptions to the requirements of §§115.101 and 115.102 (101, 102) of this title (relating to required control devices and floating roof storage tank requirements):

(1) Crude oil and condensate, prior to custody transfer, are exempt from all provisions of §115.101 (101) of this title (relating to control requirements) if stored in tanks with a nominal capacity less than 210,000 gallons (795,000 liters);

(2) Slotted sampling and gauge pipes installed in any floating roof storage tank are exempt from the provisions of §115.102(1) (102(1)) of this title (relating to floating roof storage tank requirements);

(3) Storage containers which have a capacity of less than 25,000 gallons (95,000 liters) located at motor vehicle fuel dispensing facilities are exempt from the requirements of §115.101 (101) of this title (relating to control requirements);

(4) A welded tank with a metallic type shoe primary seal which has a secondary seal from the top of the shoe seal to the tank wall (a shoe mounted secondary seal is exempt from the requirements of §115.101 (101) of this title (relating to control requirements) for retrofit with a rim mounted secondary seal if the shoe mounted secondary seal is installed or scheduled for installation before the effective date of this section;

(5) External floating roof tanks storing waxy, high pour point crude oils are exempt from any secondary seal requirements of §115.101 (101) of this title (relating to control requirements);

(6) All persons in Ector County are exempt from any double seal requirement of §115.101 (101) of this title (relating to control requirements).

§115.106 (131.07.51.105). Counties and Compliance Schedules.

(a) The provisions of §§115.101-115.104 (101, 102) of this title (relating to control requirements, floating roof storage tank requirements, inspection requirements, and record keeping requirements) shall apply to Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

(b) All persons affected by §115.101 (101) of this title (relating to control requirements) shall submit a final control plan for compliance no later than December 31, 1979, and shall be in compliance as soon as practicable but no later than December 31, 1982, with the exception noted in subsection (c) of this section.

Issued in Austin, Texas, on July 30, 1980

Doc. No 805956 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date August 22, 1980

Proposal Publication Date March 28, 1980

For further information, please call (512) 451-5711, ext. 354

Facilities for Loading and Unloading of Volatile Organic Compounds in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

The proposed §115.111(2) (131.07.52.101(2)) included a new vapor tightness requirement which was added by reference to proposed §§115.261-115.265. As a result of evaluation of the public hearing comments and further TACB consideration, these rules have been specifically listed in §115.111 (101). The new requirements have been added in §115.111 (101)(4) and (5) and concern vapor recovery requirements and tank truck tank leak test certification. The December 31, 1983, compliance date has also been changed to December 31, 1982, in §115.113 (104) for paragraphs (4) and (5) of §115.111 (101).

These sections are adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§115.111 (131.07.52.101). Throughput and Control Requirements. No person shall permit the loading or unloading to or from any facility having 20,000 gallons (75,700 liters) or more throughput per day (averaged over any consecutive 30-day period) of volatile organic compounds with a true vapor pressure equal to or greater than 1.5 psia (10.3 kPa) under actual storage conditions, unless the following emission control requirements are met by the dates specified in §115.113 (104) of this title (relating to compliance schedule and counties):

(1) (No change.)

(2) Volatile organic compound vapors from gasoline terminals shall be reduced to a level not to exceed 0.67 pounds of volatile organic compounds per 1,000 gallons (80 mg/liter) of gasoline transferred. Prior to December 31,

1982, affected gasoline terminals other than those located in Ector or Gregg Counties shall remain in compliance with paragraph (1) of this section.

(3) When loading or unloading is effected through the hatches of a tank truck or trailer or railroad tank car with a loading arm equipped with a vapor collection adapter, pneumatic hydraulic, or other mechanical means shall be provided to force a vapor tight seal between the adapter and the hatch. A means shall be provided to prevent liquid drainage from the loading device when it is removed from the hatch of any tank truck, trailer, or railroad tank car, or to accomplish complete drainage before such removal. When loading or unloading is effected through means other than hatches, all loading and vapor lines shall be:

(A) equipped with fittings which make vapor tight connections and which close automatically when disconnected; or

(B) equipped to permit residual volatile organic compounds in the loading line to discharge into a recovery or disposal system after loading is complete. All gauging and sampling devices shall be vapor-tight except for necessary gauging and sampling.

(4) Vapor recovery systems and loading equipment at gasoline terminals must be designed and operated to meet the following conditions:

(A) gauge pressure must not exceed 18 inches of water (4.5 kPa) and vacuum must not exceed six inches of water (1.5 kPa) in the gasoline tank truck.

(B) no VOC leaks shall produce readings equal to or greater than 10% of the lower explosive limit (LEL, measured as propane) at one inch (2.5 cm) from all points on the perimeter of any potential leak source when measured with a portable combustible gas detector; and

(C) no avoidable liquid leaks exist during loading and unloading operations.

(5) Gasoline tank truck tanks being loaded in Harris County must have been leak tested within one year as evidenced by prominently displayed certification, affixed near the DOT certification plate.

§115.113 (131 07 52 104) *Compliance Schedule and Counties* All affected persons in the counties and for the facilities specified below shall be in compliance with the section paragraphs specified below as soon as practicable but not later than the date shown:

Rule Paragraphs	Affected Facility	Counties Where Rule Is Applicable	Final Compliance Date	Final Control Plan Submittal Date
Paragraphs (1) and (3) of §115.111 of this title (relating to Throughput and Control Requirements).	Volatile Organic Compound Loading Facilities	Bexar, Brazoria, Dallas, El Paso, Galveston, Harris, Jefferson, Nueces, Orange, and Victoria.	12/31/73	Previously Submitted
		Tarrant	2/29/80	Previously Submitted

Rule Paragraphs	Affected Facility	Counties Where Rule Is Applicable	Final Compliance Date	Final Control Plan Submittal Date
Paragraphs (2) and (3) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Orange, Nueces, Tarrant, and Victoria	12/31/82	12/31/79
Paragraph (4) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, And Victoria	12/31/82	7/1/81
Paragraph (5) of §115.111 of this title (relating to Throughput and Control Requirements).	Gasoline Terminals	Harris	12/31/82	7/1/81

Doc No 805957

Gasoline Bulk Plants in Harris County.

The gasoline bulk plant proposed regulation revision included, by reference to §§115.261-115.265, specific control measures for vapor recovery systems and gasoline tank truck tanks. As a result of the public hearing evaluation, a decision to specifically list the additional controls within the text of the bulk plant regulation appeared feasible and the following major changes are listed in the rewritten regulation:

(1) The control measures in §115.121(a) (131.07.53.101(a)) are now itemized in separate paragraphs for improved clarity and reference identity.

(2) The control measures in §115.121(b) (101(b)) are also itemized in separate paragraphs with the additional controls listed in paragraphs (1), (5), and (6) of this subsection (b).

(3) The compliance schedule in §115.123 (103) has been revised because of the additional control measures. The 1983 final compliance date which was proposed by reference to §§115.261-115.265 has been changed to December 31, 1982.

These sections are adopted under the authority of Article 4477.5, Vernon's Annotated Texas Civil Statutes.

§115.121 (131.07.53.101) Control Requirements

(a) No person shall permit the transfer of gasoline from a transport vessel into a gasoline bulk plant storage tank unless the following requirements are met:

(1) A vapor return line is installed from the storage tank to the transport vessel.

(2) There are no leaks in the transfer system, which includes liquid lines, vapor lines, hatch covers, and pumps, or in the transport vessel's pressure vacuum relief valves.

(3) The only atmospheric emission during gasoline transfer is through the storage tank's pressure vacuum relieve valve.

(4) The maximum loss of volatile organic compounds due to product transfer is 1.2 pounds per 1,000 gallons (140 mg/liter) of gasoline transferred.

(5) All gauging and sampling devices are vapor-tight except during necessary gauging and sampling.

(6) The transport vessel is kept vapor tight at all times (except when gauging) until the captured vapors are discharged properly during the transport vessel's next refill.

(b) No person shall permit the transfer of gasoline from a gasoline bulk plant into a delivery tank truck tank unless the following requirements are met:

(1) The tank truck tank has been leak tested within one year as evidenced by a prominently displayed certification affixed near the DOT certification plate.

(2) The tank truck tank, if equipped for top loading, has a submerged fill pipe.

(3) There are no gasoline leaks between the storage tank connection and the delivery truck.

(4) A vapor return line is installed from the delivery truck to the storage tank.

(5) Gauge pressure does not exceed 18 inches of water (4.5 kPa) and vacuum does not exceed six inches of water (1.5 kPa) in the gasoline tank truck tank.

(6) There are no vapor leaks in the transfer system, which includes liquid lines, vapor lines, hatch covers, and pumps, or in the delivery truck's pressure vacuum relief valves which produce readings equal to or greater than 100% of the lower explosive limit (LEL, measured as propane) at one inch (2.5 cm) from the potential leak source when measured with a combustible gas detector.

(7) The only atmospheric emission during gasoline transfer is through the storage tank pressure vacuum relief valves.

(8) The maximum loss of volatile organic compounds is 1.2 pounds per 1,000 gallons (140 mg/liter) of gasoline transferred.

(9) All gauging and sampling devices are vapor tight except during gauging or sampling.

§115.122 (131.07.53.102) Exemptions. Gasoline bulk plants which have a gasoline throughput less than 4,000 gallons (15,142 liters) per day averaged over any consecutive 30 day period are exempt from the provisions of §115.121(b) (101(b)) of this title (relating to control requirements).

§115.123 (131.07.53.103) Compliance Schedule and Counties. The requirements of §115.121 (101) of this title (relating to control requirements) apply only within Harris County. All affected persons within that county shall be in compliance with §115.121 (101) as soon as practicable but no later than December 31, 1982, and shall submit a final control plan for compliance to the Texas Air Control Board no later than December 31, 1979, with the exception that all persons affected by §115.121(b) (101(b)) pertaining to tank truck tank leak testings, §115.121(b)(5) (101(b)(5)) pertaining to pressure and vacuum limitations, and §115.121(b)(6) (101(b)(6)) pertaining to quantitative leak limitations, shall be in compliance as soon as practicable, but no later than December 31, 1982, and shall submit a final control plan to the Texas Air Control Board no later than July 31, 1981.

Doc No 805958

Filling of Gasoline Storage Vessels (Stage I) for Motor Vehicle Fuel Dispensing Facilities in Bexar, Brazoria, Dallas, Galveston, Harris, and Tarrant Counties

Specific emission controls for vapor recovery systems and gasoline tank truck tanks were included in the proposed revision by reference to §§115.261-115.265. As a result of the public hearing, comments, and further staff consideration, the additional controls have been included in the text of the final revised section. A compliance date has also been included for these new requirements. Specific changes from the proposed sections include:

(1) A gasoline tank truck tank inspection requirement has been added as §115.131(3) (131.07.54.101(3)), applicable to Harris County only.

(2) Two new vapor balance control requirements have been added as paragraphs (6) and (7) of §115.132 (102).

(3) The compliance date for the additional controls included by reference in the proposed sections have been revised to December 31, 1982, from December 31, 1983, and included in §115.135 (105). The compliance dates and counties have also been placed in tabular form for convenience reference.

(4) Section 115.133 (103) for alternate vapor balance systems, has been withdrawn and the number placed in reserve. This section was redundant because §115.401 which provides for alternate controls is applicable to all rules in Regulation V.

These sections are adopted under the authority of Article 4477.5, Vernon's Annotated Texas Civil Statutes.

§115.131 (131.0754.101) *Control Requirements* No person shall transfer or allow the transfer of gasoline from any delivery vessel into a stationary storage container with a nominal capacity greater than 1,000 gallons (3,800 liters) which is located at a motor vehicle fuel dispensing facility unless the following conditions are met:

(1) The container is equipped with a submerged fill pipe.

(2) The displaced vapors from the storage container are processed by a vapor recovery system which reduces the emissions of volatile organic compounds to the atmosphere to not more than 1.2 pounds per 1,000 gallons (140 mg/liter) of gasoline transferred.

(3) In Harris County, the gasoline tank truck tank has been inspected for leaks within one year, as evidenced by a prominently displayed certification affixed near the DOT certification plate.

§115.132 (131.0754.102) *Approved Vapor Balance System* When a vapor balance system is used to comply with the provisions of §115.131 (101) of this title (relating to control requirements), the balance system will be assumed to meet the specified emission limitations if the following conditions are met:

(1) a vapor tight return line is connected before gasoline can be transferred into the storage container.

(2) no gasoline leaks exist anywhere in the liquid transfer system.

(3) the vapor return line's cross sectional area is at least 1/2 of the product drop line's cross sectional area;

(4) the only atmospheric emission during gasoline transfer into the storage container is through a storage container vent line equipped either with an orifice no greater than 3/4 inch (1.9 cm) internal diameter or a pressure vacuum relief valve set to open at a pressure of eight ounces per square inch (3.4 kPa).

(5) the delivery vessel is kept vapor tight at all times (except when gauging) until the captured vapors are discharged to a loading facility with vapor recovery equipment, if the delivery vessel is refilled in one of the counties listed in §115.135 (105) of this title (relating to compliance schedules and counties).

(6) in Harris County, gauge pressure in the tank truck tank does not exceed 18 inches of water (4.5 kPa) or vacuum exceed six inches of water (1.5 kPa).

(7) in Harris County, readings less than 100% of the lower explosive limit (LEL, measured as propane) at one inch (2.5 cm) from potential leak sources when measured with a combustible gas detector.

§115.133 (131.0754.103) *Reserved for Expansion*

§115.135 (131.0754.105) *Compliance Schedule and Counties* All affected persons in the counties shown below will be in compliance with the provisions of §115.131 of this title (relating to control requirements) and §115.132 of this title (relating to approved vapor balance system) as soon as practicable but no later than the dates shown:

Rule Paragraphs	Counties Where Applicable	Final Compliance Date
All except §115.131(3), §115.132(4), §115.132(6), and §115.132(7)	Bexar, Brazoria Galveston, Harris	Aug. 31, 1978
§115.132(4)	Dallas, Tarrant	Feb. 29, 1980
§115.131(3), §115.132(6), and §115.132(7)	Bexar, Brazoria Dallas, Galveston, Harris, Tarrant	Dec. 31, 1981
§115.131(3), §115.132(6), and §115.132(7)	Harris	Dec. 31, 1982

Specified Solvent-Using Processes in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

The section revisions, consisting of additional control equipment requirements and the extension of certain provisions to additional counties, were adopted essentially as proposed with minor wording changes and the deletion of provisions for alternate control methods (which is covered by §115.401). For consistency with other sections of Regulation V, §115.175 (131.07.59-105), Compliance Schedule and Counties, was retitled Counties and Compliance Schedule, renumbered §115.176 (105), and moved to the end of the subchapter while the former §115.176 (106), Exemptions, was renumbered §117.175 (106).

These sections are adopted under the authority of Article 4477.5, Vernon's Annotated Texas Civil Statutes

§115.172 (131.07.59-102) Cold Solvent Cleaning

(a) No person shall operate or maintain a system utilizing a volatile organic compound for the cold cleaning of objects without the following controls:

(1) A cover shall be provided which is closed whenever parts are not being handled in the cleaner. The cover shall be designed for easy one-handed operation if any one of the following exists:

(A) the solvent vapor pressure is greater than 0.3 psia (2 kPa) as measured at 100 F (38 C),

(B) the solvent is agitated, or

(C) the solvent is heated.

(2) A cleaned parts drainage facility shall be provided for all cold cleaners. If the solvent vapor pressure is greater than 0.6 psia (4.1 kPa) as measured at 100 F (38 C), the drainage facility must be internal for enclosed draining under the cover. The drainage facility may be external for applications where an internal type cannot fit into the cleaning system.

(3) A permanent label summarizing the operating requirements in subsection (b) of this section shall be attached to the cleaner in a conspicuous location.

(4) If a solvent spray is used, it must be a solid fluid stream (not a fine, atomized, or shower-type spray) and at a pressure which will not cause excessive splashing.

(5) One of the following controls is required if the solvent vapor pressure is greater than 0.6 psia (4.1 kPa), as measured at 100 F (38 C), or if the solvent is heated above 120 F (49 C):

(A) a freeboard ratio (the freeboard height divided by the degreaser width) equal to or greater than 0.7; or

(B) a water cover (solvent must be insoluble in and heavier than water).

(b) (No change)

§115.173 (131.07.59-103) Open-Top Vapor Degreasing

(a) No person shall operate or maintain a system utilizing a volatile organic compound for the open top vapor cleaning of objects without the following controls:

(1) A cover that can be opened and closed easily without disturbing the vapor zone.

(2) A condenser flow switch and thermostat which will shut off sump heat if the condenser coolant is not circulating or if the condenser coolant discharge temperature exceeds the solvent manufacturer's recommendation.

(3) A spray safety switch which will shut off the spray sump heat if the vapor level drops more than four inches (10 cm).

(4) One of the following major controls:

(A) a freeboard ratio (the distance from the top of the vapor level to the top edge of the degreasing tank divided by the degreaser width) equal to or greater than 0.75 and, if the degreaser opening is greater than 10 ft² (0.9 m²) a powered cover,

(B) a properly sized refrigerated chiller,

(C) an enclosed design where the cover or door opens only when the dry part is actually entering or exiting the degreaser; or

(D) a carbon adsorption system with ventilation equal to or greater than 50 cfm-ft² (15 m³ min per m²) of air/vapor area (with the cover open) and exhausting less than 25 ppm of solvent by volume averaged over one complete adsorption cycle.

(5) A permanent, conspicuous, label summarizing the operating procedures listed in subsection (b) of this section.

(b) No person shall operate or maintain a system using a volatile organic compound for the open top vapor cleaning of objects without complying with the following operating procedures:

(1) The cover shall be closed at all times except when processing work loads through the degreaser.

(2) Parts shall be positioned so that maximum drainage is obtained.

(3) Parts shall be moved in and out of the degreaser at less than 11 ft/min (3.3 m/min).

(4) The work load shall be degreased in the vapor zone at least 30 seconds or until condensation ceases.

(5) Any pools of solvent on the cleaned parts shall be removed by tipping the part before withdrawing it.

(6) Parts shall be allowed to dry within the degreaser freeboard area for at least 15 seconds, or until visually dry.

(7) Porous or absorbent materials, such as cloth, leather, wood, or rope shall not be degreased.

(8) Work loads shall not occupy more than half of the degreaser open top surface area.

(9) Solvent shall not be sprayed above the vapor level.

(10) Solvent leaks shall be repaired immediately, or the degreaser shall be shut down.

(11) Waste solvent shall not be disposed of or transferred to another party such that greater than 20% of the waste (by weight) will evaporate into the atmosphere. Waste solvent shall be stored only in covered containers.

(12) Exhaust ventilation for systems other than those which vent to a major control device shall not exceed 65 cfm per ft² (20 m³ min per m²) of degreaser open area unless necessary to meet Occupational Safety and Health Administration requirements or unless a carbon adsorption system is installed as a major control device. Ventilation fans or other sources of air agitation shall not be used near the degreaser opening.

(13) Water shall not be visibly detectable in the solvent exiting the water separator.

§115.174 (131.07.59-104) Convoyorized Degreasing

(a) No person shall operate or maintain a system utilizing a volatile organic compound for the convoyorized cleaning of objects without the following controls:

(1) One of the following major control devices is required:

(A) a properly sized refrigerated chiller; or

(B) a carbon adsorption system with ventilation equal to or greater than 50 cfm-ft² (15 m³ min per m²) of air/vapor area (when down time covers are open) and exhausting less than 25 ppm of solvent by volume averaged over one complete adsorption cycle

(2) A drying tunnel or other means such as a rotating (tumbling) basket if space is available, to prevent solvent liquid or vapor carry out

(3) A condenser flow switch and thermostat which will shut off sump heat if the condenser coolant is not circulating or if the condenser coolant discharge temperature exceeds the solvent manufacturer's recommendation

(4) A spray safety switch which will shut off the spray pump if the vapor level drops more than four inches (10 cm)

(5) A vapor level control thermostat which will shut off the sump heat when the vapor level rises above the designed operating level

(6) Entrances and exits which silhouette work loads so that the average clearance (between parts and edge of the degreaser opening) is either less than four inches (10 cm) or less than 10% of the width of the opening

(7) Down time covers shall be provided for closing off the entrance and exit during shutdown hours

(8) A permanent, conspicuous, label summarizing the operating requirements in subsection (b) of this section

(b) No person shall operate or maintain a system utilizing a volatile organic compound for the conveyORIZED cleaning of objects without complying with the following operating procedures

(1) Exhaust ventilation for systems other than those which vent to a major control device shall not exceed 65 cfm-ft² (20 m³ min per m²) of degreaser opening, unless necessary to meet Occupational Safety and Health Administration requirements or unless a carbon adsorption system is installed as a major control device. Ventilation fans shall not be used near the degreaser opening

(2) Parts shall be positioned so that maximum drainage is obtained

(3) Vertical conveyor speed shall be maintained at less than 11 ft min (3.3 m min)

(4) Waste solvent shall not be disposed of or transferred to another party such that greater than 20% of the waste (by weight) can evaporate into the atmosphere. Waste solvent shall be stored only in covered containers

(5) Leaks shall be repaired immediately or the degreaser shall be shut down

(6) Water shall not be visibly detectable in the solvent exiting the water separator

(7) Down time covers shall be placed over entrances and exits of conveyORIZED degreasers immediately after the conveyor and exhaust are shut down and removed just before they are started up

§115.175 (131.07.59.106) Exemptions

(a) Degreasing operations located on any property which can emit when uncontrolled a combined weight of volatile organic compounds less than 550 pounds (250 kg) in any consecutive 24-hour period are exempt from the provisions of §§115.172, 115.174 (102, 104) of this title (relating to cold solvent cleaning, open top vapor degreasing, and conveyORIZED degreasing)

(b) Degreasing operations located on any property in Harris County which when combined would emit when uncontrolled a combined weight of volatile organic compounds less than three pounds (1.4 kg) in any consecutive 24-hour period are exempt from the provisions of §§115.172, 115.174 (102, 104) of this title (relating to cold solvent cleaning, open top vapor degreasing, and conveyORIZED degreasing)

(c) Any conveyORIZED degreaser with less than 20 ft² (2 m²) of air vapor interface is exempt from the requirement of §115.174(a)(1) (104(a)(1)) of this title (relating to conveyORIZED degreasing)

(d) Any open top vapor degreaser with an open area less than 10 ft² (0.9 m²) is exempt from the refrigerated chiller or the carbon adsorber requirements in §115.173(a)(4)(B) and (D) (103(a)(4)(B) and (D)) of this title (relating to open top vapor degreasing)

(e) All affected persons in Ector County are exempt from the requirements of §115.172(a) (102(a)) of this title (relating to cold solvent cleaning, §115.173(a) (103(a)) of this title (relating to open top vapor degreasing), and §115.174(a) (104(a)) of this title (relating to conveyORIZED degreasing)

(f) An owner or operator who operates a remote reservoir cold solvent cleaner which uses solvent with a volatility equal to or less than 9.6 psia (4.1 kPa) measured at 100 F (38 C) and which has a drain area less than 16 in² (100 cm²) is exempt from §115.172 of this title (relating to cold solvent cleaning)

§115.176 (131.07.59.105) Counties and Compliance Schedule

(a) The provisions of §115.171 (101) of this title (relating to cutback asphalt) shall apply only within Bexar, Brazoria, Dallas, El Paso, Jefferson, Galveston, Harris, Nueces, Orange, and Tarrant Counties. All affected persons shall submit a final control plan to the Texas Air Control Board no later than December 31, 1980, and shall be in compliance with the rule as soon as practicable but no later than December 31, 1982

(b) The provisions of §§115.172, 115.174 (102, 104) of this title (relating to cold solvent cleaning, open top vapor degreasing, and conveyORIZED degreasing) shall apply only within Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. All affected persons shall submit a final control plan for compliance to the Texas Air Control Board no later than December 31, 1980, and shall be in compliance with these rules as soon as practicable but no later than December 31, 1982

Doc No 805960

Surface Coating Processes in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

These sections were proposed to be revised to add controls for two new surface coating categories. They have been adopted essentially as proposed, except for some minor wording changes, reordering, and renumbering of sections, and a change in the final compliance date from December 31, 1983 to December 31, 1982

Section 115.192 (131.07.60.102), has been renumbered §115.194 (102) and moved to the end of the subchapter for consistency with other subchapters of Regulation V. Section 115.193 (103), the contents of which have not been changed, has been renumbered §115.192 (103) to replace the old §115.192 (102) which has been moved. Section 115.194 (104) has been renumbered to §115.193 (104).

These sections are adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§115.191 (131.07.60.101) Emission Limitations. No person may cause, suffer, allow, or permit volatile organic compound emissions from the surface coating processes (defined in §101.1 (131.01.00.001, .002) of this title (relating to definitions) affected by paragraphs (1) (10) of this section to exceed the specified emission limits which are based on a daily weighted average except for those in paragraph (10) which are based on paneling surface area:

(1) (8) (No change)

(9) Miscellaneous metal parts and products coating.

(A) Volatile organic compound emissions from the coating (prime and topcoat, or single coat) of miscellaneous

metal parts and products shall not exceed the following limits for each surface coating type:

(i) 4.3 pounds per gallon (0.52 kg/liter) of coating (minus water) applied as a clear coat.

(ii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water) applied that utilizes air or forced air driers.

(iii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water) applied as an extreme performance coating, and

(iv) 3.0 pounds per gallon (0.36 kg/liter) of coating (minus water) applied for all other coating applications that pertain to miscellaneous metal parts and products.

(B) If more than one emission limitation in subparagraph (A) of this section applies to a specific coating then the least stringent emission limitation shall be applied.

(C) All VOC emissions from solvent washings shall be considered in the emission limitations in paragraph (9)(A) of this section unless the solvent is directed into container that prevent evaporation into the atmosphere.

(10) Factory surface coating of flat wood paneling. The following emission limits shall apply to each product category of factory finished paneling (regardless of the number of coats applied):

Product Category	VOC Emission Limitation	
	Lb VOC/ 1000 ft ² of coated surface	kg VOC/100m ² of coated surface
printed interior wall panels made of hardwood plywood and thin particle- board (less than 1/4 inch (0.64 cm)) in thickness	6.0	2.9
natural finish hardwood plywood panels	12.0	5.8
hardboard paneling with Class II finish (ANSI Standard PS-59-73)	10.0	4.8

§115.192 (131.07.60.103) Control Techniques. If add-on controls such as incinerators or vapor recovery systems are used to comply with the emission limitation requirements, the volatile organic compound capture and abatement system shall be at least 80% efficient overall. All surface coating facilities shall submit design data for each capture system and emission control device which are proposed for use to the executive director for approval.

§115.193 (131.07.60.104) Exemptions.

(a) Surface coating operations located at any facility in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Jefferson, Nueces, Orange, Tarrant, or Victoria County which when uncontrolled will emit a combined weight of volatile organic compounds less than 550 pounds (250 kg) in any consecutive 24 hour period are exempt from the provisions of §115.191 (101) of this title (relating to emission limitations).

(b) Surface coating operations located at any facility in Harris County which when uncontrolled will emit a combined weight of volatile organic compounds less than 100 pounds (45 kg) in any consecutive 24 hour period are exempt from the provisions of §115.191 (101) of this title (relating to emission limitations).

(c) Any surface coating operation which is located at an affected facility on any property in the counties listed in subsections (a) and (b) of this section are exempt from paragraphs (4), (5), and (6) of §115.191 (101) of this title (relating to emission limitations) if such operation utilizes a web coating (printing) process in which the coating is not distributed uniformly across the web. This exemption applies to machines on which both coating and printing operations are performed.

(d) The following coating operations are exempt from the application of §115.191(9) (101) of this title (relating to emission limitations):

- (1) exterior of airplanes,
- (2) automobile refinishing,
- (3) top coating of automobiles and trucks, if production is less than 35 vehicles per day, and
- (4) exterior of marine vessels.

(e) The following coating operations are exempt from the application of §115.191(10) (101) of this title (relating to emission limitations):

- (1) the manufacture of exterior siding;
- (2) tileboard, or
- (3) particleboard used as a furniture component.

(f) All affected persons in Ector County are exempt from the requirements of §115.191(9) and (10) (101) of this title (relating to emission limitations).

§115.194 (131.07.60.102) Compliance Schedule and Counties.

(a) All affected persons within Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties shall be in compliance with §§115.191-115.194 (101-104) of this title (relating to surface coating processes in ozone nonattainment areas), except for §115.191(7)(B) and (8)(B) (101(7)(B) and (8)(B) of this title (relating to emission limitations), as soon as practicable but no later than December 31, 1982, and shall submit to the Texas Air Control Board a final control plan for compliance no later than December 31, 1979.

(b) All affected persons within the counties listed in subsection (a) of this section shall be in compliance with §115.191(7)(B) (101(7)(B) of this title (relating to emission limitations) as soon as practicable but no later than December 31, 1985, and shall submit to the Texas Air Control Board a final control plan for compliance no later than December 31, 1979.

(c) All affected persons within the counties listed in subsection (a) of this section shall be in compliance with §115.191(8)(B) (101(8)(B) of this title (relating to emission limitations) as soon as practicable but no later than December 31, 1986, and shall submit to the Texas Air Control Board a final control plan for compliance no later than December 31, 1979.

(d) All affected persons within the counties listed in subsection (a) of this section shall be in compliance with §115.191(9) and (10) (101(9) and (10) of this title (relating to emission limitations) as soon as practicable, but no later than December 31, 1982, and shall submit to the Texas Air Control Board a final control plan for compliance no later than December 31, 1980.

Doc No 805961

Pneumatic Rubber Tire Manufacturing Facilities in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

The Texas Air Control Board has withdrawn from consideration for adoption §§115.211-115.213 because it has been determined that no sources subject to the provisions of these sections exist in Texas. The withdrawn proposed sections were published in the April 4, 1980, issue of the *Texas Register* (5 TexReg 1318).

Issued in Austin, Texas, on July 30, 1980.

Doc No 805963 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Filed: August 1, 1980, 1:57 p.m.
For further information, please call (512) 451-5711, ext 354

Pharmaceutical Manufacturing Facilities in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

No comments were received on the sections as proposed, other than the compliance date. However, the TACB staff has revised the format to place all of the control requirements in §115.231 (relating to control requirements) for clarity and consistency with other rules, deleting the proposed §§115.232-115.235. No substantive changes were made in the control requirements themselves. Proposed §115.236 (relating to exemptions) has been moved to §115.232 and slightly reworded to account for the changes in section numbers. Proposed §115.237 (relating to compliance schedules and counties) has been moved to §115.233 and the final compliance date specified therein has been changed to December 31, 1982.

These sections are adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§115.231. *Control Requirements.* The owner or operator of a synthesized pharmaceutical manufacturing facility shall provide the following specified controls for the following specific sources in his facility:

(1) Reactors, distillation units, crystallizers, centrifuges, and vacuum dryers. The emission of volatile organic compounds from these sources shall be controlled by means of surface condensers or other equivalent controls.

(A) If surface condensers are used, the condenser outlet gas temperature must not exceed the following:

(A) If surface condensers are used, the condenser outlet gas temperature must not exceed the following:

<u>When VOC Vapor Pressure At 68°F (20°C) Exceeds</u>	<u>Outlet Gas Maximum Temperature</u>
5.8 psia (40 kPa)	-13°F (-25°C)
2.9 psia (20 kPa)	5°F (-15°C)
1.5 psia (10 kPa)	32°F (0°C)
1.0 psia (7 kPa)	50°F (10°C)
0.5 psia (3.5 kPa)	77°F (25°C)

(B) If equivalent controls are used, the volatile organic compound emissions must be reduced by at least as much as they would have been reduced by the use of a surface condenser which meets the requirements in paragraph (1)(A) of this section.

(B) If equivalent controls are used, the volatile organic compound emissions must be reduced by at least as much as they would have been reduced by the use of a surface condenser which meets the requirements in paragraph (1)(A) of this section.

(2) Air dryers and exhaust systems. Volatile organic compound emissions from all air dryers and production equipment exhaust systems shall be reduced by at least 90% of the uncontrolled emissions or to 33 pounds per day (15 kg/day) whichever is the least stringent limit.

(3) Loading facilities. Emissions from truck or railcar deliveries to storage tanks with capacities greater than 2,000 gallons (7,500 liters) that store volatile organic compounds with vapor pressures greater than 4.1 psia (28 kPa) at 68 F (20 C) shall be reduced by at least 90% of the uncontrolled emissions by means of a vapor balance system or equivalent control.

(4) Tanks

(A) All in process tanks that contain volatile organic compounds at any time shall be kept covered, except when production, sampling, maintenance, or inspection procedures require operator access.

(B) All storage tanks that store volatile organic compounds which have vapor pressures greater than 1.5 psia (10.3 kPa) at 68 F (20 C) shall have pressure vacuum conservation vents installed which are set at plus or minus 0.8 inches of water (plus or minus 0.2 kPa), unless a more effective control system is used.

(5) Centrifuges and filters. Centrifuges, rotary vacuum filters and other filters having an exposed liquid surface which process liquids containing volatile organic compounds with vapor pressure equal to or greater than 0.5 psia (3.5 kPa) at 68 F (20 C) shall be enclosed.

(6) Liquid leaks. All leaks from which any liquid containing volatile organic compound can be observed running or dripping shall be repaired the first time the equipment is off-line long enough to complete the repair.

§115.232 Exemptions

(a) Any facility in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Jefferson, Nueces, Orange, Tarrant, or Victoria County which, when uncontrolled, will emit a combined weight of volatile organic compounds less than 550 pounds (250 kg) in any consecutive 24 hour period is exempt from the provisions of §115.231 of this title (relating to control requirements).

(b) Any facility located in Harris County which, when uncontrolled, will emit a combined weight of volatile organic compounds less than 15 pounds (6.8 kg) in any consecutive 24 hour period is exempt from the provisions of §115.231 of this title (relating to control requirements).

§115.233 *Compliance Schedule and Counties*. The provisions of §115.231 of this title (relating to control requirements) shall apply within Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties. All affected persons shall submit a final control plan to the Texas Air Control Board no later than December 31, 1980, and shall be in compliance with these sections as soon as practicable, but no later than December 31, 1982.

Doc No 805965

Fugitive Emission Control in Petroleum Refineries in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

These sections have been revised from those proposed as the result of comments received on the proposed sections and further consideration by the TACB. Minor wording changes have been made in §§115.251-115.253. The proposed §115.254 (relating to reporting requirements) has been deleted and replaced with a new §115.254 (relating to exemptions). The title of §115.255 has been slightly changed and the date when testing must begin has been changed from July 1983 to December 31, 1982.

These sections are adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§115.251 *Control Requirements*. No person shall operate a petroleum refinery without complying with the following requirements:

(1) No component shall be allowed to leak volatile organic compounds (VOC) with a VOC concentration exceeding 10,000 parts per million (ppm).

(2) Every reasonable effort shall be made to repair a leaking component, as specified in paragraph (1) of this section, within 15 days after the leak is found. If the repair of a component would require a unit shutdown which would create more emissions than the repair would eliminate, the repair may be delayed until the next scheduled shutdown.

(3) All leaking components, as defined in paragraph (1) of this section, which cannot be repaired until the unit is shutdown for turnaround shall be identified for such repair by tagging. The executive director at his discretion may re-

quire early unit turnaround or other appropriate action based on the number and severity of tagged leaks awaiting turnaround.

(4) Except for safety pressure relief valves, no valves shall be installed or operated at the end of a pipe or line containing volatile organic compounds unless the pipe or line is sealed with a second valve, a blind flange, a plug, or a cap. The sealing device may be removed only while a sample is being taken or during maintenance operations.

(5) Pipeline valves and pressure relief valves in gaseous volatile organic compound service shall be marked in some manner that will be readily obvious to monitoring personnel.

§115.252 Inspection Requirements

(a) The owner or operator of a petroleum refinery shall conduct a monitoring program consistent with the following provisions:

(1) Measure yearly (with a hydrocarbon gas analyzer) the emissions from all:

- (A) pump seals,
- (B) pipeline valves in liquid service, and
- (C) process drains.

(2) Measure quarterly (with a hydrocarbon gas analyzer) the emissions from all:

- (A) compressor seals,
- (B) pipeline valves in gaseous service, and
- (C) pressure relief valves in gaseous service.

(3) Visually inspect weekly all pump seals.

(4) Measure (with a hydrocarbon gas analyzer) the emissions from any pump seal from which liquids are observed dripping. In lieu of such a measurement, VOC concentrations may be assumed to 10,000 ppm.

(5) Measure (with a hydrocarbon gas analyzer) emissions from any relief valve which has vented to the atmosphere within 24 hours.

(6) Measure (with a hydrocarbon gas analyzer) immediately after repair the emissions from any component that was found leaking.

(b) Pressure relief devices connected to an operating flare header, inaccessible valves, storage tank valves, and valves that are not externally regulated (such as in-line check valves) are exempt from the monitoring requirement of subsection (a) of this section.

(c) The owner or operator of a petroleum refinery, upon the detection of a component leaking more than 10,000 ppm of VOC shall affix to the leaking component a weatherproof and readily visible tag, bearing an identification number and the date the leak was located. This tag shall remain in place until the leaking component is repaired.

(d) The monitoring schedule of subsection (a)(1)-(3) of this section may be modified as follows:

(1) After at least two complete annual checks, the operator of a refinery may request in writing to the Texas Air Control Board that the monitoring schedule be revised. This request shall include data that have been developed to justify any modification in the monitoring schedule.

(2) If the executive director of the Texas Air Control Board determines that there is an excessive number of leaks in any given process area, he may require an increase in the frequency of monitoring for that process area of the refinery.

(e) The executive director of the Texas Air Control Board may approve an alternate monitoring method if the refinery operator can demonstrate that the alternate monitoring method is equivalent to the method required by

this section. Any request for an alternate monitoring method must be made in writing to the executive director.

§115.253 Recording Requirements

(a) The owner or operator of a petroleum refinery shall maintain a leaking components monitoring log for all leaks of 10,000 ppm detected by the monitoring program required by §115.252(c) of this title (relating to monitoring requirements). This log shall contain, at a minimum, the following data:

- (1) the name of the process unit where the component is located;
- (2) the type of component (e.g., valve or seal);
- (3) the tag number of the component;
- (4) the date on which a leaking component is discovered;
- (5) the date on which a leaking component is repaired;
- (6) the date and instrument reading of the recheck procedure after a leaking component is repaired;
- (7) a record of the calibration of the monitoring instrument;
- (8) those leaks that cannot be repaired until turn-around; and
- (9) the total number of components checked and the total number of components found leaking.

(b) Copies of the monitoring log shall be retained by the owner or operator for a minimum of two years after the date on which the record was made or the report prepared.

(c) Monitoring records shall be maintained for two years and be made available for review by authorized representatives of the Texas Air Control Board or local air pollution control agencies.

§115.254 Exemptions. Valves with a nominal size of two inches (five cm) or less are exempt from the requirements of §§115.251-115.253 of this title (relating to control requirements, inspection requirements, and recording requirements) provided allowable emissions at any refinery from sources affected by these sections after controls are applied with exemptions will not exceed by more than 5.0% such allowable emissions with no exemptions. Any person claiming an exemption for valves two inches (five cm) nominal size or smaller under this section shall at the time he provides his control plan also provide the following information:

- (1) identification of valves or classes of valves to be exempted;
- (2) an estimate of uncontrolled emissions from exempted valves and an estimate of emissions if controls were applied plus an explanation of how the estimates were derived;
- (3) an estimate of the total VOC emissions within the refinery from sources affected by §§115.251-115.253 after controls are applied and assuming no exemptions for small valves, plus an explanation of how the estimate was derived.

§115.255 Counties and Compliance Schedule

(a) The provisions of §§115.251-115.253 of this title (relating to control requirements, inspection requirements, and recording requirements) shall apply to Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties.

(b) The owner or operator of an affected petroleum refinery shall

(1) Submit to the executive director a monitoring program plan as soon as practicable, but no later than March 31, 1981. This plan shall contain, at a minimum, a list of the refinery units and the quarter in which they will be monitored, a copy of the log book format, and the make and model of the monitoring equipment to be used.

(2) Complete the first weekly, quarterly, and annual monitoring as soon as practicable, but no later than December 31, 1982.

Doc No 805966

Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks in Harris County

These sections, proposed under the subchapter title "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems in Bexar, Brazoria, Dallas, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties," have been extensively changed in this final version as the result of comments received on the proposed sections and further TACB consideration. The major changes involve the removal of sections concerning vapor collection systems which have been incorporated in other subchapters, the deletion of reporting requirements, limiting the applicability to Harris County only, and a change in the final compliance date. Specifically, §115.261 has been changed to delete the vapor recovery system requirements and also the testing requirements which were moved to §115.262. The proposed §115.262 on recording requirements has been revised for clarity and moved to §115.263 to make room for the new §115.262 (relating to testing requirements). The proposed §115.263 (relating to reporting requirements) has been deleted. Section 115.264 has been retitled and revised to delete all counties other than Harris and to change the final compliance and control plan submittal dates.

These sections are adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§115.261 Emission Control Requirements. No person in Harris County shall allow a gasoline tank truck tank subject to this regulation to be filled or emptied unless the tank being filled or emptied has passed a leak tight test within the past year as evidenced by a prominently displayed certification affixed near the Department of Transportation certification plate which

(1) shows the date the gasoline tank truck tank last passed the leak tight test required by §115.262 of this title (relating to testing requirements), and

(2) shows the identification number of the gasoline tank truck tank.

§115.262 Testing Requirements.

(a) The owner or operator of any gasoline tank truck which loads or unloads at any gasoline terminal, gasoline bulk plant, or motor vehicle fuel dispensing facility in Harris County shall cause each such tank truck tank to be tested annually to insure that the tank is vapor tight.

(b) Pressure in the tank must change no more than three inches of water (0.75 kPa) in five minutes when pressurized to a gauge pressure of 18 inches of water (4.5 kPa) or evacuated to a vacuum of six inches of water (1.5 kPa).

(c) Any tank failing to meet the testing criteria of subsection (b) of this section shall be repaired and retested within 15 days.

§115.263 Recording Requirements.

(a) The owner or operator of a gasoline tank truck subject to this regulation shall maintain records of all certification testing and repairs. The records must be maintained for at least two years after the date the testing or repair was completed.

(b) The record of each certification test required by subsection (a) of this section shall, as a minimum, contain:

- (1) company name;
- (2) date and location of the test;
- (3) name and title of person conducting the test;
- (4) the tank identification number;
- (5) the initial test pressure and the time of the reading;
- (6) the final test pressure and the time of the reading;
- (7) the initial test vacuum and the time of the reading; and
- (8) the final test vacuum and the time of the reading.

(c) Copies of all records required by this section shall be made available for review by personnel of the Texas Air Control Board or any local air pollution control agency upon request.

§115.264 Compliance Schedule. All persons affected by §§115.261-115.263 of this title (relating to emission control requirements, testing requirements, and recording requirements) shall be in compliance as soon as practicable but no later than December 31, 1982, and shall submit a final control plan for compliance to the Texas Air Control Board no later than March 31, 1981.

Doc No 805967

Compliance in Bexar, Brazoria, Dallas, Ector, El Paso, Galveston, Gregg, Harris, Jefferson, Nueces, Orange, Tarrant, and Victoria Counties

As a result of comments received on the compliance dates for the proposed sections in Chapter 115, some of the dates have been changed in the final version. To provide a method of relief for those persons unable to meet these revised compliance dates, a new subsection has been added to §115.422 (relating to control plan procedure), which outlines procedures for obtaining approval of final compliance dates beyond those specified. Otherwise, the sections are identical to those proposed.

These sections are adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§115.421 Superseded Sections. The provisions of the revised sections of this chapter supersede the provisions of like sections of this chapter which were adopted on April 10, 1973, and modified on December 10, 1976, March 30, 1979, and September 7, 1979. All affected persons must remain in compliance with the provisions of the superseded sections until compliance is achieved with all requirements of superseding sections.

§115.422 Control Plan Procedure.

(a) A control plan for compliance shall be submitted, on the compliance status of all emission controls required by this regulation, and a detailed description of the method to be followed to achieve compliance, specifying the exact dates by which the following steps will be taken to achieve compliance:

- (1) dates by which contracts for emission control systems process modifications will be awarded, or dates by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;
- (2) date of initiation of on-site construction or installation of emission control equipment or process change;
- (3) date by which on-site construction or installation of emission control equipment or process modification is to be completed;
- (4) date by which final compliance is to be achieved.

(b) Final compliance dates beyond the final compliance date specified in this regulation shall be approved by the Texas Air Control Board if the control plan contains a complete justification for a date no later than December 31, 1983, or December 31, 1985, if compliance date extension request is based upon nonavailability of low solvent technology as specified in subsection (b)(3) of this section. Justification may be based upon any of the following:

- (1) nonavailability of control equipment in time to meet specified final compliance dates;
- (2) accomplishment of control retrofit in connection with first scheduled maintenance, modification, or turnaround at which retrofit is feasible and which occurs later than the specified final compliance date;
- (3) for controls based upon low solvent technology, nonavailability of necessary technology. Necessary technology must be estimated to become available in time to allow final compliance within three years of the specified final compliance date.

§115.423 Control Plan Deviation. No persons affected by the §115.422 of this title (relating to control plan procedure) shall deviate from the terms of the control plans including the date for final compliance and the dates for accomplishing the required steps in such plans. The executive director may, upon application of any person affected, change the date for accomplishing the required steps in a plan. Except as specified in §115.422(b) of this title (relating to control plan procedure), any control plan that specifies a final compliance date subsequent to the date specified by any sections of this regulation must be approved by the Texas Air Control Board under the provisions of Sections 3.21-26 of the Texas Clean Air Act.

§115.424 Reporting Procedure. After a final control plan for compliance has been submitted to the executive director, progress reports shall be submitted every 90 days for all control plans specified in §115.422 of this title (relating to control plan procedure). The executive director shall also be notified of the completion of each separate step in the control plan within five days after completion. All reports and notifications shall be submitted in writing by the person submitting the compliance control plan.

Doc No 805970

Chapter 116. Permits

The revisions to §116.3 (131.08.00.003), Consideration for Granting a Permit to Construct and Operate, have been adopted essentially as proposed with minor wording changes resulting from comments received on the proposed revision. "Critical impact" has been replaced with "more than a de minimus impact" or similar wording as the result of comments received on the proposed amendments. Paragraph (15) has also been slightly reworded to clarify intent.

These amendments have been adopted under the authority of Article 4477-5, Vernon's Annotated Texas Civil Statutes.

§116.3 (131.08.00.003). Consideration for Granting a Permit to Construct and Operate.

(a) Permit to construct. In order to be granted a permit to construct, the owner or operator of the proposed facility shall submit information to the Texas Air Control Board, which will demonstrate that all of the following are met:

(1)-(12) (No change.)

(13) The owner or operator of a proposed facility which will be a major stationary source of VOC emissions or will undergo a major modification and is to be located in any area designated as nonattainment for ozone in accordance with Section 107 of the Federal Clean Air Act for which regulations and a control strategy providing for attainment of the standard have not been approved by the U.S. Environmental Protection Agency shall demonstrate that total allowable VOC emissions from sources in the area will not increase as a result of the operation of the proposed facility.

(14) After June 30, 1979, the owner or operator of a proposed new facility to be located anywhere within the state that is a major stationary source of emissions of any air contaminant (other than volatile organic compounds—VOC) for which a national ambient air quality standard has been issued, or is a facility that will undergo a major modification with respect to emissions of any air contaminant (other than VOC), must meet the following additional requirements if the ambient air quality impact of the source's emissions would exceed a de minimus impact level as defined in §101.1 (131.01.00.001 and .002) of the general rules (relating to definitions) in any area where the standard is exceeded or predicted to be exceeded.

(A)-(B) (No change.)

(C) By the time the facility is to commence operation, total allowable emissions from existing facilities which have more than a de minimus impact on air quality in the same area as the proposed facility, from the proposed facility, and from new or modified facilities which are not major sources but which will have more than a de minimus impact on air quality in the same area as the proposed facility, will not cause the national air quality standard for that contaminant to be exceeded at any location and will not have more than de minimus impact on air quality at any location where the standard is exceeded.

(15) The owner or operator of a proposed new facility in a designated nonattainment area which will be a major stationary source or a major modification of an existing facility for any air contaminant other than volatile organic compounds for which a national ambient standard has been issued must meet the following additional requirements regardless of the degree of impact of its emissions on ambient air quality if the facility is located in a designated nonattainment area, and is located on, or is contiguous to (except for

intervening roadways) any property on which an ambient air quality standard is actually exceeded:

(A) The proposed facility will comply with the lowest achievable emissions rate (LAER) as defined in the §101.1 (131.01.00.001 and .002) of this title (relating to definitions) for the nonattaining pollutants.

(B) All major stationary sources owned or operated by the applicant (or by any person controlling, controlled by, or under common control with the applicant) in the state are to be in compliance or on a schedule for compliance with all applicable state and federal emission limitations and standards.

(C) At the time the facility is to commence operation, total allowable emissions of the nonattaining pollutant in the nonattainment area will not increase as a result of the operation of the proposed facility.

(b)-(f) (No change.)

Issued in Austin, Texas, on July 30, 1980.

Doc. No. 805971 Bill Stewart, P.E.
Executive Director
Texas Air Control Board

Effective Date: August 22, 1980

Proposal Publication Date: March 25, 1980

For further information, please call (512) 451-5711, ext. 354.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

Chapter 145. Parole

Terms and Conditions of Parole

The Texas Board of Pardons and Paroles has adopted an amendment to §145.25 (205.03.02.005), the rules for a parolee in annual report status. The purpose of the amendment is to impose upon parolees in annual report status an obligation to notify the official responsible for their supervision of any arrest, in writing, within five days of its occurrence. This amendment to the section shall be effective 20 days after filing.

This amendment is promulgated under the authority of Article 42.12, Sections 12, 15(g), 20, and 26, Texas Code of Criminal Procedures.

§145.25 (205.03.02.005). Annual Report Status.

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

(f) The rules for a parolee on annual report status are:

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

(6) The parolee will report in writing the fact of any arrest, within five days of its occurrence, to the director, Division of Parole Supervision, 711 Stephen F. Austin Building, P.O. Box 13401, Capitol Station, Austin, Texas 78711, telephone (512) 475-4525.

Doc. No. 806038

The Texas Board of Pardons and Paroles has adopted an amendment to §145.27 (205.03.02.007), the rules for a parolee in nonreporting status. The purpose of the amendment is to impose upon parolees in nonreporting status an

obligation to notify the agency of any arrest, in writing, within five days of its occurrence. This amendment to the section shall be effective 20 days after filing.

This amendment is promulgated under the authority of Article 42.12, Sections 12, 15(g), 20, and 26, Texas Code of Criminal Procedures.

§145.27 (205.03.02.007). Nonreporting Status.

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

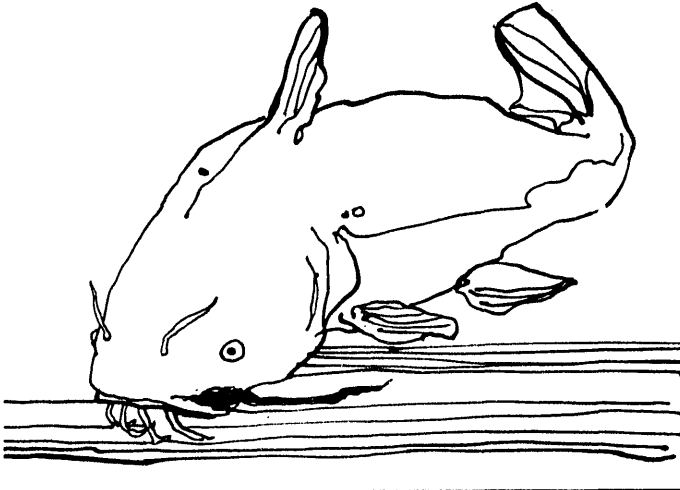
(f) The rule for a parolee on nonreporting status is: The parolee will in all respects conduct himself or herself honorably; obey all federal, state, and municipal laws and ordinances; work diligently at a lawful occupation; support his or her dependents, if any, to the best of his or her ability; and the parolee will report in writing the fact of any arrest, within five days of its occurrence, to the director, Division of Parole Supervision, 711 Stephen F. Austin Building, P.O. Box 13401, Capitol Station, Austin, Texas 78711, telephone (512) 475-4525.

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

Doc. No. 806039 Connie L. Jackson
Chairman
Board of Pardons and Paroles

Effective Date: August 26, 1980
Proposal Publication Date: April 15, 1980
For further information, please call (512) 475-3675.

NONCODIFIED



Texas State Commission for the Blind Facilities Program 329.04.00

The State Commission for the Blind has adopted new rules as they relate to facilities in the State of Texas that primarily serve legally and totally blind persons. The rules appear in the commission's Facilities Manual that was prepared as a guide for utilization of rehabilitation facilities for the blind.

The rules set forth standards and guidelines that govern the rehabilitation programs of the private agencies that receive federal funds from the State Commission for the Blind.

The rule is adopted pursuant to the authority of 45 Code of Federal Regulations, 1361.73, and Chapter 91 of Title 5 of the Texas Human Resources Code.

.003. *Facilities Manual.* The State Commission for the Blind adopts by reference the rules contained in its Facilities Manual. This document is published by and available from the State Commission for the Blind, P.O. Box 12866, Austin, Texas 78711.

Issued in Austin, Texas, on July 31, 1980.

Doc. No. 806024 Evans N. Wentz
Executive Director
Texas State Commission for the Blind

Effective Date: August 26, 1980
Proposal Publication Date: May 20, 1980
For further information, please call (512) 475-7011.

Texas Department of Health Maternal and Child Health Services Technical Advisory Committee Serving the Crippled Children's Program 301.33.05

The Texas Department of Health adopts in final form the repeal of Rules 301.33.05.001-.004 which were published in the May 13, 1980, issue of the *Texas Register* (5 TexReg 1844). These rules are being incorporated into a more comprehensive set of Rules 301.33.08.001-.011, which are published in this same issue of the *Register*.

These rules are repealed under authority of Articles 4418a, 4419c, and 6252-13a, Texas Revised Civil Statutes.

Doc. No. 805951

Crippled Children's Services Program 301.33.08

The Texas Board of Health of the Texas Department of Health adopted in final form the subject proposed rules which were published in the May 13, 1980, issue of the *Texas Register* (5 TexReg 1844). Several public comments have been received. These comments and the department's response to them are as follows:

(1) It was suggested that diagnostic tests and services be added to the services provided by the program under Sections .001(d) and .007(d).

The department's interpretation of medical treatment (physician's services) for which the program can issue authorization includes those diagnostic tests and services which fall within the scope of the program; therefore, no change is necessary.

(2) It was suggested that the requirement in Section .007 that all services must have prior, individual, authorization would hinder effective implementation of the program.

The department's position is that Federal Title V regulations require that state programs have a system of prior authorization of services provided, and the department's experience

has demonstrated that such a system is necessary to maintaining fiscal control. The department's position is flexible, however, and will allow predictable treatment regimens of reasonably short duration to be underwritten with a single authorization request. The costs of specific medications and supplies provided as a part of the previously authorized physician's services can also be covered without specific authorization; therefore, no change is necessary.

(3) It was suggested that members of the technical advisory committee to the Congenital Heart Program be limited to serving not more than six years or two three-year terms in Section .002(d)(6).

The department's position is that the committee members' terms are appropriate as set forth in this section.

(4) It was suggested that the department should not prohibit the use of the names of children in publicity as described in Section .010(b)(2).

The department has changed this section to permit such usage with the consent of the child's parent or legal guardian.

(5) It was suggested that Section .002(b) and (d) include a provision for two public members on each technical advisory committee, in accordance with Article 4418a, Vernon's Texas Civil Statutes, as amended.

The department has added a provision for two public members to be appointed to each technical advisory committee.

No other changes have been made to the proposed rules except a few changes for the purpose of clarification.

These rules are being adopted under authority of Articles 4418a, 4419c, and 6252-13a, Texas Revised Civil Statutes.

.001. Introduction and Brief Description of Program Operation.

(a) The Crippled Children's Services Program of the Texas Department of Health administers physical restoration services for eligible crippled children who are under 21 years of age, and for eligible persons, regardless of age, who have cystic fibrosis. To be eligible for service, the child's disability must be such that it is reasonable to expect that such child can be improved as a result of the services and/or equipment provided by the program.

(b) Medical conditions which can be covered by the program are:

- (1) orthopedically or neurologically crippling conditions, either congenital or acquired;
- (2) severe burns;
- (3) cleft lip and/or palate and other severe craniofacial anomalies;
- (4) congenital heart defects (no acquired cardiac conditions);
- (5) congenital anomalies of the gastrointestinal tract;
- (6) congenital anomalies of the external genitalia and genitourinary tract, excluding the kidneys;
- (7) cystic fibrosis;
- (8) sickle cell anemia;
- (9) crippling effects of hemophilia;
- (10) chronic otological conditions threatening the ossicular chain or mastoid;
- (11) cancer.

(c) Conditions generally not covered are:

- (1) prematurity, hyaline membrane disease, failure to thrive, respiratory distress syndrome;

- (2) acute infectious diseases;
- (3) digestive or metabolic disorders;
- (4) fractures not requiring surgery or extensive hospitalization;
- (5) ophthalmologic problems;
- (6) cases requiring only custodial care;
- (7) cosmetic surgery.

(d) Services are provided by physicians and hospitals that have been approved by the State Board of Health for program participation. The services provided include initial examinations, medical treatment, hospitalization, occupational and physical therapy, medically prescribed orthotic and prosthetic devices, medications, supplies, and transportation to treatment centers.

(e) To qualify for the above services, an application must be approved by the State Office of the program in Austin. Children having coverable medical conditions are identified by local and regional health department clinics and by physicians.

(f) Once the application has been submitted, patient eligibility is determined by reviewing the medical, financial, and legal residency status of the applicant.

(g) After the applicant's eligibility has been established, he or she may receive services if an authorization for services has been requested in advance. In an emergency, services may be authorized retroactively, if the Austin office is notified on the following work day.

(h) Payment for authorized services provided by physicians and hospitals is made in accordance with an allowable fee schedule.

(i) Technical advisory committees assist in developing program policies, in establishing fee schedules, and contribute high-level expertise in medical matters.

(j) The program operates within federal and state laws regarding prohibition against discrimination and confidentiality of medical and financial information.

(k) Any person receiving services from the program may have their eligibility modified, suspended, or terminated should there be a change in the circumstances which initially made that person eligible.

.002. Establishment of Technical Advisory Committees.

(a) Number of technical advisory committees. Two committees serve in advisory capacities to the Crippled Children's Services Program.

(b) Technical Advisory Committee to the General Program.

(1) Number of members. The advisory committee to the General Program will be composed of no more than 17 members.

(2) Qualifications of members.

(A) Two members of the committee will be public members. The remaining membership of this committee is to be multidisciplinary and may include medical specialists certified in any discipline participating in Crippled Children's Services Program activities. At least four of the members must be certified in orthopedic surgery and at least two of the members certified in plastic surgery. Selection of the remaining members of the committee from the following medical disciplines will foster the concept of multidisciplinary representation:

- (i) pediatric surgery;
- (ii) neurosurgery;
- (iii) neurology;

- (iv) otolaryngology;
- (v) urology;
- (vi) psychiatry;
- (vii) dentistry;
- (viii) hematologist/oncologist;
- (ix) pediatrics.

(B) The program administrative staff, the administration of the Texas Department of Health, or the technical advisory committee may request consultants from any medical discipline or health-related profession not listed to address specific issues and problems in their area of expertise.

(3) Selection of members. Members are selected provisionally by the commissioner of the Texas Department of Health from nominations solicited by the commissioner. Appointment to serve on the committee requires approval by the Texas Board of Health.

(4) Selection of chairman and vice chairman.

(A) A chairman and a vice chairman of the technical advisory committee will be selected by a majority vote of the membership from nominations made at the first meeting of the committee in each state fiscal year.

(B) The duties of the chairman will be to preside at the meetings of the technical advisory committee. The vice chairman will preside in the absence of the chairman.

(5) Quorum. A simple majority of the membership will constitute a quorum.

(6) Length of appointment.

(A) A term of appointment will be for a period of three years. In order to provide continuity of members, six members will initially be appointed for one-year terms, six members to two-year terms, and five members to three-year terms. Members may be reappointed for an additional three full terms.

(B) It will be required that committee members express their desire to continue participation as an active member of the technical advisory committee for an additional term by communicating their wishes to the program administrative staff two months before the end of a membership term. The program administrative staff will notify the member whose term is expiring in sufficient time so that compliance with this provision is possible. Reappointment of members will require provisional appointment by the commissioner of the Texas Department of Health with approval by the Texas Board of Health.

(C) In the event that a vacancy occurs in committee membership during a year, a new member may be provisionally selected by the commissioner of the Texas Department of Health from nominations as outlined under the paragraph, "selection of members," with board approval required for membership. A newly appointed member will fill the unexpired term to which appointed, and thereafter require appointment for membership on the committee.

(7) Meeting site. The meetings of the Technical Advisory Committee to the General Crippled Children's Services Program will be held at a time and place designated by the program administrative staff with the concurrence of the commissioner of the Texas Department of Health and the chairman of the technical advisory committee.

(8) Frequency of meetings. Although there is no fixed schedule for meetings of the technical advisory committee, the committee usually meets three or four times each year. Special meetings may be requested by the commissioner of the Texas Department of Health, the program ad-

ministrative staff, the chairman of the committee, or committee members through the chairman.

(9) Compensation. Members will receive compensation in accordance with the compensation schedule set by the Texas Board of Health for payment to advisory committee members.

(10) Functions of the committee.

(A) The committee will function as a professional technical advisory committee for program operation. However, the committee does not assume responsibilities which are legally placed upon the Texas Board of Health.

(B) The committee will make recommendations on technical matters related to standards of care, fee schedules, and other matters related to program operation. The advisory committee will review applications and supporting documents of a physician who applies for participation in Crippled Children's Services General Program. Members are requested to familiarize themselves with the competence of a physician who makes application. Thereafter, the advisory committee recommends approval or disapproval of the application. The actions of the technical advisory committee are communicated to the commissioner of the Texas Department of Health for final action.

(C) The technical advisory committee will review applications from hospitals seeking approval as participating hospitals in the Crippled Children's Services Program. The committee will recommend approval or disapproval of an application from a hospital and submit the result of the committee's actions to the commissioner of the Texas Department of Health for final action.

(c) Technical Advisory Committee to the Cystic Fibrosis Program. The Technical Advisory Committee to the General Program functions as the Technical Advisory Committee to the Cystic Fibrosis Program. Provisions for membership and the duties are therefore identical.

(d) Technical Advisory Committee to the Congenital Heart Program.

(1) Number of members. The advisory committee to the Congenital Heart Program will be composed of nine members.

(2) Qualifications of members. Membership of this committee will include two representatives of the general public and physicians certified in the specialty of pediatric cardiology or in thoracic surgery. Physician members must have been approved by the Texas Board of Health for participation as a physician in the Crippled Children's Services Program.

(3) Selection of members. Members are selected provisionally by the commissioner of the Texas Department of Health from nominations solicited by the commissioner. Appointment to serve on the committee requires approval by the Texas Board of Health.

(4) Selection of chairman and vice chairman of the committee.

(A) A chairman and a vice chairman of the Technical Advisory Committee to the Congenital Heart Program will be selected by a majority vote in each state fiscal year.

(B) The duties of the chairman of the Technical Advisory Committee to the Congenital Heart Program will be to preside at the meetings of the Technical Advisory Committee to the Congenital Heart Program. The vice chairman will preside in the absence of the chairman.

(5) Quorum. A simple majority of the membership will constitute a quorum.

(6) Length of appointment. A term of appointment will be for a period of three years. In order to provide continuity of members, three members will initially be appointed for one-year terms, three members for two-years, and three members for three-year terms. Members may be reappointed for an additional three full terms.

(7) Meeting site. The meeting of the Technical Advisory Committee to the Congenital Heart Program will be held at a time and place designated by the program administrative staff with concurrence of the commissioner of the Texas Department of Health and the chairman of the Technical Advisory Committee to the Congenital Heart Program.

(8) Frequency of meetings. Although there is no fixed schedule for meetings of the Technical Advisory Committee to the Congenital Heart Program, the committee usually meets three or four times each year. Special meetings may be requested by the commissioner of the Texas Department of Health, the program administrative staff, the chairman of the committee, or committee members through the chairman.

(9) Compensation. Members will receive compensation in accordance with the compensation schedule set by the Texas Board of Health for payment to advisory committee members.

(10) Functions of the committee.

(A) The committee will function as a professional technical advisory committee for program operation. However, the committee does not assume responsibilities which are legally placed upon the Texas Board of Health.

(B) The committee will make recommendations to program administrative personnel on technical matters related to standards of care, fee schedules and other matters related to program operation. The advisory committee will review applications and supporting documents of a physician who applies for participation in the Crippled Children's Services Program, Congenital Heart Program. Members are requested to familiarize themselves with the competence of a physician who makes application. Thereafter, the advisory committee to the Congenital Heart Program recommends approval or disapproval of the application. The actions of the Technical Advisory Committee to the Congenital Heart Program are communicated to the commissioner of the Texas Department of Health and thereafter to the Texas Board of Health for final action.

(C) The Technical Advisory Committee to the Congenital Heart Program will review applications from hospitals seeking approval as participating cardiac centers for the Crippled Children's Services Program. The committee will recommend approval or disapproval of the application from the hospital and submit the result of the committee's actions to the commissioner of the Texas Department of Health prior to its being submitted to the Texas Board of Health for final action.

.003. Approval Process for Participating Physicians.

(a) Qualifications and approval of physicians for participation in the Crippled Children's Services Program. Physicians who are approved by the Texas Board of Health for participation in the Crippled Children's Services Program shall:

(1) have a valid license to practice medicine and surgery in the State of Texas;

(2) have agreed to accept the fees allocated by the program in payment for services;

(3) be approved by the Texas Board of Health as qualified to render such service;

(4) have submitted a completed application;

(5) have board certification in a recognized specialty of the American Board of Medical Specialties, or certification by other medical specialty boards as approved by the Texas Department of Health (in exceptional situations, this requirement may be waived);

(6) have practiced their specialty in Texas for at least one year (in exceptional situations, this requirement may be waived);

(7) have agreed to abide by the rules and regulations of program operations.

(b) Process for approving a physician's application for program participation.

(1) The physician who wishes to participate in the Crippled Children's Services Program requests an application form from the program office and completes the form.

(2) The physician returns the completed application form to the program office and requests that three physicians knowledgeable of the applicant's capabilities, including at least one in his specialty, but not sharing a private practice with the applicant, submit letters in support of the application directly to the program office.

(3) The application by the physician and the letters of support are reviewed by the program administrative staff. If the application is from a physician who is applying for approval for participation in the Congenital Heart Program, i.e., cardiologists or thoracic surgeons, these applications are processed for review by the Technical Advisory Committee to the Congenital Heart Program. All other applications from physicians will be reviewed by the Technical Advisory Committee to the General Program.

(c) Technical advisory committee review.

(1) Photocopies of all completed applications and supporting letters are sent to all members of the appropriate technical advisory committee one month prior to the scheduled meeting of the technical advisory committee. Technical advisory committee members review the applications and obtain additional information they deem necessary to evaluate the qualifications of the applicants.

(2) At the technical advisory committee meeting, appropriate applications are reviewed and a recommendation made by the technical advisory committee membership to the commissioner of the Texas Department of Health that a physician be approved, disapproved, or deferred.

(d) Approval process by the Texas Board of Health.

(1) The commissioner of the Texas Department of Health will submit the recommendations of the technical advisory committee to the Texas Board of Health for final action.

(2) A letter noting approval or failure to approve will be directed to the physician from the commissioner of the Department of Health.

(3) In the event that a physician previously approved for Crippled Children's Services Program participation has repeatedly failed to observe the policies established under the rules and regulations of this program, or has failed to maintain proficiency and professional competence as judged by his peers, these breaches will be called to the attention of the appropriate technical advisory committee. After review and investigation, the committee will make recommendations and submit their findings for consideration and possible withdrawal of program approval to the Texas Board of Health.

(e) Program participation by nonapproved physicians and dentists.

(1) In an emergency, eligible children with conditions covered by this program may be attended by a physician who has not been approved for participation. In addition, although most children receiving benefits from this program will be treated in approved hospitals, an emergency may necessitate the admission of an eligible recipient to a nonapproved hospital.

(2) The nonapproved physician attending the child in an approved or nonapproved hospital may provide the initial medical and surgical treatment necessary. When the child's condition is such that transfer to an approved hospital will not jeopardize the child, this should be accomplished. At this time, the professional responsibility for continuing care should be transferred to a physician approved for participation in the program.

(3) A second category of nonapproved physicians or dentists is recognized as a need in this program. An approved physician may request a consultation by a nonapproved physician or dentist. The consultant will evaluate the patient and make recommendations to the approved physician who requested the consultation. An approved physician remains the primary physician for the patient.

.004. Approval Process for Participating Hospitals.

(a) Objective. In keeping with the program's objective of providing medical care of the highest reasonable quality, participating hospitals should be equipped and staffed to meet the special needs of handicapped children and adolescents. Hospitals desiring to participate must be approved by the Board of Health as stipulated by law.

(b) Requirements:

(1) current approval by the Joint Commission on Accreditation of Hospitals;

(2) program-approved medical staff sufficient to meet anticipated program case load;

(3) equipment and qualified staff necessary to meet the special needs of projected number of handicapped children;

(4) a recent history of treating significant numbers of patients between the ages 0-21 for conditions covered by the program;

(5) room occupancy rate during the previous two years which was not less than the statewide average for that period;

(6) agreement to abide by program regulations.

(c) Procedures for approval.

(1) Hospital administrator submits completed application to program. Applications may be obtained from program office.

(2) Application is reviewed by program staff and additional information is obtained if necessary.

(3) Application is reviewed by the technical advisory committee and their recommendations are submitted with the application to the Board of Health for final action.

(d) Conditional approval. In considering the approval of an applying hospital, the needs of the program and the possible benefits to children served by the program are of paramount importance. In order to facilitate the availability of medical treatment in all areas of the state, while retaining the assurance of quality care, approval of some hospitals may be conditional, with restrictions limiting the hospital to treatment of only certain specific crippling conditions.

(e) In the event that a hospital previously approved for program participation repeatedly fails to observe the policies established under these rules and regulations, a description of the circumstances will be presented to the appropriate technical advisory committee. After review and investigation, the committee will submit a report on its findings and recommendations to the commissioner, who will forward the report to the Texas Board of Health for final action.

.005. Application Procedures.

(a) Casefinding. Children who may be eligible for care under the program are identified by local health departments and regional health units. They may also be referred directly to the program by physicians and hospitals (usually emergency admissions), or indirectly through other governmental agencies.

(b) Application procedures.

(1) Application forms are provided by most of the above sources by the State Office upon direct request. The application form should be completed by a person who is legally responsible for the medical care of the applicant and any physician familiar with the applicant's medical condition. The application should then be forwarded directly to the central office at the Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, or through the appropriate local or regional health department.

(2) In an emergency situation, application information may be telephoned to the central office and an eligibility decision can be obtained along with an emergency authorization. The application form must follow as quickly as possible; and if the information thereon does not substantiate eligibility, the program may nullify the authorization and deny payment for services.

.006. Patient Eligibility. Patient eligibility is determined by the following.

(a) Medical status. The condition for which treatment assistance is requested must be one covered by the program. The applicant must also be under 21 years of age, unless he or she is a cystic fibrosis patient.

(b) Legal residency. The applicant must be a legal resident of Texas.

(c) Financial status. In order to determine the financial inability of the party legally responsible to pay for treatment, each case is individually considered, and no automatic denial or approval is based upon income alone. The factors considered include:

(1) size of family;

(2) total family net income;

(3) current family medical indebtedness;

(4) insurance or other third-party payment sources available to the applicant;

(5) projected cost of treatment for applicant's condition.

(d) Reimbursement. The following schedule shall apply to reimbursement.

(1) If medical and legal residency requirements are met, but financial eligibility is marginal, the program may agree to grant assistance and require family to partially reimburse the program for a percentage of expenditures made on the applicant's behalf.

(2) Depending upon individual financial circumstances, reimbursement percentage may vary.

(3) The family must agree to the reimbursement obligation arrangement before services are authorized.

(4) Reimbursement may be made in reasonable monthly increments at no interest, in accordance with specific, individually made agreements.

.007. Authorization of Services.

(a) Each time the eligible applicant is to receive any medical examination, or treatment, an authorization for this treatment must be requested in advance.

(b) Physicians may request authorizations for these continuing treatment episodes in any manner they choose so long as the necessary information reaches the Austin office in advance of the treatment date. Many physicians submit monthly lists of children whom they plan to treat under this program while others indicate the child's next appointment date on the charge submission or in a medical report. Authorizations may also be requested by telephone when necessary. It is vitally important that all services receive prior authorization since this program can assume no financial responsibility for any unauthorized services.

(c) In case of weekend or nonoffice hours emergencies, the central office may retroactively authorize emergency treatment if contacted during the next working day.

(d) The services provided by the program include:

(1) A single office examination without regard for financial eligibility. Federal program requirements stipulate that any child suspected of having a crippling condition must be provided an initial examination under program authorization. Eligibility must be established, however, before any treatment, hospitalization, or supplies may be authorized.

(2) Medical treatment (physician's services).

(3) Hospitalization.

(4) Physical and occupational therapy.

(5) Medically prescribed orthotic and prosthetic devices, and certain durable medical equipment.

(6) Certain medications and nondurable medical supplies.

(7) Transportation of patient and one parent to treatment center if the center is in another town. Round-trip bus tickets, or tickets for other comparably priced public conveyance are provided. There is no cash advance to parents for any reason. Treatment as near as possible to the applicant's city of residence is encouraged.

(8) Meals and lodging for the accompanying parent while the applicant is hospitalized in another city. Arrangements are made through the hospital social services department.

(9) Transport costs for the remains of a patient who expires while receiving authorized medical treatment, if the patient was not in the family's city of residence.

(10) Expenses incidental to embalming of the deceased, as required for transportation.

(11) A casket purchased at a minimum price as required for transportation.

.008. Payment for Program-Authorized Services.

(a) General information. All services must be authorized by the Crippled Children's Services Program in Austin prior to delivery if program payment is expected. Retroactive authorizations for emergency admissions or treatments will be considered only if the Austin office is notified on the first working day following the provision of emergency care.

(b) Physicians and other medical professionals. Payment for physicians' services, inpatient services, and surgery is made in accordance with an allowable fee schedule

developed with the assistance of the program advisory committees. The schedule is comprised of fees which shall not exceed customary minimum fees paid for such services. Payment for other professional services such as physical therapy is also made in accordance with an allowable fee schedule.

(c) Inpatient hospitalization. The program will pay the reasonable cost of program-approved inpatient hospital services provided to patients under the program.

(1) Payment for hospitalization is made on the basis of the particular hospital's actual costs. If charges are more than costs, payment is less than bill charges. Hospitals are required to keep the program apprised of their current ratio of costs to charges. Payment will not exceed 100% of actual cost.

(2) Hospital costs shall be computed under Title V regulations as follows. Charges made by a hospital will be adjusted by the hospital's most recent ratio of cost to charges (RCC) and/or other approved methods that will assure that the reasonable cost of any such services does not exceed the amount which would be determined under Section 1861(v) of the Act as the reasonable cost of such services for purposes of Title XVIII, and will take into account any action taken by the secretary pursuant to Section 1122(d) of the Act with respect to any such hospital.

(3) All hospitals approved for participation under the program will be required to periodically submit sworn statements to their current costs based on internal, private, or Medicare audits.

(4) Since Article 4419c clearly states that this program is secondary to other primary sources to payment, hospitals must apply their RCC to the total charges, excluding personal items that cannot be considered, and then deduct the estimated amount to be received from other sources, if any, before submitting a claim to the program. In the event payments from other sources would exceed the amount that would be payable by the program, no claim should be submitted. If the amount received from other sources is less than the amount estimated, a supplemental claim may be submitted for payment. If the amount received is greater, a refund must be made to the program.

(5) The least expensive rooms should be utilized in providing inpatient services for patients under the program.

(d) Outpatient hospital services. The program will pay reasonable fees for authorized services.

(e) Durable medical equipment.

(1) Certain medical equipment can be purchased for eligible program recipients if these items are prescribed by a physician approved for program participation. To have these items provided, the physician completes his portion of an appliance request form and forwards that form to the supplier of his choice. The program may specify that requests for certain standard types of equipment be forwarded to the central office, which will arrange for purchase on a lowest-bid basis.

(2) The supplier then completes his portion of the form, indicating cost and estimated date of delivery, and submits the completed form to the central office for authorization. No form with stamped signatures can be accepted.

(3) All providers of equipment, braces, and appliances will certify on the appliance request form that the price quoted is not more than the amount that they would charge any other government agency.

(4) Program-approved physicians may obtain appliance request forms from the central office.

(f) Disposable medical supplies and drugs.

(1) Certain medical supplies and drugs can be purchased for eligible program recipients if these items are prescribed by a physician approved for program participation. To have these items provided, the supplier must submit a copy of the prescription and the appropriate form to the central office for issuance of an authorization.

(2) The appropriate form must contain a description of the prescribed items, cost, and date of delivery. Forms for this purpose are available from the central office.

(g) Utilization of private insurance or other third-party payment sources.

(1) Medicaid. The Medicaid Program is primary to the Crippled Children's Services Program. This program will not supplement a Medicaid payment; but if hospitalization, treatment, or supplies are necessary which Medicaid cannot consider (such as orthopedic supplies, outpatient physical therapy, or hospitalization beyond Medicaid limitations), this program can consider providing assistance.

(2) Medical insurance. Under provisions of the Crippled Children's Services Program legislation (Article 4419c, Texas Civil Statutes), it is necessary that any private medical insurance or other benefits available to the patient be utilized.

(3) If payment is made to a medical care provider by this program in accordance with our fee schedules, and if the provider also receives payment for this service from private insurance, the medical care provider may retain the larger of the two payments and must return the smaller of the two payments to this program. This provision is applicable even though both payments received may not cover the total usual and prevailing charges. If the parent or guardian receives any direct insurance payment or payment from any other benefits for services or supplies for which payment has been or will be made by this program, the parent or guardian must reimburse this program to the extent of the insurance payment received.

(4) Families may not be billed. Under no circumstances can a family be asked to make any payment for services provided under an authorization from this program. This is expressly prohibited by federal regulations promulgated under legislation which partially funds this program. A marginally eligible family may, however, be required to reimburse this program for part of the funds expended in their child's behalf.

.009. Termination or Modification of Patient Eligibility.

(a) Modification, suspension, or termination of services is provided for by law in Article 4419c, Vernon's Texas Civil Statutes.

(b) Any person receiving services from the program may have their eligibility modified, suspended, or terminated should the circumstances which made them eligible initially alter. The program will give the patient notice stating the reasons for the proposed modification, suspension, or termination of services. Within 10 days after receiving this notice, the patient may respond to or question the program's reasons in a written response to the program. Upon receiving this response, the program will affirm or reverse its proposed action in writing to the patient, giving the reasons for the decision.

(c) Any person aggrieved by the program's decision is entitled to appeal the decision to the department. The appeal procedure, at a minimum, will include the following.

(1) Within 10 days after receiving the program's decision, the person must send a notice to the program requesting an informal hearing.

(2) The program will set a date and time at the central office for an informal hearing to be conducted by an impartial decision maker.

(3) The person aggrieved will have the opportunity to appear and offer comments, ask questions, refute the program's decision, and make suggestions for alternative action.

(4) The hearing officer will give all interested persons the opportunity to be heard, will conduct the informal hearing in a fair and due process manner, and will issue a written decision on the appeal, setting forth the reasons for his decision and the facts upon which he relied.

.010. Confidentiality of Information.

(a) All information as to personal facts and circumstances obtained by the program staff or the staff of cooperative agencies at the state, regional, or local level will constitute privileged communications, will be held confidential, and will not be divulged without the consent of the parents or guardian except as may be necessary to provide services. Information may be disclosed in summary, statistical, or other forms which does not identify particular individuals.

(b) Information as to personal facts and circumstances will be safeguarded as follows.

(1) All cooperating agencies and providers of services will be notified that no information is to be released about individual children receiving services under the program, without the consent of the parent, guardian, etc.

(2) Nonprofit organizations which solicit funds for the treatment of disabled children will be informed that the names of children whose treatment is being financed by the program are not to be included in any publicity which may be released.

(3) Information will be released if requested by duly constituted courts of the state.

(4) All statements made herein with reference to the confidentiality of information must conform to the state law of Texas and will be administered in conformity with such laws.

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

Issued in Austin, Texas, on August 1, 1980.

Doc. No. 805952 A. M. Donnell, Jr., M.D.
Deputy Commissioner
Texas Department of Health

Effective Date: August 22, 1980

Proposal Publication Date: May 13, 1980

For further information, please call (512) 458-7241.

Hemophilia Assistance Program 301.33.09

The department has adopted the subject rules as proposed in the June 10, 1980, issue of the *Texas Register* (5 TexReg 2264). The only comment made covered the intent of Article 4477-30 and this required no changes in the rules.

These rules are adopted under authority of Articles 4418a, 3377-30, and 6252-13a, Texas Revised Civil Statutes.

.001. Introduction and Brief Description of Program Operation. The Hemophilia Assistance Program of the Texas Department of Health provides financial assistance to persons who have hemophilia and who require continuing treatment with blood, blood derivatives, or manufactured pharmaceutical products but are unable to pay the entire cost.

.002. Advisory Committee.

(a) The Advisory Committee is appointed by the commissioner of health and reviews the program and consults with the department in the administration of the program.

(b) Number of members. The committee consists of 12 members, as follows:

(1) three members representing hospitals where hemophilia treatment occurs;

(2) two members representing voluntary agencies interested in hemophilia;

(3) three members who are medical specialists in hemophilia patient care;

(4) three members who are adult hemophiliacs or parents of hemophiliacs;

(5) one member representing the general public.

(c) Length of appointment. Except for those first appointed, members are appointed for terms of six years, expiring January 31 of odd numbered years. If a vacancy occurs on the committee, the commissioner shall appoint a member to serve the unexpired portion of the term.

(d) Frequency of meetings. The committee shall meet annually, and the committee may meet at other times as necessary.

(e) Compensation. Members shall serve without compensation but may be reimbursed for travel expenses incurred by committee activities.

.003. Annual Report. The department shall make an annual report of the program to the committee.

.004. Patient Eligibility. Patient eligibility is determined by the following:

(1) Medical status. The patient must have a condition characterized by bleeding resulting from a genetically determined deficiency of a blood coagulation factor or hereditarily resulting in an abnormal or deficient plasma procoagulant.

(2) Financial status.

(A) To determine the financial inability of the party legally responsible to pay for blood products, each case is individually considered, and no automatic denial or approval is based upon income alone.

(B) The factors considered include:

(i) size of family;

(ii) total family net income;

(iii) current family medical indebtedness;

(iv) insurance or other third party payment sources available to the applicant;

(v) cost of blood product required by the applicant.

(3) Legal residency. The applicant must be a legal resident of Texas.

.005. Approved Providers. An approved provider is any physician licensed to practice medicine in Texas.

.006. Assistance Provided. The program will assist in paying for blood products prescribed by the patient's physician. Payment will be made directly to the pharmacy or other suppliers.

.007. Utilization of Private Insurance or Other Third Party Payment Sources. The program's assistance will be secondary to any private medical insurance or other benefits available to the patient from Medicare, Medicaid, or any other third party payment source.

.008. Termination or Modification of Patient Eligibility.

(a) A person may have his or her eligibility modified, suspended, or terminated in the event the circumstances which made him or her eligible initially, should change.

(b) The program will inform the patient, stating the reason(s) for any change in the patient's eligibility.

(c) The patient may respond to or question the program's reason(s) in a written response to the program.

(d) The program will affirm or reverse its action in writing to the patient, giving the reason(s) for the decision.

(e) Any person aggrieved by the program's decision is entitled to an appeal to the department by the following procedure:

(1) Within 10 days after receiving the program's decision, the person must send a notice to the program requesting an informal hearing.

(2) The program will set a date and time at the central office for an informal hearing to be conducted by an impartial decision maker.

(3) The person aggrieved will have the opportunity to appear and offer comments, ask questions, refute the program's decision, and make suggestions for alternative action.

(4) The hearing officer will give all interested persons the opportunity to be heard, will conduct the informal hearing in a fair and due process manner, and will issue a written decision on the appeal, setting forth the reasons for his decision and the facts upon which he relied.

.009. Confidentiality of Information.

(a) All information as to personal facts and circumstances obtained by the program staff or the staff of cooperative agencies at the state, regional, or local level will constitute privileged communications, will be held confidential, and will not be divulged without the consent of the patient, parent, or guardian except as may be necessary to provide services. Information may be disclosed in summary, statistical, or other forms which do not identify particular individuals.

(b) Information as to personal facts and circumstances will be safeguarded as follows:

(1) All cooperating agencies and providers of services will be notified that no information is to be released about individuals receiving assistance under the program, without the consent of the patient, parent, or guardian.

(2) Nonprofit organizations which solicit funds for the treatment of hemophiliacs will be informed that the names of patients receiving assistance from the program are not to be included in any publicity which may be released.

(3) Information will be released if requested by duly constituted courts of the state.

(4) All statements made herein with reference to the confidentiality of information must conform to the state law of Texas and will be administered in conformity with such laws.

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

Issued in Austin, Texas, on August 1, 1980.

Doc. No. 805953 A. M. Donnell, Jr., M.D.
Deputy Commissioner
Texas Department of Health

Effective Date: August 22, 1980
Proposal Publication Date: June 10, 1980
For further information, please call (512) 458-7241.

Home Health Care Agencies

Licensing and Regulation 301.50.01

The Texas Department of Health, adopts in final form these subject rules which were published as proposed rules in the May 2, 1980, issue of the *Texas Register* (5 TexReg 1656). A public hearing was held and the testimony received at the hearing required no changes to the rules as proposed; therefore, no changes have been made.

These rules are adopted under authority of Articles 4418a, 4447u, and 6252-13a, Texas Revised Civil Statutes.

.001. Introduction. In order to be licensed as a home health care agency, hereafter referred to as "agency," the following rules must be followed for either a Class "A" home health care agency or a Class "B" home health care agency (Class "A" agency must be certified by Medicare, Class "B" that are not certified by Medicare) except where the individual rules specify otherwise.

.002. Definitions. Definitions used in these rules are the same as those set out in Section 1 of Senate Bill 767, 66th Legislature, 1979, relating to the licensure and regulation of home health care agencies.

.003. Qualifications of Personnel. Qualifications of personnel must meet criteria as set out by their appropriate professional standards (state, national, or federal).

.004. Treatment and Services Provided. Patients are accepted for treatment of health services on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence. Care follows a written plan of treatment established and reviewed, at least every six months, by a physician.

.005. Supervision of Professional and Nonprofessional Personnel. Supervision of professional personnel must be under the direction of the agency director or his designate. Non-professional personnel must be supervised by the appropriate professional staff of the agency on site at least monthly.

.006. Organizational Structure of the Agency. Organizational structure, lines of authority, and delegation of responsibility must be clearly set forth in writing for the agency as well as duties of the personnel.

.007. Clinical Records. Clinical records must be kept by the agency and shall contain pertinent past and current findings in accordance with accepted professional standards for every patient receiving home health services.

.008. Business Records. Business records shall be maintained by the agency.

Issued in Austin, Texas, on August 1, 1980.

Doc. No. 805954 A. M. Donnell, Jr., M.D.
Deputy Commissioner
Texas Department of Health

Effective Date: August 22, 1980
Proposal Publication Date: May 13, 1980
For further information, please call (512) 458-7538.

Texas Department of Human Resources

24-Hour Care Licensing

The Department of Human Resources adopts new rules concerning Minimum Standards for Juvenile Correctional Institutions, Minimum Standards for Juvenile Correctional Camps, and Minimum Standards for Juvenile Reception Centers as proposed in the May 20, 1980, issue of the *Texas Register* (5 Tex Reg 1944).

The review and comment period for proposed standards for juvenile correctional facilities ended on July 14, 1980. The department received written comments in relation to each of the three sets of standards and received verbal input from the State Advisory Committee on Child Care Facilities. In response to written and verbal comments the following changes were made.

Standards relating to employment of persons who have been convicted of certain felony or misdemeanor offenses within the preceding 10 years were clarified to specify requirements needing completion before employment of such individuals. Standards relating to staffing patterns were clarified to specify the kinds of support staff needed to assist child care staff. Standards relating to admission were expanded to include placements made through contract with the United States Bureau of Prisons. Standards requiring information be obtained on students were restated to require documentation be included in student records.

Minimum Standards for Juvenile Correctional Institutions 326.91.13

These rules are adopted under the authority of the Human Resources Code, Title 2, with the approval of the Texas Board of Human Resources.

.001. Legal Basis for Operation. The institution's purposes and objectives shall be consistent with those legislatively required of the Texas Youth Council. A copy of enabling legislation shall be available for review by the Department of Human Resources. The department shall be notified of any changes mandated by the legislature.

.002. Administrative Responsibilities.

(a) The executive director of the Texas Youth Council shall be responsible for policies and programs and for ensuring compliance with minimum standards.

(b) The institution shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to facility staff.

.003. Fiscal Accountability. The institution shall maintain complete financial records. Books shall be audited in accordance with state requirements. A copy of the accountant's statement of income and disbursements shall be submitted to the Licensing Branch during the certification process (Chapter 42, Human Resources Code, Section 42.045).

.004. Records and Reports.

(a) The institution shall complete written incident reports concerning any of the following occurrences:

- (1) any physical contact of a violent nature among students or between staff and students;
- (2) sexual abuse involving a student or staff;
- (3) physical restraint of a student;
- (4) physical injury to a student.

A copy of the incident reports shall be filed at the institutions and shall be available for review by staff of the Licensing Branch of the department.

(b) Any incident which critically injures, permanently disables, or results in death to a student shall be reported immediately to the parents or managing conservator. Notification of such occurrences shall be made to the Licensing Branch of the department within 24 hours or the next working day. These notifications shall be documented in the student's record.

(c) Any case of suspected abuse or neglect shall be reported immediately to the Texas Department of Human Resources (Appendix II, Section III; Texas Family Code Chapter 34).

(d) Absences without permission shall be reported to the parents or managing conservator when it is determined that the student is a runaway. Documentation of notification to the child's parents or managing conservator shall be included in the record.

(e) Disasters or emergency situations which require closure of the living unit, such as fires or severe weather, shall be reported to the Licensing Branch within 24 hours or the next working day.

(f) The administrator of the institution shall submit reports to the Licensing Branch of the department concerning

- (1) any change in administrator;
- (2) any impending changes that would necessitate a change in the conditions of the certificate.

.005. Availability of Records.

(a) The institution's records shall be available at the facility and open for review by the Licensing Branch of the department.

(b) The certificate shall be displayed at the institution (Chapter 42, Human Resources Code, Section 42.049(d)).

(c) The institution shall ensure that case records are safeguarded from unauthorized and improper disclosure. Information in case records shall be disclosed only to the following:

- (1) the professional staff or consultants of the agency or institution.
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child; or

(4) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the work of the agency or institution.

(d) The institution shall allow the department to visit and inspect the institution at all reasonable times (Chapter 42, Human Resources Code, Section 42.044). Upon arrival, the licensing representative will contact the administrator or the designated person in charge to explain the purpose of the visit.

.006. Personnel Policies.

(a) The institution shall have written job descriptions which specify what duties employees are expected to perform. A copy of job descriptions shall be available to employees and to the Licensing Branch.

(b) If the institution has a student employment program, the policies of the program shall be in writing and available for review by students and the Licensing Branch of the department. Student participation in the employment program shall be voluntary.

(c) If volunteers or sponsoring families are used, institutions shall have written policies stating the qualifications for volunteers or sponsoring families and the procedures for selecting these individuals or families. A copy of the policies and procedures shall be available for review by the Licensing Branch.

.007. Administrator Qualifications and Responsibilities.

(a) The administrator shall be licensed as provided by Chapter 43, Human Resources Code.

(b) The administrator is responsible for implementing the policies approved by the executive director, the ongoing operations of the institution, and compliance with the Minimum Standards for Juvenile Correctional Institutions.

(c) If responsibility for the program of the institution is delegated to an assistant administrator, he or she shall also be licensed.

(d) The licensed administrator shall make available to staff organizational charts and written plans for staffing.

(e) The licensed administrator shall reassign or remove from direct child care activity any employee against whom is returned:

- (1) an indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act;
- (2) an indictment alleging commission of any misdemeanor classified as an offense against the person or family, or of public indecency;
- (3) an official criminal complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family, or of public indecency.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day.

.008. Staffing.

(a) In the administrator's absence, a person or persons shall be responsible for the institution.

(b) The institution shall employ and supervise staff necessary to ensure the health and safety of the students in its care.

(c) The institution shall have staff coverage throughout the 24-hour period.

(1) There shall be at least one child care staff on duty during waking hours for every 13 students.

(2) The staff-student ratio applies to the total facility. Staff shall be available to students in residence. Only child care staff or volunteers meeting the same qualifications may be counted in the staff-student ratio.

(3) During sleeping hours at least one child care worker shall be in the living unit for every 24 students. Night staff shall be awake during student's sleeping hours.

(d) In addition to meeting the required staff/student ratio, the institution shall provide support staff including caseworkers, child care supervisory staff, security and infirmary personnel, or recreational staff. The purpose of the support staff is to assist the child care staff in meeting the educational, recreational, medical, and casework needs of the students in care.

(e) Tasks which conflict or interfere with child care responsibilities shall not be assigned to child care staff. Job descriptions and staff assignments shall show no conflicts in assignments to child care staff.

.009. Staff Qualifications and Responsibilities.

(a) Individuals convicted within the preceding 10 years of any felony classified as an offense against the person or family or of public indecency, or of violation of the Texas Controlled Substances Act, or of any misdemeanor classified as an offense against the person or family, or of public indecency may be employed if authorization for their employment is obtained from the State Office of the Texas Youth Council. Documentation of authorization for employment, psychological testing, psychiatric interview, and criminal background investigation shall be included in the employee's personnel record.

(b) The personal qualifications of employees shall be verified.

(1) At least three references shall be obtained for each potential employee prior to employment. Information obtained from references shall be written and filed whether the interview is conducted in person or by telephone.

(2) Each employee shall submit a statement to the facility concerning any felony and/or misdemeanor convictions within the preceding 10 years and of any pending criminal charges.

(c) Persons whose behavior or health status endangers the students shall not be allowed at the institution.

(d) Staff members shall have an examination for tuberculosis within 12 months prior to employment. Re-examination shall be in accordance with recommendations of the local public health authority or the regional office of the Texas Department of Health.

(e) Child care staff shall be at least 18 years old and be able to read and write.

(f) Child care staff employed after September 1980 who do not have at least two years previous child care related work experience are required to have a high school diploma or G.E.D.

.010. Training.

(a) The institution shall provide specific job orientation for all new staff.

(b) At least 15 hours of in-service training related to children's services shall be provided annually for all staff working with students. In-service training for staff working

with students shall be documented. Documentation shall include the date, the subject, and the name of the person who conducted the training.

(c) First aid training is required for child care staff who are not licensed/certified health personnel.

(1) First aid training received or scheduled shall be documented for child care staff.

(2) Training shall be conducted by a Red Cross instructor or a licensed health professional.

(3) First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three years.

.011. Staff Records. Personnel records shall be maintained for each employee of the institution. These records shall contain information on:

(1) qualifications for the position;

(2) tuberculosis test reports for all staff as required by standards;

(3) authorization for employment of ex-offenders (if applicable) including documentation of psychological testing, psychiatric interview, and criminal background investigations;

(4) conviction record statement;

(5) pre-employment references;

(6) date of employment;

(7) date and reason for separation (if applicable);

(8) forwarding address of separated employees.

.012. Admission.

(a) The institution shall admit only those students who have been committed by the court to the care, custody, and control of the Texas Youth Council or who are admitted under contract with the United States Bureau of Prisons.

(b) No student shall be denied services because of race.

(c) The institution shall ensure that each student receives a medical examination by a licensed physician within 30 days prior to admission or within 30 days after admission. Students being transferred directly from a TYC facility or other child care facility who have had a medical examination within the past year are exempt. The examination shall be documented in the student's record.

(d) Students shall have had a dental examination by a licensed dentist or dental hygienist working under supervision of a licensed dentist within six months prior to admission or arrangements shall be made for one within 30 days after admission. Documentation of the scheduled appointment and subsequent examination shall be in the student's medical record.

(e) Students shall be tested for tuberculosis according to the recommendations of local public health authorities or the regional office of the Texas Department of Health. Documentation of the tuberculosis test shall be in the student's medical record.

.013. Assessment.

(a) The institution shall review the assessment study which has been prepared by the TYC reception center for the purposes of determining the student's best placement within the institution. The assessment shall be filed in the student's record and shall include the following information:

(1) A description of family relationships.

(2) The student's developmental history and medical history, including current immunization record.

(3) A written psychological diagnostic evaluation obtained within the past 12 months from a psychologist as defined by the Psychologists' Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).

(4) An evaluation by a licensed psychiatrist of violent offenders and students whose behavior indicate the need for further assessment. A copy of the psychiatric evaluation shall be included in the assessment study.

(5) A description of the student's personality, behavior, and interests.

(6) The student's school history.

(7) History of previous placements.

(8) The student's legal status.

(9) An assessment of the student's needs.

(10) The immediate and long-range goals of the placement.

(11) Name of the family member or managing conservator who will be responsible for the relationship with the institution and the student.

(b) If the assessment study is incomplete at the time of admission, it must be completed within 30 days following admission.

(c) The assessment review committee shall include at least one person meeting the following qualifications:

(1) a master's degree in social work from an institution accredited by the Council on Social Work Education and a minimum of one year of supervised experience in children's services or family services; or

(2) a graduate degree in a behavioral or social science from an accredited college or university and two years of supervised experience in children's or family services; or

(3) a bachelor's degree in social work from an accredited college or university and two years of supervised experience in children's or family services; or

(4) a bachelor's degree from an accredited college or university and three years of supervised experience in children's or family services; or

(5) a bachelor's degree from an accredited college or university and current, direct supervision from a person meeting one of the above qualifications;

(6) a licensed administrator (Chapter 43, Human Resources Code).

The name of the persons reviewing the assessment study shall be documented.

(d) The institution's staff shall discuss with the student the reasons for placement and the student's understanding of placement. This discussion shall be documented in the student's record.

(e) The institution shall notify parents or managing conservators in writing of their child's placement within the institution. The following written material shall also be provided parents or managing conservators:

(1) rules regarding visits, mail, gifts, and telephone calls;

(2) information on the nature and frequency of reports to the student's family or managing conservator;

(3) the institution's discipline policy;

(4) the name of the person or office parents can contact if they feel their child's rights have been violated.

(f) The institution shall provide orientation for new students.

.014. *Trips Away from the Institution.*

(a) The institution's staff-student ratio shall be maintained for overnight trips.

(b) The administrator shall ensure that individuals on trips are properly fed, lodged, and supervised; and that safety precautions, medical care, and programming are provided.

.015. *Student's Records.* Accurate and current records shall be maintained for each student in care. In addition to other required documentation, each student's record must include:

(1) name;

(2) date of birth;

(3) place of birth;

(4) sex;

(5) religion (if known);

(6) race;

(7) names and addresses of parents, brothers, and sisters;

(8) names and addresses of other persons who have a significant relationship with the student;

(9) date of admission;

(10) a copy of the commitment order from the court;

(11) birth certificate or other document which establishes identity, if available. Records without these documents shall reflect correspondence generated at least every three months to obtain such.

(12) date of discharge.

.016. *Child Care and Training; Individualized Program Plan.*

(a) An individual program plan shall be developed which specifies each student's needs and how these needs will be met. The plan shall be recorded in the student's case record.

(1) The individualized program plan shall include the objectives of placement.

(2) The individualized program plan shall be shared with staff working with the student.

(3) The individualized program plan shall be developed within 30 days after admission.

(b) The individualized program plan shall be reviewed at least every three months by the institution and the student. Results of the review shall be filed in the student's case record.

(1) The review shall note progress toward achieving or changing objectives based on new information about the student and his or her family.

(2) A written progress report shall be provided the student's parents and his parole officer quarterly.

(c) The institution shall obtain professional consultation and treatment for students with special needs. A student's need for professional consultation and treatment shall be determined by his or her lack of adjustment in the social, home, and school environment. When these services are obtained, they shall be documented in the student's case record.

.017. *Daily Care.*

(a) The daily schedule shall be developed to meet student's needs.

(b) The institution shall see that each student is supplied with personal clothing suitable to the student's age and size. It shall be comparable to the clothing of other youth in the community. Students shall have some choice in selecting their clothing.

(c) The institution shall provide students guidance in money management.

(d) Money earned by a student or received as a gift or allowance shall be his or her personal property. A student's money shall be accounted for separately from the institution's funds.

(e) Students shall be given training in personal care, hygiene, and grooming. Each student shall be supplied with personal care, hygiene, and grooming equipment.

(f) The institution shall provide supervised indoor and outdoor recreation and equipment so that every student may participate.

.018. *Education, Work, and Training.*

(a) The institution shall arrange an education appropriate for each student.

(b) The institution shall distinguish between tasks which students are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training.

.019. *Student's Rights and Privileges.*

(a) The staff of the institution shall allow privacy for each student.

(b) The institution shall provide written information to each student which specifies:

(1) The student's right to appeal decisions made concerning him or her and the procedure to be followed in initiating an appeal.

(2) The student's right to confer with his or her attorney(s) in private.

(3) The student's right to express grievances if he or she feels his or her rights have been violated and the procedure to be followed in initiating grievance procedures.

(c) Contact between the student and his or her parents or managing conservator shall be allowed while the student is in care unless the rights of the parents have been terminated by court order, or family contact is not in the student's best interest.

(1) The institution shall have clearly written policies regarding visits, gifts, mail, and telephone calls between the student and his or her family or managing conservator. These policies shall be made known to the student at the time of admission.

(2) Students shall be allowed to have telephone conversations with family members or managing conservators unless the best interests of the student or a court order necessitates restrictions.

(3) Students shall not be denied their right to privacy in writing, sending, and receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(4) If the institution's policy permits restrictions on communications or visits, these shall be evaluated monthly by a psychiatrist, licensed psychologist, social worker with a master's degree in social work, or a licensed administrator. Reasons for the restrictions shall be documented in the student's record.

(5) If limits are put on communications or visits for practical reasons, these limits shall be determined with the participation of the student and his or her family or managing conservator. These limitations shall be filed in the student's record.

(d) A student shall be allowed to bring personal possessions to the institution and may acquire personal possessions.

If limits are put on the kinds of possessions a student may or may not receive, these shall be discussed with the student and his or her parents or managing conservator.

(e) There shall be no racial discrimination by the institution.

(f) The opinions and recommendations of the students in care shall be considered in the development and evaluation of the program and activities. The procedure for this shall be documented. A copy of the procedures shall be available for review by the Licensing Branch.

(g) The institution shall have written policies for the discipline of students in care. Copies of the discipline policy shall be available to staff. Copies of the institution's discipline policy shall be submitted to the department during each certification process.

(1) Only adult staff members shall discipline students.

(2) Students shall not be subjected to cruel, harsh, unusual, or unnecessary punishment.

(3) Students shall not be subjected to verbal remarks that belittle or ridicule them or their families.

(4) Students shall not be denied food, mail, or visits with their families as punishment.

(5) Discipline shall fit the needs of the student.

(6) The use of corporal punishment is prohibited.

(h) Mind altering and behavior modifying medications shall be administered according to the physician's directions.

(1) Each dose administered shall be documented in the student's record. Documentation shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(2) The appropriateness of continuing the medication shall be evaluated by the prescribing physician at least every 30 days. This evaluation shall be documented in the student's record.

(i) Students shall not be required to perform at public gatherings.

(j) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a student or his or her family or managing conservator shall not be made public.

(k) The institution shall not use reports or pictures from which students can be identified without written consent from the student and the student's parents or managing conservator.

.020. *Restraint.*

(a) The institution shall have written policies for the use of restraint. The policies shall indicate the personnel responsible for making decisions to place or retain students in restraint.

(b) Physical holding or mechanical restraints shall be used only as a last resort to protect the student from injury to self or others, prevent the student from completing the act of escaping, prevent the imminent, substantial destruction of property, or when the student is being transported and staff have reason to expect the student to attempt to escape and/or engage in violent behavior.

(c) The reasons for use of restraint, type of restraints used, length of time the student is in restraints, and the name of person(s) administering restraint shall be documented in the student's case record.

.021. *Security.* The institution shall have written policies concerning confinement of students in locked quarters. The policies shall indicate the personnel responsible for making

decisions to place or retain students in security and outline the maximum number of hours a student may be retained.

(1) Students in security shall be provided three well-balanced nutritious meals each day.

(2) Students in security will not be denied visitation privileges with parents, managing conservators, or their attorney.

(3) Students in security shall not be denied their right to privacy in writing, sending, and receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(4) Students in security for a period exceeding 24 hours shall receive counseling services from professional staff including but not limited to the staff psychologist, the student's social worker or an alternate social worker, or the institution's consulting psychiatrist.

(5) Each student's educational plan will be continued during confinement for at least four hours each day.

(6) Students in security shall be offered and encouraged to use at least one hour of large-muscle exercise on a daily basis. This opportunity may be suspended on orders from a physician or the institution's consulting psychiatrist.

(7) A written description documenting the reasons for admission to security shall be filed in the individual student's case record.

.022. *Medical and Dental Care.*

(a) The institution shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

(1) Copies of the policies and procedures shall be available to the department.

(2) The institution shall make known to all staff members the policies and procedures to be followed in an emergency.

(b) All students shall be examined annually by a licensed physician. Documentation of the examination signed by a licensed physician shall be filed in the student's medical record.

(c) Provisions for medical isolation shall be available.

(d) All students shall have a dental examination by a licensed dentist or dental hygienist working under the supervision of a licensed dentist at least once a year. Documentation of the examination shall be filed in the student's medical record.

(e) The institution shall comply with laws, rules, and regulations regarding immunization of children (Chapter 42, Human Resources Code, Section 42.043.) Current immunization records shall be maintained for each student at the facility. Student's immunization records shall include the birthdate, the immunization status, the number of doses, and the dates each immunization was received. A machine or handwritten copy of the immunization record is acceptable. Handwritten copies shall bear the signature of the responsible staff member copying the information. Compliance with this standard shall be measured by the presence of one or more of the following in each student's record.

(1) A written and dated record that the student has been immunized against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella. This record shall have a rubber stamp or signature of the physician or health personnel and shall specify the type, number of doses, and the dates given as required by law.

(2) A written and dated statement from a licensed physician or other authorized health personnel that immunizations against at least one of the above mentioned diseases have begun. The immunization cycle shall be completed as soon as is medically feasible. A current immunization record shall be on file at the institution.

(3) A certificate signed by a physician, duly registered and licensed under the Medical Practice Act, stating the physician's opinion that the required immunization would be injurious to the health and well-being of the student or any member of his or her family or household.

(4) An affidavit signed by the parent or managing conservator of the student stating that the vaccination conflicts with the tenets and practice of a recognized church or religious denomination of which the student is an adherent or member.

(5) A written and dated statement for a student enrolled in a public school program signed by the parents or managing conservator stating that the student's immunization record is on file at the school the student attends and that all immunizations are current. The name of the school shall be included on the statement.

(f) The institution shall comply with laws, rules, and regulations regarding acquisition, storage, and administration of medication. All medication shall be given by an adult staff member. Medications shall be given according to the instructions on the label.

(g) Medication records shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(h) Current medical and dental records shall be maintained for each student. The records shall include:

(1) A record of each visit to a physician or dentist and recommended treatment. Treatment shall be provided as indicated.

(2) A medical consent form signed by a person authorized to give consent by the Texas Family Code, Chapter 35, Section 35.01.

.023. *Nutrition.*

(a) Students shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development.

(b) *Food for Fitness—A Daily Food Guide*, developed by the United States Department of Agriculture, shall be used as a basis for meeting these standards.

(c) Students shall have a minimum of three meals daily and snacks.

(d) Menus, as served, shall be retained on file for one month after use.

(e) All milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

(f) No more than 14 hours shall pass between the last meal or snack of one day and the serving of the first meal of the following day.

.024. *Release.*

(a) The following persons shall be involved in planning the release of a student from the institution.

(1) the student and his or her parents or managing conservator;

(2) the student's parole officer;

(3) the student's caseworker and any other appropriate institutional staff members.

(b) The institution shall not release a student without notifying the student's parents or managing conservator of the date and anticipated time of the student's release; the method of transportation being used to transport the student to his or her destination; and the anticipated time of his or her arrival. Notification provided parents or managing conservator shall be documented in the student's record.

(c) The plan for release of the student shall be recorded in his or her record.

.025. *Health and Safety.*

(a) Documentation of current and approved fire, health, and safety inspections shall be on file at the institution. Copies of the inspection reports shall be submitted to the Licensing Branch. The required annual inspections are:

(1) Fire inspections which must meet requirements of the local fire marshal. In areas where there is no qualified fire inspector, the state fire marshal shall be requested to make the inspection.

(2) Health inspections which must meet or exceed regulations set by local ordinances and the Texas Department of Health.

(3) Gas pipes must be pressure tested by the local gas company or a licensed plumber and documentation provided that there are no leaks.

(4) Liquefied petroleum gas systems must be inspected by the Liquefied Petroleum Gas Division of the Texas Railroad Commission.

(b) There shall be written plans and procedures for meeting disasters and emergencies such as fires or severe weather. Staff members shall know the procedures for meeting disasters and emergencies.

(c) An outdoor swimming pool shall have a fence. Entrances and exits to outdoor and indoor pools shall be locked when not in use.

(d) A certified lifeguard shall be on duty when the facility's swimming area is in use. Certification shall be documented in the personnel records.

.026. *Environment.*

(a) Building and grounds shall be maintained, repaired, and cleaned so that they are not hazardous to health and safety.

(1) Outdoor areas shall be well drained.

(2) Windows and doors used for ventilation shall be screened.

(3) Equipment and furniture shall be safe and sturdy.

(4) Institutions shall ensure that students in care are provided adequate protection from flammable and poisonous substances.

(b) Animals on the premises shall be vaccinated and treated as recommended by a licensed veterinarian to protect the health of the students. Documentation of vaccinations and treatment shall be on file at the institution.

(c) Institutions shall take measures to keep the facility free of rodents, insects, and stray animals.

(d) There shall be indoor areas where students can gather for quiet, reading, study, relaxation, and entertainment or recreation. There shall be a minimum of 40 square feet per student. Bedrooms, halls, kitchens, and any rooms not available to students shall not be included in the minimum space requirement.

(1) Sketches of floor plans showing dimensions and purposes of rooms shall be submitted as documentation.

(2) Indoor recreation areas can be counted in the requirement as can living rooms in buildings where students live.

(3) Furniture in living areas shall not block exit ways.

(e) A sleeping room for single occupancy shall contain at least 64 square feet per occupant. Sleeping rooms shared by students shall contain 60 square feet per occupant. Sketches of floor plans showing the dimensions and purpose of rooms shall be submitted as documentation.

(f) Each student shall have his or her own bedstead and mattress. Beds shall be kept clean and comfortable. Mattresses shall have covers or protection.

(g) There shall be personal storage space for each student's clothing and possessions. Storage space shall be within easy reach of the student.

(h) There shall be one lavatory, one tub or shower with hot and cold running water, and one toilet for every 10 students.

(1) Bathrooms shall be located near the sleeping area.

(2) Bathrooms shall be thoroughly cleaned daily.

.027. *Food Preparation, Storage, and Equipment.*

(a) All food and drink shall be of safe quality.

(b) Food preparation, dining areas, storage areas, equipment, and furniture shall be maintained in a state of cleanliness and good repair.

(c) All food items shall be stored off the floor. All food items except those which are to be washed or peeled shall be stored in covered containers that are insect and rodent proof or refrigerated.

(d) Animals shall not be permitted in food storage, preparation, and dining areas.

(e) One-time-use paper and plastic dishes, utensils, and containers shall not be reused.

.028. *Glossary.* The following terms are associated with standards for juvenile correctional institutions.

(1) Child care facility. A facility providing care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the service offered by it.

(2) Child care unit. A building or part of a building where a group of children live.

(3) Dentist. Refers only to a licensed dentist.

(4) Hospital. Refers only to a licensed or accredited facility.

(5) Juvenile correctional institution. A juvenile correctional institution is a child-caring facility operated by the Texas Youth Council which provides care for students who have been committed by a court to the care, custody, and control of the Texas Youth Council.

(6) New juvenile correctional institution. Refers to an institution which is not in operation.

(7) Physician. Refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(8) Psychologist. Psychologist as defined by the Psychologist Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).

(9) **Security.** Security refers to confinement of students to locked quarters.

(10) **Sponsoring families.** Volunteers who assist the agency in providing for the needs of students in care.

(11) **Supervise.** To be aware of and responsible for the ongoing activity of a child. Supervision requires the presence of a staff member who has knowledge of program and children's needs, and who is accountable for service delivery.

(12) **Trip.** An excursion that is overnight or longer.

Doc. No. 805988

Minimum Standards for Juvenile Correctional Camps 326.91.14

These rules are adopted under the authority of the Human Resources Code, Title 2, with the approval of the Texas Board of Human Resources.

.001. Legal Basis for Operation. The correctional camp's purposes and objectives shall be consistent with those legislatively required of the Texas Youth Council. A copy of enabling legislation shall be available for review by the Department of Human Resources. The department shall be notified of any changes mandated by the legislature.

.002. Administrative Responsibilities.

(a) The executive director of the Texas Youth Council shall be responsible for policies and programs and for ensuring compliance with minimum standards.

(b) The correctional camp shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to facility staff.

.003. Fiscal Accountability. The correctional camp shall maintain complete financial records. Books shall be audited in accordance with state requirements. A copy of the accountant's statement of income and disbursements shall be submitted to the Licensing Branch during the certification process (Chapter 42, Human Resources Code, Section 42.045(b)).

.004. Records and Reports.

(a) The correctional camp shall complete written incident reports concerning any of the following occurrences:

- (1) any physical contact of a violent nature among campers or between staff and campers;
- (2) sexual abuse involving a camper or staff;
- (3) physical restraint of a camper;
- (4) physical injury to a camper.

A copy of the incident reports shall be filed at the correctional camp and shall be available for review by staff of the Licensing Branch of the department.

(b) Any incident which critically injures, permanently disables, or results in death to a student shall be reported immediately to the parents or managing conservator. Notification of such occurrences shall be made to the Licensing Branch of the department within 24 hours or the next working day. These notifications shall be documented in the camper's record.

(c) Any case of suspected abuse or neglect shall be reported immediately to the Texas Department of Human Resources.

(d) Absences without permission shall be reported to the parents or managing conservator when it is determined that the student is a runaway. Documentation of notification to the student's parents or managing conservator shall be included in the record.

(e) Disasters or emergency situations which require closure of the living unit, such as fires or severe weather, shall be reported to the Licensing Branch within 24 hours or the next working day.

(f) The administrator of the correctional camp shall submit reports to the Licensing Branch of the department concerning:

- (1) any change in administrator;
- (2) any impending changes that would necessitate a change in the conditions of the certificate.

.005. Availability of Records.

(a) The correctional camp's records shall be available at the facility and open for review by the Licensing Branch of the department.

(b) The certificate shall be displayed at the correctional camp's office (Chapter 42, Human Resources Code, Section 42.049(d)).

(c) The correctional camp shall ensure that case records are safeguarded from unauthorized and improper disclosure. Information in case records shall be disclosed only to the following:

- (1) the professional staff or consultants of the agency or institution;
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child; or
- (4) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the work of the agency or institution.

(d) The correctional camp shall allow the department to visit and inspect the correctional camp at all reasonable times (Chapter 42, Human Resources Code, Section 42.044). Upon arrival, the licensing representative will contact the administrator, or the designated person in charge, to explain the purpose of the visit.

.006. Personnel Policies.

(a) The correctional camp shall have written job descriptions which specify what duties employees are expected to perform. A copy of job descriptions shall be available to employees and to the Licensing Branch.

(b) If the correctional camp has a student employment program, the policies of the program shall be in writing and available for review by students and the Licensing Branch of the department. Student participation in the employment program shall be voluntary.

(c) If volunteers or sponsoring families are used, correctional camps shall have written policies stating the qualifications for volunteers or sponsoring families, and the procedures for selecting these individuals or families. A copy of the policy and procedures shall be available for review by the Licensing Branch.

.007. Administrator Qualifications and Responsibilities.

(a) The administrator shall be licensed as provided by Chapter 43, Human Resources Code.

(b) The administrator is responsible for implementing the policies approved by the executive director, the ongoing operations of the correctional camp, and compliance with the Minimum Standards for Juvenile Correctional Camps.

(c) If responsibility for the program of the correctional camp is delegated to an assistant administrator, he or she shall also be licensed.

(d) The licensed administrator shall make available to staff organizational charts and written plans for staffing.

(e) The licensed administrator shall reassign or remove from direct child care activity any employee against whom is returned:

(1) an indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act;

(2) an indictment alleging commission of any misdemeanor classified as an offense against the person or family or of public indecency;

(3) an official criminal complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family or of public indecency.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day.

.008. Staffing.

(a) In the administrator's absence, a person or persons shall be responsible for the camp.

(b) The correctional camp shall employ and supervise staff necessary to ensure the health and safety of the students in its care.

(c) The correctional camp shall have staff coverage throughout the 24-hour period.

(1) There shall be at least one child care staff on duty during waking hours for every six campers.

(2) Staff shall be available to campers. Only child care staff may be counted in the staff-camper ratio.

(3) If volunteers are used as child care staff, they shall meet the same requirements as the regular care staff.

(4) During sleeping hours at least one child care worker shall be in the group living area for every 12 campers.

(5) Staff shall be located in the best possible place to supervise the therapeutic group.

(d) In addition to meeting the required camper-staff ratio, the correctional camp shall also provide support staff to assist the child care staff in meeting the educational and casework needs of the campers in care.

(e) Tasks which conflict or interfere with child care responsibilities shall not be assigned to child care staff. Job descriptions and staff assignments shall show no conflicts in assignments to child care staff.

.009. Staff Qualifications and Responsibilities.

(a) Individuals convicted within the preceding 10 years of any felony classified as an offense against the person or family or of public indecency or of violation of the Texas Controlled Substances Act or of any misdemeanor classified as an offense against the person or family or of public indecency may be employed if authorization for their employment is obtained from the State Office of the Texas Youth Council. Authorization for employment shall be based on a successful completion of psychological testing, a psychiatric interview, and a criminal background investigation. Documentation of authorization for employment, psychological testing, psychiatric interview, and criminal background investigation shall be included in the employee's personnel record.

(b) The personal qualifications of employees shall be verified.

(1) At least three references shall be obtained for each potential employee prior to employment. Information obtained from references shall be written and filed whether the interview is conducted in person or by telephone.

(2) Each employee shall submit a statement to the facility concerning any felony and/or misdemeanor convictions within the preceding 10 years and of any pending criminal charges.

(c) Persons whose behavior or health status endangers the campers shall not be allowed at the correctional camp.

(d) Staff members shall have an examination for tuberculosis within 12 months prior to employment. Re-examination shall be in accordance with recommendations of local public health authorities or the regional office of the Texas Department of Health.

(e) Child care staff shall be at least 18 years old and be able to read and write.

(f) Child care staff employed after September 1980 who do not have at least two years previous child care related work experience are required to have a high school diploma or G.E.D.

.010. Training.

(a) The correctional camp shall provide specific job orientation for all new staff.

(b) At least 15 hours of in-service training related to children's services shall be provided annually for all staff working with campers. In-service training for staff working with campers shall be documented. This shall include the date, the subject, and the name of the person who conducted the training.

(c) First aid training is required for child care staff who are not licensed/certified health personnel.

(1) First aid training received or scheduled shall be documented for child care staff.

(2) Training shall be conducted by a Red Cross instructor or a licensed health professional.

(3) First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three years.

.011. Staff Records. Personnel records shall be maintained for each employee of the correctional camp. These records shall contain information on:

(1) qualifications for the position;

(2) tuberculosis test reports for all staff;

(3) authorization for employment of ex-offenders (if applicable) including documentation of psychological testing, psychiatric interview, and criminal background investigation;

(4) conviction record statement (if applicable);

(5) pre-employment references;

(6) date of employment;

(7) date and reason for separation (if applicable);

(8) forwarding address of separated employees.

.012. Admission.

(a) The correctional camp shall admit only those campers who have been committed by the court to the care, custody, and control of the Texas Youth Council or who are admitted under contract with the United States Bureau of Prisons.

(b) No camper shall be denied services because of race.

(c) The correctional camp shall ensure that each camper receives a medical examination by a licensed physician within 30 days prior to admission or within seven days after admission. Campers being transferred directly from a TYC facility or other child care facility who have had a medical examination within the past year are exempt. The examination shall be documented in the camper's record.

(d) Campers shall have had a dental examination by a licensed dentist or dental hygienist working under supervision of a licensed dentist within six months prior to admission or arrangements shall be made for one within 30 days after admission. Documentation of the scheduled appointment and subsequent examination shall be in the camper's medical record.

(e) Campers shall be tested for tuberculosis according to the recommendations of local public health authorities or the regional office of the Texas Department of Health. Documentation of the tuberculosis test shall be in the camper's medical record.

.013. *Assessment.*

(a) The correctional camp shall review the assessment which has been prepared by the TYC reception center for the purposes of determining the camper's best placement within the correctional camp. The assessment shall be filed in the camper's record and shall include the following information:

- (1) A description of family relationships.
- (2) The camper's developmental history and medical history, including current immunization record.
- (3) A written psychological diagnostic evaluation obtained within the past 12 months from a psychologist as defined by the Psychologist Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).
- (4) An evaluation by a licensed psychiatrist of violent offenders and students whose behavior indicates the need for further assessment. A copy of the psychiatric evaluation will be included in the assessment study.
- (5) A description of the camper's personality, behavior, and interests.
- (6) The camper's school history.
- (7) History of previous placements.
- (8) The camper's legal status.
- (9) An assessment of the camper's needs.
- (10) The immediate and long-range goals of the placement.

(11) Name of the family member or managing conservator who will be responsible for the relationship with the camp and the camper.

(b) If the assessment is incomplete at the time of admission, it must be completed within 30 days following admission.

(c) The assessment review committee shall include at least one person meeting the following qualifications:

- (1) a master's degree in social work from an institution accredited by the Council on Social Work Education and a minimum of one year of supervised experience in children's services or family services; or
- (2) a graduate degree in a behavioral or social science from an accredited college or university and two years of supervised experience in children's or family services; or
- (3) a bachelor's degree in social work from an accredited college or university and two years of supervised experience in children's or family services; or

(4) a bachelor's degree from an accredited college or university and three years of supervised experience in children's or family services; or

(5) a bachelor's degree from an accredited college or university and current, direct supervision from a person meeting one of the above qualifications;

(6) a licensed administrator (Chapter 43, Human Resources Code).

The names of the persons reviewing the assessment shall be documented.

(d) Correctional camp staff shall discuss with the camper the reasons for placement and the camper's understanding of placement. This discussion shall be documented in the camper's record.

(e) The correctional camp shall notify parents or managing conservators in writing of their child's placement with in the correctional camp. The following written material shall also be provided parents or managing conservators:

- (1) rules regarding visits, mail, gifts, and telephone calls;
 - (2) information on the nature and frequency of reports to the camper's family or managing conservator;
 - (3) the correctional camp's discipline policy;
 - (4) the name of the person or office parents can contact if they feel their child's rights have been violated.
- (f) The correctional camp shall provide orientation for new campers.

.014. *Camper's Records.* Accurate and current records shall be maintained for each camper in care. In addition to other required documentation, each camper's record must include:

- (1) name;
- (2) date of birth;
- (3) place of birth;
- (4) sex;
- (5) religion (if known);
- (6) race;
- (7) names and addresses of parents, brothers, and sisters;
- (8) names and addresses of other persons who have a significant relationship with the student;
- (9) date of admission;
- (10) a copy of the commitment order from the court;
- (11) birth certificate or other document which establishes identity, if available. Records without these documents shall reflect correspondence generated at least every three months to obtain such.
- (12) date of discharge.

.015. *Child Care and Training; Individualized Program Plan.*

(a) Within 30 days of admission, an individualized program plan shall be developed which specifies each camper's needs and how these needs will be met. The plan shall be recorded in the camper's case record.

(1) The individualized program plan shall include the objectives of the placement.

(2) The individualized program plan shall be shared with staff working with the camper.

(3) A written appraisal of the camper's educational needs and plans for meeting them shall be a part of the individualized program plan.

(4) The plan shall provide for the social and educational needs of the camper.

(b) The individualized program plan shall be reviewed at least every three months by the correctional camp and the camper. Results of the review shall be filed in the camper's case record.

(1) The review shall note progress toward achieving or changing objectives.

(2) A written progress report shall be provided the camper's parents and his parole officer quarterly.

(c) The correctional camp shall obtain or provide professional consultation and treatment for campers with special needs. When these services are obtained, they shall be documented in the camper's record.

.016. Daily Care.

(a) The daily schedule shall be developed to meet campers' needs.

(b) The correctional camp shall see that each camper is supplied with personal clothing suitable to the camper's age and size. It shall be comparable to the clothing of other youth in the community. Campers shall have some choice in selecting their clothing.

(c) The correctional camp shall provide campers guidance in money management.

(d) Money earned by a camper or received as a gift or allowance shall be his or her personal property. A camper's money shall be accounted for separately from the correctional camp's funds.

(e) Campers shall be given training in personal care, hygiene, and grooming. Each camper shall be supplied with personal care, hygiene, and grooming equipment.

.017. Camper's Rights and Privileges.

(a) The staff of the correctional camp shall allow privacy for each student.

(b) The correctional camp shall provide written information to each camper which specifies:

(1) The camper's right to appeal decisions made concerning him or her and the procedure to be followed in initiating an appeal.

(2) The camper's right to confer with his or her attorney(s) in private.

(3) The camper's right to express grievances if he or she feels his or her rights have been violated and the procedure to be followed in initiating grievance procedures.

(c) Contact between the camper and his or her parents or managing conservator shall be allowed while the camper is in care unless the rights of the parents have been terminated by court order or family contact is not in the camper's best interest.

(1) The correctional camp shall have clearly written policies regarding visits, gifts, mail, and telephone calls between the camper and his or her family or managing conservator. These policies shall be made known to the camper at the time of admission.

(2) Campers shall be allowed to have telephone conversations with family members or managing conservator unless the best interests of the camper or a court order necessitates restrictions.

(3) Campers shall not be denied their right to privacy in writing, sending, and receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(4) If the correctional camp's policy permits restrictions on communication or visits, these shall be evaluated monthly by a psychiatrist, licensed psychologist, social

worker with a master's degree in social work, or a licensed administrator.

(5) If limits are put on communication or visits for practical reasons (such as expense), these limits shall be determined with the participation of the camper and his or her family or managing conservator. These limitations shall be filed in the camper's record.

(d) A camper shall be allowed to bring personal possessions to the correctional camp and may acquire personal possessions. If limits are put on the kinds of possessions a camper may or may not receive, these shall be discussed with the camper and his or her parents or managing conservator.

(e) There shall be no racial discrimination by the camp.

(f) The opinions and recommendations of the campers in care shall be considered in the development and evaluation of the program and activities. The procedure for this shall be documented. A copy of the procedures shall be available for review by the Licensing Branch.

(g) The correctional camp shall have written policies for the discipline of campers in care. Copies of the discipline policy shall be available to staff. Copies of the correctional camp's discipline policy shall be submitted to the department during each certification process.

(1) Only adult staff members shall discipline campers.

(2) Campers shall not be subjected to cruel, harsh, unusual, or unnecessary punishment.

(3) Campers shall not be subjected to verbal remarks that belittle or ridicule them or their families.

(4) Campers shall not be denied food, mail, or visits with their families as punishment.

(5) Discipline shall fit the needs of the camper.

(6) The use of corporal punishment is prohibited.

(h) Mind altering and behavior modifying medications shall be administered according to the physician's directions.

(1) Each dose administered shall be documented in the camper's record. Documentation shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(2) The appropriateness of continuing the medication shall be evaluated by the prescribing physician at least every 30 days. This evaluation shall be documented in the camper's record.

(i) Campers shall not be required to perform at public gatherings, but may do so on a voluntary basis.

(j) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a camper or his or her family or managing conservator shall not be made public.

(k) The correctional camp shall not use reports or pictures from which campers can be identified without written consent from the camper and the camper's parents or managing conservator.

.018. Trips Away from the Correctional Camp.

(a) The correctional camp's staff-camper ratio shall be maintained for overnight trips.

(b) The administrator shall ensure that campers on trips are properly fed, lodged, and supervised; and that safety precautions, medical care, and programming are provided.

.019. Restraint.

(a) The correctional camp shall have written policies for the use of restraint. The policies shall indicate the personnel responsible for making decisions to place or retain campers in restraint.

(b) Physical holding or mechanical restraints shall be used only as a last resort to protect the camper from injury to self or others, prevent the camper from completing the act of escaping, prevent the imminent substantial destruction of property, or when the student is being transported and staff have reason to expect the student to attempt to escape and/or engage in violent behavior.

(c) The reasons for use of restraint, type of restraints used, length of time the camper is in restraints and the name of person(s) administering restraint shall be documented in the camper's case record.

.020. Security. The correctional camp shall have written policies concerning confinement of campers in locked quarters. The policies shall indicate the personnel responsible for making decisions to place or retain campers in security and outline the maximum number of hours a camper may be retained.

(1) Campers in security shall be provided three well-balanced meals each day.

(2) Campers in security will not be denied visitation privileges with parents, managing conservators, or their attorney.

(3) Campers in security shall not be denied their right to privacy in writing, sending, and receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(4) Campers in security for a period exceeding 24 hours shall receive counseling services from professional staff including but not limited to the staff psychologist, the camper's social worker or an alternate social worker, or the correctional camp's consulting psychiatrist.

(5) Each camper's educational plan will be continued during confinement for at least four hours each day.

(6) Campers in security shall be offered and encouraged to use at least one hour of large muscle exercise on a daily basis. This opportunity may be suspended on orders from a physician or the correctional camp's consulting psychiatrist.

(7) A written description documenting the reasons for admission to security shall be filed in the individual camper's case record.

.021. Medical and Dental Care.

(a) The correctional camp shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

(1) Copies of the policies and procedures shall be available to the department.

(2) The correctional camp shall make known to all staff members the policies and procedures to be followed in an emergency.

(b) All campers shall be examined annually by a licensed physician. Documentation of the examination signed by a licensed physician shall be filed in the camper's medical record.

(c) Provisions for medical isolation shall be available.

(d) All campers shall have a dental examination by a licensed dentist or dental hygienist working under the supervision of a licensed dentist at least once a year. Documentation of the examination shall be filed in the camper's medical record.

(e) The correctional camp shall comply with laws, rules, and regulations regarding immunization of children (Chapter 42, Human Resources Code, Section 42.043). Cur-

rent immunization records shall be maintained for each camper at the facility. Camper's immunization records shall include the birthdate, the immunization status, the number of doses, and the dates each immunization was received. A machine or handwritten copy of the immunization record copy is acceptable. Handwritten copies shall bear the signature of the responsible staff member copying the information. Compliance with this standard shall be measured by the presence of one or more of the following in each camper's record.

(1) A written and dated record that the camper has been immunized against diphtheria, tetanus, pertussis, polio, measles, mumps, and rubella. This record shall have a rubber stamp or signature of the physician or health personnel and shall specify the type, number of doses, and the dates given as required by law.

(2) A written and dated statement from a licensed physician or other authorized health personnel that immunizations against at least one of the above mentioned diseases have begun. The immunization cycle shall be completed as soon as is medically feasible. A current immunization record shall be on file at the camp.

(3) A certificate signed by a physician, duly registered and licensed under the Medical Practice Act, stating the physician's opinion that the required immunization would be injurious to the health and well-being of the camper or any member of his or her family or household.

(4) An affidavit signed by the parent or managing conservator of the camper stating that the vaccination or immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the camper is an adherent or member.

(5) A written and dated statement for a camper enrolled in a public school program signed by the parents or managing conservator stating that the camper's immunization record is on file at the school the camper attends and that all immunizations are current. The name of the school shall be included on the statement.

(f) The institution shall comply with laws, rules, and regulations regarding acquisition, storage, and administration of medication. All medication shall be given by an adult staff member. Medications shall be given according to the instructions on the label.

(1) Medicines shall be contained in a locked cabinet or metal box at the camp.

(2) The medicine cabinet or box shall have a separate compartment for storing poisons and drugs for external use only.

(3) The Procedural Guide for Pharmaceutical Services in the Child-Caring Institution, shall be followed with the exception of those requirements in Section C which cannot be adapted to a camp site.

(g) First aid supplies shall be available and administered by trained personnel.

(h) Medication records shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(i) Current medical and dental records shall be maintained for each camper. The records shall include:

(1) A record of each visit to a physician or dentist and recommended treatment. Treatment shall be provided as indicated.

(2) A medical consent form signed by a person authorized to give consent by the Texas Family Code, Chapter 35, Section 35.01.

.022. *Nutrition.* Campers shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development.

(1) *Food for Fitness—A Daily Food Guide*, developed by the United States Department of Agriculture, shall be used as a basis for meeting these standards.

(2) Campers shall have a minimum of three meals daily and snacks.

(3) Menus, as served, shall be retained on file for one month after use.

(4) All milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

(5) No more than 14 hours shall pass between the last meal or snack of one day and the serving of the first meal of the following day.

.023. *Release.*

(a) The following persons shall be involved in planning the release of a camper from the correctional camp:

(1) the camper and his or her parents or managing conservator;

(2) the camper's parole officer;

(3) the camper's caseworker and any other appropriate staff members.

(b) The camp shall not release a camper without notifying the camper's parents or managing conservator of the date and anticipated time of the camper's release; the method of transportation being used to transport the camper to his or her destination; and the anticipated time of his or her arrival. Notification provided parents or managing conservators shall be documented in the camper's record.

(c) The plan for release of the camper shall be recorded in his or her record.

.024. *Health and Safety.*

(a) Documentation of current and approved fire, health, and safety inspections shall be on file at the correctional camp. Copies of the inspection reports shall be submitted to the Licensing Branch when the signed application for licensure is submitted and annually thereafter. The required annual inspections are:

(1) Fire inspections which must meet requirements of the local fire marshal. In areas where there is no qualified fire inspector, the state fire marshal shall be requested to make the inspection.

(2) Health inspections which must meet regulations set by local ordinances and the Texas Department of Health.

(3) Gas pipes must be pressure tested by the local gas company or a licensed plumber and documentation provided that there are no leaks.

(4) Liquefied petroleum gas systems must be inspected by the Liquefied Petroleum Gas Division of the Texas Railroad Commission.

(b) There shall be written plans and procedures for meeting disasters and emergencies such as fires or severe weather. All staff members shall know the procedures for meeting disasters and emergencies.

(c) A certified lifeguard shall be on duty when the camp's swimming area is in use. Certification shall be documented in the personnel records.

.025. *Glossary.* The following are terms associated with standards for Juvenile Correctional Camps.

(1) *Base camp.* The permanent place where one or more camp sites are located, and which is the location for which the license is issued.

(2) *Camp site.* The location where a group of campers live.

(3) *Dentist.* Refers only to a licensed dentist.

(4) *Hospital.* Refers only to a licensed or accredited facility.

(5) *Juvenile correction camp.* A juvenile correctional camp is a child caring institution operated by the Texas Youth Council which provides a camping program with a therapeutic environment and an experience curriculum for students who have been committed by a court to the care, custody, and control of the Texas Youth Council.

(6) *New therapeutic camp.* Refers to a facility which is not in operation.

(7) *Physician.* Refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(8) *Psychologist.* Psychologist as defined by the Psychologist Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).

(9) *Security.* Security refers to confinement of students to locked quarters.

(10) *Sponsoring families.* Volunteers who assist the agency in providing for the needs of students in care.

(11) *Supervise.* To be aware of and responsible for the ongoing activity of a child. Supervision requires the presence of a staff member who has knowledge of program and children's needs, and who is accountable for service delivery.

(12) *Trip.* An excursion that is overnight or longer.

Doc. No. 805989

Minimum Standards for Juvenile Reception Centers 326.91.15

These rules are adopted under the authority of the Human Resources Code, Title 2, with the approval of the Texas Board of Human Resources.

.001. *Legal Basis for Operation.* The reception center's purposes and objectives shall be consistent with those legislatively required of the Texas Youth Council. A copy of enabling legislation shall be available for review by the Department of Human Resources. The department shall be notified of any changes mandated by the legislature.

.002. *Administrative Responsibilities.*

(a) The executive director of the Texas Youth Council shall be responsible for policies and programs and for ensuring compliance with minimum standards.

(b) The reception center shall operate in accordance with its written policies. Copies of policies required by minimum standards shall be made available to facility staff.

.003. *Fiscal Accountability.* The reception center shall maintain complete financial records. Books shall be audited in accordance with state requirements. A copy of the accountant's statement of income and disbursements shall be submitted to the Licensing Branch during each certification process (Chapter 42, Human Resources Code, Section 42.045(b)).

.004. Records and Reports.

(a) The reception center shall complete written incident reports concerning any of the following occurrences:

- (1) any physical contact of a violent nature among students or between staff and students;
- (2) sexual abuse involving a student or staff;
- (3) physical restraint of a student;
- (4) physical injury to a student.

A copy of the incident report shall be filed at the reception center and shall be available for review by staff of the Licensing Branch of the department.

(b) Any incident which critically injures, permanently disables, or results in death to a student shall be reported immediately to the parents or managing conservator. Notification of such occurrences shall be made to the Licensing Branch of the department within 24 hours or the next working day. These notifications shall be documented in the student's record.

(c) Any case of suspected abuse or neglect shall be reported immediately to the Texas Department of Human Resources (Appendix II, Section III; Texas Family Code, Chapter 34).

(d) Absences without permission shall be reported to the parents or managing conservator when it is determined that the student is a runaway. Documentation of notification to the student's parents or managing conservator shall be included in the record.

(e) Disasters or emergency situations which require closure of the living unit, such as fires or severe weather, shall be reported to the Licensing Branch within 24 hours or the next working day.

(f) The administrator of the reception center shall submit reports to the Licensing Branch of the department concerning:

- (1) any change in administrator;
- (2) any impending change that would necessitate a change in the conditions of the certificate.

.005. Availability of Records.

(a) The reception center's records shall be available at the facility and open for review by the Licensing Branch of the department.

(b) The certificate shall be displayed at the reception center (Chapter 42, Human Resources Code, Section 42.049(d)).

(c) The reception center shall ensure that case records are safeguarded from unauthorized and improper disclosure. Information in case records shall be disclosed only to the following:

- (1) the professional staff or consultants of the agency or institution;
- (2) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (3) an attorney for the child; or
- (4) with leave of the juvenile court, any other person, agency, or institution having a legitimate interest in the work of the agency or institution.

(d) The reception center shall allow the department to visit and inspect the reception center at all reasonable times (Chapter 42, Human Resources Code, Section 42.044). Upon arrival, the licensing representative will contact the administrator or the designated person in charge to explain the purpose of the visit.

.006. Personnel Policies.

(a) The reception center shall have written job descriptions which specify what duties employees are expected to perform. A copy of job descriptions shall be available to employees and to the Licensing Branch.

(b) If the reception center has a student employment program, the policies of the program shall be in writing and available for review by students and the Licensing Branch of the department. Student participation in the employment program shall be voluntary.

(c) If volunteers or sponsoring families are used, reception centers shall have written policies stating the qualifications for volunteers or sponsoring families, and the procedures for selecting those individuals or families. A copy of the policies and procedures shall be available for review by the Licensing Branch.

.007. Administrator Qualifications and Responsibilities.

(a) The administrator shall be licensed as provided by Chapter 43, Human Resources Code.

(b) The administrator is responsible for implementing the policies approved by the executive director, the ongoing operations of the reception center, and compliance with the Minimum Standards for Juvenile Reception Centers.

(c) If responsibility for the program of the reception center is delegated to an assistant administrator, he or she shall also be licensed.

(d) The licensed administrator shall make available to staff organization charts and written plans for staffing.

(e) The licensed administrator shall reassign or remove from direct child care activity any employee against whom is returned:

(1) An indictment alleging commission of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act.

(2) An indictment alleging commission of any misdemeanor classified as an offense against the person or family, or of public indecency.

(3) An official criminal complaint accepted by a district or county attorney alleging commission of a misdemeanor classified as an offense against the person or family, or of public indecency.

Such reassignment or removal shall remain in effect pending resolution of the charges. Notification of such action shall be made to the Licensing Branch within 24 hours or the next working day.

.008. Staffing.

(a) In the administrator's absence, a person or persons shall be responsible for the reception center.

(b) The reception center shall employ and supervise staff necessary to ensure the health and safety of the students in its care.

(c) The reception center shall have staff coverage throughout the 24-hour period.

(1) There shall be at least one child care staff on duty during waking hours for every 13 students.

(2) The staff-student ratio applies to the total facility. Staff shall be available to students in residence. Only child care staff or volunteers meeting the same qualifications may be counted in the staff-student ratio.

(3) During sleeping hours at least one child care worker shall be in the living unit for every 24 students. Night staff shall be awake during the students' sleeping hours.

(d) Tasks which conflict or interfere with student care responsibilities shall not be assigned to child care staff. Job descriptions and staff assignments shall show no conflicts in assignments to child care staff.

.009. Staff Qualifications and Responsibilities.

(a) Individuals convicted within the preceding 10 years of any felony classified as an offense against the person or family, or of public indecency, or of violation of the Texas Controlled Substances Act, or of any misdemeanor classified as an offense against the person or family, or of public indecency may be employed if authorization for their employment is obtained from the State Office of the Texas Youth Council. Authorization for employment shall be based on successful completion of psychological testing, a psychiatric interview, and a criminal background investigation. Documentation of authorization for employment, psychological testing, psychiatric interview, and a criminal background investigation shall be included in the employee's personnel record.

(b) The personal qualifications of employees shall be verified.

(1) At least three references shall be obtained for each potential employee prior to employment. Information obtained from references shall be written and filed whether the interview is conducted in person or by telephone.

(2) Each employee shall submit a statement to the facility providing information concerning any felony and/or misdemeanor convictions within the preceding 10 years and of any pending criminal charges.

(c) Persons whose behavior or health status endangers the students shall not be allowed at the reception center.

(d) Staff members shall have an examination for tuberculosis within 12 months prior to employment. Re-examination shall be in accordance with recommendations of local public health authorities or the regional office of the Texas Department of Health.

(e) Child care staff shall be at least 18 years old and be able to read and write.

(f) Child care staff employed after September 1980 who do not have at least two years previous child care related work experience are required to have a high school diploma or G.E.D.

.010. Training.

(a) The reception center shall provide specific job orientation for all new staff.

(b) At least 15 hours of in-service training related to children's services shall be provided annually for all staff working with students. In-service training for staff working with students shall be documented. This shall include the date, the subject, and the name of the person who conducted the training.

(c) First aid training is required for child care staff who are not licensed/certified health personnel.

(1) First aid training received or scheduled shall be documented for child care staff.

(2) Training shall be conducted by a Red Cross instructor or a licensed health professional.

(3) First aid training shall be current. Certificates or statements of training shall document that first aid training is updated at least every three years.

.011. Staff Records. Personnel records shall be maintained for each employee of the reception center. These records shall contain information on:

- (1) qualifications for the position;
- (2) tuberculosis test reports for all staff;
- (3) authorization for employment of ex-offenders (if applicable) including documentation of psychological testing, psychiatric interview, and criminal background investigation;
- (4) conviction record statement (if applicable);
- (5) pre-employment references;
- (6) date of employment;
- (7) date and reason for separation;
- (8) forwarding address of separated employees.

.012. Admission.

(a) The reception center shall admit only those students who have been committed by the court to the care, custody, and control of the Texas Youth Council or who have been admitted under contract with the United States Bureau of Prisons.

(b) No student shall be denied services because of race.

(c) A student shall not remain in the reception center for more than 30 days unless special circumstances require extending a student's placement beyond 30 days. The special circumstances shall be documented in the student's record along with a release plan and reason why this plan has not been carried out.

(d) The reception center shall ensure that each student receives a health screening examination within 48 hours after admission or on the first working day. The screening examination shall be given by a health professional (licensed physician, registered nurse, licensed vocational nurse, or paramedic).

(e) If a student shows symptoms of illness or abuse, he or she shall be examined immediately by a licensed physician.

.013. Assessment.

(a) A diagnostic assessment shall be developed and recorded in the student's case record within 30 days of admission. The assessment shall include the following information:

- (1) A description of family relationships.
- (2) The student's developmental history and medical history, including current immunization record.
- (3) A written psychological diagnostic evaluation obtained within the past 12 months from a psychologist as defined by the Psychologist Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).
- (4) An evaluation by a licensed psychiatrist of violent offenders and students whose behavior indicate the need for further assessment. A copy of the psychiatric evaluation will be included in the assessment study.
- (5) A description of the student's personality, behavior, and interests.
- (6) The student's school history.
- (7) History of previous placements.
- (8) The student's legal status.
- (9) An assessment of the student's needs.
- (10) The immediate and long-range goals of the placement.
- (11) Name of the family member or managing conservator who will be responsible for the relationship with the institution and the student.

(b) The assessment, including gathering and evaluating information, shall be made by a staff person meeting one of the following qualifications:

(1) a master's degree in social work from an institution accredited by the Council on Social Work Education and a minimum of one year of supervised experience in children's services or family services; or

(2) A graduate degree in a behavioral or social science from an accredited college or university and two years of supervised experience in children's or family services; or

(3) a bachelor's degree in social work from an accredited college or university and two years of supervised experience in children's or family services; or

(4) a bachelor's degree from an accredited college or university and three years of supervised experience in children's or family services; or

(5) a bachelor's degree from an accredited college or university and current, direct supervision from a person meeting one of the above qualifications; or

(6) a licensed administrator (Human Resources Code, Chapter 43).

The name of the person doing the assessment shall be documented.

(c) The assessment process shall include a discussion about placement with the student. This discussion shall be documented in the assessment and include:

(1) the reasons for placement at the reception center;

(2) the student's understanding of placement at the reception center.

(d) The reception center shall notify parents or managing conservators in writing of their child's placement within the reception center. The following written material shall also be provided parents or managing conservators:

(1) rules regarding visits, mail, gifts, and telephone calls;

(2) the reception center's discipline policy;

(3) the name of the person or office parents can contact if they feel their child's rights have been violated.

(e) The reception center shall provide orientation for new students.

.014. Student's Records. Accurate and current records shall be maintained for each student in care. In addition to other required documentation, each student's record must include:

(1) name;

(2) date of birth;

(3) place of birth;

(4) sex;

(5) religion (if known);

(6) race;

(7) names and addresses of parents, brothers, and sisters;

(8) names and addresses of other persons who have a significant relationship with the student;

(9) date of admission;

(10) a copy of the commitment order from the court;

(11) birth certificate or other document which establishes identity, if available. Records without these documents shall reflect correspondence generated at least every three months to obtain such.

(12) date of discharge.

.015. Daily Care.

(a) The daily schedule shall be developed to meet students' needs.

(b) The reception center shall provide or obtain professional consultation and treatment for students with urgent special needs. When such services are obtained they shall be documented in the student's record.

(c) The reception center shall see that each student is supplied with personal clothing suitable to the student's age and size. It shall be comparable to the clothing of other youth in the community. Students shall have some choice in selecting their clothing.

(d) Students shall be given training in personal care, hygiene, and grooming. Each student shall be supplied with personal care, hygiene, and grooming equipment.

(e) The reception center shall provide supervised indoor and outdoor recreation and equipment so that every student may participate.

.016. Student's Rights and Privileges.

(a) The staff of the reception center shall allow privacy for each student.

(b) The reception center shall provide written information to each student which specifies:

(1) The student's right to appeal decisions made concerning him or her and the procedure to be followed in initiating an appeal.

(2) The student's right to confer with his or her attorney(s) in private.

(3) The student's right to express grievances if he or she feels his or her rights have been violated and the procedure to be followed in initiating grievance procedures.

(c) Contacts between the student and his or her parents or managing conservator shall be allowed while the student is in care unless the rights of the parents have been terminated by court order or family contact is not in the student's best interest.

(1) The reception center shall have clearly written policies regarding visits, gifts, mail, and telephone calls between the student and his or her family or managing conservator. These policies shall be made known to the student at the time of admission.

(2) Students shall be allowed to have telephone conversations with family members or managing conservators unless the best interests of the student or a court order necessitates restrictions.

(3) Students shall not be denied their right to privacy in writing, sending, and receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(4) If the reception center's policy permits restrictions on communication or visits, these shall be evaluated monthly by a psychiatrist, licensed psychologist, social worker with a master's degree in social work, or a licensed administrator.

(5) If limits are put on communication or visits for practical reasons (such as expense), these limits shall be determined with the participation of the student and his or her family or managing conservator. These limitations shall be filed in the student's record.

(d) A student shall be allowed to bring personal possessions to the reception center and may acquire personal possessions. If limits are put on the kinds of possessions a student may or may not receive, these shall be discussed with the student and his or her parents or managing conservator.

(e) There shall be no racial discrimination by the reception center.

(f) The opinions and recommendations of the students in care shall be considered in the development and evaluation of the program and activities. The procedure for this shall be documented. A copy of the procedures shall be available for review by the Licensing Branch.

(g) The reception center shall have written policies for the discipline of students in care. Copies of the discipline policy shall be available to staff. Copies of the reception center's discipline policy shall be submitted to the Licensing Branch as a part of the certification process.

(1) Only adult staff members shall discipline students.

(2) Students shall not be subjected to cruel, harsh, unusual, or unnecessary punishment.

(3) Students shall not be subjected to verbal remarks that belittle or ridicule them or their families.

(4) Students shall not be denied food, mail, or visits with their families as punishment.

(5) Discipline shall fit the needs of the student.

(6) The use of corporal punishment is prohibited.

(h) Mind altering and behavior modifying medications shall be administered according to the physician's directions.

(1) Each dose administered shall be documented in the student's record. Documentation shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(2) The appropriateness of continuing the medication shall be evaluated by the prescribing physician at least every 30 days. This evaluation shall be documented in the student's record.

(i) Students shall not be required to perform at public gatherings.

(j) Pictures, reports, or identification that humiliate, exploit, or invade the privacy of a student or his or her family or managing conservator shall not be made public.

(k) The reception center shall not use reports or pictures from which students can be identified without written consent from the student and the student's parents or managing conservator.

.017. Restraint.

(a) The reception center shall have written policies for the use of restraint. The policies shall indicate the personnel responsible for making decisions to place or retain students in restraint.

(b) Physical holding or mechanical restraints shall be used only as a last resort to protect the student from injury to self or others, prevent the student from completing the act of escaping, prevent the imminent substantial destruction of property, or when the student is being transported and staff have reason to expect the student to attempt to escape and/or engage in violent behavior.

(c) The reasons for use of restraint, type of restraints used, length of time the student is in restraints, and the name of person(s) administering restraint shall be documented in the student's case record.

.018. Security.

(a) The reception center shall have written policies concerning confinement of students in locked quarters. The policies shall indicate the personnel responsible for making decisions to place or retain students in security and outline the maximum number of hours a student may be retained.

(b) Students in security shall be provided three well-balanced meals each day.

(c) Students in security will not be denied visitation privileges with parents, managing conservators, or their attorney.

(d) Students in security shall not be denied their right to privacy in writing, sending, and receiving correspondence that would violate laws designed to ensure privacy and protect against obstruction of correspondence.

(e) Students in security for a period exceeding 24 hours shall receive counseling services from professional staff including but not limited to the staff psychologist, the student's social worker or an alternate social worker, or the reception center's consulting psychiatrist.

(f) Each student's educational plan will be continued during confinement for at least four hours each day.

(g) Students in security shall be offered and encouraged to use at least one hour of large-muscle exercise on a daily basis. This opportunity may be suspended on orders from a physician or the reception center's consulting psychiatrist.

(h) A written description documenting the reasons for admission to security shall be filed in the individual student's case record.

.019. Medical and Dental Care.

(a) The reception center shall have written policies and procedures for obtaining diagnosis and treatment of medical and dental problems.

(1) Copies of the policies and procedures shall be available to the department.

(2) The reception center shall make known to all staff members the policies and procedures to be followed in an emergency.

(b) Provisions for medical isolation shall be available.

(c) The reception center shall comply with laws, rules, and regulations regarding acquisition, storage, and administration of medication. All medication shall be given by an adult staff member. Medication shall be given according to the instructions on the label.

(d) Medication records shall include the medication given, the time, the dosage, and the name of the person administering the medication.

(e) Current medical and dental records shall be maintained for each student. The records shall include:

(1) A record of each visit to a physician or dentist and recommended treatment. Treatment shall be provided as indicated.

(2) A medical consent form signed by a person authorized to give consent by the Texas Family Code, Chapter 35, Section 35.01.

.020. Nutrition.

(a) Students shall be provided food of adequate quality and in sufficient quantity to supply the nutrients needed for growth and development.

(b) *Food for Fitness—A Daily Food Guide*, developed by the United States Department of Agriculture, shall be used as a basis for meeting these standards.

(c) Students shall have a minimum of three meals daily and snacks.

(d) Menus, as served, shall be retained on file for one month after use.

(e) All milk and milk products shall be Grade A pasteurized or from sources approved by the Texas Department of Health.

(f) No more than 14 hours shall pass between the last meal or snack of one day and the serving of the first meal of the following day.

.021. Transfer and Release.

(a) Before transferring a student to another student care facility, a review team composed of at least one person meeting the qualifications outlined in these rules shall review the assessment study for information to assist in determining an appropriate placement for the student.

(b) A transfer summary shall be included in the student's record and shall include:

(1) name of facility to which the student was transferred;

(2) individualized program plan outlining specific needs of the student and how they will be met;

(3) reason(s) for selection of the facility;

(4) name of person reviewing assessment study and making transfer decision;

(5) date of transfer.

(c) The following persons shall be involved in planning the release of a student from the reception center:

(1) the student and his or her parents or managing conservator;

(2) the student's parole officer;

(3) the student's caseworker and any other appropriate reception center staff members.

(d) The plan for release of the student shall be recorded in his or her record.

(e) The reception center shall not release a student without notifying the student's parents or managing conservator of the date and anticipated time of the student's release; the method of transportation being used to transport the student to his or her destination; and the anticipated time of his or her arrival. Notification provided parents or managing conservators shall be documented in the student's record.

.022. Health and Safety.

(a) Documentation of current and approved fire, health, and safety inspections shall be on file at the reception center. Copies of the inspection reports shall be submitted to the Licensing Branch. The required annual inspections are:

(1) Fire inspections which must meet requirements of the local fire marshal. In areas where there is no qualified fire inspector, the state fire marshal shall be requested to make the inspection.

(2) Health inspections which must meet or exceed regulations set by local health ordinances and the Texas Department of Health.

(3) Gas pipes must be pressure tested by the local gas company or a licensed plumber and documentation provided that there are no leaks.

(4) Liquefied petroleum gas systems must be inspected by the Liquefied Petroleum Gas Division of the Texas Railroad Commission.

(b) There shall be written plans and procedures for meeting disasters and emergencies such as fires or severe weather. Staff members shall know the procedures for meeting disasters and emergencies.

(c) An outdoor swimming pool shall have a fence. Entrances and exits to outdoor and indoor pools shall be locked when not in use.

(d) A certified lifeguard shall be on duty when the facility's swimming area is in use. Certification shall be documented in the personnel records.

.023. Environment.

(a) Buildings and grounds shall be maintained, repaired, and cleaned so that they are not hazardous to health and safety.

(1) Outdoor areas shall be well drained.

(2) Windows and doors used for ventilation shall be screened.

(3) Equipment and furniture shall be safe and sturdy.

(4) The reception center shall ensure that students in care are provided adequate protection from flammable and poisonous substances.

(b) Animals on the premises shall be vaccinated and treated as recommended by a licensed veterinarian to protect the health of the students. Documentation of vaccinations and treatment shall be on file at the institution.

(c) Reception centers shall take measures to keep the facility free of rodents, insects, and stray animals.

(d) There shall be indoor areas where students can gather for quiet, reading, study, relaxation, and entertainment or recreation. There shall be a minimum area of 40 square feet per student. Bedrooms, halls, kitchens, and any rooms not available to students shall not be included in the minimum space requirements.

(1) Sketches of floor plans showing dimensions and purpose of rooms shall be submitted as documentation.

(2) Indoor recreation areas can be counted in the requirement as can living rooms in buildings where children live.

(3) Furniture in living areas shall not block exit ways.

(e) A sleeping room for single occupancy shall contain at least 64 square feet per occupant. Sketches of floor plans showing the dimensions and purpose of rooms shall be submitted as documentation.

(f) Each student shall have his or her own bedstead and mattress. Beds shall be kept clean and comfortable.

(g) There shall be personal storage space for each student's clothing and possessions. Storage space shall be within easy reach of students.

(h) There shall be one lavatory, one tub or shower with hot and cold running water, and one toilet for every 10 students.

(1) Bathrooms shall be located near the sleeping area.

(2) Bathrooms shall be thoroughly cleaned daily.

.024. Food Preparation, Storage, and Equipment. All food and drink shall be of safe quality.

(1) Food preparation, dining, storage areas, equipment, and furniture, shall be maintained in a state of cleanliness and good repair.

(2) All food items shall be stored off the floor. All food items except those which are to be washed or peeled shall be stored in covered containers that are insect and rodent proof or refrigerated.

(3) Animals shall not be permitted in food storage, preparation, and dining areas.

(4) One-time-use paper and plastic dishes, utensils, and containers shall not be reused.

.025. Glossary. The following are terms associated with standards for juvenile reception centers:

(1) Child care facility. Means a facility providing care, training, education, custody, treatment, or supervision

for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit, and whether or not the facility makes a charge for the service offered by it.

(2) Dentist. Refers only to a licensed dentist.

(3) Hospital. Refers only to a licensed or accredited facility.

(4) Juvenile reception center. A juvenile reception center is a child-caring institution operated by the Texas Youth Council which provides short-term residential care for students who have been committed by a court to the care, custody, and control of the Texas Youth Council. Juvenile reception center care includes the provision of diagnostic evaluation and assessment in the formulation of a plan for continuing care within the Texas Youth Council System.

(5) Living unit. A building or part of a building where a group of children live.

(6) New juvenile reception center. Refers to a juvenile reception center which is not in operation.

(7) Physician. Refers only to a physician duly registered and licensed under the Medical Practice Act or practicing on a U.S. military installation.

(8) Psychologist. Psychologist as defined by the Psychologist Certification and Licensing Act (Texas Revised Civil Statutes Annotated, Article 4512c).

(9) Security. Security refers to confinement of students to locked quarters.

(10) Sponsoring families. Volunteers who assist the agency in providing for the needs of students in care.

(11) Supervise. To be aware of and responsible for the ongoing activity of a child. Supervision requires the presence

of a staff member who has knowledge of program and children's needs, and who is accountable for service delivery.

(12) Trip. An excursion that is overnight or longer.

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 805990 Jerome Chapman
Commissioner
Texas Department of Human Resources

Effective Date: August 25, 1980

Proposal Publication Date: May 20, 1980

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

State Board of Insurance

(Editor's note: A notice of the adopted repeal of the rules listed below in Chapter .21 and the texts of the adopted new rules listed in Chapter .50 will not be published in this issue. The adoption of the repeal and new rules were simultaneously filed at the Texas Register Division of the Office of the Secretary of State on August 6, 1980, effective February 1, 1981. The notice of repeal and texts of the new rules will be published in the August 15 issue.)

General Provisions

Unfair Competition and Unfair Practices
059.21.21.001, .009, .010

Trade Practices

Certain Trade Practices, Insurance Advertising, and
Insurance Solicitation
059.50.04.001-.020

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*.

State Aircraft Pooling Board

Thursday, August 14, 1980, 1:30 p.m. The State Aircraft Pooling Board will meet in Room G-B of the John H. Reagan Building, Austin, to discuss scheduling office operations and to consider the Highway Department's lease renewals.

Information may be obtained from Barbara Mitchell, Room 200B, John H. Reagan Building, Austin, Texas, (512) 475-8301.

Filed: August 6, 1980, 9:18 a.m.
Doc. No. 806043

Texas Alcoholic Beverage Commission

Monday, August 18, 1980, 10:30 a.m. The Texas Alcoholic Beverage Commission will meet in Room 210, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda, the commission will approve minutes of the July 1980 meeting; consider administrator's report of agency activity; and approve affidavit of destruction of tested alcoholic beverages.

Information may be obtained from Joe Darnall, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: August 5, 1980, 11:03 a.m.
Doc. No. 806025

State Banking Board

Monday, August 18, 1980, 9 a.m. The Hearing Officer of the State Banking Board will meet at 2601 North Lamar, Austin, to conduct a hearing on the charter application for Sam Houston State Bank to be located in an unincorporated area of Harris County.

Information may be obtained from Ruth R. Amberg, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: August 6, 1980, 3:49 p.m.
Doc. No. 806066

Monday, August 25, 1980, 9 a.m. The Hearing Officer of the State Banking Board will meet at 2601 North Lamar, Austin, to conduct a consolidated hearing on the charter applications for Allied Bank, Missouri City, to be located in Missouri City, and Tri-Cities State Bank, to be located in Stafford.

Information may be obtained from Ruth R. Amberg, 2601 North Lamar, Austin, Texas 78705, (512) 475-4451.

Filed: August 6, 1980, 3:49 p.m.
Doc. No. 806067

Battleship Texas Commission

Monday, August 11, 1980, 11 a.m. The members of the Battleship Texas Commission met in emergency session on board the Battleship Texas, 3527 Battleground Road, La Porte, to discuss turning over the Battleship Texas to the state as of September 1, 1980. The emergency status of the meeting was essential, because the commission had to make a decision before September 1.

Information may be obtained from Ruth Pirtle, 3527 Battleground Road, La Porte, Texas 77571, (713) 479-2411.

Filed: August 7, 1980, 9:40 a.m.
Doc. No. 806071

Texas Department of Community Affairs

Wednesday and Thursday, August 13 and 14, 1980, 8:30 a.m. to 5 p.m. and 8:30 a.m. to 4 p.m., respectively. The Private Industry Council Manpower Services Division of the Texas Department of Community Affairs will meet in the first floor auditorium, TDCA Building, 210 Barton Springs Road, Austin. According to the agenda, the board will conduct an orientation for new members, hear a presentation by retired Brigadier General Robinson Risner on drug abuse; overview of marketing campaign; overview of balance of State Comprehensive Employment and Training Plan, and RFP process; review proposals concerning Minority Management Internship Program category, Local Job Fairs category, Private Sector Linkage Study category, Model Employment and Training Program category; and review program status.

Information may be obtained from Pat Herron, P.O. Box 13166, Austin, Texas 78711, (512) 475-6216.

Filed: August 4, 1980, 1:55 p.m.
Doc. No. 805995

State Employment and Training Council

Thursday, August 14, 1980, 9 a.m. The State Employment and Training Council will meet at the Marriott Brookhollow Hotel, 3000 North Loop West, Houston, to review prime sponsor CETA plans for fiscal year 1981.

Information may be obtained from Mike Patterson, Room 504F, TEC Building, 1117 Trinity, Austin, Texas 78778, (512) 472-1433.

Filed: August 6, 1980, 11:39 a.m.
Doc. No. 806048



Texas Health Facilities Commission

Tuesday, August 5, 1980, 9 a.m. The Texas Health Facilities Commission met in emergency session in Suite 305 of the Jefferson Building, 1600 West 38th Street, Austin, to consider an application for Certificate of Need AS79-0913-015 by Community Action Agency—Dental Clinic, Lockhart. An urgent public necessity and emergency necessitated consideration of the listed application in order that the project be most efficiently and economically implemented.

Information may be obtained from O.A. Cassity III, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: August 4, 1980, 3:18 p.m.
Doc. No. 806000

Friday, August 15, 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

- Corpus Christi Osteopathic Hospital, Corpus Christi
AH80-0305-012
- Eagle Pass Kidney Disease Clinic, Eagle Pass
AS79-1231-050
- Kidney Disease Clinic of Seguin, Seguin
AS79-1231-053

Amendment of Certificate of Need Orders

- Memorial Medical Center, Corpus Christi
AH78-0517-005A (052780)
- St. Mary's Hospital of Port Arthur, Port Arthur
AH78-1109-020A (052980)
- St. Mary's Hospital of Galveston, Galveston
AH78-1109-010A (052980)
- St. Joseph Hospital, Houston
AH78-1109-005A (052980)
- St. Elizabeth Hospital, Beaumont
AH78-1109-015A (052980)
- Trinity Terrace Med Center, Ft. Worth
AN79-0712-017A (071480)

Exemption Certificate

- Beaumont Medical Surgical Hospital, Beaumont
AH80-0530-113
- Richardson Medical Center, Richardson
AH80-0602-048
- Chillicothe Hospital Authority, Chillicothe
AH80-0603-013
- Holy Cross Hospital, Austin
AH80-0624-004
- Memorial City General Hospital, Houston
AH80-0627-014

Information may be obtained from O.A. Cassity III, P.O. Box 15023, Austin, Texas 78761, (512) 475-6940.

Filed: August 6, 1980, 11:27 a.m.
Doc. No. 806046

Texas Historical Commission

Thursday and Friday, August 14 and 15, 1980, 2-5 p.m. The National Register Staff of the Texas Historical Commission will meet at the Old Gethsemane Lutheran Church, 16th and Congress Avenue, Austin. The staff will consider grant applications to the Texas Historical Commission from the Historic Preservation Fund, Department of the Interior.

Information may be obtained from Joe Williams, 108 West 16th Street, Austin, Texas, (512) 475-3094.

Filed: August 5, 1980, 1:17 p.m.
Doc. No. 806029

Texas Housing Agency

Wednesday, August 13, 1980, 9 a.m. The Board of Directors of the Texas Housing Agency will meet in Conference Room C, John H. Reagan Building, 15th and Congress, Austin. The board will consider personnel matters; adoption of fiscal year 1981 operating budget; adoption of agency administrative rules; selection of mortgage portfolio administrator; adoption of guidelines for single-family loan program.

Information may be obtained from Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

Filed: August 5, 1980, 11:49 a.m.
Doc. No. 806028

University of Houston

Monday, August 11, 1980, 9:30 a.m. The Budget and Finance Committee of the Board of Regents, University of Houston, met in Room 510, Houston United Bank Building, 4600 Gulf Freeway, Houston. The committee discussed the following: resolution delegating authority concerning the operations of UH/Local Education Fund 225, special time deposit; bank resolutions for demand deposit accounts and time deposit accounts for all components; resolution delegating authority for payment accounts presented to the controller for all components; resolution governing the sale of gift securities; gift income for May, June, and July, 1980; educational and general budget summary; and quarterly investment report.

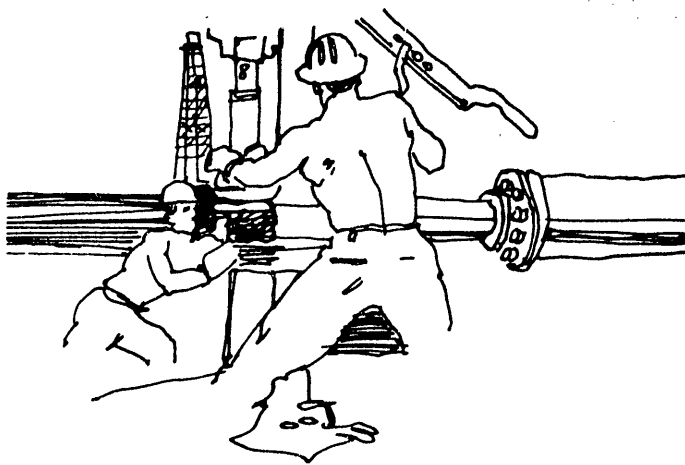
Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, (713) 749-7545.

Filed: August 7, 1980, 11:52 a.m.
Doc. No. 806075

Monday, August 11, 1980, 10:30 a.m. The Executive Committee of the Board of Regents of the University of Houston, met in Room 510, Houston United Bank Building, 4600 Gulf Freeway, Houston, to act upon bank resolutions and certification of authorized signatures.

Information may be obtained from Deborah Selden, 4800 Calhoun, Houston, Texas 77004, (713) 749-7545.

Filed: August 7, 1980, 11:52 a.m.
Doc. No. 806076



State Board of Insurance

Thursday, August 7, 1980, 2:30 p.m. The State Board of Insurance conducted an emergency meeting in Room 408, 1110 San Jacinto, Austin. The board considered the following items: (1) motion of Texas Automobile Dealers Association and Texas Bankers Association for a rehearing in the matter of credit insurance rules adopted under Article 3.53, Texas Insurance Code; (2) revision of rules for use of Form 66, Windstorm, Hurricane, and Hail Deductible Endorsement, Texas Catastrophe Property Insurance Association; (3) decision on Docket 1039 in the matter of Carroll H. Payne, et al.; (4) decision on Docket 1158 in the matter of Government Personnel Mutual Life Insurance Company. These matters were considered in emergency session due to scheduling conflicts.

Information may be obtained from Pat Wagner, 1110 San Jacinto, Austin, Texas 78786, (512) 475-2950.

Filed: August 7, 1980, 11:08 a.m.
Doc. No. 806074

Tuesday, August 12, 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, in Docket 6069—compliance of Indemnity Underwriters Insurance Company, Dallas, with Commissioner's Supervision Order 80-1823, dated June 12, 1980.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:16 p.m.
Doc. No. 806003

Wednesday, August 13, 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 6099—whether title insurance agent's license of Texas Republic Title Company, Houston, should be suspended or revoked for failure to furnish a statistical report within the time required.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:16 p.m.
Doc. No. 806004

Wednesday, August 13, 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, in Docket 6067—application for admission of Northland Insurance Company, St. Paul, Minnesota.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:16 p.m.
Doc. No. 806006

Wednesday, August 13, 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, in Docket 6100—the failure of Texas Republic Title Company, Houston, to remit money belonging to a title insurance company.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:16 p.m.
Doc. No. 806005

Wednesday, August 13, 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, in Docket 6102—whether title insurance agent's license of Texas American Title Company, Houston, should be suspended or revoked for failure to furnish a statistical report within the time required.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806007

Wednesday, August 13, 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 6104—original incorporation of Service Insurance Company, Austin.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806008

Wednesday, August 13, 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 6103—failure of Citizens Land Title Company of Hays County, Wimberely, to furnish an audit report within the time required.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806009

Thursday, August 14, 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, in Docket 6116—protest of the proposed name Ina Farmers Insurance Company, Wilmington, Delaware.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806010

Thursday, August 14, 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 6106—application of Kemper Investors Life Insurance Company, Chicago, Illinois, for authority to issue variable annuity contracts in Texas.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806011

Friday, August 15, 1980, 9:30 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 6117—proposed merger of First American Insurance Company (Texas), into First American Insurance Company (Missouri).

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806012

Friday, August 15, 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 5942—application for original incorporation of Bell Indemnity Company, Dallas, pursuant to Articles 2.01 and 8.01, continuation of hearing from March 6, 1980.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:16 p.m.
Doc. No. 806013

Monday, August 18, 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, in Docket 6114—application for approval of the articles of agreement of St. Paul Lloyds Insurance Company, Arlington.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806014

Monday, August 18, 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 6109—application of Beneficial National Life Insurance Company, for authority to issue variable annuity contracts in Texas.

Information may be obtained from J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

Filed: August 4, 1980, 4:17 p.m.
Doc. No. 806015

Texas Department of Mental Health and Mental Retardation

Thursday, August 14, 1980. The following committees of the board of the Texas Department of Mental Health and Mental Retardation will meet at the times and locations listed below:

3 p.m. The Ad Hoc Biennial Budget Request Committee will meet at the Central Office, 909 West 45th Street, Austin. The committee will discuss amendments to fiscal year 1982-83 board budget guidelines: TRIMS Director House and Utilities, Capital Construction Budget Request and Waco Center for Youth—Resident Populations, Safety, and Health Division and Community Residential and Support Services with Revision to Table of Organization effective fiscal year 1982-83 biennium.

7 p.m. The Personnel Committee will meet at the Hilton Inn, 6000 Middle Fiskville Road, Austin, to consider appointment of assistance commissioner of information management systems.

7:30 p.m. The board of the Texas Department of Mental Health and Mental Retardation will meet at the Hilton Inn, 6000 Middle Fiskville Road, Austin. The board will consider the Texas State Government Effectiveness Program—status of operational audits; design and construction and plant maintenance; food service; laundry; and status of litigation.

Information may be obtained from John J. Kavanagh, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: August 6, 1980, 4:14 p.m.
Doc. Nos. 806062-806064

Friday, August 15, 1980, 9 a.m. The board of the Texas Department of Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Austin. According to the agenda summary, the board will consider the following: 5.0% Staff Reduction Staff Status report; TDMH/MR medical coverage and additional medical staff review; Waco Center for Youth briefing; naming of Kerrville State Hospital Physical Therapy Building the "David Wade Building;" water rate contract between City of Big Spring and TDMH/MR; playground park construction at TRIMS by Volunteer Services Council; fund transfers—(1) 1981 utilities appropriations to 1980 utilities appropriation, (2) Central Office Central Administration Program fiscal year 1980 subitems; fiscal year quarterly budget additions and revisions; longevity reimbursement budget additions, fiscal year 1980; fund transfers—(1) Abilene State School to San Angelo Center, fiscal year 1981, (2) Central Office Central Administration Program, fiscal year 1981 subitems, (3) combining inter-al audit and community center management audit functions, fiscal year 1981; fiscal year 1981 quarterly budgets approval; CMH/MRC's Boards of Trustees lapsed grants-in-aid reallocation; assistant commissioner for information management systems appointment; budgetary and legislative issues review; proposed legislation; San Antonio Chest Hospital Board policy; rule change—302.01.05.011, Residential Services Charges; TDMH/MR goals and objectives; 1982-83 budget guidelines amendments; TRIMS director's house and utilities, capital construction budget request, Waco Center for Youth Resident Populations, Safety, and Health Division and Community Residential and Support Services/Table of Organization Revision.

Information may be obtained from John J. Kavanagh, P.O. Box 12668, Austin, Texas 78711, (512) 465-4588.

Filed: August 6, 1980, 4:15 p.m.
Doc. No. 806065

Merit System Council

Friday, August 8, 1980, 9 a.m. The Merit System Council filed an emergency addition to its agenda for a meeting August 8. The council changed the location of its appeal hearing to the TEC District Office, 8300 John Carpenter Freeway, Dallas.

Information may be obtained from Leo F. Brockmann, P.O. Box 1389, Austin, Texas 78767, (512) 477-9665.

Filed: August 5, 1980, 11:31 a.m.
Doc. No. 806027

Midwestern State University

Friday, August 8, 1980. The following committees of the Midwestern State University Board of Regents met in emergency session in the board room, Hardin Administration Building, Midwestern State University, Wichita Falls at the times listed below:

2 p.m. The Student Affairs Committee considered the proposed student housing project. (Emergency status reason: New developments required an additional meeting prior to the regular board meeting August 15.)

3 p.m. The Executive and Finance Committee met to consider Student Affairs Committee recommendations concerning Pierce Hall addition (student housing); recommended changes on campus as related to the Fowler Building project and coordinating board space utilization studies; computer software purchase; procedure for approval of requests by outside groups and/or organizations for use of university facilities. (Emergency status reason: Vacations of board members made scheduling difficult and this was a necessary meeting.)

Information may be obtained from Jesse W. Rogers, 3400 Taft Boulevard, Wichita Falls, Texas 76308, (817) 692-6611, ext 211.

Filed: August 6, 1980, 3:48 p.m.
Doc. Nos. 806060 and 806061

State Board of Morticians

Tuesday, August 12, 1980, 9 a.m. The State Board of Morticians makes an addition to the agenda of a meeting to be held at 1513 IH 35 South, Austin. The addition concerns a matter relating to Luis O. Rivera—temporary permit hold of embalmer 103T and funeral director 099T.

Information may be obtained from Ann Lloyd, 1513 IH 35 South, Austin, Texas 78741, (512) 442-6721.

Filed: August 4, 1980, 3:11 p.m.
Doc. No. 805998

Texas National Guard Armory Board

Saturday, August 16, 1980, 8:30 a.m. The Texas National Guard Armory Board will meet in Building 64, Camp Mabry, Austin. According to the agenda, the board will consider the following: plaques and awards; Grand Prairie—vault; renovation; fiscal matters; and other matters which properly come before the board.

Information may be obtained from T. W. Meek, West Austin Station, Austin, Texas 78763, (512) 475-5481.

Filed: August 5, 1980, 9:30 a.m.
Doc. No. 806018

Board of Pardons and Paroles

Monday-Friday, August 18-22, 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.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: August 5, 1980, 10:20 a.m.
Doc. No. 806022

Wednesday, August 20, 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.

Information may be obtained from Ken Casner, 711 Stephen F. Austin Building, Austin, Texas, (512) 475-3363.

Filed: August 5, 1980, 10:20 a.m.
Doc. No. 806023

Texas Parks and Wildlife Department

Thursday, August 21, 1980, 2 p.m. The Fisheries Division/Resources Protection Branch of the Texas Parks and Wildlife Department will meet in Room B-100, 4200 Smith School Road, Austin. The division will conduct a hearing to consider renewal of existing Texas Parks and Wildlife Department shell permits. These permits, which will expire on September 30, 1980, authorize removal of shell and mudshell from selected state tracts in San Antonio Bay, Southeast Lavaca Bay, Northwest Matagorda Bay, and Sabine Lake.

Information may be obtained from Chester D. Harris, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831.

Filed: August 4, 1980, 2:30 p.m.
Doc. No. 805996

Tuesday, August 26, 1980, 2 p.m. The Fisheries Division/Resources Protection Branch of the Texas Parks and Wildlife Department will meet in Room A-200, 4200 Smith School Road, Austin. The division will consider an application of Robert Jenkins for a permit to authorize removal of approximately 200 cubic yards of additional marl from the Corpus Christi Ship Channel (Port Aransas Municipal Boat Harbor) by means of dragline or clam bucket for the purpose of constructing a private marina. The dredged material will be placed on upland private property. The project would be located immediately east of the present permitted site, adjacent to the intersection of Cotter Street and Oleander Street in Port Aransas, Nueces County.

Information may be obtained from Chester D. Harris, 4200 Smith School Road, Austin, Texas 78744, (512) 475-4831.

Filed: August 4, 1980, 2:30 p.m.
Doc. No. 805997

Public Utility Commission of Texas

Tuesday, August 5, 1980, 9 a.m. The Public Utility Commission of Texas made an emergency addition to a meeting held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. The commissioners met in executive session to consider the selection of a new director of economic research. The emergency addition was necessitated by the commission's urgent need to fill this vacant position.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 4, 1980, 3:48 p.m.
Doc. No. 806002

Tuesday, August 19, 1980, 1 p.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3195—application of Douglas Utility Company for a rate increase within Harris County.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 5, 1980, 1:46 p.m.
Doc. No. 806032

Thursday, August 21, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3354—application of Eastex Mobilephone Company for a certificate of convenience and necessity to provide radio telephone utility service.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 1, 1980, 10:19 a.m.
Doc. No. 806045

Friday, October 3, 1980, 9 a.m. The Hearings Division of the Public Utility Commission of Texas will conduct a prehearing conference in Suite 450N, 7800 Shoal Creek Boulevard, Austin, in Docket 3152—complaint of Town and Country Communications against Eastex Mobilephone Company for a certificate of convenience and necessity.

Information may be obtained from Philip F. Ricketts, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757, (512) 458-0100.

Filed: August 5, 1980, 1:47 p.m.
Doc. No. 806033

Texas Water Commission

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 consider an examiner's proposal for decision on applications by RJS Development Company, Inc., (Inwood Park Apartments) for a permit (Permit 12256-01) and Greenhills Foundation for a permit (Permit 12188-01).

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 5, 1980, 8:57 a.m.
Doc. No. 806016

Texas Water Commission

Wednesday, September 3, 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 Friendswood Refining Corporation for a Water Quality Permit 02332, to authorize discharge of industrial wastewater effluent in Harris County.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 6, 1980, 1:53 p.m.
Doc. No. 806053

Thursday, September 4, 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 consider final docket on final evidentiary hearings for the adjudication of water rights claims in the Colorado-Lavaca Coastal Basin. This docket lists the time and place of individual evidentiary hearings for claimants who have not made a previous appearance. Applicants are expected to appear and present evidence in support of their claims. The person who actually accomplished the irrigation or other water use can present best testimony and should come to the hearings. If claims have not been mailed as required by Section 11.037, then this should be done before the hearings.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 6, 1980, 1:41 p.m.
Doc. No. 806052

Tuesday, September 9, 1980, 1 p.m. The Texas Water Commission will meet in the City Hall Committee Room, first floor, 302 South Shoreline, Corpus Christi. According to the agenda summary, the commission will conduct a hearing on application by Everest Minerals Corporation for in-situ uranium mining permit at its Mt. Lucas Mine Site, located approximately three miles south of Dinero, along and northeast of State Highway 534 in Live Oak County.

Information may be obtained from John Sutton, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: August 5, 1980, 8:56 a.m.
Doc. No. 806017

Wednesday, September 10, 1980, 10 a.m. The Texas Water Commission will meet in the Houston-Galveston Area Council, Annex 1, 3701 West Alabama, Houston. According to the summarized agendas, the commission will conduct hearings on the following:

application of Olympia Developers, Inc., for permit to authorize discharge of 3,000,000 gallons per day of treated domestic sewage effluent from proposed sewage treatment plant to be located approximately 1,250 feet northwest of intersection of Eldridge Road and Beechnut Road, and 3.4 miles southeast of intersection of FM Road 1093 (Westheimer) and State Highway 6, in the outer southwest portion of the City of Houston, Harris County.

application by Gulf Coast Waste Disposal Authority for amendment to Permit 01054 for Bayport Central Wastewater Treatment plant to increase volume of discharge and quantity of pollutants discharged. (The plant is located at 10800 Bay Area Boulevard in the City of Pasadena, Harris County.)

Information may be obtained from Phillip Paine, P.O. Box 13087, Austin, Texas 78711, (512) 475-1468.

Filed: August 5, 1980, 1:46 p.m.
Doc. Nos. 806030 and 8706031

Thursday, September 11, 1980, 10 a.m. The Texas Water Commission will meet in Council Chambers, City Hall, Carthage. According to the summarized agendas, the commission will conduct hearings on the following:

Application by U.S. Department of Agriculture Forest Service (Sabine National Forest—Willow Oak) for permit to authorize discharge of 18,000 gallons per day of treated domestic sewage from Sabine National Forest Willow Oak facility which is located near Fairmont approximately 1/2 mile north-northeast of the FM Road 3315 and State Highway 87 intersection in Willow Oak Recreational Area of the Sabine National Forest, Sabine County.

Application of PMC Industries, Inc., Texas Pipe Coupling Division for permit to discharge treated industrial wastewater effluent from an API tubing and casing coupling threading and galvanizing facility which is located just south of State Highway 49/11 and the Louisiana and Arkansas Railroad and just east of Ranch Road 250 on Tanglewood Road in the City of Hughes Springs in Cass County.

Information may be obtained from David Hume P.O. Box 13087, Austin, Texas 78711, (512) 475-2711.

Filed: August 7, 1980, 9:41 a.m.
Doc. Nos. 806072 and 806073

Thursday, September 11, 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 RE-0117 of Fordyce Company and Parker Brothers and Company, Inc., for approval of plans for the construction of certain improvements on the Guadalupe River and its tributaries in Victoria County, to protect sand gravel plants and mining operations.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 6, 1980, 8:45 a.m.
Doc. No. 806042

Friday, September 12, 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 RE-0134 of Lone Star Industries, Inc., for approval of plans for construction of certain improvements on the Colorado River in Wharton and Colorado Counties.

Information may be obtained from Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 6, 1980, 8:44 a.m.
Doc. No. 806041

Regional Agencies

Meetings Filed August 5, 1980

The Alamo Area Council of Governments, scheduled the following committee meetings for the month of August at 532 Three Americas Building, San Antonio:

Bexar Senior Advisory Committee—August 8, 9 a.m.
Housing Advisory Committee—August 11, 1:30 p.m.
Regional Alcoholism Advisory Committee—August 12, 1:30 p.m.
Regional Development and Review Committee—August 19, 9 a.m.
Criminal Justice Planning Committee—August 20, 1:30 p.m.
Human Resources Advisory Committee—August 21, 2:30 p.m.
Area Judges of Alamo Consortium—August 27, noon
Executive Committee—August 27, 1:30 p.m.

Information may be obtained from Al J. Notzon, 400 Three Americas Building, San Antonio, Texas 78205, (512) 225 5201.

The Education Service Center, Region X, Board of Directors, will meet at the Prestonwood Country Club, 15909 Preston Road, Dallas, on August 12, 1980, at 1 p.m. Further information may be obtained from H. W. Goodgion, 400 East Spring Valley, Richardson, Texas 75080, (214) 231-6301.

The Education Service Center, Region XII, Administrative Division, will meet at 401 Franklin Avenue, Waco, on August 21, 1980, at 2 p.m. Further information may be obtained from Mack W. Mullins, P.O. Box 1249, Waco, Texas 76703.

The South Texas Development Council, Board of Directors, will meet in the conference room, 600 South Sandman, Laredo, on August 15, 1980, at 2 p.m. Further information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78041, (512) 722-3995.

The South Texas Health Systems Agency, Nominating Committee of the Coastal Bend Subarea Health Advisory Council, will meet at the Greenwood Senior Community Center, 4040 Greenwood Road, Corpus Christi, on August 12, 1980, at 7:30 p.m. Information may be obtained from Helen C. Fisher, Texas A&I University, Station 1, Box 2378, Kingsville, Texas 78262, (512) 595-5545.

Doc. No. 806026

Meetings Filed August 6, 1980

The Education Service Center Region XVI, Joint Committee, will meet at 1601 South Cleveland, Amarillo, on August 27, 1980, at 10 a.m. The Board of Directors will meet at 16th and Madison, Amarillo, on August 27, 1980, at 1 p.m. Information may be obtained from Dr. Kenneth M. Laycock, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521.

The Education Service Center Region XX, Board of Directors, met at 1550 Northeast Loop 410, San Antonio, on August 8, 1980, at 10 a.m. Information may be obtained from Dr. Dwain M. Estes, 1550 Northeast Loop 410, San Antonio, Texas 78209, (512) 828-3551.

The South Texas Health Systems Agency, Nominating Committee of the Golden Crescent Subarea Advisory Council will meet in Room 201, Science Building, Victoria College, Victoria, on August 13, 1980 at 6:30 p.m. The Golden Crescent Subarea Advisory Council will meet in Room 201, Science Building, Victoria College, Victoria, on August 13, 1980, at 7 p.m. Information may be obtained from Ruben Saenz, South Texas Health Systems Agency, Texas A&I University, University Station 1, Box 2378, Kingsville, Texas 78363, (512) 595-5545.

The Trinity River Authority of Texas, Utility Services Committee will meet in the Executive Conference Room, TRA's General Office, 5300 South Collins, Arlington, on August 13, 1980, at 9:30 a.m. Information may be obtained from Geri Elliott, P.O. Box 60, Arlington, Texas 76010, (817) 467-4343.

The Tri-Region Health Systems Agency, Nortex Subarea Advisory Council, will meet in Room 500, Memorial Auditorium, 1300 7th Street, Wichita Falls, on August 14, 1980, at 7 p.m. Information may be obtained from Angel Rivera, 2642 Post Oak Road, Abilene, Texas 79605, (915) 698-9481.

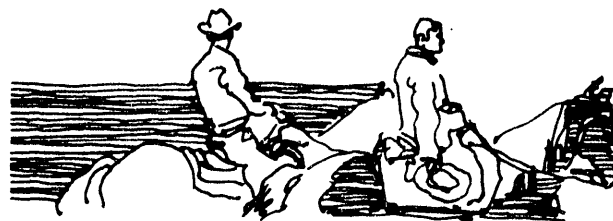
The West Texas Health Systems Agency, Governing Body, will meet at the Roadway Inn, Oleander Room, 6201 Gateway West, El Paso, on August 21, 1980, at 7:30 p.m. Information may be obtained from Cory Vaughan, 303 North Oregon, Suite 700, El Paso, Texas 79901, (915) 532-2910.

Doc. No. 806044

Meetings Filed August 7, 1980

The City of El Paso, El Paso Urban Transportation Study—Policy/Advisory Committee, will meet at Administrative Municipal Building No. 2, Civic Center Plaza, tenth floor conference room, El Paso, on August 14, 1980, at 11 a.m. Information may be obtained from Judith M. Price, Administrative Municipal Building No. 2, Civic Center Plaza, El Paso, Texas, (915) 543-6770.

Doc. No. 806068



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 28 through August 1, 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 August 1, 1980

Southern Elevators, Inc., Premont; grain elevator; Rios; 4549A; new source

Dow Chemical Company, Texas Division, Clute; bisphenol-epoxy resin product facility; Texas Division, Plant B B-8500; 8495; new source

Newell Recycling Company, San Antonio; aluminum shredder; 726 Probandt; 8496; new source

Air Curtain Destructor Corporation, Houston; trench burners; 9999 Hempstead Highway; 8497-8506; new source

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 806040 Ramon Dasch
Hearing Examiner
Texas Air Control Board

Filed: August 6, 1980, 8:45 a.m.

For further information, please call (512) 451-5711, ext. 401.

Executive and Legislative Budget Offices

Amended Joint Budget Hearing Schedule

The following budget hearing has been changed as indicated.

Agency	Date	Place
Board of Nurse Examiners	from 10 a.m. August 15 to 3 p.m. August 15	Senate Finance Room 301, State Capitol

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 806001 Jim Oliver
Assistant Director
Legislative Budget Board

Filed: August 4, 1980, 3:34 p.m.

For further information, please call (512) 475-3426.

General Land Office

Consultant Contract Award

The General Land Office has contracted with Island Cybernetics, P.O. Box 208, Port Aransas, Texas 78373, for the following consulting services: The contractor will aid in the preparation of draft and final versions of conceptual models, a narrative report, and an information base pertaining to the Texas Gulf Coast. The models and accompanying graphics will be designed to delineate functional system boundaries, forcing functions, components, processes, and outputs at scales of the region, hydrologic unit, and habitat and community. The narrative report will analyze, synthesize, and summarize information presented in the models. The information base will consist of numerical and tabular data to quantify forcing functions, components, and interactions within the region, hydrologic units, and habitats and communities.

The contractor will work in close cooperation with the GLO staff and under the direct supervision of the GLO project supervisor on a day-to-day basis.

The contract began on August 1, 1980, and will conclude on October 31, 1981. The total amount of the contract is \$60,000.

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 805992 Bob Armstrong
Commissioner
General Land Office

Filed: August 4, 1980, 10:57 a.m.

For further information, please call (512) 475-1166.

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 August 1-4, 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.

Shamrock General Hospital, Shamrock (8/4/80)
AH80-0604-016
EC—To contract for mobile ultrasound service

Scott and White Memorial Hospital and Scott, Sherwood, and Brindley Foundation, Temple (8/4/80)

AH80-0730-007
DR—Request for a declaratory ruling that neither a certificate of need nor an exemption certificate is required for applicant to complete the east wing of the third floor of the Scott and White Clinic by adding approximately 8,200 square feet to provide physician offices, exam rooms, waiting area, nurses station, storage area and ancillary support areas, special procedure rooms, and equipment

Harris Hospital—Methodist and Methodist Affiliated

Hospitals, Fort Worth (8/4/80)
AH80-0730-013
EC—To lease, for a period of three years, 8,315 square feet of office space in Grand Prairie, at 702 Greenview Drive, in order to relocate the corporate offices of Harris Hospital—Methodist System

Tarrant County Mental Health and Mental Retardation Services/Mental Retardation Group Home C, Arlington (8/4/80)
AA80-0731-019

EC—To establish a group home for eight moderately mentally retarded residents classified as ICF-MR-I, in Arlington, Tarrant County

Hotel Dieu Hospital and Medical Center, El Paso (8/4/80)

AH80-0731-001
EC—To acquire an Eko Sector I Scanner as an addition to an existing Ekoline 20A diagnostic ultrasonoscope, and also participate in an exchange program being offered by Smithkline Instruments, Inc., to exchange the existing Ekoline 20A ultrasonoscope for a new Ekoline 20 A/S ultrasonoscope.

Releigh Hills Hospital, Houston (8/4/80)
AH79-0824-024A (080180)

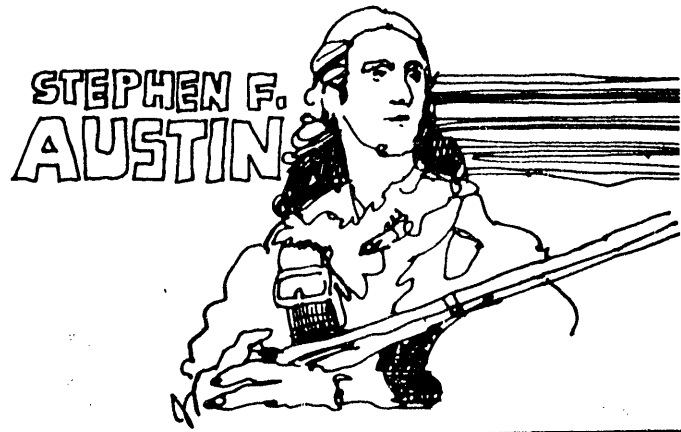
AMD/CN—Request to amend the completion deadline from September 1980 to December 31, 1980 in Certificate of Need AH79-0824-024, which authorized construction of a 3,000 square foot addition for patient dining/lounge, etc., office space and reclassification of 37 medical surgeon beds to alcoholism treatment and rehabilitation services

Issued in Austin, Texas, on August 6, 1980.

Doc. No. 806047 O. A. Cassity III
Director of Hearings
Texas Health Facilities Commission

Filed: August 6, 1980, 11:27 a.m.

For further information, please call (512) 475-6940.



Texas Department of Human Resources

A Summary of the Proposed State Plan for the Home Energy Assistance Program

The Texas Department of Human Resources (TDHR) has been designated by Governor William Clements to administer the 1981 Home Energy Assistance Program (HEAP). The program is designed to assist low-income Texans in meeting the increased cost of energy for the necessary heating and cooling of their homes. This summary is published to inform interested parties, and written comments are solicited.

Congress has not yet appropriated funds for the HEAP program. However, assistance will be provided to these groups:

- aid to families with dependent children (AFDC) households
- food stamp recipient households
- supplemental security income (SSI) recipient households
- certain households receiving needs tested veterans benefits
- households with income below a certain level

TDHR will make a direct cash payment to an eligible AFDC, SSI, or food stamp household in December 1980. An application is not required for persons receiving benefits through

these programs. Veterans receiving needs tested pensions and other households which do not receive AFDC, food stamps, or SSI benefits can apply for energy assistance at contract agencies in their localities.

The amount of assistance received will be determined by the average natural gas heating cost in the county and the applicant's family size and income. Liquid assets cannot exceed \$1,800 for a single-person household or \$3,000 for a household with two or more persons. The value of a homestead, cars, and personal and household belongings will not be considered as liquid assets. The applicant's statement regarding income will be verified. Members of Indian tribes residing in Texas may apply for and, if eligible, receive benefits equivalent to the benefits received by similarly situated income-eligible households. Payments for income-eligible households will be made directly to utility companies if agreements between the local contracting agency and the utility company are executed.

TDHR will request waivers to certain regulatory requirements in order to minimize the administrative costs of the eligibility system. For example, each SSI and AFDC household will receive a payment even though these households may reside in the same house and share utility cost, requiring waiver of Section 260.152(e) of the regulations. In addition, payments may be sent to some households residing in public housing, who are held harmless for increasing energy costs, requiring waiver of regulation Sections 260.152(d)(1) and (2). TDHR may provide benefits on behalf of eligible recipients residing in public housing to public housing operators. However, for this to occur, housing operators must provide TDHR with certain critical information concerning the categorically eligible individuals residing in their housing. If this information cannot be provided, TDHR will be required to request a waiver of subpart H of the regulations. In order to encourage utility companies to establish lines of credit for income-eligible recipients, a waiver to complex hearing and shut off requirements outlined in Section 260.254 of the regulations will also be requested. Matching administrative funds have not been appropriated by the state legislature. Therefore, TDHR is requesting waiver of regulation Section 260.88(c). These waivers are needed to dramatically reduce administrative costs and provide maximum amount of benefits to the needy in a timely manner.

State plans for the program are available for review at the county judge's office and a TDHR office in each county. Copies of this summary may be requested via a telephone call to 1-800-252-9330. Comments concerning the HEAP program will be accepted through August 28, 1980. Written comments can be directed to Susan L. Johnson, Handbook and Procedures Development Division—275, Texas Department of Human Resources, P.O. Box 2960, Austin, Texas 78769.

Issued in Austin, Texas, on August 5, 1980.

Doc. No. 806034 Jerome Chapman
Commissioner
Texas Department of Human Resources

Filed: August 5, 1980, 1:43 p.m.
For further information, please call (512) 441-3355.

Legislative Budget Board Consultant Contract Award

The Legislative Budget Board has contracted with Touche Ross and Company to conduct a study of the local higher education authorities in Texas. The study objectives are to document the history, operations, and financing of each of the four existing authorities and to identify issues, if any, for consideration by the House Interim Committee on Higher Education Authorities and the Special Committee on Higher Education Financing in Texas. This will be accomplished with a review of available materials on authority operations, background interviews with selected individuals involved in management, preparation of review forms and procedures, and on-site reviews of each of the four existing authorities.

The private consultant is Touche Ross and Company, American Bank Tower, Suite 1400, 221 West 6th Street, Austin, Texas 78701.

The estimated cost of the project is \$29,540. The contract began June 25, 1980. A draft report is expected to be completed by August 31, 1980.

The draft report of the study and other documentation are due at the completion of the project.

Issued in Austin, Texas, on August 5, 1980.

Doc. No. 806036 Jim Oliver
Assistant Director
Legislative Budget Board

Filed: August 5, 1980, 4:36 p.m.
For further information, please call (512) 475-3426.

Savings and Loan Department of Texas Notice of Interest Rate

The following information is made available at this time for the benefit of the public and the financial institutions of Texas.

Pursuant to the provisions of House Bill 409, 66th Legislature of Texas, Regular Session, 1979, the Savings and Loan Commissioner of Texas has ascertained the average per annum market rate adjusted to constant maturities on 10 year U.S. Treasury notes for the calendar month of July 1980 to be 10.25%. An additional 2.0% per annum translates to the maximum 12% as provided for by law.

This rate shall govern applicable loans made on or after September 1, 1980, and extending through September 30, 1980.

Issued in Austin, Texas, on August 6, 1980.

Doc. No. 806051 L. Alvis Vandygriff
Commissioner
Savings and Loan Department of Texas

Filed: August 6, 1980, noon
For further information, please call (512) 475-7991.

Texas Tourist Development Agency Consultant Proposal Request

Pursuant to Article 6252-11c of Vernon's Texas Civil Statutes, Frank Hildebrand, executive director of the Texas

Tourist Development Agency, hereby issues notice of invitation for offers of services on the project described below.

Contact Person. A video tape producer who wants to make an offer on this project should contact Elmer Whiddon, chief of media relations, TTDA, Box 12008, Capitol Station, Austin, Texas.

Closing Date. No offers will be considered unless they are received by 5 p.m. August 31, 1980, at the above address.

Background. The producer chosen will render all services in producing, editing, and distributing for TTDA 50 90-second video taped or filmed segments concerning Texas tourism. Producer will distribute any such segments to a maximum of 12 Texas television stations designated by TTDA. However, it is understood between producer and TTDA that all 50 segments are the property of producer and cannot be distributed to other television stations than the 12 designated Texas stations or to any other party without the prior consent of producer and without the payment of additional compensation to producer at a rate to be set by producer.

Compensation. TTDA will pay producer the sum of \$25,000 payable in 11 equal payments of \$2,083.33 and one payment of \$2,083.37.

Time Frame. All 50 segments to be delivered by August 31, 1981. TTDA reserves the right to reject, in total or part, any and/or all proposals.

Issued in Austin, Texas, on August 4, 1980.

Doc. No. 806020 Frank Hildebrand
 Executive Director
 Texas Tourist Development Agency

Filed: August 5, 1980, 10:16 a.m.

For further information, please call (512) 475-4326.

Texas Water Commission

Applications for Waste Discharge Permits

Notice is given by the Texas Water Commission of public notices of waste discharge permit applications issued during the period of July 28-August 1, 1980.

No public hearing will be held on these applications unless an affected person who has received notice of the applications has requested a public hearing. Any such request for a public hearing shall be in writing and contain (1) the name, mailing address, and phone number of the person making the request; (2) a brief factual statement of the nature of the interest of the requester and an explanation of how that interest would be affected by the proposed action; and (3) the names and addresses of all persons whom the requester represents. If the commission determines that the request sets out legal or factual questions within the jurisdiction of the commission and relevant to the waste discharge permit decision, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 45 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by writing Larry R. Soward, assistant chief hearings examiner, Texas Water Commission, P.O. Box 13087, Capitol Station, Austin, Texas 78711, telephone (512) 475-1311.

Listed are the name of the applicant and the city in which the facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Week Ending August 1, 1980

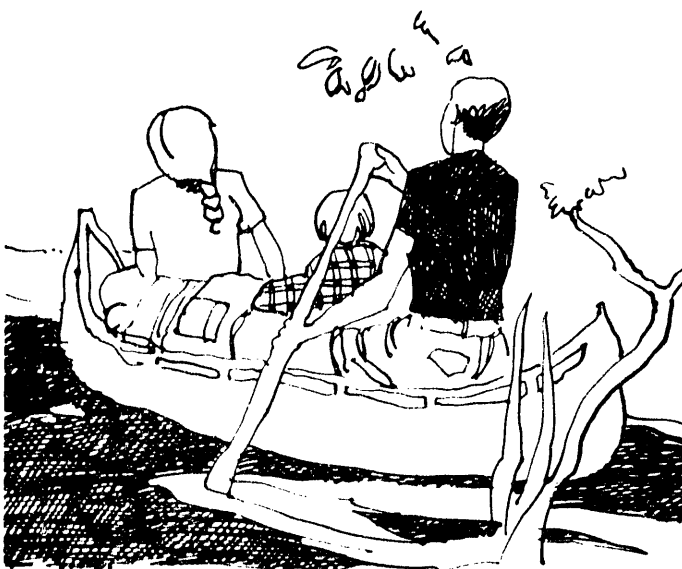
Fort Worth and Denver Railway Company (Amarillo Locomotive Fueling Area), Potter County; locomotive fueling area; east side of Amarillo, north of South East 3rd Avenue, about 1/4-mile west of Lakeside Drive; new permit

General Portland, Inc., Fort Worth, Tarrant County; cement plant; west of Meacham Field, approximately two miles northwest of intersection of Highway 183 with Highways 81 and 287; 01955; renewal

Missouri Pacific Railroad Company, Centennial Yard, Fort Worth, Tarrant County; diesel locomotive servicing shop and rail car shop; near junction of Rogers Avenue and Vickery Avenue; 00780; renewal

Andrew L. Kivlin and Sylvion Kivlin, Travis County; domestic sewage treatment facilities; 3,000 feet south-southeast of intersection of FM Road 973 and FM Road 812, and 1.5 miles east of U.S. Highway 183; 11191; renewal

City of Conroe (Southwest Regional Plant), Montgomery County; domestic sewage treatment facility; north of Lake Creek confluence with the west fork of the San Jacinto River at end of Old Magnolia Road, southwest of Conroe; 10008-02; amendment



United States Steel Corporation, Texas Uranium Operations, Live Oak County; in-situ uranium mining project; approximately eight miles southwest of George West, adjacent to and northwest of U.S. Highway 59; new permit

Lillian C. Elliott, Bay City, Matagorda County; domestic sewage treatment facilities; west bank of Cottonwood Creek approximately 1,500 feet east of Highway 60 and 1.6 miles north of Highway 35; 11528; renewal

Champion Building Products, Division of Champion International Corporation, Corrigan, Polk County; plywood manufacturing plant; west side of U.S. Highway 50, approximately two miles north of the City of Corrigan; 01902; renewal

City of Lubbock—Lubbock Power and Light (Plant 2), Lubbock County; steam electric station; on municipal property, bounded by Highway 87, at the north fork Double Mountain Fork of Brazos River, Yellow House Canyon, the P&SF Railway and Mackenzie State Park, northeast of downtown business district of Lubbock; 01894; renewal

Alcoa Conductor Products Company, Division of Alcoa, Marshall, Harrison County; nonferrous wire insulating and drawing plant; northeast quadrant of intersection of Highway 80 and FM Road 2199, approximately eight miles east of City of Marshall; 01270; renewal

Harris County Municipal Utility District 1, Tomball, Harris County; domestic sewage treatment facilities; 2,000 feet east of Kuykendahl Road, 4,000 feet south of its intersection with Hufsmith Road about four miles northeast of Tomball; 11630; amendment

City of Hidalgo, Hidalgo County; domestic sewage treatment facility; 1/2-mile north of U.S. Highway 281 and 1/2-mile east of FM Road 336, east of Hidalgo; 11080; renewal

Texas Utilities Generating Company, Hopkins County; domestic sewage treatment facilities; northeast quadrant of Fuel Production Area 3 and approximately 2.2 miles southeast of intersection of IH 10 and FM Road 1870; 12275-01; renewal

John R. Biggs, trustee for Bayou Oaks Joint Venture 1, Harris County; treatment facilities to serve residential area; southside of White Oak Bayou, approximately 1,750 feet southeast of West Little York and Antoine Drive intersection; new permit

Joe Courtney, Inc. (University Acres Plant), Brazos County; domestic sewage treatment plant; 3,500 feet south-southeast of the intersection of FM Road 2818 (west bypass) and FM Road 2154; new permit

Forreston Sewer Service and Water Supply Corporation, Forreston, Ellis County; domestic sewage treatment facilities; two blocks east on Main Street from Highway 77; 11103; renewal

Golden Triangle Mobile Home Park, Inc., Argyle, Denton County; domestic sewage treatment facility; 1,400 feet south of Denton Street in Argyle, on Highway 377, then 720 feet east of the highway; new permit

U.S. Department of Air Force—Kelly Air Force Base, San Antonio; Bexar County; industrial waste treatment facilities; new permit

Patrick Power, Betty Jo Power, and Trust of T. J. Power, doing business as T. J. Power and Company, Hereford, Deaf Smith County; vegetable washing and packing facility; southeast of Atchison, Topeka and Santa Fe Railroad, on west corner of intersection of New York Avenue and Roosevelt Avenue; 01299; renewal

Issued in Austin, Texas, on August 1, 1980.

Doc. No. 805984 Mary Ann Helner
 Chief Clerk
 Texas Water Commission

Filed: August 4, 1980, 9:13 a.m.

For further information, please call (512) 475-1311.

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 4. AGRICULTURE

Part I. Texas Department of Agriculture

4 TAC §21.51 (176.83.27.001)..... 3192

TITLE 22. EXAMINING BOARDS

Part X. State Board of Morticians

22 TAC §203.16 (387.02.00.016) 3241

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Noncodified (301.33.05.001-.004)..... 3262
 Noncodified (301.33.08.001-.011)..... 3262
 Noncodified (301.33.09.001-.010)..... 3268
 Noncodified (301.50.01.001-.007)..... 3270
 Noncodified (301.82.01.001-.015)..... 3193
 Noncodified (301.82.01.016-.031)..... 3193
 Noncodified (301.83.01.017) 3235

Part II. Texas Department of Mental Health and Mental Retardation

Noncodified (302.04.19.001-.003-.007-.009)..... 3236

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

31 TAC §101.1 (131.01.00.001-.002) 3241
 31 TAC §§115.101-115.106
 (131.07.51.101-.102-.104-.105)..... 3243
 31 TAC §§115.111-115.113 (131.07.52.101-.104)..... 3248
 31 TAC §§115.121-115.123 (131.07.53.101-.103)..... 3251
 31 TAC §§115.131-115.133-115.135
 (131.07.54.101-103-.105)..... 3251
 31 TAC §§115.172-115.176 (131.07.59.102-.106)..... 3253
 31 TAC §§115.191-115.194 (131.07.60.101-.104)..... 3254
 31 TAC §§115.211-115.213 3256
 31 TAC §§115.231-115.237 3256
 31 TAC §§115.251-115.255 3258
 31 TAC §§115.261-115.264 3259
 31 TAC §§115.421-115.424 3260
 31 TAC §116.3 3261

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part V. Board of Pardons and Paroles

37 TAC §145.10 (205.03.01.010) 3192
 37 TAC §145.25 (205.03.02.005) 3261
 37 TAC §145.27 (205.03.02.007) 3261

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Noncodified (326.91.13.001-.028)..... 3270
 Noncodified (326.91.14.001-.025)..... 3277
 Noncodified (326.91.15.001-.025)..... 3282

Part IV. Texas State Commission for the Blind

Noncodified (329.04.00.003) 3262

Table of TAC Titles

TITLE 1. ADMINISTRATION
 TITLE 4. AGRICULTURE
 TITLE 7. BANKING AND SECURITIES
 TITLE 10. COMMUNITY DEVELOPMENT
 TITLE 13. CULTURAL RESOURCES
 TITLE 16. ECONOMIC REGULATION
 TITLE 19. EDUCATION
 TITLE 22. EXAMINING BOARDS
 TITLE 25. HEALTH SERVICES
 TITLE 28. INSURANCE
 TITLE 31. NATURAL RESOURCES AND CONSERVATION
 TITLE 34. PUBLIC FINANCE
 TITLE 37. PUBLIC SAFETY AND CORRECTIONS
 TITLE 40. SOCIAL SERVICES AND ASSISTANCE
 TITLE 43. TRANSPORTATION
