

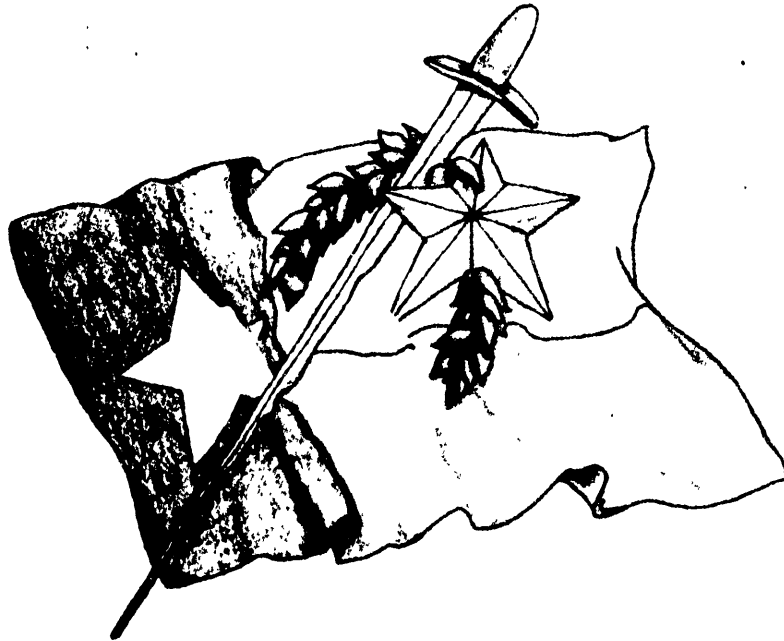
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Texas Register



Highlights

- ★ The Office of the Attorney General adopts on an emergency basis new rules concerning child support enforcement; effective date - September 1 page 3341
- ★ The State Board of Insurance proposes amendments concerning rules for minimum standards and benefits and readability for accident and health insurance policies; earliest possible date of adoption - September 30 page 3348
- ★ The Texas Water Development Board proposes new rules concerning concerning the implementation of U.S. Environmental Protection Agency effluent standards for surface coal mines; earliest possible date of adoption - September 30 page 3352

How To Use the Texas Register

Texas Register

The *Texas Register* (ISN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 1983 with the exception of January 25, March 8, April 26, and November 29, by the Office of the Secretary of State, 201 East 14th Street, P.O. Box 13824, Austin, Texas 78711-3824, (512) 475-7886.

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

- Governor—appointments, executive orders, and proclamations
- Secretary of State—summaries of opinions based on election laws
- Attorney General—summaries of requests for opinions, opinions, and open records decisions
- Emergency Rules—rules adopted by state agencies on an emergency basis
- Proposed Rules—rules proposed for adoption
- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date
- Adopted Rules—rules adopted following a 30-day public comment period
- Legislature—Bills submitted to, signed by, and vetoed by the Governor and bills that are submitted to the Governor and enacted without his signature
- Open Meetings—notices of open meetings
- In Addition—miscellaneous information required to be published by statute or provided as a public service

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

How To Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg," and the beginning page number on which

that document was published. For example, a document published on page 2402 of Volume 6 (1981) is cited as follows: 6 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: page 2 in the lower left-hand corner of this page is written: "8 TexReg 2 issue date," while on the opposite page, in the lower right-hand corner, page 3 is written "issue date 8 TexReg 3"

How To Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, 503E Sam Houston Building, Austin. Material can be found by using *Register* indexes, the *Texas Administrative Code* (explained below), rule number, or TRD number.

Texas Administrative Code

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

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

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

TAC stands for the *Texas Administrative Code*;

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

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

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The Attorney General

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

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

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

Opinions

JM-67 (RQ-137). Request from Lyndon L. Olson, Jr., chairman, State Board of Insurance, Austin, concerning whether the Texas Catastrophe Property Insurance Association is subject to the Administrative Procedure and Texas Register Act.

Summary of Opinion. The plan of operation of the Texas Catastrophe Property Insurance Association is a rule of the State Board of Insurance
TRD 836493

JM-68 (RQ-152). Request from Bob Glasgow, chairman, Subcommittee on Crim-

inal Matters, Texas Senate, Austin, concerning the constitutionality of Senate Bill 1, relating to per se definition of intoxication

Summary of Opinion. The per se definition of intoxication in Senate Bill 1 is constitutional
TRD-836494

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

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

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

Emergency Rules

TITLE I. ADMINISTRATION Part III. Office of the Attorney General Chapter 55. Child Support Enforcement

The Office of the Attorney General adopts on an emergency basis new rules for the operation of the Child Support Enforcement Program. The rules clarify policies pertaining to the general operation and administration of the program including audits and contracts, the location of noncustodial parents, the establishment of paternity, the establishment and enforcement of court ordered child support, and the collection and distribution of child support payments.

The Social Security Act, Title IV D, requires states to assist in locating absent parents, establish and enforce child support obligations and establish paternity for children of both AFDC and non-AFDC families. The Texas Human Resources Code, Chapter 46, designates the Texas Department of Human Resources (DHR) as the state agency to administer the Child Support Enforcement Program and allows the DHR to enter into contracts or agreements necessary to administer this program. By that authority, and pursuant to the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, the DHR has contracted with the Office of the Attorney General to delegate its authority for the operation of the Child Support Program. The Office of the Attorney General adopts these new rules on an emergency basis to comply with the terms of the interagency contract transferring the operation of the Child Support Enforcement Program from the DHR to the Office of the Attorney General, effective September 1, 1983.

These rules are adopted on an emergency basis in the interest of promoting the public health, safety, and welfare and in accordance with the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, directing the Office of the Attorney General to assume responsibility for operation of the Child Support Enforcement Program by September 1, 1983. Failure to adopt these rules for proper continuous operation of the program by the attorney general would result in imminent peril to the public health, safety, and welfare.

Written comments on the emergency adoption may be sent to Sandra Moreno, Director State Office, Child Support Enforcement, Office of the Attorney General, P O Box 12548, Austin, Texas 78711, within 30 days of the publication of this *Register*.

Subchapter A. General Guidelines

1 TAC §§55.1-55.5

These new rules are adopted on an emergency basis under the authority of the Texas Human Resources Code, Chapter 46; the interagency contract; and legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, authorizing the Office of the Attorney General to administer the Child Support Enforcement Program.

§55.1. *Cooperation of the AFDC Applicant/Client in Obtaining Support.* As a condition of eligibility for AFDC assistance, the applicant/recipient must cooperate with the state in:

(1) identifying and locating the noncustodial parent;

- (2) establishing the paternity of a child born out of wedlock for whom assistance is claimed;
- (3) obtaining support payments for the child for whom assistance is claimed; and
- (4) obtaining any other payments or property due the applicant/recipient or the child for whom assistance is claimed.

§55.2. Failure to Cooperate. If the AFDC recipient fails to cooperate with child support staff in the child support enforcement process, the IV-A agency denies the recipient's portion of the grant and appoints a protective payee. The AFDC recipient has the right to appeal the decision.

§55.3. Good Cause for Refusing to Cooperate. The AFDC recipient may claim that good cause exists for refusing to cooperate with the Office of the Attorney General in establishing paternity or securing child support. If the Texas Department of Human Resources (DHR) finds the recipient has good cause, the recipient is excused from cooperating. If DHR determines that the recipient does not have good cause, the recipient must cooperate, or the AFDC caretaker's portion of the grant will be denied and the children's portion assigned to a protective payee. The AFDC recipient has the right to appeal this decision.

§55.4. Good Cause Determination. The AFDC worker may find good cause in the following circumstances:

- (1) If cooperation would reasonably be anticipated to result in:
 - (A) physical or emotional harm to the child; or
 - (B) physical or emotional harm to the recipient to such an extent that it would impair the recipient's ability to care for the child.
- (2) If one of the following conditions exists and the AFDC worker believes that cooperation with staff in the child support process would be detrimental to the child:
 - (A) the child was conceived as a result of incest or forcible rape;
 - (B) legal proceedings for adoption are pending before a court of competent jurisdiction; or
 - (C) the recipient is working with a social agency in making a decision about relinquishing the child for adoption and the discussions have not gone on longer than three months.

§55.5. Evidence of Good Cause. If good cause is asserted as a basis for refusal to cooperate, the recipient must provide evidence or sufficient information to permit an investigation so that AFDC staff may make a determination as to the existence of good cause.

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

TRD-836545 Jim Mattox
 Attorney General

Effective date: September 1, 1983
Expiration date: December 30, 1983
For further information, please call (512) 835-0440,
ext. 2036.

Subchapter B. Locate Services

1 TAC §55.31-55.33

The new rules are adopted on an emergency basis under the authority of the Texas Human Resources Code, Chapter 46; the interagency contract; and the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, authorizing the Office of the Attorney General to administer the program.

§55.31. Application. A non-AFDC applicant may apply for locate-only services and pay the required application fee.

§55.32. Non-AFDC Locate-Only Services/Non-AFDC Full Child-Support Services. Non-AFDC child support services are available to persons upon application and payment of the application fee. Persons eligible to use those services must be parents residing in Texas, or a resident of another country, legal guardians, courts, or attorneys or agents of a child not receiving AFDC.

§55.33. Parental Kidnapping and Child Custody Determination Services. An applicant must apply for locate services for parental kidnapping and child custody determination through an authorized agent and pay the required application fee. The State Parent Locator Service accepts applications for these services only from district judges, county attorneys, district attorneys, or the attorney general and staff.

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

TRD-836546 Jim Mattox
 Attorney General

Effective date: September 1, 1983
Expiration date: December 30, 1983
For further information, please call (512) 835-0440,
ext. 2036.

Subchapter C. Paternity

1 TAC §55.61

The new rule is adopted on an emergency basis under the authority of the Texas Human Resources Code, Chapter 46; the interagency contract; and the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, authorizing the Office of the Attorney General to administer the program.

§55.61. Statute of Limitation Cases. The recipient is entitled to be informed if the child support attorney decides not to file a paternity suit.

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

TRD-836547 Jim Mattox
 Attorney General

Effective date: September 1, 1983
Expiration date: December 30, 1983
For further information, please call (512) 835-0440,
ext. 2036.

**Subchapter F. Collections and
Distribution**

1 TAC §§55.121-55.123

The new rules are adopted on an emergency basis under the authority of the Texas Human Resources Code Chapter 46; the interagency contract; and the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, authorizing the Office of the Attorney General to administer the program.

§55.121. Removing Children from the AFDC Grant. The AFDC recipient has the option of removing one or more children from the AFDC grant. If the child support collected equals or exceeds the grant, the recipient may, by removing certain children from the grant, continue to receive a lower grant

§55.122. Child Support Inappropriately Retained by an AFDC Recipient. When an AFDC recipient receives child support directly, it is the recipient's responsibility to return the money to the child support unit. If it is discovered that the recipient received and retained child support, the recipient must enter into a repayment agreement with the local child support unit. If the recipient fails to do so, the child support unit will notify the IV-A agency of the recipient's failure to cooperate

§55.123. Notice of the Recipient. The recipient must be given adequate notice that the Office of the Attorney General intends to recover direct payments retained by the recipient.

Issued in Austin, Texas, on August 16, 1983

TRD-836548 Jim Mattox
Attorney General

Effective date: September 1, 1983
Expiration date: December 30, 1983
For further information, please call (512) 835-0440,
ext. 2036.

Subchapter G. Contracts and Audits

1 TAC §§55.151-55.157

The new rules are adopted on an emergency basis under the authority of the Texas Human Resources Code, Chapter 46; the interagency contract; and the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, authorizing the Office of the Attorney General to administer the program.

§55.151. County Responsibilities. To establish and maintain a cost-effective child support program, the county must:

- (1) attempt to locate noncustodial parents;
- (2) establish paternity;
- (3) establish and enforce support obligations;
- (4) report to the Office of the Attorney General the required statistical data;

(5) immediately forward funds collected on welfare-related cases to the Office of the Attorney General;

(6) comply with the Office of the Attorney General's production standards, monthly levels of AFDC collections, and required costs efficiency levels;

(7) comply with contractually required program standards; and

(8) respond promptly to all public inquiries.

§55.152. General Guidelines. All contracts/budgets are for a one-year period. A new contract/budget must be negotiated each year.

§55.153. Federal Financial Participation—Allowable Costs. Allowable costs are calculated according to Office of Management and Budget (OMB) Circular A-87. The following line items may be included in the budget of counties under contract

- (1) salaries and wages;
- (2) employee benefits;
- (3) travel;
- (4) training;
- (5) professional services;
- (6) equipment;
- (7) building space/government office space;
- (8) operating expenses;
- (9) indirect costs.

§55.154. Miscellaneous Requirements—Allowable Costs. Certain expenses by contracted counties require prior approval of the Office of the Attorney General and the regional office of Child Support Enforcement, Health and Human Services. Prior approval by the Office of the Attorney General is required if county staff wish to contract for data processing services, management services, or professional services. County staff must include Office of the Attorney General staff in planning for the use of outside consultants to ensure compliance with federal regulations

§55.155. Handling a Contract Unit's Noncompliance.

(a) In any month that a contract unit fails to comply with program standards or cost efficiency levels, the contract may be changed. Contract changes may be, but are not limited to, the following:

- (1) termination of the contract;
- (2) modification of the contract terms to alter the county's performance obligations;
- (3) other adjustments as appropriate.

(b) County officials have the right to appeal within 10 days after the receipt of the notice of a contract termination.

§55.156. Audits. The Office of the Attorney General conducts audits of the child support contracts with the counties on a regular basis.

§55.157. Federal Audits. The Office of Child Support Enforcement, Audit Division, of Health and Human Services conducts audits of the child support contracts with the counties on a regular basis. The three types of federal audits conducted are:

- (1) OCSE-41 quarterly reviews,

- (2) compliance audits, and
- (3) administrative cost audits.

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

TRD-836549 Jim Mattox
 Attorney General

Effective date. September 1, 1983
Expiration date. December 30, 1983
For further information, please call (512) 835-0440,
ext. 2036.

(e) The term "recognized securities manual" used in the Act, §5.0(9)(c) shall include the manuals published by Moody's Investment Service, Standard & Poor's Corporation, and Best's Life Insurance Reports.

Issued in Austin, Texas, on August 23, 1983

TRD-836520 Richard D. Latham
 Securities Commissioner

Effective date. September 1, 1983
Expiration date. December 30, 1983
For further information, please call (512) 474-2233.

**TITLE 7. BANKING AND
SECURITIES**
Part VII. State Securities Board
Chapter 109. Transactions Exempt
from Registration
Secondary Trading Exemptions
7 TAC §109.7

The State Securities Board adopts on an emergency basis an amendment to §109.7, concerning secondary trading exemptions. Currently the Texas Securities Act, §5.0, indicates that the term "recognized securities manual" shall include the manuals published by Moody's Investment Service, Standard & Poor's Corporation, and Best's Life Insurance Reports. Senate Bill 106, 68th Legislature, 1983, effective September 1, 1983, does not contain a list of recognized securities manuals for purposes of the exemption, but requires instead that all such manuals be approved by the board. Therefore, as of September 1, 1983, brokers and dealers in the State of Texas who are relying upon the exemption in the Texas Securities Act, §5.0, to execute trades in the secondary market will no longer be able to rely upon a manual listing since no manuals are named.

The emergency status is necessary because of the need to continue the ability of brokers and dealers in the State of Texas to rely upon the manuals listing referred in §5.0 of the Act until such time as the amendment to §109.7, proposed by the board on July 8, 1983, and published in the July 19, 1983, issue of the *Texas Register* (8 TexReg 2679), may be adopted and become effective. The amended rule will effectuate the intent of the 68th Legislature that the board recognize specific manuals for purposes of the secondary trading exemption.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 581-28-1, which provide that the board may prescribe exempt transactions by rule or regulation, and that the board may adopt such rules and regulations as may be necessary to carry out the provisions of the Texas Securities Act.

§109.7. Secondary Trading Exemptions.

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

TITLE 22. EXAMINING BOARDS
Part XXIII. Texas Real Estate
Commission
Chapter 537. Professional
Agreements and Standard
Contracts
Standard Contract Forms
22 TAC §537.11

The Texas Real Estate Commission adopts on an emergency basis amendments to §537.11, concerning the use of standard contract forms by real estate licensees. The commission has found that imminent peril to the public welfare exists unless this action is taken.

Senate Bill 636, effective August 29, 1983, provides that a real estate licensee does not engage in the unauthorized practice of law if the licensee completes a contract form promulgated for use by the Texas Real Estate Commission for the particular kind of transaction involved or prepared by an attorney at law licensed in Texas and approved by that attorney for the particular kind of transaction involved or if the forms have been prepared by an attorney and required by the property owner.

It has been the practice of the Texas Real Estate Commission to permit licensees to field test proposed contract forms on a voluntary basis prior to the formal adoption of the forms for mandatory use. Proposed contract forms were prepared by the Texas Real Estate Broker-Lawyer Committee prior to November 1982. Senate Bill 636 recreates the Broker-Lawyer Committee with members appointed by the Texas Real Estate Commission and the State Bar of Texas.

On August 22, 1983, the Texas Real Estate Commission approved three contract forms for use on a voluntary basis pending formal adoption after a period of field testing. The forms approved are the new home residential earnest money contract (conventional or VA guaranteed loan), new home residential earnest money contract (FHA insured loan), and farm and ranch earnest money contract.

The amendments will permit licensees to use these three contract forms without engaging in the unauthorized practice of law and being subject to disciplinary action after August 29, 1983, when Senate Bill 636 takes effect

The Texas Real Estate Commission has by prior action proposed the amendment of §537.11 to incorporate the provisions of Senate Bill 636 into existing rules. The amendments adopted on an emergency basis will be considered for permanent adoption when the agency takes final action on the proposed rules published in the August 5, 1983, issue of the *Texas Register* (8 TexReg 2998). Comments on the emergency amendments are invited and may be submitted to Mark A. Moseley, Legal Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711

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

§537.11 Use of Standard Contract Forms

(a)-(c) (No change)

(d) A licensee shall not undertake to draw or prepare documents fixing and defining the legal rights of the principals to a transaction. However, in negotiating real estate transactions, the licensee may fill in forms for such transactions, using except as otherwise permitted by these rules exclusively those printed forms which have been approved and promulgated by the Texas Real Estate Commission as the required standard forms to be used by all real estate licensees. When filling in such a form, the licensee may only fill in the blanks provided and may not add to or strike matter from such form, except that licensees shall add factual statements and business details desired by the principals and shall strike only such matter as is desired by the principals and as is necessary to conform the instrument to the intent of the principals. Nothing herein shall be deemed to prevent the licensee from explaining to the principals the meaning of the factual statements and business details contained in the said instrument so long as the licensee does not offer or give legal advice. **It is not the practice of law as defined in this Act for a real estate licensee to complete a contract form which is either promulgated by the Texas Real Estate Commission or prepared by the Texas Real Estate Broker-Lawyer Committee and made available for trial use by licensees with the consent of the Texas Real Estate Commission. Contract forms prepared by the Texas Real Estate Broker-Lawyer Committee for trial use may be used on a voluntary basis after being approved by the commission.**

(e)-(g) (No change.)

Issued in Austin, Texas, on August 23, 1983.

TRD-836536 Mark A. Moseley
Legal Counsel
Texas Real Estate Commission

Effective date: August 24, 1983
Expiration date: December 22, 1983
For further information, please call (512) 459-3342.

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

**Chapter 3. Tax Administration
Subchapter V. Bingo Tax Division**

34 TAC §3.543

The Comptroller of Public Accounts adopts on an emergency basis new §3.543, concerning denials, suspensions, revocations, violations, and hearings, to replace the previous emergency rule which expired August 22, 1983. The purpose of the new section is to revise the procedure for handling violations of the Bingo Enabling Act and the denial of applications for licenses under the Act in accordance with Senate Bill 741, 68th Legislature, 1983. An applicant who is determined by the comptroller to be ineligible for a license is now entitled to a hearing after the denial of the application. An organization found to be in violation of the Act is subject to immediate suspension of its license or temporary authorization with the right to an appeal hearing within 20 days of the action. This section is adopted on an emergency basis to coincide with the expiration date of the previous emergency rule, and in accordance with the Bingo Enabling Act, as amended by Senate Bill 741, 68th Legislature, 1983. This section will be proposed for permanent adoption at a later date.

This new section is adopted on an emergency basis under the authority of Texas Civil Statutes, Article 179d, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the enforcement and administration of the Bingo Enabling Act.

§5.543. Denials; Suspensions; Revocations; Violations; Hearings.

(a) Denial of application.

(1) If the comptroller determines that an applicant is not eligible for a license, he will notify the applicant in writing that the application has been denied and the reasons for the denial. The applicant may, within 30 days of the date of the notice of denial, make a written request for a hearing to contest the denial.

(2) The hearing will be conducted in accordance with the relevant portions of §§1.1-1.42 of this title (relating to Practice and Procedure). The burden of proof is upon the applicant to establish by a preponderance of the evidence its eligibility for a license.

(b) Violations and Penalties.

(1) Grounds. The comptroller may suspend or revoke a license or temporary authorization when the holder, or any other persons with any interest in the holder of the license or authorization:

(A) makes a false statement in an application for a license, or in any way makes a misrepresentation of, or fails to disclose a material fact to the comptroller;

(B) obtains a license or temporary authorization by fraud, trick misrepresentation, concealment, or through inadvertance or mistake;

(C) engages in any act, practice, or course of operation in connection with a game of bingo which would or does operate as a fraud or deceit on any person.

(D) fails to maintain records that fully and accurately record all transactions connected with the conduct of bingo or the lease of premises used for the conduct of bingo.

(E) falsifies or makes any false entry in any books or records that relate to the conduct of bingo, or to the disposition of the proceeds from bingo, or to the application of rent received by any licensed organization.

(F) diverts or pays any portion of the net proceeds of any game of bingo to any person except in furtherance of one or more of the lawful purposes prescribed by the Act.

(G) violates the Act or a term of a license or temporary authorization issued under the Act.

(H) has been convicted of or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports with a governmental agency, or of any crime, whether a felony or misdemeanor, involving moral turpitude.

(I) denies the comptroller or his authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted or fails to timely produce for inspection or audit any book, record, document, or other form of information requested by the comptroller.

(J) fails to display its license or temporary authorization on the premises where bingo is conducted at all times during the conduct of bingo.

(K) allows any person who has been convicted of any of the offenses set out in subparagraph (H) of this paragraph to participate in the management or operation of any licensed activity.

(2) Summary suspension. Upon receipt of information concerning a violation of the Act or this section, the comptroller may suspend, without hearing, a license or temporary authorization until a hearing on the violation is held. The period of summary suspension may not exceed 90 days.

(3) Notice of suspension or revocation.

(A) Proceedings to suspend or revoke a commercial lessor's license, a license to conduct bingo or a temporary authorization will be initiated by the comptroller by serving a notice requiring the licensee or holder of a temporary authorization to show cause at a hearing why its license or authorization should not be suspended or revoked. The notice will be served personally upon an officer, operator, or agent of the licensee or holder of a temporary authorization or sent by certified or registered mail, return receipt requested, to the licensee's mailing address as it appears in the comptroller's records. The

notice will state the alleged violation or violations which constitutes grounds for suspension or revocation.

(B) The notice will include the summary suspension, if any, and the proposed final action suspending or revoking the permit or temporary authorization.

(C) The summary suspension, if any, is effective immediately upon service of the notice. If the notice is served personally, the licensee or holder of a temporary authorization must immediately surrender the license or authorization to the comptroller or his agent. If the notice is served by mail, the licensee or holder of a temporary authorization must immediately return the license to the comptroller.

(4) Hearing. After a notice of suspension or revocation has been served, the licensee or holder will have an opportunity for a hearing upon the question of the summary action, upon renewal of a license or temporary authorization if it would expire within the period of temporary suspension or upon any proposed suspension or revocation. If a hearing is requested, it will be held within 20 days from the date the comptroller receives the request. If the licensee or holder does not request hearing within 30 days after the date of the notice of suspension or revocation, the hearing is waived and a final order will be issued.

(5) Final action on a suspension or revocation. After a hearing on the alleged violation and upon finding that a violation did occur, the comptroller may suspend a license or temporary authorization for a period not to exceed one year or may revoke a license or temporary authorization. The period of a suspension begins on the date notice was given to an authorized organization or authorized commercial lessor if there was a summary suspension of the permit, or from the date of the order invoking the suspension if there was not summary suspension.

(c) Revocation. No person or organization whose license has been revoked or forfeited will be eligible to apply for another license earlier than one year from the date of forfeiture.

(d) Appeal. An applicant who has been denied a license or a person whose license or temporary authorization has been revoked or suspended by a final order of the comptroller may seek judicial review of the action in the district court of Travis County by filing with the comptroller, the governing body of the appropriate political subdivision, and the attorney general a written notice of appeal within 30 days after the issuance of the final order.

Issued in Austin, Texas, on August 23, 1983.

TRD-836512

Bob Bullock
Comptroller of Public Accounts

Effective date: August 23, 1983

Expiration date: December 21, 1983

For further information, please call (512) 475-7000.

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

The proposal, as published in the *Register*, must include a brief explanation of the proposed action, a fiscal statement indicating effect on state or local government, a statement explaining anticipated public benefits and possible economic costs to individuals required to comply with the rule, a request for public comments, a statement of statutory authority under which the proposed rule is to be adopted (and the agency's interpretation of the statutory authority), the text of the proposed action, and a certification statement. The certification information, which includes legal authority, the proposed date of adoption or the earliest possible date that the agency may file notice to adopt the proposal, and a telephone number to call for further information, follows each submission.

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

Proposed Rules

TITLE 25. HEALTH SERVICES Part 1. Texas Department of Health Chapter 265. General Sanitation Filling Stations

25 TAC §265.111

The Texas Department of Health proposes new §265.111, concerning the definition of a filling station.

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

Mr. Seale has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the clarification of the definition of a filling station. Texas Civil Statutes, Article 4477-1, covering minimum standards of sanitation and health protection measures in Texas, provides in §6 that all operators, managers, or superintendents of filling stations shall provide and maintain sanitary toilet accommodations. When this law was passed in 1945, there was little doubt as to the definition of a "filling station" and there were few, if any, self-service stations. In the past 10 years, with the proliferation of self-service stations, convenience stores selling gasoline, and combinations of both, there is

considerable question concerning the definition of the term "filling station." In addition, many convenience stores that have provided employee restrooms and have gasoline for sale are faced with security problems if the public is allowed to use the restrooms. Some major oil company self service stations, for security purposes, now provide an employee restroom within the attendant building, so that the attendant will not have to leave the building, and restrooms for the public are not provided at some of these facilities. It has now become necessary, therefore, for the Texas Department of Health to define the term "filling station" so that the public will know which facilities are required to provide and maintain sanitary toilet accommodations.

There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Jimmie D. Dickens, General Sanitation, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted for 30 days after publication of this proposed rule in the *Texas Register*. In addition, a public hearing will be held on Wednesday, September 14, 1983, beginning at 9 a.m. in Room T-507, Texas Department of Health, 1100 West 49th Street, Austin.

The new section is proposed under Texas Civil Statutes, Article 4477-1, §6 and §23(b), which provide the Texas Board of Health with the authority to

establish rules covering sanitary toilet accommodations in filling stations.

§265.111. Definition of Filling Station. The following term shall have the meaning indicated:

- Filling station—Any facility which:
 - (A) sells motor fuels; and
 - (B) provides one or more attendants who dispense fuel into tanks of motor vehicles.

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

Issued in Austin, Texas, on August 23, 1983.

TRD-836538 Robert A. MacLean, M.D.
 Deputy Commissioner
 Professional Services
 Texas Department of Health

Proposed date of adoption:
November 5, 1983

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



TITLE 28. INSURANCE

Part I. State Board of Insurance

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

Accident and Sickness Minimum Standards and Benefits and Readability for Accident and Health Insurance Policies

059.37.01.053, .057, .061, .090-093

The State Board of Insurance proposes amendments to Rules 059.37.01.053(b) and (c), .057(c), .061(c) and (d), .090(b), .091, .092(b), and .093, concerning minimum standards and benefits and readability for accident and health insurance policies. The amendments are primarily nonsubstantive and editorial. The

only substantive change is the deletion of Rule 059 .37.01.093(j), which adopts an outline of coverage for medicare supplement expense coverage policies. This has been superceded by Rule 059 03.74.008, concerning minimum standards for Medicare supplement policies. No agency practice or requirement will change as a result of these amendments.

A. W. Pogue, Policy Approval Division manager, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Pogue also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the conformity of rules to the Texas Register form and the deletion of an out-of-date provision. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

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

These amendments are proposed under authority of the Texas Insurance Code, Article 3.70-1, which provides the State Board of Insurance with authority to enact minimum standards and benefits and readability for individual accident and health insurance policies.

.053. Nonduplication of Benefits Provision.

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

(1) The following provision is prescribed language for policies providing benefits on a provision of service or expense incurred basis.

Other Insurance (these words in caps)

You may have other valid coverage (with another insurer) which applies to a loss covered by this policy. Other valid coverage may reduce the benefits payable under this policy.

The benefits payable under this policy will not be reduced by other valid coverage if you have notified us in writing that you do have other valid coverage. You must notify us before a loss begins.

The benefits payable under this policy will be reduced by other valid coverage if you have not notified us in writing (before the loss begins) that you do have other valid coverage.

The amount of the reduced benefits payable under this policy will be determined by applying the formula below:

Add: (this word in caps) The amount which would have been payable under this policy.

Plus: (this word in caps) The total of the like amounts under all other valid coverages on the same loss of which we have had notice.

Divided By: (these words in caps) The total like amounts under all valid coverages for such loss.

When your benefits are reduced due to other valid coverage, we will return part of the last premium which you paid prior to the commencement of a loss covered under this policy. The proportion we will use to determine your premium refund will be the same proportion

we use to determine the benefit reduction in the formula above.

When your other valid coverage is written on a provision of service basis, the 'like amount' of such other coverage will mean the dollar amount which the services you received would have cost you if you did not have the other coverage.

(2) The following provision is prescribed language for policies providing benefits on an other than expense incurred basis.

Other Insurance (these words in caps)

You may have other valid coverage (with another insurer) which applies to a loss covered by this policy. Other valid coverage may reduce the benefits payable under this policy.

The benefits payable under this policy will not be reduced by other valid coverage if you have notified us in writing that you do have other valid coverage. You must notify us before a loss begins.

The benefits payable under this policy will be reduced by other valid coverage if you have not notified us in writing (before the loss begins) that you do have other valid coverage. The amount of the reduced benefits payable under this policy will be determined by applying the formula below:

Add: (this word in caps) The indemnity which would have been payable under this policy.

Plus: (this word in caps) The total of the like indemnities under all other valid coverages on the same loss of which we have had notice.

Divided By: (these words in caps) The total like indemnities under all valid coverages for such loss.

When your benefits are reduced due to other valid coverage, we will return part of the last premium which you paid prior to the commencement of a loss covered under this policy. The proportion we will use to determine your premium refund will be the same proportion we use to determine the benefit reduction in this formula above.

(c) Policies which provide benefits on both an expense incurred basis and on an indemnity basis may contain both of the above provisions under one caption, "Other Insurance" (last two words in caps).

.057. Standards for Exceptions, Exclusions, and Reductions Provision.

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

(c) Exceptions, exclusions, and reductions must be clearly expressed as a part of the benefit provision to which such applies or, if applicable to more than one benefit provision, shall be set forth as a separate provision and appropriately captioned. Policies containing the specified exclusionary subjects appearing in Exhibit A will be acceptable; however, this may not preclude the consideration or approval of other exceptions or exclusions if such are deemed reasonable and appropriate to the risk undertaken and are approved by the commissioner. Exhibit A is adopted herein by reference. Copies of Exhibit A may be obtained by contacting the Policy Approval Section, State Board of Insurance, 1110 San Jacinto Street, Austin, Texas 78786.

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

.061. Standards for Requirements for Replacement Provision.

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

(c) The notice required for an insurer, other than a direct response insurer is [shall be] as follows:

Notice to Applicant Regarding Replacement Of Accident and Sickness Insurance (heading in caps)

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (Company Name) Insurance Company. For your own information and protection, you should be aware of and seriously consider certain facts which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy. (This subsection may be modified if pre-existing conditions are covered under a new policy.)

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on any application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, re-read it carefully to be certain that all information has been properly recorded.

The above 'Notice to Applicant' was delivered to me on:

(Date)

(Applicant's Signature)

(d) The notice required for a direct response insurer is [shall be] as follows:

Notice to Applicant Regarding Replacement Of Accident and Sickness Insurance (heading in caps)

According to (your application) (information that you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with the policy delivered herewith issued by (Company Name) Insurance Company. You have a period of 10 days from receipt of the new policy within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

(1) Health conditions which you may presently have may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.

(2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

(3) (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are an-

swered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within 10 days if any information is not correct and complete or if any past medical history has been left out of the application.

(Company Name)

.090. Outline of Coverage Generally.

(a) (No change.)

(b) In the event that a policy is issued on a basis other than that applied for which would require revision of the outline of coverage, a substitute, properly describing the policy, must be delivered with the policy and contain the following statement, in no less than 14 point type, at the top of the page:

Notice: Read This Outline of Coverage Carefully. (this line in caps)

It is not the same as the outline of coverage given to you upon application because you have not been issued the coverage for which your first applied.

.091. Notice Requirements for Outline of Coverage of Limited Benefit, Supplemental, and Nonconventional Coverages.

(a) The outline of coverage for policies that are approved under Rule 059.37.01.079 shall prominently display in no less than 14 point type that the policy is "limited benefit basic hospital expense coverage," "limited benefit basic medical-surgical expense coverage," or "limited benefit disability income protection coverage." The outline of coverage shall further state at the top of the page in capital letters the following [language]: "The policy described in this outline provides limited benefits only which are less than the minimum standards for benefits for (state category of coverage) as prescribed by the insurance regulatory authority of your state."

(b) The outline of coverage for policies approved under Rule 059.37.01.080 shall prominently display at the top of the page in no less than 14 point type, in capital letters, the following: "The policy described in this outline provides supplemental coverage issued only to supplement insurance already in force."

(c) The outline of coverage for policies approved under Rule 059.37.01.081 shall prominently display at the top of the page in no less than 14 point type, in capital letters, the following: "The policy described in this outline does not meet the minimum standards for benefits established for 'basic' categories of coverage required by the insurance regulatory authority of your state."

(d) When no prescribed outline of coverage is appropriate for the coverage provided by the policy, an outline of coverage most appropriate to the categories of coverage offered shall be used.

.092. Format, Content, and Readability for Outline of Coverage.

(a) (No change.)

(b) Content.

(1) Drafting instructions for paragraph 1. The following language shall appear in each outline of coverage:

Read Your Policy Carefully. This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only

the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you Read Your Policy Carefully! (last four words in caps)

(2)-(6) (No change.)

(c) (No change.)

.093. Prescribed Outlines of Coverage. An outline of coverage in the following prescribed form and drafted in accordance with the instructions set forth in Rule 059.37.01.092 shall be issued in connection with policies meeting the standards of Rule 059.37.01.071-.080. The items included in the outline of coverage shall appear in the following prescribed sequence.

(1)(a) Basic hospital expense coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)

Basic Hospital Expense Coverage

Required Outline of Coverage (heading in caps)

(1) Read Your Policy Carefully. This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you Read Your Policy Carefully! (previous four words in caps)

(2) Basic hospital expense coverage is designed to provide you with coverage for hospital expenses which you incur for necessary treatment and services rendered as the result of a covered injury or sickness. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits

(4) Exclusions, limitations, and reductions.

(5) Renewability.

(6) Premium.

(2)(b) Basic medical-surgical expense coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)

Basic Medical-Surgical Expense Coverage

Required Outline of Coverage (heading in caps)

(1) Read Your Policy Carefully. This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you Read Your Policy Carefully! (previous four words in caps).

(2) Basic medical-surgical expense coverage is designed to provide you with coverage for the expenses which you incur for the necessary services of a physician for treatment of a covered injury or sickness. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits.

(4) Exclusions, Limitations, and Reductions.

(5) Renewability.

(6) Premium.

(3)(c) Hospital confinement indemnity coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)
Hospital Confinement Indemnity Coverage
Required Outline of Coverage (**heading in caps**)

(1) **Read Your Policy Carefully** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you **Read Your Policy Carefully!** (**previous four words in caps**)

(2) Hospital confinement indemnity coverage is designed to provide you with a fixed daily benefit during periods of hospital confinement resulting from a covered injury or sickness. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits.

(4) Exclusions, Limitations [Limitation], and Reductions.

(5) Renewability

(6) Premium.

(4) Major medical expense coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)
Major Medical Expense Coverage
Required Outline of Coverage (**heading in caps**)

(1) **Read Your Policy Carefully** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you **Read Your Policy Carefully!** (**previous four words in caps**)

(2) Major medical expense coverage is designed to provide you with coverage for major hospital, medical, and surgical expenses which you incur as the result of a covered injury or sickness. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits.

(4) Exclusions, Limitations, and Reductions.

(5) Renewability

(6) Premium

(5)(e) Disability income protection coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)
Disability Income Protection Coverage
Required Outline of Coverage (**heading in caps**)

(1) **Read Your Policy Carefully** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you **Read Your Policy Carefully!** (**previous four words in caps**)

(2) Disability income protection coverage is designed to provide you with coverage for disabilities resulting from a covered (accident or sickness or combination thereof). Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits.

(4) Exclusions, Limitations, and Reductions.

(5) Renewability.

(6) Premium.

(6)(f) Accident only coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)
Accident Only Coverage
Required Outline of Coverage (**heading in caps**)

(1) **Read Your Policy Carefully** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you **Read Your Policy Carefully!** (**previous four words in caps**)

(2) Accident only coverage is designed to provide you with coverage for (death, dismemberment, disability, or hospital and medical care) resulting from a covered accident only. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits

(4) Exclusions, Limitations, and Reductions.

(5) Renewability.

(6) Premium

(7)(g) Specified disease or specified accident coverage policies shall be accompanied by an outline of coverage in either of the following forms as specified in subparagraphs (A) or (B) of this paragraph, whichever is appropriate [following form]:

(A) (Company Name)
Specified Disease Coverage
Required Outline of Coverage (**heading in caps**)

(1) **Read Your Policy Carefully** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you **Read Your Policy Carefully!** (**previous four words in caps**)

(2) Specified disease coverage is designed to provide you with coverage paying benefits only when certain losses occur as a result of the specified disease. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits.

(4) Exclusions, Limitations, and Reductions.

(5) Renewability.

(6) Premium.

(B) (Company Name)
Specified Accident Coverage
Required Outline of Coverage (**heading in caps**)

(1) **Read Your Policy Carefully** This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you **Read Your Policy Carefully!** (**previous four words in caps**)

(2) Specified accident coverage is designed to provide you with coverage paying benefits for (accidental death or accidental death and dismemberment combined, disability, or hospital and medical care) expenses which you incur as the result of the specifically identified accident. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

(3) Benefits.

(4) Exclusions, Limitations, and Reductions.

(5) Renewability.

(6) Premium.

(8)(h) Limited benefit coverage policies shall be accompanied by an outline of coverage in the following form:

The policy described in this outline provides limited benefits only which are less than the minimum standards for benefits for (state category of coverage) as prescribed by the insurance regulatory authority of your state.

(Company Name)
Limited Benefit (state category of coverage)
Required Outline of Coverage (heading in caps)

(1) Read Your Policy Carefully This outline of coverage provides a very brief description of some of the important features of your policy This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you Read Your Policy Carefully! (previous four words in caps)

(2) This policy is designed to provide you with limited (state category of coverage: basic hospital expense, basic medical-surgical expense, or disability income protection) coverage, but it provides benefit amounts which are less than those prescribed by the insurance regulatory authority of your state as minimum benefit amounts for this type of coverage. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

- (3) Benefits.
(4) Exclusions, Limitations, and Reductions.
(5) Renewability.
(6) Premium.

(9)(i) Supplemental coverage policies shall be accompanied by an outline of coverage in the following form:

The Policy Described in this Outline Provides Supplemental Coverage Issued to Supplement Insurance Already in Force (previous sentence in caps)

(Company Name)
Supplemental (State Category of Coverage)
Required Outline of Coverage (heading in caps)

(1) Read Your Policy Carefully This outline of coverage provides a very brief description of some of the important features of your policy This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It is, therefore, important that you Read Your Policy Carefully! (previous four words in caps)

(2) This policy is designed to supplement your existing (state category of coverage) coverage Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

- (3) Benefits.
(4) Exclusions, Limitations, and Reductions.
(5) Renewability.
(6) Premium.

(j) Medicare supplement expense coverage policies shall be accompanied by an outline of coverage in the following form:

(Company Name)
Medicare Supplement Expense Coverage
Required Outline of Coverage

(1) Read Your Policy Carefully. This outline of coverage provides a very brief description of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. It

is, therefore, important that you Read Your Policy Carefully!

(2) Medicare supplement expense coverage is designed to provide you with benefits for certain expenses not payable by Medicare. Coverage is provided for the benefits outlined in paragraph (3). The benefits described in paragraph (3) may be limited by paragraph (4).

- (3) Benefits.
(4) Exclusions, Limitations, and Reductions.
(5) Renewability.
(6) Premium.]

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

Issued in Austin, Texas, on August 19, 1983.

TRD-836513 James W. Norman
Chief Clerk
State Board of Insurance

Earliest possible date of adoption:
September 30, 1983

For further information, please call (512) 475-2950.

TITLE 31. NATURAL RESOURCES AND CONSERVATION
Part X. Texas Water Development Board
Chapter 339. Control of Certain Discharges by Rules
Subchapter D. Surface Coal Mining, Preparation, and Reclamation Activities

31 TAC §§339.61-339.71

The Texas Water Development Board proposes new §§339.61-339.71, with substantive changes to the prior proposed text published in the April 8, 1983, issue of the Texas Register (8 TexReg 1251).

These rules are proposed to give effect to an existing memorandum of understanding (MOU) between the Railroad Commission of Texas (RRC) and the Texas Department of Water Resource (TDWR) and to implement U.S. Environmental Protection Agency (EPA) effluent standards for surface coal mines.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be the reduction of regulatory duplication, paperwork, and legal work. There is no anticipated economic cost, beyond costs already

incurred as a result of the permitting of these activities currently required, to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Savannah Robinson, Staff Attorney, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-7841.

Pursuant to these rules, regulatees may apply to the Railroad Commission of Texas for a permit which will authorize mining and discharge. The TDWR has 45 days to determine whether the TDWR will require a permit for the proposed activity. If not, then the RRC permit, which requires compliance with the effluent limitations of the rules, will suffice to allow operation of the mine under the authorization of the rules. Notice of application will be published, and the public is encouraged to comment to both the RRC and the TDWR during the 45-day period.

Extensive comments were received from the industry and the private sector following the prior proposal, published in the April 8, 1983, issue of the *Texas Register*. Comments generally were favorable, but commentators were concerned about the differences between EPA regulations and TDWR rules, about the monitoring requirements, and about the effectiveness of public notice.

Those commenting in favor of the rules were Dow Chemical Company, Northwestern Resources Company, Texas Mining and Reclamation Association, Texas Utilities Generating Company, and the Sierra Club.

The Sierra Club submitted comments at the public hearing held May 23, 1983, concerning the adequacy of public notice of applications and enforcement of these rules. Specifically, the Sierra Club was concerned that the notice of application required to be published by RRC Rule 051.07.04.207, which was adopted by reference as 16 TAC § 11.221, is insufficient to put nearby landowners on notice that the application may suffice for both TDWR and RRC requirements. Thus, the determination of whether to require a TDWR permit under § 339.64 of the proposed rules would be made without public input. However, authorization by rule, as a general matter, is allowed without public input at the construction or initiation phase of the activity. The authorization represents a determination, subject to public comment at the rule promulgation stage, that the activity, within the limitations of the rule, will not endanger the public or the environment. Further, in this instance, the public is afforded the opportunity of comment by the permit proceedings before the RRC. Protestants should pursue their concerns before the RRC and should not rely upon an opportunity to protest the application in another agency forum. Comments forwarded to the TDWR by the RRC that present information that shows a need for a permit may become the basis for requiring a separate permit under § 339.64(a)(3). Therefore, the TDWR does not believe that a separate notice of application needs to be published to notify the public that the application by a regulatee for a surface mining permit

may also result in the surface mining activity commencing without further proceedings before the TDWR under an authorization by rule.

The Sierra Club was concerned that this rule will be inadequately enforced. The Texas Department of Water Resources does not agree. Nothing in these rules restricts the existing authority of either the RRC or the TDWR to enforce its permits and rules.

The industry was concerned that the TDWR does not follow exactly the regulations issued by the EPA and the Office of Surface Mining (OSM). However, the TDWR has separate authority under the Texas Water Code to regulate discharges as stringently as needed to effectuate the purposes of the Texas Water Code. Additionally, the federal Surface Mining Control and Reclamation Act (30 United States Code § 1201 *et seq.*) allows for more stringent state standards (30 United States Code § 1255(b)), as does the Clean Water Act (33 United States Code § 1341(b) and § 1370).

Specifically, the industry is concerned that the TDWR does not recognize a difference between new and existing operations by these rules. However, existing operations have TDWR discharge permits. Therefore, the existing operations are "grandfathered," because they are required to continue to comply with their permit conditions in lieu of authorization by rule. Existing operations that allow their permits to lapse may be authorized by rule if they comply with the requirements of this subchapter. Therefore, these rules only operate prospectively, by affecting new activities, or activities that regulatees choose to have regulated under them.

The industry was concerned about the design criteria for retention ponds in active mining areas. The criteria proposed was for the capacity necessary to contain a 10-year, 24-hour storm event. The goal was to set a readily determinable standard that would protect the public and the environment and, at the same time, facilitate review of the application. However, studies have shown this standard to be insufficient to meet effluent limitations. Therefore, the TDWR has changed the prior proposed rule to delete this option. Every application will be required to show, prior to operation, that the treatment system for active mining areas will meet effluent limitations to avail itself of this authorization. The option to apply for a permit is retained in the rules as proposed herein.

The industry was concerned about the biannual monitoring requirement for hazardous metals from discharges from active mining areas. The industry presented data from surface and ground water that shows that metals are consistently below effluent limitations in surface and ground water. However, this data also shows that levels of metals in the overburden and soils can be 4,000 times the allowable effluent level. The TDWR recognizes the industry's concern with the cost of these analyses. However, based on the data before it, the TDWR cannot conclude that strip mines do not present a hazard because of the presence of heavy metals in discharges from active mining areas. It believes that biannual sampling is necessary to guard against excessive metals in the ef-

fluent. Further, the permit option allows an operator to present site specific proof that heavy metals do not occur in his specific operation, and to be relieved of all or part of his sampling requirement (See §339.64 (d)). Furthermore, the permit process entails additional public notice and an opportunity for a public hearing. Finally, the TDWR does not believe the frequency of sampling to be unreasonable (See §339.9(b), (Table 2)).

In the alternative, the industry contends that discharges from reclamation areas present an insignificant hazard to water quality, in part because of the established ground cover and lessened exposure of mined materials. Studies of lignite mines indicate that reclaimed areas, after one year of reclamation, have runoff characteristics consistent with surrounding, undisturbed areas. Therefore, the rule proposed herein has been changed to reflect lessened monitoring and design requirements for reclamation areas.

Alternatively, the industry contends that monitoring schedules should be set on a site specific basis. However, site specific scheduling is a permit function. The option to obtain a permit is not in any way foreclosed by these rules. These rules set a schedule to be complied with in lieu of a permit schedule. The TDWR believes that this approach could avoid duplication of effort and save costs to the industry and to the state. However, it is the individual company's choice whether to avail itself of this saving. Therefore, the statewide schedules of monitoring are retained.

The industry was concerned about the zero discharge requirement for coal preparation plants. Existing plants are not recycling process wastewaters as would be required by these rules. However, existing plants operate under permits and may continue to operate under their permits. New plants, which do not wish to achieve zero discharge, may apply for a discharge permit. Zero discharge comports with the highest and best technology presently available. Zero discharge is an achievable and feasible limitation. Therefore, the zero discharge limitation for operations discharging under this rule, in lieu of a site specific permit, is retained.

Finally, the industry pointed out that §329.42 sets a limitation for manganese at 3.0 mg/l for a single grab sample; that rule also sets a limitation for manganese at 2.0 mg/l for a daily composite. The statewide rule for surface coal mining is 2.0 mg/l "grab sample limits - maximum for any one day." The limitation of this statewide rule is for impounded waters rather than waste streams. The impoundment, in effect, composites the wastes. Therefore, a grab sample from the impoundment is subject to limitations equivalent to a composite sample.

The new sections are proposed under the Texas Water Code, Chapter 26, §5.131 and §5.132, which provides the Texas Department of Water Resources with the authority to regulate discharges into or adjacent to waters in the state.

§339.61. Introduction and Purpose. The purpose of this subchapter is to promulgate a set of minimum effluent quality standards applicable to unpermitted point

source discharges from surface coal mining, preparation, and reclamation activities.

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

Acid or ferruginous mine drainage—Mine drainage which, before any treatment, either has a pH of less than 6.0 standard units or a total iron concentration equal to or more than 10 mg/l.

Active mining area—The areas, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas, and reclamation areas.

Alkaline mine drainage—Mine drainage that, before any treatment, has a pH equal to or more than 6.0 standard units and a total iron concentration of less than 10 mg/l.

Bond release—The time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work has been satisfactorily completed.

Coal preparation plant—A facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and then is loaded for transit to a consuming facility.

Coal preparation plant associated area—The coal preparation plant yards, immediate access road, coal refuse piles, and coal storage piles and facilities.

Coal preparation plant water circuit—All pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used in coal preparation processes within a coal preparation plant.

Grab sample—A sample of effluent collected in less than 15 minutes.

Mine drainage—Any drainage, and any water pumped or siphoned, from an active mining area or a reclamation area.

mg/l—Abbreviation for milligrams per liter.

ml/l—Abbreviation for milliliters per liter.

Reclamation area—The surface area of a coal mine which has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.

SCMPRA—Surface coal mining, preparation, or reclamation activity; all activities necessary and incident to those activities, defined as "surface coal mining operations" by the Surface Coal Mining and Reclamation Act, Texas Civil Statutes, Article 5920-11, §3, subparagraphs 16 and 17.

SCMPRO—Surface coal mining, preparation, or reclamation operator.

Settleable solids—That matter measured by the method specified in the most current edition of *Standard Methods for the Examination of Water and Wastewater* for the determination of settleable matter.

10-year, 24-hour precipitation event—The maximum 24-hour precipitation event with a probable recurrence interval of once in 10 years as defined by the National Weather Service and Technical Paper No. 40, *Rain-fall Frequency Atlas of the United States*, May 1961, or

equivalent regional or rainfall probability information developed therefrom.

Treatment facility and treatment system—All structures which contain, convey, and chemically, biologically or physically treat coal mine drainage, coal preparation plant process wastewater, drainage from coal preparation plant associated areas, or domestic wastewater, and that remove pollutants from such waters. This definition includes all pipes, channels, ponds, basins, tanks, and all other equipment serving such structures.

§339.63. Discharges Authorized by Rule. The effluent limitations of this subchapter are statewide standards. Pursuant to this subchapter, discharges from a SCMPRA are authorized provided:

(1) the SCMPRO has a valid license from the Railroad Commission of Texas for the SCMPRA, which requires compliance with §339.68 of this title (relating to Effluent Limitations) and §339.69 of this title (relating to Additional Effluent Limitations); and §339.70 of this title (relating to Associated Facilities), and

(2) there is no feasible alternative for wastewater treatment, disposal, or use other than discharge; and

(3) the SCMPRO is not under an injunction prohibiting discharge; and

(4) the SCMPRA is not the subject of enforcement action by this or any other state or federal agency for acts or omissions which may require regulation by permit because of noncompliance; and

(5) the SCMPRA is not required to have a permit pursuant to §339.64(a) of this title (relating to Permit Required).

§339.64. Permit Required.

(a) A waste discharge permit may be required for a SCMPRA if:

(1) the executive director of the department has determined that the SCMPRA cannot be adequately regulated by §339.68 of this title (relating to Effluent Limitations) and §339.69 of this title (relating to Additional Effluent Limitations) and §339.70 of this title (relating to Associated Facilities); or

(2) the SCMPRA discharge is for any reason inconsistent with the federal Clean Water Act requirements; or

(3) information is received by the Texas Department of Water Resources that raises material issues regarding the ability of the effluent limits of §339.68 of this title (relating to Effluent Limitations), §339.69 of this title (relating to Additional Effluent Limitations), and §339.70 of this title (relating to Associated Facilities), to protect water quality, the environment, and human health.

(b) A waste discharge permit shall be required for a discharge from sewage treatment facilities in SCMPRAS.

(c) If the department has determined that a permit is required:

(1) The department will notify the Railroad Commission of Texas of its intent to require a permit 45 days after receipt of the mining application.

(2) For the purpose of this rule, "receipt of the mining application" is the date of publication of notice that an application has been received.

(d) An operator of a SCMPRA may determine that his operation is better regulated by a permit and apply for a permit at any time.

(e) Permits issued by the Texas Water Commission may, upon a showing of cause, specify effluent limitations more or less stringent than standard limitations in this subchapter, provided, however, that the permits issued may not authorize discharges less stringent than the minimum standard promulgated as a rule by the Railroad Commission of Texas.

§339.65. Term, Modifications

(a) Waste discharge permits regulating SCMPRAS shall be issued for a term not to exceed five years.

(b) Waste discharge permits regulating SCMPRAS may be renewed, revised, or amended pursuant to §§341.221-341.241 of this title (relating to Amendments, Renewals, Transfers, Revocation, or Suspension)

(c) Waste discharge permits regulating SCMPRAS may be involuntarily revoked, amended, or suspended for good cause pursuant to Chapter 341 of this title (relating to Consolidated Permits), or because of:

(1) any change in circumstances which indicates a temporary or permanent reduction, or elimination, of any discharge authorized by permit; or

(2) material alterations or additions to the SCMPRA that are not authorized by department rule and valid license of the Railroad Commission of Texas; or

(3) cessation of SCMPRA operations pursuant to its Railroad Commission of Texas surface mining permit.

§339.66. Hearing Hearings held on permits for SCMPRAS will be held pursuant to the Texas Water Commission rules. Notice will be given to the Railroad Commission of Texas of any hearing held under this section.

§339.67. Enforcement.

(a) Waste discharges authorized by rule. Although the Railroad Commission of Texas is the primary enforcer of its licenses which include the requirements of this chapter, the Texas Department of Water Resources retains jurisdiction to enforce compliance with the Texas Water Code and the statewide standards of §339.68 of this title (relating to Effluent Limitations), §339.69 of this title (relating to Additional Effluent Limitations), and §339.70 of this title (relating to Associated Facilities).

(b) Waste discharges authorized by permit. Any waste discharge permit issued by the Texas Water Commission to SCMPRAS will be enforced by the Texas Department of Water Resources.

(c) Notice. Notice of the Texas Department of Water Resources' enforcement actions involving SCMPRAS will be given to the Railroad Commission of Texas.

§339.68. Effluent Limitations.

(a) Active mining areas. These limitations apply to all SCMPRA discharges from active mining areas unless otherwise specified by Texas Department of Water Resources permit. However, ponds which receive waters which have not been in contact with coal or acid-forming or toxic-forming spoil shall be regulated by the effluent limitations shown under subsection (b) of this section.

For every treatment system, the permittee shall submit to the Texas Department of Water Resources the necessary data that demonstrates that the treatment system will be designed, constructed, and operated to comply with the discharge limitations in all events as provided in paragraphs (1) and (2), as appropriate, of this subsection.

(1) Acid or ferruginous mine drainage. The provisions of this paragraph are applicable to acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

Pollutant or Pollutant Property	Grab Sample Limits (Concentration in mg/l)	
	Maximum for Any One Day	Average of Daily Values for 30 Consecutive Days
Iron, Total	6.0	3.0
Manganese, Total	2.0	1.0
Total Suspended Solids	70.0	35.0
pH	*	*

*Within the range 6.0 to 9.0 standard units at all times.

(b) Alkaline mine drainage. The provisions of this paragraph are applicable to alkaline mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

Pollutant or Pollutant Property	Grab Sample Limits (Concentration in mg/l)	
	Maximum for Any One Day	Average of Daily Values for 30 Consecutive Days
Iron, Total	6.0	3.0
Total Suspended Solids	70.0	35.0
pH	*	*

*Within the range 6.0 to 9.0 standard units at all times.

(b) Reclamation areas.

(1) The provisions of this paragraph are applicable to discharges from reclamation areas until the performance bond issued to the facility by the appropriate authority has been released. Any retention pond or series of ponds shall be designed to treat at least the volume of water caused by a 10-year, 24-hour precipitation event based upon the appropriate pond drainage area.

Pollutant or Pollutant Property	Grab Sample Limits (Concentration in ml/l)	
	Maximum for Any One Day	Average of Daily Values For 30 Consecutive Days
Settleable Solids	0.5	N/A
pH	*	N/A

*Within the range 6.0 to 9.0 standard units at all times.

(2) Any discharge or increase in volume of a discharge caused by precipitation of greater than the 10-year, 24-hour precipitation event, or series of events, shall at a minimum comply with the following limitations

instead of the otherwise applicable limitations: pH within the range of 6.0 to 9.0 standard units at all times.

(3) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in subsection (b)(2) of this section.

(c) Where waste streams from any facility covered by a subsection in this subchapter are combined for treatment or discharge with waste streams covered by another subsection, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

§339.69. *Additional Effluent Limitations.* In addition to the effluent limitations set forth in §339.68 of this title (relating to Effluent Limitations), all discharges from SCMPRA's shall comply with §329.42 of this title (relating to Quality Levels—Inland Waters) and §329.43 of this title (relating to Quality Levels—Tidal Waters), that regulate hazardous metals. Additionally, if mining operations include sewage treatment facilities, the discharge from such sewage treatment plant shall comply with the limitations in the TDWR discharge permit.

§339.70. *Associated Facilities.* The provisions of this section are applicable to discharges from a coal preparation plant and coal preparation plant associated areas.

(1) There shall be no discharge of process wastewater from a coal preparation plant water circuit to surface waters.

(2) The provisions of this paragraph apply to discharges from coal preparation plants and coal preparation plant associated areas other than process wastewater.

Pollutant or Pollutant Property	Grab Sample Limits (Concentration in mg/l)	
	Maximum for Any One Day	Average of Daily Values within 30 Consecutive Days
Iron, Total	6.0	3.0
Manganese, Total	2.0	1.0
Total Suspended Solids	70.0	35.0
pH	*	*

*Within the range 6.0 to 9.0 standard units at all times.

(3) In order to prevent immediate harm to human health or the environment, which is not otherwise avoidable, or to allow necessary maintenance and repair work, the Texas Water Commission may, pursuant to §341.92 of this title (relating to Temporary Order Approving Discharges) grant a temporary order to the discharge of process or other wastewater.

(4) Discharges from associated facilities may be allowed by a discharge permit pursuant to the applicable regulations of this department.

§339.71. *Monitoring and Reporting of Data.*

(a) Discharges authorized by rule.

(1) All discharges from active mining areas authorized by rule shall be monitored for the listed pollutants in the appropriate category at least once per week and on the first day of and third day after beginning discharge.

(2) All discharges from reclamation areas authorized by rule shall be monitored for the listed pollutants in the appropriate category at least once per week when discharge occurs.

(3) Monitoring shall consist of:

(A) samples and analyses of the discharge for limited constituents; and

(B) flow measurements.

(4) Samples from each source discharging into the same drainage area shall be combined into a single flow weighted grab sample for analysis and reporting.

(5) Monitoring results shall be compiled on the Texas Department of Water Resources' monthly effluent report (Form TDWR-0123). The report for a particular month shall be submitted to the Railroad Commission of Texas so that the report will be received no later than the 25th day of the following month.

(6) All discharges from active mining areas shall be monitored at least twice per year for all metals referenced in §339.69 of this title (relating to Additional Effluent Limitations).

(7) All monitoring data shall be recorded and kept available for inspection by the Texas Department of Water Resources personnel for a minimum period of three years.

(b) Discharges authorized by permit. All such discharges shall comply with the monitoring and reporting requirements specified in the permit.

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

Issued in Austin, Texas, on August 22, 1983.

TRD-836514 Susan Plettman
General Counsel
Texas Department of Water Resources

Earliest possible date of adoption:
September 30, 1983

For further information, please call (512) 475-7845.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources

Chapter 35. Pharmacy Services Subchapter UUUU. Support Documents

40 TAC §35.9804

The Texas Department of Human Resources proposes an amendment to §35.9804, concerning pharmacy

services. The amendment changes the basis of the dispensing fee period from the state fiscal year to the calendar year. The current vendor drug dispensing fees will remain in effect for the period of September 1, 1983, through December 31, 1983.

David Hawes, programs budget and statistics director, has determined that for the first five years the rule will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Hawes has also determined that for each year of the first five years the rule is in effect the public benefit will be a reduction in program costs through the use of more field audited cost data in the development of rates. There is no anticipated economic cost to individuals required to comply with the rule.

Written comments may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-462, Texas Department of Human Resources 153-B, P.O. Box 2960, Austin, Texas 78769, within 30 days of publication in this Register.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs.

§35.9804. Reimbursement Methodology for the Pharmacy Dispensing Fee.

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

(c) Dispensing fee determination methodology.

(1) (No change.)

(2) Dispensing fee period. The dispensing fee period is the annual period January 1 through December 31 [state fiscal year. This period is September 1 through August 31 of each year. The dispensing fee is determined at least annually. Dispensing fee determination occurs routinely between the months of June and August of each year].

(3)-(10) (No change.)

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

Issued in Austin, Texas, on August 23, 1983.

TRD-836523 Marlin W. Johnston
Commissioner
Texas Department of Human Resources

Earliest possible date of adoption:
September 30, 1983

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

Withdrawn Rules

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

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

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

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

The following rules were incorrectly published as withdrawn in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3317)

22 TAC §§109.3 109.5
22 TAC §§109.21, 109.22, 109.24, 109.25
22 TAC §109.34
22 TAC §§109.41, 109.42, 109.45
22 TAC §109.51
22 TAC §109.61
22 TAC §109.71
22 TAC §109.101
22 TAC §109.201, §109.202

TITLE 31. NATURAL RESOURCES AND CONSERVATION Part I. General Land Office

The following rules were incorrectly published as withdrawn in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3318).

31 TAC §13.1
31 TAC §13.11
31 TAC §13.17, §13.18

Part IV. School Land Board

The following rule was incorrectly published as withdrawn in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3319)

31 TAC §155.4

Part X. Texas Water Development Board

Chapter 339. Control of Certain Discharges by Rules

Subchapter D. Surface Coal Mining, Preparation, and Reclamation Activities

31 TAC §§339.61-339.71

The Texas Water Development Board, has withdrawn from consideration for permanent adoption proposed new §§339.61-339.71, concerning control of certain discharges by rules. The text of the new sections as proposed appeared in the April 15, 1983 issue of the *Texas Register* (8 TexReg 1248).

TRD-836515
Filed: August 23, 1983

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

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

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

Adopted Rules

TITLE 16. ECONOMIC REGULATION Part III. Texas Alcoholic Beverage Commission Chapter 31. Administration Administrative Functions of the Commission

16 TAC §31.2

The Texas Alcoholic Beverage Commission adopts new §31.2, without changes to the proposed text published in the July 5, 1983, issue of the *Texas Register* (8 TexReg 2463)

The rule exempts law enforcement vehicles of the commission from the provisions of Texas Civil Statutes, Article 6701m-1, which require inscriptions (markings) on state-owned vehicles. Article 6701m-1 provides a method by which certain agencies may be exempt from marking requirements, and this rule is designed to invoke this exemption.

No comments were received regarding adoption of the new rule.

This new rule is adopted pursuant to the Alcoholic Beverage Code, §5.31, which authorizes the commission to promulgate rules, Texas Civil Statutes, Article 6701m-1, which authorizes certain agencies to become, by rule, exempt from mandatory vehicle inscription, and Senate Bill 228, 68th Legislature, 1983, which adds the commission to the list of agencies eligible for exemption.

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

Issued in Austin, Texas, on August 22, 1983

TRD-836504

W S McBeath
Administrator
Texas Alcoholic Beverage
Commission

Effective date September 14, 1983
Proposal publication date July 5, 1983
For further information, please call (512) 458-2500.

State Board of Insurance Exempt Filings

State Board of Insurance Notifications Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L

(Editor's note: As required by the Texas Insurance Code, Articles 5.96 and 5.97, the Register publishes

notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 1110 San Jacinto Street, Austin

The State Board of Insurance has approved a filing of a revised standard and uniform rate program for their Home Equity Home Improvement Loan Credit Insurance Program by PMI Insurance Company

There is no change in the policy form approved earlier by Board Order 41601, but the following rate revisions are made: the minimum premium has been eliminated, two year single plans have been eliminated, standard rates have been increased, maximum coverage is 80%, and maximum combined loan to value (CLTV) ratio is 85%

When PMI made its original filing, there was almost no actuarial data concerning loss experience. What data did exist covered a time period when homes were rapidly appreciating and foreclosed, and delinquencies were at historical lows. PMI originally based its pricing on the assumption that a second lien of a given combined loan to value (LTV) ratio would have the same level of risk (defined as loss incidence or the percentage of loans that come to claim) as a first lien of the same LTV. Using a data base consisting of its own experience and the delinquency and loss experience of other participants in the second lien market over the past two years, PMI found that second mortgages were more than twice as risky as first mortgages and its revised loss assumptions, determined mainly on the underwriting judgments, have been used to reprice second lien insurance.

This filing becomes effective 15 days after it is published in the *Texas Register*.

This notification is made pursuant to the Texas Insurance Code, Article, 5.97, which exempts it from

the requirements of the Administrative Procedure and Texas Register Act

Issued in Austin, Texas on August 22, 1983

TRD-836517 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: September 14, 1983
For further information, please call (512) 475-2950.

The State Board of Insurance has adopted effective January 1, 1984, amendments to Rule 24, Consent to Rate of the Texas Automobile Manual (Rule 059.05 01 005)

The entire present Rule 24 has been deleted and new language adopted. The new language of the rule incorporates the basic portion of the present rule with minor editorial changes. In addition, a new administrative rule section has been added to clarify what information a consent to rate application must contain.

The new administrative rule section requirements are designed to better inform applicants as to the reasons for an excess rate and the amount of such excess rate above standard rates. The new requirements also will help to facilitate processing of excess rate applications by setting out in the rule certain limitations that were previously unwritten requirements.

This notification is filed pursuant to the Texas Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on August 22, 1983

TRD 836518 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: January 1, 1984
For further information, please call (512) 475-2950.

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Although some notices may be received too late for publication before the meeting is held, all those filed are published in the *Register*. Notices concerning state agencies, colleges, and universities must contain the date, time, and location of the meeting, and an agenda or agenda summary. Published notices concerning county agencies include only the date, time, and location of the meeting. These notices are published alphabetically under the heading "Regional Agencies" according to the date on which they are filed.

Any of the governmental entities named above must have notice of an emergency meeting, or an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published. However, notices of emergency additions or revisions to a regional agency's agenda will not be published since the original agenda for the agency was not published.

All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol. These notices may contain more detailed agendas than space allows to be published in the *Register*.

Open Meetings

State Banking Board

Thursday, August 25, 1983, 2 p.m. The State Banking Board submitted an emergency revised agenda for a meeting held at 2601 North Lamar Boulevard, Austin. According to the revised agenda, the board considered a new site for the proposed Landmark Bank of Fort Worth. The emergency status was necessary so the proposed project would be most efficiently and economically implemented.

Contact: O. A. Cassidy III, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Filed: August 23, 1983, 11:49 a.m.
TRD-836524

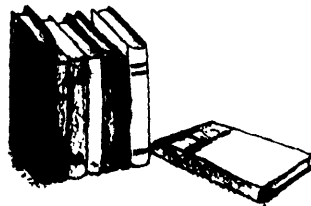
Texas Department of Corrections

Monday, September 12, 1983, 8 a.m. The Board of the Texas Department of Corrections will meet in Room 103, 815 11th Street, Huntsville. Items on the agenda summary include matters relating to inmate affairs; medical; personnel; business; agriculture; construction, industries; legal; management services; miscellaneous; and

the Windham School System. The board also will meet in executive session.

Contact: W. J. Estelle, Jr., P. O. Box 99, Huntsville, Texas 77340, (409) 295-6371.

Filed: August 24, 1983, 1:59 p.m.
TRD-836555



Select Committee on Public Education

Wednesday, August 31, 1983, 9 a.m. The Senate Education Committee and the Select Committee on Public Education will hold a joint meeting in the John L. Gray Library, Lamar University, Beaumont. According to the agenda, the committees will form subcommittees to discuss the following pro-

posed topics: public education—the role and function of regional education service centers, the effect of private schools on public education, a compilation and analysis of reports of evaluation programs for teachers and administrators, the effect of the year-round school program piloted by the Houston Independent School District, and the impact of honor programs for high school students; higher education—transferring coursework among higher education institutions, the effect of uniform admission standards at institutions of higher education, the Hinson Hazelwood Student Loan Program and the feasibility of converting to a grant program, the impact of tuition equalization programs in Texas, health insurance for university employees, and a study of financial support for research at higher education institutions and effective utilization of that research. There also will be a general session of the full committees with reports from the chairman of each subcommittee and public testimony from invited witnesses.

Contact: Larry Yawn, Sam Houston Building, Seventh Floor, 201 East 14th Street, Austin, Texas, (512) 475-2427.

Filed: August 23, 1983, 4:07 p.m.
TRD-836534

Texas Health Facilities Commission

Friday, September 2, 1983, 9:30 a.m. The Texas Health Facilities Commission will meet in Suite 305, Jefferson Building, 1600 West 38th Street, Austin. According to the agenda summary, the commission will consider the following applications:

Notice of Intent to Acquire Existing Health Care Facilities

Surgicare Corporation, Houston
AS83-0725-057

First Texas Medical, Inc., Lewisville
AH83-0725-058

Unicare-Amelia Island, Inc., a Florida corporation and wholly-owned subsidiary of Unicare Health Facilities, Inc., Milwaukee, Wisconsin
AN83-0706-015
AN83-0706-017
AN83-0706-018
AN83-0706-016

Unicare Health Facilities, Inc., a Wisconsin corporation and wholly-owned subsidiary of Unicare Services, Inc., Milwaukee, Wisconsin
AN83-0722-050
AN83-0722-048
AN83-0722-049
AN83-0722-051

Application for Declaratory Ruling
Brackenridge Hospital, Austin
AH83-0628-654

Hillhaven Convalescent Center, El Paso
AN83-0520-522

Application for Amendment of Certificate of Need Order

Parkview Hospital, Wheeler
AH82-0427-001A(061583)

Oakhaven Nursing Center, Arlington
AN80-1231-042A(071383)

Comfort Gardens Homes, Comfort
AN80-0530-082A(042283)

Diagnostic Center Hospital Corporation of Texas, a wholly-owned subsidiary of Hospital Corporation of America, Houston
AH78-1227-005A(070183)

Contact: John R. Neel, P.O. Box 50049, Austin, Texas 78763.

Filed: August 24, 1983, 9:05 a.m.
TRD-836537

State Board of Insurance

Wednesday, September 28, 1983, 9 a.m. The State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the board's dele-

gate will hold a public hearing to consider the appeal of Michael R. Jeffcoat from the decision of the Texas Catastrophe Property Insurance Association.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas, (512) 475-2950.

Filed: August 23, 1983, 2:07 p.m.
TRD-836528

Texas State Board of Medical Examiners

Friday, August 26, 1983. Committees of the Texas State Board of Medical Examiners met at 1101 Camino LaCosta, Austin. Times, committees, and agendas follow.

9 a.m. The Ad Hoc Committee to Study Operation of the Board and Central Office met in emergency session to conduct a work session on board and office procedures. The committee also met in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §5.06(e), and Attorney General Opinion H-484, 1974. The emergency status was necessary because information had just been accumulated by the committee and required action.

Contact: Nan Fuller, P.O. Box 13562, Austin, Texas, (512) 452-1078.

Filed: August 23, 1983, 2:44 p.m.
TRD-836529

10 a.m. The Standing Delegation Orders Committee met in a rescheduled emergency session to consider items to be discussed with the full board, correspondence received, and standing orders and rules as provided by law. The committee also met in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §5.06(e)(1) and §4.05(d), and Attorney General Opinion H-484, 1974. The meeting was originally scheduled for August 24, 1983, at 10 a.m. as published at 8 TexReg 3157. The emergency status was necessary because a change in a disciplinary hearing mandated an agenda amendment for the meetings of August 24-28, 1983, which affected the committee meeting times and dates.

Contact: Nan Fuller, P.O. Box 13562, Austin, Texas, (512) 452-1078.

Filed: August 23, 1983, 2:44 p.m.
TRD-836530

10 a.m. The Executive Committee met in a rescheduled emergency session to conduct a discussion of litigation and rules as provided by law and other business as related

to these matters. The committee also met in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §5.06(e)(1) and §4.05(d), and Attorney General Opinion H-484, 1974. The meeting was originally scheduled for August 24, 1983, at 10 a.m. as published at 8 TexReg 3246. The emergency status was necessary because a rescheduling of a disciplinary hearing mandated an agenda change for the meetings of August 24-28, 1983, thus affecting committee meeting times.

Contact: Nan Fuller, P.O. Box 13562, Austin, Texas, (512) 452-1078.

Filed: August 23, 1983, 2:45 p.m.
TRD-836531

Friday-Sunday, August 26-28, 1983, 1 p.m.

Friday, 8 a.m. daily Saturday and Sunday.

The Texas State Board of Medical Examiners met in a rescheduled emergency session at 1101 Camino LaCosta, Austin. Items on the agenda included hearings on possible Medical Practice Act violations and public hearings on proposed rules; licensure requests, committee meetings and reports, a discussion of rules as provided by law, acceptance of board orders, budget approvals, probationary interviews, regular interviews, and other usual and related business items; and a possible executive session under authority of Texas Civil Statutes, Article 6252-17, as relating to Article 4495b, §5.06(e)(1) and §4.05(d), and Attorney General Opinion H-484, 1974. The meeting was originally scheduled for August 24, 1983, at 1 p.m. as published at 8 TexReg 3157. The emergency status was necessary because of a rescheduling of a hearing.

Contact: Nan Fuller, P.O. Box 13562, Austin, Texas, (512) 452-1078.

Filed: August 23, 1983, 2:44 p.m.
TRD-836532

Texas Municipal Retirement System

Saturday, September 24, 1983, 9 a.m. The Board of Trustees of the Texas Municipal Retirement System (TMRS) will meet at the Hyatt Regency, 123 Losoya Street, San Antonio. According to the agenda, the board will approve the June 25, 1983, and July 18, 1983, minutes; service and disability retirements, supplemental disability benefits, and supplemental death benefit payments payable May 1, 1983, through July 31, 1983; an actuarial report, and financial statements; consider adoption of a resolution concerning updated service credit for TMRS

employees; reports by the legal counsel and director; and other business.

Contact: Jimmie L. Mormon, P.O. Box 2225, Austin, Texas 78768, (512) 476-7577.

Filed: August 24, 1983, 4:45 p.m.
TRD-836566

Public Utility Commission of Texas

Wednesday, August 31, 1983, 9 a.m. The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider final orders in Dockets 4570, 4576, 4829, 4844, 4966, 4985, 5021, 5039, 5043, 5102, 5143, 5159, 5180, 5213, 5221, and 5234.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 23, 1983, 3:01 p.m.
TRD-836533

The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Days, times, and dockets follow.

Friday, September 2, 1983, 1 p.m. A prehearing conference in Docket 5294—application of Texas Power and Light Company for approval of electric fuel costs.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 9:38 a.m.
TRD-836541

Monday, September 19, 1983, 10 a.m. A hearing on the merits in Docket 5325—application of West Texas Utilities Company for an interim fuel factor.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 2:31 p.m.
TRD-836552

Monday, September 19, 1983, 11 a.m. A hearing on the merits in Docket 5327—application of Southwestern Electric Power Company for an interim fuel factor.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 2:31 p.m.
TRD-836553

Monday, September 19, 1983, 1 p.m. A hearing on the merits in Docket 5321—application of Central Power and Light Company for an interim fuel factor.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 2:31 p.m.
TRD-836554

Monday, October 10, 1983, 9 a.m. A hearing on the merits in Docket 5294—application of Texas Power and Light Company for approval of electric fuel costs.

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 9:38 a.m.
TRD-836540

Monday, November 14, 1983, 10 a.m. A prehearing conference in Docket 5108—application of Gulf States Utilities Company for a commission order concerning the disposition of settlement funds (electric).

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 9:37 a.m.
TRD-836542

Tuesday, November 15, 1983, 9 a.m. A hearing on the merits in Docket 5108—application of Gulf States Utilities Company for a commission order concerning the disposition of settlement funds (electric).

Contact: Rhonda Colbert Ryan, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: August 24, 1983, 9:38 a.m.
TRD-836543

Boards for Lease of State-Owned Lands

Wednesday, August 31, 1983, 3:30 p.m. The Board for Lease of State Parks Lands of the Boards for Lease of State-Owned Lands will meet in the Executive Conference Room, Parks and Wildlife Headquarters Building, 4200 Smith School Road, Austin. Items on the agenda include approval of the minutes of the previous board meeting, an easement application, and renewal of a pipeline easement.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, (512) 475-4307.

Filed: August 23, 1983, 12:45 p.m.
TRD-836526

Teacher Retirement System of Texas

Friday, September 9, 1983, 10 a.m. The Investment Advisory Committee of the Teacher Retirement System (TRS) of Texas will meet at 221 South Colinas Boulevard, Irving. Items on the agenda include approval of the minutes; an update on investments for the preceding quarter and a report on forward commitments; consideration of proposed changes to a common stock list and TRS investment policy; general discussion on the economic outlook and market conditions; allocation of cash flow for the current quarter; and discussion and recommendation of a new committee member.

Contact: Clark Manning, 1001 Trinity Street, Austin, Texas, (512) 397-6400, ext. 274.

Filed: August 25, 1983, 9:59 a.m.
TRD-836572

University Interscholastic League

Wednesday, August 24, 1983, 8:30 a.m. The Hardship Waiver Appeals Board of the University Interscholastic League made an emergency addition to the agenda of a meeting held in Room 3.118 and Room 3.122, Joe Thompson Conference Center, University of Texas campus, Austin. The addition concerned an appeal hearing on Case PR83-808-10, concerning Daniel Rene Rivera of Luling High School. The emergency status was necessary because the request for the appeal was received within the 72-hour time limit.

Contact: Bailey Marshall, P.O. Box 8028, Austin, Texas 78712, (512) 471-5883.

Filed: August 23, 1983, 12:48 p.m.
TRD-836527

Texas Water Commission

Tuesday, September 20, 1983, 10 a.m. The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include the adjudication of all claims of water rights in the Brazos II Segment of the Brazos River Basin, and consideration and adoption of a proposed modified final determination of rights.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 24, 1983, 3:14 p.m.
TRD-836556

Wednesday, September 28, 1983, 9 a.m. The Texas Water Commission will meet in the commission chambers, City Hall, 118 East Tyler, Harlingen. According to the agenda summary, the commission will consider the application of the City of Harlingen, P.O. Box 1950, Harlingen, Texas 78550, to the Texas Department of Water Resources for a permit (proposed Permit 10490-01) to authorize a discharge of treated domestic wastewater effluent at a volume not to exceed an average flow of 3.25 million gallons per day. The applicant proposes to construct a new sewage treatment plant (Plant No. 3) to serve the needs of an expanding population.

Contact: James K. Rourke, Jr., P.O. Box 13087, Austin, Texas 78711, (512) 475-1339.

Filed: August 23, 1983, 11:15 a.m.
TRD-836525

The Texas Water Commission will meet in the Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Dates, times, rooms, and agendas follow.

Wednesday, October 19, 1983, 10 a.m. In Room 124A, a hearing on the application of William J. Gebhard, Jr., Marcus L. Thompson, Sarah E. Thompson, J. E. Grace, James P. Smaistrla, James M. Martin, and Harry G. Leyendecker, seeking a permit to impound water in an existing 3.6 acre-foot capacity on-channel overflow dam and reservoir on Lone Man Creek, tributary of Blanco River, tributary of Guadalupe River, Guadalupe River Basin, for recreational purposes in Hays County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 24, 1983, 3:15 p.m.
TRD-836557

Thursday, October 20, 1983, 10 a.m. In Room 618, a hearing on Application 4387 of T & L Ranch Company, a Texas corporation, for a permit to impound 266.6 acre-feet of water in a proposed dam and reservoir on Carroll Creek, tributary of West Fork Trinity River, tributary of Trinity River, Trinity River Basin, for domestic, livestock, and recreational purposes in Jack County.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 24, 1983, 3:15 p.m.
TRD-836558

Thursday, October 20, 1983, 10 a.m. In Room 618, a hearing on an application by the City of Pharr for an amendment to Certificate of Adjudication 23-874 to authorize a change in the purpose and place of use of 852 acres of Class "A" water rights from irrigation to municipal purposes in Hidalgo County, Rio Grande Basin.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 24, 1983, 3:15 p.m.
TRD-836559

Wednesday, November 30, 1983, 10 a.m. In Room 124A, a rescheduled hearing on Application 4360 of Leland I. Westphall seeking a permit to divert and use 117.5 acre-feet of water per annum from the Rio Grande River, Rio Grande River Basin, for irrigation purposes in Cameron County. The hearing was originally scheduled for August 23, 1983, as published at 8 TexReg 1750.

Contact: Mary Ann Hefner, P.O. Box 13087, Austin, Texas 78711, (512) 475-4514.

Filed: August 24, 1983, 3:15 p.m.
TRD-836560

Regional Agencies Meetings Filed August 23

The Austin-Travis County Mental Health and Mental Retardation, Operations and Planning Committee, met in a rescheduled emergency session in the board room, 1430 Collier Street, Austin, on August 25, 1983, at noon. The meeting was originally scheduled for August 22, 1983, at noon. Information may be obtained from Debbie Sandoval, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

The Middle Rio Grande Development Council, Criminal Justice Advisory Committee, will meet in the Uvalde City Council Chambers, corner of Highway 90 East and South Getty, Uvalde, on September 1, 1983, at 2 p.m. Information may be obtained from Ramon S. Johnston, P.O. Box 702, Carrizo Springs, Texas 78834, (512) 876-3533.

TRD-836521

Meetings Filed August 24

The Central Texas Mental Health and Mental Retardation Center, Board of Trustees, will meet at 408 Mulberry, Brownwood, on August 30, 1983, at 4:30 p.m. Information may be obtained from Gloria Willen, P.O. Box 250, Brownwood, Texas 76801, (915) 646-9574, ext. 102.

The Hunt County Tax Appraisal District, Board of Directors, will meet in the board room, 4815-B King Street, Greenville, on September 1, 1983, at 7 p.m. Information may be obtained from Henry J. Popp or Jeanne Penney, 4815-B King Street, Greenville, Texas 75401, (214) 454-3510.

The Lee County Appraisal District, Board of Directors, will meet at 218 East Richmond Street, Giddings, on August 30, 1983, at 8:30 a.m. The Board of Review also will meet at the same location on September 8, 1983, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

The Pecan Valley Mental Health and Mental Retardation Region, Board of Trustees, will meet at the First United Methodist Church, 204 East Pearl, Granbury, on August 30, 1983, at 1 p.m. Information may be obtained from Theresa Mulloy, Ed.D., P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806.

TRD-836544

Meetings Filed August 25

The Central Appraisal District of Erath County, Board of Directors, will meet at 1191 South Loop, Stephenville, on September 14, 1983, at 10 a.m. Information may be obtained from James Bachus, 1191 South Loop, Stephenville, Texas, (817) 965-5434.

The Leon County Central Appraisal District, Appraisal Review Board, will meet in the Leon County Courtroom, Centerville, on September 2, 1983, at 10 a.m. Information may be obtained from Mabel Watson, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

TRD-836568

The *Register* is required by statute to publish applications to purchase control of state banks (filed by the banking commissioner); notices of rate ceilings (filed by the consumer credit commissioner); changes in interest rate and applications to install remote service units (filed by Texas Savings and Loan commissioner); and consultant proposal requests and awards (filed by state agencies, regional councils of government, and the Texas State Library and Archives Commission).

In order to aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows. This often includes applications for construction permits (filed by the Texas Air Control Board); applications for amendment, declaratory ruling, and notices of intent (filed by the Texas Health Facilities Commission); applications for waste disposal permits (filed by the Texas Water Commission); and notices of public hearing.

In Addition

State Board of Dental Examiners Correction of Error

The following rules were incorrectly published as withdrawn in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3317).

22 TAC §§109.3-109.5
22 TAC §§109.21, 109.22, 109.24, 109.25
22 TAC §109.34
22 TAC §§109.41, 109.42, 109.45
22 TAC §109.51
22 TAC §109.61
22 TAC §109.71
22 TAC §109.101
22 TAC §109.201, §109.202

General Land Office Consultant Contract Award

Pursuant to Texas Civil Statutes, Article 6252-11c, the General Land Office (GLO) has awarded a contract for consultant services for field audit. The request for proposal was published in the June 14, 1983, issue of the *Texas Register* (8 TexReg 2051).

Services which will be conducted are completion of three initial audits with the participation of General Land Office personnel, definition of audit procedures for future audits, and training of General Land Office field auditors.

Peat, Marwick, Mitchell and Company was awarded the contract. Their address is 4300 One Shell Plaza, Houston, Texas 77002.

The total value of the contract is not to exceed \$175,000. The contract begins July 25, 1983, and ends August 31, 1983.

Ten copies of the final report and the audit procedures developed for each lessee are to be delivered to the GLO within 30 days of completing all field work.

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

TRD-836516 John Hall
Deputy Commissioner for
Resource Management
General Land Office

Filed: August 23, 1983

For further information, please call (512) 475-0188.

Correction of Error

The following rules were incorrectly published as withdrawn in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3318).

31 TAC §13.1
31 TAC §13.11
31 TAC §13.17, §13.18

State Board of Insurance Company Licensing

The following applications have been filed with the State Board of Insurance and are under consideration:

(1) Application for incorporation of Life/Re Insurance Company, to be a domestic life insurance company. The home office is proposed to be in San Antonio.

(2) Application for admission to do business in Texas of Financial Network Investment Corporation, a foreign life insurance company. The home office is in Torrance, California.

(3) Application for a name change by Security Southwest Life Insurance Company, a domestic life insurance company. The home office is in El Paso. The proposed new name is First Service Life Insurance Company.

(4) Application for a name change by Security Southwest Life Insurance Company, a domestic life insurance company. The home office is in El Paso. The proposed new name is First Security National Life Insurance Company.

(5) Application for incorporation of First Texas Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Houston.

(6) Application for admission to do business in Texas of Associated General Insurance Company, a foreign fire and casualty insurance company. The home office is in Detroit, Michigan.

(7) Application for a name change by World Book Life Insurance Company, a foreign life insurance company. The home office is in Omaha, Nebraska. The proposed new name is United World Insurance Company.

(8) Application for admission to do business in Texas of Provident Life and Casualty Insurance Company, a foreign life insurance company. The home office is in Chattanooga, Tennessee.

(9) Application for admission to do business in Texas of Investors Title Insurance Company, a foreign title insurance company. The home office is in Chapel Hill, North Carolina.

(10) Application for admission to do business in Texas of American Continental Life Insurance Company, a foreign life insurance company. The home office is in Kansas City, Missouri.

(11) Application for incorporation of National Farmers Union Lloyds Insurance Company of Texas, to be a domestic lloyds insurance company. The home office is proposed to be in Waco.

(12) Application for incorporation of Mansfield Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Austin.

(13) Application for incorporation of Houston Fire and Marine Insurance Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Houston.

(14) Application for incorporation of Chase Lloyds Insurance Company, to be a domestic lloyds insurance company. The home office is proposed to be in Waco.

(15) Application for incorporation of American Bankers Lloyds of Texas, to be a domestic lloyds insurance company. The home office is proposed to be in Bedford.

(16) Application for incorporation of National Grain Insurance Exchange, to be a domestic fire and casualty insurance company. The home office is proposed to be in Amarillo.

(17) Application for incorporation of Peace of Mind Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Austin.

(18) Application for incorporation of Peace of Mind Insurance Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Austin.

(19) Application for incorporation of Protection Lloyds Insurance Company, to be a domestic lloyds in-

surance company. The home office is proposed to be in Austin.

(20) Application for incorporation of Sturdy Insurance Company, to be a domestic fire and casualty insurance company. The home office is proposed to be in Austin.

(21) Application for incorporation of Sunrise Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Austin.

(22) Application for incorporation of Successful Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Austin.

(23) Application for incorporation of Chapel Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Austin.

(24) Application for incorporation of Competent Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Austin.

(25) Application for incorporation of MTM Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in San Antonio.

(26) Application for admission to do business in Texas of LaVista Life Insurance Company, a foreign life insurance company. The home office is in Phoenix, Arizona.

(27) Application for admission to do business in Texas of Bankers Insurance Company, a foreign fire and casualty insurance company. The home office is in St. Petersburg, Florida.

(28) Application for admission to do business in Texas of Bankers Life Insurance Company of Florida, a foreign life insurance company. The home office is in St. Petersburg, Florida.

(29) Application for admission to do business in Texas of Gerling Global Life Insurance Company, a foreign life insurance company. The home office is in Toronto, Ontario, Canada.

(30) Application for incorporation of First Independent Bankshares Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in Abilene.

(31) Application for incorporation of Associates Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Humble.

(32) Application for incorporation of American Teachers Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Humble.

(33) Application for incorporation of Excalibur Life Insurance Company, to be a domestic life insurance company. The home office is proposed to be in San Antonio.

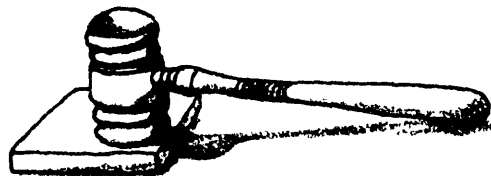
Issued in Austin, Texas, on August 23, 1983.

TRD-836550

James W. Norman
Chief Clerk
State Board of Insurance

Filed: August 24, 1983

For further information, please call (512) 475-2950.



Texas State Board of Medical Examiners Statute Change Requiring Physician Training

Effective August 29, 1983, graduates of approved medical schools will be required to complete one year of graduate medical training approved by the Texas State Board of Medical Examiners before becoming eligible for licensure consideration in Texas.

Board rules on licensure, Chapter 163, expound on the other licensing requirements and on the type of training programs deemed acceptable by the board.

Board rules rendered late in 1981 set forth the one year of training; however, Attorney General Opinion MW-573 (issued December 31, 1982) determined that requirement invalid.

Among the changes to the Medical Practice Act (Texas Civil Statutes, Article 4495b) this past session was a statutory amendment reinstating the requirement for successful completion of the one-year graduate medical training program.

Issued in Austin, Texas, on August 22, 1983.

TRD-836519 A. Bryan Spires, Jr., M.D.
Executive Director
Texas State Board of Medical
Examiners

Filed: August 23, 1983

For further information, please call (512) 452-1078.

School Land Board Correction of Error

The following rule was incorrectly published as withdrawn in the August 26, 1983, issue of the *Texas Register* (8 Tex-Reg 3319).

31 TAC §155.4

Texas Water Commission Applications for Waste Disposal Permits

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of August 15-19, 1983.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting

of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 475-2678.

Listed is the name of the applicant and the city in which each facility is located; type of facility; location of the facility; permit number; and type of application—new permit, amendment, or renewal.

Period of August 15-19, 1983

Harris County Water Control and Improvement District—Fondren Road, Missouri City; wastewater treatment plant; in the northeast section of Missouri City, approximately ¼ mile northwest of the intersection of U.S. Highway 90A and Fondren Road in Harris County; 10570-02; renewal

The City of Frisco; wastewater treatment plant; approximately 2,500 feet south of FM 720 and immediately west of the St. Louis-San Francisco Railroad in Collin County; 10172-01; renewal

The City of Frisco; wastewater treatment plant; approximately 2,500 feet north of FM 720 and immediately east of St. Louis-San Francisco Railroad in Collin County; 10172-02; renewal

Dale C. Peters Interests, Inc., Houston; sewage treatment plant; immediately northeast of the intersection of Palmerton Lane and Meadow Vista, approximately one mile southwest of the intersection of FM 149 with 1960, and approximately 2,500 feet south of the intersection of Grant Road and FM 1960, within Harris County; 12000-01; renewal

Elgin Butler Brick Company, Elgin; brick plant; one mile north of the City of Butler and within ¼ mile of FM 696 in Bastrop County; 00444; amendment
Comanche Hills Utility District, Killeen; sewage treatment plant; immediately west of Comanche Gap Road, at a point approximately ¼ mile south of the intersection of FM 2410 with Comanche Gap Road within Bell County; 12016-01; renewal

City of Tyler; sewage treatment plant; 1.5 miles northwest of the intersection of U.S. Highway 69 and FM 2813; approximately 3.4 miles south-southwest of the intersection of State Highway Loop 323 and U.S. Highway 69 in Smith County; 10653-02; renewal

The Lubrizol Corporation, Port Arthur; polybutene manufacturing plant; 4801 53rd Street in the City of Port Arthur, Jefferson County; 02166; renewal

General Portland, Inc., New Braunfels; cement manufacturing plant; at the intersection of Wald Road and

Solms Road, approximately 1.8 miles southwest of the City of New Braunfels, Comal County; 02179; renewal
The City of Orange; sewage treatment plant; approximately 1,500 feet east from FM 3247 and approximately 500 feet south of Adams Bayou in Orange County; 10626-04; amendment

Mark McMillan, Gerald Smith, Alfred A. Martin, and Martin L. Dalton, Jr., College Station; swine farm; 2.5 miles west and ½ mile south of the intersection of State Highway 36 and U.S. Highway 77 in Milam County; 02664; new permit

City of Houston; wastewater treatment plant; along Harris County Flood Control Ditch 122, approximately 2,600 feet south of Bellaire Boulevard, and approximately midway between Cook and Dairy-Ashford Roads in Harris County; 10495-05; renewal

Springwoods Corporation, Austin; sewage treatment plant; approximately 1.6 miles east of U.S. Highway 183, and 2,400 feet north of Anderson Mill Road in Williamson County; 11980-01; renewal

Chamcco, Inc., doing business as Brazos Construction Materials, Houston; sand and gravel dredging operation; on the east bank of the Brazos River at River Mile 140.5, approximately six miles southwest of the City of Brookshire in Waller County; 02665; new permit

Issued in Austin, Texas, on August 19, 1983.

TRD-836491 Mary Ann Hefner
 Chief Clerk
 Texas Water Commission

Filed: August 22, 1983
For further information, please call (512) 475-4514.

State Bar of Texas Public Information

An Ethics in Government Institute will be held at the Sheraton Crest Inn on Friday and Saturday, September

9 and 10, 1983, to review the federal, state, and local laws governing Texas state and local officers, candidates, employees, and those in the private sector who deal with them on a regular basis.

Office holders are frequently criticized for activities that ordinary citizens are free to pursue. Many public officials serve on a part-time, short-term, or purely voluntary basis, thereby making the equity of restraints on their private business doubly problematic.

The institute is sponsored by the Public Law Section of the State Bar of Texas, Consumers Union, Lyndon B. Johnson School of Public Affairs, Texas Municipal League, and Texas Press Association. Topics for September 9 are campaign activities, campaign financing, lobbying, rights and restrictions while in office or employment, money and business relationships, conflict of interest, and restraints after leaving government service. Saturday's topics include open meetings, open records, and the municipal perspective.

The registration fee for both days is \$65 in advance and \$75 at the door. For Friday only, the fee is \$40 in advance, \$45 at the door. For Saturday only, preregistration is \$25 in advance, \$30 at the door. To register, send a check payable to the State Bar of Texas with a letter stating name, office address and telephone number, and desired dates of attendance to Public Law Section, Ethics in Government Institute, P.O. Box 12487, Austin, Texas 78711.

For more information, call (512) 475-6742.

Office of the Secretary of State Texas Register Publication Schedule

Following are the deadline dates of the September, October, and November 1983 issues of the *Texas Register*. Unless noted by a ★, deadlines for a Tuesday edition of the *Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication.

Publication Schedule for the *Texas Register*

FOR ISSUE
PUBLISHED ON

Friday, September 2
 Tuesday, September 6
 ★ Friday, September 9
 Tuesday, September 13
 Friday, September 16
 Tuesday, September 20
 Friday, September 23
 Tuesday, September 27
 Friday, September 30

ALL COPY EXCEPT NOTICES
OF OPEN MEETINGS BY 10 A.M.

Monday, August 29
 Wednesday, August 31
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 Wednesday, September 14
 Monday, September 19
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ALL NOTICES OF OPEN
MEETINGS BY 10 A.M.

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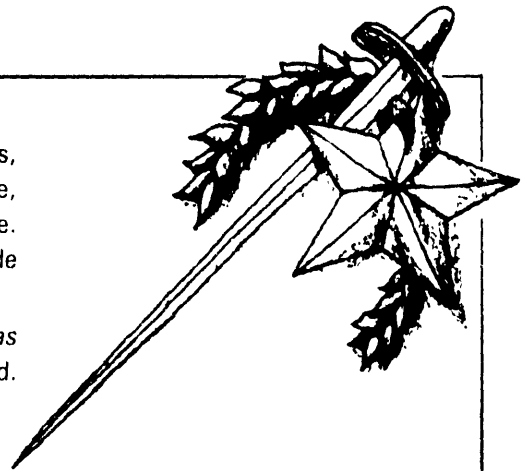
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