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Texas Register

OCT 17 1983



Highlights

- ★ The Office of the Governor proposes repeals and new rules in a chapter concerning the Budget and Planning Division; proposed date of adoption - December 11.....page 4051
- ★ The Texas Department of Health proposes amendments in a chapter concerning solid waste management; proposed date of adoption - December 10page 4089
- ★ The Texas Savings and Loan Department adopts new rules concerning change of control of a savings and loan association; effective date - October 21.....page 4132

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date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

Under provisions of the Texas Election Code (Article 1.03), the secretary of state, as chief elections officer, is responsible for maintaining uniformity in the application, operation, and interpretation of the election laws, and for advising the state's election officers in this regard. In carrying out this responsibility, the secretary of state is authorized to issue opinions based on the election laws.

These opinions are summarized for publication in the *Register*.

Questions on particular submissions should be addressed to the Office of the Secretary of State, Elections Division, P. O. Box 12887, Austin, Texas 78711, 1 (800) 252-9602 or (512) 475-3091.

Opinions Issued October 3

Election Law Opinion JWF-19. Request from Conny Drake, elections administrator, Dallas County, concerning the authority of a county to charge political parties for certain punchcard system related equipment and services to be provided by the county for use in party primary elections.

Summary.

(1) A county may not charge political parties a lease fee for the use of precinct ballot counters during the primary.

(2) A county may not assess a fee to a political party for the costs of programming precinct ballot counters to be used during the primary elections.

(3) A county may charge a political party for the costs incurred in employing personnel and acquiring supplies for the central counting station during the primary elections.

(4) A county may charge political parties for the costs incurred in printing absentee ballots for use during the primaries, however, all other costs incidental to the conduct of absentee voting must be borne by the county.

TRD-837883

Election Law Opinion JWF-20. Request from Charles Sullivan, executive director, Citizens for Rehabilitation of Errants, Austin, concerning House Bill 718, 68th Legislature, 1983.

Summary. House Bill 718, 68th Legislature, 1983, does not provide for re-enfranchisement of felons, other than probationers, who are discharged under the laws of another state or under federal law. The provision of House Bill 718 providing for re-enfranchisement of felons on the fifth anniversary of the completion of a period of probation ordered by a court is not restricted to Texas probationers. Therefore, this provision applies to probationers from other jurisdictions including federal probationers.

House Bill 718 does not provide a remedy for any felons, other than probationers, who receive any certificates of discharge other than a certificate of discharge from the Board of Pardons and Paroles.

TRD-837884

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 1. ADMINISTRATION Part I. Office of the Governor Chapter 5. Budget and Planning Division

A notice appeared in the October 7, 1983, issue of the *Texas Register* indicating that the following proposals would be serialized in this issue. Proposed date of adoption for the published documents is December 1, 1983

State Review of Federal Grant Assistance Applications

1 TAC §§ 5.11-5.14
(repeal)

Subchapter B. State and Local Review of Federal and State Assistance Applications Introduction and General Provisions

1 TAC §§ 5.191-5.196
(new)

Responsibilities of Review Participants

1 TAC §§ 5.211-5.217
(new)

Review Procedures

1 TAC §§ 5.231-5.236
(new)

Accommodation of Review Comments

1 TAC §§ 5.251-5.253
(new)

Transition Schedule

1 TAC § 5.271
(new)

The Office of the Governor proposes to repeal §§ 5.11-5.14, concerning state review of federal grant assistance applications. The Office of the Governor at this time is also proposing new §§ 5.191-5.271, concerning state and local review of federal and state assistance applications. The proposed sections will create two new subchapters, A and B, under Chapter 5. Subchapter A, concerning federal and intergovernmental coordination, will contain the following undesignated heads: Adoption of Federal Laws, Interagency Council on Natural Resources and Environment; Policy for the Environment, Interagency Transportation Council; Metropolitan Planning Organizations; Water Resource Conservation; State Planning Assistance Grants; Interagency Health and Human Resources Council; State Manpower Services Council (SMSC); and Intrastate Allocation Procedures for Federal Coastal Energy Impact Program Assistance. Subchapter B, concerning state and local review of federal and state assistance applications, will contain the following undesignated heads: Introduction and General Provisions; Responsibilities of Review Participants, Review Procedures, Accommodation of Review Comments; and Transition Schedule

The new sections proposed under Subchapter B are in response to presidential Executive Order (E.O.) 12372, as amended by E.O. 12416, which rescinded, effective September 30, 1983, Office of Management and Budget (OMB) Circular A-95. Under E.O. 12372,

concerning intergovernmental review of federal programs, states are given authority to establish statewide review and comment processes to replace procedures formerly required by OMB Circular A-95. Since OMB Circular A-95 is incorporated by reference in the rules cited previously, the review and comment procedures formerly required by A-95 will continue in full force and effect until modified or repealed by the final rules of the Texas Review and Comment System.

The proposed new rules governing review and comment on federal and state assistance requests and direct development build upon those aspects of the A-95 review and coordination process that have proven useful and effective since its inception in 1969. However, the new procedures are expected to significantly improve the review process by reducing the regulatory burden on applicants and review agencies and by increasing the effectiveness of reviews through uniform criteria and improved funding agency accountability.

The Texas Review and Comment System (TRACS) was developed in consultation with representatives of state agencies, local government, and regional councils of governments within the guidelines of E.O. 12372, as amended, and pursuant to the specific programmatic requirements and constraints of the implementing federal regulations of June 24, 1983. Under TRACS, the 24 Texas regional councils of governments are the designated regional review agencies (RRAs) within their respective state planning regions. As the RRAs, they will serve as the primary contact points for local applicants and will provide the mechanism for gathering and disseminating local elected officials' comments on proposed federal or state development and applications for federal and state assistance under covered programs. The Office of the Governor will serve as the statewide review agency and as the State Single Point of Contact (SPOC) under E.O. 12372.

William C. Hamilton, the governor's budget director, has determined that for the first five-year period the repeal and new rules will be in effect there will be no fiscal implications for state or local government as a result of the repeal and enforcing or administering the new rules. Potentially, administrative and compliance costs will decrease, due to a reduction in the number of reviews and simplification of review procedures.

Mr. Hamilton also has determined that for each year of the first five years the repeal and new rules as proposed are in effect the public benefit anticipated as a result of enforcing the repeal and new rules as proposed will be encouragement of more effective expenditure of public funds and reduction of duplication of services and facilities and will lead to improved responsiveness from federal and state funding sources.

The anticipated economic cost to individuals required to comply with the rules as proposed are expected to remain about the same as existing costs under the A-95 process or possibly decline slightly as a result of simplifying the review process.

Written comments on the proposal may be submitted to Leon Willhite, Governor's State Planning Division,

P.O. Box 13561, Austin, Texas 78711, for a period of 30 days following publication.

State Review of Federal Grant Assistance Applications

1 TAC §§5.11-5.14

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the Office of the Governor, P.O. Box 12428, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeals proposed under Texas Civil Statutes, Article 4413(32a) and 1011m. Under Article 4413(32a), the governor, as chief planning officer, is empowered to provide for the review of state plans and applications for federal grant or loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state or federal assistance to submit their applications for review to the appropriate regional planning commission (regional council of governments) and directs the governor to issue guidelines for carrying out such reviews.

In addition, E.O. 12372, as amended, cites the Demonstration Cities and Metropolitan Development Act of 1966, §204 (42 United States Code §3334), and the Intergovernmental Cooperation Act of 1968, §401(a) (42 United States Code §4231(a)) Section 204 requires that applications for federal assistance in planning or constructing a wide range of public facilities be submitted for review to areawide review agencies in metropolitan areas. Section 401(a) directs the President to prescribe regulations governing formulation, evaluation, and the review of federal programs having a significant impact on area and community development and requires that all national, regional, state, and local viewpoints be considered in planning or carrying out federal programs or projects or federally-assisted activities. Review of projects with potentially adverse impacts on the environment are authorized by the National Environmental Policy Act of 1969, §102(2)(C) (42 United States Code §4332(2)(C)).

§5.11. *Agencies Covered.*

§5.12. *Applications Covered by OMB Circular A-95.*

§5.13. *Other Applications.*

§5.14. *Appendices.*

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 September 30, 1983.

TRD-837772

Larry J Craddock
Assistant General Counsel
Office of the Governor

Proposed date of adoption
December 1, 1983

For further information, please call (512) 475-3901.

Responsibilities of Review Participants**1 TAC §5.211-5.217**

The new rules are proposed under Texas Civil Statutes, Articles 4413(32a) and 1011m. Under Article 4413(32a), the governor, as chief planning officer, is empowered to provide for the review of state plans and applications for federal grant or loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state or federal assistance to submit their applications for review to the appropriate regional planning commission (regional council of governments) and directs the governor to issue guidelines for carrying out such reviews.

In addition, E. O. 12372, as amended, cites the Demonstration Cities and Metropolitan Development Act of 1966, §204, (42 United States Code §3334), and the Intergovernmental Cooperation Act of 1968, §401(a), (42 United States Code §4231(a)). Section 204 requires that applications for federal assistance in planning or constructing a wide range of public facilities be submitted for review to areawide review agencies in metropolitan areas. Section 401(a) directs the President to prescribe regulations governing formulation, evaluation, and the review of federal programs having a significant impact on area and community development and requires that all national, regional, state, and local viewpoints be considered in planning or carrying out federal programs or projects or federally assisted activities. Review of projects with potentially adverse impacts on the environment are authorized by the National Environmental Policy Act of 1969, §102(2)(C), (42 United States Code §4332(2)(C)).

§5.211. State Single Point of Contact Responsibilities. The state Single Point of Contact shall:

(1) provide the primary point of receipt and serve as the review agency or the review coordinator, as appropriate, for state agency programs, plans, projects, or environmental impact statements, for applications with interstate, multiregional, or statewide impact, and for federal or state direct development proposals;

(2) include as attachments to its review letter any written comments received from other jurisdictions, agencies, or parties that differ from the state Single Point of Contact comments (supporting views may be attached at the state Single Point of Contact's discretion);

(3) assign a state application identifier (SAI) number to each notification of intent or application received, following standard procedures;

(4) notify relevant state and substate entities in a timely manner of statewide or interstate applications or direct federal or state development activities affecting their jurisdictions, and solicit comments thereon;

(5) review projects of special significance, at its discretion;

(6) serve as the state's Single Point of Contact for accommodation requests to state and federal agencies and responses therefrom;

(7) serve as liaison with the state Single Points of Contact in contiguous states, as appropriate, on interstate projects and other review issues;

(8) maintain a list of the state Single Points of Contact for contiguous states and provide the list to appropriate regional review agencies;

(9) monitor, and in cooperation with the regional review agencies, state agencies, and local governments, refine the Texas Review and Comment System procedures and program coverage;

(10) solicit from each state agency the name of its intergovernmental review coordinator and, in cooperation with the agencies, maintain a list of such individuals on a continuing basis;

(11) ensure, to the greatest degree practicable, that all reviews under TRACS are conducted in accordance with these rules and that comments are based on law, fact, or regulation; and

(12) provide, as appropriate, TRACS training and policy guidance.

§5.212. Regional Review Agency Responsibilities. The regional review agencies shall:

(1) serve as the primary point of contact for applicants with projects wholly within one of their respective state planning regions;

(2) assign a state application identifier (SAI) number to each notification of intent or application received following the format prescribed by the state single point of contact;

(3) review, on the basis of law, fact, or regulation, local and regional programs, projects, plans, or environmental impact statements (EISs);

(4) review state or federal programs, projects, plans, or EISs affecting their respective state planning regions;

(5) include as attachments to their review letter any written comments received from other jurisdictions, agencies, or parties that differ from the regional review agency comments (supporting views may be attached at the RRA's discretion);

(6) transmit, in accordance with standard procedures, project review data to the state Single Point of Contact; and

(7) assist in monitoring and refining the Texas Review and Comment System.

§5.213. Conflict of Interest.

(a) No regional review agency shall review its own application when the RRA is in direct competition with other applicants within its state planning region for the same funding

(b) When the regional review agency falls within the provisions of subsection (a) of this section, it shall transmit its application to affected governments in the project area, with instructions for them to send their comments directly to the state Single Point of Contact.

(c) Comments received by the state Single Point of Contact shall be compiled into a review letter that will be transmitted to the funding agency and to the applicant regional review agency

(d) The regional review agency, in its review letter accompanying any competing application(s), shall clearly

state its interest as an applicant in the program for which the review was provided.

§5.214. Use of Other Public Bodies in the Review Process.

(a) Regional review agencies are encouraged to use existing bodies such as metropolitan planning organizations (MPOs) and other specialized groups which can contribute to the review process.

(b) Reviews of specified applications or types of applications may be delegated to such bodies by a regional review agency. Any such delegation must be made pursuant to a written agreement between the RRA and the entity to which the delegation of authority is made, and must incorporate by reference the procedures, standards, and criteria set forth in these rules with assurances that reviews will be conducted in conformity with the TRACS rules.

(c) All such agreements shall be made and approved in accordance with RRA procedures for similar agreements.

(d) Two copies of any document delegating review authority shall be provided to the state Single Point of Contact within five working days following execution of the delegation agreement.

(e) Review comments made under a delegation of authority agreement must receive the formal approval of the RRA's governing body to be an official TRACS review recommendation.

§5.215. Sharing of Application Information Among Review Agencies

(a) Applications or plans of interstate, statewide, or multi-regional scope or direct federal or state development proposals submitted to the state Single Point of Contact for review will be summarized and transmitted to the regional review agencies potentially affected by the applications, plans, or proposals. Regional review agencies choosing to review such applications will so notify the applicant and request the number of copies of the application needed for review purposes.

(b) Local or regional applications submitted to a regional review agency for review will be summarized and transmitted to the state Single Point of Contact. If the state Single Point of Contact chooses to review the application it will so notify the applicant, and request the number of copies of the application needed for review purposes. The affected regional review agency will also be notified of the state single point of contact's interest.

§5.216. State Agency Responsibilities

(a) State agencies having programs covered under TRACS will develop appropriate procedures for:

(1) informing potential applicants for assistance under such programs of TRACS requirements and encouraging early contact between applicants and appropriate review agencies;

(2) assuring that all applications for assistance under covered programs have been submitted to appropriate review agencies prior to their submission to the funding agency. Absence of a state application identifier number on an application will be construed as evidence of nonsubmission of the application to the appropriate review agency(s). Such applications will be returned to

the applicant with instructions to fulfill the TRACS requirements.

(3) notifying the appropriate review agency(s) within seven working days of any major action on applications reviewed by such review agency(s). Major actions include awards, rejections, returns for amendment, deferrals, or withdrawals. The standard TRACS cover sheet will be used for this purpose, unless a waiver has been granted by the state Single Point of Contact.

(4) Where a review agency has requested accommodation on an application, the state agency shall respond in accordance with §5.252 of this title (relating to State Accommodation of Local Review Comments).

(5) State agencies submitting applications covered under House Bill 1172, 64th Legislature, must complete and submit one copy of Budget and Planning Office (BPO) Form 1172 to the state Single Point of Contact. Copies of this form and instructions for completing it may be obtained from the State Single Point of Contact, Governor's Office, P.O. Box 13561, Austin, Texas 78711.

(6) State agencies submitting applications covered under House Bill 1172, 64th Legislature, must keep a record of the amount of federal loan or grant funds received and transmit this and other related information to the state Single Point of Contact on October 1 after the close of the previous fiscal year. Copies of BPO Form 1173 and detailed instructions are available from the State Single Point of Contact, Governor's Office, P.O. Box 13561, Austin, Texas 78711.

(b) At the request of the state Single Point of Contact, each state agency shall designate an intergovernmental review coordinator within the agency to:

(1) serve as the agency's review coordinator and as liaison between the agency and the state Single Point of Contact for the review and comment process on state and federal applications and activities;

(2) serve as the liaison for regional review agencies on TRACS questions and problems as they relate to that agency;

(3) attend TRACS training or briefing sessions; and

(4) assist in evaluating the review process and make suggestions on ways to improve the review process and procedures.

§5.217. Applicant Responsibilities. Applicants are strongly encouraged to follow the notification of intent procedures in §5.233 of this title (relating to Notification of Intent) in order to minimize delays and to provide opportunities for resolving any problems at an early stage in the application and review process. Specific duties of the applicant include:

(1) providing a copy of their application to the appropriate review agency(s) 60 days prior to submitting a new application to a state or federal funding agency.

(A) Applicants with projects, plans, environmental impact statements, or programs affecting more than one state planning region should send their notification of intent of full application to the state Single Point of Contact as follows: State Single Point of Contact, Office of the Governor, P.O. Box 13561, Austin, Texas 78711.

(B) Applicants with projects, plans, environmental impact statements, or programs that are not expected to have impacts outside a single state planning region should send their notification of intent or full application to the regional review agency for the region in

which the project is located. A list of the 24 regional review agencies is adopted by reference in Table V. Copies of Table V may be obtained from the State Single Point of Contact, Governor's Office, P.O. Box 13561, Austin, Texas 78711

TABLE V

<u>NAME & ADDRESS</u>	<u>STATE PLANNING REGION NO.</u>	<u>COUNTIES INCLUDED</u>
1. Executive Director Alamo Area Council of Governments 118 Broadway, Suite 400 San Antonio, Texas 78205 (512) 225-5201	18	Atascosa, Bandera, Bexar, Comal, Frio, Gillespie, Guadalupe, Karnes, Kendall, Kerr, Medina, Wilson
2. Executive Director Ark-Tex Council of Governments P. O. Box 5307 Texarkana, Texas 75501 (501) 774-3481	5	Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Miller (Arkansas), Morris, Red River, Titus
3. Executive Director Brazos Valley Develop- ment Council P. O. Drawer 4128 Bryan, Texas 77805-4128 (409) 822-7421	13	Brazos, Burleson, Grimes, Leon, Madison, Robertson, Washington
4. Executive Director Capital Area Planning Council 2520 IH 35 South Suite 100 Austin, Texas 78704 (512) 443-7653	12	Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, Williamson
5. Executive Director Central Texas Council of Governments P. O. Box 729 Belton, Texas 76513 (817) 939-1803	23	Bell, Coryell, Hamilton, Lampasas, Milam, Mills, San Saba
6. Executive Director Coastal Bend Council of Governments P. O. Box 9909 Corpus Christi, Texas 78408 (512) 883-5743	20	Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, Refugio, San Patricio

- | | | |
|---|-----------|---|
| <p>7. Executive Director
Concho Valley Council
of Governments
P. O. Box 60050
San Angelo, Texas 76906
(915) 944-9666</p> | <p>10</p> | <p>Coke, Concho, Crockett,
Irion, Kimble, Mason,
McCulloch, Menard, Reagan,
Schleicher, Sterling,
Sutton, Tom Green</p> |
| <p>8. Executive Director
Deep East Texas Council
of Governments
272 East Lamar
P. O. Drawer 1170
Jasper, Texas 75951
(409) 384-5704</p> | <p>14</p> | <p>Angelina, Houston, Jasper,
Nacogdoches, Newton, Polk,
Sabine, San Augustine,
San Jacinto, Shelby,
Trinity, Tyler</p> |
| <p>9. Executive Director
East Texas Council of
Governments
3800 Stone Road
Kilgore, Texas 75662
(214) 984-8641</p> | <p>6</p> | <p>Anderson, Camp, Cherokee,
Gregg, Harrison, Henderson,
Marion, Panola, Rains,
Rusk, Smith, Upshur,
Van Zandt, Wood</p> |
| <p>10. Executive Director
Golden Crescent Regional
Planning Commission
P. O. Box 2028
Victoria, Texas 77902
(512) 578-1587</p> | <p>17</p> | <p>Calhoun, DeWitt, Goliad,
Gonzales, Jackson, Lavaca,
Victoria</p> |
| <p>11. Executive Director
Heart of Texas Council
of Governments
320 Franklin Avenue
Waco, Texas 76701
(817) 756-6631</p> | <p>11</p> | <p>Bosque, Falls, Freestone,
Hill, Limestone, McLennan</p> |
| <p>12. Executive Director
Houston-Galveston Area
Council
P. O. Box 22777
Houston, Texas 77227
(713) 627-3200</p> | <p>16</p> | <p>Austin, Brazoria, Chambers,
Colorado, Fort Bend,
Galveston, Harris, Liberty,
Matagorda, Montgomery,
Walker, Wallter, Wharton</p> |
| <p>13. Executive Director
Lower Rio Grande Valley
Development Council
Texas Commerce Bank Bldg.
Suite 207
McAllen, Texas 78501
(512) 682-3481</p> | <p>21</p> | <p>Cameron, Hidalgo, Willacy</p> |

- | | | |
|---|-----------|--|
| <p>14. Executive Director
Middle Rio Grande
Development Council
P. O. Box 7020G
Carrizo Springs, Texas 78834
(512) 876-3533</p> | <p>24</p> | <p>Dimmit, Edwards, Kinney,
La Salle, Maverick, Real,
Uvalde, Val Verde,
Zavala</p> |
| <p>15. Executive Director
Nortex Regional Planning
Commission
P. O. Box 5144
Wichita Falls, Texas 76307
(817) 322-5281</p> | <p>3</p> | <p>Archer, Baylor, Childress,
Clay, Cottle, Foard,
Hardeman, Jack, Montague,
Wichita, Wilbarger, Young</p> |
| <p>16. Executive Director
North Central Texas Council
of Governments
P. O. Drawer COG
Arlington, Texas 76005-5888
(817) 461-3300</p> | <p>4</p> | <p>Collin, Dallas, Denton,
Ellis, Erath, Hood, Hunt,
Johnson, Kaufman, Navarro,
Palo Pinto, Parker, Rockwall,
Sommervell, Tarrant, Wise</p> |
| <p>17. Executive Director
Panhandle Regional
Planning Commission
Suite 200, Briercroft
Savings Building
801 South Jackson
P. O. Box 9257
Amarillo, Texas 79105
(806) 372-3381</p> | <p>1</p> | <p>Armstrong, Briscoe, Carson,
Castro, Collingsworth, Dallam,
Deaf Smith, Donley, Gray,
Hall, Hansford, Hartley,
Hemphill, Hutchinson, Lipscomb,
Moore, Ochiltree, Oldham,
Parmer, Potter, Randall,
Roberts, Sherman, Swisher,
Wheeler</p> |
| <p>18. Executive Director
Permian Basin Regional
Planning Commission
P. O. Box 6391
Midland, Texas 79701
(915) 563-1061</p> | <p>9</p> | <p>Andrews, Borden, Crane,
Dawson, Ector, Gaines,
Glasscock, Howard, Loving,
Martin, Midland, Pecos,
Reeves, Terrell, Upton,
Ward, Winkler</p> |
| <p>19. Executive Director
South East Texas Regional
Planning Commission
P. O. Drawer 1387
Nederland, Texas 77627
(409) 727-2384</p> | <p>15</p> | <p>Hardin, Jefferson, Orange</p> |
| <p>20. Executive Director
South Plains Association
of Governments
P. O. Box 2787
3424 Avenue H
Lubbock, Texas 79408
(806) 762-8721</p> | <p>2</p> | <p>Bailey, Cochran, Crosby,
Dickens, Floyd, Garza,
Hale, Hockley, King,
Lamb, Lubbock, Lynn,
Motley, Terry, Yoakum</p> |

- | | | | |
|-----|---|----|--|
| 21. | Executive Director
South Texas Development
Council
600 South Sandman
P. O. Box 2187
Laredo, Texas 78041-0187
(512) 722-3995 | 19 | Jim Hogg, Starr, Webb,
Zapata |
| 22. | Executive Director
Texoma Regional Planning
Commission
10000 Grayson Drive
Denison, Texas 75020
(214) 786-2955 | 22 | Cooke, Fannin, Grayson |
| 23. | Executive Director
West Central Texas
Council of Governments
P. O. Box 3195
Abilene, Texas 79604
(915) 672-8544 | 7 | Brown, Callahan, Coleman,
Comanche, Eastland, Fisher,
Haskell, Jones, Kent, Knox,
Mitchell, Nolan, Runnels,
Scurry, Shackelford, Stephens,
Stonewall, Taylor,
Throckmorton |
| 24. | Executive Director
West Texas Council of
Governments
Two Civic Center Plaza
5th Floor
El Paso, Texas 79999
(915) 541-4681 | 8 | Brewster, Culberson, El Paso,
Hudspeth, Jeff Davis, Presidio |

(2) providing a copy of their application to the appropriate review agency(s) at least 30 days in advance or submitting a noncompetitive continuation application to a state or federal funding agency,

(3) providing, upon request, additional copies of their full application to the appropriate review agency(s),

(4) providing complete and accurate information for review,

(5) attaching any comments received from a review agency to the application prior to sending it to the funding agency; and

(6) resubmitting for review any application that has been reviewed but not approved by the funding agency, if the application has been substantially amended or revised to change

- (A) scope of work;
- (B) dollar amount;
- (C) area of project impact; or
- (D) probable environmental impact.

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 September 30, 1983

TRD 837768 Larry J. Craddock
Assistant General Counsel
Office of the Governor

Proposed date of adoption
December 1, 1983

For further information, please call (512) 475-3901.

**Subchapter B. State and Local Review
of Federal and State Assistance
Applications**

Introduction and General Provisions

1 TAC §§5.191-5.196

The new rules are proposed under Texas Civil Statutes, Article 4413(32a) and 1011m Under Article

4413(32a), the governor, as chief planning officer, is empowered to provide for the review of state plans and applications for federal grant or loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state or federal assistance to submit their applications for review to the appropriate regional planning commission (regional council of governments) and directs the

governor to issue guidelines for carrying out such reviews.

In addition, Executive Order (E O) 1272, as amended, cites the Demonstration Cities and Metropolitan Development Act of 1966, §204 (42 United States Code §3334), and the Intergovernmental Cooperation Act of 1968, §401(a) (42 United States Code §4231(a)). Section 204 requires that applications for federal assistance in planning or constructing a wide range of public facilities be submitted for review to areawide review agencies in metropolitan areas. Section 401(a) directs the President to prescribe regulations governing formulation, evaluation, and the review of federal programs having a significant impact on area and community development and requires that all national, regional, state, and local viewpoints be considered in planning or carrying out federal programs or projects or federally-assisted activities. Review of projects with potentially adverse impacts on the environment are authorized by the National Environmental Act of 1969, §102(2)(C) (42 United States Code §4332(2)(C)).

§5.191. Introduction and Purpose. The purpose of this rule is to establish a statewide system that provides state and local officials opportunities to review and to comment upon federal or state direct development, applications for federal or state financial assistance, and environmental impact statements related to projects or programs that affect their jurisdiction before the proposals are approved or funded. Comments made during the review process are for the applicant's use in improving the project, if necessary, and for the funding agency's use in deciding whether to approve the application. The rule designates the regional review agencies and the state single point of contact, lists the programs for which reviews will be required, delineates the respective responsibilities of applicants, state agencies, and review agencies, establishes uniform review procedures and criteria, and describes procedures for seeking accommodation of review comments. This rule specifically incorporates by reference Executive Order 12372, as amended by Executive Order 12416, the Demonstration Cities and Metropolitan Development Act of 1966, §204 (42 United States Code §3334); the Intergovernmental Cooperation Act of 1968, §401(a) (42 United States Code §4231(a)); and the National Environmental Policy Act of 1969, §102(2)(C) (42 United States Code §4332(2)(C)).

§5.192. Applicability. This rule applies to all review agencies, applicants for state or federal assistance, state and federal agencies proposing or carrying out direct development, and state and federal agencies providing financial or other assistance, unless specifically exempted by state or federal law.

§5.193. Goals. Major goals of the Texas Review and Comment System (TRACS) include:

- (1) providing opportunities for intergovernmental consultation on applications, with a view toward strengthening proposals before they are submitted to the appropriate federal or state agency for approval;
- (2) fostering intergovernmental cooperation and coordination;
- (3) discouraging unnecessary duplication;

- (4) providing a mechanism for the timely exchange of information among the various levels of government on proposals potentially affecting them; and

- (5) providing public agencies responsible for enforcing or furthering civil rights laws with an opportunity to participate in the review process.

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

Accommodation.—The process by which the governor, a state agency, the governing body of a regional review agency, or a local government which disagrees with the regional review agency's review recommendation may request a federal or state funding or implementing agency not to fund or carry out a project. The funding or implementing agency must respond in writing and may concur with the request, explain why it is implementing its decision over the objection(s), or reach a mutually acceptable solution.

Application.—

(A) A proposal to a federal or state agency requesting financial assistance;

(B) a proposal by a federal or state agency to directly develop a project or to directly administer a program; or

(C) an environmental impact assessment or statement related to subparagraph (A) or (B).

Covered program.—Any state or federal direct development activity or assistance program subject to review under TRACS. Covered federal programs are listed in §5.195(h) of this title (relating to Program Coverage); state programs subject to review are contained in §5.195(e).

Direct federal or state development.—Planning and construction of public works, physical facilities, and installations or land and real property development (including the acquisition, use, and disposal of real property) undertaken by or for the use of the federal government or the State of Texas or any of their respective agencies; or the leasing of real property for federal or state use where the use or intensity of use of such property will be substantially altered.

Executive Order (E O) 12372, Executive Order 12372, as amended, or executive order.—The Presidential executive order issued July 14, 1982, rescinding Office of Management and Budget Circular A-95 and providing states an opportunity to structure, in consultation with local officials, their own intergovernmental review and comment procedures. The executive order requires federal agencies to accept state or local views or explain why not. It also allows states to simplify, substitute, or consolidate plans required of the state by federal agencies.

Federal agency.—Any department, agency, or instrumentality in the executive branch of the U.S. Government and any wholly owned U.S. Government corporation.

Federal assistance or federally-assisted programs.—Programs that provide assistance through grant or contractual arrangements, including technical assistance programs, loans, loan guarantees, or insurance.

Funding agency.—The federal or state agency responsible for final approval of an application for assistance.

Jurisdiction—

(A) The geographic area over which a governmental unit exercises authority; or

(B) the authority of a unit of government to exercise certain powers

Local government—Any Texas city, town, or county

OMB Circular A-95—The federal circular issued in 1969 that prescribed procedures for state and local review and comment on specific federal assistance programs. Executive Order 12372, as amended by E.O. 12416, rescinded OMB Circular A-95 on September 30, 1983.

Regional review agency (RRA)—One of the 24 Texas regional councils of governments, which are the designated regional review agencies under the Texas Review and Comment System for their respective state planning regions. Each council of governments is responsible under Texas Civil Statutes, Article 1011m, and these rules for conducting reviews of applications which affect its state planning region.

SAI—The state application identifier number assigned to an application by a review agency to facilitate tracking and reporting and to verify that an application has been submitted to the appropriate review agency.

Standard Form 424 or SF 424 —The standard cover sheet required by federal funding agencies.

State—The State of Texas or any of its agencies or instrumentalities with statewide jurisdiction.

State planning region—One of 24 contiguous, multicounty geographic areas of the state designated by the governor.

State single point of contact (SPOC)—The only entity under the Texas Review and Comment System (TRACS) authorized to transmit an accommodation request and to receive the funding or implementing agency's response for subsequent dissemination to the governmental entity seeking accommodation. Under TRACS, the SPOC is the governor's office.

Threshold criteria—The criteria used by a review agency to determine whether an application is subject to or requires review.

TRACS—The Texas Review and Comment System, which replaces and revises review and comment procedures on federal programs previously authorized by OMB Circular A-95. Certain state programs are also included under TRACS, pursuant to state law.

§5.195 Program Change

(a) Federal program coverage under TRACS is constrained by the dictates of E.O. 12372, which stipulates the list of programs from which states may select. In addition, federal statutes, particularly the Demonstration Cities and Metropolitan Development Act of 1966, §204, the Intergovernmental Cooperation Act of 1968, §401(a), and the National Environmental Policy Act of 1969, §102(2)(C), mandate certain programs for review.

(b) Programs proposed for review under TRACS pursuant to these laws, plus selected other activities, including all direct federal development, are adopted by the reference in Table I. Copies of Table I may be obtained from the State Single Point of Contact, Governor's Office, P.O. Box 13561, Austin, Texas 78711.

TABLE I

<u>AGENCY</u>	<u>PROGRAM NAME</u>	<u>CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER</u>
ACTION	Foster Grandparent Program (FGP)	72.001
	Retired Senior Volunteer Program (RSVP)	72.002
	Volunteers in Service to America (VISTA)	72.003
	Senior Companion Program (SCP)	72.008
	Mini-Grant Program	72.010
	Volunteer Demonstration Program	72.012
	Technical Assistance Program (TAP)	72.013
DEPARTMENT OF AGRICULTURE Farmers Home Administration		
	Farm Labor Housing Grants*	10.405
	Irrigation and Drainage Loans*	10.409
	Site Development Loans*	10.411
	Self-Help Site Development Loans*	10.411
	Recreation Facility Loans*	10.413
	Resources Conservation and Development Loans*	10.414
	Rural Rental Housing Loans*	10.415
	Soil and Water Loans*	10.416
	Water and Waste Disposal Loan and Grant Program*	10.418
	Mutual and Self-Help Housing Grants*	10.420

AGRICULTURE	Self-Help Technical Assistance Grants*	10.420
	Business and Industrial Loans*	10.422
	Community Facilities Loans*	10.423
	Industrial Development Grants*	10.424
	Rural Assistance Payments*	10.427
	Energy Impacted Area Development Assistance*	10.430
	Biomass Energy and Alcohol Fuel Loans*	10.432
DEPARTMENT OF AGRICULTURE		
Food & Nutrition Service		
	School Breakfast Program	10.553
	National School Lunch Program	10.555
	Special Milk Program for Children	10.556
	Special Supplemental Food Program for Women, Infants and Children	10.557
	Child Care Food Program	10.558
	Summer Food Service Program	10.559
	Nutrition Education and Training Program	10.564
	Commodity Supplemental Food Program	10.565
Forest Service	Cooperative Forestry Assistance	10.664
Soil Conservation Service		
	Resource Conservation and Development	10.901
	Watershed Planning and Operations	10.904
	Flood Plain Management	10.904
	River Basin Survey and Investigation	10.906

DEPARTMENT OF THE ARMY
Corps of Engineers

Planning, Design and Construction of Civil Works Projects Specifically Authorized by Congress	none
Recreation Facilities at Completed Projects	none
Continuing Authorities Program: Planning, Design and Construction of Small Projects Not Specifically Authorized by Congress:	NA
Snagging and Clearing for Flood Control (Section 208 Program)	12.108
Snagging and Clearing for Navigation (Section 3 Program)	12.109
Emergency Streambank and Shoreline Protection of Public Works (Section 14 Program).	12.105
Flood Control (Section 205 Program)	12.106
Navigation (Section 107 Program)	12.107
Beach Erosion Control (Section 103 Program)	12.101
Mitigation of Shore Damage Attributable to Navigation Projects (Section 111 Program)	none

DEPARTMENT OF COMMERCE

Economic Development -- Grants for Public Works and Development Facilities*	11.300
Economic Development-- Business Development Assistance	11.301
Economic Development-- Support for Planning Organizations*	11.302
Economic Development-- Technical Assistance (when the application is by or for the benefit of a state or local government)*	11.303

COMMERCE	Economic Development-- Public Works Impact Projects*	11.304
	Economic Development-- State and Local Economic Development Planning*	11.305
	Economic Development-- District Operational Assistance*	11.306
	Special Economic Development and Adjustment Assistance Program Long- Term Economic Deterioration*	11.307
	Commercial Fisheries Research and Development	11.407
	Coastal Zone Management Program Administration*	11.419
	Coastal Zone Management Estuarine Sanctuaries	11.420
	Coastal Energy Impact Program-- Formula Grants*	11.421
	Coastal Energy Impact Program-- Planning Grants*	11.422
	Coastal Energy Impact Program-- Loans and Guarantees*	11.423
	Coastal Energy Impact Program-- Environmental Grants*	11.424
	Coastal Energy Impact Program-- Outer Continental Shelf State Participation Grants*	11.425
	Financial Assistance for Marine Pollution Research (state and local government applicants)	11.426
	Fisheries Development and Util- ization Research and Development Grants and Cooperative Agreements Program (state and local govern- ment applicants)	11.427

COMMERCE	Public Telecommunications Facilities	11.550
	Minority Business Development Management and Technical Assistance (state and local government applicants)	11.800
DEPARTMENT OF EDUCATION		
	Adult Education-- State Administered Program	84.002
	Bilingual Education	84.003
	Migrant Education Program-- State Formula Grant Program	84.011
	Follow Through	84.014
	Handicapped Preschool and School Programs	84.027
	Public Library Services	84.034
	School Assistance in Federally Affected Areas -- Construction	84.040
	Vocational Education-- Basic Grants to States	84.048
	Vocational Education-- Consumer and Homemaking Education	84.049
	Vocational Education-- Program Improvement and Supportive Services	84.050
	Vocational Education-- Special Programs for the Disadvantaged	84.052
	Indian Education-- Special Programs and Projects to Improve Educational Opportunities for Indian Children	84.061
	Indian Education-- Adult Indian Education	84.062
	Bilingual Vocational Training--	84.077

Vocational Education-- State Planning and Evaluation	84.121
Rehabilitation Services-- Basic Support	84.126
Rehabilitation Services-- Client Assistance Projects	84.128F
Rehabilitation Services-- Migratory Worker Vocational Rehabilitation Service Projects	84.128G
Centers for Independent Living	84.132
Migrant Education-- Interstate and Intrastate Coordination Program	84.144
Transition Program for Refugee Children	84.146
Neglected or Delinquent Transition Services	84.152

DEPARTMENT OF ENERGY

State Energy Conservation	81.041
Weatherization Assistance for Low-Income Persons	81.042
Supplemental State Energy Conservation	81.043
Energy Extension Service	81.050
Appropriate Technology Small Grants Programs	81.051
Energy Conservation for Insti- tutional Buildings	81.052
Geothermal Loan Guarantees	81.058
Alcohol Fuels Loan Guarantees	81.074
Loan for Geothermal Reservoir Confirmation Projects	81.074
Loans for Wind Energy Systems and Small Hydroelectric Power Projects	81.074

DOE	Loans for Small Hydroelectric Power Project Feasibility Studies and Related Licensing	81.074
	Wind Energy Technology Application Program	81.074
	Loan Guarantees for Alternative Fuel Demonstration Facilities	81.074
	Strategic Petroleum Reserve Program	none
ENVIRONMENTAL PROTECTION AGENCY State and Local Assistance Programs	Air Pollution Control Program*	66.001
	Construction Grants for Wastewater Treatment Works*	66.418
	Water Pollution Control-- State and Interstate Program Grants*	66.419
	Water Quality Management Planning*	66.454
	State Public Water System Super- vision--Program Grants*	66.432
	State Underground Water Source Protection--Program Grants*	66.433
	Construction Management Assistance*	66.438
	Hazardous Waste Management Financial Assistance to States*	66.451
	State Inventories of Uncontrolled Hazardous Waste Sites*	none
	Environmental Protection Consolidated Grants--Program Support*	66.600
	Loan Guarantees for Construction of Treatment Works*	66.603
	Pesticides Enforcement Program Grants*	66.700
	Superfund Cooperative Agreements (Remedial Clean Ups)*	66.802

Research, Development and Demonstration Projects	Environmental Protection-- Consolidated Research Grants	66.500
(Selection is limited to proposals which (a) require an Environmental Impact Statement (EIS); or (b) do not require an EIS but will be newly initiated at a particular site and require unusual measures to limit the possibility of adverse exposure or hazard to the general public; or (c) have a unique geographic focus and are directly relevant to the governmental responsibilities of a state or local government within that geographic area.)	Air Pollution Control Research Grants	66.501
	Pesticides Control Research Grants	66.502
	Solid Waste Disposal Research Grants	66.504
	Water Pollution Control-- Research, Development, and Demonstration Grants*	66.505
	Safe Drinking Water Research and Demonstration Grants*	66.506
	Toxic Substances Research Grants*	66.507
Direct Development Activities	Real Property Acquisition or Disposition, Including Obtaining Major Leases or Easements*	none
	Construction of New EPA Facilities*	none
	EPA Issued Plans and Permits Which Do Not Impact Interstate Areas*	none
FEDERAL EMERGENCY MANAGEMENT AGENCY	Emergency Management Assistance	83.503
	Population Protection Planning	83.514
	State and Local Maintenance and Services	83.504
	State and Local Warning and Communications	83.513
	State and Local Emergency Operating Centers	83.512
	The State assistance program under the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001, et seq	83.501

FEMA	Disaster preparedness grants	83.505
	Earthquake and hurricane preparedness planning grants	83.506
	Grants, loans, or other financial assistance under secs. 402 and 414 of the Disaster Relief Act of 1974, as amended, 42 U.S.C. 5172, 5184	83.516
	State fire incident reporting assistance under Federal Fire Prevention and Control Act	83.407
GENERAL SERVICES ADMINISTRATION	Lease Construction Projects 41 CFR 101-18.100(e)	none
	Intergovernmental Consultation on Federal Projects 41 CFR 101-10.100	none
	Disposals to Public Agencies	39.002
DEPARTMENT OF HEALTH AND HUMAN SERVICES	Family Planning Projects	13.217
	Community Health Centers	13.224
	Migrant Health Centers Grants	13.246
	National Health Service Corps	13.258
	Family Planning Services	13.260
	State Health Planning and Development Agencies	13.293
	Health Systems Agencies	13.294
	Head Start	13.600
	Runaway Youth	13.623
	Child Abuse	13.628
	Developmental Disabilities-- Basic Support and Advocacy Grants	13.630
	Developmental Disabilities-- Special Projects	13.631

HHS	Aging--Title III A & B-- Grants for Supportive Services and Senior Centers	13.633
	Aging, Title III C-- Nutrition	13.635
	Child Welfare Services-- State Grants	13.645
WIN		13.646
	Venereal Disease	13.977
	Health Programs for Refugees	13.987
	National Health Promotion Training Network	13.990
	Adolescent Family Life Demonstration Program	13.995
	Cuban-Haitian Special Placement	none
	Refugee Assistance Targeted Assistance Grants to States	none
	Entrant Assistance Targeted Assistance Grants to States	none
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
Insured Housing	Mortgage Insurance-- Construction or Substantial Rehabilitation of Condominium Projects	14.112
(An application under these programs is subject to review if it involves insurance of advances for the construction or sub- stantial rehabilita- tion of a project containing 200 or more units in an urbanized area or more units in a nonurbanized area. There are no thresholds for applications under CFDA No. 14.125.)	Mortgage Insurance-- Development of Sales Type Cooperative Projects	14.115
	Mortgage Insurance-- Investor Sponsored Cooperative Housing	14.124
	Mortgage Insurance-- Land Development and New Communities	14.125
	Mortgage Insurance-- Management Type Cooperative Projects	14.126

HUD	Mortgage Insurance-- Manufactured (Mobile) Home Parks	14.127
	Mortgage Insurance-- Rental Housing	14.134
	Mortgage Insurance-- Rental Housing for Moderate Income Families	14.135
	Mortgage Insurance-- Rental and Cooperative Housing for Low and Moderate Income Families, Market Interest Rate	14.137
	Mortgage Insurance-- Rental Housing for the Elderly	14.138
	Mortgage Insurance-- Rental Urban Renewal	14.139
	Supplemental Loan Insurance-- Multifamily Rental Housing	14.151
Assisted Housing	Low Income Housing-- Assistance Program	14.146
(An application under CFDA Nos. 14.146, .147, or .156 is subject to Part 52 procedures if it involves the construction or substantial rehabi- litation of a project containing 50 or more units in an urbanized area or 25 or more units in a nonurbanized area. An application under CDFA No. 14.157 is subject to Part 52 procedures if it involves the construction or substantial rehabilitation of a project containing 200 or more units in an urbanized area or 50 or more units in a nonurbanized area.)	Low Income Housing-- Homeownership Opportunities for Low Income Families	14.147
	Low Income Housing Assistance Program	14.156
	Housing for the Elderly or Handicapped	14.157
	Public Housing-- Comprehensive Improvement Assistance Program	14.158
	Congregate Housing Services Program	14.170

HUD

Community Planning and
Development

(Only those portions of final statements under CFDA No. 14.218 that consist of planning or construction of a water or sewage facility in a metropolitan area are subject to Part 52 procedures. HUD may be unable to accommodate state process recommendations concerning particular activities since HUD has only limited authority to refuse to fund an eligible activity.)

Community Development Block Grants/
Entitlement Grants* 14.218

Urban Development Action Grants* 14.221

Fair Housing and Equal
Opportunity
(Only competitive funding
applications are subject
to review under 14.401.)

Fair Housing Assistance Program 14.401

Miscellaneous Programs

(An application under CFDA No. 14.211 is subject to Part 52 procedures if it involves the construction or rehabilitation of a project containing 200 or more units in an urbanized area or 50 or more units in a nonurbanized area unless assistance is to be provided under an assisted housing program with 50 and 25 unit thresholds in which case the lower thresholds apply.)

Housing Counseling Program 14.169

Surplus Land for Low and Moderate
Income Housing 14.211

DEPARTMENT OF THE INTERIOR

Historic Preservation --
Grants-in-Aid 15.904

Outdoor Recreation --
Acquisition, Development and
Planning (Land and Water
Conservation Fund Grants) 15.916

INTERIOR	Urban Park and Recreation Recovery Program	15.919
	Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining	15.250
	Abandoned Mine Land Reclamation Program	15.252
	Endangered Species Conservation	15.612
	Atmospheric Water Resources Management Program Research	none
	Irrigation Distribution System Loans	15.501
	Irrigation Systems Rehabilitation and Betterment	15.502
	Small Reclamation Projects	15.503

DEPARTMENT OF JUSTICE

Bureau of Prisons-- Construction projects such as correctional institutions and detention centers	none
Immigration and Naturalization Service--Construction projects such as border patrol stations	none
Office of Juvenile Justice and Delinquency Prevention-- Formula Grant Program	16.540
Office of Juvenile Justice and Delinquency Prevention-- Special Emphasis and Technical Assistance Grants, except grants to nongovernmental entities	16.541
Office of Justice Assistance, Research, and Statistics-- Categorical Grants for Crime Prevention and Criminal Justice Improvement	none

DEPARTMENT OF LABOR	Work Incentive Program, Stat: Sections 432(d), (e) and (f) of Pub. L. 92-223	none
	Senior Community Service Employment Program, Stat: Pub. L. 95-478	none
	Job Corps, Stat: Section 435, Pub. L. 97-300	none
	Migrant and Seasonal Farmworkers Program, Stat: Section 402(d) of Pub. L. 97-300	none
	Job Training Partnership Act, Stat: Pub. L. 97-300	none
	Employment Service, Stat: Section 501 of Pub. L. 97-300	none
	Disabled Veteran's Outreach program, Stat: 38 U.S.C. 2003A	none
NATIONAL ENDOWMENT FOR THE ARTS	Promotion of the Arts State Programs/Office for Public Partnership (Basic State Grants)	none
NATIONAL SCIENCE FOUNDATION	Intergovernmental Science and Technology Programs,	47.036
SMALL BUSINESS ADMINISTRATION	Small Business Development Center program	none
DEPARTMENT OF TRANSPORTATION FHWA	Highway Construction, Research and Construction*	20.205
DEPARTMENT OF TRANSPORTATION UMTA	Section 3 Discretionary Capital Grants*	20.500
	Section 4(i) Innovative Techniques Program*	NA

DOT	Section 5 Formula Grant Program*	20.507
	Section 6 Research, Development and Demonstration Grant Program*	20.504 20.506 20.510
	Section 8 Planning and Technical Studies*	20.505
	Section 9 Block Grant Program*	NA
	Section 16 Grants to Meet Special Needs of Elderly and Handicapped Persons*	NA
	Section 18 Formula Grant Program for Non-Urbanized Areas*	20.509
DEPARTMENT OF TRANSPORTATION		
FRA	Local Rail Service Assistance Program*	NA
DEPARTMENT OF TRANSPORTATION		
FAA	Airport Development Aid Program*	20.102
	Airport Improvement Program*	20.106
DEPARTMENT OF TRANSPORTATION		
MARAD	Development and Promotion of Ports and Intermodal Transportation	20.801
DEPARTMENT OF TRANSPORTATION		
RSPA	Natural Gas Pipeline Safety Grants	20.700
ALL FEDERAL AGENCIES	All direct federal development not specifically excluded by law from review.	NA

*Programs covered by Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334).

TABLE II

<u>AGENCY</u>	<u>PROGRAM NAME</u>	<u>CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER</u>
ACTION	Service Learning Programs: National Center for Service Learning (NCSL); Young Volunteers in Action (YVA).	72.005
	State Office of Voluntary Citizen Participation (S/OVCP).	72.001
DEPARTMENT OF AGRICULTURE FARMERS HOME ADMINISTRATION	Watershed Loans and Advances	10.419
	Technical and Supervisory Assistance Grants	10.431
FOOD SAFETY AND INSPECTION SERVICE	Cooperative Meat and Poultry Inspection Program (wholesale meat, poultry and Talmadge- Aiken)	10.475
FOOD AND NUTRITION SERVICE	Food Processing	10.550
	Food Distribution Program on Indian Reservations	10.550
	State Administrative Expenses for Child Nutrition	10.560
	State Administrative Matching Grants for Food Stamp Program	10.561
FOREST SERVICE	National Forest Systems Land Management Practices which Involve Direct Development Activities	-----
RURAL ELECTRIFICATION ADMINISTRATION	Rural Electrification Loans and	10.850

REA	Loan Guarantees to Governmental Entities	
	Rural Telephone Loans and Loan Guarantees to Governmental Entities	10.851
DEPARTMENT OF THE ARMY	Aquatic Plant Control	12.100
	Planning Assistance to States	12.110
	Floodplain Management Services Program	12.104
DEPARTMENT OF COMMERCE	Anadromous and Great Lake Fisheries Conservation (except for research projects involving nongovernmental entities)	11.405
	Sea Grant Support (state and local government applicants)	11.417
	Intergovernmental Climate Program	11.428
DEPARTMENT OF EDUCATION	Title IV of the Civil Rights Act	84.004
	Handicapped Early Childhood Assistance	84.024
	Handicapped Innovative Programs--Deaf Blind-Centers	84.025
	Handicapped Media Services and Captioned Films	84.026
	Handicapped Regional Resource Centers	84.028
	Handicapped Teacher Recruitment and Information	84.030
	Interlibrary Cooperation	84.035
	Vocational Education--State Advisory Councils	84.053

EDUCATION	Indian Education-- Entitlement Grants to Local Educational Agencies and Tribal Schools	84.060
	Regional Education Programs for Deaf and Other Handicapped persons	84.078
	Women's Education Equity	84.083
	Strengthening Research Library Resources	84.091
	Bilingual Vocational Instructor Training	84.099
	Bilingual Vocational Instructional Materials, Methods, and Techniques	84.100
	College Housing Loans	84.142
	Federal Real Property Assistance Program	84.145
	The following programs authorized by Subchapter D of Chapter 2 of the Education Consolidation and Improvement Act	84.151
	National Diffusion Network Program, Law Related Education Program, Inexpensive Book Distribution Program, Arts in Education Program, Alcohol and Drug Abuse Program	84.073
DEPARTMENT OF ENERGY	Electric and Hybrid Vehicle Loan Guarantees	81.060
DEPARTMENT OF HEALTH AND HUMAN SERVICES	Immunization	13.268
	Surplus Property Utilization	13.676
	Black Lung Clinics	13.965
	Venereal Disease Research, Demonstration and Public Information and Education Grants	13.978

HHS	Eye Research-Construction	13.985
	Cooperative Agreements for State-Based Diabetes Control Programs	13.988
DEPARTMENT OF INTERIOR	Andromous Fish Conservation 16 U.S.C. 757a-757g	15.600
	Fish Restoration-- 16 U.S.C. 777-777k	15.605
	Wildlife Restoration-- 16 U.S.C. 669-699i	15.611
	Marine Mammal Grants-- 16 U.S.C. 1361 et seq.	15.613
	Fish and Wildlife Conservation Act 16 U.S.C. 2901 et seq.	
DEPARTMENT OF JUSTICE	U.S. Marshals Service-- Cooperative Agreement Program	none
	Bureau of Justice Statistics-- Criminal Justice Statistics Development Grants	16.550
	National Institute of Corrections-- Technical Assistance Grants, except contracts to individuals for specialized assistance	16.603
DEPARTMENT OF TRANSPORTATION		
FHWA	Highway Beautification (Control of Junkyards and Outdoor Advertising).	20.214
UMTA	Section 10 Managerial Training Grants	20.503
	Section 11 University Research and Training Grants	-----
USCG	Boating Safety Program	20.001
	Cooperative Marine Sciences Program	20.002

TRANSPORTATION	State Boating Safety Financial Assistance Program	-----
FEDERAL EMERGENCY MANAGEMENT AGENCY	Shelter Surveys	83.509
	State Radiological Defense Officers	83.511
	Radiological Systems Maintenance	83.508
	Emergency Management Training	83.403
	Acquisition of flood damaged structures under sec. 1362 of the National Flood Insurance Act of 1968 as amended. 42 U.S.C. 4103	83.502
GENERAL SERVICES ADMINISTRATION		
Records Management	41 CFR 105-65.203 State Records Program Organization	
NATIONAL ENDOWMENT FOR THE ARTS		
Promotion of the Arts	Artists-In-Education	-----
	Test Program of Support for Local Arts Agencies	-----
NATIONAL SCIENCE FOUNDATION		
	Materials Development for Precollege Science and Mathematics	-----
	Honors Workshops for Precollege Teachers of Science and Mathematics	-----

TABLE III

<u>AGENCY</u>	<u>PROGRAM NAME</u>	<u>CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER</u>
AERONAUTICS COMMISSION	Airport Construction	none
COMMISSION ON ALCOHOLISM	ADM block grant; State funds for community-based services	none
COMMISSION ON THE ARTS	Financial Assistance	none
DEPARTMENT OF HIGHWAYS & PUBLIC TRANSPORTATION	Highway Construction, Research & Planning	20.205
	Highway Beautification	20.214
	Urban Mass Transportation Capital Improvement	20.500
	Urban Mass Transportation Capital & Operating Assistance Formula Grants	20.507
	Urban Mass Transportation Technical Studies Grants	20.505
	Mass Transit Account Formula Distribution	-----
	Public Transportation for Nonurbanized Areas	-----
	Section 9 Block Grant Program	-----
EDUCATION AGENCY	Statewide Program for Visually Handicapped	none

TEA	Regional Day Schools for the Deaf	none
	Educational Television	none
	Gifted and Talented	none
	School Bus Safety Education	none
	Industrial Start-up Training	none
	Apprenticeship Training	none
	Texas Assessment of Basic Skills	none
	School Community Guidance Centers	none
REHABILITATION COMMISSION	Rehabilitation Services - Basic Support	84.126
	Client Assistance Projects	84.128f
	Migratory Worker Vocational Rehabilitation Service Projects	84.128g
	Centers for Independent Living	84.132
	Developmental Disabilities -- Basic Support & Advocacy Grants	13.630
	Developmental Disabilities -- Special Projects	13.631
STATE COMMISSION FOR THE BLIND	Vocational Rehabilitation Services	84.126
TEXAS ECONOMIC DEVELOPMENT COMMISSION	Minority Business Development	11.800
	International Trade Outreach Program (INTOP)	11.303
TEXAS PARKS & WILDLIFE	Hunter Education Shooting Range Program	none
	Land and Water Conservation Fund Program	15.916

TEXAS PARKS AND WILDLIFE	Texas Local Parks, Recreation & Open Space Fund Program	none
	Urban Parks and Recreation Recovery Program (UPARR)	15.919
TEXAS STATE LIBRARY	Public Library Construction	84.154
	Library Systems Act	none
	Public Library Service	84.034
	Interlibrary Cooperation	84.035
ALL STATE AGENCIES:	All direct State development that meets TRACS threshold criteria and is not specifically excluded by law from review.	

TABLE IV

<u>AGENCY</u>	<u>PROGRAM NAME</u>	<u>CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER</u>
DEPARTMENT OF HEALTH	Rape Prevention and Crisis Service	none
	Home Health Services	none
	Health Incentive (314d)	none
	Health Education/Risk Reduction	none
	Maternal and Child Health Services	none
	Early Childhood Intervention	none
	Fluoridation Program	none
HISTORICAL COMMISSION	Museum Grants	none
HISTORICAL COMMISSION	Historic Preservation Grant-in-Aid	15.904
	Texas Historic Preservation Grants	none
MENTAL HEALTH AND MENTAL RETARDATION	Mental Health portion of ADM Block	13.992
	State Grants-in-Aid	none
	Demonstration project for persons who are autistic	none
TEXAS PARKS AND WILDLIFE DEPARTMENT	State Boat Ramp Program	none
	State Beach Cleaning Program	none
TEXAS DEPARTMENT OF WATER RESOURCES	Texas Research and Flood Control Planning Program	none

(g) For federal programs and activities not selected for coverage under TRACS, the relevant federal agency will, under federal rules, notify the State of Texas, regional review agencies, and local governments of proposed federal actions affecting them. The notice will provide an opportunity for review and comment within a time period similar to that provided for selected programs.

(h) Any additions to or deletions from the list of covered federal and state programs will be made in consultation with local and state officials through publication in the *Texas Register* and by other appropriate means.

§5.196. State Plan Simplification, Substitution, or Consolidation.

(a) Executive Order 12372 allows states, subject to federal approval, to simplify federally required plans, substitute state plans for federally required plans, or consolidate plans.

(b) All state agencies are strongly encouraged to review their plans to identify opportunities to use internal or other state required planning and budget documents in lieu of federally mandated documents; to simplify plans; or to consolidate plans dealing with similar programs or clients.

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 September 30, 1983.

TRD-837767 Larry J. Craddock
Assistant General Counsel
Office of the Governor

Proposed date of adoption.
December 1, 1983

For further information, please call (512) 475-3901.

Review Procedures

1 TAC §§5.231-5.236

The new rules are proposed under Texas Civil Statutes, Articles 4413(32a) and 1011m. Under Article 4413(32a), the governor, as chief planning officer, is empowered to provide for the review of state plans and applications for federal grant or loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state or federal assistance to submit their applications for review to the appropriate regional planning commission (regional council of governments) and directs the governor to issue guidelines for carrying out such reviews.

In addition, Executive Order (E.O.) 12372, as amended, cites the Demonstration Cities and Metropolitan Development Act of 1966, §204 (42 United States Code §3334), and the Intergovernmental Cooperation Act of 1968, §401(a) (42 United States Code §4231(a)). Section 204 requires that applications for federal assistance in planning or constructing a wide range of public facilities be submitted for

review to areawide review agencies in metropolitan areas. Section 401(a) directs the President to prescribe regulations governing formulation, evaluation, and the review of federal programs having a significant impact on area and community development and requires that all national, regional, state, and local viewpoints be considered in planning or carrying out federal programs or projects or federally-assisted activities. Review of projects with potentially adverse impacts on the environment are authorized by the National Environmental Policy Act of 1969, §102(2)(C) (42 United States Code, §4332(2)(C)).

§5.231. Review Procedures.

(a) All reviews shall be conducted in conformity with these rules and any other review guidelines and policies issued by the state Single Point of Contact.

(b) The regional review agency (RRA) must ensure, to the greatest degree practicable, that all jurisdictions which a proposal accepted for review could reasonably be expected to significantly affect are notified and given an adequate opportunity to review it and make comments on it.

(c) Regional review comments and recommendations must be formally adopted by the regional review agency's governing body to constitute an official TRACS review.

§5.232. Review of Projects with Mandated Public Participation. Applicants with projects, plans, or programs that are legislatively or otherwise required to incorporate public participation prior to funding or implementation will coordinate those activities with the review process at the earliest practicable point. Review agencies and governmental applicants are strongly encouraged to conduct reviews and public participation activities in parallel to minimize unnecessary delays, without diminishing elected officials' opportunities to comment on proposals affecting their jurisdictions.

§5.233. Notification of Intent.

(a) An applicant under a covered federal or state program should, at least 60 days prior to the final submission of an application to the federal or state agency from which assistance is sought, submit to the appropriate review agency one copy of a notification of intent.

(1) Notifications of intent should be sent to the regional review agency having jurisdiction over the state planning region affected by the proposed project or program. Regional review agency addresses and the counties included in each region are contained in §5.217(a)(2) of this title (relating to Applicant Responsibilities).

(2) State agencies, federal agencies proposing direct development, or applicants with proposals affecting an interstate metropolitan area, the whole state, or more than one state planning region should submit one copy of their notification of intent to the State Single Point of Contact, Governor's Office, P.O. Box 13561, Austin, Texas 78711.

(3) Notifications of intent for state plans covered by the Texas Review and Comment System must be submitted to the state Single Point of Contact 75 days prior to submittal to the federal funding agency.

(b) Notification of intent content.

(1) The notification of intent for local applicants consists of completing Section I of the Standard Form 424 (SF424). Copies of this form can be obtained from the federal agency to which application is being made.

(2) If the federal or state funding agency does not require a SF424, the applicant should complete Part I of a TRACS cover sheet and submit it to the appropriate review agency as the notification of intent. Copies of this form and detailed instructions are available from the State Single Point of Contact, Governor's Office, P.O. Box 13561, Austin, Texas 78711, or the regional review agencies (see §5.217(a)(2) of this title (relating to Applicant Responsibilities)).

(3) For state agency applicants, the notification of intent will consist of completing Section I of the Standard Form 424 and Budget and Planning Office (BPO) Form 1172. Copies of these forms may be obtained from the State Single Point of Contact in the Governor's Office, P.O. Box 13561, Austin, Texas 78711.

(4) Federal agency notification of intent for direct development activities will be provided in the manner and format prescribed by federal law or regulation.

(c) Review agency action based upon notification of intent. Upon receipt of the notification of intent, the state Single Point of Contact or the appropriate regional review agency will notify the applicant in writing that:

(1) the review agency will not review the application; or

(2) the review agency will review the application and requests a specified number of copies of the full application for review purposes.

(3) If an application is covered solely by House Bill 1172, 64th Legislature, the applicant will be notified only if the state Single Point of Contact wishes to review the application. These applications will only be reviewed if, in the judgment of the state Single Point of Contact, they are of statewide impact and could be strengthened through the comments of reviewing agencies. Grant applications of a technical or specialized nature and others that do not appear to have a significant potential for improvement through the review process will normally not be reviewed.

(4) Irrespective of whether the application is selected for review, the review agency will assign a state application identifier number (SAI) to the application for tracking and reporting purposes.

§5.234. Determining Eligibility for Review. Prior to accepting an application for review, the review agency shall determine whether:

(1) the program under which assistance is sought or direct development is proposed is required by the TRACS rules or other law to be reviewed;

(2) the application contains sufficient detail to allow for review, including information on the scope, geographic, environmental, and programmatic impacts, and applicant eligibility to apply;

(3) the proposal is of statewide or regional significance, including:

(A) whether it is likely to significantly affect more than the applicant or implementing jurisdiction(s) or, in the case of a nongovernmental applicant, whether it is likely to significantly affect jurisdictions other than

the one in which the project or program is to be developed or operated;

(B) whether the project has a high probability of significant adverse impacts on the environment; and

(C) whether the project type has a high probability of duplicating existing services or facilities or has a demonstrated need for coordination.

(4) Application of threshold criteria

(A) A negative answer to paragraph (1) of this section automatically precludes an application from being reviewed, unless the applicant requests that it be.

(B) A negative answer to paragraph (2) of this section will result in the application being returned to the applicant for additional information, thereby delaying the proposal's review, and consequently, its progress toward approval or funding.

(C) An affirmative answer to any of the questions under paragraph (3) of this section will make the application subject to review.

§5.235. Project Review Criteria.

(a) If one or more of the threshold criteria are met and an application is accepted for review, the following questions will guide the review agency:

(1) Does the project comply or furnish reasonable assurances of compliance with applicable federal, state, and local laws, regulations, and ordinances?

(2) Is the project consistent with state, areawide, and/or local planning or does it contribute toward goals or objectives identified at one or more of these governmental levels?

(3) Does the project address a clearly defined need?

(4) Is the project likely to produce any significant adverse effects on the environment?

(5) Are the project's goals identified specific, measurable, and achievable?

(6) Does the proposal demonstrate a feasible delivery strategy?

(7) Does the project contribute to a balanced delivery of services among political subdivisions covered by the application?

(b) Other review criteria. Regional review agencies may utilize additional review criteria reflective of the unique characteristics and concerns of their regions and of the governments within their regions, provided the criteria are consistent with law, fact, or regulation.

§5.236. Review Schedule

(a) Applications accepted for review must be reviewed within a maximum of 60 days, unless a shorter period is specified by the federal funding agency.

(b) Applicants may consider the review agency to have waived review if no comments are provided by the end of the review period.

(c) Review agencies shall have as a goal the completion of reviews within 45 days, leaving time for resolving any problems or conflicts identified in the review process.

(d) Certain applications, such as noncompetitive continuation grants and those to the U.S. Department of Housing and Urban Development for specified mortgage insurance programs and for Urban Development Action Grants, must be reviewed within 30 days.

(e) The review period shall commence upon receipt of the full application by the review agency. Full applications will include all information contained in the notification of intent, if such was provided, plus all other information required by the funding agency.

(f) Procedures under review waiver. If the state Single Point of Contact or the regional review agency(s) chooses not to review an application, the applicant should:

(1) for applications for federal assistance, complete Part II of the federal Standard Form 424 (SF 424), attach a copy of the review agency's review waiver letter to it, and transmit the SF424 and letter with the application to the funding agency; or

(2) for applications for state assistance, attach the TRACS cover sheet provided by the review agency(s) to the application, along with such other documentation as the review agency may provide, and transmit the application package to the funding agency.

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 September 30, 1983.

TRD-837769 Larry J. Craddock
Assistant General Counsel
Office of the Governor

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December 1, 1983

For further information, please call (512) 475-3901.

Accommodation of Review Comments

1 TAC §§5.251-5.253

The new rules are proposed under Texas Civil Statutes, Article 4413(32a) and 1011m. Under Article 4413(32a), the governor, as chief planning officer, is empowered to provide for the review of state plans and applications for federal grant or loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state or federal assistance to submit their applications for review to the appropriate regional planning commission (regional council of governments) and directs the governor to issue guidelines for carrying out such reviews.

In addition, E.O. 12372, as amended, cites the Demonstration Cities and Metropolitan Development Act of 1966, §204 (42 United States Code §3334), and the Intergovernmental Cooperation Act of 1968, §401(a) (42 United States Code §4231(a)). Section 204 requires that applications for federal assistance in planning or constructing a wide range of public facilities be submitted for review to areawide review agencies in metropolitan areas. Section 401(a) directs the President to prescribe regulations governing formulation, evaluation, and the review of federal programs having a significant impact on area and community development and requires that all national,

regional, state, and local viewpoints be considered in planning or carrying out federal programs or projects or federally-assisted activities. Review of projects with potentially adverse impacts on the environment are authorized by the National Environmental Policy Act of 1969, §102(2)(C) (42 United States Code §4332(2)(C)).

§5.251. *Federal Accommodation of Review Comments.*

(a) At the direction of the governor, by written request from the administrative head of an affected state agency that can demonstrate a probable adverse impact on programs under the agency's jurisdiction, or at the written request of the governing body of a regional review agency, the state Single Point of Contact shall, in writing, inform the federal agency proposing direct federal development or from which financial assistance is requested that the State of Texas or its political subdivisions have serious objections with regard to the proposal for which funding is sought. This determination can be made irrespective of whether the program or activity was selected for coverage under the Texas Review and Comment System (TRACS). Objections must be based on law, fact, or regulation and may address any aspect of a project or proposal, including environmental concerns, that makes it unacceptable to the government(s) in the project area. Recommendations or objections can represent a consensus of all commenting parties or may reflect a particular view with dissenting opinions. The letter shall specify the title of the project, the applicant's name, the purposes of the grant proposal or direct development, the state application identifier number, and the specific objections to the proposal, with proposed remedies, if applicable. Views which differ from the state or regional recommendation must be included in the letter.

(b) The federal funding agency, as required by law, will respond in writing to the state's accommodation request, concurring with the state's position, stating why it intends to fund the proposal over the objections, or reaching a mutually agreeable solution. As soon as possible, but no later than two working days following receipt of the federal response, the state Single Point of Contact (SPOC) shall transmit the federal response to the originating agency or political subdivision. Within the 10 days from receipt provided by federal rules, during which the federal agency will not fund the proposal in controversy, the SPOC will, at the request of the originating state or substate entity, transmit the originator's written rebuttal to the federal agency in cases in which the federal agency has refused to accommodate.

§5.252. *State Accommodation of Local Review Comments.*

(a) At the written request of the governing body of a regional review agency (RRA), the state Single Point of Contact shall, in writing, inform the state agency from which financial assistance is requested that the RRA has serious objections to the proposal for which funds are sought or, in the case of direct state development, with regard to a project or program the state proposes to construct or operate. Objections must be based on law, fact, or regulation and may address any aspect of a project or proposal, including environmental concerns, that makes it unacceptable to the government(s) in the proj-

ect area. Recommendations or objections can represent a consensus of all commenting parties, or may reflect a particular view with dissenting opinions. The request from the RRA shall specify the title of the project, the applicant's name, the purposes of the grant proposal or the direct development, the state application identifier number, and the specific objections to the proposal, with proposed remedies, if applicable. Views which differ from the regional recommendation must be included in the letter.

(b) The state funding agency will respond in writing within 15 days to the regional accommodation request, concurring with the regional position, stating why it intends to fund the proposal over the objections, or reaching a mutually agreeable solution. As soon as possible, but no later than two working days following receipt of the state agency response, the state Single Point of Contact shall transmit the agency's response to the originating regional review agency. Within 10 days from receipt by the regional review agency, during which the agency will not fund the proposal in controversy, the SPOC will, at the request of the originating substate entity, transmit the originator's written rebuttal to the state agency in cases in which the state agency has refused to accommodate.

§5.253. Right of a Dissenting Political Subdivision to Request Accommodation Any political subdivision of the state which can demonstrate a probable adverse impact on its jurisdiction from a proposed project may, when the regional review agency gives the project a favorable review, request that the review, with dissents, be transmitted to the funding agency by the state Single Point of Contact, thereby initiating the federal or state accommodation process as described in §5.251 of this title (relating to Federal Accommodation of Review Comments) and §5.252 of this title (relating to State Accommodation of Local Review Comments).

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 September 30, 1983

TRD-837770 Larry J Craddock
Assistant General Counsel
Office of the Governor

Proposed date of adoption
December 1, 1983

For further information, please call (512) 475-3901.

or federal assistance to submit their applications for review to the appropriate regional planning commission (regional council of governments) and directs the governor to issue guidelines for carrying out such reviews.

In addition, E.O. 12372, as amended, cites the Demonstration Cities and Metropolitan Development Act of 1966, §204, (42 United States Code §3334) and the Intergovernmental Cooperation Act of 1968, §401(a), (42 United States Code §4231(a)). Section 204 requires that applications for federal assistance in planning or constructing a wide range of public facilities be submitted for review to areawide review agencies in metropolitan areas. Section 401(a) directs the President to prescribe regulations governing formulation, evaluation, and the review of federal programs having a significant impact on area and community development and requires that all national, regional, state, and local viewpoints be considered in planning or carrying out federal programs or projects or federally-assisted activities. Review of projects with potentially adverse impacts on the environment are authorized by the National Environmental Policy Act of 1969; §102(2)(C) (42 United States Code §4332(2)(C))

§5.271. Transition From OMB Circular A-95 to TRACS.

(a) Review procedures required by OMB Circular A-95 shall continue in full force and effect through November 30, 1983, or until the official adoption of these rules, whichever is later.

(b) Applications in the process of being reviewed under A-95 procedures as of December 1, 1983, shall continue to follow those procedures through the completion of the review

(c) All applications submitted for review on or after December 1, 1983, or after the official adoption of these rules, whichever is later, shall be subject to the Texas Review and Comment System rules and procedures.

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 September 30, 1983.

TRD 837771 Larry J Craddock
Assistant General Counsel
Office of the Governor

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December 1, 1983

For further information, please call (512) 475-3901.

Transition Schedule

1 TAC §5.271

The new rule is proposed under Texas Civil Statutes, Articles 4413(32a) and 1011m. Under Article 4413 (32a), the governor, as chief planning officer, is empowered to provide for the review of state plans and applications for federal grant or loan assistance and to establish policies and guidelines for review and comment. Article 1011m requires applicants for state



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

The Texas Department of Health proposes amendments to §§325.4, 325.5, 325.42, 325.51, 325.52, 325.56, 325.74, 325.93, 325.124, 325.133, 325.136, 325.137, 325.150, 325.173, and 325.181, concerning guidelines, types of facilities, general permit information, permit exemptions, revocation or amendment of a permit, monitor well analysis, public hearings, access to sites, disposal of special waste, disposal of Class I waste, final slopes of completed fills, and operational standards for solid waste processing and experimental sites.

Proposed amendments to rules within Subchapters F and G are to bring about consistency within the rules and with the Texas Department of Water Resources' regulations. Clarification of the term "vacuum truck" was deemed necessary as was clarification of the rules concerning revocations of authorizations to accept special waste or Class I industrial waste. The other proposed amendments include the creation of a Type IX municipal solid waste site with permitting requirements designated for sites used for extracting materials for energy and material recovery or for gas recovery to implement the authority provided by Senate Bill 317, 68th Legislature, 1983, the exemption from permit or registration requirements for composting of leaves, grass clippings, or wood chips, the establishment of a requirement that the rules in effect at the time a public hearing notice is given shall be the rules to be followed in hearing and final decision procedures, and addition of requirements for site operators receiving special or Class I wastes to maintain records and submit monthly reports.

Amendments which deal with section numbers and the title of Subchapter G are dependent upon the adoption of new rules for the management of sludge and similar waste which are being proposed concurrently.

Hector H. Mendieta, P.E., Permits Division director, and L. B. Griffith, Jr., P.E., Surveillance and Enforcement Division director, have 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. Mendieta and Mr. Griffith also have 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 an overall improvement in the effectiveness of the department's permitting and surveillance/enforcement activities, especially regarding the disposal of special and industrial wastes. In addition, additional record keeping and reporting requirements for special and Class I wastes will aid the department in uncovering illegal or improper disposal activities.

The anticipated economic cost to individuals who are required to comply with the rules as proposed will be an average of \$2,000 per Type IX permit applicant and \$1,200 per facility receiving special/Class I waste each year from 1984-1988. The \$1,200 estimate is based on the assumption that a facility actually receives special or Class I waste every month and spends \$100 preparing the required monthly reports and records.

Comments on the proposal may be submitted to Jack C. Carmichael, P.E., Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7271. Comments will be received until 5 p.m., November 22, 1983.

In addition, nine public hearings have been scheduled around the state to offer the public an opportunity to submit oral comments. These will be held as follows:

(1) November 10, 1983, at 9 a.m. in the meeting room, Harlingen Chamber of Commerce, 311 East Tyler Avenue, Harlingen.

(2) November 10, 1983, at 9 a.m. in the auditorium, Corpus Christi/Nueces County Health Department, 1702 Horne Road, Corpus Christi.

(3) November 10, 1983, at 9 a.m. in the auditorium, Institute of Texan Cultures, 801 South Bowie, San Antonio.

(4) November 14, 1983, at 9 a.m. in the Mahon Community Room, Lubbock City Library, 1306 Ninth Street, Lubbock.

(5) November 15, 1983, at 9 a.m. in the conference room, second floor, Trinity River Authority, Central Wastewater Treatment Plant, 6500 West Singleton Boulevard (at Loop 12), Dallas.

(6) November 16, 1983, at 9 a.m. in the city council chambers, City Hall, 212 North Bonner, Tyler.

(7) November 17, 1983, at 10 a.m. in the auditorium, City of Houston Health Department, Pollution Control Division, 7411 Park Place Boulevard, Houston.

(8) November 18, 1983, at 9 a.m. in the auditorium, City of Houston Health Department, at the previously stated address. This is a separate public hearing and not a continuation of the hearing held on November 17.

(9) November 22, 1983, at 9 a.m. at the Texas Department of Health, 1100 West 49th Street, Austin.

Copies of the proposed rules are available for review at department regional offices in Canyon, Lubbock, El Paso, Abilene, Arlington, Temple, Tyler, Corpus Christi, Harlingen, Uvalde, San Antonio, and Rosenberg. Written comments submitted at these locations will be transmitted to the department's central offices in Austin.

**Subchapter A. General Information
25 TAC §§325.4, §325.5**

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

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

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

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

Stabilized sludges -- Those sludges processed to significantly reduce pathogens as specified in federal regulations under 40 Code of Federal Regulations Part 257, Appendix II [§325.205 of this title (relating to Processes to Significantly Reduce Pathogens)]

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 October 4, 1983

TRD 837868 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
December 10, 1983

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

Subchapter D. Classification of Municipal Solid Waste Sites

25 TAC §325.42

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

§325.42. Types of Municipal Solid Waste Sites. The department has classified all solid waste sites and facilities according to function and/or population equivalency served, subject to the limitations in §325.135 of this title (relating to Industrial Wastes) and §325.136 of this title

(relating to Disposal of Special Wastes). A municipal solid waste landfill site may also receive mixed wastes, and with the written approval of the department may also receive special wastes, including Class I nonhazardous solid waste and hazardous waste from small quantity generators, if properly handled and safeguarded in the landfill site.

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

(5) Municipal solid waste site—Type V. Separate solid waste processing sites are classified as Type V. These sites shall encompass processing plants that transfer, incinerate, shred, grind, bale, compost, salvage, separate, dewater, reclaim, and/or provide other processing of solid waste. Operational standards are prescribed in §§325.181-325.190 of this title (relating to Operational Standards for Type V and VI Sites).

(6) (No change.)

(7) Municipal solid waste site—Type VII. A Type VII site or operation may be authorized by the department for the land treatment [application] of sludge. The operational standards for Type VII sites are prescribed in §325.484 [§§325.201-325.207] of this title (relating to Operational Requirements) (relating to Operational Standards for Type VII Sites).

(8) (No change.)

(9) Municipal solid waste site—Type IX. A closed disposal site or an inactive portion of a disposal site used for extracting materials for energy and material recovery or for gas recovery is classified as Type IX. See §325.51 of this title (relating to General) for permit and/or registration requirements.

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

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

Subchapter E. Permit Procedures and Design Criteria

25 TAC §§325.51, 325.52, 325.56

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

§325.51. General. No municipal solid waste site shall be operated without a permit from the department or a license from a county exercising licensing authority, except as authorized herein and in §325.52 this title (relating to Permit Exemptions). A separate permit or license shall

be required for each site or facility, and the department, at its discretion, may include one or more different types of facilities in a single permit if the facilities are collocated on the same site. A permit or license may be issued by the department or a county, respectively, only after an opportunity for a hearing has been provided to the applicant and persons affected. See §§325.71-325.75 of this title (relating to Application and Data Requirements) and §§325.91-325.95 of this title (relating to Application Review Process) for departmental procedures and §§325.241-325.243 of this title (relating to County Governments with Licensing Authority) for minimum requirements for a county licensing program. The permitting of low-level radioactive waste processing, storage, and disposal facilities is not covered by these regulations. The chief, Bureau of Radiation Control, Texas Department of Health, should be contacted for permit requirements and operational standards for these types of facilities. **Materials extraction or gas recovery operations shall not be conducted unless a permit for such purpose has been obtained from the department. However, exploratory and test operations for feasibility purposes may be conducted if a registration is obtained from the department. Inasmuch as design and operational requirements for these type of operations may be site-specific and may involve proprietary design and process data, registration, application and operational requirements shall be determined through consultation with the department.**

§325.52 *Permit Exemptions*

(a) A permit is not required for a site where the only operation is the beneficial use of a municipal wastewater treatment plant sludge by applying it to the land as provided for in §§325.461-325.465 [§§325.201-325.207] of this title (relating to Land Application for Beneficial Use) [(relating to Operational Standards for Type VII Sites)]. Sites exempted from a permit under this subsection shall be registered with the department and registration acknowledged by letter prior to operation.

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

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

§325.56 *Revocation or Amendment of a Permit.*

(a) (No change.)

(b) If, during the life of a permit, conditions change that would mandate a stricter or less strict type of operation (e.g., a change in population served), the permittee shall file a request for amendment within three months of the changed conditions. Requests for amendments involving changes such as increase in site acreage, an addition of an area fill above natural ground (aerial fill), or the addition of other on-site processing or disposal facilities, should normally be submitted in the same manner

and similar detail as for an initial application, including an updated site development plan. In all cases, however, consultation with the department is recommended to determine specific data requirements for the proposed amendment. Modifications to the original site development plan, except as listed in paragraphs (1)-(7) of this subsection, may be approved by the department without a permit amendment in accordance with §325.111 of this title (relating to General Requirements) for land disposal sites or §325.171 of this title (relating to General Requirements) for processing sites. However, the following types of modifications shall require a permit amendment:

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

(6) The addition of other on-site processing or disposal facilities, excluding air-curtain destructors, **which if sited independently would require a permit;**

(7) (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.

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Application and Data Requirements

25 TAC §325.74

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

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

(a) (No change.)

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

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

(5) Design data will be reflected to the maximum extent possible on the set of attachments described in paragraph (6) of this subsection. Applicants will consider criteria that in the selection of a site and design of a facility will provide for the safeguarding of the health, welfare, and physical property of the people and the environment through consideration of geology, soil conditions, drainage, land use, zoning, adequacy of access roads and high-ways, and other considerations as the specific site dictates. Applicants shall include in the support data for their

permit applications information as specified in the design criteria indicated in this paragraph. It is recommended that the applicant review the operational standards for the specific type of site before completing the application. Additional information may be required of the applicant when deemed necessary by the department.

- (A)-(C) (No change.)
- (D) Groundwater protection.
 - (i)-(vi) (No change.)
 - (vii) Except as may be authorized by

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

- (I)-(III) (No change.)
- (IV) Except as provided for in subclause (VIII) of this clause, a groundwater sampling program shall provide for obtaining four background groundwater samples of all monitor wells within 24 months from the date of the issuance of the permit. The background levels shall be established from samples collected from each well at least once during each of the four calendar quarters: January-March; April-June; July-September; and October-December. Samples from any monitor well shall not be collected for at least 45 days following collection of a previous sample, unless a replacement sample is necessary. At least one sample per well must be collected and submitted to a laboratory for analysis [analyzed] prior to the deposition of any solid waste on site. In addition to the two groups of parameters listed in items (-a-) and (-b-) of this subclause, each well sample analysis shall include four replicate determinations for total organic carbon (TOC) content and the groundwater elevation (MSL) at the time the sample was collected.
 - (-a-)-(-b-) (No change.)
 - (V)-(VIII) (No change.)
 - (E)-(J) (No change.)
 - (6) (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.

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Application Review Process

25 TAC §325.93

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

§325.93. Scheduling and Preparation for a Public Hearing.

- (a)-(b) (No change.)
- (c) The municipal solid waste management rules in effect at the time notice is given under subsections (a) or (b) of this section shall be the rules under which hearing procedures are conducted, including the final decision regarding the application. The hearing notice shall include a statement that identifies the set of rules under which the hearing will be conducted and the final decision rendered.

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

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Subchapter F. Operational Standards for Solid Waste Land Disposal Sites Standards for Protection of Ground and Surface Waters

25 TAC §325.124

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

§325.124. *Groundwater Protection Systems.*

(a) Facilities required to have groundwater monitoring programs and initiating operation on or after the effective date of these regulations, shall provide for obtaining and analyzing four background groundwater samples from all monitor wells. [The first sample shall be taken prior to the disposal of solid waste at the site.] Background values shall be established from samples collected at least once during each of the four calendar quarters of a two-year period [over the first two years of operation]. **For sites permitted after the effective date of these rules, the two-year period shall start as of the date of permit issuance; while for sites permitted prior to the effective date of these rules, the two-year period shall start as of the effective date of these rules.** Samples from any monitor well shall not be collected for at least 45 days following collection of a previous sample, unless a replacement sample is necessary. At least one sample per well must be collected and **submitted to a laboratory for analysis** [analyzed] prior to the deposition of any solid waste on-site. In addition to the two groups of parameters listed in paragraphs (1) and (2) of this subsection, each well sample analysis shall include four replicate determinations for total organic carbon (TOC) content and the groundwater elevation (MSI) at the time the sample was collected.

(1)-(?) (No change.)

(b)-(g) (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.

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

25 TAC §§325.133, 325.136, 325.137, 325.150

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

§325.133. *Access Control.* Uncontrolled access and dumping of unauthorized materials shall be prevented. For Type IV sites, waste unloading shall be closely monitored to assure that only allowable wastes are ac-

cepted. See §325.42 of this title (relating to Types of Municipal Solid Waste Sites) for information concerning allowable wastes. Any unauthorized wastes shall be removed from the site and taken to an approved disposal facility. **For Type I, II, or III sites, only brush and/or construction-demolition wastes free from other solid wastes shall be deposited in areas designated to receive brush and/or construction-demolition wastes.**

§325.136. *Disposal of Special Wastes.*

(a) Disposal of special wastes not specifically provided for under subsection (b) of this section, requires prior written approval from the bureau.

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

(3) Prior to allowing vacuum trucks to discharge wastes at a municipal solid waste disposal site, the site operator shall have a bureau-approved written quality control plan, which assures that there is no reasonable probability that the receipt of vacuum truck wastes would cause an adverse effect on the public health or the environment.

(A) Vacuum trucks, as used in this section, refers to any vehicles which transport liquid wastes to a solid waste disposal facility.

(B)(A) The quality control plan shall assure adequate control over the waste stream to minimize the possibility of accepting unauthorized wastes by providing for:

(i)-(iii) (No change.)

(C)(B) The quality control plan shall provide for:

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

(D)(C) The quality control plan shall indicate the anticipated frequency of accepting vacuum trucks, the volume of waste necessary to absorb the vacuum truck waste when received, and a method to assure that the volume of waste will be adequate at the time the vacuum truck arrives.

(E)(D) The quality control plan shall provide for procedures to be followed in the event a vacuum truck is turned away from the site as a result of inaccurate or falsified information. The incident must be reported to the appropriate local agency or entity for enforcement action.

(F)(E) [The bureau recommends the use of] A trip ticket [for haulers], an example of which is shown in §325.906 of this title (relating to Appendix F—Form for Vacuum Truck Trip Ticket), **should be used by all haulers to document the type and quantity of waste being delivered.** Such trip tickets should be made out in triplicate in order that the hauler and the local governing agency or entity may have copies, while the site operator retains the original for at least one year from the date of receipt. If such a trip ticket is used, the retention of a copy of the trip ticket from a hauler who is turned away from the site should be a part of the plan.

(4) (No change.)

(5) **The bureau may revoke authorization to accept a special waste if site operation does not maintain general compliance with these rules or conditions imposed in the authorization to accept a special waste.**

(6) **If required by the bureau, a site accepting special wastes shall submit to the bureau a monthly sum-**

mary of special wastes received. This report shall be submitted by the tenth day of the month following the month the waste was received. Reports shall be submitted on forms provided by the bureau. Failure to file required reports in a timely manner shall be a violation of these rules.

(b) (No change.)

§325.137. Disposal of Class I Wastes.

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

(e) Any approval to accept a Class I waste is subject to the site operating in general compliance with these rules and any specific conditions required under the letter(s) of authorization. Failure to operate the site in compliance with these rules or any special conditions imposed by the department shall be justifiable grounds for the department to revoke its authorization to accept a Class I waste.

(f) Any shipment of a Class I waste shall be accompanied by a manifest (waste shipping-control ticket) as required by the TDWR. The site operator or his designated representative shall sign the manifest for any authorized shipments of Class I waste. The site operator shall not accept or sign for shipments of Class I waste for which authorization to accept has not been granted by the department. The site operator shall retain the disposal site copy of the manifest for a period of three years. This time period is automatically extended if an enforcement action is pending by the department.

(g) A site which accepts any Class I waste shall submit to the bureau a written report of Class I waste received. This report shall be submitted by the 10th day of the month following the month the waste was received. Reports shall be submitted on forms provided by the bureau and shall include all information required by the bureau. Failure to file such reports in a timely manner shall constitute a violation of these rules.

§325.150. Compaction, Intermediate Cover, and Final Cover.

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

(c) The entire surface of each completed portion of the fill shall be provided with final cover within 30 days unless inclement weather would prevent the application of any cover material.

(1) (No change.)

(2) Side slopes of all aboveground disposal areas (aerial fills) shall not exceed a 25% grade (four feet horizontal to one foot vertical). The final cover for the top portion of a landfill shall have a minimum gradient of 2.0% and shall not exceed 6.0%, but shall possess a sufficient minimum grade to preclude ponding of surface water when total fill height and expected subsidence are taken into consideration. Side slopes in excess of 25% will not be authorized without controlled drainage such as flumes, diversion terraces, spillways, or other acceptable methods. [Final cover grades shall not exceed 6.0%—six feet vertical (v) to 100 feet horizontal (h)—unless an erosion control plan has been developed by the owner/operator and approved by the department.] Disposal of solid waste above natural ground level is prohibited unless pursuant to an engineering site development plan approved by the department. Requests for changes to previously approved engineering site develop-

ment plans or new engineering site development plans submitted in support of requests for aerial fills will be processed in accordance with §325.111 of this title (relating to General Requirements). Technical guidelines for design of aerial fills are available from the department.

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

(d) (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.

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

General

25 TAC §325.173

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

§325.173. Effect of Updated Regulations on Existing Sites. It is not the department's intent to require implementation of changes to existing facilities which are not technically feasible or practical due to the current status of site development. The permittee shall review §§325.171-325.190 [325.207] of this title (relating to Operational Standards for Solid Waste Processing and [,] Experimental [, and Land Application] Sites) to determine operational changes and submissions required by these updated regulations. Permits issued under past

regulations remain valid for the period of time specified in the permit. Permittees for sites serving a population equivalent of 5,000 persons or more shall submit a report to the bureau prior to January 1, 1984, addressing those changed standards which are technically feasible at the stage of construction and operation of the facility and justification for not incorporating any remaining changes required by these regulations. The report shall include a time schedule for implementing any operational changes not implemented as of January 1, 1984, and for completing any required submissions not already submitted as of January 1, 1984. Possible submissions in addition to a revised site development plan may be required by paragraph (14) of §325.181 of this title (relating to General). The necessity of this possible submission must be addressed in the report referred to previously. When changes to the existing approved site development plan, closure/completion plan, or soil and liner quality control plan are not required and changes to these plans are not contemplated, a short statement to that effect is required by January 1, 1984. Upon approval of submissions required by this section, implementation plans and time schedules shall be implemented by the permittee. The permittee should also review §325.53 of this title (relating to Duration and Limits of Permits), §325.54 of this title (relating to Permits Issued Under Previous Regulations), and §325.55 of this title (relating to Transfer of Permits/Applications, Property Ownership and Name Changes) for other submissions which may be required.

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

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Operational Standards for Type V and Type VI Sites

25 TAC §325.181

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

§325.181. General. Certain practices should be followed to ensure that the health, safety, and aesthetic aspects of a community are not endangered by the location and operation of solid waste processing or experimental sites. The following criteria are intended to minimize

safety hazards, assist in the maintenance of an appearance compatible with other activities in the vicinity of such sites and must be complied with as appropriate to the operation being conducted

(1)-(16) (No change)

(17) §325.140 of this title (relating to Materials Along Route to Site).

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

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Deputy Commissioner
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Texas Department of Health

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The Texas Department of Health proposes the repeal of §§325.201, 325.207 and 325.904. In addition, the department proposes new §§325.411, 325.416, 325.431, 325.432, 325.441, 325.447, 325.461, 325.465, 325.481, 325.484, 325.501, 325.504, 325.511, 325.514, 325.531, 325.534, 325.904, and 325.907, 325.909. The repealed §§325.201, 325.207 concern land application of sludges and would be replaced with the listed new rules on the management of sludges and similar wastes. The existing form for affidavits to the public adopted by §325.904 is being proposed for repeal and a new, updated form is being proposed in its place.

Existing rules define sludges and similar waste as special waste. Their disposal at sanitary landfills is governed under §325.136 of this title (relating to Disposal of Special Waste). Standards for land application of sludges are presently contained in §325.201, 325.207 of this title (relating to Operational Standards for Type VII Sites). Facility registration and permitting requirements are currently included in §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria).

The Texas Sanitation and Health Protection Law, Texas Civil Statutes, Article 4477-1, provides standards for sanitation and health protection measures relating to waste products. According to this law, waste products shall not be stored, deposited, or disposed in any manner that may cause the pollution of surrounding land or the contamination of well water to the extent of endangering the public health. The law also requires that waste be handled in a manner to avoid health nuisances and that, when such nuisances occur, they shall be abated. Current rules and the Sanitation and Health Protection Law provide only limited guidance and standards to managers of sludges and similar wastes for acceptable practices. The proposed new rules provide a broader range of acceptable management practices. The proposed new

rules provide a means for the department to exercise more control over generators and transporters of sludge and similar waste through added notification, registration, record keeping, and reporting requirements. The proposed new rules likewise add a requirement, only implied by existing rules, for wastewater treatment plant operators to provide an analysis of the sludge when destined for land application and land treatment. The proposed new rules will not regulate the on-site management of municipal wastewater treatment plant sludges and industrial solid waste which are under the jurisdiction of the Texas Department of Water Resources.

The repeal and replacement of the form adopted by §325.904 is intended to bring about consistency within the solid waste rules.

Wiley W. Osborne, P.E., Hazardous Waste and Resource Recovery Programs Management Division director, has determined that for the first five year period the rules will be in effect there will be fiscal implications as a result of enforcing or administering the rules. The fiscal implication for state government will be primarily in the form of added cost to enforce and administer the notification, registration, and reporting requirements contained in §§325.432, 325.442, and 325.445 of the proposed new rules. The resources to administer this program will be provided from a reduction of other solid waste management programs. There will be an estimated additional cost to state government of \$15,000 in 1984, \$30,000 in 1985, and \$35,000 each year in 1986-1988. There is no anticipated cost to local government.

Mr. Osborne 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 more acceptable management practices. In particular, additional opportunity is identified for the beneficial use of municipal wastewater treatment plant sludges through land application and marketing and distribution. However, to take advantage of such practices, additional controls in the way of sludge analyses are needed to ensure the protection of the public health. In the past, the department has been unable to adequately enforce its rules banning illegal dumping of grease trap waste, grit trap waste, and septage. The proposed new rules contain requirements for transporters of sludges to register with the department, maintain records, and to report annually on the amount and type of waste handled and where it was disposed, which will give the department a more direct means of identifying those responsible for illegal dumping practices. The registration process also provides the department with a means of communicating with transporters so they can be kept current on acceptable practices. The overall public benefit will be reduced illegal dumping and better management of communities' wastes.

The anticipated economic cost to individuals who are required to comply with the rules as proposed will be \$1,200 each year for 1984-1988 for municipal wastewater treatment plants, \$50 each year for

1984-1988 for other generators, an average of \$500 each year for 1984-1988 for transporters, and an average per site of \$500 each year for 1984-1988 for land application operators. The cost to municipal wastewater treatment plants would be a result of the added requirement for such plants to perform an analysis on their sludges under certain practices. Many plants routinely provide for such analyses already.

Comments on the proposal and fiscal implication may be submitted to Jack C. Carmichael, P.E., Chief, Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756 (512) 458-7271. Comments will be received until 5 p.m. November 27, 1983. In addition, nine public hearings have been scheduled around the state to offer the public an opportunity to submit oral comments. These will be held as follows:

(1) November 10, 1983, at 9 a.m. in the meeting room, Harlingen Chamber of Commerce, 311 East Tyler Avenue, Harlingen.

(2) November 10, 1983, at 9 a.m. in the auditorium, Corpus Christi Nueces County Health Department, 1702 Horne Road, Corpus Christi.

(3) November 10, 1983, at 9 a.m. in the auditorium, Institute of Texan Cultures, 801 South Bowie, San Antonio.

(4) November 14, 1983, at 9 a.m. in the Mahon Community Room, Lubbock City Library, 1306 Ninth Street, Lubbock.

(5) November 15, 1983, at 9 a.m. in the conference room, second floor, Trinity River Authority, Central Wastewater Treatment Plant, 6500 West Singleton Boulevard (at Loop 12), Dallas.

(6) November 16, 1983, at 9 a.m. in the city council chambers, City Hall, 212 North Bonner, Tyler.

(7) November 17, 1983, at 10 a.m. in the auditorium, City of Houston Health Department, Pollution Control Division, 7411 Park Place Boulevard, Houston.

(8) November 18, 1983, at 9 a.m. in the auditorium, City of Houston Health Department, at the previously stated address. This is a separate public hearing and not a continuation of the hearing held on November 17.

(9) November 22, 1983, at 9 a.m. at the Texas Department of Health, 1100 West 49th Street, Austin.

Copies of the proposed rules are available for review at department regional offices in Canyon, Lubbock, El Paso, Abilene, Arlington, Temple, Tyler, Corpus Christi, Harlingen, Uvalde, San Antonio, and Rosenberg. Written comments submitted at these locations will be transmitted to the department's central offices in Austin.

Operational Standards for Type VII Sites 25 TAC §§325.201, 325.207

This repeal is proposed under the Solid Waste Disposal Act, Texas Civil Statutes Article 4477.7, §4(c), which provides the Texas Department of Health with

the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction

- §325.201 *Definition of Terms*
- §325.202 *Basic Requirements for All Land Application Sites*
- §325.203 *Additional Requirements for Land Application Sites Used for Production of Food-Chain Crops*
- §325.204 *Additional Requirements for Land Application Sites Where Sewage Sludge or Septic Tank Pumpings are Applied to Land.*
- §325.205 *Processes to Significantly Reduce Pathogens.*
- §325.206 *Processes to Further Reduce Pathogens.*
- §325.207 *Disposal of Hazardous Waste*

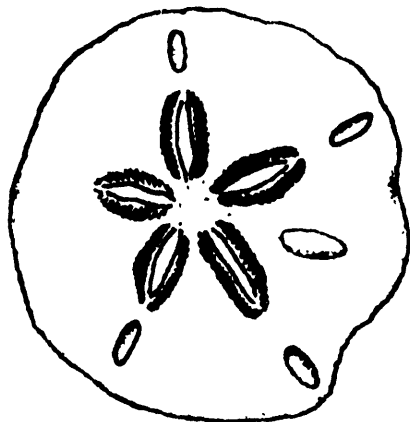
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

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TRD 837867 Robert A. MacLean, M.D.
Deputy Commissioner
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Texas Department of Health

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



Subchapter N. Management of Sludges and Similar Wastes
General

25 TAC §§325.411-325.416

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

§325.411. *Purpose.* The purpose of the rules in this subchapter is to establish procedures and requirements

for the safe disposal of sludges and similar wastes identified as municipal solid waste under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. These include municipal wastewater treatment plant sludges; water supply treatment plant sludges, and similar waste such as grit trap wastes, grease trap wastes, and septage.

§325.412. *Applicability.* These rules are applicable to persons who are involved in managing sludges and similar wastes regulated by the department, including operators of municipal water supply or wastewater treatment plants; persons who generate such wastes, owners of land used for the land application or disposal of such wastes; operators of storage, processing, or disposal facilities; persons engaged in the land application of wastes, and persons collecting and transporting sludges and similar wastes. These rules do not apply to the management of municipal wastewater treatment plant sludges under jurisdiction of the Texas Department of Water Resources (TDWR) as provided for in §325.415 of this title (relating to Agency Jurisdiction) or to persons engaged in management of industrial solid wastes unless such activity also involves the management of municipal solid wastes.

§325.413. *Effective Date.* Unless otherwise specified, the rules in this subchapter are effective 60 days after adoption by the board

§325.414. *Nonhazardous Class I Industrial Waste and Small Quantities of Hazardous Waste.* Nonhazardous Class I industrial solid waste and small quantities of hazardous waste may be authorized to be managed at a facility permitted and operated under the provisions of this subchapter, provided that explicit authority is given in writing by the department

§325.415. *Agency Jurisdiction.*

(a) Assignment of agency jurisdiction by the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7. The Solid Waste Disposal Act provides that the department is the state solid waste agency with respect to the management of municipal solid waste. Where both municipal solid waste and industrial solid waste, to include Class I industrial waste which is routinely collected with municipal solid waste, are involved in any activity of management of solid waste, the department has jurisdiction over the activity

(b) Municipal wastewater treatment plant sludges. The management of municipal wastewater treatment plant sludges is under the jurisdiction of the department except as it may be regulated by the Texas Department of Water Resources (TDWR) through agreement with the department. By agreement, the TDWR is the state agency with authority to regulate the processing, storage, or disposal of municipal wastewater treatment plant sludges when such activity is under direct control of the treatment plant operator and occurs on the treatment plant site or on property owned or controlled, with a lease of at least five years, by the owner of the treatment facility. This property shall be exclusive of sanitary landfills, areas accessible to the general public, and land to be used in the production of food-chain crops. The activity must also be regulated under permit or order issued by TDWR governing treatment plant operations. In situations where a sludge processing, storage, or disposal facility that would

be regulated by the department is being managed under a wastewater permit or order issued by TDWR when these rules become effective, the department and TDWR will agree to agency jurisdiction on a case-by-case basis.

§325.416. Guidelines for Management of Sludges and Similar Wastes. The bureau shall develop and publish guidelines concurrently with the publication of these rules. The guidelines shall provide guidance and make recommendations on acceptable management practices.

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

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Generators

25 TAC §§325.431, §325.432

These new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, §4(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

§325.431. General Requirements for Generators

(a) Persons who generate sludge and similar waste shall determine if the waste is a hazardous waste. Hazardous waste shall be managed in accordance with §§325.271-325.350 of this title (relating to Hazardous Waste Management). Generators must comply with rules in this subchapter for management of sludges and similar wastes that are under the jurisdiction of the department.

(b) After December 31, 1984, persons who generate waste subject to regulation under this subchapter shall utilize persons who have registered with the department to collect or transport such waste, except as provided for in §§325.501-325.504 of this title (relating to Marketing and Distribution of Municipal Wastewater Treatment Plant Sludges). Generators who collect or transport their own waste for processing, storage, or disposal shall comply with transporter requirements in §§325.441-325.447 of this title (relating to Transporters). Generators who process, store, or dispose of their own wastes shall comply with applicable department rules governing such activity.

(c) After December 31, 1984, generators who ship their own waste and generators whose waste is collected by a transporter shall complete a waste control record as provided for in §325.445 of this title (relating to Disposition Control). The generator, except for a single

family residence, shall obtain a signed copy of the record of receipt by the transporter and retain a copy of the record for 12 months from the date the waste is received by the transporter.

§325.432. Notification by Municipal Wastewater Treatment Plant Operators. Operators of municipal wastewater treatment plants subject to department regulation who provide sludges for distribution, land application, processing, storage, or disposal shall notify the department of such activity by using the form in §325.907 of this title (relating to Appendix G—Notification). Operators presently engaged in providing sludge for distribution, land application, processing, storage, or disposal prior to effective date of these rules shall notify the department of such activity no later than June 30, 1984.

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

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Transporters

25 TAC §§325.441-325.447

These new sections are proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477.7, §(c), which provides the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

§325.441. Applicability and Responsibility.

(a) Applicability. Rules contained in §§325.441-325.447 of this title (relating to Transporters) establish standards applicable to persons collecting and/or transporting municipal wastewater treatment plant sludges, water supply treatment plant sludges, grit trap waste, grease trap waste, and septage.

(b) Responsibility.

(1) Transporters of waste subject to control under this subchapter shall not collect or transport hazardous waste except as provided in §§325.271-325.350 of this title (relating to Hazardous Waste Management). Each transporter shall take all necessary precautions to ensure that waste handled in accordance with rules contained in this subchapter is not a hazardous waste.

(2) Transporters shall ensure that wastes are deposited at a department-approved facility.

§325.442. Registration.

(a) Persons who transport sludges and similar wastes regulated under this subchapter shall register these

operations with the department no later than September 1, 1984. Registration forms will be provided by the department upon request. The form is included in §325.908 of this title (relating to Appendix H—Registration).

(b) Persons who submit registration to the department shall maintain a copy of the registration form, as annotated by the department with an assigned registration number, at their designated place of business.

(c) Registrations are required to be renewed whenever:

- (1) volume of waste handled, equipment, or total operation is expanded by 50% over that originally registered;
- (2) a transporter handles or plans to handle a waste not included in the existing registration;
- (3) office or place of business is moved;
- (4) ownership or name of the operating entity is changed;
- (5) the third anniversary of the previous registration date is reached; or
- (6) the department determines that operations or management are no longer adequately described by the existing registration.

§325.443. Delivery Requirement. Transporters shall deposit wastes at a facility designated by or acceptable to the generator where the operator of the facility has agreed to receive the wastes and the facility has been approved by the department to receive the wastes. In this regard, "approved by the department" means the department has given its approval by rule, permit, letter, or other document that identifies the individual facility or class of facilities to receive that specific waste or class of waste.

§325.444. Vehicle and Equipment

(a) **Marking and identification.** Owners or operators of tanks or containers used for the collection and/or transportation of wastes regulated under this subchapter shall prominently mark such tanks or containers to show the company name and the department assigned registration number. The identification will be removed when it is no longer authorized by the department or leaves the possession of the person registered.

(b) **Sanitation standards.** All vehicles and equipment used for the collection and transportation of sludges and similar wastes shall be constructed, operated, and maintained to prevent loss of liquid or solid waste materials and to minimize health nuisance and safety hazards to operating personnel and the public. Collection vehicles and equipment shall be maintained in a sanitary condition to preclude odors and insect breeding.

(c) **Commingling of incompatible wastes.** Commingling of incompatible wastes within the same container is prohibited. Transporters shall not use the same container or pumping equipment to collect or transport incompatible waste without first emptying and cleaning the container and equipment of all previously handled wastes. For purposes of this subsection, incompatible waste means wastes which have different processing, storage, or disposal requirements. As an example, grease trap wastes shall not be mixed with septage that is to be processed at a wastewater treatment plant or that is to be applied to the land under the provisions of §325.533 of this title (relating to Septage).

§325.445. Disposition Control.

(a) **Waste control record.** Persons who collect and/or transport waste subject to control under this subchapter shall initiate and maintain a record of each individual collection and deposit. Such record shall be in the form of a manifest trip ticket or other similar documentation. The department does not require a specific form; however, a sample of an acceptable form is included in §325.906 of this title (relating to Appendix F—Form for Vacuum Truck Trip Ticket). The record shall include:

- (1) name and department registration number of transporter;
- (2) name and address of the person who produced the waste and the date and time collected;
- (3) type and amount of waste collected or transported;
- (4) name of responsible person (driver) collecting, transporting, and depositing the waste;
- (5) date, time, and place where the waste was deposited;
- (6) identification (permit application or site registration number, location, and operator) of the facility where the waste was deposited, and
- (7) name and signature of facility representative acknowledging receipt of the waste and the amount of waste received.

(b) **Maintenance of records and reporting.** The transporter shall provide the person who generates the waste a copy of the waste control record or other document showing receipt of waste and shall provide the facility operator a copy of all control records of wastes deposited. The transporter shall retain a signed copy of all records showing the collection and disposition of waste. Such copies shall be retained for 12 months and made available to the department upon request. Transporters shall submit to the bureau an annual summary of their activities up to December 31 of each year showing amounts and types of waste collected, disposition of such wastes, and amounts and types of waste delivered to each facility. The report shall be submitted no later than March 1st of the year following the end of the report period. The report shall be prepared on a facsimile of the form in §325.909 of this title (relating to Appendix I—Annual Summary Report Form for Sludges and Related Wastes).

(c) **Local ordinances.** Where local ordinances require controls and records substantially equivalent to or more stringent than the requirements of subsections (a) and (b) of this section, transporters may use such controls and records to satisfy the department's requirement under this section.

§325.446. Discharge or Spills. In the event of a discharge of waste during collection or transportation, the collector or transporter must take appropriate action to protect human health and the environment, e.g., notify local law enforcement and health authorities; dike the discharge area; clean up any waste discharge that occurs during transportation; or take such action as may be required or approved by federal, state, or local officials having jurisdiction so that the waste discharge no longer presents a public health or environmental problem. Transporters are responsible for reporting certain spills in accordance with requirements of the State of Texas Oil and Hazardous Substance Spill Contingency Plan.

§325.447. *Interstate Transportation.* Persons who engage in the transportation of wastes (subject to regulation under this subchapter) from Texas to other states or from other states to Texas, or persons who collect or transport such waste in Texas but have their place of business in another state, shall comply with all the requirements for transporters contained in §§325.441-325.447 of this title (relating to Transporters). If such persons also engage in any activity of managing such wastes in Texas by storage, processing, or disposal, they shall follow the applicable requirements for site operators of such activities.

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

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Land Application for Beneficial Use

25 TAC §§325.461-325.465

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

§325.461. *Applicability and Responsibility.*

(a) *Applicability.* The regulations in §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) are applicable to persons providing municipal wastewater treatment plant sludges for land application, persons applying waste to the land for beneficial use, and owners of land where wastes are applied. These sections do not apply to operations for land treatment, land spreading, or land disposal which are considered disposal methods and subject to rules contained in §§325.481-325.484 of this title (relating to Land Disposal).

(b) *Responsibility.*

(1) Operators of municipal wastewater treatment plants or other persons providing wastes for land applica-

tion under §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) shall inform the applicator and landowner of any known or suspected reason to restrict the amount of sludge applied and they shall not allow sludge to be applied to the land in other than a department approved manner

(2) A person who applies waste to the land under provisions of §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) is the designated site operator and is responsible for complying with operator requirements for such sites. The site operator shall take necessary action at all times to protect public health and the environment and to prevent and abate nuisances. Operators shall comply with all applicable rules issued by the department relative to land application of sludges. In addition, operators should follow recommended sludge management practices and limitations described in the department's guidelines.

(3) Landowners may allow their land to be used for the beneficial application of sludge under §§325.461-325.465 of this title (relating to Land Application for Beneficial Use). Where such land is used for this purpose, the landowner shall require the operator to provide documentation of the requirements, limitations, and restrictions regarding application. The landowner shall make a reasonable effort to assure himself that the operator complies with the requirements, limitations, and restrictions.

§325.462. *Basic Requirements for Land Application*

(a) *Purpose.* The purpose of §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) is to provide rules and standards for the beneficial use of municipal wastewater treatment plant sludge by application to the land primarily as soil amendment and enrichment for productive use or reclamation. Although land application of sludges serves as a disposal of such waste, it is the intent of §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) to restrict such land application to that which will benefit the soil and enhance it for crop production and other vegetative growth or to reclaim land that has little agricultural use in its present state.

(b) *Registration of sites.* Persons applying sludge to the land under provisions of §§325.461-325.465 of this title (relating to Land Application for Beneficial Use) shall register such sites as a Type VII site with the department in accordance with §325.52 of this title (relating to Permit Exemptions) by utilizing the form or a photocopy of the form contained in §325.901 of this title (relating to Appendix A—Application for a Permit: Registration to Operate a Municipal Solid Waste Site—Part A (General Data)).

§325.463. *General Land Application Authorization.*

(a) This section provides standards for application of sludges to land at rates beneficial as soil enrichment or amendment.

(b) Sludges shall be stabilized by a process to significantly reduce pathogens or to further reduce pathogens as identified in federal regulations under 40 CFR Part 257, Appendix II, prior to application to the land.

(c) *Sludge application rates.* Sludge application rates shall be determined on the basis of nitrogen available

to plants and on the basis of limitation of heavy metals and other toxics. The department's guidelines contain recommendations on application rates and accepted cumulative application of heavy metals to the soil. Unless the operator can demonstrate that other application criteria will not endanger the health or the environment the department's guidelines are to be used. In no case will the application rate exceed eight dry tons per acre per year unless otherwise authorized by the department in writing.

(d) As a minimum, sludge application to land used or to be used for production of food chain crops shall conform to the requirements provided in federal regulations 40 Code of Federal Regulations §257.3.5 and §257.3.6.

(e) Land application of sludges shall be conducted in a manner that avoids contamination of groundwater.

(f) Sludges shall be applied by a method and under conditions that prevent runoff beyond the active application area and protects the quality of the surface water and the soils in unsaturated zone.

(g) The site location shall be selected and the site operated in a manner to minimize public health nuisances. Where nuisance conditions exist, the operator shall take necessary action to abate such nuisances.

§325.464. Sampling, Analysis, and Records. Site operators, as defined in §325.461(b)(2) of this title (relating to Applicability and Responsibility), who apply sludge to the land shall

(1) Obtain an analysis of the sludge at least semi-annually, or as otherwise specified in writing by the department, to determine whether application is within acceptable limits described in the department's guidelines. A copy of the analysis shall be provided to the bureau within 30 days of the sampling date. This requirement, in whole or part, may be waived depending upon the use of the land and provided the site operator can show there is little potential that sludge will exceed acceptable limits. Sludge shall be analyzed, unless a waiver is granted, for the parameters listed in subparagraphs (A)-(K) of this paragraph. Test results shall be given on dry-weight basis.

- (A) total Nitrogen (percent);
- (B) nitrate-Nitrogen (percent);
- (C) ammonia-Nitrogen (percent);
- (D) phosphorus (percent);
- (E) potassium (percent);
- (F) cadmium (milligram per kilogram);
- (G) lead (milligram per kilogram);
- (H) zinc (milligram per kilogram);
- (I) copper (milligram per kilogram);
- (J) nickel (milligram per kilogram);
- (K) polychlorinated biphenyls (PCB's) (parts per million).

(2) maintain records for at least three years after final application. The records shall include:

(A) sludge sample analyses, soil tests, soil pH, and other tests required or used for purposes of this section;

(B) identification of land on which disposal operations are carried out including the name of the owner, dates of application, quantity of sludge applied, rate of application, method of application, and type of crop or vegetation grown;

(C) any agreements, special conditions, or restrictions regarding use of areas for sludge disposal; and

(D) exceptions or waivers granted by the department.

§325.465. Storage of Sludge at Land Application Sites.

(a) Surface impoundments may be used for storage of sludge at land application sites. Surface impoundments shall not be used at a land application site for more than 120 days without first obtaining a permit under provisions of §325.482 of this title (relating to Permit Requirements). Information on surface impoundments shall be included on the site registration form submitted in accordance with §325.462 of this title (relating to Basic Requirements for Land Application).

(b) Surface impoundments operated without a permit and used for storage shall be designed, constructed, and operated in a manner which protects public health and the environment. As a minimum, surface impoundment operation shall comply with the standards in paragraphs (1)-(7) of this subsection.

(1) An impoundment shall be located no closer than 300 feet from the nearest single residence, 1,000 feet from multiple residences, public facilities, or commercial establishments, and 500 feet from a well used for drinking water by humans or animals.

(2) An impoundment shall be fenced or other methods shall be used to control access by humans or domestic animals.

(3) An impoundment shall not discharge into surface waters without obtaining a National Pollutant Discharge Elimination System (NPDES) permit. Berms or dikes shall be constructed to contain the waste without leakage and to provide a minimum of two feet of free-board.

(4) An impoundment shall avoid the contamination of groundwater. Natural or artificial liners are required for leachate control. A natural liner or equivalent barrier of one foot of compacted clay with a permeability coefficient of 1×10^{-10} centimeters per second, or less, shall be provided. An impoundment located in fine grain soils with low permeability will not require the addition of a liner where the bottom of the impoundment is separated from the saturated zone by at least four feet of such soils and the permeability of the soil is such that migration of leachate will not reach the groundwater within the 120 days authorized for the impoundment. Various flexible synthetic membrane lining materials may be used in lieu of soil liners if prior written approval has been obtained from the department.

(5) An impoundment shall minimize the on-site population of vectors.

(6) An impoundment shall be operated to avoid public health nuisances such as odors and vectors; and the operator shall abate such nuisances when they occur.

(7) When the impoundment is no longer needed or after the expiration of 120 days, the site shall be closed by removing the waste from the impoundment and filling and restoring the area.

(c) Other storage vessels providing the same degree of protection to public health and the environment may be used.

(d) Surface impoundments for other than temporary storage shall not be operated without a permit. A permit shall be obtained in accordance with provisions of §325.482 of this title (relating to Permit Requirements).

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

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Land Disposal

25 TAC §§325.481-325.484

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

§325.481. General. The purpose of the rules in §§325.481-325.483 of this title (relating to Land Disposal) is to provide standards for the land disposal of sludges and similar wastes. These rules are applicable to operators of municipal solid waste sites that dispose of municipal wastewater treatment plant sludges and similar wastes specifically authorized to be disposed at these sites. These sites include land treatment sites, sludge-only landfills, surface impoundments, and co-disposal at sanitary landfills.

§325.482. Permit Requirements. Operators of municipal solid waste sites used for the land disposal of sludges and similar wastes shall have a permit issued by the department. The following provisions of §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria) are applicable to such land disposal sites unless otherwise noted.

(1) §§325.51-325.62 of this title (relating to Permits).

(2) §325.71 of this title (relating to General).

(3) §325.72 of this title (relating to General Information Required for All Sites—Permit/Registration Application, Part A).

(4) §325.73 of this title (relating to Technical Information Required for Landfill Sites Serving Less Than 5,000 Persons—Permit Application, Part B) is applicable to sludge-only landfill sites receiving less than one ton per day (dry weight) of stabilized municipal wastewater treatment plant sludge, to co-disposal of stabilized municipal wastewater treatment plant sludge at Type II

and III sanitary landfills, or to co-disposal of limited quantities of grit and grease trap waste at Type II and III sanitary landfills when such operations conform to requirements under §325.136 of this title (relating to Disposal of Special Wastes).

(5) §325.74 of this title (relating to Technical Information Required for Landfill Sites Serving 5,000 Persons or More—Site Development Plan) is applicable to land disposal sites receiving one ton per day (dry weight) or more of stabilized municipal wastewater treatment plant sludge or land disposal sites receiving unstabilized sludge or grit and grease trap wastes.

(6) §§325.91-325.95 of this title (relating to Application Review Process) are applicable to processing permit applications for land disposal sites.

§325.483. Special Considerations

(a) **Applicability.** In addition to the requirements of §325.482 of this title (relating to Permit Requirements), the special considerations outlined in subsections (b)-(d) of this section shall be addressed in Part B of the permit application or in the site development plan as applicable.

(b) **Land treatment**

(1) **Restricted use.** The potential for long-term build up of heavy metals and salts in the soil surface layers may result in the site becoming unsuitable for agricultural use. Because of potential pathogen and heavy metal build up, food chain crops for human consumption shall not be grown on the site except as provided by permit special provisions.

(2) **Sludge stabilization.** Normally, only stabilized sludges shall be applied to land treatment sites. Where unstabilized sludge application is proposed, the applicant shall demonstrate that site characteristics, method of application, and other operational provisions are adequate to protect groundwater, surface water, public health, and the environment.

(3) **Operational methods and equipment.**

(A) Application of liquid sludges may be accomplished by one or more of the following methods: spraying, overland flow or controlled flooding, ridge and furrow irrigation, surface spreading, or subsurface injection. The applicant shall describe the process to be used and stipulate operational methods which will provide protection to groundwater, surface water, and drinking water supplies and reduce odors, vectors, and other health nuisances.

(B) Dewatered sludges shall be applied by using a method which provides for even spreading upon receipt at the site. The sludge may be incorporated into the soil by plowing or disking. The applicant shall describe the process to be used and stipulate operational methods which will reduce odors, vectors, and other health nuisances while controlling airborne migration of pathogenic organisms from the site.

(4) **Sludge application rates.** The applicant shall provide data on the rate of sludge application and the total amount of sludge to be applied. Sludges are to be applied so that soils can dry sufficiently between applications to allow the passage of equipment, so that application does not create leachate or run-off, and so that the operation is managed to provide adequate aeration of soils. Sludge application shall be terminated when the ground is frozen below the plow line.

(5) Sludge analyses. The permit application shall contain an analysis of the sludge for the parameters in subparagraphs (A)-(U) of this paragraph:

- (A) arsenic,
- (B) barium,
- (C) cadmium,
- (D) chromium,
- (E) fluoride,
- (F) copper,
- (G) lead,
- (H) mercury,
- (I) zinc,
- (J) polychlorinated biphenyls (PCB);
- (K) nitrogen (NO_3 , NH_4 , and total);
- (L) selenium,
- (M) endrin,
- (N) lindane,
- (O) methochlor,
- (P) toxaphene,
- (Q) 2,4-D (2,4 Dichlorophenoxyacetic acid);
- (R) 2,4,5-TP (Silvex) (2,4,5-Trichlorophenoxypropionic acid),
- (S) radium,
- (T) gross alpha,
- (U) gross beta.

(6) Monitoring plan. Unsaturated zone monitoring plan shall be developed in accordance with subsection (a)(11) of §325.484 of this title (relating to Operational Requirements) and shall be included in the site development plan.

(c) Sludge-only landfill

(1) Sludge only landfill (trench fill)

(A) For disposal in accordance with this paragraph, subsurface excavation is required so that the top of sludge layers will be a minimum of one meter below the original ground surface.

(B) The criteria in clauses (i)-(iii) of this paragraph are applicable to the trench fill method of disposal.

(i) The solids content of sludge shall be a minimum of 15%.

(ii) The sludge may be stabilized or unstabilized.

(iii) The daily cover shall be at least two feet thick for unstabilized sludge and six inches for stabilized sludge. The department may waive the requirement for daily cover of stabilized sludge where odor, vectors, and air mobility of the sludge does not present a problem.

(2) Sludge-only landfill (aerial fill) and surface impoundments.

(A) For disposal of sludge in accordance with this paragraph, excavation is not necessarily required, and it is not mandatory that sludge be placed below the surface. However, if sludge has been placed below the original surface, the operator may continue to place it above the original surface. Surface impoundments are diked containments. Dikes are constructed on essentially level ground around all four sides of the containment area. Natural steep slopes may be used to form part of the dike system. Access is provided to the top of the dike so that haul vehicles can dump sludge into the impoundment.

(B) Normally, aerial fill and surface impoundments are suitable for managing stabilized sludges. Because of potential odor and other nuisance factors, unstabilized sludges may require special handling if disposed of in an aerial fill. The applicant shall describe site characteristics and operational methods that will protect groundwater, surface water, and public health and the environment.

(C) The criteria in clauses (i)-(iii) of this subparagraph are applicable to the aerial fill and surface impoundment methods of disposal.

(i) Soil or another medium shall be used as a bulking agent to provide stability to the fill or surface impoundment. The bulking ratio shall be that necessary to provide stability to the sludge layers and facilitate operations.

(ii) Daily cover shall be at least six inches or that which is necessary to provide a stable surface. A final cover of at least three feet shall be provided.

(iii) The site development plan shall include the information in subclauses (I)-(VI) of this clause:

(I) The source and physical properties of the soil or other medium for sludge bulking,

(II) Locations of stock piles of soil and the area for sludge unloading and mixing;

(III) Operational procedures detailing how the sludges are to be mixed, the ratio of the mixture, and the handling and placement of the mixture;

(IV) The final contours of the fill with provision for adding a final cover of at least three feet of a low permeability clay of 10 centimeters per second with top soil added in sufficient depth to support vegetation for erosion control,

(V) The final side slopes which shall not exceed a 4:1 ratio of horizontal to vertical; and

(VI) A description of what steps will be taken to ensure the area shall be properly maintained for drainage after the fill is complete.

(d) Co-Disposal of sludge at a landfill designed for other municipal solid waste. Sludge may be disposed of at a Type I, II, or III landfill in accordance with §325.136 of this title (relating to Disposal of Special Wastes).

§325.484. Operational Requirements.

(a) Land treatment sites.

(1) General operational standards. The provisions contained in §§325.111-325.113 of this title (relating to General) shall apply to the operation of sites under this subsection.

(2) Sampling and analysis of sludges and soils.

(A) Sludges shall be analyzed at least semiannually. Samples shall be taken from each waste source (waste treatment plant) and tested to determine the concentrations as specified in the permit special provisions.

- (i) nitrogen (NO_3 , NH_4 , and Total);
- (ii) cadmium (milligrams per kilogram);
- (iii) copper (milligrams per kilogram);
- (iv) chromium (milligrams per kilogram);
- (v) lead (milligrams per kilogram);
- (vi) zinc (milligrams per kilogram).

(B) Soil cores and soil pore water shall be monitored in accordance with the unsaturated zone monitoring plan and adjustments shall be made to the pH to maintain levels specified in the plan.

(3) Access control. Uncontrolled access and dumping of unauthorized materials shall be prevented.

(4) Groundwater and surface water protection. The development, operation, and closure of sites shall conform to applicable portions of §§325.121-325.124 of this title (relating to Standards for Protection of Ground and Surface Waters). Unsaturated zone monitoring shall be provided in accordance with paragraph (12) of this subsection.

(5) Disposal of hazardous waste, Class I industrial solid waste, and special waste. Hazardous waste, Class I industrial solid wastes, and special wastes shall not be disposed of at a site authorized under this section without written authorization from the department.

(6) Buffer zone. Unless otherwise authorized by the department, a minimum distance of 200 feet shall be maintained between the disposal area and the site boundary. In any case, sufficient distance shall be maintained to reduce the effects of aerosol transport of pollutants and odors.

(7) Vector control. Site operations shall be maintained to reduce conditions favorable to the breeding and feeding of vectors. Approved pesticides shall be employed for vector control when necessary.

(8) Access road. An all-weather road shall be provided to the site. The tracking of mud onto public roadways shall be prevented. The creation of conditions resulting in dust that is a nuisance to surrounding areas shall be minimized.

(9) Endangered species. The site and its operation shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species, or cause or contribute to the taking of any endangered or threatened species as defined in §325.5 of this title (relating to Definitions of Terms and Abbreviations).

(10) Groundwater monitoring. When required, monitor wells shall be sampled and the samples analyzed at the specified frequencies for parameters listed in subparagraphs (A) and (B) of this paragraph.

(A) Semi-annual:

- (i) pH;
- (ii) NO₃;
- (iii) specific conductance;
- (iv) total organic carbon;
- (v) total organic halogen.

(B) Annual:

- (i) chloride;
- (ii) sodium;
- (iii) iron;
- (iv) manganese;
- (v) phenols;
- (vi) sulfate.

(C) If the analysis performed for parameters in subparagraph (A) of this paragraph indicate a significant increase (or pH decrease) in the down gradient wells, the operator shall provide written notice to the department within seven days of the analysis.

(D) Within 30 days of such notice, the operator shall submit to the department a groundwater quality assessment plan, certified by a professional engineer or a qualified geologist experienced in geotechnical engineering, to determine the extent of migration and con-

centration of waste constituents in the groundwater. The plan, after department approval, shall be implemented and the evaluation provided to the department.

(E) If the waste constituents are found to be migrating to the groundwater in concentrations determined to be a potential threat to groundwater quality, the operator shall develop a plan certified by a professional engineer and approved by the department for the correction and prevention of groundwater contamination.

(11) Unsaturated zone monitoring

(A) Observation wells shall be sampled and samples analyzed for soil conditions within the unsaturated subsurface zone in accordance with the approved unsaturated zone monitoring plan. Unsaturated zone monitoring shall be capable of detecting the vertical migration, if any, of major waste constituents under the active portion of the land treatment facility. It shall also be capable of providing information on background concentrations taken from similar soils outside the treatment zone or taken from soils in the treatment zone prior to application of wastes.

(B) The unsaturated zone monitoring plan shall include, as a minimum, the activities listed in clauses (i) and (ii) of this subparagraph.

(i) Soil monitoring in the treatment zone using soil cores; and

(ii) Soil pore water monitoring using devices such as lysimeters.

(C) In order to detect vertical migration of major waste constituents, the operator shall include the information in clauses (i)-(iii) of this subparagraph in the unsaturated zone monitoring plan.

(i) Depth at which soil and soil pore water samples are to be taken. (This depth should be below the depth to which the waste is incorporated into the soil.)

(ii) Number of soil and soil pore water samples to be taken based on the variability of major constituents in the waste and soil characteristics.

(iii) Frequency and timing of soil and soil pore water sampling based on frequency, time, and rate of waste application; proximity to groundwater; soil permeability; and amount of precipitation.

(D) The operator shall analyze the soil and soil pore water samples for the parameters listed in clauses (i) and (ii) of this subparagraph.

(i) Soil samples: pH, cation exchange capacity, electrical conductivity, soil texture, organic matter, nitrogen, phosphorus, potassium, heavy metals (arsenic, cadmium, chromium, copper, iron, lead, manganese, selenium, and zinc), and any other constituent of concern which if increased in concentration by 25% would limit the life of the disposal site.

(ii) Soil pore water samples: pH, electrical conductivity, chloride, sulfate, sodium, heavy metals (arsenic, cadmium, chromium, copper, iron, lead, manganese, selenium, and zinc), and any mobile constituents of major concern.

(E) Sampling, processing, and analytical procedures shall be designed to ensure monitoring results that provide a reliable indication of soil pore water quality and chemical composition of the soil situated below the treatment zone. If analyses performed for parameters in subparagraph (D) of this paragraph indicate significant

changes in concentration levels, the department may order additional sampling and analyses to determine if leachate is entering the surface and/or area groundwater.

(12) Odor and air pollution control. The site shall be operated in a manner to avoid creating obnoxious odors. Where objectionable odors do occur, appropriate measures shall be taken to reduce or eliminate the problem. All applicable Texas Air Control Board rules shall be observed.

(13) Site completion and closure procedures.

(A) Closure and Notification. At least 60 days prior to completion of disposal operations or abandonment of the site, the operator shall notify the department in writing of such plans and provide an updated closure/completion plan and a schedule for completion of site closure.

(B) Post-closure care.

(i) Requirements. The rules regarding closure and post-closure care in subsections (c)-(e) of §325.152 of this title (relating to Site Completion and Closure Procedures) are applicable except as may be otherwise provided in the permit.

(ii) Maintenance. The operator shall provide post-closure maintenance for a minimum of five years. This shall consist of:

- (I) erosion control;
- (II) maintenance of on-site drainage and runoff control systems;
- (III) operation of leachate and run-off collection and treatment systems when required;
- (IV) maintenance of monitor wells where installed;

(V) sampling and analysis of subsurface conditions for both the saturated and unsaturated zones (The operator shall continue to monitor for changes in subsurface conditions and to take other actions to protect the groundwater in accordance with the same provisions of subsection (a)(11) of this section.); and

(VI) maintenance of fences and other access control devices/systems.

(14) Records. The operator shall maintain records of site operation for a period of five years. Records shall consist of:

- (A) the amount or quantity of sludge disposed from each waste source (wastewater treatment plant);
- (B) sludge analyses;
- (C) soil analyses;
- (D) subsurface analyses for each monitor well, both for the saturated and unsaturated zones;
- (E) inspection reports; and
- (F) permit application and permit.

(15) Reports. The operator shall submit to the department a copy of all subsurface analyses within 30 days of the receipt of the analyses and no later than 90 days after the sampling-date.

(b) Sludge-only landfills and surface impoundments. Operators of sludge-only landfills shall comply with the operational standards for Type I sites—or operational standards for Type II sites if the sludge-only landfill receives less than one dry ton of stabilized sludge per day—established in §§325.111-325.154 of this title (relating to Operational Standards for Solid Waste Land

Disposal Sites), except as listed in paragraphs (1)-(7) of this subsection.

(1) The provisions of §325.131 of this title (relating to Fire Protection) are not applicable.

(2) The site shall not dispose of industrial wastes unless specifically authorized by permit or in writing by the department.

(3) The site shall not dispose of special waste other than the sludges or similar waste authorized under permit.

(4) The minimum separating distance between disposal operations and the boundary of the site shall be 300 feet for any sludge-only landfill receiving unstabilized sludges.

(5) Section 325.142 of this title (relating to Disposal of Large Items) is not applicable to sludge-only landfills.

(6) The salvaging or removal of sludges shall not be allowed unless provided for under permit or in writing by the department.

(7) Required thickness for intermediate and final cover shall be as specified under subsection (c) of §325.483 of this title (relating to Special Considerations). Other provisions of §325.150 of this title (relating to Compaction, Intermediate Cover, and Final Cover) apply to operations of sludge-only landfills.

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

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TRD-837862 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

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

Marketing and Distribution of Municipal Wastewater Treatment Plant Sludges

25 TAC §§325.501-325.504

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

§325.501. General and Applicability.

(a) General. The rules contained in §§325.501-325.504 of this title (relating to Marketing and Distribution of Municipal Wastewater Treatment Plant Sludges) provide requirements in situations where sludges are made available to persons who are not registered with the department pursuant to §325.442 of this title (relating to Registration).

(b) **Applicability.** The rules contained in §§325.501-325.504 of this title (relating to Marketing and Distribution of Municipal Wastewater Treatment Plant Sludges) are applicable to all operators of municipal wastewater treatment plants who market or distribute sludge, to persons who engage in the processing of sludges for fertilizer or soil conditioning products, and to persons who use sludges made available to them pursuant to these rules.

§325.502. Sludge For Controlled Use.

(a) Operators of municipal wastewater treatment plants or persons under contract to such operators may make sludge available to individuals such as nurseries, sod farms, and landscapers for nonresidential use and to government controlled operations for application to parks, recreational areas, roadsides, and other similar uses in accordance with department guidelines provided that:

(1) the sludge has been treated by a process to significantly reduce or to further reduce pathogens in accordance with federal regulations published in 40 Code of Federal Regulations Part 257, Appendix II, and

(2) the sludge constituents do not exceed:

(A) cadmium—25 milligrams per kilogram;

(B) lead—1,000 milligrams per kilogram;

(C) polychlorinated biphenyls (PCB)—10 parts per million.

(b) Persons providing municipal wastewater treatment plant sludges to other persons under provisions of this section shall provide each person with restrictions and recommendations on the use of such sludges. The restrictions and recommendations should, as a minimum, conform to the department's guidelines.

(c) Persons who acquire sludges in accordance with the provisions of this section shall conform to the limitations placed on the use of the sludge by the municipal wastewater treatment plant operator and other prudent precautions necessary to protect public health. Persons using sludges provided under this section should consult the department's guidelines for recommended practices and limitations on the use of sludge.

§325.503. Sludge for Uncontrolled Use.

(a) Uncontrolled use includes distribution for residential use, truck gardens, and other similar activities where there is little, if any, control over the use of the sludge or sludge product.

(b) As a minimum, sludges are to be treated by a process to further reduce pathogens as described in federal regulations published as 40 CFR Part 257, Appendix II. This requirement is satisfied if sludges have been stabilized and stored on site under semi-dry conditions for six months prior to distribution.

(c) Sludge constituent levels shall not exceed the limits of paragraphs (1)-(6) of this subsection.

(1) cadmium—25 milligrams per kilogram.

(2) lead—500 milligrams per kilogram.

(3) zinc—2,000 milligrams per kilogram.

(4) copper—1,000 milligrams per kilograms.

(5) nickel—200 milligrams per kilograms.

(6) polychlorinated biphenyls (PCB)—10 parts per million.

(d) Operators of municipal wastewater treatment plants, persons under contract to such operators, or persons manufacturing fertilizer or soil conditioning products

from sludge who wish to make sludge or sludge products available to individuals for uncontrolled use shall provide each person with restrictions and recommendations on the use of such sludges or sludge products. As a minimum, the restriction and recommend actions should conform to department's guidelines and should not be less stringent than the guidelines.

§325.504. Records and Reports.

(a) Operators of municipal wastewater treatment plants or persons under contract to operators providing sludge for distribution under §325.502 of this title (relating to Sludge for Controlled Use) or §325.503 of this title (relating to Sludge for Uncontrolled Use) shall maintain records necessary to demonstrate compliance with the applicable section including:

(1) operational data showing the performance of processes to reduce pathogens;

(2) data on sludge analyses;

(3) records of exceptions or waivers granted by the bureau; and

(4) names and addresses of persons receiving sludges in excess of one ton at any one time.

(b) Records shall be maintained for at least one year.

(c) The bureau may require periodic reports depending on the need to maintain regulatory control of the activity.

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

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Robert A. MacLean, M.D.
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Processing of Sludges and Similar Wastes

25 TAC §§325.511-325.514

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

§325.511. General. The rules in §§325.511-325.514 of this title (relating to Processing of Sludges and Similar Wastes) contain requirements applicable to persons who process municipal wastewater treatment plant sludges and similar wastes by incineration, composting, or other methods to obtain volume reduction, separation, or stabilization.

§325.512. Permit Requirements. Facilities for processing sludges and similar wastes are Type V municipal solid waste sites. Operators of such sites shall possess a permit issued by the department. The following provisions of §§325.51-325.95 of this title (relating to Permit Procedures and Design Criteria) are applicable to permit requirements under this section:

(1) §§325.51-325.62 of this title (relating to Permits).

(2) §325.72 of this title (relating to General Information Required for All Sites-Permit/Registration Application, Part A).

(3) §325.75 of this title (relating to Technical Information Required for Solid Waste Processing and Experimental Sites).

(4) §§325.91-325.95 of this title (relating to Application Review Process).

§325.513. Additional Permit Requirements.

(a) Special considerations. Sites for processing sludges and similar wastes pose a variety of considerations which should be addressed in the design, construction, operation, and maintenance of such sites to safeguard the health, welfare, and physical property of the people and to protect the environment. The special considerations in subsections (b)-(d) of this section shall be addressed in the permit application and added to the information required by §325.75 of this title (relating to Technical Information Required for Solid Waste Processing and Experimental Sites).

(b) Incinerators.

(1) Waste analysis. Operators of an incinerator which processes sludges shall provide the information in subparagraphs (A)-(C) of this paragraph.

(A) Test results or verification that the sludge is not a hazardous waste as determined under §325.273 of this title (relating to Hazardous Waste Determination).

(B) A description of the procedure for analyzing wastes which have not been previously burned in the incinerator to enable the operator to establish steady-state operating conditions and to determine the type of pollutants which might be emitted.

(C) A description of the procedure for conducting sufficient waste analysis throughout normal operations to verify waste feed to the incinerator is within the physical and chemical composition limits specified in the facility permit.

(2) Other wastes. Operators of incinerators which process sludges may only burn wastes specified in the permit except:

(A) In trial burns approved by the department; and

(B) Wastes specified in a new permit, permit modification, or amendment.

(3) Management practices. Operators of incinerators which process sludges shall describe management practices for emission control sludges, scrubber water, and ash combustion.

(4) Specifications. The operator of an incinerator which processes sludges shall include a detailed engineering description and the manufacturer's performance data for the incinerator.

(5) Other permits. The operator of an incinerator which processes sludges shall include a copy of the Texas Air Control Board permit application where one is required.

(c) Compost site

(1) Composting system. The composting system shall be described in the site development plan to include:

(A) a detailed engineering description of the system and the manufacturer's performance data for mechanical composting systems;

(B) site layout, including calculations for area requirements;

(C) sludge analysis for the following parameters (dry weight):

(i) cadmium (milligrams per kilogram);

(ii) lead (milligrams per kilogram)

(iii) zinc (milligrams per kilogram)

(iv) copper (milligrams per kilogram)

(v) nickel (milligrams per kilogram)

(vi) polychlorinated biphenyls (PCB) (parts per million)

(D) process design which describes:

(i) use of bulking agents, moisture control, or feed amendments;

(ii) temperature range and resident time;

(iii) storage of compost for curing after the primary composting operation; and

(iv) provision for additional drying and screening.

(E) odor and vector control.

(2) Final product specifications. The operator shall submit proposed specifications for the final product with the site development plan.

(3) Disposition. The operator shall also describe product packaging, marketing, distribution, and the delivery or pick-up system in the site development plan.

(d) Sites for processing grease trap waste, grit trap waste, or septage.

(1) Waste identification. The operator shall submit data identifying the sources and characteristics of wastes (i.e., grease trap, grit trap, soluble sludges, septage, etc.) proposed to be received for processing. An analysis of each type of waste to be processed by the plant shall include constituent concentrations and characteristics, i.e., pH, grease and oil concentrations, total suspended solids, chemical oxygen demand, biochemical oxygen demand, and other constituents that may impact or influence the design and operation of the facility.

(2) Process wastes. The operator of a proposed processing site shall submit specifications on the characteristics and constituent concentrations of wastes emanating from the facility. This attachment shall also include written documentation that all processed wastes leaving the site can be adequately handled for treatment by other facilities, licensed or permitted by the appropriate agencies to receive such wastes, at the volumes and concentrations estimated in the facility design.

(3) Other permit requirements. The operator of a proposed processing site shall submit information on permit requirements of other agencies, i.e., TDWR, NPDES permit, TACB license, or local government pretreatment or discharge authorization.

(4) Process design. The operator of a proposed processing site shall also submit a process design which is normally a generalized design and working plan of the overall processing facility. As a minimum, the data in subparagraphs (A)-(H) of this paragraph shall be included:

(A) flow diagrams indicating the processing sequences proposed for the various types of wastes received.

(B) schematic view drawings showing the various phases of collection, separation, treatment, and disposal—as applicable—for the types of wastes received for processing.

(C) proposed odor control measures for each storage, separation, and processing unit.

(D) generalized construction details of all treatment and storage components (i.e. tanks, sumps, wet walls, etc.) with regard to approximate dimensions and capacities, construction materials, vents, covers, enclosures, protective coatings of exposed surfaces, etc. Performance data on all units shall be provided.

(E) generalized construction details of slab and subsurface supports of all treatment and storage components.

(F) locations and engineering design details of all containment dikes or walls (with indicated freeboard) proposed to enclose all treatment, processing, and storage components and all loading and unloading areas.

(G) plans for the storage of grease, oil, and sludge on site, including determinations of maximum periods of time all separated materials will remain on site and the ultimate disposition of such materials off site.

(H) proposed disposition of effluent resulting from all treatment and processing operations.

(5) Site operating plan. In addition to the requirements of §325.75(b)(5)(H) of this title (relating to Technical Information Required for Solid Waste Processing and Experimental Sites), the site operating plan shall include guidance on the items in subparagraphs (A)-(F) of this paragraph.

(A) protection of all utilities on or near the site property from facility-related operations.

(B) provisions for the control of accidental spillage.

(C) provisions for the periodic cleaning of storage, treatment, and processing units.

(D) maximum allowable period of time unprocessed and processed wastes are to remain on site.

(E) contingency plans (included with the site operational concept) which address facility breakdowns.

(F) quality control plans to ensure that unauthorized wastes are not unloaded or processed at the plant.

§325.514. Operational Requirements.

(a) Incinerators. In addition to operational requirements contained in the permit, the operator of an incinerator which processes sludges shall comply with the provisions appropriate to incinerators in §§325.171-325.190 of this title (relating to Operational Standards for Solid Waste Processing and Experimental Sites).

(b) Compost site. In addition to operational requirements contained in the permit, the operator of a compost site shall comply with the provisions appropriate

to compost operations in §§325.171-325.190 of this title (relating to Operational Standards for Solid Waste Processing and Experimental Sites).

(c) Site for processing grease trap waste, grit trap waste, or septage. In addition to operational requirements contained in the permit, the operator of a processing site shall comply with the provisions appropriate to facilities that process grease trap wastes, grit trap waste, or septage in §§325.171-325.190 of this title (relating to Operational Standards for Solid Waste Processing and Experimental Sites).

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

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Grease Trap Waste, Grit Trap Waste, Septage, and Water Supply Treatment Plant Sludges

25 TAC §§325.531-325.534

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

§325.531. Grease Trap Wastes.

(a) General.

(1) This section is applicable to persons generating, collecting, transporting, processing, or disposing of wastes from grease traps. Grease trap waste includes waste from traps in the sewer system at hotels, restaurants, and similar preparation establishments or operations. Grease trap waste is classified as a special waste by the department.

(2) After December 31, 1984, persons generating grease trap waste shall engage only persons registered with the department to collect and transport their wastes. Where such wastes are collected and transported or otherwise managed by the generator, the generator shall comply with transporter requirements.

(3) Persons who transport grease trap waste shall comply with §§325.441-325.447 of this title (relating to Transporters). Persons who transport grease trap wastes shall also comply with the requirements of this section.

(b) Processing. Where waste processing is reasonably available at a facility permitted or authorized in accordance with §§325.511-325.514 of this title (relating to

Processing of Sludges and Similar Wastes), grease trap wastes shall be processed at such facilities in preference to land disposal. If a processing facility is located within the same city of collection or within the same distance as the land disposal facility, the transporter shall obtain an exception from the department authorizing him to take the waste to a land disposal facility rather than the processing and separation facility.

(c) Disposal.

(1) Grease trap wastes may be disposed of at a Type I municipal solid waste site in accordance with §325.136 of this title (relating to Disposal of Special Wastes), provided:

(A) The disposal is approved by the operator of the site; and

(B) The transporter provides information necessary for site operators to comply with §325.136(a)(3) of this title (relating to Disposal of Special Wastes).

(2) Grease trap waste may be disposed of at a facility permitted or authorized for the land disposal of special wastes in accordance with provisions of §§325.481-325.484 of this title (relating to Land Disposal).

§325.532 *Grit Trap Wastes.*

(a) General.

(1) This section is applicable to persons generating, collecting, transporting, processing, or disposing of wastes from grit traps (or oil traps). Grit trap wastes include waste from interceptors placed in the drains prior to entering the sewer system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar establishments. Grit trap waste is classified as a special waste by the department.

(2) After December 31, 1984, persons generating grit trap waste shall engage only persons registered with the department to transport their wastes. Where such wastes are collected and transported or otherwise managed by the generator, the generator shall comply with transporter requirements.

(3) Persons who transport grit trap waste shall comply with §§325.441-325.447 of this title (relating to Transporters). Persons who transport grit trap waste shall comply with the requirements of this section.

(b) Processing. The preferred method of managing grit trap waste is to process it at a facility permitted or authorized in accordance with §§325.511-325.514 of this title (relating to Processing of Sludges and Similar Wastes).

(c) Disposal.

(1) Grit trap wastes may be disposed of at Type I municipal solid waste sites in accordance with the provisions of §325.136 of this title (relating to Disposal of Special Wastes) provided:

(A) The disposal is approved by the operator of the site; and

(B) The transporter provides information necessary for the site operator to comply with §325.136(a)(3) of this title (relating to Disposal of Special Wastes).

(2) Grit trap waste may be disposed of at a facility permitted or authorized for the land disposal of wastes in accordance with provisions of §§325.481-325.484 of this title (relating to Land Disposal).

§325.533 *Septage*

(a) General.

(1) As used in this section, septage includes pumpings from septic tanks used by single or multiple residential units, schools, motels/hotels, restaurants, and similar establishments to collect and treat sanitary wastes. Septic or holding tank wastes from commercial or industrial establishments where process waste may be involved shall be managed under other applicable rules.

(2) Persons who transport septage are required to comply with §§325.441-325.447 of this title (relating to Transporters). Persons who transport septage shall also comply with the requirements of this section.

(3) After December 31, 1984, owners of septic systems shall engage only persons registered with the department to transport septage. Where such wastes are collected and transported or otherwise managed by the generator, the generator shall comply with transporter requirements.

(b) Processing

(1) The preferred method of septage disposal is by treatment at a municipal wastewater treatment plant. Where this method is reasonably available it shall be utilized in preference to land disposal. The transporter disposing of septage in this manner must have the permission of the municipal wastewater treatment plant operator.

(2) Septage may be processed at a facility permitted or authorized for processing grease trap and grit trap waste and septage under §§325.511-325.514 of this title (relating to Processing of Sludges and Similar Wastes).

(3) Septage may be disposed of at a Type I landfill in accordance with §325.136 of this title (relating to Disposal of Special Wastes), provided:

(A) The disposal is approved by the operator of the facility;

(B) The transporter provides information necessary for the site operator to comply with §325.136(a)(3) of this title (relating to Disposal of Special Wastes); and

(C) Septage quality and characteristics comply with requirements of §325.136(b)(4) or (5) of this title (relating to Disposal of Special Wastes).

(c) Land application

(1) Septage may be disposed of at sites permitted or authorized under §§325.481-325.484 of this title (relating to Land Disposal) when such sites are specifically permitted or authorized to receive septage.

(2) Septage may be beneficially used in land application when such operation complies with §§325.461-325.465 of this title (relating to Land Application for Beneficial Use). In addition, land application should comply with the department's guidelines covering such activity.

(3) The bureau may grant an exception to the requirement for stabilization of septage prior to land application when requested in writing and such application conforms to requirements provided in the letter of approval.

(d) Processing and disposal alternatives. The following processing or disposal alternatives are included here for consideration.

(1) Composting. Septage may be processed by composting at a facility permitted or authorized and

operated pursuant to §§325.511-325.514 of this title (relating to Processing of Sludges and Similar Wastes)

(2) Separate septage treatment facility. Separate treatment facilities may be authorized where effluent and solids treatment and disposal is provided in accordance with these rules and wastewater treatment requirements of the department and the Texas Department of Water Resources (if an National Pollutant Discharge Elimination System (NPDES) permit is required)

§325.534. Water Supply Treatment Plant Sludge

(a) Purpose. The purpose of this section is to establish requirements for the handling and disposal of water supply treatment plant sludge

(b) Applicability. This section is applicable to persons who operate a public drinking water supply treatment plant, transporters of sludge from such plants, and persons who apply sludges from water supply treatment plants to the land or otherwise dispose of the sludge.

(c) Transportation. Persons transporting water supply treatment plant sludges shall comply with §§325.441-325.447 of this title (relating to Transporters)

(d) Operators. Operators of public water supply treatment plants shall dispose of sludges from plant operations in a manner authorized by this section. If such wastes are collected by private transporters, the operator shall engage only persons registered with the department to transport the facility's wastes

(e) Disposition

(1) Sludges may be co-disposed with wastewater through an organized municipal sewage collection and treatment system where approved by the operator of the system.

(2) Sludges may be made available for land application in accordance with department guidelines

(3) Sludges may be co-disposed with other municipal solid waste at a permitted Type I, II, or III landfill in accordance with §325.136(b)(3) of this title (relating to Disposal of Special Wastes)

(4) Sludges shall not be discharged into the waters in the state except as approved by the Texas Department of Water Resources

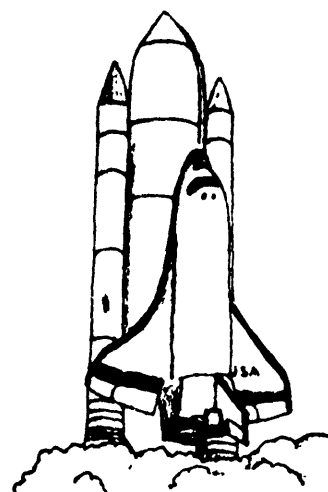
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on October 4, 1983

TRD-837865 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
December 10, 1983

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



Subchapter X. Forms and Documents

25 TAC §325.904

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

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

§325.904 Appendix D-- Affidavit to the Public.

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 October 4, 1983

TRD-837878 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
December 10, 1983

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

This rule is proposed under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7, §4(c), which provide the Texas Department of Health with the authority to adopt and promulgate rules consistent with the general intent and purposes of the Act

and establish minimum standards of operation for all aspects of the management and control of solid waste under its jurisdiction.

§325.904. Appendix D—Affidavit to the Public.

(The following is a suggested format for the "Affidavit to the Public" required by 25 TAC § 325.152 (relating to Site Completion and Closure Procedures).)

STATE OF TEXAS

AFFIDAVIT TO THE PUBLIC

COUNTY OF _____

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

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

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

Notice is hereby provided to any future owner or user of the site to consult with the Texas Department of Health prior to planning or initiating any activity involving the disturbance of the landfill cover or monitoring system.

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

Owner

Operator

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

Notary Public in and for
_____ County, Texas

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 October 4, 1983.
TRD-837877 Robert A. MacLean, M.D.
Deputy Commissioner
Professional Services
Texas Department of Health

Proposed date of adoption
December 10, 1983

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

**Texas
Register**

25 TAC §§325.907-325.909

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

§325.907. *Appendix G—Notification.* This section adopts the attached Appendix G—Notification.

§325.908. *Appendix H—Registration.* This section adopts the attached Appendix H—Registration

§325.909. *Appendix I—Annual Summary Report Form for Sludges and Related Wastes.* This section adopts the attached Appendix I—Annual Summary Report Form for Sludges and Similar Wastes.

Texas Department of Health
1100 West 49th Street
Austin, Texas 78756
(512) 458-7271

NOTIFICATION OF SLUDGE MANAGEMENT ACTIVITIES

This form is to be used by operators of municipal wastewater treatment plants to notify the Texas Department of Health of sludge management activities in accordance with 25 TAC § 325.432 of this title (relating to Notification by Municipal Wastewater Treatment Plant Operators).

TEXAS DEPARTMENT OF HEALTH NOTIFICATION NUMBER _____ . (Notifier leave blank)

A. Treatment Plant Identification: (Please identify each plant separately)

1. Treatment Plant Name: _____

2. Location: _____

3. TDWR Waste Discharge Permit Number: -

4. Authorized Plant Contact:

a. Name: _____

b. Position: _____

c. Mailing Address: _____

Street or P. O. Box

City State Zip Code

d. Telephone Number: (_____) _____
Area Code Number

B. Treatment Plant Design and Operation:

1. Design Capacity of Plant: _____ gallons of wastewater treated per day

2. Average Sludge Generation Rate: _____ dry tons per day

3. Wastewater Treatment Process: _____

4. Sludge Stabilization Process: _____

Appendix G--Notification of Sludge Management Activities, Continued

- 5. Sludge Dewatering Processes: _____
- 6. Percent Solids of Sludge Mixture Attained: _____
- 7. Process to Further Reduce Pathogens (Disinfection): _____

C. Sludge Analyses:

Please attach copies of the most recent and most complete chemical analyses of plant-generated sludges and any updated, partial analyses of sludges performed subsequent to the last complete chemical analyses.

Sampling Dates of Attached Analyses: _____

D. Sludge Management:

- 1. Transporter(s) under contract for removal of plant-generated sludges:

Name: _____

Street Address:

Mailing Address:

Street

Street or P. O. Box

City State Zip Code

City State Zip Code

Telephone Number: (____) _____ - _____

TDH Registration Number _____

(Attach Additional Sheets as needed for Transporter Identification)

- 2. Sludge Management Practices: (Check and Complete Appropriate Lines Below)

____ Land Application for Beneficial Use

Site Registration Number _____

____ Land Disposal to include Land Treatment, Landfilling, and Co-Disposal
at a Solid Waste Landfill

Site Operator: _____

Type of Site: _____

Permit Number: _____

Site Location: _____

Appendix G--Notification of Sludge Management Activities, Continued

_____ Marketing or Distribution:

Brief Description of Controls Utilized for Such Types of
Distribution:

_____ Other: (Specify: Include Methods, Site/Facility Locations,
Operator, etc.)

E. Responsible Persons: The above information is true to the best of my knowledge.

(Signature of Facility Operator) (Date)

(Typed or Printed Name)

(Title)

(Facility Name)

If space provided is not sufficient, attach additional sheets.

REGISTRATION FORM FOR TRANSPORTERS OF SLUDGES AND SIMILAR WASTES

This form is to be used by persons engaged in collecting and/or transporting sludges and similar wastes who are required to register with the Texas Department of Health in accordance with 25 TAC § 325.442 (relating to Registration). Please see reverse of form for instructions and applicability.

(Applicant Leave Blank)

TEXAS DEPARTMENT OF HEALTH REGISTRATION NUMBER:

--	--	--	--	--	--	--	--	--	--

SERVICING UNIT: (Registrant)

Name: _____

Street Address: _____ Mailing Address: _____

City State Zip City State Zip

Telephone Number: (____) _____ - _____

PARENT COMPANY: (Registrant)

Name: _____

Street Address: _____ Mailing Address: _____

City State Zip City State Zip

Telephone Number: (____) _____ - _____

ACTIVITY: Check all blocks which identify activities operated.

- Processing 02 Land Application 04
- Storage 01 Land Disposal 03 Distribution 05

TYPE & APPROXIMATE AMOUNT OF WASTE HANDLED EACH MONTH

Municipal Wastewater Treatment Plant Sludge - _____ Gallons (less than 5% solids)

Municipal Wastewater Treatment Plant Sludge - _____ Tons (greater than 5% solids)

Septic Tank Pumping..... - _____ Gallons

Grit Trap Waste..... - _____ Gallons

Grease Trap Waste..... - _____ Gallons

Tank Bottoms..... - _____ Gallons

Stripping, Cleaning or Plating Sludge..... - _____ Gallons

Other (describe and specify units): _____

Are you involved with collecting and/or transporting hazardous waste? Yes No

If yes, give EPA identification number:

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

GIVE BRIEF DESCRIPTION OF ACTIVITY, ORIGIN AND TYPE WASTE INVOLVED AND LOCATION OF ACTIVITY:

LOCAL ORDINANCE: (Provide information, if any, on local ordinances governing your activity.)

REGISTRATION WITH TDWR: Is your activity currently registered with the Texas Department of Water Resources (TDWR)? Yes No

Registration Number, if any: _____

RESPONSIBLE PERSONS:

The above information is true to the best of my knowledge.

Signature: _____ Date: _____

APPLICABILITY & INSTRUCTIONS:

All persons engaged or who plan to engage in the collection and/or transportation of sludges and related wastes classified as municipal solid waste in the State of Texas pursuant to the Texas Solid Waste Disposal Act, Article 4477-7, V.T.C.S., are required to register such activity with the Texas Department of Health in accordance with 25 TAC § 325.442 (relating to Registration). Sludges and related wastes classified as municipal solid waste include: municipal wastewater treatment plant sludges; residential and commercial septic tank pumpings; drinking water supply treatment plant sludge; commercial grit trap wastes and grease trap wastes; tank bottom sludges from storage tanks used for product distribution; and commercial stripping, cleaning or plating operations waste.

If space provided is not sufficient, attach additional sheets.

MAIL COMPLETED FORM TO: Texas Department of Health
Bureau of Solid Waste Management
1100 West 49th Street
Austin, Texas 78756

FOR INFORMATION CALL: (512) 458-7271

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

ANNUAL SUMMARY REPORT FORM FOR SLUDGES AND SIMILAR WASTES

This form is to be used by persons who collect and/or transport sludges and similar wastes in accordance with 25 TAC § 325.445 (relating to Disposition Control). Transporters shall submit this report to the bureau no later than March 1st of the year following the end of the calendar year of the reporting period. Please see reverse side of this form for applicability.

TDH REGISTRATION NO.

A. TRANSPORTER

Name: _____

Mailing Address: _____
Street or P. O. Box

City State Zip Code

Telephone Number () _____ - _____

B. TYPE AND AMOUNT OF WASTES DELIVERED TO FACILITIES ANNUALLY

List the facilities which have received the sludges or related wastes from your company (include facility operator's name, address, and telephone number of facility). List the type, unit of measure, and management of waste transported by marking the appropriate code or codes. Use additional sheets if necessary.

Waste Types:

- (01) Municipal Wastewater Treatment Plant Sludges
- (02) Septic Tank Pumpings
- (03) Grit Trap Waste
- (04) Grease Trap Waste
- (05) Tank Bottoms
- (06) Stripping, Cleaning, or Plating Sludges
- (07) Water Supply Treatment Plant Sludge
- (08) Other (Explain) _____

Unit of Measure Codes: (UNIT)

- (01) Dry Tons
- (02) Gallons
- (03) Cubic Yards
- (04) Drums (55 gallon)

Management Codes: (MGMT)

- (01) Land Application
- (02) Land Treatment
- (03) Landfill (Sludge only)
- (04) Co-Disposal
- (05) Processing
- (06) Storage

TITLE 34. PUBLIC FINANCE
Part I. Comptroller of Public
Accounts
Chapter 3. Tax Administration
Subchapter O. Sales Tax Division—State
Taxes

34 TAC §3.282

The Comptroller of Public Accounts proposes amendments to §3.282, concerning auditing of taxpayers' records. The amendments are necessary because of changes made by the legislature to the Texas Tax Code, §111.0042. In 1981, the legislature added §111.0042, which details the conditions under which the comptroller may use a sample and projection auditing method. In 1983, the legislature repealed §111.0042 (a), which required the comptroller to obtain the taxpayer's written permission to use a sample and projection method in determining tax liability.

Billy Hamilton, director of revenue estimating for the comptroller, has determined that this change will result in increased audit collections of \$5,335,000 each year from 1984-1988. There will be a corresponding increase in local and Metropolitan Transit Authority tax collected.

Mr. Hamilton also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be more efficient and timely audits of taxpayer records, resulting in improved administration of the state tax laws and increased state revenue collections. The cost to individuals who are required to comply with the proposed rule will correspond with the increase in tax collected from audits resulting in the state receiving a greater percentage of the tax actually due.

Comments on the proposal should be submitted to D. Carolyn Busch, P.O. Box 13528, Austin, Texas 78711.

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

§3.282. Auditing Taxpayer Records.

(a) Taxpayer accounts may be audited by authorized representatives of the comptroller at any time during regular business hours at the discretion of the comptroller or the comptroller's [his] authorized agent or representative.

(b) **The comptroller may use a detailed auditing procedure or a sample and projection auditing method to determine tax liability.** [The audit may examine in detail all transactions of the taxpayer or may employ sample audit methods in accordance with standard auditing procedures. Sampling or projected audits will examine in detail sufficient records to determine compliance or to establish a reliable factor or percentage of error which may

be projected as a basis for assessments in unaudited periods.]

(c) **A sample and projection auditing method is appropriate if:**

(1) the taxpayer's records are so detailed, complex, or voluminous that an audit of all detailed records would be unreasonable or impractical;

(2) the taxpayer's records are inadequate or insufficient, so that a competent audit for the period in question is not otherwise possible; or

(3) the cost of an audit of all detailed records to the taxpayer or to the state will be unreasonable in relation to the benefits derived, and sampling procedures will produce a reasonable result.

(d) **Before using a sample technique to establish a tax liability, the comptroller must notify the taxpayer in writing of the sampling procedure to be used.**

(e) If records are inadequate to accurately reflect the business operations of the taxpayer, the auditor will determine the best information available and base the [his] audit report on that information. **See §3.281 of this title (relating to Records Required, Information Required) for information on proper records.**

(f)(d) Resale and exemption certificates should be available at the time of the audit. Certificates acquired after the audit begins do not relieve the seller of liability for the tax but may be considered as evidence presented to prove that the sales were exempt [will be judged as to good faith acceptance based on knowledge of the taxpayer including information furnished by the auditor]. **Certificates and other records** which were not available at the time the audit began, but which thereafter become available, are subject to independent confirmation before acceptance.

(g)(e) Both sellers and purchasers are subject to audit and assessment of tax on any transactions on which tax was due but has not been paid.

(h)(f) The comptroller may proceed against either the seller or purchaser, or against both, until the tax, penalty, and interest **have** [has] been paid.

(g) For auditing purposes, former Rulings 95-0.02A and 95-0.02B (prior contract exemptions) filed with the secretary of state of the State of Texas prior to December 31, 1975, shall be given full force and effect.]

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 October 5, 1983.

TRD-837923 Bob Bullock
 Comptroller of Public Accounts

Earliest possible date of adoption:
 November 11, 1983

For further information, please call (512) 475-3825.

34 TAC §3.284

The Comptroller of Public Accounts proposes amendments to §3.284, concerning drugs, medicines, and medical equipment and devices. The amendments explain the sales tax exemptions provided for certain

equipment used by the blind to enable them to function more independently. The exemptions were added to the Texas Tax Code, §151.313, by Senate Bill 123 and are effective September 1, 1983.

Billy Hamilton, director of revenue estimating for the comptroller, has determined that there will be probable revenue loss from implementing the provisions of the bill in the next four years. In 1984, the revenue loss will be \$5,400 to the state, \$1,100 to cities, and \$300 to Metropolitan Transit Authorities (MTA's). In 1985, the revenue loss will be \$5,600 to the state, \$1,200 to cities, and \$320 to MTA's. In 1986, the revenue loss will be \$5,900 to the state, \$1,200 to cities, and \$330 to MTA's. In 1987, the revenue loss will be \$6,100 to the state, \$1,300 to cities, and \$340 to MTA's. In 1988, the revenue loss will be \$6,300 to the state, \$1,300 to cities, and \$350 to MTA's. There would be a negligible loss in state administrative fees as a result of the reduction in MTA and city sales tax revenues.

Mr. Hamilton also has 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 savings for visually-handicapped persons resulting from not having to pay sales tax on Braille equipment purchases. 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 D. Carolyn Busch, P.O. Box 13528, Austin, Texas 78711.

The amendments are proposed under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

§3.284. *Drugs, Medicines, Medical Equipment and Devices.*

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

(1) **Brace** [A brace]—Any device used on or attached to the human body, giving rigidity or support for the purpose of correcting a physical ailment or defect.

(2)-(11) (No change.)

(b) (No change.)

(c) Medical equipment.

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

(5) **Sales tax is not due on the sale, lease, or rental of a Braille wristwatch, Braille writer, Braille paper, Braille electronic equipment that connects to computer equipment, and harness for guide dogs. An exemption certificate is not required. Sales tax is not due on the sale, lease, or rental of the following items if purchased for use by the legally blind: a slate and stylus, print enlarger, magnifier, white cane, talking clock, large print terminal, and talking terminal. An exemption certificate should be provided the seller by the purchaser.**

(6)-(5) Sales tax is not due on the sale, lease, or rental of therapeutic appliances, devices, and related supplies specifically designed for those products when sold,

leased, or rented to individuals under a prescription of a licensed practitioner of the healing arts. Unless a hospital, nursing home, or other institution qualifies for exemption under the Texas Tax Code, §151.310(a)(1) or (a)(2), the institution must pay sales tax on equipment and supply items used to provide medical services unless the item qualifies for exemption under paragraph (1), (2), or (3) of this subsection [section].

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 October 5, 1983.

TRD-837924 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption:
November 11, 1983

For further information, please call (512) 475-3852.

34 TAC §3.327

The Comptroller of Public Accounts proposes amendments to §3.327, concerning a retailer's bond or other security. The amendments implement a change in the amount of security required of applicants for sales tax permits. Senate Bill 985 amended the Texas Tax Code, §151.253, to limit the security required to three times the amount of the applicant's monthly tax liability. The change is effective October 1, 1983.

Billy Hamilton, director of revenue estimating for the comptroller, 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 government as a result of enforcing or administering the rule.

Mr. Hamilton also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be a reduction in the amount of the security bond quarterly and yearly sales tax filers must post. The change will benefit consumers to the extent that filers' costs of doing business in Texas declines and the savings are passed on. 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 D. Carolyn Busch, P.O. Box 13528, Austin, Texas 78711.

The amendments are proposed under the authority of the Texas Tax Code, §111.002, which provides that the comptroller may prescribe, adopt, and enforce rules relating to the administration and enforcement of the sales tax.

§3.327. *Retailer's Bond or Other Security.*

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

(c) The amount of bond or security required.

(1) Monthly filers: **A retailer** [Retailers] reporting on a monthly basis shall post bond or security in an amount equal to two times the amount of the **retailer's** [such person's] average monthly tax liability.

[(4)] Taxpayers who remit quarterly prepayments are exempted from the monthly reporting requirement provided the repayment is a reasonable estimate of the state and local tax liability for the entire quarter.

[(5)] A taxpayer required to file monthly returns or who elects to prepay and file quarterly returns instead of filing monthly must continue filing on that basis until permission is received from the comptroller to report on some other basis.]

(c)[(b)] Yearly filing.

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

(5) Authority to file on a yearly basis is automatically revoked if a taxpayer's state sales and use tax liability is greater than \$500 during a calendar year. The taxpayer must file a return for that month or quarter, depending on the amount, in which the liability is greater than \$500. On that report, the taxpayer must report all accrued liability for the year and must file monthly or quarterly, as appropriate, as long as the yearly tax liability is greater than \$500.

(6) (No change.)

(7) Yearly filers must report on a calendar year basis. The return and payment are due on or before January 20 [31] of the next calendar year.

[(c)] Annual filing—certain manufacturers.

[(1)] A taxpayer whose business is solely manufacturing and whose receipts from taxable sales, leases, or rentals are less than 2.0% of total receipts may file returns on an annual basis.

[(2)] The annual return may be filed on either a calendar year or on the basis of the taxpayer's fiscal year.

[(3)] The requirement that the business be "solely manufacturing" prohibits a taxpayer filing annual returns if any receipts are obtained from the sale, lease, or rental of taxable items not manufactured by the taxpayer.

[(4)] "Receipts" means the total amount of the sales or lease price of taxable and nontaxable items made in state and out of state. Taxable receipts includes only those sales, leases, or rentals upon which the manufacturer is required to collect tax. In determining the percentage of taxable receipts to total receipts, computations may be based on annual data.

[(5)] Taxpayers who qualify should not file annual returns until written notification is given to the comptroller. Notification should be received before the return due date for the period in which the taxpayer determines that taxable receipts are less than 2.0% of total receipts.

[(6)] If at any time the annual taxable percentage is found to be 2.0% or more, the taxpayer must begin filing quarterly or monthly returns. Late filing penalties apply to all quarters or months when the taxpayer did not qualify as an annual filer but failed to file quarterly or monthly.

[(7)] Manufacturers filing annual returns are not entitled to discounts for timely filing.

[(8)] Annual taxpayers may also report on an annual basis use tax due on those taxable items purchased from out-of-state vendors not authorized to collect Texas tax. See §3.346 of this title (relating to Use Tax).

[(d)] Quarterly filing. Taxpayers who do not file monthly, yearly or annually are required to file returns quarterly.]

(d)[(c)] Filing the return.

(1) The return for each reporting period must reflect the gross sales, deductions, and taxable purchases for each outlet [Except as provided in subsection (c)(7) of this rule.] The 1.0% discount for timely filing and payment may be claimed on the return for each reporting period and computed on the amount timely reported and paid with that return.

(2) The comptroller will make forms available to all persons required to file returns. The failure of the taxpayer to obtain the forms will not relieve that taxpayer from the requirement to file and remit the tax timely.

(3) Prepayments may be made by taxpayers who file monthly or quarterly returns. The amount of the prepayment should be a reasonable estimate of the state and local tax liability for the entire reporting period. "Reasonable estimate" means at least 90% [66 2/3%] of the total amount due or an amount equal to the actual net tax liability due and paid for the same reporting period of the immediately preceding year.

(A) The monthly prepayment is due on or before the 15th day of the month for which the prepayment is made. Prepayments earn an additional 1.25% [2.0%] discount. [Prepaying the tax monthly will require filing of two reports each month.]

(B) The quarterly prepayment is due on or before the 15th day of the second month of the quarter for which the tax is due. See §3.286 of this title (relating to Seller's Responsibilities). Prepayments earn an additional 1.25% [2.0%] discount each quarter.

(4) Remittances which are less than a reasonable estimate as required by paragraph (3) of this subsection will not be regarded as a prepayment. The 1.25% discount will not be allowed. If the taxpayer owes more than \$1,500 in a calendar quarter, the taxpayer will be regarded as a monthly filer. All monthly reports not filed because of the invalid prepayment will be subject to late filing penalty and interest.

(5)[(4)] Timely late payments or filing late returns will cause all discounts to be disallowed and penalties for late filing or payment will be imposed. Reports filed late will result in disallowance of the prepayment discount.

(e)[(f)] Direct payment. Yearly and monthly filing requirements, prepayment procedures, and discounts for timely filing do not apply to holders of direct payment permits. See §3.288 of this title (relating to Direct Payment Procedures and Qualifications) **Direct payment returns and remittances are due monthly on or before the 20th day of the month following the end of the calendar month for which payment is made.**

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 October 5, 1983.

TRD-837926 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption.
November 11, 1983

For further information, please call (512) 475-3852.

Subchapter P. State Tax Division—Local Taxes

34 TAC §3.377

The Comptroller of Public Accounts proposes amendments to §3.377, concerning the sales or use tax responsibilities of a person using property purchased under a resale or exemption certificate in a divergent manner. The amendments are the result of Senate Bill 370, effective July 1, 1981, which amended the Texas Tax Code, § 151.154 and § 151.155, to allow purchasers to pay sales tax on the fair market rental value of an item purchased tax free under a resale or exemption certificate and put to a taxable use. Prior to the statutory change, purchasers were required to remit tax on the original purchase price.

Billy Hamilton, director for revenue estimating for the comptroller, 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 government as a result of enforcing or administering the rule.

Mr. Hamilton also has determined that for each year of the first five years the rule as proposed is in effect there will be no public benefit anticipated as a result of enforcing the rule as proposed. 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 D. Carolyn Busch, P O Box 13528, Austin, Texas 78711.

The amendments are proposed under the Texas Tax Code, § 111.002, which provides the comptroller with the authority to adopt and enforce rules relating to the administration and enforcement of the sales tax.

§3.377. Divergent use of a Direct Payment, [Liability of Purchaser Giving] Resale or Exemption Certificate, or Direct Payment Exemption Certificate.

(a) Exemption certificate—divergent use.

(1) (No change.)

(2) **The sales tax is based upon the fair market rental value for the period of time used. If the fair market rental value cannot be ascertained, tax is due on the original purchase price of the items.** [The basis for the sales tax is the purchase price.] The tax is due in the reporting period in which the items were used or consumed in a nonexempt manner. See §3.287 of this title (relating to Exemption Certificates).

(3) (No change.)

(b) Resale certificate—divergent use.

(1) (No change.)

(2) If storage facilities contain taxable items purchased for resale, [no] city use tax is **not** due if the items are removed from storage and transported outside the state for use solely outside the state. Although the items are not resold, no taxable use occurs in Texas. If the items are removed from storage for use or consumption in a taxing city, then city use tax is due.

(3) **The use tax is based upon the fair market rental value for the period of time used. If the fair market rental value cannot be ascertained, tax is due on the origi-**

nal purchase price of the items. [The basis for the tax is the purchase price.] The tax is due for the reporting period in which the items were used or consumed in a manner not allowed by the resale certificate. See §3.285 of this title (relating to Sales for Resale, Resale Certificates).

(4) The city use tax is due the taxing city where the items are stored or kept at the time of or just prior to their use or consumption. If stored or kept outside a taxing city at the time of or just prior to their use, [no] city use tax is **not** due.

(5) (No change.)

(c) Direct payment exemption certificate.

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

(3) If taxable items are first stored, used, or consumed within a nontaxing city or outside of a city, [no] city use tax is **not** due.

(4) (No change.)

(5) If, in a taxing city, storage facilities contain taxable items purchased under a direct payment exemption certificate, and at the time of storage it is not known whether the items will be used in or removed from Texas, the taxpayer may elect to report city use tax when the items are first stored or when they are first removed from inventory for use. Once the election is made, the tax must be reported in a consistent manner. If city use tax is paid on stored items that are subsequently removed from Texas before use, the tax may be recouped in accordance with the refund and credit provisions in §3.325 of this title (relating to Refunds and Payments under Protest) and §3.338 of this title (relating to Allowance for Credit for Tax Paid to Suppliers). See also §3.346 of this title (relating to Use Tax).

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 October 5, 1983

TRD 837927 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption
November 11, 1983

For further information, please call (512) 475-3825.

Subchapter R. Metropolitan Transit Authority Sales and Use Tax

34 TAC §3.427

The Comptroller of Public Accounts proposes amendments to §3.427, concerning the sales or use tax responsibilities of a person using property purchased under a resale or exemption certificate in a divergent manner. The amendments are the result of Senate Bill 370, effective July 1, 1981, which amended the Texas Tax Code, § 151.154 and § 151.155, to allow purchasers to pay sales tax on the fair market rental value of an item purchased tax free under a resale or exemption certificate and put to a taxable use. Prior to the statutory change, purchasers were required to remit tax on the original purchase price.

Billy Hamilton, director of revenue estimating for the comptroller, 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 government as a result of enforcing or administering the rule

Mr. Hamilton also has determined that for each year of the first five years the rule as proposed is in effect there is no public benefit anticipated as a result of enforcing the rule as proposed. 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 D. Carolyn Busch, P O Box 13528, Austin, Texas 78711

The amendments are proposed under the Texas Tax Code, §111 002, which provides the comptroller with the authority to adopt and enforce rules relating to the administration and enforcement of the sales tax

§3.427. Divergent use of a Direct Payment, [Liability of Purchaser Giving] Resale, or Exemption Certificate, or Direct Payment Exemption Certificate]

(a) Exemption certificate--divergent use

(1) (No change)

(2) **The sales tax is based upon the fair market rental value for the period of time used. If the fair market rental value cannot be ascertained, tax is due on the original purchase price of the items.** [The basis for the sales tax is the purchase price.] The tax is due in the reporting period in which the items were used or consumed in a nonexempt manner. See §3 287 of this title (relating to Exemption Certificates)

(3) (No change)

(b) Resale certificate--divergent use.

(1) (No change)

(2) If storage facilities contain taxable items purchased for resale, [no] MTA use tax is **not** due if the items are removed from storage and transported outside the state for use solely outside the state. Although the items are not resold, no taxable use occurs in Texas. If the items are removed from storage for use or consumption in an authority, MTA use tax is due

(3) **The use tax is based upon the fair market rental value for the period of time used. If the fair market rental value cannot be ascertained, tax is due on the original purchase price of the items.** [The basis for the tax is the purchase price] The tax is due for the reporting period in which the items were used or consumed in a manner not allowed by the resale certificate. See §3 285 of this title (relating to Sales for Resale, Resale Certificates).

(4) The MTA use tax is due the authority where the items are stored or kept at the time of or just prior to their use or consumption. If stored or kept outside an authority at the time of or just prior to their use, [no] MTA use tax is **not** due

(5) (No change)

(c) Direct payment exemption certificate.

(1)-(2) (No change)

(3) If taxable items are first stored, used, or consumed outside an authority, [no] MTA use tax is **not** due.

(4) (No change)

(5) (No change.)

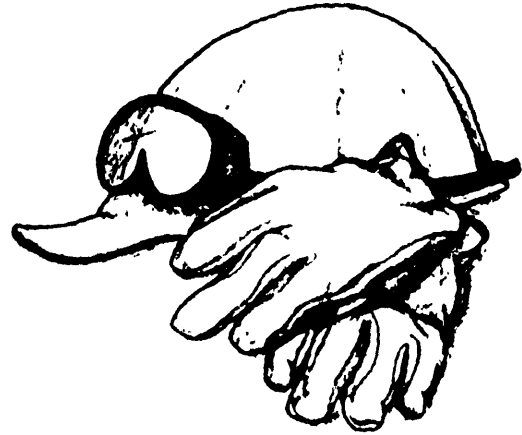
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on October 5, 1983.

TRD 837928 Bob Bullock
Comptroller of Public Accounts

Earliest possible date of adoption
November 11, 1983

For further information, please call (512) 475-3825.



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 1. Organization and Administration

Entrusted Properties

37 TAC §1 201

The Texas Department of Public Safety (DPS) proposes new §1 201, concerning handling and disposition of entrusted properties. This rule will establish uniformity for DPS officers when seizing personal property of an individual.

Melvin C. Peebles, chief accountant II, 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 government as a result of enforcing or administering the rule.

John McNelly, inspector, has 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 assurance to the public that personal property of a citizen will not be seized unless there is a legitimate, bona fide reason for the department to retain said property. Seized property will be retained only so long as needed. There is no anticipated direct economic cost to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to John C. West, Jr., Texas Department of Public Safety, Box 4087, Austin, Texas 78773, (512) 465-2000.

The new section is proposed under Texas Civil Statutes, Article 4413(1) and (6), which provide the Texas Department of Public Safety with the authority to make rules deemed necessary to control the department and provide for the effective administration thereof.

§1.201. Handling and Disposition of Entrusted Properties. Police power to seize the personal property of citizens is the exercise of authority that should never be taken lightly or capriciously. Citizens are ordinarily under no obligation to prove ownership of any property found in their possession. Conversely, the burden is upon the officer to prove that property is not legally in possession of a citizen. Unless investigation can establish otherwise, it should be presumed that property found in the possession of any citizen is that citizen's property and, if such property is seized for any reason, the citizen is entitled to recover that property when there is no longer a bona fide reason for the department to retain it. (This policy includes weapons; it excludes any contraband.) It is, therefore, the policy of this department to seize and impound property only when a legitimate need so requires and to retain such property only so long as that need is served.

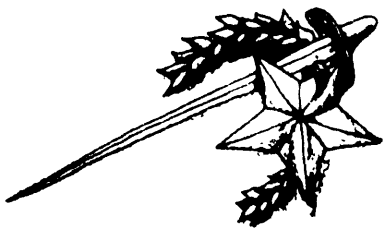
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt

Issued in Austin, Texas, on October 3, 1983

TRD-837891 James B. Adams
Director
Texas Department of Public
Safety

Earliest possible date of adoption
November 11, 1983

For further information please call (512) 465-2000



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Resources Chapter 85. General Licensing Procedures Subchapter III. Social Work Certification

The Texas Department of Human Resources proposes the repeal of §85.6002, amendments to §85.6001,

85 6003, 85 6004, 85 6007, 85 6009 85 6015, and 85 6018, and new §§85 6019 85 6026, concerning social work certification. Legislation was passed during the 68th Legislature, 1983, amending the Human Resources Code, Chapter 50, concerning regulation

of social work practitioners. The new rules and amendments are proposed to ensure the department's compliance with state law.

The department adopted emergency new rules amendments, and a repeal, effective September 29, 1983, which were published in the October 7, 1983, issue of the *Texas Register*.

The new policies include a substantial revision of the requirements for certification. Under the new policies, more social work practitioners will be able to meet the qualifications for certified social worker and social worker. In addition, the new policies require that consumers of social work services be informed of the procedures for making complaints against a certified social work practitioner.

David Hawes, programs budget and statistics director, 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. Hawes has also determined that for each year of the first five years the rules as proposed are in effect the public benefit will be increased numbers of social work practitioners certified by the department. The only economic costs to persons required to comply with these rules are the fees for social work certification listed in §85 6004.

The department will hold public hearings on the following dates to accept comments on the proposals:

- (1) October 13, 1983, at 7:30 p.m., Shamrock Hilton Hotel, Houston
- (2) October 25, 1983, at 9:30 a.m., DHR board room, 706 Banister Lane, Austin
- (3) October 27, 1983, Phone local DHR office for time and place, Midland/Odessa
- (4) October 28, 1983, at 3:30 p.m., Room 115, University Hall, University of Texas at Arlington.

Written comments are also invited and may be sent to Susan L. Johnson, Administrator, Policy Development Support Division-598, Texas Department of Human Resources 153-B, P. O. Box 2960, Austin, Texas 78769, within 30 days of publication in this *Register*.

40 TAC §§85.6001, 85 6003, 85.6004, 85.6007, 85 6009-85.6015, 85.6018

The amendments are proposed under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

§85.6001 General Rule. Individuals identifying themselves to the public as social workers must have a social work certification according to [in accordance with]

the law and under the rules and procedures of the Texas Department of Human Resources

§85.6003. Recognition

(a) **The department grants an order of recognition when it determines that a holder of a social work certificate is qualified for private practice and or specialty practice.**

(b)(a) **Private practice**—A private practitioner of social work is one who, on either a full [time] or part-time basis, is responsible [has responsibility] for his own practice, establishes his own conditions of exchange with his clients, and identifies himself as a social worker practitioner in offering services. **A social worker is considered in private practice if he provides social work services with sole responsibility for the client, regardless of the organizational structure in which he provides the services.** [Social workers are not in private practice if they are paid employees of an agency or institution and not compensated on a fee for service basis, if their role and functions are defined by the agency or institution, and if they are supervised by and accountable to the agency or institution.]

(1) **Only persons meeting the requirements may present themselves to the public as independent private practitioners. Persons currently in private practice and persons entering private practice must notify the department and document that they meet the requirements for private practice.**

(2) **The requirements for an independent private practitioner [practice] are:**

(A) **certification as a certified social worker under the Human Resources Code, Chapter 50.;**

(B) **five years of full-time social work practice in an agency, [or] institution, or in the employment of an individual qualified as a private practitioner under these rules. The private practitioner must have five years of experience after completing the requirements for certification as a certified social worker. (Completion of these requirements may predate actual certification under the law.) The department may grant provisional recognition as a private practitioner to persons submitting an acceptable plan for completing this requirement by August 31, 1987. [beyond the masters degree in social work];**

(C) **two years of these five years, or 3,000 hours [or post-masters social work practice] must have been completed under the supervision of a person eligible for certification as a certified social worker [masters degree social worker who has had at least an equivalent amount of supervision] (Completion of these requirements may predate actual certification under the law.) The department may grant provisional recognition as a private practitioner to persons submitting an acceptable plan for completing this requirement by August 31, 1987. The private practitioner must ensure that the plan includes a minimum of one hour per week of supervision by or consultation from a certified social worker approved by the department for the duration of the provisional recognition. [Until August 31, 1983, a private practitioner may substitute for social work supervision, supervision by a nonsocial work professional approved by the department.]**

(D) **(No change.)**

(3) **Until August 31, 1987 [1986], the department may waive the [agency and institutional employment] requirement that the five years of full-time social work practice must be in an agency or institutional setting or in the employment of a private practitioner qualified under these rules if the private practitioner has [following requirements are met]:**

(A) **(C) (No change.)**

(4) **An applicant for provisional recognition as a private practitioner must submit within 90 days of application an acceptable plan for completing the requirements in paragraph (2)(A) and (B) of this subsection, section.**

(c)(b) **Specialty practice**—For the category of advanced clinical practitioner, a person may not use the names, titles, or related designations until he has received an order of specialty recognition.

(1) **Clinical social work is the practice of providing direct[,] diagnostic, preventative, or clinical services to individuals, families, and groups whose [where] functioning is threatened or affected by social or psychological stress or health impairment.**

(2) **An advanced clinical practitioner is a clinical social worker who [meets the following requirements]:**

(A) **is [certification as] a certified social worker under the Human Resources Code, Chapter 50.;**

(B) **has five years of full-time clinical social work practice in an agency, [or] institution, or in the employment of an individual qualified as a private practitioner under these rules. The clinical practitioner must have five years of experience after completing the requirements for certification as a certified social worker. (Completion of these requirements may predate actual certification under the law.) [beyond the master's degree];**

(C) **two years of these five years, or 3,000 hours [of post-masters clinical social work practice] must have been [be] completed under the supervision of an individual eligible for certification as a certified social worker [a masters degree social worker] who has had at least an equivalent amount of clinical social work supervision. Until August 31, 1983, an applicant [the individual] may substitute supervision by a mental health clinical professional approved by the department[; and]. (Completion of these requirements may predate actual certification under the law.)**

(D) **(No change.)**

(3) **Until August 31, 1987 [1986], the department may waive the requirement that the five years of clinical social work experience must be in an agency or institutional setting or in the employment of an individual qualified as a private practitioner. This exception applies to applicants qualifying as a certified social worker before August 31, 1983 [individuals who graduate with a masters of social work degree before December 1, 1981].**

§85.6004. Fees.

(a) **Applicants for certification must pay the following fees [to achieve and maintain certification]:**

(1) **application fee for all certifications, \$15**

(2) **(No change.)**

(3) **certification and official roster fees:**

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

(D) **orders of recognition, \$10 [\$45]**

(4) fee for replacement, reissuing, or additional copies of a certificate or order of recognition or for a renewal of a certificate or order of recognition: \$5.00.

(b) Renewal fees are the same as the certification and roster fee. If a certified social work associate is qualified for certification as a social worker under §85.6022 of this title (relating to Social Work Experience) on September 2, 1983, the department does not charge a fee for issuing the initial social worker certificate. The initial social worker certificate has the same expiration date as the social work associate certificate it replaces, and the renewal fee is the same as for the social worker certificate.

§85.6007. *Examinations.*

(a) After December 31, 1985 [August 31, 1982], the department may require applicants for certification to take an examination. The department may require an applicant for an order of recognition to take an examination appropriate to his specialty or otherwise be tested for competency. After December 31, 1985, the department may require a certificate holder who applies for a different type of certificate or order of recognition to take an examination or otherwise be tested for competency.

(b) An applicant who partially completes work experience requirements for certification under these rules may, after completion of the required work experience, be issued the appropriate certificate without examination if:

- (1) the department determines that all other requirements are met;
- (2) at least one-half of the required work experience is completed by December 31, 1985, and
- (3) the applicant notifies the department in writing not later than December 31, 1985, of his intention to apply for a certificate without examination.

(c) Applicants must pay the examination fee before an examination is scheduled.

(d) Applicants are entitled to written notification of the results of the examination within 30 days of the date the examination is administered, unless the examination is graded or reviewed by a national testing service. If the examination is graded or reviewed by a national testing service, written notification is sent to the applicant within 14 days of the date on which the department receives the results from the testing service. If examination results are delayed for longer than 90 days after the examination date, the applicant is entitled to written notification from the department of the reason for the delay before the 90th day.

(e) If an applicant does not pass an examination, he may request in writing [have] an analysis of his performance [by making a written request].

§85.6009. *Expiration and Renewal.*

(a) Certificates expire annually on the last day of the month of the certificate holder's birth. Certificate holders whose initial period of certification is [would be] less than 12 months are entitled to extend their certification for an additional year. The department prorates fees and continuing educational requirements in these cases. [Before the date of expiration, certificate holders and those holding orders of recognition must apply for

renewal of their certificate, pay applicable fees, and provide documentation of acceptable continuing education.]

(b) At least 30 days before the expiration date of the certificate or order of recognition, a certificate holder is entitled to written notification of:

- (1) date of expiration of the certificate or order of recognition,
- (2) fee for renewal, and
- (3) continuing education requirements for renewal. [Continuing education requirements increase during the period 1983-1986. They may be met by completing the required number of continuing education units (CEUs), actual hours of training, or a combination of these. One CEU is equivalent to 10 actual hours of training. Training requirements for 1983 include one CEU or 10 actual hours of training. The continuing education requirements for 1983 are 10 hours, for 1984, 20 hours, and 1985-30 hours. In 1985 and subsequent years, the 30 hours of continuing education requirements include at least one CEU.]

(c) Before the date of expiration, certificate holders and those holding orders of recognition must apply for renewal of the certification, pay applicable fees, and provide documentation of acceptable continuing education.

(d)(a) If this request for renewal is not received within 10 days of the expiration date, the certificate holder must reapply for certification, including re-examination if an examination was originally required, or:

(1) If the request for renewal is received within 90 days after the expiration date, the certificate or order of recognition may be renewed by paying to the department the required renewal fee and a fee that is equal to one-half of the examination fee for the certificate or order of recognition.

(2) If a certificate or order of recognition has been expired for longer than 90 days, but less than two years, the certificate or order of recognition may be renewed by paying all unpaid renewal fees and a fee that is equal to the examination fee for the certificate or order of recognition.

(3) If a certificate or order of recognition has been expired for longer than two years, the certificate or order of recognition may be renewed by paying all unpaid renewal fees and a fee that is equal to the examination fee for the certificate or order of recognition.

(e)(d) Certificate holders may request to be placed in an inactive status category rather than renew their certification if they are not currently employed as a social worker or [and] are residing and practicing outside of Texas. The fee for inactive status category is half that of certification. Inactive status is granted for a 12-month period and may not extend beyond 24 consecutive months. [Certificate holders may not renew their inactive status over two times.] In addition, the certificate holder must provide documentation of continuing involvement with the social work profession for renewal of the inactive status. The department does not require continuing education during the period of inactive status.

§85.6010. *Denial Notification.*

(a) Applicants who are not certified are entitled to notification that includes:

- (1) (No change.)
- (2) the right to request reconsideration of the application;
- (3)(2) the right to appeal the certification denial within 30 days of the department's notice, and
- (4)(3) a copy of the appeal procedures.

(b) If the applicant or certificate holder does not request a reconsideration of his application or an appeal, the denial is final at the end of the 30-day period.

§85.6011. Request for Reconsideration

(a) An applicant may request, in writing to the director of social work certification, reconsideration of his application if the director has determined that he does not meet requirements for certification or recertification. An applicant's request for reconsideration of an application does not negate or replace his right to appeal. The applicant must request reconsideration within 30 days of the denial notice.

(b) If the applicant requests reconsideration of his application, then the decision on his request constitutes the decision on his application. The time limit for requesting an appeal, if appropriate, begins from the date the applicant is notified of the decision on the reconsideration of the application.

(c) The applicant [or certificate holder] is entitled to notification in writing of the decision following the director's reconsideration of the application. If an appeal has been requested, the applicant must make the request for reconsideration before the appeal board convenes.

§85.6012. Variances

(a) A variance is an alternative to an established requirement which meets the intent of the requirement and is approved by the director of social work certification. The director may not approve a variance of a requirement mandated by the law.

(b) Applicants or certificate holders who want a variance of a department requirement must request it in writing and provide the following information:

- (1) (No change.)
- (2) the reason(s) why the requirement as stated cannot be met;
- (3)-(5) (No change.)
- (c) (No change.)

§85.6013. Violations [Revocation and Suspension].

(a) Violation of one or more of the provisions of the Human Resources Code, Chapter 50, the regulations of the department, or conviction of a felony is grounds for:

- (1) denial,
- (2) refusal to renew,
- (3) revocation, or
- (4) suspension of the certificate [certificat.

(b) Unless proof of rehabilitation is established, the department may deny an applicant for certification, refuse to renew a certificate, or revoke or suspend a certification if a certificate holder is convicted of

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

(c) Certificate holders or persons with pending applications must notify the department in writing within 30 days of conviction of a felony. The certificate holder or applicant may request consideration on the basis of the relevance of the conviction to his continued certification for social work practice. Felony conviction is grounds for revocation, denial, or refusal to renew; however, the department reviews all felony convictions on an individual basis. [A certificate holder is entitled to be notified by

certified mail before the department suspends or revokes his certification. The certificate holder is entitled to be

- (1) informed of the reason for suspension or revocation,
- (2) informed of the period of suspension, if the certification is being suspended;
- (3) advised of his right to appeal within 30 days of the revocation or suspension notice. If no appeal is requested, the action is final at the end of the 30-day period;
- (4) provided a copy of the appeal procedures.]

§85.6014. Probation

(a) Certificate holders whose social work certification is suspended or revoked may request probation. The certificate holder must [make the] request in writing to the director within 30 days of receipt of the notice of suspension or revocation. The certificate holder must [and] include in his request the following information:

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

(b) A certificate holder's request for probation does not negate his right to appeal. The time limit for requesting an appeal, if appropriate, begins the date the certificate holder is notified of the decision on his request for probation. If an appeal is requested before a request for probation is made, the certificate holder must make the request for probation before the appeal board convenes.

(c)[(b)] The certificate holder is entitled to be notified of the director's decision on the probation request by certified mail.

(c) If the director grants the request for probation, he states the terms and time period of the probation in a probation agreement. Any violation by the certificate holder of the terms of the agreement, the provisions of the Human Resources Code, Chapter 50, or the department's rules is grounds for suspension or revocation of the probationary certificate.

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

§85.6015. Procedures for Establishing Proof of Rehabilitation.

(a) Applicants who have been denied certification because of prior felony convictions[,] may establish proof of rehabilitation to qualify for certification [eligibility requirements]. The applicant must make a request in writing to establish proof of rehabilitation. An applicant must supply information documenting rehabilitation which may include, but is not limited to:

- (1) (No change.)
- (2) if the applicant [individual] was incarcerated: (A)-(C) (No change.)

(3) Information related to the terms and conditions of probation if the applicant [individual] was given a probated sentence.

(b) Information concerning proof of rehabilitation is considered by a committee composed of legal, medical, and program staff. In addition to review of information supplied by the applicant, the committee may also consider:

- (4)[(1)] the nature and seriousness of the crime
- (5)[(2)] the extent and nature of the [person's past] criminal activity for which the applicant was convicted.

(6)(3) the age of the **applicant** [person] at the time of commission

(7)(4) the amount of time that has elapsed since the **applicant's** [person's] last **conviction** [criminal activity].

(8)(5) evidence of rehabilitative effort during and following incarceration

(9)(6) the conduct and work activity of the **applicant** [person] before and after the criminal activity

(10)(7) other evidence of the **applicant's** [person's] present fitness, including letters of recommendation from [] those who prosecuted, arrested, or had custodial responsibility for the **applicant** [person], the sheriff and chief of police in the community where the **applicant lives** [person resides], and any other persons in contact with the convicted **applicant** [person]

(11)(8) Documentation substantiating that the applicant has:

(A) maintained a record of steady employment and has supported his dependents, [and has]

(B) otherwise maintained a record of good conduct; [and has]

(C) paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he has been involved.

(c) (No change.)

§85.6018. Code of Ethics. Social workers certified by the department must observe and comply with a code of ethics. Engaging in unethical conduct or conduct that [which] discredits the profession of social work is grounds for disqualification of a certificate holder. Violation of any of the following principles of ethics may be regarded as engaging in unethical conduct or conduct which discredits the profession of social work.

(1) **In providing services**, a social worker must not discriminate [in the provision of service] on the basis of age, sex, race, color, religion, national origin, handicap, or political affiliation

(2) A social worker must safeguard information given by clients in **providing** [the provision of] client services. Except when required by law or judicial order, a social worker must **obtain** [secure] the client's informed written consent before releasing confidential information from the setting or facility.

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

(5) **In referring clients for professional services**, a social worker must not:

(A) give or receive from an individual or an agency any form of commission, rebate, or other remuneration; or

(B) engage in fee-splitting [for referral or clients for professional services]

(6) A social worker must **obtain** [secure] the client's or legal guardian's informed written consent when a client is to be involved in any research project. **A social worker must explain** [A]n explanation of [the research and any implications [should be included]]

(7) (No change.)

(8) A social worker must not violate a position of trust by [through the] mishandling [of] funds or **committing** [the commission of] any other act **detrimental** to

the [detriment of a] client and **beneficial to** [the benefit of] the social worker

(9) If a social worker engages in advertising, he must present services and credentials **factually** [in a factual manner]

(10) **A social worker must report any violation of this rule by a person certified under the Human Resources Code, Chapter 50, to the Social Work Certification Program, DHR.**

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 October 5, 1983

TRD 837931 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:
November 11, 1983

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

40 TAC §85.6002

(Editor's note: The text of the following rule proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Human Resources, 706 Banister Lane, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

§85.6002. Categories of Certification.

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 October 5, 1983.

TRD-837930 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:
November 11, 1983

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

40 TAC §§85.6019-85.6026

The new rules are proposed under the Human Resources Code, Title 2, Chapter 50, which authorizes the department to regulate social work practitioners.

§85.6019. Certified Social Worker.

(a) The minimum qualifications for examination for certification as a certified social worker are a master's degree in social work from an accredited college or univer-

sity or one of the following combinations of education and experience:

(1) a doctoral or master's degree from an accredited college or university in a field other than social work and the successful completion of two years' actual and active social work experience approved by the department.

(2) a bachelor's degree from an accredited college or university in social work or a related field and the successful completion of five years' actual and active social work experience approved by the department. The department considers "related field" on a case-by-case basis depending on actual course work completed.

(3) a bachelor's degree from an accredited college or university in a field other than social work or a related field and successful completion of 10 years' actual and active social work experience approved by the department.

(b) After December 31, 1985, the department considers a master's degree in social work from an accredited college or university as the minimum qualification for certification as a certified social worker.

(c) For experience to be approved by the department as meeting the requirements for a certificate as a certified social worker, the applicant must document:

(1) that the position(s) is ordinarily filled by a person with a doctoral or master's degree in social work.

(2) that the position(s) requires competencies covered in doctoral or master's level social work training.

(3) that the position(s) included.

(A) two years or 3,000 hours of social work supervision by a person qualified for certification as a certified social worker, or

(B) two years or 3,000 hours of a consultation, training, or employment relationship with persons qualified for certification as certified social workers.

(4) identification with the profession of social work.

§85.6020. *Social Worker.*

(a) The minimum qualifications for examination for certification as a social worker are a bachelor of social work from an accredited college or university or one of the following combinations of education and experience:

(1) a bachelor's degree from an accredited college or university in a field other than social work and the successful completion of five years' actual and active social work experience approved by the department.

(2) an associate degree or its equivalent from an accredited college or university and the successful completion of 10 years' actual and active social work experience approved by the department.

(3) a high school diploma or its equivalent (G.E.D.) and the successful completion of 15 years' actual and active social work experience approved by the department.

(b) After December 31, 1985, the department considers a bachelor's degree in social work from an accredited college or university as the minimum qualification for certification as a social worker.

(c) For experience to be approved by the department as meeting the requirement for a certificate as a social worker, the applicant must document:

(1) that the position(s) is ordinarily filled by a person with a bachelor's degree in social work.

(2) that the position(s) requires competencies covered in bachelor's level social work training.

(3) identification with the profession of social work.

§85.6021. *Social Work Associate*

(a) The minimum qualifications for examination for certification as a social work associate are:

(1) education—high school diploma or its equivalent; and

(2) experience—applicants with bachelor's degrees must have one year of actual and active social work experience approved by the department. Applicants with associate degrees must have three years of experience; those with high school diplomas must have five years of experience.

(b) For experience to be approved by the department as meeting the requirements for a certificate as a social work associate, the applicant must document that the experience is commensurate with the type of positions generally considered as preprofessional social work.

§85.6022. *Social Work Experience.* For experience to be approved by the department as meeting the requirements for a certificate as an associate social worker, social worker, or certified social worker, the applicant must:

(1) document that work experience offered to fulfill the requirement was successfully performed. The department determines the acceptability of documentation submitted and may request further information.

(2) have been employed in a full- or part-time paid position meeting at least the experience required for the certificate for which he is applying. The experience must have been within the five years before the date of application. If the applicant was not employed within the past five years, the period during which the applicant was not engaged in actual and active social work practice may not exceed his previous employment in social work.

(A) Full time is defined as at least 30 hours per week.

(B) Part-time experience is counted as a percentage of full-time experience.

§85.6023. *Emeritus Certification.*

(a) Retired persons 55 years old or older and disabled persons of any age may apply for certification as a certified social worker emeritus, a social worker emeritus, or a social work associate emeritus. The type of certification depends on the certification for which the person would have been eligible at the end of his actual and active social work experience.

(b) An applicant for emeritus certification who currently holds an active certification is not charged an additional fee. An applicant for emeritus certification who does not hold a current certification must pay a one-time fee for the appropriate certification.

(c) An emeritus certification is valid during the lifetime of the holder providing he does not return to full- or part-time paid employment. No renewal fees are charged.

(d) There are no continuing education requirements to maintain an emeritus certification.

(e) Holders of social work certification emeritus may use the titles "certified social worker emeritus," "social worker emeritus," or "social work associate emeritus" depending on which category of social work emeritus certification they hold.

§85.6024. Public Notice.

(a) Each person who has a social work certification, other than an emeritus certification, must display a consumer information sign at all times in his place of business. The certificate holder must ensure that the consumer information sign:

(1) is at least five inches by seven inches in size, and

(2) informs clients of the procedures for registering complaints about a certificate holder with the Texas Department of Human Resources.

(b) Each person holding a social work certification must make available to clients copies of information of consumer interest supplied by the department.

§85.6025. Continuing Education Requirements. To renew a certificate or order of recognition, the certificate holder must meet continuing education requirements. Continuing education requirements may be met by completing continuing education units (C.E.U.'s), actual hours of training, or a combination of these through 1984. In 1985 and after, the certificate holder must complete at least one C.E.U. One C.E.U. is counted as 10 hours of training. The required hours of training are:

(1) 1983—10 hours;

(2) 1984—20 hours;

(3) 1985 and after—30 hours.

§85.6026. Revocation and Suspension. A certificate holder is entitled to be notified by certified mail before the department suspends or revokes his certification. The certificate holder is entitled to be:

(1) informed of the reason for suspension or revocation.

(2) informed of the period of suspension, if the certification is being suspended.

(3) informed of his right to request probation in lieu of suspension or revocation.

(4) advised of his right to appeal within 30 days of the revocation or suspension notice. If no appeal is requested, the action is final at the end of the 30-day period.

(5) provided a copy of the appeal procedures.

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 October 5, 1983.

TRD-837929 Marlin W. Johnston
Commissioner
Texas Department of Human
Resources

Earliest possible date of adoption:

November 11, 1983

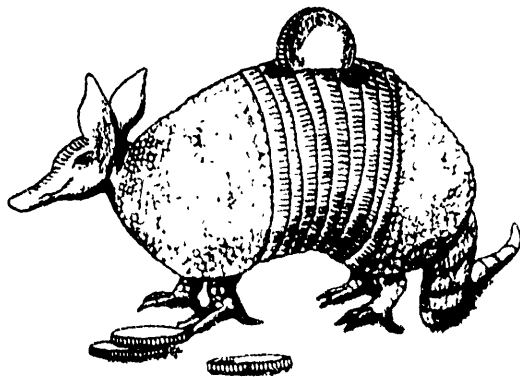
For further information, please call (512) 441-3355,
ext. 2037.

Adopted Rules

An agency may take final action on a rule 30 days after a proposal has been published in the *Register*. The rule becomes effective 20 days after the agency files the correct document with the *Texas Register*, 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.



TITLE 7. BANKING AND SECURITIES Part IV. Texas Savings and Loan Department Chapter 71. Change of Control 7 TAC §71.1, §71.2

The Texas Savings and Loan Department adopts the repeal of Chapter 71, concerning change of control, as published in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3309)

This chapter is repealed to assure compliance with Senate Bill 149, 68th Legislature, 1983-84, which requires approval by the savings and loan commissioner of an application for change of control of a savings and loan association. A new rewritten Chapter 71 is adopted simultaneously with this adopted repeal

The repeal will delete all existing regulations concerning change of control and will allow the new rewritten Chapter 71 to be adopted at this time.

No written comments were received regarding adoption of the repeal

The repeal is adopted pursuant to Texas Civil Statutes, Article 342.114, which provides the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules not inconsistent with the constitution and the statutes of this state which provide for the new change of control procedures

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 October 4, 1983

TRD 837831

Russell R. Oliver
General Counsel
Texas Savings and Loan
Department

Effective date: October 25, 1983

Proposal publication date: August 26, 1983

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

7 TAC §71.1-71.6

The Texas Savings and Loan Department adopts new §§71.1 and §71.3, with minor changes to the proposed text, published in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3309). Sections 71.2 and 71.4-71.6 are adopted without changes and will not be republished.

The rules are adopted to implement new application and approval authority granted to the department under Senate Bill 149, 68th Legislature, 1983, §6.

The rules as adopted will provide for the application process, together with forms, whereby persons desiring to acquire control of a savings and loan association may apply for approval of such change of control, providing certain required information to the department in the application process. The rule also provides for an administrative appeal in the event the change of control is denied.

No written comments were received regarding adoption of the new rules.

The new rules are adopted pursuant to Texas Civil Statutes, Article 342-114, which provide the Savings and Loan Section of the Finance Commission of Texas with the authority to promulgate general rules and regulations not inconsistent with the constitution and statutes of this state and, from time to time, to amend the same, and under Senate Bill 149, §6, which provides that the Savings and Loan Section of the Finance Commission and the Savings and Loan Commissioner shall adopt rules and application forms

§71.1 Introduction. It having been declared and found by the legislature of the State of Texas that this state shall exercise regulatory authority over the savings and loan industry authorized to do business under the laws of the State of Texas, and as it is hereby further declared and found by the Savings and Loan Section of the Finance Commission of Texas and the savings and loan commissioner that the public interest and the interests of account holders are or may be adversely affected when control of an association is sought by persons who would utilize such control adversely to the interests of account holders, it is hereby declared that the policies and purposes of this regulation are to promote the public interest by requiring disclosure of pertinent information relating to approval of changes in control of a savings and loan association. Notwithstanding any other provision of this chapter, the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation shall not be deemed subject to this Chapter 71.

§71.3 Acquisition of An Association. The following procedures shall be followed when a person desires to acquire control of an association:

(1) **General filing requirements.** No person other than the issuer shall make a public tender offer for, solicitation or a request or invitation for tenders of, or enter into and consummate any agreement to exchange securities for, seek to acquire, or acquire in the open market or by means of a privately negotiated agreement or contract, from the shareholders or any other person controlling an association, any voting security or any security convertible into a voting security of an association if, after the consummation thereof, such person would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such association, unless such person has filed with the commissioner all of the following information on an application form approved by the commissioner and which application form is deemed by the commissioner to be complete, ac-

companied by the application fee prescribed in §63.11 of this title (relating to Fee for Change of Control), and has received a written order from the commissioner approving such acquisition or change of control:

(A) The background and identity of the applicant, if said applicant and any affiliate is an individual, or all persons who are directors, executive officers, or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual. Said filing shall contain the following information:

(i) name and address,
(ii) present principal business activity, occupation or employment including position and office held and the name, principal business, and address of any corporation or other organization in which such employment is carried on;

(iii) material occupations, positions, offices, or employments previously held by the individual, giving the starting and ending dates of each and the name, principal business, and address of any business corporation or other organization in which each such occupation, position, office, or employment was carried on, indicating if any such occupation, position, office, or employment required licensing by or registration with any federal, state, or municipal governmental agency;

(iv) whether such individual is presently charged with or has ever been convicted of a violation of the law in a criminal proceeding (excluding minor traffic violations) and, if so, giving the date, nature of conviction, name and location of the court, and penalty imposed or other disposition of the case,

(v) whether such individual has been or is a party to any federal, state, or municipal court lawsuit in which such individual is or was alleged to have violated any federal or state statutes or regulation, and, if so, giving the date, style of the suit, case number, court location, and disposition of the suit,

(vi) whether any such individual has been or is a party to any federal, state, or municipal governmental agency administrative actions in which such individual was or is alleged to be in violation of any governmental agency statute or regulation, and, if so, giving the date, nature of the action, name and location of the governmental agency, and disposition of the case, and

(vii) any other relevant information requested by the commissioner.

(B) If applicant is not an individual, the nature of its business operations for the past five years or for such lesser period as such applicant and any predecessors thereof shall have been in existence,

(C) description of the interrelationships between the applicant and all affiliates of the applicant,

(D) nature, identity, source, and amount of funds or other consideration used or to be used in effecting the acquisition of control, and, if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained, there shall be a description of the transaction, the names of the parties, and all arrangements, or other understanding with such parties, including all arrangements, agreements, or understandings in regard to repayment of the funds.

(E) any plans or proposals which the applicant may have to declare dividends, to liquidate such associa-

tion, to sell its assets, or to merge it with any person or persons or to make any other material change in its business operations or corporate structure or management, including modifications in or plans to enter into any management contracts, and any financial or employment guaranties given to present and contemplated management;

(F) the terms and conditions of any proposed acquisition and the manner in which the acquisition is to be made;

(G) the number of shares of the association's voting securities (including securities convertible or evidencing rights to acquire voting securities) which the applicant, its affiliates, affiliated persons, and any other related person plans to acquire, and the terms of the offer, request, invitation, agreement, or acquisition

(H) a description of any contracts, arrangements, or understandings with respect to any voting security of the association in which the applicant, its affiliates, or any related person is involved,

(I) copies of any contracts, agreements, or other documents which the commissioner determines are relevant to the review of the application, and

(J) any other relevant information requested by the commissioner

(2) Partnerships and others. If the person required to file the information referred to in this chapter is a partnership, limited partnership, syndicate, trust, or other group, the commissioner may require that the information shall be given with respect to

(A) each partner of such partnership or limited partnership,

(B) each member of such syndicate or group, and

(C) each person who controls such partner or member

(3) Corporations. If the person required to file the information referred to in this section is a corporation, the commissioner may require that the information called for shall be given with respect to such corporation and each officer and director of such corporation and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of such corporation

(4) Approval. The transaction for acquisition of control of an association may not be consummated until the commissioner either approves the application for acquisition of control within 60 days after the statement required by paragraph (1) of this section (and which is deemed by the commissioner to be complete) has been filed with the Texas Savings and Loan Department or the commissioner fails to disapprove such application for acquisition of control within such 60 day period. The commissioner may disapprove any such proposed transaction within such 60 day period if the commissioner issues a written order which finds any of the following

(A) the acquisition would substantially lessen competition or would in any manner be in restraint of trade and would result in a monopoly or would be in furtherance of a combination or conspiracy to monopolize or attempt to monopolize the savings and loan industry in any part of the state, unless he also finds that the anticompetitive effects of the proposed acquisition are

clearly outweighed in the public interest by the probable effect of acquisition in meeting the convenience and needs of the community to be served and that the proposed acquisition is not in violation of any law of this state or the United States,

(B) the poor financial condition of any acquiring party might jeopardize the financial stability of the association being acquired,

(C) plans or proposals to liquidate or sell the association or its assets are not in the best interest of the association,

(D) the experience, ability, standing, competence, trustworthiness, or integrity of the applicant is such that the acquisition would not be in the best interest of the association,

(E) the association will not be solvent, have adequate capital structure, or be in compliance with the laws of this state after the acquisition,

(F) the applicant has failed to furnish all of the information pertinent to the application reasonably requested by the commissioner,

(G) the acquisition would result in the violation of any law or regulation or it has been evidenced that the applicant, affiliates, or affiliated persons may cause to be abused the fiduciary responsibility held by the association or other demonstration of untrustworthiness of the applicant, affiliates or affiliated persons which would affect the association has been evidenced, or

(H) the applicant is not acting in good faith

(5) Amendments. If any material change occurs in the facts set forth in the application and any other documents filed with the Texas Savings and Loan Department, an amendment setting forth such change together with copies of all documents and other material relevant to such change shall be filed with the commissioner within three business days after the person learns of such change

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 September 30, 1983

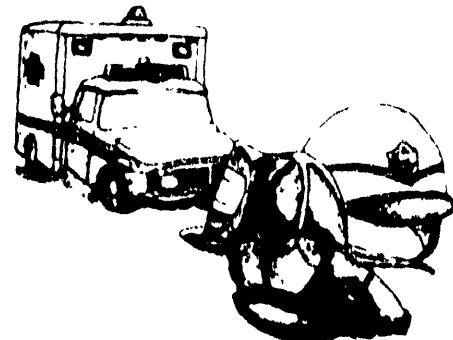
TRD 83/765

Russell B. Oliver
General Counsel
Texas Savings and Loan
Department

Effective date: October 21, 1983

Proposal publication date: August 26, 1983

For further information please call (512) 475 7991.



TITLE 25. HEALTH SERVICES
Part I. Texas Department of Health
Chapter 325. Solid Waste
Management
Subchapter M. Solid Waste Technician
Training and Certification Program

25 TAC §§325.381, 325.387, 325.388,
325.390

The Texas Department of Health adopts amendments to §325.387 with changes, and amendments to §§325.381, 325.388, and 325.390 without changes to the proposed text published in the July 29, 1983, issue of the *Texas Register* (8 TexReg 2857).

The department's advisory committee for the Training and Certification Program recommended changes to these rules to better reflect current needs for training in solid waste operations. The proposed text is being adopted except for the wording in subsection (a)(5)(B) of §325.387 of this title (relating to Qualification). Here the department is deleting the requirement that an applicant pass the department's examination to apply for a provisional letter of competency. It was pointed out that passing an examination does not agree with the philosophy of a provisional letter and would have no real application since better options are otherwise available.

These amendments will reduce the training credits required for a Class A letter of competency from 160 hours to 120 hours by eliminating the requirement that an applicant complete the 40 hours of training credits required for a Class D letter of competency, allow the department to issue a provisional letter of competency if an applicant has the educational and experience requirements but lacks the necessary training credits, allow the department to waive training credit requirements if an applicant has passed the appropriate examination, and modify the board's recommendations concerning the employment of persons holding letters of competency to now recommend that the Class A letter of competency be used to certify managers and supervisors of facilities serving 5,000 persons or more, the Class B letter of competency be used to certify persons responsible for the site operations of such facilities, and the Class C letter of competency be used to certify persons at all other facilities and where it is desired that a person hold a basic letter of competency.

The following is a summary of the comments and the reasons the department agrees or disagrees with the comments. The one change made to the proposed rules is not major or substantial.

Concerning §325.387(a)(1)(A), one commentator opposed the department's attempt to delete the requirement that an applicant possess a Class D letter of competency (collection) as a prerequisite to a Class A letter of competency. He suggested that since collection activities occupy about 80% of most solid waste

budgets, it should be given at least equal importance with disposal training.

The department agrees that training in collection is important for system supervisors, but it believes 40 hours of training is an excessive requirement. The department plans to take the advice of its Solid Waste Technician Training and Certification Advisory Committee and add coursework in collection to the regular Class A curriculum and adopt the text of this rule as proposed.

Concerning §325.387(a)(5), the department received comments from four sources suggesting an applicant should not be required to pass an examination to qualify for a provisional letter. Two suggested that the last sentence of subparagraph (B) should be deleted. Two others suggested that the requirements for a provisional letter should include only that the applicant possess considerable demonstrable experience, and that the applicant be able to present sufficient recommendations.

The department agrees that the requirement for examination is unnecessary since under the proposed rules an applicant can obtain a full letter without the required training credits by passing the department's examination. Therefore, the department is deleting the last sentence of subparagraph (B). However, other requirements for a provisional letter are considered valid and are not changed from the proposed text.

Concerning §325.387(b), three commentators had suggestions concerning the Class D letter for collection training. One suggested a Class D letter should be required of all landfill operators because competency in collection operations is essential to know the product handled at a landfill. Another opposed the deletion of training in collection for the Class A letter. The third commentator said the Class D letter should be required for obtaining a Class B letter since there are just as many health hazards from collection as from improperly run landfills.

The department disagrees that the Class D letter should be a prerequisite to any other class of letter for the reasons stated earlier. It is felt that the 40-hour course of instruction in collection will have the most benefit to those directly involved in collection activities.

The following individuals or entities offered comments consisting primarily of concerns and recommendations about specific portions of the rules: superintendent of Solid Waste and Service Center, City of Longview; sanitation superintendent, City of Sweetwater; Public Works Training Division, Texas Engineering Extension Service; director of public works and engineering, City of Austin; Governmental Refuse Collection and Disposal Association (Texas Chapter); Texas Public Works Association; National Solid Waste Management Association (Texas Chapter); and director of public works, City of Kerrville.

These amendments are adopted under the Solid Waste Disposal Act, Texas Civil Statutes, Article 4477-7-54(c) and §4(t), which provide the Texas Department

of Health with the authority to develop rules covering a program for the training of solid waste technicians to improve the competency of those technicians

§325.387 Qualification

(a) Requirements for letter of competency. Except as provided in subsection (d) of this section, all individuals issued a letter of competency shall meet the following requirements based upon education, experience, and training credits earned (which includes an examination)

(1) Class A letter of competency (solid waste facility operation)

(A) high school graduate or equivalent, five years experience, and 120 hours of training credits; or

(B) eight years experience and 120 hours of training credits

(C) (No change)

(2)-(4) (No change)

(5) Provisional letter. A provisional letter may be issued upon either of the conditions outlined in subparagraphs (A) and (B) of this paragraph. A provisional letter is not renewable and an applicant must agree to complete any lacking requirements for the standard letter within the time specified by the department and before the expiration of the provisional letter. A provisional letter shall require the same application fee and shall be issued for the same term as the corresponding letter of competency.

(A) Persons may be awarded a provisional letter in each class upon completing the required training credits (which includes passing an examination), completing six months in a position of responsibility that equates to the class of letter applied for, and possessing the minimum education requirements for that class, but lacking the required experience.

(B) Persons may be awarded a provisional letter in each class upon demonstrating that they meet the education and experience requirements of paragraphs (1)-(4) of this subsection, but lack the required training credits.

(6) Solid waste technician in training. An individual engaged in or who expects to be engaged in a solid waste management activity who does not meet the education, training, or experience requirements established for a letter of competency or provisional letter, may be issued a letter—solid waste technician in training—after performing duties similar to those performed by a solid waste technician for six months or after enrolling in a program of training to qualify for a letter of competency. The solid waste technician in training letter may be issued upon application and substantiation of these

requirements. Such letter is nonrenewable and expires on the day before the anniversary of the date the letter was awarded.

(7) Waiver of training credit requirements. An applicant meeting the education and experience requirements of a letter may submit a written request to the department for a waiver of training credit requirements. The department may grant such a request if the applicant has passed the appropriate examination offered by the department.

(b) Training credits. Training credits, for purposes of this section, may be earned by completing the course of instruction (which includes passing the required examinations) for each classification which has been approved by the department and given by the Engineering Extension Service, accredited universities, approved technical institutes, or other formal programs approved by the department.

(1) Class A. Complete the training required for Class B and C, and complete 40 hours of approved additional training credits (which includes an examination).

(2) Class B. Complete the training required for Class C, and complete 40 hours of approved additional training credits.

(3) Class C. Complete 40 hours of approved training credits (which includes an examination).

(4) Class D. Complete 40 hours of approved training credits (which includes an examination).

(c) Examination

(1) (No change)

(2) Examinations will normally be given by the department in conjunction with the training offered by the Engineering Extension Service, accredited universities, approved technical institutes, or other formal programs approved by the department. Examinations may be offered at other times as the need is determined by the department.

(3) (No change)

(d) (e) (No change)

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 October 4, 1983.

TRD 83/880

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

Effective date: October 25, 1983

Proposal publication date: July 29, 1983

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

State Board of Insurance Exempt Filings

STATE BOARD OF INSURANCE
Notification 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 1

The State Board of Insurance has approved a version of the increased limits factor for products completed operations (subline 31b) classifications of Division Six of the Commercial Lines Manual

The board finds that the overall 7.2% average increase for products completed operations classifications (bodily injury no change, overall, and property damage, 20.2%) produces proper and correct rates

These changes are applicable to all policies effective on or after December 1, 1983

Exception General liability experience rated policies These changes are applicable as of the experience rating date to all policies to which an experience rating modification which becomes effective on or after December 1, 1983 is to apply, and may not be applied to such policies prior to the experience rating date As respects any policies to which an experience modification applies which becomes effective prior to December 1, 1983 the changes may not be applied until the first experience rating date after December 1, 1983

This notification is filed 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 October 4, 1983

TRD 837892 James W. Norman
Chief Clerk
State Board of Insurance

Effective date December 1, 1983
For further information, please call (512) 475 2950

The State Board of Insurance has approved a revision of the bodily injury and property damage basic limits

rates for premises operations classifications (subline Code 313) Division Six of the Commercial Lines Manual

The board finds that the overall + 17.7% average increase (+ 13.8% bodily injury and + 25% property damage) for premises operations classifications (subline Code 313) which results from the expense formula modified to contain an underwriting profit and contingencies provision of 0.26% of earned premium and an adjustment to loss development factors to eliminate "ultimate" factors produces proper and correct rates

The board further finds that such rates are reasonable to the public and adequate to the insurance carriers writing these coverages in the State of Texas

The changes are applicable to all policies effective on or after December 1, 1983

Exception General liability experience rated policies These changes are applicable as of the experience rating date to all policies to which an experience rating modification which becomes effective on or after December 1, 1983 is to apply, and may not be applied to such policies prior to the experience rating date As respects any policies to which an experience modification applies which becomes effective prior to December 1, 1983 the changes may not be applied until the first experience rating date after December 1, 1983

This notification is filed 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 October 4, 1983

TRD 837893 James W. Norman
Chief Clerk
State Board of Insurance

Effective date December 1, 1983
For further information, please call (512) 475 2950.

The State Board of Insurance has approved a filing by the Insurance Services Office of a revision of standard and uniform manual rules and rates for Division Three of the Commercial Lines Manual The revision provides for the use of a new deductible endorsement, the withdrawal of existing endorsements, and additional changes relating to computer fraud coverage

General Rule 9 G, deductible, \$1,000 or less, and 9 H, deductible over \$1,000, are revised to correspond with the new endorsement CR 03 19 which replaces endorsements CR 03 07, CR 03 08, CR 03 09, and CR 03 10 applicable to 3D policies and endorsement CR 03 04 applicable to blanket crime policies

General Rule 54 E, computer fraud coverage, is revised to provide for amounts of coverage less than

\$10,000, and additional annual guide base rates for these coverages have been included. Also, the current \$12,000 amount of coverage in Rule 54 E has been revised to \$12,500 to correspond with the commercial blanket bond coverage amount.

This filing becomes effective January 1, 1984.

This notification is filed 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 October 4, 1983.

TRD 837899 James W. Norman
Chief Clerk
State Board of Insurance

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

The State Board of Insurance has approved a filing of a standard and uniform forms and rates for a grain producers' indemnity program for First Financial Indemnity Insurance Company.

The purpose of this program is to indemnify the farmer in the event any grain warehouse or grain dealer declares bankruptcy and the total amount of loss to the farmer is not indemnified by any bond in effect at the time of bankruptcy in behalf of the grain warehouse or grain dealer. The policy will indemnify the farmer for any loss in excess of any proportionate recovery he may receive in the bankruptcy proceedings of the grain warehouse or grain dealer and shall apply as excess over any other similar policy covering the same loss or losses.

The rate is .0075 of the applicable limit of liability with the minimum limit of liability \$25,000.

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

This notification is filed 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 October 4, 1983.

TRD 837900 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 26, 1983.
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a filing of a standard and uniform rating plan for limited real estate partnership loan performance guarantee bond by MGIC Indemnity Corporation.

The limited real estate partnership loan performance guarantee bond guarantees the payment of the limited partner's capital contribution to a limited partnership and/or bank over a specific period of time, and the

bond is collateralized by a limited partner's promissory note and interest. The Surety Association has no specific rating category or classification for this type of risk, therefore MGIC Indemnity has provided this rating plan as an exception to the Surety Association *Miscellaneous Bond Manual*, page M-6, financial guarantees.

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

This notification is filed 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 October 4, 1983.

TRD 837901 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 26, 1983.
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a filing of a standard and uniform contract services endorsement for use with any blanket bond or 3D policy by Northwestern National Insurance Company.

This endorsement provides coverage for insured's customers' property against dishonest acts of the insured's employees. When the endorsement is attached to any blanket bond or comprehensive dishonest disappearance and destruction policy, the standard rate is increased by 350%. This coverage is similar to that provided under the business services bond; however, the business services bond contains the conviction clause. This endorsement makes the coverage available under the blanket bond or 3D policy without reference to this provision.

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

This notification is filed 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 October 4, 1983.

TRD 837902 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 26, 1983.
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a filing of a standard and uniform policy form for the municipal bond guaranty insurance policy by American Mutual Bond Guaranty Assurance Corporation.

Federal law requires that all municipal bonds issued after June 30, 1983, be in fully registered form and, therefore, the bonds are issued now in fully registered

form and without coupons. There was a question whether the standard form municipal bond guaranty insurance policy would require the payment of an otherwise valid claim for the payment of interest to the extent that the claimant's right to such payment is not evidenced by a coupon. The endorsement clarifies the requirement to pay an otherwise valid claim for the payment of interest to the extent that the claimant's right to such payment is not evidenced by a coupon.

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

This notification is filed 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 October 4, 1983

TRD 837903 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 26, 1983
For further information, please call (512) 475 2950

The State Board of Insurance has approved a revision of the bodily injury increased limit factors for premises operations (subline code 313) and property damage increased limit factors for contractual owners or contractors protective and premises operations (subline 313) classes of Division Six of the Commercial Lines Manual and the Guide (a) Rate Pamphlet.

The board finds that the overall (+5.1% average increase (+5.3% bodily injury and 4.8% property damage) for bodily injury increased limit factors for premises operations and property damage increased limit factors for contractual owners or contractors protective and premises operations classes produces proper and correct rates.

The board further finds that such rates are reasonable to the public and adequate to the insurance carriers writing these coverages in the State of Texas.

These changes are applicable to all policies effective on or after December 1, 1983.

Exception: General liability experience rated policies. These changes are applicable as of the experience rating date to all policies to which an experience rating modification which becomes effective on or after December 1, 1983 is to apply, and may not be applied to such policies prior to the experience rating date. As respects any policies to which an experience modification applies which become effective prior to December 1, 1983, the change may not be applied until the first experience rating date after December 1, 1983.

This notification is filed 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 October 4, 1983

TRD 837904 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 1, 1983
For further information, please call (512) 475 2950

The State Board of Insurance has approved rate adjustments to the standard and uniform manual rates for various Commercial Inland Marine classes as presented at a board meeting on August 24, 1983. The revised rates as approved are as follows:

Class	Current Rate or Surcharge	Revised Rate or Surcharge
Camera dealers	55% surcharge	75% surcharge
Equipment dealers	10% surcharge	15% surcharge
Floor plan policies	90% surcharge	110% surcharge
Furners - block	35% surcharge	55% surcharge
Furners - customer reporting & non-reporting	5% surcharge	25% surcharge
Furners - customers legal liability retail	55% credit	65% credit
Furners - customers legal liability wholesale	40% credit	45% credit
Musical instruments individual professional	\$2.60 \$.65	\$2.60 \$.70
Musical instruments bands & orchestras, etc.	\$1.70 \$.65	\$1.40 \$.55
Musical instrument dealers	10% surcharge	No surcharge
Mobile agricultural machinery scheduled blanket	\$.72 \$ 1.08	\$.78 \$ 1.17
Garment contractors women's wear	55% surcharge	70% surcharge
Theatrical floaters	30% credit	25% credit

These changes are to be effective December 1, 1983.

This notification is filed 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 October 4, 1983

TRD 837894 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 1, 1983
For further information, please call (512) 475 2950

The State Board of Insurance has approved a revision of the boiler and machinery rules and rates of Division Two of the Commercial Lines Manual.

The board finds that the 16.2% coverage increase for all coverages and classes of boiler and machinery insurance which results from the expense formula, modified to contain an underwriting policy and con

tingencies provision of 0.26% of earned premiums for all coverages, produces proper and correct rates.

The board further finds that such rates are reasonable to the public and adequate to the insurance coverages in the State of Texas.

These changes are applicable to all new and renewal policies effective on or after December 1, 1983.

This notification is filed 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 October 3, 1983

TRD-837895 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: December 1, 1983
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a revision of the Texas General Liability Guide (a) Rate Pamphlet.

This revision updates the minimum premiums rules and, also, provides various editorial changes.

On page 1 of the rules, paragraph D is added to Rule V and reads as follows: "All miscellaneous coverages under Subline 325, including Personal Injury, Board Form Property Damage, Fire Damage Legal Liability and Broad Form Comprehensive General Liability, shall be considered as one subline and are subject to the minimum premiums for all other classifications shown above."

On page E-15 (deductible discounts) the terms "per claim" is being deleted from the heading of the second column for group 1 (subline code 313).

Premises/operations (subline code 314)-page E-53, wording and a rate is added to code 72104-laundries-self service automatic type to include property damage coverage for injury or destruction of laundry or dry cleaning. Page E-55, the rates for code 79440-tobaggan slides-operated by the insured -(b) admissions is being changed to "(a)" rates in lieu of "manual" rates. Page E-56, paragraph pertaining to increased limit is being deleted as this was part for the minimum premium rule. Page E-68, adds the "xcu" designation after all the governmental subdivision classification codes.

Miscellaneous-page E-75, deletes reference to the \$10.00 property damage minimum premiums for code 99982. Page E-80, adjusts the Table B multipliers under the single limit rating procedure.

These changes are applicable to all policies effective on or after January 1, 1984.

Exception—Experience rated policies: These changes are applicable as of the experience rating date to all policies to which an experience rating modification which becomes effective on or after December 1, 1983, is to apply, and may not be applied to such

policies prior to the experience rating date. As respects any policies to which an experience modification applies which becomes effective prior to December 1, 1983, the changes may not be applied until the first experience rating date after December 1, 1983.

This notification is filed 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 October 4, 1983.

TRD-837896 James W. Norman
Chief Clerk
State Board of Insurance

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

The State Board of Insurance has approved a filing of a request to amend Board Order No. 39895, approved November 18, 1981, for mortgage guaranty optional program for adjustable rate mortgages and adjustable mortgage loans by MGIC.

A condition of Board Order 39895 required that the mortgage guaranty insurer limit their coverage to a maximum of 25% of the insured indebtedness with any coverage in excess of 25% being ceded through a liability assumption agreement with other residential mortgage guaranty insurers. This filing requests the elimination of the requirement for liability assumption agreements for the coverages approved in Board Order 39895 as House Bill 2118, recently enacted by the Texas Legislature, eliminates the continued need of the agreements by allowing any coverage in excess of 25% to be directly reinsured.

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

This notification is filed 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 October 4, 1983.

TRD-837897 James W. Norman
Chief Clerk
State Board of Insurance

Effective date: October 26, 1983
For further information, please call (512) 475-2950.

The State Board of Insurance has approved a filing by the Insurance Services Office of a standard and uniform deductible endorsement to be used with the comprehensive dishonesty, disappearance, and destruction (3D) policy and blanket crime policy.

This endorsement replaces a number of current endorsements and effectively provides a means by which one endorsement may provide a deductible applicable to any insuring agreement except the extor-

tion insurance agreement of the 3D and the blanket crime policy. This form filing implements the rule changes filed in filing CR 83 R83RU.

Currently, Division Three of the Commercial Lines Manual does not have a deductible endorsement that applies to every insuring agreement for the 3D and the blanket crime policy. The current deductible endorsements generally only apply to insuring agreements I, II, and III. The deductible provision in endorsement 13 applies to all insuring agreements for the blanket crime policy except insuring agreements IV and VI. However, since the extortion insuring agreement applicable to the blanket crime policy includes a deductible, the deductible in the extortion insuring agreement and endorsement 13 could conflict or be duplicative if both deductibles are included in the same policy. Thus, endorsement 46 has been developed to provide a deductible applicable to any insuring agreement for 3D and blanket crime policies except the ex-

ortion insuring agreement. Endorsement 46 (CR 03 19) will replace the following current endorsements:

Endorsement 46A (CR 03 07 05 57)
Endorsement 46B (CR 03 08 05 57)
Endorsement 58A (CR 03 09 10 58)
Endorsement 58B (CR 03 10 10 58)
Endorsement 13 (CR 03 04 11 67)

This filing becomes effective January 1, 1984.

This notification is filed 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 October 4, 1983.

TRD-837898 James W. Norman
 Chief Clerk
 State Board of Insurance

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

Open Meetings

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*.

Texas Aeronautics Commission

Tuesday, October 18, 1983, 1:30 p.m. The Texas Aeronautics Commission will meet in Room 221, Anson Jones Building, 410 East Fifth Street, Austin. Items on the agenda summary include the air carrier administration, staff attorney, aviation facilities development, and director's report and election of officers.

Contact: Thomas L. Butler, P.O. Box 12607, Austin, Texas 78711.

Filed: October 5, 1983, 2:26 p.m.
TRD-837959

Coordinating Board, Texas College and University System

Committees of the Coordinating Board, Texas College and University System made additions to the agendas of meetings held in the Bevington A. Reed Building, 200 East Riverside Drive, Austin. Days, times, committees, and agendas follow.

Thursday, October 27, 1983, 10:15 a.m. The Committee on Campus Planning and Physical Facilities Development will consider a request for the endorsement of acquisition of real property from Southwest Texas State University.

Friday, October 28, 1983, 9 a.m. The Coordinating Board will consider a request for the endorsement of acquisition of real property from Southwest Texas State University.

Contact: Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 475-4361.

Filed: October 5, 1983, 9:36 a.m.
TRD-837905, 837906



Texas Department of Corrections

Friday, October 7, 1983, 1 p.m. The Board of the Texas Department of Corrections met in emergency session in Room 214, Senate Reception Room, State Capitol, Austin. According to the agenda summary, the department considered interim construction procedures and authorization levels; architect selection for a facility for intellectually handicapped inmates, Beto Unit I; a proposal for redesign of diagnostic unit expansion; and committee assignments. The board also met in executive session. The emergency status was necessary to select an architect for a facility for intellectually handicapped inmates.

Contact: W. J. Estelle, Jr., P.O. Box 99, Huntsville, Texas 77340, (409) 295-6371, ext. 160

Filed: October 5, 1983, 2:43 p.m.
TRD-837966

Texas Commission for the Deaf

Saturday, October 15, 1983, 9 a.m. The Texas Commission for the Deaf will meet at 510 South Congress Avenue, Austin. According to the agenda, the commission will approve minutes of the previous meeting;

consider Deaf Awareness Week dates; discuss Sunset Commission review and activities; hear reports of the Board for Evaluation of Interpreters, the director, staff, and chairman; and consider future meeting sites. The commission also will meet in executive session to consider personnel matters

Contact: Fred R. Tammen, 510 South Congress Avenue, #300, Austin, Texas 78704, (512) 475-2492.

Filed: October 5, 1983, 2:24 p.m.
TRD-837960

Employees Retirement System of Texas

Thursday, October 13, 1983, 9 a.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas (ERS) will meet in the board room, fourth floor, ERS Building, 18th and Brazos Streets, Austin. According to the agenda, the committee will approve the September 21, 1983, minutes, discuss the scope and role of subcommittees and make appointments, and discuss possible changes to the uniform group insurance program.

Contact: Clayton T. Garrison, P.O. Box 13207, Austin, Texas, (512) 476-6431.

Filed: October 4, 1983, 1:16 p.m.
TRD-837837

Texas Employment Commission

Wednesday, October 12, 1983, 9 a.m. The Texas Employment Commission (TEC) will meet in Room 644, TEC Building, 15th Street and Congress Avenue, Austin. According to the agenda summary, the commission will consider prior meeting notes; hear reports of administrative staff on program operations, funding, and legislation; consider a proposed rule change regarding individuals and organizations entitled to receive copies of determinations; schedule an advisory council meeting and possible agenda; plan for the new headquarters building; and set a date and agenda items for the next meeting. The commission also will meet in executive session to consider premises leases and contracts, personnel matters, and the status of litigation and attorney general opinion requests.

Contact: Pat Joiner, TEC Building, Room 656, 15th Street and Congress Avenue, Austin, Texas (512) 397-4514.

Filed: October 4, 1983, 3:39 p.m.
TRD-837881

State Board of Registration for Professional Engineers

Wednesday and Thursday, October 12 and 13, 1983, 8:30 a.m., daily. The State Board of Registration for Professional Engineers will meet in the board room, 1917 IH 35 South, Austin. According to the agenda summary, the board will receive reports from board members and staff; interview applicants; take action on applications for registration; read communications; and consider any other business that comes before the board.

Contact: Woodrow W. Mize, P.E., 1917 IH 35 South, Austin, Texas 78741, (512) 475-3141.

Filed: October 4, 1983, 2:31 p.m.
TRD-837857

Commission on Fire Protection Personnel Standards and Education

Tuesday, October 18, 1983. Committees and the full board of the Commission on Fire Protection Personnel Standards and Education will meet in the Austin Fire Department Auditorium, 1622 Festival Beach Road, Austin. Times, committees, and agendas follow.

9 a.m. The Budget Committee will consider a course of action to deal with the reduction of travel funds imposed by commission funding in fiscal year 1984.

10 a.m. The Higher Education Committee will consider Houston Community College's problem with one of the adopted requirements for an associate degree in arson investigation and study several problems with several subjects currently offered in the Fire Science Program

10:30 a.m. The Board will conduct a public hearing for receipt of input from fire departments for possible revision and updating of the training requirements for entry level fire fighters.

11 a.m. The Board will conduct a public hearing for receipt of input from fire departments and airport officials concerning training requirements for implementation of minimum standards for certification of aircraft crash and rescue fire fighters.

1:30 p.m. The Commission will hold a regularly scheduled quarterly commission member meeting and hear reports from standing committees, officially adopt proposed fees for certificates and manuals, officially adopt nonrenewable instructor certificates,

and take care of any old business and hear any new business.

Contact: Ray L. Goad, 510 South Congress Avenue, Suite 406, Austin, Texas (512) 474-8066.

Filed: October 5, 1983, 9:30 a.m.
TRD-837907-837911

Joint Select Committee on Fiscal Policy

Thursday, October 6, 1983, 1 p.m. The Joint Select Committee on Fiscal Policy rescheduled a meeting held in Room 309, House Appropriations Committee Room, State Capitol, Austin. According to the agenda, the committee heard presentations by Billy Hamilton, Office of the Comptroller, concerning a summary of revenue and spending for fiscal year 1983; Larry Kopp, Legislative Budget Office, concerning a summary of appropriations for the fiscal year 1984-1985 biennium; William Gruben, senior economist, Federal Reserve Bank of Dallas, concerning "Recent Developments in the Texas Economy"; and considered a proposed work plan by Tom Scott of the Office of the Lieutenant Governor, and other business. The meeting was originally scheduled for 2 p.m. in Room 214.

Contact: Tom Scott, Room G-31, Capitol Building, Austin, Texas, (512) 475-3106.

Filed: October 6, 1983, 9:18 a.m.
TRD-837980

Texas Health Facilities Commission

Friday, October 14, 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.

Notices of Intent to Acquire Existing Health Care Facilities

Triple C of Texas, a Texas general partnership, San Antonio
AN83-0829-131

Summit Care-Texas, Inc., a Texas corporation and wholly-owned subsidiary of Summit Care Corporation, a California corporation, Burbank, California
AN83-0901-133

Ronald Lane Daniels, D.O., P.A., Quitman
AN83-0901-134

Texas Register

Jewell Enterprises, a Texas general partnership, Arlington
AN83-0902-136

Parent Care, Inc., Arlington
AN83-0902-137

Dr. William J. Rea, P.A., Dallas
AH83-0907-142

Stonebrook Properties, Inc., a Texas corporation, Arlington
AN83-0908-149
AN83-0908-150

Central Texas Equities, Inc., Port Arthur
AN83-0816-109

Applications for Certificate of Need
Spring Branch Memorial Hospital,
Houston
AH83-0609-614

Renfro Nursing Home, Waxahachie
AN83-0318-166

Contact: John R. Neel, P.O. Box 50049,
Austin, Texas 78763, (512) 475-6940.

Filed: October 5, 1983, 9:10 a.m.
TRD-837912

Texas Historical Commission

Monday, October 17, 1983. The Board of the Texas Historical Commission (THC) will meet in Board Room 104, Texas Law Center, 15th Street and Colorado Avenue, Austin. Times and agendas are as follows.

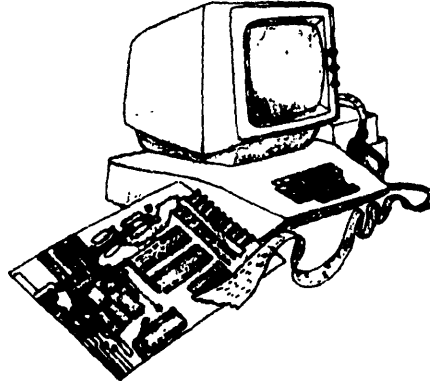
9 a.m. The board will consider a review of statutes and the operating budget for fiscal year 1984; a publication report; the destruction of archeological sites; a public education program; site acquisition; the Piney Woods regional preservation workshop; changes in the Texas Antiquities Committee Board; a report on a congressional hearing on the Historic Shipwreck Preservation Act; discuss Fort Worth stockyards and a Dallas post office; reevaluate National Register grant rating criteria; 1984 main street applicant cities; THC Museum Department guidelines; the annual meeting site for 1987; a final review of the marker policy change; consultation work with the General Land Office; and a definition of recorded Texas Historic Landmarks.

1:30 p.m. The commission will consider approval of the minutes, the operating budget for fiscal year 1984; a publications committee report; an archeological site acquisition; reevaluation of National Register grant rating criteria; review of the Fort Worth stockyards and a Dallas post office; 1984 main street applicant cities; an annual meeting site for 1987; final approval of a marker policy change; approval of markers

for the quarter; and a Sesquicentennial Committee report.

Contact: Curtis Tunnell, P.O. Box 12276,
Austin, Texas 78711, (512) 475-3092.

Filed: October 5, 1983, 3:15 p.m.
TRD-837970, 837971



State Board of Insurance

Thursday, October 13, 1983, 9 a.m. The State Board of Insurance revised the agenda of a meeting to be held in Room 414, 1110 San Jacinto Street, Austin. According to the revised agenda, the board will consider an emergency amendment to Rule 059.01.15.203(1) to adopt new forms for use by insurers in making quarterly prepayment of premium taxes as required by Senate Bill 987, 68th Legislature, 1983. (Senate Bill 987 amends, among other statutes, the Insurance Code, Articles 4.10 and 4.11, and Texas Civil Statutes, Article 4769.) The reason for the emergency is that a quarterly prepayment of premium tax is due on November 15, 1983. There is not sufficient time to adopt the amendment on a regular rulemaking basis before that time. The board also will consider the proper and appropriate determination of any tax credit or credits under the Texas Insurance Code, Article 21.49, §19, for taxes paid pursuant to the Texas Insurance Code, Article 4.10, as amended by Senate Bill 987.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: October 5, 1983, 3:32 p.m.
TRD-837977

Tuesday, October 18, 1983, 10 a.m. The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board will make decisions on a petition by the Texas automobile insurance plan for an installment payment of premium plan (hearing held

July 12, 1983) and on a joint motion for dismissal of appeal of Port-O-Call Owners' Association from action of the Texas Catastrophe Property Insurance Association; proposed rules of procedure and decorum for advisory councils appointed pursuant to the Texas Insurance Code, Articles 5.43-1, 5.43-2, and 5.43-3; and consider appointment of members to the Fire Protection Advisory Council pursuant to the Texas Insurance Code, Article 5.43-3.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: October 5, 1983, 9:31 a.m.
TRD-837913

Wednesday, October 19, 1983, 9 a.m. The State Board of Insurance will meet in the hearing room, DeWitt Greer Building, 11th and Brazos Streets, Austin. According to the agenda, the board will consider proposed Rule 059.05.62.003, concerning sale of alternatives to workers' compensation, published at 8 TexReg 3225

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: October 5, 1983, 9:31 a.m.
TRD-837914

The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Days, times, and agendas follow.

Tuesday, October 25, 1983, 10 a.m. Items on the agenda include filings by Verex Assurance, Inc., and General Electric Mortgage Insurance Corporation of rates and forms for 100% coverage mortgage guaranty insurance program.

Wednesday, October 26, 1983, 3 p.m. According to the agenda, the board will meet with representatives of the Texas Chiropractic Association to discuss complaints about the exclusion of chiropractic treatment in accident and health policies.

Thursday, October 27, 1983, 10 a.m. According to the agenda, the board will reconvene a hearing which began on April 19, 1983, to consider approval of a maritime employers' liability endorsement for policies written by the Texas Workers' Compensation Assigned Risk Pool.

Contact: Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

Filed: October 5, 1983, 9:32 a.m.
TRD-837915-837917

**Texas State Board of Medical
Examiners**

Wednesday-Saturday, October 26-29, 1983, 8:30 a.m., daily. Disciplinary Hearing Panels of the Texas State Board of Medical Examiners will meet in Suite 201, 1101 Camino LaCosta, Austin. According to the agenda, the panels, as authorized by Texas Civil Statutes, Article 4495b, and board rules, Chapter 199, will consider licensure matters and hold hearings on possible Medical Practice Act violations. The panels also may meet in executive session under authority of Texas Civil Statutes, Article 6252-17, as related to Article 4495b, §4.05(d), §5.06(e)(1), and Attorney General Opinion H-484, 1974.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: October 4, 1983, 2:26 p.m.
TRD-837856

Texas Optometry Board

Wednesday and Thursday, October 12 and 13, 1983, 2:30 p.m. and 8:30 a.m., respectively. The Texas Optometry Board will meet at the Wyndham Southpark Hotel, 4140 Governor's Row, Ben White Boulevard and IH 35 South, Austin. According to the agenda summary, on October 12, 1983, committees of the board will meet, with the majority of committees meeting at 8 p.m. that evening. On October 13, 1983, the board will consider reports of the secretary-treasurer, the executive director, the legal counsel, and committee chairpersons; new business regarding continuing education exemptions, correspondence from licensees, advertising matters, request for Attorney General Opinion 182, discussion of separation of offices, failure to obtain licenses following board examination, and the setting of fees; adopt proposed rules regarding licensure by endorsement, surrender of license, and use of the name of a retired or deceased optometrist. The board also will meet in executive session in compliance with the Open Meetings Act, Texas Civil Statutes, Article 6252-17, §2(e).

Contact: Lois Ewald, 1300 East Anderson Lane, Suite C-240, Austin, Texas 78752.

Filed: October 4, 1983, 3:48 p.m.
TRD-837882

**Texas Parks and Wildlife
Department**

Wednesday, October 12, 1983, 6:30 p.m. The Texas Parks and Wildlife Commission

of the Texas Parks and Wildlife Department will meet at the University Club, 400 West 15th Street, Austin. According to the agenda summary, the commission members plan to have dinner. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing agenda scheduled for October 13, 1983, at 9 a.m.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: October 4, 1983, 4:11 p.m.
TRD-837888

Thursday, October 13, 1983. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet in Building B, Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin. Times and agendas follow.

9 a.m. According to the agenda, the commission will approve the August 31, 1983, minutes; present service plaques, hear a request for a pipeline easement concerning Mustang Island State Park, Nueces County; consider the Statewide Fur-Bearing Animal and Trapping Proclamation for 1983-1984, a white-winged dove habitat acquisition in Cameron County, and a land acquisition, the Franklin Mountains State Park, El Paso County.

Addition to the above agenda:

The commission will consider the U.S. Army Corps of Engineers' Maintenance Dredging Program and wildlife programs.

Noon. The commission will discuss potential acquisitions, settlement of pending litigation matters, and personnel matters.

Contact: Charles D. Travis, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4802.

Filed: October 4, 1983, 4:12 p.m.
TRD-837885-837887

**Public Utility Commission of
Texas**

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

Monday, October 17, 1983, 9 a.m. A pre-hearing conference in Docket 5416—application of Hi Texas Water Corporation for

authority to change rates within Carson and Hutchinson Counties.

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

Filed: October 5, 1983, 9:29 a.m.
TRD-837918

Monday, October 17, 1983, 10 a.m. A pre-hearing conference in Docket 5331—application of Southwestern Public Service Company for authorization to charge system-wide electric rates in newly acquired areas in Cochran County.

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

Filed: October 6, 1983, 9:13 a.m.
TRD-837981

Tuesday, October 18, 1983, 1 p.m. A pre-hearing conference in Docket 5402—application of Dogwood Estates Water Company to increase rates in Henderson County.

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

Filed: October 6, 1983, 9:13 a.m.
TRD-837982

Friday, October 28, 1983, 1:30 p.m. A hearing in Docket 5205—appeals of Texas-New Mexico Power Company from rulemaking ordinances of the cities of League City, et al.

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

Filed: October 5, 1983, 9:29 a.m.
TRD-837919

Tuesday, November 1, 1983, 10 a.m. A hearing in Docket 5306—customer protest in the matter of §43(h) rate increase of Moses Water Company.

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

Filed: October 6, 1983, 9:13 a.m.
TRD-837983

Monday, November 7, 1983, 9 a.m. A hearing on the merits in Docket 5141—petition of Southwestern Bell Telephone Company for approval of tariffs to allow customers to install and maintain inside wire.

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

Filed: October 6, 1983, 9:12 a.m.
TRD-837984

Texas Register

Monday, November 21, 1983, 9 a.m. A hearing on the merits in Docket 5420—application of Southwestern Bell Telephone Company for approval of a tariff providing for the leasing of inside wiring.

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

Filed: October 6, 1983, 9:12 a.m.
TRD-837985

State Securities Board

Tuesday, October 18, 1983, 10 a.m. The Securities Commissioner of the State Securities Board will conduct a hearing at 1800 San Jacinto Street, Austin. According to the agenda summary, the hearing will be held for the purpose of determining whether the registration of Texas General Securities, Inc., as a securities dealer, and Marvin Walter Hegar, Jr., as principal of Texas General Securities, Inc., should be revoked or suspended.

Contact: Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

Filed: October 5, 1983, 1:30 p.m.
TRD-837952



Texas Water Commission

Thursday, October 6, 1983, 10:35 a.m. The Texas Water Commission met in emergency session in Room 124A, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission held a conference with Bill Wells of the Sunset Commission at the request of Mr. Wells. The emergency status was necessary to accommodate the schedules of the commissioners and Mr. Wells.

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

Filed: October 6, 1983, 8:30 a.m.
TRD-837979

Wednesday, October 12, 1983, 11 a.m. The Texas Water Commission made an addition

to the agenda of a meeting to be held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerns the application of Irving P. Krick, Inc., of Texas for a weather modification permit renewal. The previous agenda reflected a license renewal, when in fact it is a permit renewal.

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

Filed: October 4, 1983, 3:17 p.m.
TRD-837879

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

Tuesday, October 18, 1983, 2 p.m. In Room 118, application of the City of Rosenberg to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated domestic wastewater effluent at a volume not to exceed an average flow of 1.5 million gallons per day (three million daily maximum) from its domestic wastewater treatment plant located approximately 2,000 feet southwest of the intersection of U.S. Highway 59 and Texas Highway 36 south of Rosenberg in Fort Bend County. The applicant proposes to modify and expand its south wastewater treatment plant.

Additions to the above agenda.

Application of Ponderosa Joint Powers Agency to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated domestic wastewater effluent at a volume of 980,000 gallons in a 24-hour period from the 3.57 million gallon-per-day domestic wastewater treatment plant which is located adjacent to the south side of Cypress Creek in Segment 1009 of the San Jacinto River Basin, approximately 2½ miles west of FM Road 1960 from its intersection with IH 45; thence one mile north on Butte Creek Road, approximately 15 miles north of the City of Houston in Harris County. The applicant proposes to perform maintenance and repairs to the aeration basin of the wastewater treatment plant.

Application of Blue Bell Manor Utility Company, Inc., to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated domestic wastewater effluent at a volume not to exceed an average flow of 200,000 gallons per day from the domestic wastewater treatment plant located on Hall's Bayou, approximately ½ mile east

of the 9500 block of Stuebner-Airline Road, in Houston, Harris County. The applicant proposes to expand and make needed modifications to the treatment facilities.

Application of the City of Eagle Lake to the Texas Department of Water Resources for a temporary order to authorize the discharge of partially treated municipal wastewater effluent at a volume not to exceed an average flow of 230,000 gallons per day (460,000 daily maximum) from its municipal sewage treatment plant which is located approximately 400 feet south of the intersection of U.S. 90-A Bypass and McCarty Avenue in Eagle Lake, Colorado County. The applicant proposes to make necessary modifications to the existing facilities.

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

Filed: October 5, 1983, 3:22 p.m.
TRD-837972-837975

Tuesday, November 15, 1983, 10 a.m. In Room 118, a hearing regarding petition for creation of Baker Road Municipal Utility District, containing 67 acres of land.

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

Filed: October 5, 1983, 3:23 p.m.
TRD-837976

Regional Agencies

Meetings Filed October 4

The Hansford County Appraisal District, Board, will meet at 13 West Kenneth Avenue, Spearman, on October 12, 1983, at 3 p.m. Information may be obtained from Alice Peddy, Box 567, Spearman, Texas 79081, (806) 659-5575.

The Lampasas County Appraisal District met at 403 East Second, Lampasas, on October 7, 1983, at 3 p.m. Information may be obtained from Dana Ripley, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058.

TRD-837834

Meetings Filed October 5

The Bexar Appraisal District, Appraisal Review Board, met in emergency session at 535 South Main, San Antonio, on October 7, 1983, at 9 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

The Brazos Valley Development Council, Executive Committee, will meet at 3006 East 29th Street, Bryan, on October 13, 1983, at 1:30 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 822-7421.

The Carson County Appraisal District, Board of Directors, will meet at 220 Main Street, Panhandle, on October 12, 1983, at 7 p.m. Information may be obtained from Dianne Lavake, Box 970, Panhandle, Texas 79068, (806) 537-3569.

The Region I Education Service Center, Board of Directors, will meet at 1900 West Schunior, Edinburg, on October 11, 1983, at 6 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611.

The Hockley County Appraisal District, Appraisal Review Board, met at 913 Austin Street, Levelland, on October 10, 1983, at 9 a.m. Information may be obtained from Keith Toomire, P.O. Box 1090, Levelland, Texas, (806) 894-9654.

The Texas Municipal League, Workers' Compensation/Liability/Property Funds Board of Trustees, met at the Four Seasons Hotel, 901 Austin, Houston, on October 10, 1983, at 9 a.m. Information may be ob-

tained from William I. Martin, Jr., 1020 Southwest Tower, Austin, Texas 78701, (512) 478-6601.

The Palo Pinto Appraisal District, Board of Directors, will meet in the Palo Pinto County Courtroom, Mineral Wells, on October 12, 1983, at 3 p.m. Information may be obtained from John R. Winters, 100 Southeast Fifth Street, Mineral Wells, Texas 76067, (817) 659-3651.

The Tarrant Appraisal District, Appraisal Review Board, met in Suite 300, 1701 River Run, Fort Worth, on October 10, 1983, at 8:30 a.m. The board will also meet at the same location and time on October 12, 1983. Information may be obtained from Linda Freeman, 1701 River Run, Suite 300, Fort Worth, Texas 76107, (817) 332-3151.
TRD-837932

Meetings Filed October 6

The Blanco County Central Appraisal District, Board of Directors, met at the Blanco County Courthouse Annex, Johnson City, on October 10, 1983, at 6 p.m. Information may be obtained from Hollis Petri, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4624.

The Concho Valley Council of Governments, Executive Committee, will meet at 5002 Knickerbocker Road, San Angelo, on October 12, 1983, at 7 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666.

The Central Appraisal District of Erath County, 1983 Appraisal Review Board, will meet at the district offices, 1191 South Loop, Stephenville, on October 13, 1983, at 7 p.m. Information may be obtained from Trecia Perales, 1191 South Loop, Stephenville, Texas, (817) 965-5434.

The Central Appraisal District of Rockwall County, Board of Directors, will meet at 106 North San Jacinto, Rockwall, on October 11, 1983, at 7:30 p.m. Information may be obtained from Eugene "Bo" Daffin, 106 North San Jacinto, Rockwall, Texas 75087, (214) 722-2034.

The Swisher County Appraisal District, Board of Review, will meet at 130 North Armstrong, Tulia, on October 12, 1983, at 9 a.m. The Board of Trustees will also meet at the same location on October 13, 1983, at 8 p.m. Information may be obtained from Nan Davis, 130 North Armstrong, Drawer 8, Tulia, Texas 79088, (806) 995-3015.

TRD-837986

In Addition

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

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

Banking Department of Texas Application To Acquire Control of a State Bank

Texas Civil Statutes, Article 342-401a, requires any person who intends to buy control of a state bank to file an application with the banking commissioner for the commissioner's approval to purchase control of a particular bank. A hearing may be held if the application is denied by the commissioner.

On September 30, 1983, the banking commissioner received an application to acquire control of First State Bank of McKinney, McKinney, by William A. Kramer of Richardson, Robert L. Harrington, Jr., of Plano, and E. W. Switzer of Plano.

Additional information may be obtained from William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on September 30, 1983.

TRD-837920 Archie P. Clayton III
General Counsel
Banking Department of Texas

Filed: October 5, 1983

For further information, please call (512) 475-4451.

Texas Commission for the Deaf Consultant Proposal Request

The 67th Session of the Texas Legislature enacted Senate Bill 57 authorizing the Texas Commission for the Deaf to establish an outdoor training program for deaf students. In compliance with Texas Civil Statutes, Article 6252-11c, resulting from this legislation, the Texas Commission for the Deaf is requesting proposals for the operation of a

summer camp program for deaf and hearing impaired school-aged children.

The commission is seeking a camp program designed to provide a broad range of recreational and educational camping experiences, for deaf and hearing impaired campers 8 to 15 years old. In conjunction, the commission desires to include a counselor in training (CIT) program. The CIT program is to focus on the development and preparation of future camp counselors. Such counselors in training will be 16 and 17 years old and deaf or hearing impaired.

The underlying concern of the commission is to provide a sound, well structured camping experience for deaf and hearing impaired children. The camp environment should be one which:

- (1) promotes an atmosphere for learning and socialization;
- (2) is located within a facility free of restrictive communication barriers; and
- (3) promotes each youngster's ability to function at his fullest potential.

Description of Recommended Services. In its intent to design a unique outdoor training program for deaf students, the Texas Commission for the Deaf recommends that respondents:

- (1) be licensed by the Texas Department of Health;
- (2) be willing to work cooperatively with the Texas Commission for the Deaf and its designated camp advisor;
- (3) have a camp director with at least five years experience as director and 10 years of camping experience in addition to experience in directing a camp for deaf children;
- (4) provide:
 - (a) three nutritious meals daily and at least one in-between meal or after dinner snack;
 - (b) proper medical care with trained, licensed medical personnel on grounds;

- (c) large covered area for activities during inclement weather;
 - (d) safe and comfortable cabins, mess hall, showers, and restrooms;
 - (e) hardwood floor area for musical recreation;
 - (f) facilities that are clean and attractive;
 - (g) programs which are established for deaf campers 8 to 15 years old, and for CIT's 16 and 17 years old;
 - (h) orientation program for counselors and CIT's just prior to camp session opening day;
 - (i) comprehensive campsite insurance; and
 - (j) camp T-shirt for each camper and counselor with camp sign logo;
- (5) provide a broad spectrum of camping activities including, but not limited to, the following:
- (a) water sports, i.e., swimming, fishing, canoeing, etc., in a natural water setting;
 - (b) horseback riding, with a minimum of 65 horses;
 - (c) archery;
 - (d) riflery on a National Rifle Association (NRA) or equivalent affiliated rifle range;
 - (e) arts and crafts;
 - (f) nature trail hikes;
 - (g) evening programs, i.e., skits, movies, campfire stories, etc.;
 - (h) lifelong sports, i.e., golf, tennis; and
 - (i) other related camping experiences; and
- (6) employ staff who have knowledge of sign language and experience working with deaf and hearing-impaired children

The Texas Commission for the Deaf will consider proposals for a one-week camping session for approximately 150 deaf and hearing-impaired students.

Funding. Respondants should provide a complete estimated budget of expenditures. The budget should specify expected costs, minimum and maximum number of campers, and shall not exceed a cumulative total of \$31,000.

Deadline for Proposals. Deadline for the receipt of proposals in the offices of the Texas Commission for the Deaf is on or before noon, Monday, November 21, 1983. Proposals received after this established deadline cannot be considered for selection. Proposals are to be addressed to Texas Commission for the Deaf, Attention: Juli Painter, Coordinator of Special Services, P.O. Box 12904, Austin, Texas 78711.

Proposal Evaluation Criteria. Proposals will be evaluated by a screening committee on the following basis:

- (1) submission of proposal on or before the established deadline;
- (2) operation of the program within the monetary limits established;
- (3) submission of proposals utilizing provided format;
- (4) minimum and maximum number of campers allowed within specified budget;
- (5) respondents' ability to provide a sound, high quality recreational and education program specifically directed to, and suited for, deaf and hearing-impaired youngsters; and

- (7) willingness of respondent to employ staff with knowledge of, and experience in, working with the deaf.

Person to Contact for Further Information. Further information and format guidelines for submitting proposals may be obtained by contacting Juli Painter, coordinator of special services, at (512) 475-2492.

Guideline for Submitting Proposals. The following is the format for submission of proposals to the Texas Commission for the Deaf:

- (1) General information (i.e., name, location, maximum number of campers able to be accommodated).
- (2) Description of activities provided (i.e., social, recreational, educational, etc.).
- (3) Personnel. (List and describe personnel, positions, qualification, etc.) Are you willing to employ staff who have knowledge of sign language and/or experience working with deaf and hearing-impaired children? (yes or no).
- (4) Food and canteen. (Please submit a sample daily menu.)
- (5) First aid care and health services. (List and describe.)
- (6) Housing and facilities (i.e., number of cabins, linens/bedding provided, number of restrooms, washrooms, etc.).
- (7) Budget. (Indicate expected costs related to minimum and maximum number of campers.)
- (8) Dates available for program operation.
- (9) Summary of camp program.

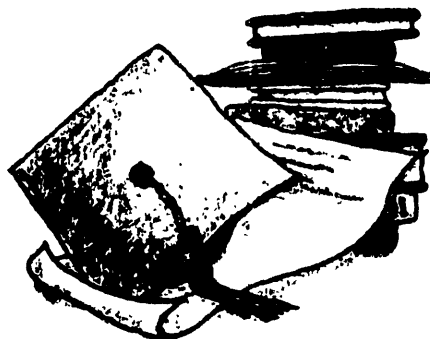
Issued in Austin, Texas, on October 4, 1983.

TRD-837890

Fred R. Tammen
Executive Director
Texas Commission for the Deaf

Filed: October 4, 1983

For further information, please call (512) 475-2492.



Comptroller of Public Accounts Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the office of the Comptroller of Public Accounts of the State of Texas requests proposals to create and conduct an effectiveness-related attitude survey of employees.

Proposal Specifications. The selected consultant will be required to provide the following services:

- (1) Develop a questionnaire instrument tailored to the needs of the organization. The questionnaire should cover both motivational and concrete performance issues.
- (2) Conduct interviews so that the questionnaire results may be strongly supplemented by in-depth, "qualitative" data.
- (3) Provide guidance for effective questionnaire administration.
- (4) Provide appropriate programs for processing the data on the agency's computers.
- (5) Analyze the data to determine key organizational strengths and weaknesses. A large base of "normative" data is considered imperative for this analysis.
- (6) Recommend actions to ameliorate the problems revealed by the survey.
- (7) Break out the data by all relevant organizational units and provide training to the organization and to individual managers as to how these data can be constructively disseminated throughout the agency and acted upon.
- (8) Follow up with agency to review and advise on the effectiveness of agency responses to the data.
- (9) Develop a capability on the part of the agency to readminister the survey periodically.

Selection Criteria. Proposals will be judged on the following basis:

- (1) Technical training of the consultants. For example, PH.D.'s in industrial, organizational, or social psychology are considered highly desirable, these consultants should be directly involved in the work rather than supervising those of less training.
- (2) Consultant's experience in the conducting of similar surveys in both the public and private sectors. The normative data generated by such surveys should be available to the agency as well as information as to how these surveyed organizations responded to the data.
- (3) Consultant's experience in conducting surveys that, in addition to the traditional morale and motivation factors, measure concrete conditions related to job performance.
- (4) Consultant's experience in tailoring survey questionnaires to specific needs and conditions of organizations.
- (5) Consultant's experience in conducting surveys so that line management—at all levels—is heavily involved and feels "ownership" of the results. This should include experience in "bottom-up" approaches to survey feedback and in training managers to conduct their own feedback meetings. It should also include experience in creating a methodology for effective action planning by managers (e.g., how to set priorities, etc.).
- (6) Consultant's knowledge of what works and what doesn't work in management's responses to survey data.
- (7) Consultant's experience in interacting directly with top executive management in the reporting, discussing, and acting upon survey data.
- (8) Consultant's experience in developing an organization's internal capability of performing periodic future reevaluation.
- (9) Consultant's ability to perform satisfactory and timely work.
- (10) Reasonableness of cost.

The project must be completed by August 31, 1984. The comptroller reserves the right to reject any or all proposals. No oral proposals will be accepted.

Deadline for Proposals. Written proposals are to be submitted by 5 p.m., October 21, 1983, to Frank Morgan, Director of Personnel, Comptroller of Public Accounts, LBJ State Office Building, Room 124, Austin, Texas 78774, (512) 475-1919. For additional information, interested consulting firms should contact Mr. Morgan at the above address.

Issued in Austin, Texas, on October 4, 1983.

TRD-837832

Bob Bullock
Comptroller of Public Accounts

Filed: October 4, 1983

For further information, please call (512) 475-6953.

Consultant Contract Award

This consultant contract award is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The consultant proposal request was published in the July 26, 1983, issue of the *Texas Register* (8 TexReg 2823).

The consultant will analyze various aspects of state fund structure and make and evaluate recommendations to the comptroller concerning fiscal policy matters.

The name and business address of the consultant is John M. Keel, C.P.A., 400 East Anderson Lane, Austin, Texas 78752.

The total value of the contract is estimated at \$46,000. The beginning date of the contract was September 30, 1983, and the contract ends on August 31, 1984, or upon acceptance of the consultant's report, whichever occurs first. The consultant's written report is due no later than August 31, 1984.

The consultant last served as an employee of a Texas state agency more than two years before making the offer to perform these consulting services. However, the consultant performed other consulting services, on a contract basis, for the Comptroller of Public Accounts and the University of Texas in 1981, 1982, and 1983.

Issued in Austin, Texas, on October 4, 1983.

TRD-837833

Bob Bullock
Comptroller of Public Accounts

Filed: October 4, 1983

For further information, please call (512) 475-6953.

Decision 13,613

For copies of the following opinion, contact Bob Bullock, Comptroller of Public Accounts, Attention: Administrative Law Judges, 111 East 17th Street, Austin, Texas 78774. Copies will be furnished without charge and edited to comply with confidentiality statutes.

Golden Horizon Care Centers, a Texas general partnership, Burkburnett
AN83-0930-185

NIEH—Request for a declaratory ruling that a certificate of need is not required for Golden Horizon Care Centers, a Texas general partnership, to acquire by purchase Fisher County Nursing Home, an existing 35-bed ICF nursing facility located in Rotan, from Theda Finch.

Golden Horizon Care Centers, a Texas general partnership, Burkburnett
AN83-0930-187

NIEH—Request for a declaratory ruling that a certificate of need is not required for Golden Horizon Care Centers, a Texas general partnership, to acquire by purchase Golden Haven Home, an existing 34-bed ICF nursing facility located in Roby, from Theda Finch.

Golden Horizon Care Centers, a Texas general partnership, Burkburnett
AN83-0930-186

NIEH—Request for a declaratory ruling that a certificate of need is not required for Golden Horizon Care Centers, a Texas general partnership, to acquire by purchase Spur Care Center, an existing 40-bed ICF nursing facility located in Spur, from Care One Management, Inc.

Issued in Austin, Texas, on October 5, 1983

TRD-837921 John R. Neel
 General Counsel
 Texas Health Facilities
 Commission

Filed: October 5, 1983

For further information, please call (512) 475-6940.

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 admission to do business in Texas of Acceleration National Insurance Company, a foreign fire and casualty insurance company. The home office is in Dublin, Ohio.

(2) Application for admission to do business in Texas of Southern Security Life Insurance Company, a foreign life insurance company. The home office is in Altamonte Springs, Florida.

(3) Application for admission to do business in Texas of United Home Life Insurance Company, a foreign life insurance company. The home office is in Greenwood, Indiana.

(4) Application for a name change by Modern Security Life Insurance Company, a foreign life insurance company. The home office is in Springfield, Missouri. The proposed new name is Modern American Life Insurance Company.

(5) Application for admission to do business in Texas of Security Nebraska Life Insurance Company, a foreign life insurance company. The home office is in Lincoln, Nebraska.

(6) Application for incorporation of Atlantic Title Insurance Company, to be a domestic title insurance company. The home office is proposed to be in Austin.

(7) Application for admission to do business in Texas of Equitable Casualty Insurance Company, a foreign fire and casualty insurance company. The home office is in Des Moines, Iowa.

(8) Application for admission to do business in Texas of The Victory Reinsurance Company of America, Inc., a foreign fire and casualty insurance company. The home office is in Wilmington, Delaware.

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

(10) Application for admission to do business in Texas of Delta Life and Annuity Company, a foreign life insurance company. The home office is in Little Rock, Arkansas.

(11) Application for admission to do business in Texas of Armed Forces Insurance Exchange, a foreign reciprocal insurance company. The home office is in Topeka, Kansas.

(12) Application for admission to do business in Texas of GEICO Annuity and Insurance Company, a foreign life insurance company. The home office is in Wilmington, Delaware.

(13) Application for admission to do business in Texas of Selected Risk Insurance Company, a foreign fire and casualty insurance company. The home office is in Branchville, New Jersey.

(14) Application for admission to do business in Texas of Industrial Fire & Casualty Insurance Company, a foreign fire and casualty insurance company. The home office is in Oak Park, Illinois.

(15) Application for incorporation of State Farm Lloyds, to be a domestic lloyds insurance company. The home office is proposed to be in Dallas.

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

Issued in Austin, Texas on October 3, 1983

TRD-837922 James W. Norman
 Chief Clerk
 State Board of Insurance

Filed: October 5, 1983

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

Texas State Library and Archives Commission Consultant Contract Reports

Senate Bill 737 of the 65th Legislature, Texas Civil Statutes, Article 6252-11c, requires state agencies and regional

councils of governments to file with the Office of the Secretary of State invitations to bid and details on bidding on private consultant contracts expected to exceed \$10,000. Within 10 days of the award of the contract, the agency is required to file with the secretary of state a description of the study to be conducted, the name of the consultant, the amount of the contract, and the due dates of the reports. Additionally, the Act directs the contracting agencies to file copies of the resulting reports with the Texas State Library. The library is required to compile a list of the reports received and submit the list quarterly for publication in the *Texas Register*.

Following is the list of reports received for the third quarter of 1983. The reports may be examined in Room 300, Texas State Library 12th and Brazos Streets, Austin

Agency: Texas Historical Commission.
Consultant Theodore M. Brown.
Title: *Coordination of the Texas Conservation Plan Computerization Program for Fiscal Year 1983.*

Agency: Texas Department of Human Resources.
Consultant: Arthur Andersen & Company
Title: *Project WelNet Report.*

Agency: State Board of Insurance.
Consultant Creative Assistance, Inc.
Title: *Creative Assistance Program Monthly Report, June 1983.*

Agency: Texas Commission on Law Enforcement Officer Standards and Education.
Consultant: Jeanneret and Associates.
Title: *Criterion-Related Validation Research of Reading Comprehension and Writing Skills Test.*

Agency: Texas Tourist Development Agency.
Consultant: U.S. Travel Data Center.
Title: *Economic Impact of Travel on Texas Counties—1982*

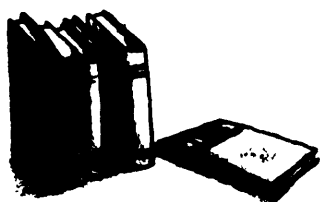
Agency: Treasury Department.
Consultant: Arthur Andersen & Company.
Title: *Information Systems Plan.*

Agency: Pan American University.
Consultant: Alexander Grant & Company.
Title: *Report on Survey of Accounting and Systems Controls.*

Issued in Austin, Texas, on September 30, 1983.

TRD-837800 William D. Gooch
Assistant State Librarian
Texas State Library and Archives
Commission

Filed: October 3, 1983
For further information, please call (512) 475-2166.



Office of the Secretary of State *Texas Register* Schedule Variation

Due to the November 8, 1983, Constitutional Amendment Election, the filing deadlines for documents to be published in the November 11, 1983, issue of the *Texas Register* have been changed. Rules for the November 11 issue must be filed by 10 a.m. on Friday, November 4, and Open Meetings notices must be filed by 10 a.m. on Monday, November 7. This schedule variation will not affect the mailing date of the issue.

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 September 26-30, 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 September 26-30, 1983

North American Properties, Inc., Houston; municipal utility district; approximately 1 1/4 miles east of Highway 59 and approximately 1,500 feet north of Hill and Dale Avenue in Montgomery County; 12821-01; new permit

Montgomery County Municipal Utility District 42, Houston; wastewater treatment facility; approximately 1,100 feet west and 2,600 feet north of the West Fork of the San Jacinto River crossing by State Highway 105, in Montgomery County; 11963-01; renewal

Roy and Thomas C. Bedford, doing business as Cut-N-Shoot Mobile Home Park, Conroe; mobile home

park; approximately one mile northwest of the intersection of State Highway 105 and FM Road 1484 in Montgomery County; 12820-01; new permit

The City of Conroe; wastewater treatment plant; east of IH 45, approximately 1,000 feet south of the intersection of IH 45 and Creighton Road (Grogan Road) in Montgomery County; 10008-03; new permit

Plantation Municipal Utility District, Houston; municipal utility district; 802 Tara Plantation Drive, along the north bank of Rabbs Bayou, approximately 4,000 feet north of Booth-Richmond Road (FM Road 2759) and approximately 3,250 feet east of Crabb River Road in Fort Bend County; 11971-01; amendment

Blue Ridge West Municipal Utility District, Missouri City; wastewater treatment plant; southeast of the intersection of Settegast Road and FM Road 2234 in Missouri City, Fort Bend County; 11553-01; renewal
Village Developers—Falcon Point, Inc., Houston; wastewater treatment plant; on the north side of Roesner Road; approximately 3,000 feet northeast of the intersection of Green Busch Road and Roesner Road, approximately 2½ miles southeast of the intersection of IH 10 and FM Road 1463 in Fort Bend County; 12805-01; new permit

Securities Investments, Inc., Houston; wastewater treatment plant; approximately 0.6 miles east of the intersection of Gaston Road and Green Busch Road, approximately 3.8 miles northeast of the intersection of FM Road 1463 and FM Road 1093 in Fort Bend County; 12796-01; new permit

Uranium Resources Inc., Bruni; *in situ* uranium mine project; approximately eight miles northwest of the Town of Hebronville and 5½ miles southeast of the Town of Bruni and south of and adjacent to State Highway 359 in Duval County; 02471; amendment

Uranium Resources Inc., Bruni; *in situ* uranium mine project; approximately 3½ miles east of the Town of Bruni and approximately two miles northeast of State Highway 359 in Duval County; 02740; amendment

The City of Laredo; wastewater treatment plant; approximately 3,500 feet east of U.S. Highway 83 and 3.2 miles south of the intersection of U.S. Highway 83 and State Highway 20, in southwest Webb County; 10681-03; amendment

Brazoria County, Angleton; sewage treatment plant; along the south side of County Road 45 between State Highway 288 and State Highway 35 in Brazoria County; 12818-01; new permit

The City of League City; wastewater treatment plant; on the south side of FM Road 518 approximately two miles west of State Highway 146 in the City of League City in Galveston County; 10568-04; renewal

Macwood, Inc., Arlington; wastewater treatment plant; approximately 1.7 miles east of the intersection of FM Roads 2736 and 917; approximately 1.2 miles southeast of the intersection of FM Roads 2738 and 917 in Johnson County; 12816-01; new permit

Pecos Cantaloupe Company, Inc., Foster Frozen Foods, Pecos; frozen foods processing plant; 200 East

Palmer Street, south of IH 20 in the City of Pecos in Reeves County; 02667; new permit

Channel Terminal Corporation and Stemil, Inc., doing business as Intercontinental Terminals Company, Deer Park; storage tank farm area; 2627 Tidal Road in the City of Deer Park, Harris County; 01984; amendment
Sigmor Refining Company, a subsidiary of Diamond Shamrock, Three Rivers; petroleum refinery; three blocks southwest of the intersection of U.S. Highway 281 and State Highway 72 in the City of Three Rivers, Live Oak County; 01353; amendment

Robert A. Morris, George Yonge, Nathan Morris, and J. B. Foshee, doing business as Hill Country Utilities, Austin; wastewater treatment plant; at 12510 Lampost Lane, approximately 300 feet north of Parmer Lane, one mile east of FM 1325 and west of IH 35 in Lamplight Village Subdivision, Travis County; 11402-01; amendment

John Karbalai, Houston; sewage treatment plant; at 12110 Mount Houston Road in Harris County; 12692-01; amendment

The City of Windthorst; wastewater treatment facility; approximately one mile north of the intersection of U.S. Highway 281 and State Highway 25 and approximately 600 feet west of U.S. Highway 281 in Archer County; 11399-01; renewal

International Paper Company, Texarkana; pulp and paper mill plant; approximately five miles east of U.S. Highway 59, adjacent to and south of the Sulphur River, bounded on the east by the Kansas City Southern Railway, and on the west by the Texas and Pacific Railway in Cass County; 01339; renewal

Lower Colorado River Authority, La Grange; solid waste disposal area; adjacent to Cedar Creek Reservoir, approximately seven miles east (via State Highway 71) of the City of La Grange, Fayette County; 02105; amendment

The City of Lake Jackson; wastewater treatment plant; at 150 Canna Drive, approximately 1½ miles southwest of the City of Lake Jackson and approximately 1,500 feet east of the Brazos River in Brazoria County; 10047-01; renewal

The City of White Oak; wastewater treatment facility; immediately east of State Highway 42 and 4,200 feet south of U.S. Highway 80, in Gregg County; 10940-01; renewal

Twenty One Twenty Development Company, Vidor; wastewater treatment plant; west of Anderson Gully and south of Orange Street, approximately 1,200 feet east of the intersection of Orange Street with Pine Burr Street within Orange County; 12012-01; renewal

International Minerals and Chemical Corporation, doing business as IMC Carbon Products, Texas City; petroleum coke storage area; on Loop 197 South, approximately 500 feet west of the Dock 40-41 Complex in the City of Texas City, Galveston County; 02670; new permit

Country Roads Inn, Inc., Wadsworth; wastewater treatment plant; on the west side of Highway 60 and approximately ½ mile north of the intersection of

Highway 60 and FM Road 521 in Matagorda County; 11929-01; renewal

The City of Hamlin; wastewater treatment plant; north bank of California Creek; approximately ¼ mile southeast of the intersection of State Highway 92 and U.S. Highway 83 in southeast Hamlin, Jones County; 10491-02; renewal

A. B. Tippit, Leon E. Tippit, Gary McCrary, and Stanley Williams, doing business as Ocean Enterprises, Inc., Port Lavaca; shrimp processing plant; at the intersection of Broadway and Harbor Streets in the City of Port Lavaca, Calhoun County; 02069; amendment

City of Granger; wastewater treatment plant; approximately 1,300 feet south of FM Road 971 and approximately one mile east of State Highway 95 in Williamson County; 10891-01; amendment

Everest Minerals Corporation, Corpus Christi; *in situ* uranium mine; adjacent to FM Road 81 and approximately 1½ miles south of the Town of Hobson, Karnes County; 02672; new permit

Plains Cooperative Oil Mill, Inc., Lubbock; cottonseed oil mill; at the northeast corner of the intersection of Avenue A (Highway 87) and East 34th Street (FM Road 835) in the City of Lubbock; 01920; amendment

Amoco Oil Company, Texas City; oil refinery; at 2401 Fifth Avenue South in the City of Texas City, Galveston County; 00443; renewal

Tenneco Uranium, Inc., Bruni; waste disposal well; at the West Cole Plant, approximately 2,200 feet from

the northeast line and 1,000 feet from the northwest line of Section 6, Josefa Cuellar Survey, Webb County; WDW-195; amendment

Everest Minerals Corporation, Corpus Christi; waste disposal well; approximately 36,200 feet from the east line and 9,000 feet from the west line of the Diego Ynojosa Survey, Abstract A-629, Duval County; WDW-187; amendment

Delta Solvents and Chemicals Company, Dallas; commercial solid waste storage facility; on a 2.768-acre tract of land on the east side of Plano Road, approximately 1.2 miles north of Loop IH 635 in Dallas County; HW 50032-001; new permit

Delta Solvents and Chemicals Company, Inc., Longview; commercial solid waste storage facility; on a 3.84-acre tract of land east of Fisher Road, approximately ¼ mile south of U.S. Highway 80, Longview, Gregg County; new permit

Uranium Resources Inc., Bruni; *in situ*, uranium mine; approximately eight miles northwest of the Town of Hebbroville and 5½ miles southwest of the Town of Bruni and south of and adjacent to State Highway 359 in Duval County; 02471; amendment

Issued in Austin, Texas, on September 30, 1983.

TRD-837835

Mary Ann Hefner
Chief Clerk
Texas Water Commission

Filed: October 4, 1983

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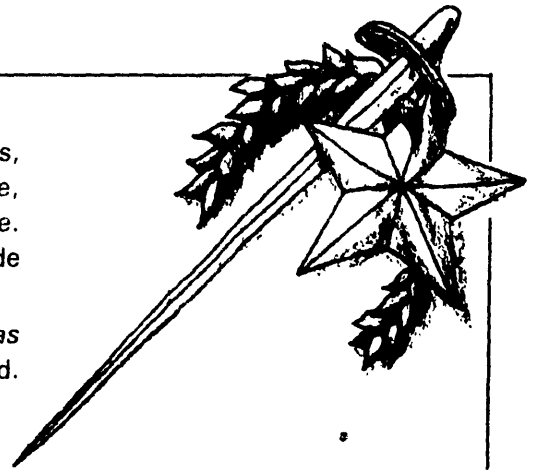
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