

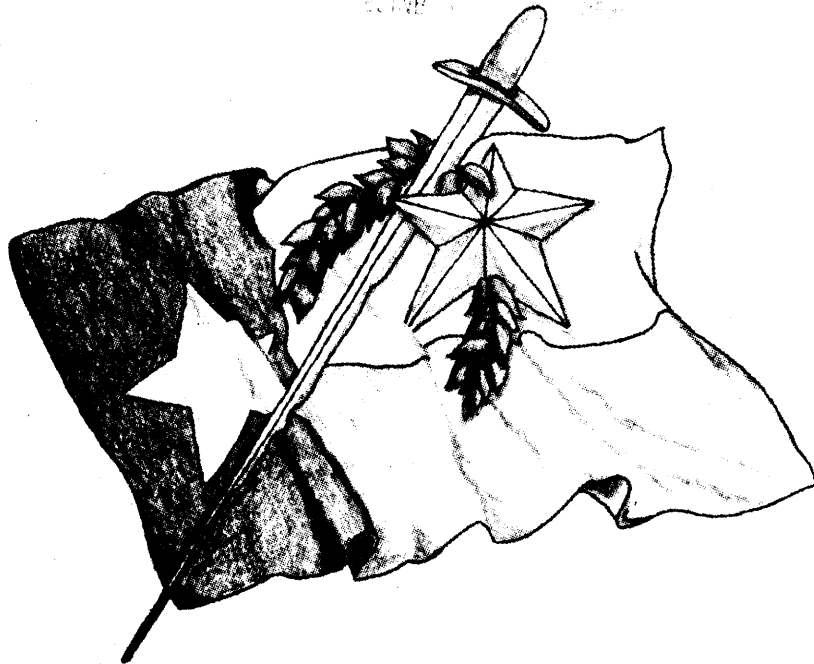
TXD S 500.6 R 263

# Texas Register

DEPOSIT

DEC 22 1983

AMERICAN LIBRARY



## Highlights

- ★ The Texas Department of Labor and Standards adopts on an emergency basis and simultaneously proposes for permanent adoption new rules concerning the Manufactured Housing Division; effective date - December 7.....pages 5209, 5234
- ★ The Merit System Council proposes amendments in a chapter concerning merit system of personnel administration; earliest possible date of adoption - January 16 .....page 5230
- ★ The Texas State Board of Dental Examiners proposes repeals and amendments in a chapter concerning conduct; earliest possible date of adoption - January 16 .....page 5242

# How To Use the Texas Register

## **Texas Register**

The *Texas Register* (ISSN 0362-4781) is published twice a week at least 100 times a year. Issues will be published on every Tuesday and Friday in 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.

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

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

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

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- Withdrawn Rules—rules withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after proposal publication date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

---

## **Table of TAC Titles**

- TITLE 1. ADMINISTRATION
- TITLE 4. AGRICULTURE
- TITLE 7. BANKING AND SECURITIES
- TITLE 10. COMMUNITY DEVELOPMENT
- TITLE 13. CULTURAL RESOURCES
- TITLE 16. ECONOMIC REGULATION
- TITLE 19. EDUCATION
- TITLE 22. EXAMINING BOARDS
- TITLE 25. HEALTH SERVICES
- TITLE 28. INSURANCE
- TITLE 31. NATURAL RESOURCES AND CONSERVATION
- TITLE 34. PUBLIC FINANCE
- TITLE 37. PUBLIC SAFETY AND CORRECTIONS
- TITLE 40. SOCIAL SERVICES AND ASSISTANCE
- TITLE 43. TRANSPORTATION



**John W. Fainter, Jr.**  
Secretary of State

Texas Register Staff  
Charlotte Scroggins, Director

Dee Wright	Julie Peters
Virginia Gregory	Richard Salinas
Dave Harrell	Cathy Powell
Sue Bumpous	Kristine Hopkins Mohajer
Donna Peacock	Richard Kallus
Roberta Knight	Cynthia Cooke
Tony Black	Carol Bankston
Jane Hooks	Jeff Richardson

# Contents

## The Governor

### Appointments Made September 19

- 5205 Texas Commission on Human Rights
- 5205 Texas Public Building Authority
- 5205 School Land Board
- 5205 196th Judicial District
- 5205 Texas Diabetes Council
- 5205 State Committee of Examiners for Speech Pathology and Audiology
- 5206 Texas State Board of Examiners of Dietitians
- 5206 Texas Antiquities Committee
- 5206 Texas Automated Information Systems Advisory Council

### 5206 Credit Union Commission

### Appointments Made September 20

- 5206 State Board of Examiners of Professional Counselors
  - 5206 Texas Indian Commission
  - 5206 Texas Diabetes Council
  - 5206 Texas Board on Aging
  - 5206 Texas State Board of Examiners of Dietitians
  - 5207 Texas Board of Physical Therapy Examiners
- ### Appointments Made September 21
- 5207 Teachers' Professional Practices Commission
  - 5207 State Board of Morticians
  - 5207 Texas State Board of Examiners of Dietitians
  - 5207 Texas Advisory Commission on Intergovernmental Relations
  - 5207 Structural Pest Control Board
  - 5207 Texas Board on Aging
  - 5207 Interagency Council on Sex Offender Treatment

### 5208 Commission on Jail Standards

### Appointments Made September 22

- 5208 Texas Coastal and Marine Council
- 5208 Texas Diabetes Council
- 5208 Texas Commission on Human Rights
- 5208 Governor's Commission on Physical Fitness

## Emergency Rules

### Texas Historical Commission

- 5209 Administrative Department
- Texas Department of Labor and Standards
- 5209 Manufactured Housing Division
- School Land Board
- 5229 Exploration and Development

## Proposed Rules

### Merit System Council

- 5230 Merit System of Personnel Administration
- Texas Department of Community Affairs
- 5233 Administration
- Public Utility Commission of Texas
- 5234 Substantive Rules
- Texas Department of Labor and Standards
- 5235 Manufactured Housing Division
- Texas Cosmetology Commission
- 5237 General Provisions
- Texas State Board of Dental Examiners
- 5238 Pertaining to Dentistry
- 5240 Dental Hygiene
- 5242 Conduct
- 5246 Professional Corporations
- 5247 Requirements for Dental Offices
- 5248 Extension of Duties of Auxiliary Personnel
- General Land Office
- 5249 Energy Resources
- 5250 Legal Division
- Texas Parks and Wildlife Department
- 5251 Finance
- School Land Board
- 5252 Exploration and Development
- Texas Water Development Board
- 5254 Introductory Provisions
- 5255 Appropriation of Water
- 5263 Additional Provisions
- 5264 Particular Proceedings
- 5269 Requirements for Dams and Reservoirs

## Withdrawn Rules

### Office of the Attorney General

- 5273 Child Support Enforcement

## Adopted Rules

### Office of the Attorney General

- 5274 Child Support Enforcement
- State Entomologist
- 5275 Bees
- State Securities Board
- 5276 Transactions Exempt from Registration

Railroad Commission of Texas  
5276 Transportation Division  
State Board of Insurance  
5280 Texas Title Insurance Act  
Texas Department of Human Resources  
5281 Family Self-Support  
5281 Public Information  
State Board of Insurance  
5282 Notification Pursuant to the Insurance Code,  
Chapter 5, Subchapter L

5287 Railroad Commission of Texas  
5288 School Land Board  
5288 State Securities Board  
5289 University of Texas System  
5289 University Interscholastic League  
5289 Texas Water Commission  
5290 Regional Agencies

### Open Meetings

5284 Texas Employment Commission  
5284 Texas Department of Health  
5284 Texas Health Facilities Commission  
5284 Texas Housing Agency  
5285 Texas Commission on Human Rights  
5285 State Board of Insurance  
5286 Texas Commission on Law Enforcement  
Officer Standards and Education  
5286 Board of Pardons and Paroles  
5286 Texas State Board of Physical Therapy  
Examiners  
5286 Polygraph Examiners Board  
5286 Texas State Board of Public Accountancy  
5287 Public Utility Commission of Texas  
5287 State Purchasing and General Services  
Commission

### In Addition

Texas Air Control Board  
5293 Consultant Proposal Request  
State Banking Board  
5293 Public Hearing  
Texas Department of Community Affairs  
5294 Announcement of Contract Awards  
Office of Consumer Credit Commissioner  
5294 Rate Ceilings  
Texas School for the Deaf  
5294 Consultant Proposal Request  
Texas Health Facilities Commission  
5295 Applications Accepted for Amendment,  
Declaratory Ruling, and Notices of Intent  
Public Utility Commission of Texas  
5296 Consultant Proposal Request  
Texas Savings and Loan Department  
5296 Application for Change of Control of an  
Association



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

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

# The Governor

## Appointments Made September 19

### Texas Commission on Human Rights

For a term to expire September 24, 1985:

Maxine Lee  
7630 Park View Circle  
Austin, Texas 78731

Ms. Lee is being appointed to this newly created commission, effective September 24, 1983, pursuant to House Bill 14, 68th Legislature, 1983, First Called Session.

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

TRD-8310107      Mark White  
Governor of Texas

### Texas Public Building Authority

For a term to expire February 1, 1985:

Gerald Goff  
2901 Bonnie Road  
Austin, Texas

Mr. Goff is being appointed to this newly created authority pursuant to Senate Bill 1355, 68th Legislature, 1983.

For a term to expire February 1, 1987:

Marilyn Jones  
11711 Braesview, #801  
San Antonio, Texas 78213

Ms. Jones is being appointed to this newly created authority pursuant to Senate Bill 1355, 68th Legislature, 1983.

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

TRD-8310108,      Mark White  
8310116      Governor of Texas

### School Land Board

To be the governor's appointee for a term to expire August 29, 1985:

Lola L. Bonner  
1002 Main  
Rockport, Texas 78382

Ms. Bonner is replacing Fred Wulff of Brady, whose term expired.

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

TRD-8310109      Mark White  
Governor of Texas

### 196th Judicial District

To be judge of the 196th Judicial District, Hunt County, until the next general election and until his successor shall be elected and duly qualified:

E. Paul Banner  
Route 5, Box 242  
Greenville, Texas 75401

Mr. Banner is being appointed effective October 1, 1983, to replace Judge William C. Parker of Greenville, who resigned.

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

TRD-8310110      Mark White  
Governor of Texas

### Texas Diabetes Council

For a term to expire February 1, 1984:

Maria Luisa Urdanetta  
4103 Dunmore  
San Antonio, Texas 78230

Dr. Urdanetta is being appointed to this newly created council effective August 29, 1983, pursuant to Senate Bill 215, 68th Legislature, 1983.

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

TRD-8310111      Mark White  
Governor of Texas

### State Committee of Examiners for Speech Pathology and Audiology

For a term to expire August 31, 1987:

Susan Gay N. Dorsett  
598 Lydia  
Stephenville, Texas 76401

Ms. Dorsett is being appointed to this newly created committee effective September 1, 1983, pursuant to Senate Bill 813, 68th Legislature, 1983.

For a term to expire August 31, 1989:

Kathryn Sheaffer Stream  
2029 Pembroke  
Denton, Texas 76201

Ms. Stream is being appointed to this newly created committee effective September 1, 1983, pursuant to Senate Bill 813, 68th Legislature, 1983.

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

TRD-8310112,      Mark White  
8310115      Governor of Texas

### Texas State Board of Examiners of Dietitians

For a term to expire September 1, 1989:

Irma Gutierrez  
315 West Maple Loop  
Laredo, Texas 78041

Ms. Gutierrez is being appointed to this newly created board effective September 1, 1983, pursuant to Senate Bill 671, 68th Legislature, 1983.

For a term to expire September 1, 1987:

Rosario Hamilton  
5827 Cliffdale  
San Antonio, Texas 78250

Ms. Hamilton is being appointed to this newly created board effective September 1, 1983, pursuant to Senate Bill 671, 68th Legislature, 1983.

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

TRD-8310113. Mark White  
8310117 Governor of Texas

### Texas Antiquities Committee

For a term to expire January 31, 1985:

Anne A. Fox  
106 Fawn Drive  
San Antonio, Texas 78231

Ms. Fox is replacing Dr. Denver Fred Wendorf of Dallas, whose term expired.

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

TRD-8310114 Mark White  
Governor of Texas

### Texas Automated Information Systems Advisory Council

To be chairman for a term to expire February 1, 1985:

James A. Patterson  
13030 Hunters Ridge  
San Antonio, Texas 78230

Mr. Patterson is replacing Darrel E. Hurt of Tyler, whose term expired.

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

TRD-8310118 Mark White  
Governor of Texas

### Credit Union Commission

For a term to expire February 15, 1989:

B. L. "Pete" Cockrell  
12014 Mission Trace  
San Antonio, Texas 78230

Mr. Cockrell is replacing Fritz Walter Gunther of San Antonio, whose term expired.

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

TRD-8310119 Mark White  
Governor of Texas

### Appointments Made September 20

#### State Board of Examiners of Professional Counselors

To represent the public for a term to expire February 1, 1989:

Jeannie Stanley  
1225 Oak Drive  
Kilgore, Texas 75662

Ms. Stanley is replacing Shirley N. Turner of Austin, whose term expired.

Issued in Austin, Texas, on September 20, 1983.

TRD-8310120 Mark White  
Governor of Texas

#### Texas Indian Commission

For a term to expire February 1, 1989:

Don E. Ellyson  
1611 Alexander  
Waxahachie, Texas 75165

Mr. Ellyson is replacing Victor Fain of Nacogdoches, whose term expired.

Issued in Austin, Texas, on September 20, 1983.

TRD-8310121 Mark White  
Governor of Texas

#### Texas Diabetes Council

For a term to expire February 1, 1985:

Luther B. Travis  
35 Maple Lane (Driftwood)  
Galveston, Texas 77551

Dr. Travis is being appointed to this newly created council effective August 29, 1983, pursuant to Senate Bill 215, 68th Legislature, 1983.

Issued in Austin, Texas, on September 20, 1983.

TRD-8310122 Mark White  
Governor of Texas

#### Texas Board on Aging

For a term to expire August 30, 1989:

Bert Scheinbrum  
4420 Athens  
Waco, Texas 76710

Mr. Scheinbrum is replacing Alton O. Bowen of Austin, whose term expired.

Issued in Austin, Texas, on September 20, 1983.

TRD-8310123 Mark White  
Governor of Texas

#### Texas State Board of Examiners of Dietitians

To represent the public for a term to expire September 1, 1989:

Ronnie A. Nutt  
3075 Mahaffey  
Paris, Texas 75460

Mr. Nutt is being appointed to this newly created board effective September 1, 1983, pursuant to Senate Bill 671, 68th Legislature, 1983.

Issued in Austin, Texas, on September 20, 1983.

TRD-8310124 Mark White  
Governor of Texas

## Texas Board of Physical Therapy Examiners

For a term to expire January 1, 1989:

Betty M. Schocke  
615 Holiday Drive, #11  
Galveston, Texas 77550

Ms. Schocke is replacing Dianne D. Rath of San Antonio, whose term expired.

Issued in Austin, Texas, on September 20, 1983.

TRD-8310125 Mark White  
Governor of Texas

## Appointments Made September 21

### Teachers' Professional Practices Commission

For a term to expire August 31, 1985:

Bernard Jackson  
5535 Firefly  
Houston, Texas 77017

Mr. Jackson is replacing Carolyn Harrell of Gonzales, whose term expired.

For a term to expire August 31, 1984:

Jeretta Thompson  
808 University Drive  
Carthage, Texas 75633

Ms. Thompson is replacing Reba Sommerville, of Arlington, whose term expired.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310128, Mark White  
8310132 Governor of Texas

### State Board of Morticians

For a term to expire January 31, 1989:

Henry Thomae, Sr.  
395 South Sam Houston  
San Benito, Texas 78586

Mr. Thomae is replacing Herbert V. Baker of Fort Worth, whose term expired.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310129 Mark White  
Governor of Texas

## Texas State Board of Examiners of Dietitians

To represent the public for a term to expire September 1, 1987:

Madgelean Bush  
2720 Sampson  
Houston, Texas 77035

Ms. Bush is being appointed to this newly created board effective September 1, 1983, pursuant to Senate Bill 671, 68th Legislature, 1983.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310130 Mark White  
Governor of Texas

## Texas Advisory Commission on Intergovernmental Relations

For a term to expire September 1, 1989:

Anthony Hall  
3709 Rio Vista  
Houston, Texas 77021

Mr. Hall is replacing James J. McConn of Houston, who no longer qualifies pursuant to Texas Civil Statutes, Article 4413(32b), §7(b).

Issued in Austin, Texas, on September 21, 1983.

TRD-8310131 Mark White  
Governor of Texas

## Structural Pest Control Board

For a term to expire August 30, 1985:

Roger P. Maddox  
230 Roma  
Duncanville, Texas 75116

Mr. Maddox is replacing Charles K. (Buddy) Glasse of Houston, who was not confirmed by the Senate.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310126 Mark White  
Governor of Texas

## Texas Board on Aging

For a term to expire August 30, 1989:

Floyd C. Burnett  
Box 218  
Ladonia, Texas 75449

Mr. Burnett is replacing Carolyn H. Musselman of Albany, whose term expired.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310127 Mark White  
Governor of Texas

## Interagency Council on Sex Offender Treatment

For a term to expire February 1, 1987:

Michael Cox  
3424 University  
Houston, Texas 77005

Dr. Cox is being appointed to this newly created council effective September 1, 1983, pursuant to Senate Bill 84, 68th Legislature, 1983.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310133      Mark White  
Governor of Texas

### Commission on Jail Standards

For a term to expire January 31, 1987:

Pat Newhouse  
808 North Eighth  
Honey Grove, Texas 75446

Ms. Newhouse is replacing Gayle R. Carden of Greenville, who resigned.

Issued in Austin, Texas, on September 21, 1983.

TRD-8310134      Mark White  
Governor of Texas

### Appointments Made September 22

#### Texas Coastal and Marine Council

For a term to expire June 30, 1989:

Feenan D. Jennings  
Route 5, Box 1240  
College Station, Texas 77840

Mr. Jennings is replacing Dr. John C. Calhoun, Jr., of College Station, whose term expired.

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

TRD-8310135      Mark White  
Governor of Texas

#### Texas Diabetes Council

To represent the public for a term to expire February 1, 1984:

Jacqueline Colvill  
11922 Arbordale  
Houston, Texas 77024

Ms. Colvill is being appointed to this newly created council effective August 29, 1983, pursuant to Senate Bill 215, 68th Legislature, 1983.

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

TRD-8310136      Mark White  
Governor of Texas

#### Texas Commission on Human Rights

For a term to expire September 24, 1987:

Alberto H. Magnon, Jr.  
Box 59  
Laredo, Texas 78040

Mr. Magnon is being appointed to this newly created commission, effective September 24, 1983, pursuant to House Bill 14, 68th Legislature, 1983, First Called Session.

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

TRD-8310137      Mark White  
Governor of Texas

#### Governor's Commission on Physical Fitness

For a term to expire June 13, 1987:

Patrice McKinney  
928 Walnut  
Colorado City, Texas 79512

Ms. McKinney is replacing W. R. Smith of Beaumont, whose term expired.

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

TRD-8310138      Mark White  
Governor of Texas

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

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

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

# Emergency Rules

## TITLE 13. CULTURAL RESOURCES Part II. Texas Historical Commission Chapter 11. Administrative Department Donations

### 13 TAC §11.6-11.10

The Texas Historical Commission adopts on an emergency basis new §§11.6-11.10, pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5(d), providing for emergency enactment of rules, and in compliance with Senate Bill 772, which requires the adoption of rules by January 1, 1984, relating to the allocation of funds received by state agencies from private sources, and Texas Civil Statutes, Article 6145, which empowers the Texas Historical Commission to promulgate rules. The commission hereby finds that failure to adopt these new emergency rules would pose an imminent peril to the public welfare and should be adopted until permanent rules are promulgated.

**§11.6. Funds Received.** All funds received from donations to the commission will be deposited to the State Treasury and utilized for the purpose specified by the donor or for general commission programs.

**§11.7. Employees.** No employee or property of the commission will be utilized by organizations or individuals making donations to the commission.

**§11.8. Officers and/or Commissioners.** No officer or employee of the commission will serve as an officer or director in any organization making donations to the commission.

**§11.9. Salary Supplementation.** Donations to the commission will not be used for salary supplementation or monetary enrichment of any officer or employee of the commission.

**§11.10. Contributions from Organizations or Individuals.** The commission will not accept donations from organizations or individuals administering grants from the commission or which have projects undergoing review by the commission.

Issued in Austin, Texas, on December 9, 1983.

TRD-8310214

Curtis Tunnell  
Executive Director  
Texas Historical Commission

Effective date: December 9, 1983

Expiration date: April 7, 1984

For further information, please call (512) 475-3092.

## TITLE 16. ECONOMIC REGULATION Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division

### Standards and Requirements

#### 16 TAC §§69.51-69.81

The Texas Department of Labor and Standards adopts on an emergency basis new §§69.51-69.81 to the manufactured housing rules and regulations, under the undesignated heading, Standards and Requirements.

Simultaneously, the rules are being proposed. Adoption of the rules on an emergency basis is necessary for the manufactured housing industry and for the protection of the manufactured housing consumer in Texas to comply with Texas Civil Statutes, Article 5221f, 68th Legislature, 1983. There are certain new provisions in the amended Article 5221f which necessitated, also, a reorganization of Chapter 69 and a renumbering of Chapter 69 to clarify and foster clarity of the proposed new rules and regulations.

The new sections are proposed under Texas Civil Statutes, Article 5221f, §9, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt rules and regulations, and take all action necessary to assure compliance with the intent and purpose of the Act.

**§69.51. Mobile Home and HUD-Code Manufactured Home Installation Requirements.** All mobile homes and HUD-Code manufactured homes are required to be installed as follows.

(1) All HUD-Code manufactured homes manufactured on or after June 15, 1976, shall be installed in accordance with the manufacturer's instructions. Manufacturers shall file with the department installation instructions approved by the manufacturer's design approval primary inspection agency and shall provide changes, modifications, and updates as they occur in order that each manufacturer's current installation instructions may be on file with the department.

(2) All mobile homes manufactured on or after March 20, 1974, and prior to June 15, 1976, shall be installed in accordance with:

(A) the standards approved and promulgated by the department; or

(B) the manufacturer's installation instructions as may be filed with the department.

(3) All mobile homes manufactured prior to March 20, 1974, shall be installed in accordance with the standards approved and promulgated by the department.

(4) Mobile homes and HUD-Code manufactured homes may be installed in conformance with a custom designed stabilization system drawing for a specific site that is stamped by a licensed professional engineer or architect. A copy of the custom designed stabilization system must be forwarded to the department. A custom designed stabilization system may or may not meet the definition of a permanent foundation.

(5) All materials, anchoring devices, and components used for the installation of a home shall be in conformance with standards promulgated by the department.

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

**Anchoring device**—Any device which is attached to the mobile home or HUD-Code manufactured home, in any manner, and is designed to resist the horizontal and vertical forces imposed on the mobile home or HUD-Code manufactured home as a result of wind loading.

**Anchoring equipment**—Straps, cables, turnbuckles, and chains including tensioning devices, which are used with ties to secure a mobile home or HUD-Code

manufactured home to anchoring devices or other approved devices.

**Anchoring systems**—Combination of ties, anchoring equipment, and anchoring devices that will, when properly designed and installed, resist overturning and lateral movement of the mobile home or HUD-Code manufactured home from wind forces.

**Cap**—A 1" × 8" × 16" and/or 2" × 8" × 16" wood plate(s) placed between the top of the pier and the bottom of the I-beam. Such cap(s) shall not be less than 1" nominal, nor more than 2 1/4" actual, total thickness.

**Diagonal tie**—A tie intended to primarily resist horizontal or shear forces and which secondarily resists vertical, uplift, and overturning forces.

**Footing**—That portion of the support system that transmits loads directly to the soil.

**Ground anchor**—Any device at the mobile home or HUD-Code manufactured home stand installed in the ground to transfer mobile home or HUD-Code manufactured home anchoring loads.

**Hurricane resistive HUD-Code manufactured home**—A home which meets the wind design load requirements for Zone II in the Federal Mobile Home Construction and Safety Standard (MHCSS), §3280.305(c)(2).

**Main frame**—The structural components on which the body of the mobile home or HUD-Code manufactured home is mounted.

**Mobile home stand**—That area of a mobile home lot which has been reserved for the placement of a mobile home.

**Permanent foundation**—A system of supports, including piers, either partially or entirely below grade which is:

(A) capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;

(B) placed at an adequate depth below grade to prevent frost damage;

(C) constructed of concrete, metal, treated lumber or wood, or grouted masonry;

(D) designed so that the components of the foundation system cannot be removed from the site and used at any other location;

(E) designed so that the attached structure resists overturning due to wind pressure by the dead load resisting movement of the structure and foundation. The weight of earth superimposed over footings may be used to calculate the dead load resisting movement. The overturning movement shall not exceed 1/10 of the dead load resisting movement;

(F) designed to have the structure attached without the towing hitch, axles, brakes, wheels, and other parts of the chassis that operate only during transportation; and

(G) designed in accordance with accepted engineering practice to resist damage due to decay, insects, and condensation. A licensed engineer or architect shall stamp and sign each foundation drawing. The foundation drawings shall contain the statement, "This foundation drawing describes a permanent foundation."

**Pier**—That portion of the support system between the footing and the mobile home or HUD-Code manufactured home exclusive of caps and shims.

**Shims**—A wedge shaped piece of cedar, oak, walnut, pecan, gum, ash, hickory, or elm not to exceed one inch vertical (actual) height.

**Stabilizing devices**—All components of the anchoring and support systems such as piers, footings, ties, anchoring equipment, anchoring devices, and any other equipment which supports the mobile home or HUD-Code manufactured home and secures it to the ground.

**Support system**—A combination of footings, piers, caps and shims that will, when properly installed, support the mobile home or HUD-Code manufactured home.

**Tie**—Straps, cables, or securing devices used to connect the mobile home or HUD-Code manufactured home to anchoring devices.

**Vertical tie**—A tie intended to primarily resist the uplifting and overturning forces.

#### *§69.53. Provisions for Anchoring Systems.*

(a) Each HUD-Code manufactured home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of this standard and shall be capable of transmitting the loads to anchoring systems without causing an unsafe deformation or an abnormal internal movement of the structure or its structural parts.

(b) Each HUD-Code manufactured home shall have provisions for anchoring systems, which when properly designed and installed, will resist overturning and lateral movement of the mobile home as imposed by the respective design loads.

(c) The provisions of this section shall be followed and the support and anchoring systems shall be designed by a registered professional engineer or architect.

(d) The manufacturer of each home is required to make provisions for the support and anchoring systems but is not required to provide the anchoring equipment. Printed installation instructions for such support and anchoring systems for each model shall be filed with the department. When the manufacturer's installation instructions provide for the main frame structure to be used as the point of connection to diagonal ties, no specific connecting devices need to be provided on the frame.

(e) The manufacturer shall provide printed instructions with each home specifying the location, orientation, and required capacity of anchoring equipment on which the design is based.

(f) The minimum number of ties required per side shall be sufficient to resist the wind load stated in the Federal MHCSS, §3280.305(c)(1) and (2).

(g) Ties shall be as evenly spaced as practicable along the length of the home, and the distance from each end of the home and the tie nearest that end shall not exceed eight feet.

(h) When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal tie are located at the same place, both ties may be connected to a single anchor, provided that the anchor used is capable of carrying both loadings.

(i) Add-on sections of expandable homes shall have provisions for vertical ties at the exposed ends.

(j) Multi-section homes require only diagonal ties, which shall be placed along the main frame and below the outer side wall.

(k) Protection shall be provided at sharp corners where the anchoring system requires the use of external cables or straps. Protection shall also be provided to minimize damage to roofing or siding by the cable or strap.

(l) Anchoring equipment shall be capable of resisting all allowable working loads equal to or exceeding 3,150 pounds and shall be capable of withstanding 50% overload (4,725 pounds total) without failure of either the anchoring equipment or the attachment point of the home.

(m) Anchoring equipment exposed to weathering shall have a resistance to weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.625 ounces per square foot of surface coated.

(1) Slit or cut edges of zinc-coated steel strapping do not need to be coated.

(2) Type 1, Finish B, Grade 1 steel strapping, 1½ inches wide and 0.035 inch thick, conforming with federal specification for strapping, steel, and seals (FS QQ-S-781-H-1974), is judged to conform with the provisions of this section and paragraph (1) of this section.

(n) All anchoring systems must be installed in accordance with the manufacturer's installation instructions when the instructions are available, and in accordance with the applicable sections of these standards when such instructions are not available.

*§69.54. Mobile Home Requirements.* All mobile homes manufactured prior to March 20, 1974, and purchased or leased after March 20, 1974, for which there exists no manufacturer's instructions for anchoring procedures, shall be anchored to the following requirements.

(1) Ground anchors used shall be of an "approved design" in compliance with the requirements of these standards, and shall be used in a soil type for which the ground anchors are designed and approved. This information is on file with the department.

(2) Over-the-top straps shall be placed on top of roof trusses and studs and shall be of a continuous strap, running from the anchoring equipment on one side of the home to the anchoring equipment on the opposite side. Strapping shall meet the requirements of §69.53 of this title (relating to Provisions for Anchoring Systems), and brackets shall be provided for the strapping at sharp corners where otherwise necessary to minimize damage to the roofing and siding.

(3) Vertical (over-the-top) and diagonal ties may be connected to the same anchoring device provided that the anchoring device used is designed to carry both loads.

(4) All other applicable installation requirements as set forth in the rules and regulations of the department shall be followed.

(5) The diagonal and over-the-top ties shall be as evenly spaced as possible. Where windows, doors, or other obstructions prevent even spacing of over-the-top ties, or where even spacing would place over-the-top ties between two trusses, the over-the-top straps shall be placed on top of the nearest truss.

- (6) The diagonal and over-the-top ties nearest the end of the unit shall be placed no further than eight feet from the end of the mobile home, and no closer than the third truss/stud space from the end of the home.
- (7) The number of over-the-top and diagonal ties used to anchor a home under this section, shall be in accordance with the following tables:

NON-HURRICANE ZONE

Length of Home Box Excluding Hitch	Home Box Width (Ft.)			No. Vertical Ties Per Side
	10	12	14	
		80 to 40	80 to 40	3
65 to 40				3
39 to 33	39 to 33	39 to 33	39 to 33	2

Length of Box	No. of Diagonal Ties Per Side (All Widths)				
	3	4	5	6	7
33 to 37	38 to 49	50 to 62	63 to 74	75 to 80	

HURRICANE ZONE

Length of Home Box Excluding Hitch	Home Box Width (Ft.)			No. Vertical Ties Per Side
	10	12	14	
65 to 57				6
56 to 46	80 to 75	80 to 80		5
46 to 35	74 to 56	79 to 60		4
34 to 33	55 to 38	59 to 40		3
	37 to 33	39 to 33		2

Length of Box	No. of Diagonal Ties Per Side (All Widths)				
	4	5	6	7	8
33 to 42	43 to 52	53 to 63	64 to 73	74 to 80	

§69.55. Approval of Stabilizing Devices and Systems.

(a) Installers shall only use approved stabilizing devices or systems. Before granting approval for any stabilizing device or system, the department will require the device or system manufacturer to submit such information as the department deems necessary to evaluate the device or system and insure its safe performance in accordance with accepted engineering practice and nationally recognized standards. All stabilizing devices must be resistant to the effects of weathering, such as that encountered along the Texas Gulf Coast. All stabilizing devices must be tested to destruction by a recognized independent testing laboratory. The manufactured home installation instructions describe the location and capacity of required stabilizing devices. The installer must install stabilization devices that have the required capacity.

(b) The department may, on a spot check-basis, direct each manufacturer to test randomly selected stabilizing devices of each model type approved. These spot-check tests will be performed by a recognized independent testing laboratory under the observation of a qualified representative of the department. The department's representative will be responsible for selection of the random samples tested.

§69.56. Requirements for Ground Anchor Approval.

To secure approval of their product, each ground anchor manufacturer must submit to the department the following data.

(1) Detailed drawing of each type of anchor submitted for approval.

(A) Each drawing shall show model identification, all dimensions, type of welds or fastening, type of material, method of securing strap, orientation after installation in soil, and direction(s) of applied load(s), and must indicate location of model number.

(B) Each drawing shall bear the seal of a registered professional engineer, registered in the state of the anchor manufacturer, or in the State of Texas.

(2) Each anchor model must be tested and certified by a recognized independent testing laboratory to be in conformance with the standards promulgated by the department and accepted engineering practice. The department will promulgate administrative orders that refer to acceptable standards. Each anchor model shall be tested as follows.

(A) Pull-out tests shall be performed on 15 samples of each anchor model and the average failure load for all 15 tests must equal or exceed 4,725 pounds for single-headed anchors or 6,610 pounds for double-headed anchors. The independent testing laboratory must certify that 15 and only 15 pull-out tests were performed on each anchor model. The ground anchor shall be installed, with the specified tie attached, in a soil type for which



the ground anchor is designed and loaded in the direction of the expected load. An anchor with a double-head may be loaded with a single tie if the direction of the single tie is the same as the direction of the resultant of the two specified ties. Three inches or more of movement of the anchor head indicates failure.

(B) Laboratory destruction tests shall be performed on each anchor model and the average failure load must equal or exceed 4,725 pounds for single-headed anchors or 6,610 pounds for double-headed anchors. These tests are needed to establish the required strengths of the components and component connections of an anchor for the continuing quality control testing program. For example, each of the following connections of an anchor shall be tested to destruction:

(i) tie connection to the anchor head, loaded in the direction of the expected applied loads. Failure shall not be less than 4,725 pounds for single-headed anchors or 6,610 pounds for double-headed anchors.

(ii) anchor head connection to a shaft or other member which will extend below the ground surface, loaded in the direction of reactions caused by load on the tie. The reaction at failure shall not be less than that caused by 4,725 pounds for single-headed anchors or 6,610 pounds for double-headed anchors.

(iii) shaft or member connection to a soil bearing device, loaded in the direction of reactions caused by load on the tie. The reaction at failure shall not be less than that caused by 4,725 pounds for single-headed anchors or 6,610 pounds for double-headed anchors.

(3) The result from each test will include:

- (A) point and mode of failure;
- (B) force required for failure;
- (C) description of test procedure; and
- (D) test equipment used.

(4) The report of the results of the test in specified soil or rock groups also include:

- (A) method of installation;
- (B) date of installation;
- (C) date of test; and
- (D) soil profile description of anchoring material.

(5) The ground anchor manufacturer must describe a method that an installer (not knowledgeable about soil mechanics) can use to identify soil types at the installation site. An independent testing lab shall test the manufacturer's method in an excavation filled with one soil type or in a soil strata already identified according to methods described in paragraph 10(B) of this section.

(6) The anchor manufacturer shall furnish and ship with each anchor information the types of soil in which the anchor has been tested and certified for installation, instructions on the method of installation, and procedure for identifying soil types. A copy of the installation instructions must be filed with the department.

(7) The department, upon receipt of new or additional information relating to the performance of any anchoring system, may request from the manufacturer of that anchoring system, or any similar anchoring system, additional tests or supplemental information.

(8) The department may, on spot-check basis, direct each manufacturer to test randomly selected anchors of each model type approved. These spot-check tests will

be performed by a recognized independent testing laboratory under the observation of a qualified representative of the department. The department's representative will be responsible for selection of the random samples tested.

(9) Ground anchors are divided into two categories:

(A) Soil anchors for use in soils that have an ASTM D1586 Blow Count between 14 and 40, and a Test Probe Torque Value between 200 inch-pounds and 550 inch-pounds. (Blow counts below 14 or torque values below 200 inch-pounds will require that a professional engineer be consulted for soil identification and design of the stabilizing device.) The test probe is a device for measuring the torque value of soils necessary in evaluating the holding capability of the soils in which the anchor is placed. The test probe has a helix on it. The overall length of the helical section is 10.75 inches; the major diameter is 1.25 inches; the minor diameter is 0.81 inch; the pitch is 1.75 inches. The shaft must be of suitable length for anchor depth.

(B) Rock anchors for use in soils that have an ASTM D1586 Blow Count over 40, and a Test Probe Torque Value over 550 inch-pounds.

(10) Soil anchor testing in specified soil.

(A) There shall be no surcharge (from testing device or any other object) placed on the ground within a distance from the anchor equal to one-half the depth of the anchor.

(B) The soil profile description shall be based on penetration test (ASTM D1586, Blow Count), test probe torque value, or boring and sampling techniques and shall identify all soil strata to a depth one foot greater than the depth of the anchor.

(11) Rock anchor testing in specified soil. Rock anchors shall be field tested in natural rock strata or tested in a rock sample. In either case, the drilled hole in the rock must be deep enough so that there is a minimum of six inches of rock depth above the rock and anchor contact area. There must be six inches of rock thickness below the drilled hole and 12 inches of rock around the drilled hole. The natural rock strata or rock sample must be geologically described.

(12) Resistance to weathering. The manufacturer will supply additional tests proving the anchoring device's resistance to the effects of weathering, such as that encountered along the Texas Gulf Coast.

#### *§69.57. Approval of Devices of Anchoring Systems Used with Ground Anchors.*

(a) Devices of anchoring systems include straps, cables, turnbuckles, chains, tensioning devices, ties, frame clips, and other anchoring equipment.

(b) To secure approval of their product, each manufacturer of an anchoring system device must submit to the department the following data:

(1) a detailed drawing that shows the model identification, all dimensions, type of welds (if applicable) or fastening, type of material, method of attachment, and location of model number on the device. Each drawing shall bear the seal of a registered professional engineer, registered in the state of the device manufacturer, or in the State of Texas;

(2) test reports of three samples tested to destruction by a recognized independent testing laboratory.

The device shall be set up as required by the installation instructions. The test report shall include a photograph or drawing. The load at failure and the type of failure shall be described. The device must be capable of holding 4,725 pounds without failure of the device and its attachment points;

(3) evidence of resistance to weather deterioration. The testing laboratory shall certify that the device has a resistance to weather deterioration at least equivalent to that provided by a coat of zinc on steel of not less than 0.30 ounce per square foot of surface coated;

(4) description of a quality control program. The device manufacturer submits a description of a quality control program in accordance with §69.59 of this title (relating to Quality Control).

**§69.58. Approval of Anchoring Systems Employing Anchoring Devices other than Ground Anchors.**

(a) For the purpose of evaluation and approval, the department will divide anchoring systems, employing anchoring devices other than ground anchors, into two categories: those intended to be manufactured and sold to the general public, and those intended to be used by an individual homeowner, on a particular mobile home, and not intended to be marketed to the general public.

(b) Anchoring systems using anchoring devices other than ground anchors, and intended to be manufactured and sold to the general public shall comply with the following requirements.

(1) The anchoring system must be designed and the drawings stamped by a registered professional engineer or architect, registered in the State of Texas, or the state of the anchor manufacturer.

(2) The anchor system manufacturer will submit to the department information concerning all major components of the anchoring system. These components must be marked with the model number and manufacturer name in a conspicuous place.

(3) The following set of engineering drawings, bearing the seal of a registered professional engineer or architect, will be required for each model anchoring system for which approval is requested.

(A) one or more orthographic projections showing all components, dimensions, location of model number and manufacturer's name, and type of welds and fasteners;

(B) section or cutaway drawings, where necessary, showing details of internal structure;

(C) assembly drawing showing the relationship of one component to another when properly installed.

(4) Engineering calculations supporting the performance of the anchoring system for which approval is requested.

(5) Each anchoring system for which approval is being sought under this section of these standards must have three destruction tests conducted by a recognized independent testing laboratory. The test report will consist of the following:

(A) description and drawing or photograph of the test setup;

(B) description of test procedure, including a discussion of the basic assumptions made in establishing the test procedure;

(C) copies of all raw data taken during the test(s);

(D) graphs of all pertinent, reduced data, legible and clearly identified;

(E) photographs or drawings of all failed components;

(F) a summary of the test results, including a discussion of the factors contributing to any observed failure of any component(s), and a conclusion containing recommendations as to the overall performance of the anchoring system, and its potential uses;

(G) additional test proving the anchoring system's resistance to the effects of weathering, such as that encountered along the Texas Gulf Coast; and

(H) whatever additional tests of any component or components of the anchoring system the department deems necessary to assure the public safety and well-being.

(6) The manufacturer seeking approval of an anchoring system under this section of the standards must supply the department with detailed installation instructions (including drawings) for each make and model mobile home or HUD-Code manufactured home with which each of his anchoring system models can be used. Copies of these installation instructions must be provided to installers and consumers. If the installation requirements are unique or different for each model and make, an anchoring system model will be considered approved only for use with those makes and models of mobile homes or HUD-Code manufactured homes for which the department has been supplied installation instructions.

(c) Anchoring systems employing devices other than ground anchors and intended to be used by an individual mobile home or HUD-Code manufactured homeowner for installation of a particular home, and not intended to be manufactured for general public use, shall be designed by a registered professional engineer or architect. Descriptions of all anchoring systems, for mobile homes or HUD-Code manufactured homes required to be "tied down" by the Texas Manufactured Housing Standards Act, that meet the criteria of this section must be forwarded to the department before the home is installed. Drawings or photographs of all elements of the anchoring system should be provided. If photographs are supplied, some type of scale should be indicated in each photograph. All materials and components must be described.

**§69.59. Quality Control.** The department will require that the manufacturer of any device of an anchoring system, who wishes approval of his product for sale in the State of Texas, submit to the department a quality control program that will assure a quality product free from defects. The quality control program will outline procedures for the following:

(1) Adequate sample testing, based on the number of units produced, to assure 98% confidence limits.

(A) Samples tested must meet or exceed performance or the original unit tested for approval.

(B) The department will, on a quarterly basis, require that copies of test reports of random samples be forwarded to Austin.

(2) Actions to be taken in the event of sufficient unsatisfactory tests of random samples to cause confidence limits to drop below 98% level.

(3) Actions to be taken in the event that defective units are found in the field.

(A) Isolated.

(B) Multiple cases.

(4) Copy of manufacturer's warranty.

**§69.60. Withdrawal of Approval of Anchoring Systems, Equipment, or Device.**

(a) The department may withdraw approval of any anchoring system equipment or device for one or more of the following reasons:

(1) A change in design, material, or construction of an anchoring system model.

(A) Such a change will be construed to constitute a new model anchoring system and will require a complete resubmittal pursuant to §69.55 of this title (relating to Approval of Stabilizing Devices and Systems).

(B) Upon written request, detailing the desired change and presenting evidence as to why the desired change would not affect the performance of the anchoring system and should not necessitate a model change, the department will consider waiving the requirement for a complete resubmittal.

(2) Receipt of sufficient unsatisfactory random sample reports indicating the anchoring system will be unable to assure the safety and well-being of the general public.

(3) Receipt of sufficient field reports of defective units indicating that the anchoring system is unable to assure the safety and well-being of the general public.

(4) If there occurs a substantial change in licensee, management, or contract manufacturer, the department may suspend approval of an anchoring system until sufficient evidence is presented that the materials, design, or quality control program for that anchoring system will not be altered.

(5) If the department determines that a change in design, material, or quality control program will affect a substantive change in an anchoring system, the anchoring system must be resubmitted to the department for complete reevaluation.

(b) The department may, on receipt of new or additional information, reevaluate any anchoring system, and may withdraw approval of that anchoring system if it deems such action to protect the safety and well-being of the general public.

**§69.61. Notification of Withdrawal of Approval Anchoring Systems.**

(a) The department will notify a manufacturer of an anchoring system, in writing, of the model(s) anchoring system(s) for which approval is being withdrawn. The notification will state, in detail, the reason that approval is being withdrawn, and the effective date of such withdrawal.

(b) The manufacturer of anchoring systems may request a hearing at which evidence may be presented, showing why approval should not be withdrawn for the anchoring system model(s) in question. Such hearings or presentations of views will follow the requirements of the

department's procedures for hearings as set forth in the Act.

**§69.62. Blocking Standards.** Installation of mobile homes for which there are no manufacturer's instructions must meet or exceed the following support and blocking requirements:

(1) Pier placement:

(A) Piers and/or supports are to be located in accordance with the mobile home manufacturer's installation instructions.

(B) Piers are to be placed under the main frame, not to exceed 10 feet on center spacing. Where practical, end piers shall be placed within one foot of the main frame. When the location and spacing of wheels and axles or other structural members of the mobile home frame or undercarriage prevents spacing of piers on 10 feet centers the spacing shall be 10 feet maximum spacing in all other areas, and shall be as close to 10 feet maximum spacing as practicable in the area of the obstruction.

(2) Pier footing for concrete piers:

(A) The footing for each concrete pier shall be two 4" × 8" × 16" solid pads placed side by side and longitudinally to the I-beam or one 4" × 16" × 16" solid concrete pad, precast or poured in place or equivalent. Concrete runners shall be acceptable if they are a minimum of 16 inches wide and four inches in thickness.

(B) All grass and organic matter should be removed and the pier footing placed on firm ground.

(3) Pier footing for metal blocking stands:

(A) Treated wood pads 2" × 12" × 24" or treated phenolic resin bonded particle board pads, if approved by the department, are acceptable for use with metal stands.

(B) Solid concrete pads 4" × 16" × 16" precast may be used with metal stands if specifically approved by the department. Such pads shall be marked to indicate approval. Placement of pad during installation shall be with the approval mark visible.

(C) Footing pads made of other materials, if approved by the department, may be used with metal stands. Concrete runners shall be acceptable if they are a minimum of 16 inches wide and four inches in thickness.

(4) Pier components shall be as follows:

(A) Concrete blocks, meeting ASTM-C90-70 Grade (N) standards, placed above the footing block perpendicular to main frame member.

(i) 8" × 8" × 16" open cells or solid (open cells vertical);

(ii) 2" × 8" × 16" or 4" × 8" × 16" solid blocks (short dimension vertical). The ASTM standard for solid blocks is C145-59 Grade N.

(B) Wood plate(s) 1" × 8" × 16" or 2" × 8" × 16", as required for use with concrete piers, shall be placed on top of the concrete blocks. Wood plates used in combination shall not exceed 2½ inches.

(C) Hardwood shims may be fitted and driven tight between the wood plate(s) and the main frame, not to exceed one inch vertical height.

(D) Pier components other than approved footings are prohibited under approved metal blocking stands.

(5) Height of concrete piers:

(A) All piers 30 inches to 48 inches in height (measured from top of footing or footing block to main frame member) shall be double tiered with blocks interlocked and capped with a 4" x 16" x 16" solid concrete block and wood plates (two 1" x 8" x 16" or two 2" x 8" x 16" placed side by side).

(B) Piers that exceed 48 inches in height must be designed by a registered professional engineer or architect.

(6) Pier and pier components are to be undamaged and installed in a workmanship manner to accomplish the purpose intended.

(7) When the support or blocking system installed is based upon a design certified by a registered professional engineer or architect, a brief description of the system and a copy of the certification shall be furnished to the homeowner.

**§69.63. Other Materials and Methods for Mobile Homes and HUD-Code Manufactured Homes.** Homes covered by these standards may be supported and blocked by methods and with materials other than concrete blocks. Materials, devices, footings, and piers other than concrete blocks shall meet the requirements of the following standards. For the purpose of evaluation, the department considers that home, piers, footings, or supports that use design and/or material other than those specified in these standards shall be divided into two categories: those designed to be produced or duplicated and sold to the general public, and those constructed by the owner or his agent, to be used for one home and not intended for duplication or resale.

(1) Piers, footings, and/or supports constructed by the owner or his agent, to be used for one home, and not intended for duplication or resale, shall be designed and stamped by a registered professional engineer or architect. Copies of such stamped and certified drawings shall be forwarded to the department prior to the installation of the home.

(2) The department considers that piers, footings, and supports using materials other than the concrete blocks described in §69.62(c) and (e) of this title (relating to Blocking Standards), designed to be produced or duplicated and sold to the general public can be divided into four categories: blocking and support piers, non-concrete footings, pre-cast concrete footings for use with metal piers, and metal piers. At least three samples of each pier, footing, or support shall be tested to destruction by a recognized independent testing laboratory. The vertical test load on a pier, footing, or support must equal or exceed 5,000 pounds. Three friction tests must be conducted for each footing model to ensure that the footing, when used with an approved pier, will exhibit sufficient friction at the footing/pier interface to prevent the pier from sliding off of the footing when the home is subjected to horizontal wind load. The coefficient of friction between the support pier and footing under load must be greater than 0.5. Each pier, footing, and support shall be tested with other approved stabilizing devices on a soil base. The soil base is prepared and ascertained to have a minimum soil bearing pressure of 1,000 psf by procedures set forth in ASTM C 1883-73, *Standard Methods for Establishing Bearing Ratio of Laboratory Compacted*

*Soils.* A layer of gravel with maximum particle size  $\frac{3}{4}$  inch is spread uniformly over the soil base. The dimension of the sides and depth of the soil base shall be at least twice the greatest footing dimension. The test procedures for each category of pier, footing, or support are as follows:

(A) Blocking and support piers (other than metal piers) shall be designed by a registered professional engineer in Texas or in the state of the manufacturer. Stamped engineering drawings shall be submitted with the test report. The testing laboratory personnel shall perform the following steps:

(i) A soil base is prepared.

(ii) An approved pad is placed on the surface in the center of the base.

(iii) The pier to be tested is centered on the pad. The pier must be set up and tested exactly as it is to be used in the field. If a pier has any type of height adjustment mechanism, the most critical position must be tested.

(iv) Test equipment is connected and a sketch of photograph of the test bed is made.

(v) Vertical load is applied to the pier in uniform increments not exceeding 500 pounds. At least one minute is allowed between increases in load to permit soil loading to stabilize. Increments of load and time between increases are recorded.

(vi) The loading is increased until failure of either the pad or pier is observed, but in no case is the test terminated before the applied load reaches 5,000 pounds. The failure mode is fully described, and load applied at failure is recorded.

(vii) A sketch or photograph is made of the undisturbed testbed showing the pier (or pad) in the failed condition.

(viii) Steps outlined in clauses (i)-(vii) of this subparagraph are repeated for two additional piers selected at random.

(B) The following items are to be included with the test report:

(i) Sketches or photographs of the testbed and pad/pier (including test equipment used) both pre- and post-test.

(ii) A detailed summary of the procedure used to conduct the test, including a schedule of events.

(iii) Complete test data and all results including:

(I) Load increments used (not to exceed 500 pounds);

(II) Time between increases in loading (minimum one minute);

(III) Recorded settlement; and

(IV) Load applied at failure.

(iv) A brief summary of the test results obtained, including a detailed description of the failure mode. A graph of load versus time may be included.

(v) Complete details of the proposed mark must be submitted, including:

(I) A drawing or description of the mark;

(II) Size of mark;

(III) Location of the mark on the pier (the mark must be plainly visible when the pier is installed);

(IV) Method of marking the pier (the mark must be permanent); and

(V) A description of a quality control program that will assure a quality product, free from defects. Copies of test reports of random samples shall be forwarded to this department on a quarterly basis.

(C) Nonconcrete footings shall be 16" x 16" nominal size. The testing laboratory personnel shall perform the following steps:

(i) A soil base is prepared.

(ii) A footing, selected at random, is soaked in water for 12 hours and placed on the surface in the center of the base.

(iii) The smallest commercially available approved pier designed to be used with the footing is centered on the footing. The size of pier with which the footing is tested will be assumed to be the smallest size pier with which the footing is designed to be used.

(iv) Test equipment is connected and a sketch or photograph of the testbed is made.

(v) Vertical load is applied to the pier in uniform increments not exceeding 500 pounds. At least one minute is allowed between increases in load to permit soil loading to stabilize. Increments of load and time between increases are recorded.

(vi) The loading is increased to 3,500 pounds and held for 12 hours, then increased to 5,000 pounds and held for three hours without a failure which would impair its function. The load is then increased until failure of either the footing or pier is observed. The failure mode is fully described, and load applied at failure is recorded.

(vii) A sketch or photograph is made of the undisturbed testbed showing the footing (or pier) in the failed condition.

(viii) Steps outlined in clauses (i)-(vii) of this subparagraph are repeated for two additional footings selected at random.

(D) Sketches or photographs of the testbed and footing/pier (including test equipment used) both pre- and post-test must be included in the test report.

(E) A requirement that the coefficient of friction between the support pier and footing under load be greater than 0.5 has been established. The following procedure will be used to conduct the friction test:

(i) A footing, selected at random, is saturated with water by immersing the pad for at least 30 minutes.

(ii) The smallest commercially available approved pier (or full-scale fixture simulating the pier) designed to be used with the footing is reinforced to withstand the horizontal load to be applied. The pier selected must exhibit the smallest surface area in contact with the test footing of any pier designed for the footing. The surfaces of the pier and footing must not be altered.

(iii) The pier is centered on the footing and test equipment is connected.

(iv) A sketch or photograph of the testbed is made.

(v) A vertical load of 2,000 pounds is applied to the footing through the pier and is maintained throughout the test with the testing equipment.

(vi) A horizontal load is applied to the pier in uniform increments not exceeding 500 pounds. Increments of load are recorded. Note: The surface of the footing is to be kept damp throughout the test by frequent wetting with water.

(vii) The horizontal load is increased until movement of the pier with respect to the footing is observed, but in no case terminated before the load exceeds 1,000 pounds. The horizontal load applied at breakaway, the measured displacement and the computed coefficient of friction are recorded.

(viii) A sketch or photograph is made of the undisturbed testbed showing the pier displaced on the footing.

(ix) Steps outlined in clauses (i)-(viii) of this subparagraph are repeated for two additional footings selected at random.

(F) The following items are to be included with the test report:

(i) Sketches or photographs of the testbed and footing/pier (including test equipment used) both pre- and post-test.

(ii) A detailed summary of the procedure used to conduct the test, including a schedule of events.

(iii) Complete test data and all results including:

(I) Load increments used (not to exceed 500 pounds);

(II) Horizontal load applied at breakaway (must be greater than 1,000 pounds);

(III) Measured displacement of pier on footing at breakaway; and

(IV) Computed coefficient of friction (must be greater than 0.5).

(iv) A brief summary of the test and results obtained. A graph of load versus time may be included.

(G) The testing laboratory shall conduct an accelerated aging test suitable for the footing material. As an alternative, evidence that the footing material or treatment conforms to a nationally recognized standard concerning ground contact use may be submitted. For example, the American Wood Preservers Bureau (AWPB) and the American Wood Preserver's Association (AWPA) have standards for ground contact use of wood products.

(H) Footings shall be marked to indicate approval. Complete details of the proposed mark must be submitted, including:

(i) A drawing or description of the mark;

(ii) Size of the mark;

(iii) Location of the mark on the footing (the mark must be plainly visible when the footing is installed); and

(iv) Method of marking the footing (the mark must be permanent).

(I) Pre-cast concrete footings for use with metal piers shall be 16" x 16" x 4" inch minimum in size. The testing laboratory personnel shall perform the following steps:

(i) A soil base is prepared.

(ii) A pad, selected at random, is placed on the surface in the center of the base.

(iii) The smallest commercially available approved metal support stand (or full-scale fixture simulating this stand) designed to be used with the pad is centered on the pad.

(iv) Test equipment is connected and a sketch or photograph of the testbed is made.

(v) Vertical load is applied to the stand in uniform increments not exceeding 500 pounds. At least one minute is allowed between increases in load to permit soil loading to stabilize. Increments of load and time between increases are recorded.

(vi) The loading is increased until failure of either the pad or stand is observed, but in no case is the test terminated before the applied load reaches 5,000 pounds. The failure mode is fully described, and load applied at failure is recorded.

(vii) A sketch or photograph is made of the undisturbed testbed showing the pad (or stand) in the failed condition.

(viii) Steps outlined in clauses (i)-(vii) of this subparagraph are repeated for two additional pads selected at random.

(J) The following items are to be included with the test report:

(i) Sketches or photographs of the testbed and pad/stand (including test equipment used) both pre- and post-test.

(ii) A detailed summary of the procedure used to conduct the test, including a schedule of events.

(iii) Complete test data and all results including:

(I) Load increments used (not to exceed 500 pounds);

(II) Time between increases in loading (minimum one minute);

(III) Recorded settlement; and

(IV) Load applied at failure.

(iv) A brief summary of the test and results obtained, including a detailed description of the failure mode. A graph of load versus time may be included.

(K) A requirement that the coefficient of friction between metal support stand and concrete pad under load be greater than 0.5 has been established. The following procedure will be used to conduct the friction test:

(i) A pad, selected at random, is saturated with water by immersing the pad for at least 30 minutes.

(ii) The smallest commercially available approved metal support stand (or full-scale fixture simulating this stand) designed to be used with the pad is reinforced to withstand the horizontal load to be applied. The stand selected must exhibit the smallest surface area in contact with the test pad of any stand designed for the pad. The surfaces of the pad and stand must not be altered.

(iii) The stand is centered on the pad and test equipment is connected.

(iv) A sketch or photograph of the testbed is made.

(v) A vertical load of 2,000 pounds is applied to the pad through the metal stand and is maintained through the test with the testing equipment.

(vi) A horizontal load is applied to the stand in uniform increments not exceeding 500 pounds. Incre-

ments of load are recorded. Note: The surface of the pad is to be kept damp throughout the test by frequent wetting with water.

(vii) The horizontal load is increased until movement of the stand with respect to the pad is observed, but in no case terminated before the load exceeds 1,000 pounds. The horizontal load applied at breakaway, the measured displacement, and the computed coefficient of friction are recorded.

(viii) A sketch or photograph is made of the undisturbed testbed showing the stand displaced on the pad.

(ix) Steps outlined in clauses (i)-(viii) of this subparagraph are repeated for two additional pads selected at random.

(L) The following items are to be included with the test report:

(i) Sketches or photographs of the testbed and pad/stand (including test equipment used) both pre- and post-test.

(ii) A detailed summary of the procedure used to conduct the test, including a schedule of events.

(iii) Complete test data and all results including:

(I) Load increments used (not to exceed 500 pounds);

(II) Horizontal load applied at breakaway (must be greater than 1,000 pounds);

(III) Measured displacement of stand on pad at breakaway;

(IV) Computed coefficient of friction (must be greater than 0.5).

(iv) A brief summary of the test and results obtained. A graph of load versus time may be included.

(M) Concrete pads approved for use with metal stands shall be marked to indicate approval. Complete details of the proposed mark must be submitted, including:

(i) A drawing or description of the mark;

(ii) Size of the mark;

(iii) Location of the mark on the pad (the mark must be plainly visible when the pad is installed); and

(iv) Method of marking the pad (the mark must be permanent).

(N) Metal manufactured home blocking/support piers shall be designed by a registered professional engineer in Texas or in the state of the manufacturer. Stamped engineering drawings shall be submitted with the test report. The testing laboratory personnel shall perform the following steps:

(i) A soil base is prepared.

(ii) An approved pad is placed on the surface in the center of the base.

(iii) The pier to be tested is centered on the pad. The pier must be set up and tested exactly as it is to be used in the field. If a pier has any type of height adjustment mechanism, the most critical position must be tested.

(iv) Test equipment is connected and a sketch or photograph of the testbed is made.

(v) Vertical load is applied to the pier in uniform increments not exceeding 500 pounds. At least

one minute is allowed between increases in load to permit soil loading to stabilize. Increments of load and time between increases are recorded.

(vi) The loading is increased until failure of either the pad or pier is observed, but in no case is the test terminated before the applied load reaches 5,000 pounds. The failure mode is fully described, and load applied at failure is recorded.

(vii) A sketch or photograph is made of the undisturbed testbed showing the pier (or pad) in the failed condition.

(viii) Steps outlined in clauses (i)-(vii) of this subparagraph are repeated for two additional piers selected at random.

(O) The following items are to be included with the test report:

(i) Sketches or photographs of the testbed and pad/pier (including test equipment used) both pre- and post-test.

(ii) A detailed summary of the procedure used to conduct the test, including a schedule of events.

(iii) Complete test data and all results including:

(I) Load increments used (not to exceed 500 pounds);

(II) Time between increases in loading (minimum one minute);

(III) Recorded settlement; and

(IV) Load applied at failure.

(iv) A brief summary of the test and results obtained, including a detailed description of the failure mode. A graph of load versus time may be included.

(P) Each metal blocking pier must be assigned a model designation number. This model designation number must be shown on the engineering drawings, and must be stamped on the blocking pier in the same location. The location should be such that the model designation number will be readily visible when the blocking pier is in service. The department will consider that approval has been extended only to those blocking pier models which have been submitted for evaluation. Any new blocking pier model, or any change in specification, material, or design of an existing blocking pier model on the part of the manufacturer, or the addition of a new blocking pier model line or change in specifications, material, or design of an existing blocking pier model line on the part of a distributor will necessitate assigning a new model designation number to the new or altered blocking pier, and will require submittal to this department for complete design evaluation under the new model designation number. Exception to this requirement may be granted if after examining evidence submitted by the manufacturer or distributor, it is the opinion of this department that the requested modification to an existing blocking pier model or model line does not substantially affect the design or performance of the blocking pier model or model line. All metal blocking/support piers must be tested according to the requirements established by the department.

(Q) The department will require that the manufacturer of any metal blocking/support pier who wishes approval of his product for sale in the State of Texas submit to the department a quality control program that will

assure a quality product, free from defects. The quality control program will outline procedures for the following:

(i) Adequate sample testing, based on the number of units produced, to assure 98% confidence limits.

(I) Samples tested must meet or exceed performance of the original unit tested for approval.

(II) The department will, on a quarterly basis, require that copies of test reports of random samples be forwarded to Austin.

(ii) Action to be taken in the event of sufficient unsatisfactory test of random samples to cause confidence limits to drop below 98% level.

(iii) Action to be taken in the event that defective units are found in the field.

(I) Isolated cases.

(II) Multiple cases.

#### §69.64. *Procedures for Retailer Alterations.*

(a) "Alteration" means the replacement, addition, modification, or removal of any equipment or its installation after sale by the manufacturer to a retailer, but prior to sale and installation to a purchaser which may affect the construction, fire safety, occupancy plumbing, heat-producing, or electrical system. It includes any modification made in the manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring plug-in to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

(b) No alteration shall be made by a retailer without prior approval of the department. A written request for any alteration approval shall be filed with the department, except for the alterations which are preapproved as described in this section.

(1) If the alteration is not approved, the department will notify the retailer in writing of the reason for the refusal. If additional information is necessary to complete the evaluation of the request for approval, the retailer shall furnish any additional information deemed necessary by the department.

(2) If the alteration is approved, the alteration shall be completed in accordance with the department's approval and any requirements made as a condition of the approval. Following completion of an approved alteration, the retailer shall notify the department in writing, and the department may accept the certification of the retailer that the alteration was made as approved. The department may inspect the home, as altered, to assure compliance with the applicable standards.

(c) The installation of self-contained or split system ("A" coil) comfort cooling equipment and devices shall not be considered an alteration, if the installation is performed in accordance with the specific instructions of the manufacturer of the home as approved by the manufacturer's design approval primary inspection agency or design review agency for Texas, and if the specific equipment and devices used have been expressly approved by

the manufacturer's design approval primary inspection agency or Design Review Agency for Texas.

(d) Other than as set forth in subsection (c) of this section, the installation of split system ("A" coil) comfort cooling equipment and devices is an alteration; however, the installation of split system ("A" coil) comfort cooling equipment devices is an approved alteration if a preapproved system is installed. A preapproved system consists of a combination of furnace, blower, controls, condensing unit, and evaporator coil which have been approved by a nationally recognized third-party testing/certification agency to be compatible for installation as a complete system; additionally, the outdoor condenser and indoor coil must be rated as meeting applicable state or federal efficiency standards and be certified by a nationally recognized testing agency recognized by the department. Additionally, it is required that:

(1) third-party approvals and the performance listing shall be furnished in writing to the department prior to installation; and

(2) the Btu per hour rating of installed air conditioners pursuant to this section shall be no greater than 115% of the rated capacity of the duct system.

(e) Other than as set forth in subsection (c) of this section, the installation of self-contained comfort cooling equipment and devices is an alteration; however, the installation of self-contained comfort cooling equipment is an approved alteration provided that the system is installed under the following conditions:

(1) the return air boxes and duct connecting collars are installed without cutting any floor joists, wall studs, or other structural members, and any openings in the home are made rodent-proof by the appropriate use of foil, duct tape, collars, or other approved materials;

(2) the duct collar is installed at a location that is approximately the same register area fore and aft of the duct collar as there is fore and aft of the furnace for each unit;

(3) the Btu per hour rating of the installed air conditioning system is no greater than 115% of the rated air capacity of the duct system;

(4) dampers shall be installed to prevent cold air from flowing to the furnace and heated air from flowing into the air conditioner, and the thermostat shall not allow the heating and cooling system to operate simultaneously; and

(5) the air conditioner is wired directly to electrical service and not through the electrical distribution panel in the home; or if the air conditioner is wired into the circuitry of the home through the distribution panel, the aggregate ampacity of the panel box shall not be exceeded due to the additional ampacity of the equipment installed.

(f) If additional air duct cooling capacity is needed, the capacity may be obtained by installing additional air supply registers to the duct system. Installing additional air supply registers to the duct system is an approved alteration provided that:

(1) the air supply registers which are added shall be of the same size (outlet area) as the registers installed by the home manufacturer;

(2) each additional air supply register may add air duct cooling capacity at the rate of up to 1,500 Btu's per hour each; provided that the total additional cooling capacity obtained shall not exceed 6,000 Btu's per hour;

(3) registers shall be added as equally as possible to both sides of the cool air entry locations of the main supply duct(s); and

(4) the air supply registers and duct connecting coolers are installed without cutting any floor joists, wall studs, or other structural members, and any openings in the home or duct system are made rodent-proof by the appropriate use of foil, duct tape, collars, or other approved materials.

(g) If the alteration, pursuant to subsections (c), (d), (e), or (f) of this section, is a part of the sales contract of the manufactured home, the retailer shall maintain in the sales file a sworn statement on a form prescribed by the department:

**AIR CONDITIONING INSTALLATION REPORT**

(Please Type or Print Very Plainly)

**A. Air Conditioner Contractor (if other than Retailer) name and address.**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**B. Name of Home Manufacturer** \_\_\_\_\_

**Model designation of home (name and/or number)** \_\_\_\_\_

**Label (Decal) No. (s)** \_\_\_\_\_



C. Name of Purchaser and address where home is to be sited:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

- D. 1. Maximum cooling capacity of duct system as per home manufacturer's compliance label \_\_\_\_\_ Btuh
2. Manufacturer and Model number of furnace in home \_\_\_\_\_

E. Was additional cooling capacity added to duct system by installing additional air registers? ☐ Yes ☐ No

If "Yes": No. of registers added \_\_\_\_; total additional capacity obtained \_\_\_\_\_ Btuh.

F. Manufacturer name and model number of air conditioner and all equipment and components installed:

	Component	Manufacturer	Model No.
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

- G. 1. EER or SEER of equipment installed \_\_\_\_\_
2. ARI rated cooling capacity of system as installed \_\_\_\_\_ Btuh

H. If a self-contained system, describe where the air supply and return air connections will be installed: \_\_\_\_\_

I. 1. Air conditioner is wired: ☐ Direct

☐ Through Distribution Panel

2. If through distribution panel state: ampacity of panel box \_\_\_\_\_

ampacity of equipment installed \_\_\_\_\_

J. Are the return air boxes, duct connecting collars, and any additional air registers installed without cutting any floor joists, wall studs and other structural members: ☐ Yes ☐ No

K. Are openings cut in the home or the duct system properly sealed and rodent-proof after a/c equipment has been installed? ☐ Yes ☐ No

L. Are dampers properly installed to prevent cold air from flowing to the furnace and heated air from flowing into the air conditioner: ☐ Yes ☐ No

M. Does the thermostat prevent the heating and air conditioning equipment from operating simultaneously? ☐ Yes ☐ No

N. Is the duct collar installed at a location so that there is approximately the same register area fore and aft of the duct collar as there is fore and aft of the furnace plenum for each unit? ☐ Yes ☐ No

I CERTIFY AND SWEAR THAT THE INFORMATION ABOVE IS TRUE AND CORRECT AND THAT THE AIR CONDITIONING SYSTEM WAS INSTALLED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE TEXAS DEPARTMENT OF LABOR & STANDARDS.

Name of retail business

Signature

Address of retailer

Type or print name of person signing for air contractor (or retailer)

City - State - Zip

Type or print title of person signing for air contractor (or retailer)

SUBSCRIBED & SWORN TO before the undersigned notary public in and for the State of Texas on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

(Seal)

Signature of Notary

Type or Print Name of Notary

**§69.65. Texas Manufactured Housing Standards Code.** The Texas Manufactured Housing Standards Code for HUD-Code manufactured homes shall be the federal standards established under Title VI of the Housing and Community Development Act of 1974, and each change, amendment, or requirement shall become effective in conjunction with the effective date set by the federal program.

**§69.66. Modular Home Installation Requirements.** The installation of all modular homes or homes built of modular components must comply with the following requirements.

(1) One and two family dwellings shall be installed either:

(A) as per the manufacturer's typical foundation design as approved by a Design Review Agency for Texas (DRAT), and as per the manufacturer's DRAT-approved installation instructions which shall include:

(i) details of the construction of the foundation and a description of the soil type for which the foundation is suitable. The soil type description must reference nationally recognized soil classification standards;

(ii) a description of materials, hardware, devices, and components for the attachment of the home to the foundation system; and

(iii) procedures for required on-site tests; or

(B) to a unique foundation design drawing stamped by a registered professional engineer or architect. The stamped design must specifically reference:

(i) modular manufacturer's name;

(ii) design wind zone;

(iii) model;

(iv) specific location of home; and

(v) manufacturer's installation instructions.

(2) These installations shall be reported as required by the department prior to construction.

(3) Modular residential structures which exceed three stories in height or which are designed for the separate living use of more than two families shall be installed to the following requirements:

(A) as per manufacturer's typical foundation design as reviewed and approved by a DRAT for applicable codes referenced in §69.78 of this title (relating to Modular Codes and Standards Incorporated by Reference) and the DRAT-approved installation instructions, site built system drawings, and on-site test procedures; or

(B) to a custom designed foundation drawing stamped by a registered professional engineer, reviewed and approved by a DRAT for conformance to applicable codes referenced in §69.78 of this title (relating to Modular Codes and Standards Incorporated by Reference) and the DRAT-approved installation instructions, site built system drawings, and on-site test requirements.

(4) These installations shall be reported as required by the department prior to construction.

**§69.67. Modular and HUD-Code Custom Construction.** Pursuant to Texas Civil Statutes, Article 5221f, §6(D), the manufactured home must have affixed to it the appropriate seal, label, or decal when construction is completed, and should not be interpreted to prevent the offering for sale of custom built manufactured homes.

**§69.68. Modular Housing Identification Number.** Each transportable section of every modular home shall be assigned an identification number. The identification number shall be permanently affixed to an integral structural member of the modular home at the first production station identified by the quality control manual. The identification number shall be of sufficient size and shall be so located as to be readily visible during the construction process. The manufacturer will identify, in the design manual, the location where the identification number will be affixed to the unit.

**§69.69. Modular Home Decal.**

(a) Every modular home, including each section of multisectional modular homes, shall have a decal affixed. The decal will be affixed only after the modular home is in compliance with the Texas Modular Housing Standards Code. The decal will be affixed in a readily visible

location on the exterior of each transportable section of the modular home. The modular home manufacturer in the home owner's manual will specify the location where the decal will be affixed. The decal will be attached by nonremovable fasteners so that the decal may not be removed without being defaced. The manufacturer will obtain decals from the department and shall make a provision for the safeguarding of the decal when the decal is to be affixed at a location other than the manufacturing facility. The decals will remain the property of the department and may be reclaimed by the department when necessary to assure compliance with the Standards or Texas Civil Statutes, Article 5221f. The manufacturer will assign a decal number to a modular home or a section of a multi-sectional modular home at the time it enters production. The manufacturer will keep accurate records of all decals in its possession. The manufacturer shall not ship a home or a transportable section of a home that has been cited to contain a nonconformance until the nonconformance has been corrected and released by department personnel.

(b) The department shall issue an insignia to be used by component manufacturers for modular components. The insignia representing the certification of the manufacturer shall be stamped at a visible location by the manufacturer on the component prior to shipment and shall reference a certifying quality control document, a copy of which shall accompany the component to the permanent site.

(c) The decal will be affixed only after the modular home has been constructed, inspected, and tested in accordance with the approved design and quality assurance manual in the factory. A final installation report will be issued only after the modular home has been tested and installed in accordance with the approved site-built system drawings and installation manual.

**§69.70. Modular Manufacturer Self-Certification Decal.**

(a) After the effective date of these standards and prior to completion of the certification inspection, the modular home manufacturer may self-certify its modular homes as being in compliance with the Texas Manufactured Housing Standards Code after the filing of the DRAT-approved design package. The manufacturer shall attach to each transportable section of each modular home produced a self-certification decal of the following form:

\_\_\_\_\_ (name of manufacturer) certifies that to the best of our knowledge, this modular home has been built in compliance with the requirements of the Texas Manufacturing Housing Standards Code.

(b) The self-certification decal will be no smaller than 4½ inches by 2 inches and will be permanently affixed to each transportable section of the modular home as specified in §69.69 of this title (relating to Modular Home Decal).

(c) Self-certification shall be limited to a period not to exceed 90 days.

**§69.71. Modular Home Data Plate Requirements.** All modular homes entering production on or after the effective date of these standards shall have affixed near the main electrical distribution panel box or in another conspicuous location a data plate containing the following information:

- (1) name and address of the manufacturer; "for warranty information";
- (2) name and address of the Texas Department of Labor and Standards; "for warranty information";
- (3) the identification number, decal number, model designation, and date of manufacture of the unit;
- (4) the structural, wind, and seismic load zones for which the unit was designed, including duplicates of the applicable load zone maps as set out in the various sections of the standards;
- (5) the comfort heating certificates as required in §69.76 of this title (relating to Modular Manufacturer Design Submittal Requirements);
- (6) the comfort cooling certificate as required in §69.76 of this title (relating to Modular Manufacturer Design Submittal Requirements);
- (7) the statement

This modular home is designed for a roof live load of \_\_\_\_\_ per square foot.

The applicable load shall be written in the space; and

(8) the data plate must be completed and affixed at the time of shipment.

**§69.72. Modular Home Manufacturer Certification Requirements.** Prior to being issued decals, each modular home manufacturing facility will undergo a plant certification inspection. The plant certification inspection will be conducted by a team of at least one engineer and one or more inspectors. The purpose of the plant certification inspection will be to assure that the quality control program in the manufacturing facility is functioning according to the approved quality control manual for that facility and that the manufacturing facility is capable of producing modular homes in compliance with the Texas Manufactured Housing Standards Code in effect at the time of the inspection. The engineer assigned to the team will become familiar with all aspects of the manufacturer's approved design and quality control manuals. Modular homes on the production line will be checked to assure that failures to conform located by the inspection team are being located by the plant quality control program and are being corrected by the plant personnel. The inspection team will work closely with the plant quality control personnel to assure that the approved design and quality control manuals for that facility are clearly understood and with which are being complied. The plant certification inspection will terminate when the inspection team has fully evaluated all aspects of the manufacturing facility. At the completion of the plant certification inspection, the department will prepare a plant certification report or deviation report.

**§69.73. Modular Manufacturer Certification Report.**

(a) Certification report. Following completion of the plant certification inspection, the department will issue a plant certification report. The plant certification report will contain the following:

- (1) name and address of manufacturer;
- (2) names and titles of personnel performing the certification inspection;
- (3) serial and decal numbers of the unit(s) inspected;
- (4) a list of nonconformances observed on the unit(s) inspected and corrective action taken in each case;

(5) a list of each deviation from the approved quality control procedures observed during the certification; and

(6) the statement,

This report concludes that the Manufactured Housing Division of the Texas Department of Labor and Standards, after evaluating the facility, certifies that \_\_\_\_\_ of \_\_\_\_\_ is capable of producing modular homes in accordance with the approved design and quality control manuals on file in the manufacturing facility and in compliance with the requirements of the Texas Manufacturing Housing Standards Code.

(b) Deviation report. At the completion of the plant certification inspection, if in the opinion of the department, the manufacturer is not capable of building modular homes in compliance with the Texas Manufactured Housing Standards Code, the department will issue a deviation report. The deviation report will detail the specific areas in which the manufacturer was found to be deficient and will make recommendations for improvement. In the deviation report, the department will specify the amount of time the manufacturer will be given to improve those areas which are deficient and will schedule the second plant certification inspection no later than 30 days after the first inspection. In the interim, the manufacturer may continue to self-certify in accordance with §69.70 of this title (relating to Modular Manufacturer Self-Certification Decal). The department may provide 100% monitoring of the manufacturer's production during this interim period. If, following completion of the second plant certification inspection, the department finds that the manufacturer is still incapable of building modular homes in compliance with the requirements of the Texas Manufacturing Housing Standards Code, the manufacturer's registration may be canceled in accordance with Manufacture Housing Standards Act, Texas Civil Statutes, Article 5221f, §7(k).

**§69.74. Modular Design Review Agency Requirements.**

(a) Design review agency. The department may approve qualified, independent organizations to review the modular home manufacturer's design submittal for compliance with the Texas Modular Housing Standards Code. The design review agency will be composed of professional and technical personnel qualified to evaluate the various aspects of a manufacturer's design. The design review agency may not provide design services for the manufacturers for whom they act as design review agency.

(b) Submittal requirements.

(1) A statement of certification by the chief officer of the organization that:

(A) the agency will not perform design service and design review service for the same modular manufacturer;

(B) the design review agency will implement the policies and determinations of the department with regard to interpretation of the standards and administration of the Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f. The department shall withdraw approval from design review agencies that fail to implement the policies and determinations of the department;

(C) all information contained in the design review agency submittal for approval to the department is true and correct.

(2) Resume of key personnel, including:

(A) areas of expertise;

(B) experience in their fields; and

(C) duties in the organization.

(3) A justification of the organization's ability to evaluate a design for compliance with the standards in the areas of structure, foundation, electrical, plumbing, heating, ventilation, and air conditioning. This justification may include an example of a design which the organization has evaluated for compliance with an accepted code or set of standards.

(4) An organizational chart.

(5) Example of the organization's approval stamp structure.

**§69.75. Modular Design Review Agency Responsibilities.** The design review agency will obtain from the manufacturer such information as is compatible with the requirements of §69.76 of this title (relating to Modular Manufacturer Design Submittal Requirements) and such other information as the design review agency may reasonably deem necessary to assure the manufacturer's designs and procedures are in compliance with the Texas Modular Housing Standards Code. The design review agency will signify approval of a drawing, specification, calculation, or other material by application of an approval stamp and an approval date which may be included on the stamp. The design review agency will forward one approved copy of the manufacturer's design and quality assurance package, including additions and revisions, to the department within five days of approval and will return one approved copy to the manufacturer. The design review agency may maintain a copy of the package for their future review.

**§69.76. Modular Manufacturer Design Submittal Requirements.**

(a) Design review agency information. The manufacturer shall submit to the design review agency such information as the design review agency may reasonably require, consistent with the requirements of these standards, to assure compliance with these standards. The manufacturer may contract with any approved design review agency. A list of approved design review agencies, including mailing addresses, will be available from the department.

(b) Submittal requirements. Each manufacturer shall have copies of all tests, floor plans, drawings, specifications, schedules, the quality assurance manual, and other information reviewed by an approved design review agency. The approved design review agency will indicate approval by application of an approval stamp to each page. A copy of the information must be in the factory for use by in-plant inspectors and a copy must be submitted to the department. A floor plan, construction detail, specification drawing, calculation, or other document must be stamped as approved and in the factory before the applicable portion of the modular home is inspected or constructed. The manufacturer must submit to the approved design review agency the following:

(I) one copy of a modular home design manual. The manual shall have all pages numbered and be arranged according to the submitted table of contents. The pages shall be 8½ inches by 11 inches, or folded into 8½ inches by 11 inches. The floor plans shall have no scale smaller than 1/8 inch equals one foot. The manufacturer's modular home design manual shall contain, as a minimum:

(A) table of contents with provision for numbering each page of the design manual, including all specifications, drawings, and calculations, and cross-referencing each drawing or specification to the applicable calculation pages;

(B) specifications or detail drawings for all materials used in the construction of the modular home;

(i) detail drawings of all assemblies and components;

(ii) floor plans for all models and options;

(iii) electrical schematics for all models and options;

(iv) plumbing drawings for all models and options;

(v) gas piping drawings for all models and options;

(vi) foundation systems designs for all models (certified by a registered professional engineer or architect) including specifications of those materials, if any, that are unique to the design, and details of connection and classification and description of soils suitable for the foundation designs. The foundation system designs and other instructions necessary for installation shall be presented in an installation manual. An approved copy shall be in the design manual and an approved copy shall accompany each structure. Multi-family modular projects require detailed installation instructions which include testing procedures, drawings of site-built systems, and quality control checklist of critical aspects;

(vii) details for connection of utilities;

(viii) fire protection details for kitchen range, water heater compartments, and furnace compartments;

(ix) thermal resistance and air infiltration details drawings and specifications;

(x) structural, thermal, electrical load, and hydraulic calculations, as applicable;

(xi) such other information as may reasonably be deemed necessary to assure safe construction of modular homes, in compliance with these standards; and

(xii) heat loss and comfort cooling certificate information. The modular home manufacturer shall permanently affix a heat loss and comfort cooling certificate to an interior surface of the home that is readily visible to the homeowner. The certificate shall contain the following:

(I) the statement,

This modular home has been thermally insulated for all locations within Texas having 4,000 annual Fahrenheit heating degree days (65° F base) or less,

or the statement,

This modular home has been thermally insulated for \_\_\_\_\_ County, having \_\_\_\_\_ annual Fahrenheit heating degree days (65° F base);

(II) name of modular home manufacturer;

(III) plant location;

(IV) home model;

(V) heating equipment manufacturer;

(VI) heating equipment model;

(VII) the statement,

This heating equipment has the capacity to maintain an average 68° F temperature in this home at outdoor temperatures of \_\_\_\_\_ F. To maximize furnace operating economy and to conserve energy, it is recommended that this home be installed where the outdoor winter design temperature (97½ %) is not higher than \_\_\_\_\_ degrees Fahrenheit.

The temperature to be specified shall be 20° F or 30% of the design temperature difference, whichever is greater, added to the temperature specified as the heating system capacity certification temperature. Design temperature difference is 68° F minus the heating system capacity certification temperature in degrees Fahrenheit. The comfort heating certificate may be a part of the data plate; and

(VIII) the comfort cooling certificate may be a part of the data plate and must also be in the homeowner manual. See §69.76 of this title (relating to Modular Design Review Agency Responsibilities).

(2) one copy of a quality assurance manual. The manual shall reflect the quality control procedures of the manufacturer providing for such inspections and testing of each modular home to assure conformance to the standards. The manual shall have a table of contents. All pages shall be consecutively numbered on 8½ inches by 11 inches format. The manual shall contain copies of all inspection forms, records, checklists, labels, and tags. The manual shall at a minimum contain the following:

(A) a brief introductory statement describing the type of modular housing involved and the quality assurance program's general policy within the construction process;

(B) a chart depicting the manufacturer's organizational structure and functional relationships for quality assurance and production;

(C) a functional statement which defines the obligation, responsibility, and authority of the manufacturer's quality assurance program;

(D) identification of quality assurance personnel, their accountability by position, responsibility for each inspection, method for marking nonconformances observed, and the identification by title of the person authorized to remove marks;

(E) construction materials handling methods including:

(i) inspection checklist for receiving materials; and

(ii) marking and removal of rejected materials both upon receipt and from production line;

(F) identification numbering system to mark each individual unit at a uniform, accessible location in the first stage of production;

(G) a schema of the manufacturing sequence with the plant layout, including a station-by-station description of the activities to be performed;

(H) inspection checklist including:

(i) list of inspections to be made at each production station; and

(ii) accept/reject criteria (i.e. each significant dimension and component should be given tolerances);

(I) step-by-step procedures and the station at which each production test will be performed including:

(i) dielectric test, continuity test, polarity test, operational electrical test, gas supply pressure test, water supply pressure test, DWV system test;

(ii) description of required testing equipment; and

(iii) procedures for periodic checking, recalibration, and readjustment of test equipment;

(J) storage procedures for completed units at plant (and other locations prior to installation); and

(K) changes to the quality assurance manual. All changes to the quality assurance manual reflecting additions to the quality assurance program and production process shall be resubmitted to the design review agency for approval.

(3) modular homes homeowners' manual. Each manufacturer shall provide a homeowners' manual with each modular home. The homeowners' manual shall be delivered to the consumer with the home. The contents of the homeowners' manual shall be:

(A) cover page titled: "Modular Home Homeowners' Manual";

(i) name, location of facility, address, phone number; and

(ii) table of contents;

(B) the statement,

This homeowner's manual has been provided in accordance with the requirements of the Texas Manufactured Housing Standards Act;

(C) information about the standards,

Information about the standards, rules, regulations, administrative orders, and requirements of the Texas Manufactured Housing Standards Act is available from the Texas Department of Labor and Standards, Manufactured Housing Division, P.O. Box 12157, Austin, Texas 78711, (512) 475-5712;

(D) location of the data plate and an explanation of the significance of the information printed on it;

(E) details of foundation systems (may be the same as the modular home installation manual);

(F) location of decal;

(G) installation instructions for connection of utilities (may be the same as that in the modular home manufacturer manual);

(H) typicals or schemas of the major systems of the modular home:

(i) electrical;

(ii) plumbing; and

(iii) air supply ducting;

(I) Comfort cooling information. The modular home manufacturer shall provide the homeowner with modular comfort cooling information. This comfort cooling information shall be included in the homeowner manual and on the data plate. The comfort cooling information shall include:

(i) a statement to read as follows: To determine the required capacity of equipment to cool a home efficiently and economically, a cooling load (heat gain) calculation is required. The cooling load is dependent on

the orientation, location, and structure of the home. Central air conditioners operate most efficiently and provide the greatest comfort when their capacity closely approximates the calculated cooling load. Each home's air conditioner should be sized in accordance with Chapter 22 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Handbook of Fundamentals, once the location and orientation are known.

(ii) information provided by the manufacturer necessary to calculate sensible heat gain:

(I) walls (without windows and doors)..... "U"

(II) ceiling and roofs of light color..... "U"

(III) ceiling and roofs of dark color..... "U"

(IV) floors..... "U"

(V) air ducts in floor..... "U"

(VI) air ducts in

ceiling..... "U"

home..... "U"

(iii) a statement to read as follows:

The air distribution system installed in this home is sized for a central air conditioning system of up to \_\_\_\_\_ Btu/hr.

**§69.77. Modular Housing Construction.** This standard covers the construction and design of modular housing, including the structural, mechanical, electrical, energy, and transportation systems. The commissioner or his designee shall serve as the building official and the authority having jurisdiction for the enforcement of these reference codes and standards. The following sets of codes and standards are incorporated by reference into the Texas Manufactured Housing Standards Code.

**§69.78. Modular Codes and Standards Incorporated by Reference.**

(a) The Manufactured Housing Division of the Department of Labor and Standards herein adopts by reference the following codes and standards:

(1) One and Two Family Dwelling Code, 1979 Edition, Building Officials and Code Administrators International, Inc., Southern Building Code Congress International, and International Conference of Building Officials: Part II—Building Planning; Part III—Construction; Part IV—Mechanical; Part V—Plumbing; Part VII—Standards. As the scope of these standards is broader than that originally envisioned by the One and Two Family Dwelling Code, sections R-101, R-102, R-103, R-104, R-105, R-106, R-107, R-109, R-110, R-111, R-111.2, R-112, R-113, R-203, M-1904, Chapter 25, third paragraph of Section P-2003, the third paragraph of R-207 are deleted;

(2) National Electrical Code, 1981 Edition, National Fire Protection Association;

(3) The Model Code for Energy Conservation in New Building Construction, 1977 Edition, Building Officials and Code Administrators International, Inc., International Conference of Building Officials, Southern Building Code Congress International, Inc., for National Conference of States on Building Codes and Standards, Inc.;

(4) The Uniform Building Code, 1982 Edition; Uniform Mechanical Code, 1982 Edition; the Uniform Plumbing Code, 1982 Edition; International Conference of Building Officials;

(5) The Standard Building Code, 1982 Edition; the Standard Mechanical Code, 1982 Edition; the Standard Plumbing Code, 1982 Edition; the Standard Gas Code, 1982 Edition; Southern Building Code Congress, International.

(b) These codes and standards may be obtained as follows:

(1) National Electrical Code, 1981 Edition, from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210.

(2) One and Two Family Dwelling Code, 1979 Edition, from the Building Officials and Code Administrators International, Inc., 17926 South Halsted Street, Homewood, Illinois 60430.

(3) Model Code for Energy Conservation in New Building Construction from the National Conference of States on Building Codes and Standards, 481 Carlisle Drive, Herndon, Virginia 22070.

(4) Uniform Building Code, Uniform Plumbing Code, Uniform Mechanical Code, International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(5) Standard Building Code, Standard Mechanical Code, Standard Plumbing Code, Standard Gas Code, Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(c) Modular residential structures which exceed three stories in height or which are designed for the separate living use of more than two families shall be designed and constructed in compliance with the herein referenced Uniform Building Code, Uniform Plumbing Code, and Uniform Mechanical Code; or the Standard Building Code, Standard Plumbing Code, Standard Mechanical Code, and Standard Gas Code; the Model Code for Energy Conservation in New Building Construction; and the National Electrical Code.

(1) If the Uniform Building Code or the Standard Building Code is the building code in effect in the municipality where the modular structure covered by the provisions of the section is to be erected, the manufacturer shall design and construct the modular structure to the model code applicable to that municipality but without amendments.

(2) If the municipality in which the modular structure covered by the provisions of this section is to be erected does not utilize either the Uniform Building Code or the Standard Building Code, then the authorized representative of that municipality shall determine whether the Uniform Building Code or the Standard Building Code, without amendments, will be utilized for the design and construction of the modular structure to be erected in the municipality.

(3) If the municipality in which the modular structure covered by the provisions of this section is to be erected does not have an established building code, or if the modular structure is to be erected in an unincorporated area, the manufacturer shall designate to its Design Review Agency for Texas (DRAT) whether the Uniform Building Code or the Standard Building Code is to

be utilized for the design and construction of the modular structure.

(4) All modular structures covered by the provisions of this subsection shall be designed and constructed in accordance with the herein referenced National Electrical Code, 1981 Edition; except that all amendments to the National Electrical Code in effect in the municipality where the modular structure is to be erected shall apply fully to the electrical design and construction of the modular structure. If the municipality in which the modular structure covered by the provisions of this section is to be erected does not have an established electrical code, or if the modular structure is to be erected in an unincorporated area, the National Electrical Code, 1981 Edition, without amendments, shall be used.

(5) All modular structures covered by the provisions of this section shall be designed and constructed according to the requirements of the herein referenced Model Code for Energy Conservation in New Building Construction.

(d) Modular structures designed for one or two family residential dwellings, not to exceed three stories in height, shall be constructed in accordance with the herein reference One and Two Family Dwelling Code, the 1981 National Electrical Code, and the Model Code for Energy Conservation.

(e) Family dwelling units separated by a two-hour fire wall are separate structures for the purpose of this rule, providing the structure does not exceed two stories in height.

**§69.79. Design Requirements.** When the One and Two Family Dwelling Code is not specific concerning an aspect of construction or design, one of the other adopted codes or standards may be applicable.

**§69.80. Prohibited Materials and Procedures.**

(a) Aluminum conductors are not allowed for use in modular home branch circuit wiring.

(b) Wood shakes or shingles are not permitted as roof covering in the construction of modular homes.

(c) Right and left hand threaded nipples shall not be used in the gas piping system for modular homes.

**§69.81. Required Tests.**

(a) Testing for leakage. Each modular home shall be subjected to the following gas piping tests. The required tests shall be performed in the manufacturing facility if possible. When the required gas piping tests cannot be performed in the manufacturing facility, such tests shall be performed at the modular home installation site in the presence of an inspector, authorized by the department to witness and approve such gas piping tests. Decals shall not be affixed to the modular home until the required gas piping tests have been successfully completed.

(1) Before appliances are connected, piping systems shall stand a pressure of at least six inches mercury or three psi gauge for a period of not less than 10 minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gauge calibrated so as to be read in increments of not greater than 1/10 pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made. Before a test is begun, the temperature of the ambient air and of the piping shall be approxi-

mately the same and constant air temperature shall be maintained throughout the test.

(2) After appliances are connected, the piping system shall be pressurized to not less than 10 inches nor more than 14 inches water column and the appliance connections tested for leakage with a soapy water solution. The gas piping supply system shall be designed for pressure not exceeding 14 inches water column ( $\frac{1}{2}$  psi) and not less than seven inches water column ( $\frac{1}{4}$  psi). The manufacturer shall indicate in his written installation instructions the design pressure limitations for safe and effective operation of the gas piping system.

(b) Electrical tests. The required tests are to be performed in the manufacturing facility. If the required tests cannot be performed in the manufacturing facility, they shall be performed at the modular home installation site in the presence of an inspector authorized by the department to witness and approve such electrical tests. Decals shall not be affixed to the modular home until the required electrical tests are successfully completed. Each modular home shall be subjected to the following electrical tests:

(1) dielectric strength test. The wiring of each modular home shall be subjected to a dielectric strength test for one minute at a voltage higher than 900 volts but not greater than 1,000 volts (with all switches closed) between all pole combinations. Alternatively, the test may be performed for one second at a voltage higher than 1,080 but not greater than 1,250 volts. This test shall be performed after branch circuits are complete and after fixtures or appliances are installed. The manufacturer shall assure that appliances and fixtures are not connected to the branch circuit wiring and are not subjected to these voltages;

(2) continuity test. A continuity test to assure that all noncurrent carrying metallic parts are properly bonded;

(3) operational test. An operational test to demonstrate that all equipment is connected and in working order;

(4) polarity check. A polarity check to determine that connections have been properly made.

Issued in Austin, Texas, on December 2, 1983.

TRD-8310093 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and Standards

Effective date: December 7, 1983  
Expiration date: April 5, 1984  
For further information, please call (512) 475-0155.

## Mobile Home Installations

16 TAC §§69.91-69.103, 69.105, 69.106

*(Editor's note: The text of the following rules repealed on an emergency basis will not be published. The rules may be examined in the offices of the Texas Department of Labor and Standards, E. O. Thompson Building, 920 Colorado Street, Austin, or in the Texas*

*Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Labor and Standards repeals on an emergency basis §§69.91-69.103, 69.105, and 69.106, concerning requirements of mobile home installations. Simultaneously, §§69.91-69.103, 69.105, and 69.106 are being proposed for repeal on a permanent basis. The sections must be repealed on an emergency basis so that the manufactured home industry will be able to comply with the provisions of Texas Civil Statutes, Article 5221f, as amended by the 68th Legislature, 1983.

The sections are repealed on an emergency basis under Texas Civil Statutes, Article 5221f, §9, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt and repeal rules and regulations and take all action necessary to assure compliance with the intent and purpose of this Act.

- §69.91. *Mobile Home Installation Requirements.*
- §69.92. *Definitions.*
- §69.93. *Provisions for Anchoring Systems.*
- §69.94. *Tie-Down Standards for Units Lacking Manufacturer's Installation Instructions.*
- §69.95. *Approval of Anchoring Systems.*
- §69.96. *Approval of Ground Anchor Systems.*
- §69.97. *Tests for Ground Anchors.*
- §69.98. *Approval of Anchoring Systems Employing Anchoring Devices Other Than Ground Anchors.*
- §69.99. *Quality Control.*
- §69.100. *Withdrawal of Approval of Anchoring Systems.*
- §69.101. *Notification of Withdrawal of Approved Anchoring Systems.*
- §69.102. *Blocking Standards.*
- §69.103. *Other Materials and Methods.*
- §69.105. *Procedures For Retailer Alterations.*
- §69.106. *Texas Manufactured Housing Standards Code.*

Issued in Austin, Texas, on December 2, 1983.

TRD-8310094 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and Standards

Effective date: December 7, 1983  
Expiration date: April 5, 1984  
For further information, please call (512) 475-0155.

16 TAC §§69.141-69.161

*(Editor's note: The text of the following rules repealed on an emergency basis will not be published. The rules may be examined in the offices of the Texas Department of Labor and Standards, E. O. Thompson Building, 920 Colorado Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Labor and Standards repeals on an emergency basis §§69.141-69.161. Simulta-



neously, §§69.141-69.161 are being proposed for repeal on a permanent basis. An emergency exists to repeal §§69.141-69.161 so that the manufactured home industry will be able to comply with the provisions of Texas Civil Statutes, Article 5221f, as amended by the 68th Legislature, 1983.

The rules are repealed on an emergency basis under Texas Civil Statutes, Article 5221f, §9, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt and repeal rules and regulations, and take all action necessary to assure compliance with the intent and purpose of this Act.

- §69.141. *Modular Home Installation Requirements.*
- §69.142. *Modular Custom Construction.*
- §69.143. *Modular Housing Identification Number.*
- §69.144. *Modular Home Decal.*
- §69.145. *Modular Manufacturer Self-Certification Decal.*
- §69.146. *Modular Home Data Plate Requirements.*
- §69.147. *Modular Home Manufacturer Certification Requirements.*
- §69.148. *Modular Manufacturer Certification Report.*
- §69.149. *Modular Design Review Agency Requirements.*
- §69.150. *Modular Design Review Agency Responsibilities.*
- §69.151. *Modular Manufacturer Design Submittal Requirements.*
- §69.152. *Modular Housing Construction Standards.*
- §69.153. *Codes and Standards Incorporated by Reference.*
- §69.154. *Building Planning.*
- §69.155. *Fire Detection Equipment.*
- §69.156. *Fire Protection.*
- §69.157. *Typical Foundation Design.*
- §69.158. *Moisture Protection of Floors.*
- §69.159. *Mechanical.*
- §69.160. *Electrical.*
- §69.161. *Plumbing.*

Issued in Austin, Texas, on December 2, 1983.

TRD-8310095      Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and  
Standards

Effective date: December 7, 1983  
Expiration date: April 5, 1984  
For further information, please call (512) 475-0155.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IV. School Land Board Chapter 153. Exploration and Development

#### Oil, Gas, and Mineral Lease Sales

##### 31 TAC §153.1

The School Land Board adopts on an emergency basis amendments to §153.1, concerning the nomination of tracts for lease by the commissioner of the General Land Office. The rule is adopted on an emergency basis because the board adopted a new filing fee at its meeting held on December 6, 1983, at 10:30 a.m. A \$100 nomination fee for each tract was adopted unanimously and made effective immediately for all nominations of tracts for the lease sale to be held in April 1984. The amendments are being simultaneously proposed for permanent adoption in this issue of the *Texas Register*.

The amendments are adopted under the authority of the Texas Natural Resources Code, §32.062, which authorizes the board to adopt rules for the sale and lease of land.

##### §153.1. *Nominations of Tracts for Lease.*

(a) Written requests that designated tracts of state land be offered for lease of [for] oil, gas, and other minerals may be submitted to the commissioner of the General Land Office at any time. **A \$100 fee shall be submitted for each tract so nominated.**

(b) **The fee will be refunded only if the tract nominated is not eligible for lease by the commissioner.**

(c) The School Land Board will from time to time schedule a lease sale, and the announcement of **such** [a lease] sale will include a final date for **submitting** nominations [to be considered for that sale].

(d) Interested state and federal agencies will be requested to submit recommendations on tracts nominated in submerged areas so that a prospective bidder is informed in advance as to any drilling and development restrictions which might be expected on a specific date.

Issued in Austin, Texas, on December 9, 1983.

TRD-8310187      Garry Mauro  
Commissioner  
General Land Office

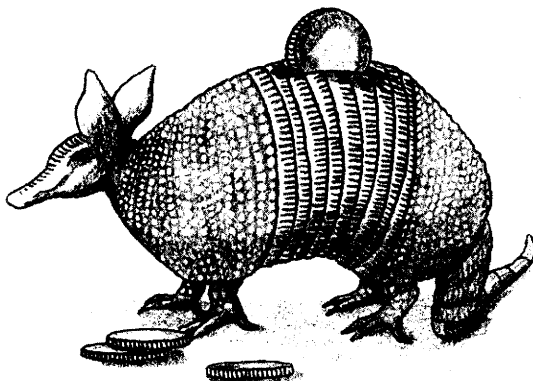
Effective date: December 9, 1983  
Expiration date: April 7, 1984  
For further information, please call (512) 475-5661.

# Proposed Rules

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.



## TITLE 1. ADMINISTRATION Part VII. Merit System Council Chapter 161. Merit System of Personnel Administration

1 TAC §§161.1, 161.8-161.13, 161.15

The Merit System Council proposes amendments to §161.1, concerning purpose, merit principles, scope, and definitions; §161.8, concerning original appointments; §161.9, concerning probationary period; §161.10, concerning promotion, lateral class change, and demotion without prejudice; §161.11, concerning tenure, separation and reinstatement; §161.12, concerning adverse actions; §161.13, concerning appeals; and §161.15, concerning performance reviews and training. Most of the changes are proposed at the request of agencies that are served by the Merit System Council. The remaining amendments are proposed

by the council to improve the appeals process. The affected subsections are as follows: §161.1(d); §161.8(a)(2); §161.8(f); §161.8(h); §161.8(h)(1); §161.8(h)(2); §161.8(h)(3); §161.8(i)(4); §161.9(a)(1); §161.10(a)(1); §161.10(a)(2); §161.10(b)(1); §161.10(b)(2); §161.10(c)(1); §161.10(c)(2); §161.10(d)(1); §161.10(d)(2); §161.11(a); §161.11(b); §161.11(d)(2); §161.11(d)(3); §161.11(d)(5); §161.11(e)(1); §161.11(f); §161.11(g); §161.12(a); §161.13(a)(5); §161.13(b)(1); §161.13(b)(2); and §161.15(a)(3).

F. Kemp Dixon, executive 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. Dixon 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 is simplification of a portion of the appeals procedure, consistency concerning usage of terms among agencies, and an expanded time limit within which to appeal. There is no economic cost to the public utilizing merit system services.

Comments on the proposal may be submitted to F. Kemp Dixon, Executive Director, Merit System Council, P.O. Box 13566, Austin, Texas 78711, (512) 477-9665.

These amendments are proposed under Texas Civil Statutes, Article 6252-11d, which provide the Merit System Council with authority to adopt rules necessary to administer the Act.

§161.1. *Purpose, Merit Principles, Scope, Definitions.*

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

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

(1)-(21) (No change.)

(22) Expiration of appointment—Separation of other than a probationary or **regular** [permanent] employee who has completed service, whether by expiration of eligibility for continued employment, or by completion of the work for which employed.

(23)-(24) (No change.)

(25) In-service experience—Experience acquired by a **regular** [permanent] employee while in probationary and **regular** [permanent] status.

(26)-(28) (No change.)

(29) Noncompetitive examination—An examination on which a **regular** [permanent] employee needs to earn only the minimum passing score.

(30)-(31) (No change.)

(32) **Regular** [permanent] employee—An employee who has been retained following the completion of a probationary period.

(33)-(43) (No change.)

(44) Reinstatement—Reemployment of a **regular** [permanent] employee as provided in §161.11 of this title (relating to Tenure, Separation, and Reinstatement), or placing a probationary or **regular** [permanent] employee's name back on a register as provided therein.

§161.8. *Original Appointments.*

(a) Appointments.

(1) (No change.)

(2) Individuals who are physically unable, due solely as a result of a handicapping condition, to compete independently in the examination process, may be appointed on a noncompetitive basis to appropriate positions, provided minimum qualifications are met, in accordance with procedures established by the director. Employees appointed on a noncompetitive basis shall gain **regular** [permanent] status on the first working day following satisfactory completion of the probationary period.

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

(f) Temporary intermittent appointments. To meet supplementary personnel needs resulting from seasonal or other temporary increases in work load, special classes of positions, designated by title as temporary in character, may be established. Positions in such classes shall be filled by temporary intermittent appointment from a list of eligibles who meet prescribed minimum qualifications and who have been certified by the director as having successfully completed an appropriate examination. Such eligibles may be called for duty within 12 months after the date of examination or within 12 months from the last day on duty with the agency. Since such appointments are limited to temporary and intermittent positions (rather than career positions), they shall be made only for a limited duration as prescribed in approved class specification. Employees serving in these special classes may qualify for **regular** [permanent] status only after certification from registers established through open-competitive examinations, as provided in §161.7 of this title (relating

to Certification of Eligibles), followed by completion of the required probationary period.

(g) (No change.)

(h) Employees appointed prior to date of merit system coverage. Employees in governmental units which become added divisions or affiliates of an agency, and employees of any board, commission, department, division, or office to which merit system coverage is extended, acquire **regular** [permanent] merit system status as follows:

(1) Employees of the agency with more than six months of service on the date of merit system coverage who are certified by the appointing authority as having served satisfactorily shall be granted **regular** [permanent] status in their positions held on that date and shall be eligible to substitute in-service experience for required qualifications on a year-for-year basis within the series in which classified.

(2) Employees of the agency with less than six months of service on the date of merit system coverage who are certified by the appointing authority as having served satisfactorily, shall be eligible to retain their positions in a probationary status. Such employees shall be granted **regular** [permanent] status on the first working day following satisfactory completion of the required probationary period, which shall include service with the agency immediately prior to merit system coverage, and shall be eligible to substitute in-service experience for required qualifications on a year-for-year basis within the series in which classified.

(3) Individuals employed by the agency on or after the date of merit system coverage must be appointed in accordance with this regulation, and may acquire **regular** [permanent] status only after certification and selection from an open-competitive register and after serving the required probationary period.

(i) Project indefinite appointments.

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

(4) Employees holding project indefinite appointments may qualify for **regular** [permanent] status only after certification from registers established through open-competitive examinations as provided in §161.7 of this title (relating to Certification of Eligibles) followed by completion of the required probationary period.

(5)-(6) (No change.)

§161.9. *Probationary Period.*

(a) Nature, purpose, and duration.

(1) All employees receiving probationary appointments in accordance with §161.8(b) of this title (relating to Original Appointments), shall serve a probationary period of six months, except that the director, upon request from the agency, may determine that for job-related reasons the probationary period for a classification shall be of a longer duration, not to exceed 12 months. The probationary period shall be an essential part of the examination process and shall be utilized for the most effective adjustment of a new employee and for the elimination of any probationary employee whose performance does not meet the required standard of work. When a probationary employee's adjustment or performance requires further evaluation, upon written justification from the agency, the director may approve

an extension, not to exceed six additional months, of the employee's probationary period. **Regular** [Permanent] status of a probationary employee shall begin the first working day following satisfactory completion of the probationary period.

(2) (No change.)

(b)-(d) (No change.)

**§161.10. Promotion, Lateral Class Change, and Demotion without Prejudice.**

(a) Promotion.

(1) All promotions to positions in the agency, exclusive of positions exempted from Merit System coverage, shall be made on the basis of merit and in accordance with this regulation. A **regular** [permanent] employee who is a candidate for promotion must be certified by the director to possess the minimum qualifications for the new classification.

(2) In order to develop career employees and to promote employee development and initiative, the director shall, whenever applicable, establish series to indicate logical career progressions that qualified employees with **regular** [permanent] status may follow in seeking advancement from classes in lower pay groups to classes in higher pay groups. **Regular** [Permanent] employees of the agency may be considered for a position in the next higher classification in their series by substituting in-service experience in the series for education on a year-for-year basis if feasible as determined by the director, or on a basis determined to be equitable by the director, except in classes where generally recognized professional qualifications exist, or minimum standards are established either by statute, regulatory authority, or accreditation agencies. The determination of the director as to what constitutes the next higher classification in a series shall be final.

(b) Method of promotion.

(1) A **regular** [permanent] employee may be promoted to a position in a higher class on the basis of certification by the director that minimum qualifications are met. A noncompetitive examination may be administered at the request of the agency.

(2) The appointing authority may elect to fill a vacancy by promotional competitive examination. Such examination shall be limited to **regular** [permanent] employees of the agency who meet the minimum qualifications for the classification. Those employees who receive a passing grade shall be placed on a promotional register for the class in order of their examination ratings.

(c) Lateral class change.

(1) A lateral class change of a **regular** [permanent] employee from a position in one class to a position in another class may be made upon certification by the director that the employee meets the minimum qualifications for the new classification and has passed any required examination.

(2) A **regular** [permanent] employee may receive a lateral class change to a position in another classification in the same series by substituting in-service experience as described in subsection (a) of this section.

(d) Demotion without prejudice.

(1) The appointing authority may demote a **regular** [permanent] employee without prejudice for such reasons as lack of funds, curtailment of work, to permit

reinstatement of former employees who have returned from military service, or at the written request of the employee. Such action may be taken upon certification by the director that the employee meets the minimum qualifications for the new classification.

(2) A **regular** [permanent] employee may be demoted to a position in another classification in the same series by substituting in-service experience as described in subsection (a) of this section.

**§161.11. Tenure, Separation, and Reinstatement.**

(a) Tenure of employment. The tenure of every **regular** [permanent] employee shall be during the satisfactory performance of his or her duties. This provision, however, shall not be interpreted to prevent the separation of an employee as provided in paragraph (4) of subsection (d) as follows or in §161.12 of this title (relating to Adverse Actions).

(b) Dismissal. A **regular** [permanent] employee shall not be dismissed except as provided in §161.12 of this title (relating to Adverse Actions).

(c) (No change.)

(d) Reduction in force.

(1) (No change.)

(2) Insofar as possible, **regular** [permanent] and probationary employees reinstated at the expiration of a leave of absence for military service shall be exempted from separation, except as provided in §161.12 of this title (relating to Adverse Actions), for a period of at least one year from the date of reinstatement. The same protection and rights shall be granted to provisional employees entitled to leave of absence for military service as provided by state law except that such employees shall be subject to the other sections of this regulation governing examinations and appointments.

(3) Except as provided in paragraph (2) of this subsection, no **regular** [permanent] employee shall be separated while there are emergency, temporary competitive, provisional, or probationary employees serving in the same classification in the same organizational unit as defined by the agency.

(4) (No change.)

(5) Upon request to the director, a probationary or **regular** [permanent] employee who is officially notified that he or she is to be separated from the payroll due to a reduction in force may be reinstated to the register 30 days prior to the separation date. Such reinstatement shall be to the register from which the employee's most recent appointment was made.

(e) Reinstatement to previous class of position.

(1) A **regular** [permanent] employee, who has resigned in good standing or has been separated without prejudice, may be eligible for reinstatement to his or her previous classification within a period of time equivalent to the total period of his or her service under merit system jurisdiction.

(2) (No change.)

(f) Reinstatement to register. Upon request to the director, the name of a **regular** [permanent] or probationary employee who has resigned while in good standing or who has been separated without prejudice may be reinstated, for a period of one year, to the register from which his or her most recent appointment was made. The former employee will be placed on the register according

to his or her prior examination grade. In no event shall a former employee be reinstated to such register if more than one year has elapsed since separation.

(g) Restoration to previous classification. A **regular** [permanent] employee shall be eligible for restoration to a previous classification in which he or she has served while in **regular** [permanent] status.

#### §62.12. Adverse Actions.

(a) Reasons for adverse actions. A **regular** [permanent] employee may be dismissed, demoted, reduced in salary, or suspended for:

(1)-(10) (No change.)

(b)-(h) (No change.)

#### §161.13. Appeals.

(a) Actions which may be appealed to the Merit System Council.

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

(5) Appeal from dismissal, suspension, demotion, or salary reduction. A **regular** [permanent] employee who is dismissed, suspended, demoted, or reduced in salary shall have the right to appeal such action to the council, except when the appointing authority has certified to the director that the agency has implemented an impartial grievance procedure which covers the adverse action. If such certification is made, the appointing authority may elect to give **regular** [permanent] employees the right to seek relief either through the internal grievance procedure or through the Merit System Council appeals procedure as provided in this section. Under the election, both procedures may not be utilized. The appointing authority must inform its adversely affected employees in writing of this right.

(b) Requirements and procedures governing appeals.

(1) Contents and time limitations on filing of appeals. All appeals shall be in writing and shall be received by the director within 30 [20] days after either: the action complained of; the date of appellant's first official notice of the action complained of; or notice of denial of any administrative remedies sought by appellant. The appeal shall state the following:

(A)-(E) (No change.)

(2) Scheduling and processing appeals. Upon receipt of an appeal, the director shall arrange for a council hearing to be held within 45 calendar days of receipt of the appeal, unless an extension of time is agreed to by the parties. **The council may grant a motion for continuance filed by either party or may continue a hearing upon its own motion.** The director shall notify the appellant and appointing authority, if applicable, of time and place of the hearing as soon as practicable, but in any event not less than 15 calendar days in advance thereof. The council shall issue its written decision on the appeal within 30 calendar days after the hearing. The director shall promptly transmit copies of the decision to the appellant and to the appointing authority, if the appellant is an employee.

(3) (No change.)

(c) (No change.)

#### §161.15. Performance Reviews and Training.

(a) Performance reviews.

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

(3) If the overall performance of a **regular** [permanent] employee is below the standard accepted by the agency, the appointing authority may impose a period of administrative notice, during which the performance of the employee shall be closely monitored and documented. The agency shall make reasonable efforts to correct inadequate performance.

(b) (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 December 7, 1983.

TRD-8310170

F. Kemp Dixon  
Executive Director  
Merit System Council

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 477-9665.

## TITLE 10. COMMUNITY DEVELOPMENT

### Part I. Texas Department of Community Affairs

#### Chapter 1. Administration

#### Subchapter B. Block Grants

#### 10 TAC §1.11, §1.12

The Texas Department of Community Affairs (TDCA) proposes new §1.11 and §1.12, concerning the administration of contracts funded with block grant monies. The new rules will govern the nonrenewal and reduction in the amount of funding of such contracts awarded by the TDCA.

A. M. Mahrous, Fiscal 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 effect on state government will be \$41,553 for 1984 and \$43,949 for 1985-1988. There will be no effect on local government.

Douglas C. Brown, general counsel, 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 is compliance with Texas Civil Statutes, Article 6252-13e, by providing specific information concerning the nonrenewal of contracts funded with block grants and the reduction in the amount of funding of such contracts. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Douglas C. Brown, General Counsel, Texas Department of Community Affairs, P.O. Box 13166, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 6252-13e, §9(c), which provide the Texas Department of Community Affairs with the authority to promulgate specific rules defining good cause for the nonrenewal of contracts funded with block grants and for the reduction in the amount of funding of such contracts.

*§1.11. General Provisions.*

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

(1) Block grant—A program resulting from the consolidation or transfer of separate federal categorical or other federal grant programs so that the state determines the method or amounts to be allocated from the combined amounts to various agencies or programs, including programs so defined by the Federal Omnibus Budget Reconciliation Act of 1981.

(2) Contract—A written agreement executed by the department and contractor for the provision of a block grant program which is funded with block grant monies.

(3) Contractor—An entity with which the department has executed a contract.

(4) Department—Texas Department of Community Affairs.

(5) Entity—A local governmental unit, council of government, community action agency, private new community developer, or nonprofit community association within any community originally established as a new community development program pursuant to the Urban Growth and New Community Development Act of 1970, 42 United States Code §§4511-4532, or another public or private organization that receives block grant funds or that may be eligible to receive block grant funds to provide services or benefits to the public.

(6) Same geographic area—Substantially the same geographic area as is being served under the existing contract.

(7) Similar services—Substantially the same services as are being provided under the existing contract.

(b) Applicability. This subchapter only applies to a reduction in the amount of funding of any contract that equals or exceeds 25% of the department's maximum monetary obligation under the contract and to the nonrenewal of any contract.

*§1.12. Nonrenewal of Contracts and Reductions in Funding.*

(a) Terms. The department may reduce the amount of funding of any contract or not renew any contract whenever the department determines that:

(1) the contractor has violated any term of its contract;

(2) sufficient block grant funds are not available to either continue the contract at its current level of funding or to renew the contract;

(3) based upon a competitive evaluation of proposals authorized under federal or state law or rules, the block grant funds will be awarded to the entity which has proposed superior services;

(4) priorities or need for services change; or

(5) the contractor's performance under its contract has not been satisfactory.

(b) Exceptions. Section 1.12 does not apply to the reduction in the amount of funding of a contract when:

(1) the department does not plan to provide the withheld funds to another entity in the same geographic area for the provision of similar services; and

(2) the contract being reduced was awarded for a specified period under a competitive evaluation of proposals.

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 December 5, 1983.

TRD-8310143

Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 443-4100, ext. 210.

## TITLE 16. ECONOMIC REGULATION

### Part II. Public Utility Commission of Texas

#### Chapter 23. Substantive Rules Certification Standards for Solar Collectors

##### 16 TAC §23.81

The Public Utility Commission of Texas proposes new §23.81, concerning certification of solar collectors. As mandated by Senate Bill 1140, 68th Legislature, 1983, the Public Utility Commission of Texas proposes a new section setting the certification standards for solar collectors which will be eligible for tax exemptions in accordance with the Texas Tax Code, §151.325.

Rhonda Colbert Ryan, secretary of the commission, 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.

Ms. Ryan 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 is the exemption of solar energy devices from sales and use tax and an increased public awareness of the possibilities of alternative energy sources. The anticipated economic cost to individuals who are required to comply with the rule as proposed is \$3,500 to \$5,000 for initial collector testing plus \$.40 to \$.60 per collector on the entire production.

Comments on the proposal may be submitted to Rhonda Colbert Ryan, Secretary of the Commission, 7800 Shoal Creek Boulevard, Suite 450N, Austin, Texas 78757.

The new section is proposed under Texas Civil Statutes, Article 1446c, §16, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and in administering the provisions of this Act.

**§23.81. Certification of Solar Collectors.**

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

(1) Site-built solar energy device—That definition given in 34 TAC §3.345(a)(1).

(2) Solar energy device—That definition given in 34 TAC §3.345(a)(2).

(b) To be eligible for sales tax exemptions as allowed by amendments to the Texas Tax Code, §151.325(a), made in accordance with Senate Bill 1140 as adopted by the 68th Legislature, 1983, solar energy devices must be certified by either the Solar Rating and Certification Corporation (SRCC) or the Air Conditioning and Refrigeration Institute (ARI).

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 December 7, 1983.

TRD-8310171 Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 458-0100.

## Part IV. Texas Department of Labor and Standards Chapter 69. Manufactured Housing Division Standards and Requirements

16 TAC §§69.51-69.81

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

The Texas Department of Labor and Standards proposes new §§69.51-69.81 under the undesignated heading, Standards and Requirements. Simultaneously, the new sections are being adopted on an emergency basis. The following existing undesignated head-

ings and the respective sections thereunder are simultaneously being proposed for repeal and repealed on an emergency basis: Statement of Policy and Interpretation, §§69.1-69.4; Standards and Requirements, §§69.11-69.15; Practice and Procedures, §§69.21-69.37; Interpretations of the Texas Mobile Homes Standards, §§69.51-69.65; Mobile Home Installations, §§69.91-69.103, 69.105, and 69.106; Modular Home Installations, §§69.141-69.161; and General Requirements, §§69.121-69.129. New §§69.51-69.81 and revisions to the rules and regulations promulgated pursuant to the Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, are necessitated by the amendments to the Act enacted by the 68th Legislature, 1983, in House Bill 897. Section 69.64, concerning Texas Mobile Home Code effective dates, is being moved to the undersigned heading, Codes and Standards, under §69.1. Section 69.1 is also being proposed for permanent adoption and being adopted on an emergency basis simultaneously with new §§69.51-69.81. The Texas Manufactured Housing Association has made comments and suggestions to the revisions of the proposed new rules and regulations.

The revision of Chapter 69 provides better organization and does away with old and outdated rules which are no longer applicable to the manufactured housing industry in Texas. The emergency §69.38, concerning the registration of salespersons, which was adopted on an emergency basis in the September 2, 1983, issue of the *Texas Register* (8 TexReg 3377) will now be found in §69.125(9). The reorganization of Chapter 69 will provide a clearer understanding of Texas Civil Statutes, Article 5221f, and the applicable rules and regulations and will improve the style and structure of the chapter, clarify the provisions, and effect general editorial changes.

Booker T. Morris III, general counsel, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Morris 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 is better protection for the consumer of manufactured housing in Texas and an industry in Texas that is able to operate in a positive, competitive, economic climate. The anticipated economic cost to individuals who are required to comply with the rules as proposed will be substantially the same, if not less than what is being currently incurred by individuals under the existing rules.

Comments on the proposal may be submitted to John Steele, Director, Manufactured Housing Division, Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711, or E. O. Thompson Building, 920 Colorado Street, Austin, Texas 78701. A public hearing to receive comments will be conducted on January 24, 1984, at 9:30 a.m. in the John H. Reagan Building, 101 West 15th Street, Austin.

The new sections are proposed under Texas Civil Statutes, Article 5221f, §9, which provide the commissioner of the Texas Department of Labor and Standards with the authority to adopt rules and regulations and take all action necessary to assure compliance with the intent and purpose of the Act.

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

Issued in Austin, Texas, on December 2, 1983.

TRD-8310096 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and  
Standards

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-0155.

## Mobile Home Installations

16 TAC §§69.91-69.103, 69.105, 69.106

*(Editor's note: The Texas Department of Labor and Standards proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Labor and Standards, E. O. Thompson Building, 920 Colorado Street, Austin, or in the Texas Register office, 503E Sam Houston Building, Austin.)*

The Texas Department of Labor and Standards proposes the repeal of §§69.91-69.103, 69.105, and 69.106, concerning manufactured housing rules and regulations which were promulgated pursuant to the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f. The 68th Legislature, 1983, adopted certain amendments to the Manufactured Housing Standards Act which necessitate an updating of the current rules and regulations. The Manufactured Housing Division of the Texas Department of Labor and Standards has taken this opportunity to reorganize Chapter 69, remove outdated rules, and effect general editorial changes to foster clarity of Chapter 69.

Booker T. Morris III, Texas Department of Labor and Standards general counsel, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Morris also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is a better regulatory climate for the manufactured housing industry in Texas and easier means of complying with the rules and regulations with better protection for the manufactured housing consumer. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John Steele, Director, Manufactured Housing Division,

Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711, or E. O. Thompson Building, 920 Colorado Street, Austin, Texas 78701. A public hearing to receive comments will be conducted at 9:30 a.m. on January 24, 1984, in Room 100B, John H. Reagan Building, 101 West 15th Street, Austin, Texas 78701.

The repeal is proposed under the Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, §9, which provides the commissioner of the Texas Department of Labor and Standards with the authority to adopt and repeal rules and regulations and take all action necessary to assure compliance with the intent and purpose of this Act.

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

Issued in Austin, Texas, on December 2, 1983.

TRD-8310097 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and  
Standards

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-0155.

## Modular Home Installations

16 TAC §§69.141-69.161

*(Editor's note: The Texas Department of Labor and Standards proposes for permanent adoption the repeal it adopts on an emergency basis in this issue. The text of the rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Department of Labor and Standards, E. O. Thompson Building, 920 Colorado Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Department of Labor and Standards proposes the repeal of §§69.141-69.161, concerning manufactured housing rules and regulations which were promulgated pursuant to the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f. The 68th Legislature, 1983 adopted certain amendments to the Manufactured Housing Standards Act which necessitate an updating of the current rules and regulations. The Manufactured Housing Division of the Texas Department of Labor and Standards has taken this opportunity to reorganize Chapter 69, remove outdated rules, and effect general editorial changes to foster clarity of Chapter 69.

Booker T. Morris III, Texas Department of Labor and Standards general counsel, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result the repeal.

Mr. Morris also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is a better



regulatory climate for the manufactured housing industry in Texas and easier means of complying with the rules and regulations with better protection for the manufactured housing consumer. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to John Steele, Director, Manufactured Housing Division, Texas Department of Labor and Standards, P.O. Box 12157, Austin, Texas 78711, or E. O. Thompson Building, 920 Colorado Street, Austin, Texas 78701. A public hearing to receive comments will be conducted at 9:30 a.m. on January 24, 1984, in Room 101B, John H. Reagan Building, 101 15th Street, Austin, Texas 78701.

The repeal is proposed under the Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, §9, which provides the commissioner of the Texas Department of Labor and Standards with the authority to adopt and repeal rules and regulations and take all action necessary to assure compliance with the intent and purpose of this Act.

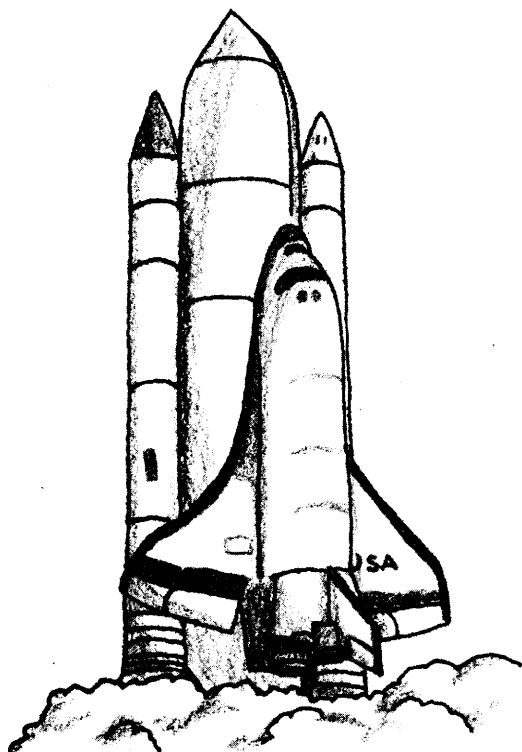
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 2, 1983.

TRD-8310098 Allen Parker, Sr.  
Commissioner  
Texas Department of Labor and  
Standards

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-0155.



## TITLE 22. EXAMINING BOARDS

### Part IV. Texas Cosmetology Commission

#### Chapter 89. General Provisions

22 TAC §§89.8, 89.10, 89.12, 89.30, 89.33,  
89.43

The Texas Cosmetology Commission proposes amendments to §§89.8, 89.10, 89.12, 89.30, 89.33, and 89.43, concerning general provisions, to define each rule better and to save confusion within the industry.

Herbert E. Cohen, executive 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. Cohen 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 is a clarification of the language of Texas Civil Statutes and the avoidance of confusion. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Herbert E. Cohen, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 8451a, §4, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

#### §89.8. *Student Registrations.*

[(a)] Each student enrolling in a school of cosmetology must submit a registration blank and \$10 student permit fee on enrollment. The registration must be filed within 10 days of enrollment in order to receive credit for hours accrued, and the health certificate must be dated on or prior to the date of enrollment. [The back of the registration will also be the enrollment contract, when a school enrolls a student, they will be required to fill out completely the appropriate blanks of the contract. Both school and the student will sign the contract, if there is a dispute between the participants the following formula will be used for the purpose of transfer:

Total tuition ÷ hours in course = cost per hour

Cost per hour × hours accrued = tuition due

[(b) A maximum of \$10 will be allowed as a transfer fee.]

§89.10. *Monthly Hour Report.* On a form prescribed and furnished by the Commission, the school will post in a conspicuous place no later than the seventh day of the month following, a record of hours acquired by each student during the preceding month, the report signed by each student in attendance will be kept available for inspection by the student or a representative of the Texas Cosmetology Commission. One copy of the monthly hour report will be given to the commission inspector each

month, and must be signed by school manager, instructor, or school owner and must be notarized. Students are not allowed to prepare hour reports, student instructors are exempt.

**§89.12. Rules and Regulations.** All rules and regulations of the commission shall be published and displayed in the schools and licensed cosmetology establishments. A statement shall appear on the rules that violations shall be reported to the commission. Schools may post rules and regulations on behavior, attendance, dress, and progress, and the school may suspend or terminate a student for noncompliance. **Schools must place commission rules and regulations in a place where they will be readily available for students to review.**

**§89.30. Examination Applications.** Applications for examination must be filed 10 days prior to the date set by law for the examination and verify the applicant has completed [or will complete] the total hours required in the particular course of instruction at that time [by the first day of examination]. **Except, however, the commission will allow in the months of April, May, and June, hours needed for completion to be extended to the 10th day of the month in which the applicant wishes to appear for the examination. The transcript form on the permit must be properly executed and the total hour requirement validated for the student to be admitted on the exam floor. Students holding reservations and/or dates scheduled for exam who do not appear without a seven-day notice to the commission of cancellation, will not be rescheduled for at least 60 days.**

**§89.33. Instructor Exam.** The instructor exam shall consist of three parts, written, practical, and oral. An applicant who fails to make a passing grade on any part must **retake the examination** [apply for a re-examination] within one year of date of examination in order to receive credit for having successfully completed that portion.

**§89.43. Posted in Salon or School.** The current salon or school license, commission rules and regulations, sanitary rules and regulations, and the last inspection report of the inspector shall be posted in all licensed salons or schools in a conspicuous place. In compliance with Texas Civil Statutes, Article 8451a, §28, there must be prominently displayed in each salon and school regulated under this Act, a sign in letters no smaller than one inch in height, the contents of which shall contain the names, mailing address, and telephone number of the regulatory board having jurisdiction over those individuals licensed under this Act. **The expense of such sign is the responsibility of each licensed establishment.**

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 November 30, 1983.

TRD-8310172      Herbert E. Cohen  
Executive Director  
Texas Cosmetology Commission

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-3304.

22 TAC §89.14, §89.52

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Cosmetology Commission, 1111 Rio Grande Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Cosmetology Commission proposes the repeal of §89.14 and §89.52, concerning general provisions. It has been determined by the Office of the Attorney General that §89.14 should be deleted, and §89.52 is deleted to avoid confusion in the industry.

Herbert E. Cohen, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Cohen also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is the avoidance of confusion. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Herbert E. Cohen, Executive Director, Texas Cosmetology Commission, 1111 Rio Grande Street, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 8451a, which provide the Texas Cosmetology Commission with the authority to promulgate rules.

**§89.14. Transfer Registration.**

**§89.52. Definition of an Hour.**

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

Issued in Austin, Texas, on December 7, 1983.

TRD-8310173      Herbert E. Cohen  
Executive Director  
Texas Cosmetology Commission

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-3304.

## Part V. Texas State Board of Dental Examiners Chapter 101. Pertaining to Dentistry Qualifications of Applicants 22 TAC 101.1

The Texas State Board of Dental Examiners proposes amendments to §101.1, concerning statutory qualifications. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, 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. Nail 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 is insurance that applicants graduate from accredited dental schools. Also, this amendment will make the rule consistent with the Dental Practice Act. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and/or to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§101.1. Statutory Qualifications.** An applicant for a license to practice dentistry in this state shall be not less than 21 years of age [, a citizen of the United States of America,] and shall present **proof of graduation** [a diploma from] a reputable dental college and evidence of good moral character. A dental college shall be held reputable whose entrance requirements and course of instruction are as high as those adopted by the better class dental colleges of the United States, and whose course of instruction shall be the equivalent of no less than four terms of eight months each. **Said dental college must be accredited by the accrediting agency of the American Dental Association.** The board will examine all applicants for license to practice dentistry in Texas. Each person applying for an examination shall pay to the board a fee as required by law and shall be granted a license to practice dentistry in this state upon his satisfactorily passing an examination before the board on subjects and operations pertaining to dentistry as the board may in its discretion require. The examination shall be given either orally or in writing, or by giving a practical demonstration of the applicant's skill, or by any combination of such methods or subjects.

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 December 8, 1983.

TRD-8310146 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Examination-Application

22 TAC §101.14, §101.15

The Texas State Board of Dental Examiners proposes amendments to §101.14 and §101.15, concerning assignment of applicants and examination check-in. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive 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. Nail 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 is to make the rules consistent with the dental statutes and to comply with a recent court decision.

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

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§101.14. Assignment of Applicants.** After the board has received and processed all dental applications, each applicant will be mailed a schedule of the examination. [Out of state] Applicants will be assigned by the board [without preference] to either Dallas, Houston, or **San Antonio** [other location in Texas] as the board may designate for the scheduled examination according to the number of applications received and the facilities available. The plan and procedures approved by the board will be adhered to without exception.

### **§101.15. Examination Check-In.**

(a) Generally, on the day before the examination begins, applicants are assembled at a previously designated place for the presentation of their credentials and exhibiting to the members of the board or staff **proof of graduation** [their diplomas] from the schools or colleges conferring their dental degrees. [Graduates of accredited dental schools within the State of Texas may exhibit photostatic or card size reproductions of such diplomas.] Examination number buttons are issued to the applicants

and matters of procedure and special instructions are made known at this assembly.

(b) (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 December 8, 1983.

TRD-8310147 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Chapter 103. Dental Hygiene Qualifications of Applicants

### 22 TAC §103.1

The Texas State Board of Dental Examiners proposes amendments to §103.1, concerning statutory requirements. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, 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. Nail 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 is to make the rule consistent with the dental statutes and to make sure the graduates are from accredited dental hygiene schools. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§103.1. Statutory Requirements.** A dental hygienist shall be not less than 18 years of age, [a citizen of the United States of America,] a graduate of an accredited high school and of a recognized and accredited school or college of dental hygiene approved by the Texas State Board of Dental Examiners in which the course of in-

struction will be the equivalent of not less than two terms of eight months each and who shall have thereafter passed an examination given by and before the Texas State Board of Dental Examiners on subjects pertaining to dental hygiene, and who shall have complied with all the provisions of this act, and the rules and regulations promulgated by the Texas State Board of Dental Examiners. **Said dental hygiene school or college must be accredited by the accrediting agency of the American Dental Association.**

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 December 8, 1983.

TRD-8310148 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Examination-Application

### 22 TAC §103.14

The Texas State Board of Dental Examiners proposes amendments to §103.14, concerning application deadline. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, 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. Nail 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 is clarification of the board's procedures on examination qualifications. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§103.14. Application Deadline.** Applications must be postmarked at least 30, and received not less than 20, days

prior to the date set for the examination. Application forms may be obtained by writing the Texas State Board of Dental Examiners, **P.O. Box 13165, Capitol Station, Austin, Texas 78711.** [718 Southwest Tower, 7th and Brazos Streets, Austin, Texas 78701.] The examination fee as required by law is to be attached to the application along with other documents detailed on the application form furnished by the board. A worksheet and schedule will be mailed to each qualified applicant approximately 20 days before the examination date, and the schedule set out will be adhered to without exception. Three unsuccessful attempts to pass the examination bars such applicant from further examination; **provided, however, if an applicant presents evidence satisfactory to the TSBDE of remedial educational experiences, then the board, in its sole discretion, may authorize an additional examination.**

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 December 8, 1983.

TRD-8310149 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Worksheet and Schedule Examination Check-Steps

### 22 TAC §103.22

The Texas State Board of Dental Examiners proposes an amendment to §103.22, concerning procedures and subjects of examinations. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, 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. Nail 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 is the clarification of the present rule. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not

inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§103.22. Procedures and Subjects.** The procedures and subjects upon which each applicant will be examined and must pass are as follows: One Oral Prophylaxis, X-ray; one full mouth X-ray on the prophylaxis patient (18 films, 14 regular and 4 bite-wings); and such other operations or procedures as the board may deem advisable to test such applicant's ability. After approval by an examiner, the applicant will take, develop, mount, and **critique** [read] the X-rays. X-ray film, of acceptable quality, will be furnished by the board. Each applicant must be prepared to use X-ray machines available at the school. Each applicant will furnish and bring her own X-ray racks.

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 December 8, 1983.

TRD-8310150 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Specific Examination Information for Dental Hygienists

### 22 TAC §103.41

The Texas State Board of Dental Examiners proposes an amendment to §103.41, concerning dental hygiene applicant information. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, 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. Nail 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 is clarification of the board's procedures on examination qualifications. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas

State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§103.41. Dental Hygiene Applicant Information.**

(a)-(h) (No change.)

(i) Chart all dental pathology (including periodontal charting) missing teeth, [and] all abnormal items, **and existing dental restorations**. Use the method of charting you were taught. Use your own key. Write your own key on chart furnished by board.

(j)-(m) (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 December 8, 1983.

TRD-8310151 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Chapter 109. Conduct

The Texas State Board of Dental Examiners proposes the repeal of §§109.31-109.33, 109.52, and 109.106, concerning special announcement requirements, notification by mail, advising dental patients, inside requirements, and practice prohibitions, respectively. The board also proposes amendments to §§109.1, 109.2, 109.8, 109.9, and 109.81, concerning definitions, content, professional corporations, additional dental offices, and prohibitions, respectively. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the rules and repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal or enforcing or administering the rules.

Mr. Nail also has determined that for each year of the first five years the rules and repeal as proposed are in effect, the public benefit anticipated as a result of the repeal and enforcing the rules as proposed is consistency of the rules with court decisions and the Dental Practice Act. There is no anticipated economic cost to individuals as a result of the amendments or the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

## Professional Signs

22 TAC §§109.1, 109.2, 109.8, 109.9

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.1. Definitions.** A sign, as used in these sections, is any display containing the name of a dental practitioner or other professional designation permitted by these sections. A sign is a directional and identification aid [and shall not contain any statement, reference, or advertisement of price, fee, or "routine dental service"].

**§109.2. Content**

(a) A dentist legally engaged in the practice of dentistry may use [not more than three] signs which shall be on the premises and in the immediate area of the dental office to designate his professional office where he is actually engaged in the practice of his profession. [Such sign or signs shall contain only, and are subject to the following:]

(1) **The sign shall contain** the name of the practitioner licensed by the Texas State Board of Dental Examiners[;] or if a trade name is used, the names of the licensed dentist(s) practicing thereunder;

(2) **The sign shall contain** the earned dental degree(s) or certificate(s) conferred on such practitioner, or the word or words "dentist," "dentistry," or "general dentistry"; however,

(3) if he limits his practice, **in accordance with §109.107 of this title (relating to Specialty Advertising or Listings/Limitation of Practice)**, he may add after the earned dental degree(s) or the word "dentist" or "dentistry" one of the following specialties:

- (A) Endodontics;
- (B) Oral surgery or oral and maxillofacial surgery;
- (C) Oral pathology;
- (D) Orthodontics;
- (E) Pedodontics or children's dentistry, or both;
- (F) Periodontics;
- (G) Prosthodontics.

(b) A dentist shall practice only under his own name **or a trade name as set forth in Texas Civil Statutes, Article 4548(e)**. The names of all of dentists practicing as associates, partners, or as employees in the same office shall be affixed to and on or immediately adjacent to the entrance door to such dental office. (See Chapter 111 of this title (relating to Professional Corporations).) The terms "earned dental degree(s) or certificate(s)" as used herein and in these sections means that such was earned by the licensee and was conferred on him by an accredited teaching institution recognized and approved by the accrediting authority of the American Dental Association and by the Texas State Board of Dental Examiners. Provided, however, a Texas dental licensee who has two or more earned dental degrees or certificates in

different specialties may apply to the board and be granted permission to announce and practice in such specialties upon satisfactory proof thereof being furnished to the board.

**§109.8. Professional Corporations.** Where a dentist or dentists incorporate under the Texas Professional Corporation Act, there must be added after any permitted listing the additional word "incorporated" or the abbreviation "Inc."[,], or "P.C." and he or they may add the words "A Professional Corporation," "A Texas Professional Corporation," or a "Member of a Texas Professional Corporation" as further explanation [, but not as a part of the corporate name]. This applies to any sign, display, listing announcement, directory, shopping center sign or directory or building directory, professional card, or any other designation of a dental practice.

**§109.9. Additional [Second] Dental Offices [Office].** A dentist who has, and practices in, **additional** [a second] dental **offices** [office] is entitled to use the same signs and notices permitted under board rules to identify such **additional** [second] dental **offices** [office] and the use of the word [word(s)] "additional" [or "second"] to originally designate and identify the new location as permitted under the board rule [governing special announcements]; also, such practitioner may thereafter include both the first and **additional** [second] office address(es) and telephone number(s) in his regularly permitted listings[, but he may not increase the number or size of any sign, listing, or publication].

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 December 8, 1983.

TRD-8310152 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Special Announcements

### 22 TAC §§109.31-109.33

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas State Board of Dental Examiners, 411 West 13th Street, Suite 503, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.31. Special Announcement Requirements.**

**§109.32. Notification by Mail.**

**§109.33. Advising Dental Patients**

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 December 8, 1983.

TRD-8310153 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Building Directories

### 22 TAC §109.52

*(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 State Board of Dental Examiners, 411 West 13th Street, Suite 503, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.52. Inside 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.

Issued in Austin, Texas, on December 8, 1983.

TRD-8310154 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Listings of Auxiliary Personnel

### 22 TAC §109.81

The amendment is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure

compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.81. Prohibitions.** If the names of auxiliary personnel, such as dental hygienists, dental assistants, etc., are [may not be] displayed in any manner, the auxiliary personnel must be clearly identified by title [except within the dentist's office].

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 December 8, 1983.

TRD-8310155 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Prohibitions

### 22 TAC §§109.106

*(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 State Board of Dental Examiners, 411 West 13th Street, Suite 503, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.106. Practice Prohibitions.**

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 December 8, 1983.

TRD-8310156 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Suspended or Revoked Licenses

### 22 TAC §§109.112

*(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 State Board of Dental*

*Examiners, 411 West 13th Street, Suite 503, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §109.112, concerning professional designations. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal as proposed is insignificant. The board does not have the authority to take action against someone's degree, only their license. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.112. Professional Designations.**

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 December 8, 1983.

TRD-8310157 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Mobile or Moveable Offices

### 22 TAC §109.151

The Texas State Board of Dental Examiners propose an amendment to §109.151, concerning mobile or moveable dental offices and itinerant dentists. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the rule will be in ef-



fect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Nail 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 is the simplification and clarification of the existing rule. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.151. Mobile or Moveable Dental Offices and Itinerant Dentists.** A moveable or mobile dental office contemplated in §109.152-109.155 of this title (relating to Mobile or Moveable Offices), applies to governmental, institutional, or charitable service programs operated on a "no fee" basis and such mobile dental office must have prior approval of the Texas State Board of Dental Examiners (TSBDE). [A moveable dental office is subject to the two dental office location limitation. This limitation does not apply to governmental, institutional, or charitable service programs operated on a "no-fee" basis when such programs and services have been previously approved by the Texas State Board of Dental Examiners. The following sections also apply to a dentist rendering dental service at a fixed location when such place of service is not his regular dental office location(s).]

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 December 8, 1983.

TRD-8310158 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Visiting Clinicians—Courses: Seminars

### 22 TAC §109.161

*(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 State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin,*

*or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §109.161, concerning unlicensed clinicians. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is consistency of the rules with the Dental Practice Act. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

### §109.161. Unlicensed Clinicians

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 December 8, 1983.

TRD-8310159 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Definitions

### 22 TAC §109.212

*(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 State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §109.212, concerning supervision. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with

the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the simplification and clarification of board rules. The definitions of the different types of supervision are contained in the dental laws. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.212. Supervision.**

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 December 8, 1983.

TRD-8310160 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Annual Registration

### 22 TAC §109.221

*(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 State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §109.221, concerning annual registration. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the clarification of board rules. This information is contained in the dental laws. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§109.221. Registration Information.**

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 December 8, 1983.

TRD-8310161 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Chapter 111. Professional Corporations

### 22 TAC §§111.1-111.5

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §§111.1-111.5, concerning name of corporation, corporate practice limitations, change in corporate memberships, board of examiners to receive copies of corporate instruments, and additional offices. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal is in effect the public benefit

anticipated as a result of the repeal is the repeal of unnecessary rules. The documents required by the present rules are being filed with the secretary of state, and it is duplicative to file the documents with the board. This action will also make the board's rules consistent with the Professional Corporation Act. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§111.1. *Name of Corporation.*

§111.2. *Corporate Practice Limitations.*

§111.3. *Change in Corporate Memberships.*

§111.4. *Board of Examiners to Receive Copies of Corporate Instruments.*

§111.5. *Additional Offices.*

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 December 8, 1983.

TRD-8310162 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## 22 TAC §111.6

The Texas State Board of Dental Examiners proposes new §111.6, concerning requirements of professional dental corporations. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, 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. Nail 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 is the protection of the public. 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 William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The new section is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

§111.6. *Requirements.* Only a licensed dentist may be an incorporator of a dental practice. The dental licensee-incorporator must comply with all provisions of the Texas Professional Incorporation Act.

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

Issued in Austin, Texas, on December 8, 1983.

TRD-8310163 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Chapter 113. Requirements for Dental Offices

### 22 TAC §113.1

*(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 State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §113.1, concerning number of dental offices. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is to make board rules consistent with the Dental Practice Act. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of

Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

**§113.1. Number of Dental Offices.**

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 December 8, 1983.

TRD-8310164 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## **Chapter 115. Extension of Duties of Auxiliary Personnel Dental Hygiene**

### **22 TAC §115.2, §115.3**

The Texas State Board of Dental Examiners proposes amendments to §115.2, and §115.3, concerning permitted duties and institutional employment. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive 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. Nail 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 is the simplification and clarification of existing rules. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

### **§115.2. Permitted Duties.**

(a) A dental hygienist may perform the following services and procedures in the dental office of her dentist-employer under his general supervision, direction, and responsibility, to wit:

(1)-(16) (No change.);

(7) insert cleaned or repaired removable dental prostheses [under the dentist's general supervision];

[(8) place or remove celluloid or plastic strips between teeth for subsequent placement of filling by the dentist. Place or remove temporary nonmetallic separating devices, place or remove preformed crowns or bands for determining size only under the direct supervision of the dentist. The dentist shall shape, festoon, contour, fit, seat, or cement all crowns and bands;]

(8) [(9)] place ligatures only on those sections of arch wires which have been securely seated in the bracket or tube by the dentist [and under the direct supervision of the dentist];

(9) [(10)] remove ligature ties, cut and tuck ligatures, remove tension devices and any loose or broken bands or arch wires [under the general supervision of the dentist];

(10) [(11)] a tension device usually or normally placed in the mouth of a patient by such patient may be placed in such patient's mouth [under the general supervision of the dentist]; a tension device not controllable by the patient shall only be placed **and/or activated** [or activated, or both,] by the dentist;

[(12) place or remove rubber dam under the direct supervision of the dentist;]

(11) [(13)] remove sutures [under the general supervision of the dentist];

(12) [(14)] insert or remove temporary medicinal fillings with hand instruments [under the general supervision of the dentist]. This does not include alloy, gold, plastics, porcelain, composites, or any restorative material;

(13) [(15)] insert or remove socket dressings [under the general supervision of the dentist];

(14) [(16)] place or remove periodontal packs [under the general supervision of the dentist];

(15) [(17)] make dental plaque and oral mucosal smears;

[(18) under the direct supervision of the dentist, apply pit and fissure sealants.]

(b) A dental hygienist may perform the following services and procedures in the dental office of his/her dentist-employer under his/her direct supervision, direction, and responsibility, to wit:

(1) place or remove celluloid or plastic strips between teeth for subsequent placement of filling by the dentist, place or remove temporary nonmetallic separating devices, place or remove preformed crowns or bands for determining size. The dentist shall shape, festoon, contour, fit, seat, or cement all crowns and bands;

(2) place or remove rubber dam;

(3) apply pit and fissure sealants only after completing a course of instruction approved by the Texas State Board of Dental Examiners.

[(b) The fitting, adaptation, seating, and cementation of any fixed dental appliance or restoration, including, but not limited to, inlays, crowns, bands, space

maintainers or regainers, habit devices, or splints, whether temporary or permanent, shall only be done by the dentist.]

[(c) Pit and fissure sealants may only be applied by the dentist and by a dental hygienist who has successfully completed a course of instruction approved by the Texas State Board of Dental Examiners.]

**§115.3. Institutional Employment.** Custodial care institutions (either public or private or which qualify as a "hospital" or "school") may be allowed to employ a dental hygienist when a licensed dentist is on the staff of such institution and after approval by the state board. **Any hygienist employed by such institution is subject to the same laws and rules pertaining to general and direct supervision as a hygienist in the employ of a dentist in private practice.**

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 December 8, 1983.

TRD-8310165 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## Dental Assistants

### 22 TAC §115.11

*(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 State Board of Dental Examiners, Suite 503, 411 West 13th Street, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas State Board of Dental Examiners proposes the repeal of §115.11, concerning definition and permitted duties. The board is taking this action to simplify and clarify the rules of the board, to make the rules consistent with the Dental Practice Act, and to comply with a recent court decision.

William S. Nail, executive director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Nail also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the clarification of board rules. These definitions and permitted duties are now in the dental laws. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to William S. Nail, Executive Director, 411 West 13th Street, Suite 503, Austin, Texas 78701.

The repeal is proposed under Texas Civil Statutes, Article 4551d, which provide the Texas State Board of Dental Examiners with the authority to adopt and enforce such rules and regulations not inconsistent with the laws of this state as may be necessary for the performance of its duties and to ensure compliance with the state laws relating to the practice of dentistry to protect the public health and safety.

### §115.11. Definition and Permitted Duties.

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 December 8, 1983.

TRD-8310166 William S. Nail  
Executive Director  
Texas State Board of Dental  
Examiners

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-2443.

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part I. General Land Office

### Chapter 3. Energy Resources

### Rentals, Minimum Royalties

#### 31 TAC §3.31

The General Land Office proposes amendments to §3.31, concerning the due date for delay rentals.

The amendments provide an exception to the existing rule which requires actual receipt of the rental on or before the anniversary date of the lease. The rule provides that if the payment is received after the anniversary date, the lease will terminate unless the lessee shows the rental was properly mailed, certified, or registered, no less than 14 days before the anniversary date.

The proposed amendments insure that rentals are not rejected in circumstances where the lessee made every reasonable effort to tender the rental before it was due, but it was not received in time. The amendments do not change the due date but do provide the lessee some vehicle to establish that, if the rental was late, it was through no fault of his.

John Hall, Resource Management deputy commissioner, 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. Hall 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 is more efficient management of leases on lands dedicated to the permanent school fund. 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 Jim Phillips, Legal Counsel, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendments are proposed under the provisions of the Natural Resources Code, §31.051 and §52.001 *et seq.*, which authorizes the commissioner of the General Land Office to adopt rules governing the leasing of public lands for the production of oil and gas.

**§3.31. Due Date.** All delays must be **tendered to** [received in] the General Land Office on or before the rental anniversary date of the lease. **If** [Leases on which] the delay rental is not received on or before the anniversary date, **the lease** shall terminate and all rights **under the lease** [thereunder] shall revert to the state **unless the lessee establishes the following:**

(1) **the lessee used certified or registered mail properly addressed to the General Land Office to tender the delay rental; and**

(2) **an acceptance form was initialed by a postal employee and stamped by the U.S. Post Office showing the letter was received and accepted no less than 14 days before the anniversary date.**

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 December 9, 1983.

TRD-8310188      Garry Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-5661.

## Chapter 11. Legal Division

### Oil and Gas Leases, Mineral Classified Lands

#### 31 TAC §11.15

The General Land Office proposes new §11.15, concerning the suspension of oil and gas leases issued by the commissioner of the General Land Office covering lands dedicated to the permanent school fund (except lands subject to lease under the Natural Resources Code, Chapter 52, Subchapter F, commonly known as the Relinquishment Act. The board proposes this rule to establish guidelines and procedures for the suspension of oil and gas leases covering the lands.

John Hall, energy resources deputy commissioner, 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. Hall 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 is the consistent application of guidelines and better knowledge of the procedures. 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 John Hall, Deputy Commissioner for Energy Resources, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701.

The new rule is proposed under the Natural Resources Code, §32.062 and §32.063, which authorizes the board to adopt rules of procedure for the sale and lease of lands affected thereby.

#### *§11.15. Suspension of Oil and Gas Leases (Except Leases Under the Natural Resources Code, Chapter 52, Subchapter F).*

(a) Conditions. An application for lease suspension must be submitted according to subsection (e) of this section if one or more of the following conditions exists:

(1) litigation (Natural Resources Code, §52.028);  
(2) denial of access (Natural Resources Code, §52.0301);

(3) force majeure (lease provision).

(b) Litigation. If litigation relating to the validity of a lease issued by the commissioner of the General Land Office or his authority to issue such a lease has been filed before the expiration of the primary term of the lease, the lease will be suspended under the following terms.

(1) The primary term of the lease will be suspended from the date suit was filed until a final judgment is rendered.

(2) After final judgment is rendered, the primary term commences again for the remainder of the term. However, if the suit was filed during the last six months of the primary term, the lease will be terminated on the date the judgment is rendered or the last day of the primary term, whichever is later.

(3) The lessee must pay all delay rentals and royalties accruing during the period of litigation. If the lease is held invalid by the court, rentals will be refunded to the lessee.

(c) Denial of access. If a lessee is denied access to the leased property or is denied a permit to drill on or produce from the leased premises by any agency or authority of the United States, and the lessee has made a bona fide attempt to obtain access or a permit, the lease will be suspended under the following terms.

(1) The primary term of the lease will be suspended from the date the lessee was denied access or a permit.

(2) The primary term will commence again 90 days after the School Land Board enters an order stating the cause for suspension has ceased to exist.

(3) The lessee must pay all delay rentals when due during the period of suspension.

(d) Force majeure. If the lessee has made a good faith effort to comply with the terms of the lease, to con-

duct drilling operations, or to produce oil or gas, and the lessee is prevented by reason of war, rebellion, riots, strikes, acts of God, or any order, rule, or regulation of governmental authority, then the lease will be suspended under the following terms:

(1) The primary term of the lease will be suspended from the date the lessee is prevented from complying, drilling, or producing oil or gas.

(2) The primary term will commence again when the event giving rise to force majeure ceases to exist and the lessee is able to comply, commence drilling, or produce oil or gas.

(3) The lessee must pay all delay rentals when due during the period of suspension.

(e) Procedure.

(1) When cause exists for suspension under this section a lessee shall submit an application to the Pooling Committee appointed by the School Land Board, together with a statement of facts which authorize a suspension under subsection (b), (c), or (d) of this section.

(2) The Pooling Committee will review the application at its regular meeting. Applicants may appear before the committee for the purpose of submitting or discussing relevant information. The committee may require additional information and may require the appearance of the applicant or his representative when the committee deems it necessary.

(3) When the committee has concluded its study of the application, the committee will make a recommendation to the School Land Board at its next regular meeting. The recommendation will be based upon the facts presented and in accordance with the terms and conditions prescribed by this section.

(4) The School Land Board may accept or reject the recommendation of the Pooling Committee, or may in its discretion take some alternative action in accordance with its authority prescribed by law.

(5) A lessee granted a suspension by the board shall submit a status report to the School Land Board six months after the effective date of the suspension and at six month intervals thereafter as long as the cause for suspension exists. The status report should detail relevant information and explain what actions have been taken to remove or avoid the cause for suspension.

(6) In addition to the status report, each lessee granted suspension shall immediately notify the School Land Board of developments which affect the terms of the suspension and shall promptly notify the board when the cause for suspension ends.

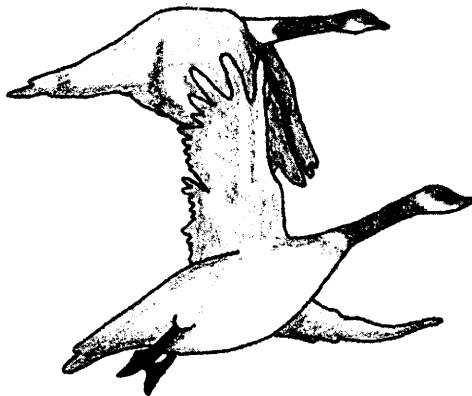
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 7, 1983.

TRD-8310079      Garry Mauro  
Commissioner  
General Land Office  
Chairman  
School Land Board

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-5661.



## Part II. Texas Parks and Wildlife Department Chapter 53. Finance License Deputies

31 TAC §§53.21-53.29

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Parks and Wildlife Commission proposes the repeal of §§53.21-53.29, concerning the appointment of license deputies. The commission is simultaneously proposing new rules to assure the availability of hunting and fishing licenses to the public and define the procedures for the appointment of license deputies.

Jim Dickinson, finance director, has determined that for the first five-year period the repeal will be in effect there will be no fiscal implications for state or local government as a result of the repeal.

Mr. Dickinson also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is the availability of game and fish licenses. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Jim Dickinson, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4815.

The repeal is proposed under the authority of the Texas Parks and Wildlife Code, §§12.001(b), 42.011, 46.009, 46.010, and 46.011, which provides the Texas Parks and Wildlife Department with the authority to appoint license deputies as agents of the department to issue hunting and fishing licenses to the public.

§53.21. *Responsibility.*

§53.22. *Application.*

§53.23. *Approval Procedures.*

§53.24. *Investigation.*

- §53.25. *Application Approval.*
- §53.26. *Surety Bonds.*
- §53.27. *Oath of Office.*
- §53.28. *Agreement.*
- §53.29. *Failure to Close Account.*

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 December 6, 1983.

TRD-8310091      Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 479-4806,  
or (800) 792-1112.

### 31 TAC §§53.21-53.24

The Texas Parks and Wildlife Commission proposes new §§53.21-53.24, concerning the appointment of license deputies. These proposed sections will assure the availability of hunting and fishing licenses to the public and define the procedures for the appointment of license deputies.

Jim Dickinson, finance 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. Dickinson 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 is the availability of game and fish licenses. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Jim Dickinson, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 479-4815.

The new sections are proposed under the authority of the Texas Parks and Wildlife Code, §§12.001(b), 42.011, 46.009, 46.010, and 46.011, which provides the Texas Parks and Wildlife Department with the authority to appoint license deputies as agents of the department to issue hunting and fishing licenses to the public.

§53.21. *Responsibility.* The Texas Parks and Wildlife Department is responsible for the issuance of hunting and fishing licenses to the public. To assure the availability of hunting and fishing licenses to the public, consignments are made to departmental field offices, county clerks, and to appointed license deputies.

§53.22. *License Deputy Appointment Procedures.*

(a) A person is appointed as a license deputy when forms, prescribed by the executive director, have been

properly executed and received by the Texas Parks and Wildlife Department. Such forms may include, but are not limited to, the following:

- (1) license deputy application;
- (2) public official bond;
- (3) license deputy agreement.

(b) These forms may be inspected at the Texas Parks and Wildlife Department Headquarters Complex, 4200 Smith School Road, Austin, Texas 78744.

§53.23. *Surety Bond Requirements.* A public official (surety) bond is required of all persons approved as license deputies with the exception of departmental employees and county clerks. The public official (surety) bond must be executed by a bonding company licensed by the State Board of Insurance. The minimal penal sum of the license deputy bond shall be prescribed by the executive director.

§53.24. *Cancellation.* The Texas Parks and Wildlife Department may cancel the authority of a license deputy to issue licenses if the person fails to comply with the terms set forth in the agreement with the department.

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 December 6, 1983.

TRD-8310090      Maurine Ray  
Administrative Assistant  
Texas Parks and Wildlife  
Department

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 479-4806,  
or (800) 792-1112.

## Part IV. School Land Board

### Chapter 153. Exploration and Development

#### Oil, Gas, and Mineral Lease Sales

### 31 TAC §153.1

*(Editor's note: The School Land Board proposes for permanent adoption the amendments it adopts on an emergency basis in this issue. The text of the amendments is published in the Emergency Rules section of this issue.)*

The School Land Board proposes amendments to §153.1, concerning the nomination of tracts for lease by the commissioner of the General Land Office. The amendments will provide for a nomination fee of \$100 for each tract.

The School Land Board proposes these amendments to help defray the costs of processing tracts nominated and setting up a lease sale. The amendments also reformat the rule for clarity and readability.

John Hall, deputy commissioner for Resource Management, has determined that for the first five-year period



the rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated increase in revenue of \$100,000 each year from 1984-1988. There will be no effect on local government.

Mr. Hall has also determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is a more efficient management of leases on lands dedicated to the permanent school fund. The anticipated economic cost to individuals who are required to comply with the rule as proposed is \$100 per tract nominated for each year from 1984-1988.

Comments on the proposal may be submitted to Jim Phillips, Legal Counsel, General Land Office, 1700 North Congress Avenue, Austin, Texas 78701.

The amendments are proposed under the authority of the Texas Natural Resources Code, §32.062, which authorizes the board to adopt rules for the sale and lease of land.

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 December 9, 1983.

TRD-8310189      Gary Mauro  
Commissioner  
General Land Office

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-5661.

## Operations on Permanent Free School Fund Lands

### 31 TAC §153.37

The School Land Board proposes new §153.37, concerning the suspension of oil and gas leases issued by the commissioner of the General Land Office covering lands dedicated to the Permanent School Fund (except lands subject to lease under the Natural Resources Code, Chapter 52, Subchapter F, commonly known as the Relinquishment Act). The board proposes this rule to establish guidelines and procedures for the suspension of oil and gas leases covering said lands.

John Hall, energy resources deputy commissioner, 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. Hall 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 is consistent application of guidelines and better public education as to the procedures.

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 John Hall, Deputy Commissioner for Energy Resources, General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, Texas 78701.

The new rule is proposed under the Natural Resources Code, §32.062 and §32.063, which authorizes the board to adopt rules of procedure for the sale and lease of lands affected thereby.

### *§153.37. Suspension of Oil and Gas Leases (Except Leases under the Natural Resources Code, Chapter 52, Subchapter F).*

(a) Conditions. An application for lease suspension must be submitted according to subsection (e) of this section if one or more of the following conditions exists:

- (1) litigation (Natural Resources Code, §52.028);
- (2) denial of access (Natural Resources Code, §52.0301);
- (3) force majeure (lease provision).

(b) Litigation. If litigation relating to the validity of a lease issued by the commissioner of the General Land Office or his authority to issue such a lease has been filed before the expiration of the primary term of the lease, the lease will be suspended under the following terms.

(1) The primary term of the lease will be suspended from the date suit was filed until a final judgment is rendered.

(2) After final judgment is rendered, the primary term commences again for the remainder of the term. However, if the suit was filed during the last six months of the primary term, the lease will be terminated on the date the judgment is rendered or the last day of the primary term, whichever is later.

(3) The lessee must pay all delay rentals and royalties accruing during the period of litigation. If the lease is held invalid by the court, rentals will be refunded to the lessee.

(c) Denial of access. If a lessee is denied access to the leased property or is denied a permit to drill on or produce from the leased premises by any agency or authority of the United States, and the lessee has made a bona fide attempt to obtain access or a permit, the lease will be suspended under the following terms.

(1) The primary term of the lease will be suspended from the date the lessee was denied access or a permit.

(2) The primary term will commence again 90 days after the School Land Board enters an order stating the cause for suspension has ceased to exist.

(3) The lessee must pay all delay rentals when due during the period of suspension.

(d) Force majeure. If the lessee has made a good faith effort to comply with the terms of the lease, to conduct drilling operations, or to produce oil or gas, and the lessee is prevented by reason of war, rebellion, riots, strikes, acts of God, or any order, rule, or regulation of governmental authority, then the lease will be suspended under the following terms.

(1) The primary term of the lease will be suspended from the date the lessee is prevented from complying, drilling, or producing oil or gas.

(2) The primary term will commence again when the event giving rise to force majeure ceases to exist and the lessee is able to comply, commence drilling, or produce oil or gas.

(3) The lessee must pay all delay rentals when due during the period of suspension.

(e) Procedure.

(1) When cause exists for suspension under this section a lessee shall submit an application to the Pooling Committee appointed by the School Land Board, together with a statement of facts which authorize a suspension under subsection (b), (c), or (d) of this section.

(2) The Pooling Committee will review the application at its regular meeting. Applicants may appear before the committee for the purpose of submitting or discussing relevant information. The committee may require additional information and may require the appearance of the applicant or his representative when the committee deems it necessary.

(3) When the committee has concluded its study of the application, the committee will make a recommendation to the School Land Board at its next regular meeting. The recommendation will be based upon the facts presented and in accordance with the terms and conditions prescribed by this section.

(4) The School Land Board may accept or reject the recommendation of the Pooling Committee, or may in its discretion take some alternative action in accordance with its authority prescribed by law.

(5) A lessee granted a suspension by the board shall submit a status report to the School Land Board six months after the effective date of the suspension and at six-month intervals thereafter as long as the cause for suspension exists. The status report should detail relevant information and explain what actions have been taken to remove or avoid the cause for suspension.

(6) In addition to the status report, each lessee granted suspension shall immediately notify the School Land Board of developments which affect the terms of the suspension and shall promptly notify the board when the cause for suspension ends.

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 December 7, 1983.

TRD-8310080      Garry Mauro  
Chairman  
School Land Board

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-5661.



## Part X. Texas Water Development Board

### Chapter 301. Introductory Provisions Definition of Terms

#### 31 TAC §301.71

The Texas Water Development Board proposes amendments to §307.71, concerning definitions. The amendments add a definition of commencement of construction and clarifies the definition of recreation by eliminating that part of the definition that recreation must be nonconsumptive.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification of the meaning of "commencement of construction" and of "recreation." 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of this state and to establish and approve all general policy of the department.

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

**Commencement of construction**—As utilized in Chapter 303 of this title (relating to Appropriation of Water), Chapter 305 of this title (relating to Additional Provisions), Chapter 307 of this title (relating to Particular Proceedings), and Chapter 309 of this title (relating to Requirements for Dams and Reservoirs), an actual, visible step beyond planning or land acquisition, which forms the beginning of the ongoing (continuous) construction of a project in the manner specified in the approved plans and specifications, where required, for that project. The action must be performed in good faith with the bona fide intent to proceed with the construction.

**Recreation use**—The [nonconsumptive] use of water impounded in or diverted or released from a reservoir or watercourse for fishing, swimming, water skiing, boating, hunting, and other forms of water recreation,

including aesthetic land enhancement of a subdivision, golf course, or similar development.

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 December 9, 1983.

TRD-8310241 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Chapter 303. Appropriation of Water Classes of Water Rights Permits

### 31 TAC §305, §303.6

The Texas Water Development Board proposes amendments to §303.5 and §303.6, concerning classes of water rights permits. The proposed amendments to §305.5 clarifies that contractual permits no longer are issued. Section 303.6 clarifies that use only from reservoirs built on nonnavigable streams, or off-channel reservoirs, can qualify for Texas Water Code, §11.143, permits.

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

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification that contractual permits no longer are issued and clarification that use only from reservoirs built on nonnavigable streams, or off-channel reservoirs, can qualify for Texas Water Code, §11.143, permits. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§303.5. Contractual Permit.** A contractual permit authorizes the use of state water where the source of supply

is water lawfully authorized for the use of another person and a written agreement has been entered into with said person. The permit is for a period of time limited by the contract, and no permanent right is acquired by the holder. **Contractual permits are no longer issued; however, see §303.111 of this title (relating to General Exceptions); §303.112 of this title (relating to General Filing Requirements); §303.113 of this title (relating to Documents Needed to File); §303.114 of this title (relating to Special Requirements for Downstream Sales of Water From Storage); §303.115 of this title (relating to Special Requirements for Diversions of Water Upstream of a Storage Reservoir); §303.116 of this title (relating to Existing Unpermitted Supply Contracts); §303.117 of this title (relating to Perfection and Priority of Water Rights); §303.118 of this title (relating to Reports); §303.119 of this title (relating to Action of the Commission); and §303.120 of this title (relating to Effect on Existing Contractual Permits and Applications).**

### **§303.6. Permit under the Texas Water Code, §11.143.**

A §11.143 permit authorizes anyone owning a dam or reservoir on his own property which impounds or contains not more than 200 acre-feet of water for domestic and livestock purposes, to take state water therefrom for any lawful purpose authorized in the permit. **Reservoirs on navigable streams are not exempt under the Texas Water Code, §11.142. See the Texas Natural Resources Code, §21.001(3) [Article 5302] for definition of a navigable stream.** (A permit is not required to use water from such a reservoir for domestic and livestock use.) Application requirements and procedures are less detailed than those required for Texas Water Code, §11.121, permits. It may be permanent in nature, seasonal, or granted for a term of years.

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 December 9, 1983.

TRD-8310242 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Types of Water Rights Permits

### 31 TAC §303.13

The Texas Water Development Board proposes amendments to §303.13, concerning on-channel reservoir. The amendments clarify that either a dam or reservoir, or both, on a watercourse require a state permit, unless exempt under the Texas Water Code, §11.142.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification that either a dam and/or a reservoir on a watercourse require a state permit, unless exempt under the Texas Water Code, §11.142. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§303.13. On-Channel Reservoir.** Except as provided by the Texas Water Code, §11.142, a permit is required for a dam and/or [and] a reservoir on a watercourse, **except for a natural reservoir or lake.** The permit will authorize the appropriation of state water to fill the reservoir, divert and use the water, or use the water in place.

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 December 9, 1983.

TRD-8310243 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## General Requirements of Permit Applications

31 TAC §§303.22, 303.25, 303.29, 303.30,  
303.33, 303.34, 303.36, 303.37

The Texas Water Development Board proposes amendments to §§303.22, 303.25, 303.29, 303.33, 303.34, 303.36, and 303.37, and the repeal of §303.30, concerning general requirements of permit applications. The proposals allow the department to return applications which are not being actively pursued; clarify that recreation may include consumptive use; require applicants to obtain joinder or consent if existing diversion systems or reservoirs are on land of other persons, and make permits contingent on continued effectiveness of said consent/easements; combine §303.29 and §303.30; add a cross-reference to notice requirements for transbasin diversion in the

rules; require written evidence of agency power and written evidence of representation of a group of joint applicants; expressly require applications be signed by both husband and wife; require written evidence of an official's authority to sign an application through corporation, public district, county, municipality, or other corporate entity bylaws or resolutions; require trustees to disclose each beneficiary and provide addresses for each; require notice and hearing for renewal of term permits; and remove the mandatory requirement of requiring storage sufficient to yield an applicant's requested diversion, leaving the decision with the commission. Repeal of §303.30 is proposed since it is being combined with §303.29.

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

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed clarification of state rules. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments and repeal are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

*(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 Water Development Board, Room 613, Stephen F. Austin Building, 1700 North Congress Avenue, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

**§303.30. Multiple Ownership of Existing Reservoir.**

**§303.22. Preparation of Application.** All applications shall be typewritten or printed legibly in ink. Illegible applications will be returned to the applicant. **Applicants will be notified if additional information is needed to process an application, pursuant to §357.4 of this title (relating to Applications Returned) and §357.7 of this title (relating to Technical Review).** Applications may be returned pursuant to §357.4 of this title (relating to Applications Returned) and §357.7 of this title (relating to Technical Review). The applicant should confer with the staff of the executive director on any questions concerning preparation of the application, especially if the application is unusual or unique. **Upon express written or verbal approval of the applicant or his agent, any employee of the department may make nonsubstantive changes in**

any documents submitted to the executive director by the applicant. Substantive changes in an application may be made only if the applicant submits a written, notarized amendment to the application; provided, however, that no substantive changes may be made after an application has been filed and set for hearing.

§303.25. *Amount and Purpose of Use.* The total amount of water to be used shall be stated in definite terms, i.e., a definite number of acre-feet annually or, in the case of a temporary permit application, the period for which application is made. Also the purpose or purposes of each use shall be stated in definite terms. If the water is to be used for more than one purpose, the specific amount to be used for each individual purpose shall be clearly set forth. [Recreation use should be described as nonconsumptive.]

§303.29. *Ownership of Reservoir and Diversion Facilities [Proposed Installation or Reservoir].* If the applicant does not have the power of condemnation, the applicant shall submit proof of his ownership of land on which a dam or diversion system is or is proposed to be located, or of any lands inundated or to be inundated by a reservoir. If the applicant does not own all of the land described in this section, [and proposes to inundate or to place any installation upon the land of another,] the name(s) and address(es) of such landowner(s) shall be given. A copy of a duly acknowledged written easement, consent, or license from the landowner(s) [landowner] or of a written lease or other evidence of agreement between the landowner(s) and the applicant must be filed with the application. An operating agreement may also be required. The exercise of the rights authorized by any permit issued will be conditioned upon the continued effectiveness of an easement or agreement between the parties.

§303.33. *Interwatershed [Transwatershed] Transfers.* No person may transfer state water from one watershed to another without first obtaining a permit. In addition to the regular requirements, an applicant seeking to transfer state water from one watershed to another watershed shall so state in the application. Procedures to be followed are governed by provisions of Texas Water Code, §11.085. Notice shall be given in the manner provided for a water use permit application to the watershed which is the source of supply. In addition, notice shall be given to users of record in the receiving watershed who are located below the point of introduction. Hearing shall be held in the same manner as required for water use applications. For purposes of this section, a watershed refers to a named river basin or coastal basin.

§303.34. *Signature of Applicant.* The application shall be signed as follows.

(1) (No change.)

(2) A joint application shall be signed by each applicant or his duly authorized agent with written evidence of such agency to be submitted with the application[, provided that a joint application by husband and wife may be signed by either party]. If land is owned by both husband and wife, each shall sign the application. Joint applicants shall select one among them to act for and represent the others in dealing with the department,

with written evidence of such representation to be submitted with the application.

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

(5) In the case of a corporation, public district, county, municipality, or other corporate entity, the application shall be signed by a duly authorized official, with written evidence in the form of bylaws, charters, or resolutions which specify the authority of the official to take such action. A corporation may file a corporate affidavit to document the official's authority to sign.

(6) If the applicant is acting as trustee for another, the applicant shall sign as trustee, disclose the nature of the trust agreement, and identify each [the] trust beneficiary in the application, along with the current address of each trust beneficiary.

§303.36. *Requiring Storage Facilities.* [An application for a permit to appropriate state water,] Except for an application for an emergency, temporary, seasonal, or term permit, the commission may require an applicant to provide [shall make provision for] storage sufficient to yield the requested annual diversion, [unless the applicant can show good cause for an exception to this section. Written justification for exception to this section shall be provided with the application].

§303.37. *Limited Term for Permits.* Applications for permits in watersheds in which water is not available for appropriation on a permanent basis because of existing water rights which are not being fully utilized may be considered by the commission for a limited term. Renewals or extensions of term permits granted by the commission shall be made only after notice is given as for a new permit and a hearing held concerning the requirements of Texas Water Code, §11.134.

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 December 9, 1983.

TRD-8310244 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Additional Requirements for Irrigation

### 31 TAC §§303.61-303.63

(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, 503E Sam Houston Building, 201 East 14th Street, Austin.)

The Texas Water Development Board proposes the repeal of §§303.61-303.63, concerning additional re-

quirements for irrigation, because of substantial modification of these rules.

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

Mr. Hodges also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of the repeal is allowance for the enactment of a revised rule. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

§303.61. *Applicant Must Own Land.*

§303.62. *Lands to be Described.*

§303.63. *Certificate with Seal.*

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 December 9, 1983.

TRD-8310246 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Additional Requirements for Irrigation

### 31 TAC §303.61, §303.62

The Texas Water Development Board proposes new §303.61 and §303.62, concerning additional requirements for irrigation. The proposed new sections allow a permit to be granted to an applicant to irrigate land which he does not own, specifically providing that the consent of the landowner be required, that the permit be granted on a renewable term basis, and that the right be considered not appurtenant to the land. Water corporations, water districts, and governmental entities authorized to supply water to others are excluded from certain parts of the requirements.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 allowance for a permit to be granted for land not owned by the applicant for a renewable term with the right considered not appurtenant to the land. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

These new sections are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

§303.61. *Irrigated Land.* An applicant, seeking the use of water for irrigation of particular tracts of land, shall be required to offer proof to substantiate his ownership of the land, except as otherwise provided herein. If the application seeks use of water for irrigation of land not owned by the applicant, the application shall only be granted for a term of years and subject to a special condition that the water right is not appurtenant to the land. Prior to expiration of the permit, permittee(s) may apply for an extension of the permit. If such application is subsequently granted in whole or in part for an additional term, the priority date of the original permit will be applicable to all subsequent extensions. Applications to renew these permits may be considered without mailed or published notice if the imposition of the term was based solely on the fact that applicant does not own all irrigated land. This section shall not apply to an applicant which is a water corporation, water district, or governmental entity authorized to supply water to others.

§303.62. *Documents and Information To Be Submitted.* An application to irrigate particular tracts of land must contain the following information concerning the lands proposed to be irrigated:

- (1) the original land survey or grant, the abstract number, and the name of the county in which the land is located;
- (2) an aerial photograph, plat, or map submitted in accordance with §303.53 of this title (relating to Content Requirements of Maps) showing the tract of land within which a specified number of acres will be irrigated;
- (3) a copy of the deed describing the applicant's land with the recording information from the county deed records; and a legal description of any land involved in the application;
- (4) except in the case of a water corporation, water district, or governmental entity authorized to supply water to others, if the application includes irrigation of any land not owned by applicant, a consent agreement

from the landowner, which shall state that the landowner recognizes that the permit would not attach to the land and would be owned by applicant. Renewal of a term permit issued under this section will require current documentation of consent agreements.

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 December 9, 1983.

TRD-8310245 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Temporary Water Permits

### 31 TAC §303.92

The Texas Water Development Board proposes amendments to §303.92, concerning applications for temporary permits; provisional issuance in certain cases. The proposed amendment will assure that the issuance of temporary permits requires notice and hearing if a complaint has been received concerning the proposed use of water before or during pendency of the application.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 assurance that the issuance of temporary permits requires notice and hearing if a complaint has been received concerning the proposed use of water before or during pendency of the application. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendments are proposed under Texas Water Code, §5.131 and §5.132, which provides Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Water Code and other laws of this state and to establish and approve all general policy of the department.

**§303.92. Applications for Temporary Permits; Provisional Issuance in Certain Cases.** Application forms are available upon request from the executive director. In ad-

dition to the general requirements for permit applications, applicant shall set forth the period of time, not to exceed three years, that water is proposed to be diverted.

(1) (No change.)

(2) Staff review and provisional disposition. The executive director shall review each application for a temporary permit and make a recommendation as to whether or not sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. If the application is for not more than 10 acre-feet of water and for a period of not more than one year, **if no valid complaint has been received by the department prior to or during the pendency of the application from a person alleging the matters set out in paragraph (3) of this section**, and if it appears to the executive director that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights, the application will be forwarded to any member of the commission, each of whom shall have the authority to make provisional disposition of the application by issuing a temporary permit to the applicant.

(3)-(4) (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 December 9, 1983.

TRD-8310247 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Contractual Amendments and Water Supply Contracts

### 31 TAC §§303.111-303.113, 303.118-303.120

The Texas Water Development Board proposes amendments to §§303.111-303.113 and 303.118-303.120, concerning contractual amendments and water supply contracts. The proposed amendments clarify procedures and consequences regarding approval of contracts; expand exemptions to the chapter; clarify that contracts are submitted by suppliers and not filed by them; clarify notice requirements; allow diverters from a reservoir perimeter to report monthly rather than weekly use; clarify reporting procedure; set out in more detail criterion used by the commission in granting a contractual amendment, and make it possible for holders of contractual permits and the water suppliers thereto to convert to the system of filing of contracts by submission of a relinquishment form for the contractual permit and the executive director's filing of the submitted contract.

Mike Hodges, Fiscal Services Section chief, has determined that for the first five-year period the rules will

be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of procedures and consequences regarding approval of contracts; an expansion of exemptions to the chapter; clarification that contracts are submitted by suppliers and not filed by them; clarification of notice requirements; discretionary rather than mandatory recommendation of stream flood stages in contractual amendments; allowance of diverters from a reservoir perimeter to report monthly rather than weekly use; clarification of reporting procedure; more detailed criterion to be used by the commission in granting a contractual amendment; the possibility for holders of contractual permits and the water supplier thereunder to convert to the system of filing of contracts by submission of a relinquishment form for the contractual permit and executive director filing of a submitted contract. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§303.111. General; Exceptions.**

(a) General. In order for the department to exercise effective supervision over all uses of state water, each supplier of treated or untreated state water possessing a valid water right shall make application for a contractual amendment based upon his contractual arrangements with a purchaser and/or shall submit a copy of the contract in accordance with §303.112 of this title (relating to General Filing Requirements) and §303.113 of this title (relating to Documents Needed to File). The contract [must be submitted] and/or the application **must be** approved before deliveries or diversions under the contract may be made lawfully. **If a contract meets the requirements of these rules, the executive director will place a copy of the contract on file with the department records.**

(b) Exceptions. These rules shall not apply to the following:

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

(3) **Short term (three years or less) sales of untreated water [for domestic use] from the perimeter of a reservoir for any purpose authorized in the water right** in amounts not exceeding 10 [one] acre-foot per annum; or

(4) (No change.)

**§303.112. General Filing Requirements.**

(a) If the exercise of rights under the contract between the supplier and the purchaser would require amendment of the appropriative right on which the sale is based, the supplier shall **submit** [file] an application for a contractual amendment in accordance with §303.113 of this title (relating to Documents Needed to File).

(b) If the exercise of rights under the contract between the supplier and the purchaser would not require amendment of the appropriative right on which the sale is based or would require amendment of the appropriative right only by adding a diversion point or by changing the place of use of a water right which authorizes storage, the supplier shall **submit** [file] a copy of the executed contract **to** [with] the executive director and shall not have to **submit** [file] an application for a contractual amendment.

(c) If the supplier is not the holder of the appropriative right on which the sale is based and if the exercise of rights under the contract between the supplier and the purchaser would require an amendment under §303.21 of this title (relating to Application To Amend) to alter the appropriative right:

(1) the holder of the appropriative right on which the sale is based shall apply to amend the right in accordance with §307.21 of this title (relating to Application To Amend), and the supplier shall **submit** [file] a copy of the contract and/or an application for a contractual amendment in accordance with §303.113 of this title (relating to Documents Needed to File); or

(2) (No change.)

**§303.113. Documents Needed to File.**

(a) (No change.)

(b) A water supply contract to be **submitted to** [filed with] the executive director in accordance with §303.112 of this title (relating to General Filing Requirements) shall be accompanied by a vicinity map showing the diversion point and place of use and shall indicate the following:

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

(c) If required to **submit** [file] an application for a contractual amendment in accordance with §303.112(a) or §303.112(c) of this title (relating to General Filing Requirements), the supplier shall also submit a vicinity map and a copy of a contract which conforms to subsection (b) of this section.

(1) The applicant for a contractual amendment shall provide notice in accordance with §307.11 of this title (relating to Application for Amendment) or §307.21 of this title (relating to Application To Amend), **and, if applicable, §303.33 of this title (relating to Interwatershed Transfers)** depending upon the extent of the proposed amendment's potential impairment of senior and superior water rights.

(2) (No change.)

**§303.118. Reports.**

(a) The purchaser shall submit annual written reports to the department in accordance with §305.11 of this title (relating to Annual Reports), indicating the total amount of water diverted each month and the total amount diverted each week. **Purchasers diverting from**



the perimeter of the reservoir need report only monthly diversions.

(b) The supplier shall submit annual written reports to the department in accordance with §305.11 of this title (relating to Annual Reports), indicating the total amount of water diverted and used each month for each purpose and the total amount released **downstream** each week to each purchaser under the storage water right specified in the contract, which shall include a separate reporting of the amount of water estimated for transmission losses.

(c) These reporting requirements shall apply to all [existing] **contractual permits** and [future] water supply contracts.

(d) (No change.)

**§303.119. Action of the Commission.**

(a) The commission shall approve, in whole or in part, the application and issue the contractual amendment only if it determines that:

(1) (No change.)

(2) the proposed contractual amendment is not detrimental to the public welfare, including consideration of whether the contract, together with all other contracts previously **submitted** [filed] by the supplier **and contractual permits** in effect at the time the commission considers the contractual amendment provides for the storage, diversion, or use of state water in excess of the water right of the supplier, as amended by the contractual amendment upon which the sale is based; and

(3) (No change.)

**§303.120. Effect on Existing Contractual Permits and Applications.**

(a) Nothing contained in these rules shall be construed to invalidate contractual permits or other authorizations which have been obtained prior to the effective date of these sections. Applications received by the department prior to the effective date (**November 12, 1979**) of these sections shall be considered under the provisions of these sections which were in effect when the applications were received.

(b) If the holder of a contractual permit and the supplier of water thereunder wish to proceed under the provisions of §303.111 of this title (relating to **General Exceptions**); §303.112 of this title (relating to **General Filing Requirements**); §303.113 of this title (relating to **Documents Needed to File**); §303.114 of this title (relating to **Special Requirements for Downstream Sales of Water from Storage**); §303.115 of this title (relating to **Special Requirements for Diversions of Water Upstream of a Storage Reservoir**); §303.116 of this title (relating to **Existing Unpermitted Supply Contracts**); §303.117 of this title (relating to **Perfection and Priority of Water Rights**); §303.118 of this title (relating to **Reports**); §303.119 of this title (relating to **Action of the Commission**); and this section, the holder may do so by:

(1) submission of a sworn statement to the executive director which states the contractual permit holder's intent to relinquish the contractual permit and to thereafter proceed under §303.111 of this title (relating to **General Exceptions**); §303.112 of this title (relating to **General Filing Requirements**); §303.113 of this title (relating to **Documents Needed to File**); §303.114 of this title (relating

to **Special Requirements for Downstream Sales of Water from Storage**); §303.115 of this title (relating to **Special Requirements for Diversions of Water Upstream of a Storage Reservoir**); §303.116 of this title (relating to **Existing Unpermitted Supply Contracts**); §303.117 of this title (relating to **Perfection and Priority of Water Rights**); §303.118 of this title (relating to **Reports**); §303.119 of this title (relating to **Action of the Commission**); and this section; and

(2) submitting the water supply contract which is in compliance with §303.113 of this title (relating to **Documents Needed to File**); §303.114 of this title (relating to **Special Requirements for Downstream Sales of Water from Storage**). Relinquishment of the contractual permit is effective upon receipt of a properly executed statement by the contractual permit holder and the filing by the executive director of the substituted water supply contract.

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 December 9, 1983.

TRD-8310248	Susan Plettman General Counsel Texas Department of Water Resources
-------------	---

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Emergency Water Permit

### 31 TAC §303.122

The Texas Water Development Board proposes an amendment to §303.122, concerning documents needed to file. The proposed amendment clarifies that fees are required for emergency permits.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification that fees are required for emergency permits. There is no anticipated economic costs to individuals who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendment is proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provide the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and ap-

prove all general policy of the Texas Department of Water Resources.

*§303.122. Documents Needed to File.*

(a) Written request. Applicant shall submit to the executive director a written request setting forth the relevant data (location of diversion point, diversion rate, amount of state water to be diverted, purpose of use) and the emergency condition which has prompted submission of the application. **The applicant shall pay filing, recording, and use fees in accordance with §303.131 of this title (relating to Department to Charge and Collect Fees); §303.132 of this title (relating to Fees Required); §303.133 of this title (relating to Fees To Be Paid); §303.135 of this title (relating to Applications and Petitions Subject to the Filing and Recording Fee); §303.136 of this title (relating to One-Time Use Fees); §303.137 of this title (relating to Maximum Fees); §303.138 of this title (relating to Payment of Fees Exceeding \$1,000); §303.139 of this title (relating to Inquiries as to Fees); and §303.140 of this title (relating to Return of Fees).**

(b) (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 December 9, 1983.

TRD-8310249 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Water Permit Fees

### 31 TAC §§303.133, 303.135, 303.136

The Texas Water Development Board proposes amendments to §§303.133, 303.135, and 303.136, concerning water permit fees. The proposed amendments reflect legislative change in the fee requirements under the Texas Water Code, §5.182, and allows for more efficient organization of the rules.

Mike Hodges, Fiscal Services Section chief, 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 effect on state government will be an estimated increase in revenue of \$37,500 each year in 1984-1988. There is no anticipated effect on local government.

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is conformance to legislative change in the fee requirements under the Texas Water Code, §5.182. The anticipated economic cost to individuals who are required to comply with the rules as proposed is \$37,500 each year in 1984-1988.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provide the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

*§303.133. Fees To Be Paid.*

(a) General. The following fees shall be submitted with any application **for a water permit**:

(1) Filing fee—\$75 [\$25]

(2)-(3) (No change.)

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

*§303.135. Applications and Petitions Subject to the Filing and Recording Fee.* The following are examples of applications or petitions subject to the filing and recording fee:

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

(4) application for extension of time. [;]

[(5) Application for adjusting or fixing rates; and

[(6) Application for designation as local sponsor.]

*§303.136. One-Time Use Fees.* In addition to the fees stated in the previous sections, the use fees shall be paid as follows:

(1) (No change.)

[(2) The fee for the use of state water for a steam or gas power plant or for cooling, condensing, or steam purposes is \$1.00 for each indicated horsepower.]

(2) [(3)] The fee for other uses of state water not specifically named in this section is \$1.00 per acre-foot **to be diverted annually, except that no political subdivision may be required to pay fees to use water to recharge underground freshwater bearing sands and aquifers or to use water to abate natural pollution.**

(3) [(4)] The fee for impounding state water, except under the Texas Water Code, §11.142, is \$ .50 per acre-foot of storage based on the total holding capacity of the reservoir at normal maximum operating level. All lawfully impounded state water may be used for recreational purposes in addition to any other specified purpose, and the executive director will charge no use fee for such recreational use.

(4) [(5)] The fee for the use of state water for any temporary purpose is \$1.00 per acre-foot or fraction thereof.

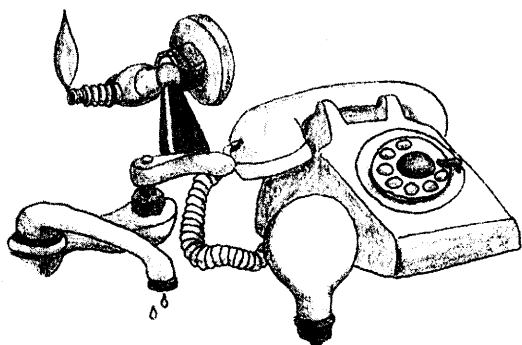
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on December 9, 1983.

TRD-8310250 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.



## Chapter 305. Additional Provisions Filing of Instruments

### 31 TAC §305.2

The Texas Water Development Board proposes amendments to §305.2, concerning acceptance of water use permit application for filing. The proposed amendments delete portions of the section which are now to be combined with §303.22.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification of state rules. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§305.2. Acceptance of Water Use Permit Application for Filing.** Any water use permit application requiring commission action will not be formally accepted for filing by the commission until it is reviewed by the executive director as to form, fees, and data required by law. **No substantive** [Water use permit applications which do not conform to these requirements may be returned for necessary amendments and revision. Upon express written or verbal approval of the applicant or his agent, any employee of the department may make minor nonsubstantive changes in any documents submitted to the executive director by the applicant. Major substantive changes in an application may be made only if the applicant submits a written, notarized amendment to the application; provided, however, that no such] changes may be made after an [the] application has been **filed and** set for hear-

ing. Applications for permits to appropriate state water or amendments to permits shall not be considered filed as required by the Texas Water Code, §11.141, until formally accepted by the commission.

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

Issued in Austin, Texas, on December 9, 1983.

TRD-8310251

Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:

January 16, 1984

For further information, please call (512) 475-6943.

## Change of Address and Ownership

### 31 TAC §305.23

The Texas Water Development Board proposes amendments to §305.23, concerning change of address and ownership. The proposed changes clarify that irrigation rights do not attach to land under a permit held by a governmental entity authorized to supply water to others, or if held by a lessee and the land authorized to be irrigated is leased land.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification that irrigation rights do not attach to land under a permit held by a governmental entity authorized to supply waters to others, or to leased land authorized to be irrigated under a permit granted to a lessee. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Water Code and other laws of this state and to establish and approve all general policy of the department.

**§305.23. Recording Change of Ownership of Rights.** The written instrument evidencing water rights ownership transfers shall be recorded in the office of the county clerk. Certified copies or photocopies of the recorded instruments establishing the complete chain of title between

owners of record and the present owner shall be filed with the executive director. If a water right authorizes irrigation, the following will be recognized:

(1) The right to use water for the purpose of irrigation is appurtenant to the land which is authorized to be irrigated, and the title to the water right passes with a transfer of the land unless expressly reserved or excepted; **however, if the water right has been granted for irrigation of land not owned by the applicant, pursuant to §303.61 of this title (relating to Irrigated Land), such water right is personal to the permittee and does not pass with transfer of the land.**

(2)-(3) (No change.)

(4) A water right does not attach to the irrigated land when held by a water corporation, [or] water district, **or governmental entity** authorized to supply water to others. Only by express written conveyance can such a water right be transferred. The foregoing is subject to all laws relating to lawful rights of owners along ditches and canals.

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 December 9, 1983.

TRD-8310252 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The new section is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of this state and to establish and approve all general policy of the Texas Department of Water Resources.

*§307.4. Corrections of Water Rights by the Commission.* The commission may make corrections to permits, certified filing amendments, and certificates of adjudication by reissuing the water right or by amending the water right, without observing formal amendment procedures, to state more accurately any provision in the water right but without changing the substance of any such provision, or to correct errors inadvertently made in preparation of the water right, such as in the name of the holder, boundary description, or other detail incorrectly stated. Notice of the proposed amendment shall be given to the water right holder, the executive director and all parties to the previous proceeding on this water right.

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 December 9, 1983.

TRD-8310253 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Chapter 307. Particular Proceedings

### Amending Water Rights on Motion of Executive Director

#### 31 TAC §307.4

The Texas Water Development Board proposes new §307.4, concerning corrections of water rights by the commission. This section declares the Texas Water Commission's authority to correct errors in detail made in the preparation of a water right issued by the commission.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is provision for clarification and correction of permits, certified filing amendments, and certificates of adjudication. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed.

### Amending Water Rights

#### 31 TAC §307.11

The Texas Water Development Board proposes amendments to §307.11, concerning application for amendment. The proposed revision would make clear that nonconsumptive uses of water may be added to a permit through amendment by the commission without notice if such amendment would not have the potential of harming existing rights. The most common such amendment is the addition of recreational use of an existing reservoir. It also would allow amendment without notice to increase the rate or period of diversion from a storage reservoir.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification that nonconsumptive uses of water may be added to a permit through an amendment. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendment is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§307.11. Application for Amendment.** Only an application to amend an existing permit, certified filing, or certificate of adjudication which does not contemplate an additional **consumptive** use of state water or an increased rate or period of diversion and which, in the judgment of the commission, has no potential for harming any other existing water right, is subject to amendment by the commission without notice other than that provided to the record holder. Upon filing such an application, the commission shall consider whether additional notice is required based on the particular facts of the application. Applications of the following descriptions may [have been found] not [to] require additional notice:

(1) to correct errors inadvertently made in the preparation of a permit or **certificate of adjudication**, such as in the name of the water right holder, boundary description, or other details incorrectly transcribed.

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

(7) to **increase the rate or period of diversion from a storage reservoir. Written agreement or joinder will be required from any other owners of the permit which authorizes the impoundment and/or diversion there from.**

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 December 9, 1983.

TRD-8310254 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

notice is mandatory for applications which are described in the rule and clarify that other situations not explicitly listed in the rule may require notice.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification that notice is mandatory for applications. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§307.21. Application To Amend.** Unless authorized by §307.11 of this title (relating to Application for Amendment), applications for amendments to permits, certified filings, or certificates of adjudication, **including, but not limited to, those of the following nature**, must comply with requirements for a water permit, **including the notice requirements in the Texas Water Code, §11.132:** [The applications of the nature described in this rule are as follows:]

(1)-(8) (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 December 9, 1983.

TRD-8310255 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Amendments to Water Rights Requiring Mail and Published Notice

### 31 TAC §307.21

The Texas Water Development Board proposes amendments to §307.21, concerning application to amend. The proposed revision would make clear that

## Cancellation of Water Rights

### 31 TAC §307.32

The Texas Water Development Board proposes amendments to §307.32, concerning cancellation under the Texas Water Code, §11.146. The proposed amendments clarify that a hearing is mandatory before permits may be canceled for failure to commence or complete construction.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is the clarification that a hearing is mandatory before permits may be canceled for failure to commence or complete construction. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendment is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§307.32. Cancellation Under the Texas Water Code, §11.146. A hearing is required in order** [When the holder of a permit fails to timely commence or complete construction, the commission may hold a hearing] to determine whether a [the] permit has been or should be forfeited and canceled in whole or in part **for failure of the permittee to commence or complete construction, unless permittee executes a form abandoning all rights under the permit and waiving right to notice and hearing thereon.**

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 December 9, 1983.

TRD-8310256 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Interwatershed Transfer

### 31 TAC §307.51

*(Editor's note: The text of the following rule being proposed for repeal will not be published. The rule may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Water Development Board proposes the repeal of §307.51, concerning interwatershed transfers. The rule is being combined with §303.33 to provide in one place all requirements concerning interwatershed transfers.

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

Mr. Hodges also has determined that for each year of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal is reorganization of the rules to make them easier to use. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§307.51. Transfer from One Watershed to Another.**

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 December 9, 1983.

TRD-8310257 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Time Extensions

### 31 TAC §§307.61-307.63

*(Editor's note: The text of the following rules proposed for repeal will not be published. The rules may be examined in the offices of the Texas Water Development Board, Room 511, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or in the Texas Register office, Room 503E, Sam Houston Building, 201 East 14th Street, Austin.)*

The Texas Water Development Board proposes the repeal of §§307.61-307.63, concerning time extensions, as a result of recent statutory changes in the Texas Water Code, §11.145, and substantial modification of the rules. New §§307.61-307.63 are simultaneously proposed for permanent adoption in this issue of the *Texas Register*.

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

Mr. Hodges has also determined for that each year of the first five years the repeal is in effect there will be no public benefit as a result of the repeal. There is no anticipated economic cost to individuals as a result of the repeal.

Comments on the proposal maybe submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The repeal is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of this state and to establish and approve all general policy of the department.

§307.61. *Direct-Diversion—Beginning of Work.*

§307.62. *Construction, Modification, or Repair of a Storage Reservoir—Beginning of Work.*

§307.63. *Extension of Time to Complete Work.*

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 December 9, 1983.

TRD-8310258 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Time Extensions and Commence or Completion of Construction

### 31 TAC §§307.61-307.63

The Texas Water Development Board proposes new §§307.61-307.63, concerning time extensions. The proposed rules combine former §§307.61-307.63. They also reflect statutory changes in the Texas Water Code, §11.145, which allows an initial time limit for commencement of construction on direct diversion facilities of two years rather than the former 90 days allowed; allow the commission to further extend such time limit; clarify that a permit is subject to forfeiture and cancellation after notice and hearing for failure to timely commence or complete construction; and clarify that if the permittee seeks to extend times for commencement or completion of construction, the hearing which is required does not encompass all matters that a hearing for an original permit would, but only the matter of whether the extension(s) shall be granted. It further expands the fees to be paid to in-

clude all one-time use fees, rather than just storage fees.

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

Mr. Hodges also has determined that for each year of the first five years the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification for a permittee seeking to extend times for commencement or completion of construction beyond certain dates. The anticipated economic cost to some individuals who were not allowed to file but can now file for extensions is up to \$1,000.

Comments on the proposals may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The new sections are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provide the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state to establish and approve all general policy of the Texas Department of Water Resources.

§307.61. *Proposed Construction.* When a permit is issued for appropriation by direct diversion or construction, modification, or repair of a storage reservoir, or any work in which a time limitation is set by permit for commencement or completion of construction, a permittee shall commence and complete actual construction of the proposed facilities within the time fixed by the commission. If construction work cannot be commenced or completed within these fixed time periods, the permittee may, before the expiration of the time period to commence or complete construction, apply for an extension of time if he wishes to preserve his permit. Application shall be in writing, shall be received by the department before the expiration date, and shall set forth the reasons why construction work could not be commenced or completed within the time required. Estimated times of commencement or completion also shall be set out. The commission may, by entering an order of record, extend the time to commence or complete construction for a reasonable period of time. Failure to commence or complete construction within the time specified in the permit or extension granted by the commission shall cause permittee to forfeit all rights to the permit, subject to notice and hearing.

§307.62. *Extension of Time To Commence Construction.* If the new date of proposed commencement of construction is more than four years from the date of issuance of the permit, notice shall issue as though for a new application for a permit, and a hearing shall be held to determine whether the extension shall be granted. Otherwise, no such notice is required. When notice and hear-

ing as specified in this section is required, the applicant shall pay fees not to exceed \$1,000 apportioned as follows:

- (1) filing and recording fees as stated in these rules;
- (2) any required mailing fees; and
- (3) extension fee, to be equivalent to one-time use fees established under §303.136 of this title (relating to Maximum Fees).

§307.63. *Extension of Time to Complete Work.* An application for an extension of time to complete construction work must be in writing and shall set forth the reasons why the construction work could not be completed within the time required. Applicant shall pay fees as prescribed in the preceding rule in the event notice is required to be mailed and published. If the proposed completion time is more than five years from the date of completion required in the original permit, notice shall issue as though for a new application for a permit, and a hearing shall be held for the limited purpose of determining whether the extension should be granted. Otherwise, no such notice is 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.

Issued in Austin, Texas, on December 9, 1983.

TRD-8310259 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Designation of Local Sponsors on Federal Projects

### 31 TAC §307.101

The Texas Water Development Board proposes amendments to §307.101, concerning designation of local sponsors on federal projects. The amendment would reflect that filing and recording fees are required for such applications pursuant to the Texas Water Code, §5.182. These fees previously have been required by board rule but are being relocated from §303.135 of this section.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is better organization of the board rules. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendment is proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of this state and to establish and approve all general policy of the Texas Department of Water Resources.

### §307.101. *Designation of Local Sponsors.*

(a) When a project is proposed for planning or development by the department, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision of the State of Texas may make application to the executive director for designation as cooperating local sponsor for the project. More than one cooperating local sponsor may be designated for each project. **Filing and recording fees shall be paid in accordance with the Texas Water Code, §5.182.** After review by the executive director, the application shall be filed with the commission. The commission shall set the application for public hearing and give notice thereof by one publication in a newspaper having general circulation in that section of the state in which the project is located. The publication shall occur at least 10 days before the date of hearing. The applicant shall pay the cost of publication. No application for designation as local sponsor shall cover more than one project.

(b) (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 December 9, 1983.

TRD-8310260 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.





## Chapter 309. Requirements for Dams and Reservoirs

### General Provisions

#### 31 TAC §309.4

The Texas Water Development Board proposes amendments to §309.4, concerning exception. The proposed amendment would allow the executive director, for certain projects, to grant exceptions to the requirements for written plans and specifications for inspection and construction requirements.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is the clarification of state rules, quicker processing of plans and specifications, conformity to statute, and that the executive director may grant exceptions if he determines that the physical conditions involved and the size of the project render the requirements unnecessary. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§309.40. Exception.** Written approval of the executive director is required for exception from §309.3 of this title (relating to Registered Engineer), for small construction and/or modification projects. **Written approval of the executive director is required for exception from any or all of the requirements of §309.21 of this title (relating to Construction Plans and Specifications), §309.22 of this title (relating to Construction Plans), §309.23 of this title (relating to Specifications), §309.24 of this title (relating to Engineering Reports and Additional Information), §309.25 of this title (relating to Approval), §309.31 of this title (relating to Construction Progress Report), §309.32 of this title (relating to Records of Control During Construction), §309.34 of this title (relating to Construction Inspection), §309.35 of this title (relating to Amendment, Modifications, and Changes), §309.36 of this title (relating to Noncompliance with Approved Plans and Specifications), §309.37 of this title (relating to Permanent Reference Mark), §309.38 of this title (relating to Deliberate Impoundment), and §309.40 of this title (relating to As-Built Drawings). The executive director may grant an exception if he determines that the physical**

**conditions involved and the size of the construction and/or modification project, when evaluated using standard engineering procedures and techniques, render the requirements unnecessary. The written approval shall specify the extent of the exception granted and the executive director's reasons for granting it. In no way does this rule limit the executive director's authority under §309.35 of this title (relating to Amendment, Modifications, and Changes) to require amendments, modifications or changes to ensure the safety of a structure.**

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 December 9, 1983.

TRD-8310261 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Authority of the Department

### 31 TAC §§309.11-309.13

The Texas Water Development Board proposes amendments to §309.11 and §309.12, and new §309.13, concerning authority of the department. Proposed revision of §309.11 reflects statutory change whereby the Texas Water Commission gives authority to construct, enlarge, alter, extend, or remove dams, and whereby the executive director approves plans and specifications for such construction or modifications. Revision of §309.12 clarifies that the entire department, not just the Texas Water Commission, takes dam safety considerations into account, and changes reference from Water and Power Resources Service to Bureau of Reclamation. Proposed new section §309.13 provides for emergency procedures in certain circumstances concerning dam safety. This section reflects legislative changes made in the Texas Water Code, §12.052.

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

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of state rules, quicker processing of plans and specifications, conformity with statutes, and provision for emergency procedures in certain circumstances concerning dam safety. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

These amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§309.11. Jurisdiction.** Pursuant to the Texas Water Code, §12.052 and **§11.144, permits or amendments necessary to authorize the construction, enlargement, alteration, extension, removal, or other changes to dams and reservoirs must be obtained from the commission.** The executive director shall review and [the commission shall] approve the **plans for** [design,] construction, enlargement, alteration, repair, maintenance, [operation] and removal of all dams and reservoirs. All dams and reservoirs in the state are under the jurisdiction of the department for the protection of life and property. If the owner of a dam that is required to be constructed, reconstructed, repaired, or removed in order to comply with any board rule or commission order fails or refuses to comply within a reasonable period of time, the executive director may refer the matter directly to the attorney general for injunctive relief. If the owner of a dam that is required to be constructed, reconstructed, repaired, or removed in order to comply with any board rule or commission order willfully fails or refuses to comply within the 30-day period following the date of the commission's order to do so, he is liable to a penalty of not more than \$1,000 a day for each day he continues to violate these rules.

**§309.12. Extent of Investigations.** In determining whether an existing or proposed dam or reservoir constitutes a danger to life or property, the **department** [commission] may take into consideration conditions including, but not limited to, the following: the possibility that the dam or reservoir might be endangered by overtopping, seepage, piping, settlement, erosion, cracking, or earth movement, or by failure of bulkheads, flashboards, gates, spillways, or conduits.

(1) Spillway adequacy of proposed and existing dams shall be evaluated utilizing standard engineering procedures and techniques including, but not limited to, those employed and recommended by the U.S. Army Corps of Engineers, U.S. Soil Conservation Service, **Bureau of Reclamation** [Water and Power Resources Service], and the American Society of Civil Engineers.

(2)-(3) (No change.)

**§309.13. Dam Safety Complaints and Other Emergency Action.** If the commission determines that the existing condition of a dam is creating or will cause extensive or severe property damage or economic loss to others or is posing an immediate and serious threat to human life or health and that other procedures available to the department to remedy or prevent the occurrence of the situation will result in unreasonable delay, the commission may

issue an emergency order, either mandatory or prohibitory in nature, directing the owner of a dam or reservoir to repair, modify, maintain, dewater, or remove the dam or reservoir which the commission determines is unsafe. The emergency order may be issued without notice to the dam owner or with notice the commission considers practicable under the circumstances. The notice does not have to comply with the Administrative Procedure and Texas Register Act, as amended (Texas Civil Statutes, Article 6252-13a). If the commission issues an emergency order under authority of this section without notice to the dam owner, the commission shall fix a time and place for a hearing which shall be held as soon as practicable to affirm, modify, or set aside the emergency order. The notice does not have to comply with the Administrative Procedure and Texas Register Act, as amended (Texas Civil Statutes, Article 6252-13a). If the nature of the commission's action requires further proceedings, those proceedings shall be conducted as appropriate under the Administrative Procedure and Texas Register Act, as amended (Texas Civil Statutes, Article 6252-13a).

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 December 9, 1983.

TRD-8310262 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Commission Approval of Proposed Construction

### 31 TAC §§309.21, 309.23-309.25

The Texas Water Development Board proposes amendments to §309.21, and §§309.23-309.25, concerning approval of proposed construction. Changes to §309.21 and §§309.23-309.25 are proposed to reflect that the executive director, rather than the commission, now has authority to approve plans and specifications pursuant to Texas Water Code, §11.126 and §11.144. Section 309.24(2) is eliminated since the exception previously authorized here is now authorized pursuant to the proposed amendment to §309.4.

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

Mr. Hodges also has determined that for each year of the first five years the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed is clarification of state rules,

quicker processing of plans and specifications, and conformity with the statutes. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§309.21. Construction Plans and Specifications.** Construction of a dam or the enlargement, repair, alteration, or removal of an existing dam shall not be commenced prior to the **executive director's** [commission's] written approval of final construction plans and specifications. No contractor shall commence construction until provided with a copy of the plans and specifications evidencing the [commission's] approval. This rule does not apply to the ordinary maintenance or emergency repair of the facility.

**§309.23. Specifications.** Construction plans shall be accompanied by specifications which shall be as completely detailed as they would be for submission to contractors bidding on the work. The specifications shall include, but not be limited to, the following:

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

(3) a provision to the effect that plans and specifications shall not be substantially or materially altered without prior written approval of the **executive director** [commission].

**§309.24. Engineering Reports and Additional Information.** The following engineering reports and additional information are required and may be submitted to the executive director for review before the final plans are prepared:

(1) (No change.)

(2) If the physical conditions involved and the size of the dam or reservoir render the above requirements as to drilling or prospecting of the site unnecessary, the executive director may recommend to the commission that the applicant be excused from requirements.]

(2)[(3)] The official name of the dam and reservoir by resolution of the governing body or by certificate if individually owned shall be submitted to the department as early as possible, preferably with the construction plans.

(3)[(4)] The **executive director** [commission] may require the filing of additional information and data which, in **his** [its] opinion, may be necessary for determining the adequacy of operational functions and safety of the structures and works related thereto.

**§309.25. Approval.** Commission **authorizations for** [approval of proposed new] construction of a **proposed dam** or the enlargement, repair, alteration, or removal of an existing dam **and executive director approval of**

**plans and specifications** shall be granted under terms, conditions and limitations necessary to safeguard life and property.

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 December 9, 1983.

TRD-8310263

Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Inspection and Construction Requirements

### 31 TAC §309.35, §309.36

The Texas Water Development Board proposes amendments to §309.35, and 309.36, concerning inspection and construction requirements, to reflect the executive director's role in approval of plans and specifications, and the commission's role in authorization by the right which allows construction or modification of dams and/or reservoirs.

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

Mr. Hodges also has determined that for each year of the first five years the rules as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed is clarification of state rules, allowance for quicker processing of plans and specification, and conformance with statutes. There is no anticipated economic cost to individuals who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711, (512) 475-6943.

These amendments are proposed under the authority of the Texas Water Code, §5.131 and §5.132, which provide the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§309.35. Amendment, Modification, and Changes.** If after inspection, investigation, or examination, or at any time as the work progresses, the executive director finds that amendments, modifications, or changes are necessary to insure safety, he may request [the commission to order] the owner to revise his plans and/or specifications. [Ac-

cordingly,] Alterations of the plans and specifications **must be approved** [shall not be made without prior approval] by the **executive director before work commences under the modifications** [commission], except in emergencies requiring immediate action of which the executive director shall be immediately notified. If the proposed alterations **would result in deviation from the permitted right** [are substantial], as determined by the executive director, **amendment of the permit** [written commission approval] must be obtained **from the commission**.

**§309.36. Noncompliance with Approved Plans and Specifications.** If at any time during construction, enlargement, repair, alteration, or removal of any dam or reservoir the executive director finds that the work is not being done in accordance with [commission] approved plans and specifications or in accordance with approved revised plans and specifications, he shall give written notice thereof and **direct** [order] compliance by certified mail to the owner. The notice shall state the particulars concerning the lack of compliance and shall **direct** [order] immediate compliance with the original or revised approved plans and specifications. If the owner fails to comply with the **directive** [order], the executive director may request the commission to revoke the permit. Failure to comply with approved plans and specifications will be grounds for revocation of the permit and/or civil penalty as provided by law. The commission may order the incomplete structure removed to eliminate any safety hazard to life and property.

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 December 9, 1983.

TRD-8310264 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

## Maintenance, Operation, and Removal 31 TAC §309.55

The Texas Water Development Board proposes amendments to §309.55, concerning removal or alteration of unlawful dams and reservoirs. The proposed changes make clear that the executive director may refer a dam safety matter directly to the attorney

general in addition to seeking commission action. The proposed changes also clarify that the commission or district court authorizes the removal or alteration of structures and that the executive director approves plans and specifications for the removal or alteration.

Mike Hodges, Fiscal Services Section chief, 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. Hodges 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 is clarification of state rules and conformity with statute. 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 Suzanne Schwartz, Assistant General Counsel, Texas Department of Water Resources, P.O. Box 13087, Austin, Texas 78711.

The amendments are proposed under the Texas Water Code, §5.131 and §5.132, which provides the Texas Water Development Board with the authority to make any rules necessary to carry out the powers and duties under the provisions of the Code and other laws of the state and to establish and approve all general policy of the Texas Department of Water Resources.

**§309.55. Removal or Alteration of Unlawful Dams and Reservoirs.** The executive director may seek an order from the commission requiring the removal or alteration of dams and reservoirs which are not authorized by law, **or may refer the matter to the attorney general**. Removal or alteration of unlawful structures shall be done at the owner's expense and only **after obtaining any necessary authorizations from the commission and after approval of plans and specifications by the executive director** [with prior approval of the commission].

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

Issued in Austin, Texas, on December 9, 1983.

TRD-8310265 Susan Plettman  
General Counsel  
Texas Department of Water  
Resources

Earliest possible date of adoption:  
January 16, 1984

For further information, please call (512) 475-6943.

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

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

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

# Withdrawn Rules

## TITLE 1. ADMINISTRATION Part III. Office of the Attorney General

### Chapter 55. Child Support Enforcement

#### Subchapter G. Contracts and Audits

##### 1 TAC §55.152

The Office of the Attorney General has withdrawn from consideration for permanent adoption new

§55.152, concerning contracts and audits. The text of the new section as proposed appeared in the August 26, 1983, issue of the *Texas Register* (8 Tex-Reg 3303).

Issued in Austin, Texas, on December 9, 1983.

TRD-8310224

Gloria Hunt  
Policy and Procedures Chief  
Office of the Attorney General

Filed: December 9, 1983

For further information, please call (512) 475-0990.

# 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 1. ADMINISTRATION Part III. Office of the Attorney General Chapter 55. Child Support Enforcement

The Office of the Attorney General adopts the following new rules without changes to the proposed text as published in the August 26, 1983, issue of the *Texas Register* (8 TexReg 3301).

These rules clarify policies pertaining to the general operation and administration of the program, including audits and contracts, the location of noncustodial parents, the establishment of paternity, the establishment and enforcement of court-ordered child support, and the collection and distribution of child support payments.

The Social Security Act, Title IV-D, requires states to assist in locating absent parents, establishing and enforcing child support obligations, and establishing paternity for children of both AFDC and non-AFDC families. The Texas Human Resources Code, Chapter 46, designates the Texas Department of Human Resources as the state agency to administer the Child Support Enforcement Program and allows the Texas Department of Human Resources to enter into contracts or agreements necessary to administer this program. By that authority, and pursuant to the legislative intent expressed in Senate Concurrent Resolution 58, 68th Legislature, 1983, the Texas Department of Human Resources has contracted with the Office of the Attorney General to delegate its authority for the

operation of the Child Support Enforcement Program. The Office of the Attorney General adopts these new rules to comply with the terms of the interagency contract transferring the operation of the Child Support Enforcement Program from the Texas Department of Human Resources to the Office of the Attorney General, effective September 1, 1983.

Joseph Kouba, Budget and Fiscal Division chief, has determined that for the first five-year period the rules will be in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules, except for §55.33. In §55.33 an increase in state revenue is estimated to be \$3,100 in fiscal year 1984 and \$8,280 in each year for fiscal years 1985-1988. The other rules do not constitute changes in program policy and are adopted here as a result of the change in rule-making authority previously described.

Mr. Kouba also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules is the continued enforcement of child support services through the transfer of responsibility from the Texas Department of Human Resources to the Office of the Attorney General. Except for §55.33, there is no anticipated economic cost to individuals who are required to comply with the rules. In §55.33, applicants for locate services for parental kidnapping and child custody determination would pay an application fee of \$40 if the noncustodial parent's social security number is provided and \$44 if the number is not provided.

No comments were received regarding adoption of the new rules.

## Subchapter A. General Guidelines

### 1 TAC §§55.1-55.5

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

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 December 6, 1983.

TRD-8310225      Jim Mattox  
Attorney General

Effective date: December 30, 1983  
Proposal publication date: August 26, 1983  
For further information, please call (512) 475-0990.

## Subchapter B. Locate Services

### 1 TAC §§55.31-55.33

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

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 December 6, 1983.

TRD-8310226      Jim Mattox  
Attorney General

Effective date: December 30, 1983  
Proposal publication date: August 26, 1983  
For further information, please call (512) 475-0990.

## Subchapter C. Paternity

### 1 TAC §55.61

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

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 December 6, 1983.

TRD-8310227      Jim Mattox  
Attorney General

Effective date: December 30, 1983  
Proposal publication date: August 26, 1983  
For further information, please call (512) 475-0990.

## Subchapter F. Collections and Distribution

### 1 TAC §§55.121-55.123

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

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 December 6, 1983.

TRD-8310228      Jim Mattox  
Attorney General

Effective date: December 30, 1983  
Proposal publication date: August 26, 1983  
For further information, please call (512) 475-0990.

## Subchapter G. Contracts and Audits

### 1 TAC §§55.151, 55.153-55.157

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

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 December 6, 1983.

TRD-8310229      Jim Mattox  
Attorney General

Effective date: December 30, 1983  
Proposal publication date: August 26, 1983  
For further information, please call (512) 475-0990.

## TITLE 4. AGRICULTURE

### Part IV. State Entomologist

### Chapter 71. Bees

### Permits and Registration

#### 4 TAC §71.23

The State Entomologist adopts new §71.23, with changes to the proposed text published in the October 28, 1983, issue of the *Texas Register* (8 TexReg 4454). The adopted rule has been amended to make its exemption from intrastate shipment permit fees applicable to hobby beekeepers owning no more than 12 colonies of bees, rather than the 25-colony limit

contained in the rule as proposed. The original 25-colony limit was proposed in error.

The new rule as adopted grants an exemption from the \$25 intrastate shipment permit fee to hobby beekeepers. It is hoped that the rule will alleviate the present confusion over the exemption.

The Texas Bee Law, Texas Agriculture Code, Chapter 131, has been recently and substantially revised by House Bill 1511, 68th Legislature, 1983. As part of these recent revisions, the Bee Law was amended to provide for the exemption of hobby beekeepers from the required \$25 intrastate shipment permit fee provided for in the Texas Agriculture Code, §131.043. However, an error in the enrolled and enacted version of House Bill 1511 caused the hobby beekeeper exemption provision to be included in the Code, §131.044, relating to certificates of inspection, rather than §131.043 as intended. The error has been the source of some confusion among regulatees of the Texas Bee Law. Therefore, the State Entomologist has adopted a rule which clarifies the instances wherein the exemption will be granted.

The new section is adopted under the Texas Agriculture Code, §131.021, as amended, which provides the State Entomologist with the authority to adopt rules as necessary to control, eradicate, or prevent the introduction, spread, or dissemination of contagious or infectious diseases of bees.

**§71.12. Exemption from Fees.** An individual owning no more than 12 colonies of bees will be exempt from the \$25 intrastate permit fee provided for in the Act, §131.043.

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 College Station, Texas, on December 5, 1983.

TRD-8310139      Dr. Neville P. Clarke  
Director  
Texas Agricultural Experiment  
Station

Effective date: December 28, 1983  
Proposal publication date: October 28, 1983  
For further information, please call (409) 845-3511.

lished in the October 28, 1983, issue of the *Texas Register* (8 TexReg 4455). The change concerns a reference to §5.01, which was an error corrected in the November 8, 1983, issue of the *Texas Register* (8 TexReg 4697). Section 5.01 should have been §5.0.

The rule is adopted to enable brokers and dealers in Texas to rely upon a listing in a recognized securities manual for claiming the secondary trading exemption provided by the Securities Act, §5.0. Also, adoption of this rule on a permanent basis is necessary given that the emergency rule currently in effect (8 TexReg 3344) will expire on December 30, 1983.

Senate Bill 106, 68th Legislature, 1983, effective September 1, 1983, does not contain a list of recognized securities manuals, but requires instead that all such manuals be approved by the board. The rule as amended will indicate which manuals have been approved by the board for claiming the exemption.

No comments were received regarding adoption of the amendments.

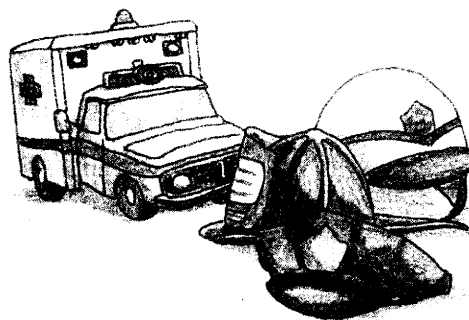
The amendments are adopted under Texas Civil Statutes, Article 581-28-1, which provide that the board may adopt such rules and regulations as may be necessary to carry out the provisions of the Securities Act.

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

Issued in Austin, Texas, on December 9, 1983.

TRD-8310223      Richard D. Latham  
Securities Commissioner

Effective date: December 30, 1983  
Proposal publication date: October 28, 1983  
For further information, please call (512) 474-2233.



## TITLE 7. BANKING AND SECURITIES

Part VII. State Securities Board  
Chapter 109. Transactions Exempt  
from Registration  
Secondary Trading Exemptions  
7 TAC §109.7

The State Securities Board adopts amendments to §109.7, with one change to the proposed text pub-

## TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of  
Texas  
Chapter 5. Transportation Division  
Subchapter M. Motor Bus Companies  
16 TAC §5.248

The Railroad Commission of Texas adopts new §5.248, without changes to the proposed text pub-



lished in the September 6, 1983, issue of the *Texas Register* (8 TexReg 3484). The rule will simplify and expedite taxi operations to and from Dallas/Fort Worth Municipal Airport.

There will be no fiscal implications as a result of enforcing or administering the rule. The public benefit will be the implementation of the intent of the legislature, as embodied in House Bill 593 and Senate Bill 960. The rule will impose no additional economic cost to individuals.

The commission received the following comments in opposition to the rule as proposed. The definition of motor bus company as stated in the proposed rule is not in conformance with the statutory definition of the same term. Definitions of motor bus company and taxicab are as they are already defined in Texas Civil Statutes, Article 911a. The definition of taxicab in the rule as proposed is more restrictive than intended by the statutory use of the word taxicab. House Bill 593 was not intended to affect previously granted certificates; it was not intended to validate previously issued taxicab certificates. Senate Bill 960 did not mandate that joint airport boards regulate taxi service; it only granted them permissive authority to do so. The definition of taxicab includes only those which provide curbside service, while many taxicabs use radio dispatch. Many taxicabs offer time call service, which is a prearrangement for taxi service at a certain time. Unscheduled service should not be construed to mean the opposite of regular service. "Joint municipal airport" should be qualified with the phrase "established pursuant to Article 46d-1, *et seq.*" The definition of taxicab should take into account the size of the vehicle. Subsection (b) is unnecessary as it adds nothing to the language of the statute. The Railroad Commission has no jurisdiction to regulate taxi service at the Dallas Fort Worth Airport based on the enactment of House Bill 593 and Senate Bill 960. Concurrent jurisdiction over taxi service at the Dallas/Fort Worth Airport on the part of the Railroad Commission and the airport board would constitute unfair restraint of trade. Day-to-day regulation of taxi service at Dallas/Fort Worth Airport is best provided by the airport board.

The Railroad Commission of Texas agrees or disagrees with the comments received in opposition to the proposed rule for the following reasons. The definition of motor bus company as stated in the proposed rule conforms to the definition stated in Texas Civil Statutes, Article 911a, as amended by House Bill 593. The definitions of motor bus company and taxicabs are included in the proposed rule as a means of insuring that all necessary information relating to taxi service is available to the public in one place. The definition of taxicab in the proposed rule is in conformance with traditional definitions of taxi service and with the legislative intent. House Bill 593 specifically states that permits, licenses, or certificates issued prior to June 1, 1983, are not affected by the provisions of House Bill 593.

The proposed rule takes into account the fact that Senate Bill 960 does not require joint municipal air-

port boards to regulate taxi service. The definition of taxicab in the proposed rule does not include only those vehicles which provide curbside service; the rule does not exclude those vehicles dispatched by radio which meet the elements of the definition. Time call services are not necessarily excluded by the requirement that the service be call-and-demand. Unscheduled service is separate from the requirement that the service be over irregular routes. The language of the proposed rule conforms to the legislative intent embodied in House Bill 593 to exclude from the taxicab exemption taxicabs operating to or from a joint municipal airport, established pursuant to Texas Civil Statutes, Article 46d-14. The size of the vehicle is not necessarily relevant to a definition of taxicab service; such service could be provided in many different types of vehicles. Subsection (b) of the proposed rule is necessary to insure that all the statutory requirements relevant to taxi service over the highways of Texas is available to the public in one place. In promulgating the proposed rule, the Railroad Commission has followed the legislative intent embodied in House Bill 593 and Senate Bill 960. The rule, as proposed, would not constitute unfair restraint of trade; if the airport board regulates taxi service at D/FW Airport, then the Railroad Commission would not regulate except in relation to safety matters. The rule as proposed takes into account the advantages of a local authority providing the regulation of taxi service at D/FW Airport if the local authority chooses to regulate such service in a meaningful way.

The following comments were received in support of the rule as proposed. Senate Bill 960 amended House Bill 593 so that the Railroad Commission can now regulate taxi service only if the D/FW Airport Board declines to regulate such service. The rule should provide that if the D/FW Airport Board decides to regulate, the Railroad Commission will not assert any jurisdiction. Investigation of complaints could be better executed by local authorities at the D/FW Airport than by the Railroad Commission.

Yellow Cab and Surtran Taxicabs, Inc., commented against the rule as proposed. Terminal Taxicab, Taxi Dallas, City of Dallas, and Golden Cab commented in favor of the rule as proposed.

The new rule is adopted under Texas Civil Statutes, Article 911a, §4, which provides the Railroad Commission of Texas with the authority to prescribe reasonable regulations for the governance of motor bus companies.

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 December 5, 1983.

TRD-8310193      Buddy Temple and  
                                 Jim Nugent, Commissioners  
                                 Railroad Commission of Texas

Effective date: December 30, 1983  
Proposal publication date: September 6, 1983  
For further information, please call (512) 445-1186.

## Subchapter U. General and Special Rules of Practice and Procedure

### 16 TAC §5.411

The Railroad Commission of Texas adopts amendments to §5.411, with changes to the proposed text published in the August 16, 1983, issue of the *Texas Register* (8 TexReg 2994).

Section 5.411 concerns parties in interest. The rule specifies those conditions under which a person may be considered an existing carrier with standing to protest an application for new or amended authority. The amendments will implement the recently enacted House Bill 593, relating to the power and duties of the Railroad Commission of Texas. Subsections (d) and (e) have been changed by adding clarifying language; otherwise, the rule as proposed is adopted. The changes in subsections (d) and (e) are not substantial.

There are no fiscal implications for state or local government as a result of enforcing or administering the rule. The public will benefit as a result of enforcing the rule in that the rule will constitute a safeguard against unnecessary expense or delay in authority cases and will implement House Bill 593. The rule will not impose additional economic cost on persons required to comply with the rule as proposed.

The commission received the following comments in opposition to the rule as proposed.

(1) The rule as proposed changes the provision of House Bill 593, which sets forth elements of proof to be established by a party to a proceeding into criteria for determining standing.

(2) The language of the rule as proposed is not in conformance with the language of House Bill 593; the proposed rule requires that a protestant be a holder of a certificate while House Bill 593 only requires that a protestant possess authority to handle "in whole or in part" the traffic for which authority is sought.

(3) The rule as proposed constitutes an attempt to legislate by administrative fiat by denying standing to contract carriers.

(4) The rule as proposed does not limit the time period in which a petition to intervene in opposition must be filed; therefore, it will be difficult to determine when a decision of the commission is final.

(5) The rule as proposed allows a potentially successful protest to be cut off prior to submission of any evidence, contrary to the language of House Bill 593.

(6) The rule as proposed does not clearly define active, good faith solicitation.

(7) The rule as proposed requires solicitation on the part of protestants prior to the filing of the involved application; this forecloses protests to applications involving new shipping points or conversion from private carriage to for-hire carriage.

The following persons or companies have submitted comments against the proposed rule: Steere Tank Lines, Inc.; William D. White, Jr.; Auto Convoy Company; Brown Express, Inc.; Central Freight Lines, Inc.; Dunn Brothers, Inc.; Highway Express, Inc.; Sam Lattner Distributing Company; Sand & Gravel Motor

Carrier Association, Inc.; Southwest Warehouse & Transfer Association, Inc.; Valley Transit Company, Inc.; Simms, Kidd, Hubbert & Wilson; Owen T. Kinney; Hugh T. Matthews; and Paul D. Angenend.

The commission agrees or disagrees with the comments submitted for the following reasons.

(1) The language of the proposed rule conforms with the intention embodied in House Bill 593, in that there is no other determination, under normal circumstances, which is to be made except public convenience and necessity. In addition, if there did arise such a situation, the commission can allow standing pursuant to §5.411(d)(2)(B).

(2) The language of the rule implements and fully conforms to the intention embodied in House Bill 593 that protestants must have authority which conflicts with the authority sought.

(3) The standing of a contract carrier as a protestant or intervenor in opposition to an application is determined by the Motor Carrier Act and is not determined by this rule.

(4) Section 5.411(a) establishes the time period in which a petition to intervene in opposition must be filed.

(5) The language of the proposed rule has been modified to reflect the intention embodied in House Bill 593, which sets forth elements of proof to be established by a protestant to an application.

(6) Active, good faith solicitation can only be defined in the context of a specific case.

(7) The requirement that a protestant has engaged in active, good faith solicitation prior to the filing of an application does not automatically foreclose valid protests to applications involving new shipping points or points where conversion from private carriage to for-hire carriage has occurred; active, good faith solicitation encompasses only those members of the shipping public who would be known to a diligent carrier.

The amendments are adopted pursuant to Texas Civil Statutes, Article 911b, §4, which provide the Railroad Commission of Texas with the authority to prescribe rules and regulations governing motor carriers.

#### §5.411. *Parties in Interest.*

(a) (No change.)

(b) Any interested person, public official, agency, or department of the State of Texas or any of its political subdivisions, or any civic or trade organization shall be permitted to intervene:

(1) in support of or in opposition to all or part of the relief sought in any protested proceeding by filing a petition for leave to intervene showing the nature of its interest in the proceeding at least 10 days in advance of the hearing date; or

(2) in support of the relief sought in any unopposed proceeding by filing a petition for leave to intervene showing the nature of its interest in the proceeding at least five days in advance of the hearing date. A petition to intervene in an unopposed proceeding shall not delay or change the nature of the proceeding, its purpose, or the method of procedure.

(c) Any interested person may, subject to the provisions of subsections (d) and (e) of this section, be granted leave to intervene or protest upon a showing of a cognizable interest under the Motor Carrier Act.

(d) No person shall have standing to appear as a party in opposition to an application for new or amended common carrier (including specialized motor carrier) authority unless such person:

(1) shall have filed either:

(A) a timely and valid notice of protest to the application in compliance with §§5.408, 5.414, and 5.420 of this title (relating to Service of Pleadings in Nonrule-making Proceedings, Form and Content of Pleadings, and Publication of Notice in Nonrule-making Proceedings), or

(B) a timely and valid petition to intervene in opposition to a protested application in compliance with this section, or

(C) a late-filed petition to intervene in opposition showing good cause for having failed to file said petition in a timely manner, and

(2) shall be:

(A) the holder of authority in good standing authorizing it to provide service within the scope of the application, and

(B) willing and able to provide such service that meets the reasonable needs of the shippers involved, and have transported or actively and in good faith solicited traffic within the geographical scope of the application during the 24-month period immediately preceding filing of the application, or

(3) have been granted leave to protest or intervene upon a showing of other cognizable interest under the Motor Carrier Act.

(e) No persons shall have standing to appear as a party in opposition to an application for new or amended contract carrier authority unless such person shall have met the requirements of subsection (d)(1) of this section, and shall either:

(1) be the holder of authority in good standing authorizing it to provide service within the scope of the application, or

(2) have been granted leave to protest or intervene upon a showing of other cognizable interests under the Motor Carrier Act.

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

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

TRD-8310194      Buddy Temple and Jim Nugent,  
Commissioners  
Railroad Commission of Texas

Effective date: December 30, 1983

Proposal publication date: August 16, 1983

For further information, please call (512) 445-1186.

## 16 TAC §5.430

The Railroad Commission of Texas adopts amendments to §5.430, without changes to the proposed

text published in the August 5, 1983, issue of the *Texas Register* (8 TexReg 3177).

Section 5.430 concerns the order of procedure in contested proceedings. The amendments will implement the recently enacted House Bill 593 relating to the powers and duties of the Railroad Commission of Texas.

There will be no anticipated fiscal implications for state or local government as a result of enforcing or administering the rule. The public will benefit as a result of enforcing the rule in that the rule will constitute a safeguard against unnecessary expense or delay in authority cases and will implement House Bill 593. The rule will not impose an additional economic cost on individuals required to comply with the rule as proposed.

The commission received the following comment in opposition to the rule as proposed. The proposed rule favors existing carriers over a new carrier applicant by providing that protestants shall have no burden with regard to the adequacy of their services unless the applicant makes a *prima facie* showing.

The commission received comments in support of the rule, but with suggested changes that the rule should provide for a ruling on prehearing motions in advance of the hearing date, and that the examiner declare when a *prima facie* showing has been made by the applicant. The rule should require that the protesting carrier show that their services are reasonably adequate to meet the demonstrated needs of shippers, and the rule should provide that the protestants' evidence be heard first.

Those commenting in favor of the rule are the Texas Association to Improve Distribution, Anderson Clayton Foods, and Kroger. Clorox Company commented against the rule.

The commission disagrees with the comment in opposition to the rule because this provision of the rule conforms to the language of House Bill 593, which provides that the burden to show that the public convenience would not be promoted or that a public necessity does not exist for the proposed service or that the existing carriers are rendering a reasonably adequate service shifts to protestants only when applicant has made a *prima facie* showing.

The commission disagrees with the suggested changes to the rule for the following reasons.

(1) This rule does not preclude rulings on prehearing motions in advance of hearing pursuant to §§5.411, 5.416, 5.425, and 5.433.

(2) It would be improper to require such a ruling on whether a *prima facie* cause has been made because this is an ultimate determination which should be made by the commission.

(3) The proposed rule conforms to the language of House Bill 593 in requiring that the protestants show that their services are reasonably adequate.

(4) A provision requiring that protestant's case be heard first would not conform to House Bill 593 since

the protestant has no burden until applicant makes a *prima facie* showing.

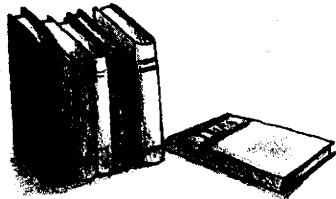
The amendments are adopted under Texas Civil Statutes, Article 911b, §4, which provide the Railroad Commission of Texas with the authority to prescribe reasonable regulations for the governance of motor carriers.

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 December 5, 1983.

TRD-8310195      Buddy Temple and Jim Nugent,  
Commissioners  
Railroad Commission of Texas

Effective date: December 30, 1983  
Proposal publication date: August 5, 1983  
For further information, please call (512) 445-1330.



## **TITLE 28. INSURANCE**

### **Part I. State Board of Insurance**

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

#### **Texas Title Insurance Act Policy Forms and Premiums**

**059.09.07.001**

The State Board of Insurance adopts by reference amendments to Rule 059.09.07.001, the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas*, without changes to the text published in the October 21, 1983, issue of the *Texas Register* (8 TexReg 4362).

Subparagraph (c) of §3, Defense and Prosecution and Actions, of the Conditions and Stipulations Section of the Owner Policy of Title Insurance, Form T-1, has been amended to comply with the Insurance Code, Article 9.57.

A new paragraph titled "Complaint Notice" has been added to the Conditions and Stipulations Section of both the Owner Title Policy, Form T-1, and the Mortgagee Title Policy, Form T-2, to comply with the Insurance Code, Article 1.35.

Item 1, Schedule B, of the Commitment for Title Insurance and Item 1, Part 1, Schedule B, of the Mort-

gagee Title Policy Binder on Interim Construction Loan, have each been amended in a similar fashion concerning restrictive covenants of record to conform to amendments made in the language of Item 1, Schedule B, of the Mortgagee Title Policy last year.

Senate Bill 928, §89, 68th Legislature, 1983, now the Insurance Code, Article 9.57, as amended, mandates a change in the language of owner policies of title insurance issued or delivered after January 1, 1984, to include new language outlining certain procedures to be followed by title insurance companies upon notice of claim given by the insured.

New language has been promulgated by a staff-industry committee for inclusion in all policies in all lines of insurance issued after September 1, 1984, in compliance with Senate Bill 928, §8, now codified as the Insurance Code, Article 1.35, as amended.

Similar amendments in the language of the Commitment (agenda item 18) and the Mortgagee Title Policy Binder on Interim Construction Loan (agenda item 19) conform those two promulgated documents (which are issued preliminarily to a Mortgagee Title Policy) to the promulgated language of the Mortgagee Title Policy which was amended concerning restrictive covenants following the previous title insurance hearing.

All of the adopted amendments will appear in and be a part of the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas* for use by agents, insurance companies, and other interested parties. Each of the amendments to promulgated forms will be included in all such forms reprinted by title insurance companies after January 1, 1984. Forms printed prior to that date will be modified to conform to the amendments effective January 1, 1984, by endorsement to the same.

No comments were received regarding adoption of the amendments during the 30-day publication period, except that, during the November 9, 1983, public hearing following publication in the *Texas Register*, certain persons or organizations offered comments on each agenda item. A summary of those comments organized by agenda item and amendment is as follows.

Concerning agenda item 12, those speaking in favor of the rule as proposed were Robert C. Sneed ("Sneed"), attorney, representing the Texas Land Title Association ("TLTA"); Maxie Hardin, attorney, an expert witness called by TLTA; and Robert E. Philo, Jr., assistant director, Title Insurance, State Board of Insurance ("staff").

Senate Bill 928, §89, 68th Legislature, 1983, now the Insurance Code, Article 9.57, as amended, mandates this change in the language of owner policies of title insurance issued or delivered after January 1, 1984. This new language outlines certain procedures to be followed by title insurance companies upon notice of claim given by the insured and will conform the promulgated policy form to the statute. No one commented against the rule as proposed.

Concerning agenda item 17, the staff spoke in favor of the rule as proposed. This new language has been promulgated by a staff-industry committee for inclusion in all policies in all lines of insurance issued after September 1, 1984, in compliance with Senate Bill 928, §8, now codified as the Insurance Code, Article 1.35, as amended. The staff asserted that this language should be added to title insurance policies upon their first reprinting to avoid additional costs of a second reprinting and to conform the promulgated policy forms to the statute.

Malcolm S. Morris, vice-president, Stewart Title Guaranty Company, spoke against the rule as proposed. The universal language proposed by the staff-industry committee should be modified in the case of title insurance policies to specifically require that claims be filed with the company rather than its agent and that notices of claims or complaints be given to the company in addition to the agent.

Concerning agenda items 18 and 19, Sneed, attorney, representing the TLTA, and staff spoke in favor of the rule as proposed. These similar amendments in the language of the Commitment (item 18) and the Mortgagee Title Policy Binder on Interim Construction Loan (item 19) will conform those two promulgated documents (which are issued preliminarily to a Mortgagee Title Policy) to the promulgated language of the Mortgagee Title Policy which was amended concerning restrictive covenants following the previous title insurance hearing. No one spoke against the rule as proposed.

The board agreed with the proponents because it found that the amendments were appropriate and required. It disagreed with the opponent, Mr. Morris. The board found that the proponent's proposed amendments to the staff-industry committee's promulgated language were unnecessary because the universal language as proposed was adequate to accomplish its intended purposes in title insurance policies.

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

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

Issued in Austin, Texas, on December 8, 1983.

TRD-8310232 James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: January 1, 1984  
Proposal publication date: October 21, 1983  
For further information, please call (512) 475-2950.

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Resources

#### Chapter 10. Family Self-Support Temporary Emergency Relief Program

##### 40 TAC §§10.4301-10.4316

The Texas Department of Human Resources adopts new §§10.4301-10.4316, without changes to the proposed text published in the September 9, 1983, issue of the *Texas Register* (8 TexReg 3580). Emergency rules, effective September 1, 1983, were also published in the September 9, 1983, issue of the *Texas Register* (8 TexReg 3544).

The department adopts the rules as part of a cooperative effort between the department and county commissioners courts to provide needy persons with food, utilities, housing, and clothing.

The rules establish eligibility criteria and application and contracting requirements. They also identify the services which may be delivered under the program. If a county does not participate, other contractors, selected by a competitive bidding process, may contract with the department.

One comment was received regarding the adoption of the new sections. A representative of the United Way of Texas testified at the public hearing, September 22, 1983. He favored the adoption of the sections as proposed.

The new sections are adopted under the Human Resources Code, Title 2, Chapter 22 and Chapter 34, which authorizes the department to administer public assistance programs.

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 December 8, 1983.

TRD-8310167 Marlin W. Johnston  
Commissioner  
Texas Department of Human Resources

Effective date: December 29, 1983  
Proposal publication date: September 9, 1983  
For further information, please call (512) 441-3355, ext. 2037.

## Chapter 71. Public Information Adoption Registry

### 40 TAC §§71.21-71.28

The Texas Department of Human Resources adopts new §§71.21-71.28, without changes to the proposed text published in the November 4, 1983, issue of the *Texas Register* (8 TexReg 4563).

By adopting these new rules governing the department's operation of the central voluntary adoption registry and central index, the department complies with the Human Resources Code, Title 2, Subtitle D, Chapter 49.

The new rules stipulate the requirements for the department's operation of the central adoption registry and the central index, the policies and procedures for persons to register with the central adoption registry, and the policies for matching registrants and releasing identifying information to matched registrants.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Human Resources Code, Title 2, Chapter 49, which requires the

department to establish rules governing voluntary adoption registries.

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 December 8, 1983.

TRD-8310168      Marlin W. Johnston  
Commissioner  
Texas Department of Human  
Resources

Effective date: January 1, 1984

Proposal publication date: November 4, 1983

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

---

## State Board of Insurance Exempt Filings

---

### State Board of Insurance Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Articles 5.96 and 5.97, the Texas Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

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

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

The State Board on Insurance has approved amendments to the rules contained in the inland marine section of the commercial lines manual governing the writing of an equipment dealers policy as presented at a board meeting on November 10, 1983. The amendments remove certain restrictions, thereby allowing the writing of a mobile agricultural implement dealer under an equipment dealers policy, which previously was prohibited by rule.

These changes are to be effective January 1, 1984.

This notification is filed pursuant to the Insurance Code, Article 5.97, which exempts it from the require-

ments of the Administrative Procedure and Texas Register Act.

Issued in Austin, Texas, on December 9, 1983.

TRD-8310233      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 adopted amendments to the Texas Automobile Manual (Rule 059.05 .01.005) and transferred regulation of physical damage insurance for mobile agricultural equipment held by dealers for sale, display, demonstration, rental, leasing, storage, service, or repair from the Insurance Code, Chapter 5, Subchapter A, to the Insurance Code, Chapter 5, Subchapter C, Article 5.53.

The amendments to the Texas Automobile Manual involve amendments to two rules and the elimination of one endorsement. Rule 82, concerning Agricultural Machinery, Farm Tractors, and Self-Propelled Farm Implements, in the garage section of the Texas Automobile Manual has been amended to specifically prohibit mobile agricultural equipment from coverage under dealers physical damage insurance policies. Endorsement TX-08-53, concerning Machinery Dealers, in the endorsement supplement of the Texas Automobile Manual has been deleted. Rule 107, concerning Special or Mobile Equipment, has been amended to delete the parenthetical exception immediately under the "physical damage coverages only" heading and to add mobile agricultural equipment held by dealers

to the list of equipment elsewhere in the rule that cannot be insured under automobile physical damage coverages. The result of this transfer of regulation and adoption of these amendments will be that mobile agricultural equipment held by dealers for sale, display, demonstration, rental, leasing, storage, service, or repair cannot be insured under automobile physical damage insurance dealers, but would be insurable under appropriate inland marine insurance rules and forms.

The amendments and transfer are effective January 1, 1984.

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

Issued in Austin, Texas, on December 6, 1983.

TRD-8310234

James W. Norman  
Chief Clerk  
State Board of Insurance

Effective date: January 1, 1984

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

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

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

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

# Open Meetings

## Texas Employment Commission

**Tuesday, December 20, 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 approve prior meeting notes, consider and act on higher level appeals in unemployment compensation cases on Dockets 51 and 52, and set a date for the next meeting.

**Contact:** Courtenay Browning, TEC Building, Room 608, Austin, Texas, (512) 397-4415.

**Filed:** December 12, 1983, 3:44 p.m.  
TRD-8310341

## Texas Department of Health

**Saturday, December 17, 1983, 10:30 a.m.** The Cardiovascular Advisory Committee of the Crippled Children's Services Program of the Texas Department of Health will meet in the auditorium, 1100 West 49th Street, Austin. According to the agenda, the committee will review applications from physicians seeking program participation approval and discuss the operation of the

program approved pediatric cardiology diagnostic and treatment centers in the state.

**Contact:** James P. Rambin, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7743.

**Filed:** December 8, 1983, 4:07 p.m.  
TRD-8310181

## Texas Health Facilities Commission

**Friday, December 23, 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.

### Certificate of Need

Cross Timbers Community Hospital,  
Fort Worth  
AH83-0415-354

Four Seasons Nursing Center of Odessa,  
Odessa  
AN83-0713-038

Ben Taub General Hospital, Houston  
AH83-0722-054

Terrace West Nursing Center, Midland  
AN83-0726-061

Motion for Rehearing/Reconsideration  
Longview Day Surgery Center, Longview  
AS83-0415-342

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

**Filed:** December 12, 1983, 9:40 a.m.  
TRD-8310238

## Texas Housing Agency

**Friday, December 16, 1983, 10 a.m.** The Board of Directors of the Texas Housing Agency, will meet in the conference room, Suite 700, 411 West 13th Street, Austin. According to the agenda summary, the board will consider approval of the August 24, 1983, minutes; consider and act on a resolution authorizing and approving the issuance, sale, and delivery of approximately \$24.735 million in multi-family housing revenue bonds (Phoenix Mutual Life, Mortgage Loan Guarantor) 1983 Series A and 1983 Series B; approve the form and substance of applicable trust indentures; appropriate rules and regulations for the program to be established with the bonds; consider owner commitment agreements, mortgage loan documents, a preliminary official



statement, an official statement, and contract of purchase and financing agreements; authorize the execution of documents and instruments necessary or convenient to carry out the Phoenix Mutual Life Mortgage Loan Guaranty Multi-Family Housing Program to be established with the bonds; authorize and ratify other documents and provisions relating to the subject; consideration and action on a resolution authorizing and approving the issuance of 1983 multi-family housing revenue bonds (Chemical Bank, Private Placement) 1983 Series A and 1983 Series B; consider and possibly act on future multi-family bond public offerings and private placements; consider a program management report and possible actions related to administration of 1980 A single family, 1982 A single family, 1982 A multi-family, 1983 FSLIC multi-family, 1983 guaranteed multi-family, 1983 A single family; consider adoption of an amendment to the third supplemental single family indenture to modify the form of the capital appreciation bond, present the audit; and consider and action on a revised budget.

**Contact:** Earline Jewett, P.O. Box 13941, Austin, Texas 78711, (512) 475-0812.

**Filed:** December 8, 1983, 4:50 p.m.  
TRD-8310184

### Texas Commission on Human Rights

**Saturday, December 17, 1983, 8 a.m.** The Texas Commission on Human Rights will meet in Room 310, Old Supreme Court, Capital Building. According to the agenda summary, the commission will cover such items as membership in the International Association of Official Human Rights Agencies and a worksharing agent with EEOC and Equal Employment Opportunity Conference jointly sponsored with the Governor's Equal Employment Office. The commission also will meet in executive session to screen applications for employment.

**Contact:** Bill Hale, 510 South Congress Avenue, Austin, Texas 78711, (512) 475-1178.

**Filed:** December 9, 1983, 12:37 p.m.  
TRD-8310212

### State Board of Insurance

**Monday, December 12, 1983, 2 p.m.** The State Board of Insurance met in emergency session in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the

board considered emergency or proposed rules respecting annual statement blanks for all entities required to file annual statement blanks with the board and tax forms and instructions for all entities required to file tax returns with the board, including instructions for insurer-members of the Texas Catastrophe Property Insurance Association. The emergency status was necessary because entities required to file annual statement blanks and tax returns must obtain appropriate forms and instructions as soon as possible to timely comply with statutory deadlines.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** December 8, 1983, 4:28 p.m.  
TRD-8310182

### Wednesday, December 14, 1983, 10 a.m.

The State Board of Insurance rescheduled an emergency meeting held in Room 414, 1110 San Jacinto Street, Austin. According to the agenda, the board considered emergency or proposed rules concerning annual statement blanks for all entities required to file annual statement blanks with the board and tax forms and instructions for all entities required to file tax returns with the board, including instructions for insurer-members of the Texas Catastrophe Property Insurance Association. The meeting was originally scheduled for December 12, 1983. The emergency status was necessary because entities required to file annual statement blanks and tax returns must obtain appropriate forms and instructions as soon as possible to timely comply with statutory deadlines.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** December 12, 1983, 12:02 p.m.  
TRD-8310284

**Friday, December 16, 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 consider emergency or proposed rules respecting annual statement blanks for all entities required to file annual statement blanks with the board and tax forms and instructions for all entities required to file tax returns with the board, including instructions for insurer-members of the Texas Catastrophe Property Insurance Association.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** December 8, 1983, 4:30 p.m.  
TRD-8310183

**Tuesday, December 20, 1983, 9 a.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing to consider Docket 7480—application of American International Group, Inc., New York, New York, to acquire Control of Progressive County Mutual Insurance Company, Rockdale.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** December 12, 1983, 12:47 p.m.  
TRD-8310319

**Tuesday, December 20, 1983.** The State Board of Insurance will meet in Room E, John H. Reagan Building, 105 West 15th Street, Austin. Times and agendas are as follows.

**10 a.m.** According to the agenda, the board will consider the proposed Texas Townhouse Program, including manual rules, rating plans, classification plans, statistical plans, and policy and endorsement forms. Action may be taken on an emergency basis under the Insurance Code, Article 5.96, before the proposal is available for public inspection for 15 days in the chief clerk's office.

**10:30 a.m.** According to the agenda, the board will hold a public hearing to consider indicated property insurance rate changes resulting from any action taken by the board respecting the Texas Townhouse Program.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786.

**Filed:** December 9, 1983, 4:20 p.m.  
TRD-8310230, 8310231

**Tuesday, December 20, 1983, 1:30 p.m.** The Commissioner's Hearing Section of the State Board of Insurance will meet in Room 342, 1110 San Jacinto Street, Austin. According to the agenda, the section will conduct a public hearing in Docket 7489—application of Colonial Penn Life Insurance Company, Philadelphia, Pennsylvania, for authority to issue variable annuity contracts.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** December 12, 1983, 12:47 p.m.  
TRD-8310320

**Tuesday, December 20, 1983, 2 p.m.** The State Board of Insurance will meet in Room 414, 1110 San Jacinto Street, Austin. Items on the agenda summary include final action on new Rules 059.04.01.01.002 and 059.01

.16.003; amendments to Rules 059.01.15.201, .206, .207, .209, .214, .216, .217, and .220; repeal of Rule 059.01.15.219; and board orders on several different matters.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2950.

**Filed:** December 12, 1983, 4:12 p.m.  
TRD-8310345

The Commissioner's Hearing Section of the State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Days, times, rooms, and dockets follow.

**Wednesday, December 21, 1983, 9 a.m.** In Room 342, Docket 7486—application of El Fenix de Puerto Rico-Compania de Seguros, San Juan, Puerto Rico, to acquire control of National Unity Insurance Company, Waco.

**Contact:** Tom I. McFarling, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-1076.

**Filed:** December 12, 1983, 12:47 p.m.  
TRD-8310321

**Wednesday, December 21, 1983, 9 a.m.** In Room 353, Docket 7496—application for original charter of Mercantile Life Insurance Company, Dallas.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** December 12, 1983, 12:47 p.m.  
TRD-8310322

**Wednesday, December 21, 1983, 1:30 p.m.** In Room 342, Docket 7497—approval of amendments to the articles of agreement of State Farm Lloyd's of Texas, Dallas, changing its name, changing the name of its attorney in fact, and increasing the guaranty fund and free surplus.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** December 12, 1983, 12:47 p.m.  
TRD-8310323

**Wednesday, December 21, 1983, 1:30 p.m.** In Room 353, Docket 7495—application for certificate of authority by Germania Life Insurance Company, Brenham.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** December 12, 1983, 12:48 p.m.  
TRD-8310324

**Thursday, December 22, 1983, 9 a.m.** In Room 353, Docket 7327—application for approval of amendments to the articles of in-

corporation of Southern National Life Insurance Company, Dallas.

**Contact:** J. C. Thomas, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-4353.

**Filed:** December 12, 1983, 12:48 p.m.  
TRD-8310325

**Thursday, December 22, 1983, 9 a.m.** In Room 342, Docket 7505—application for original charter of Murray Life Insurance Company, Dallas.

**Contact:** John Brady, 1110 San Jacinto Street, Austin, Texas 78786, (512) 475-2287.

**Filed:** December 12, 1983, 12:48 p.m.  
TRD-8310326

### **Texas Commission on Law Enforcement Officer Standards and Education**

**Tuesday, December 20, 1983, 10 a.m.** The Texas Commission on Law Enforcement Officer Standards and Education will meet in Suite 100, 1606 Headway Circle, Austin. According to the agenda the commission will consider an emergency rule dealing with the state peace officer licensing examination.

**Contact:** Alfredo Villarreal, 1606 Headway Circle, Suite 100, Austin, Texas, (512) 834-9222.

**Filed:** December 9, 1983, 12:56 p.m.  
TRD-8310213

### **Board of Pardons and Paroles**

**Monday-Friday, December 27-30, 1983, 9 a.m. daily.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will review cases of inmates for parole consideration; take action on requests for executive clemency; review and act upon reports regarding administrative releasees; review procedures affecting the daily operation of staff; consider and act regarding needed administrative rule changes; take action upon gubernatorial directives; take action concerning certifying and contracting with community residential facilities; and consider and act in personnel matters.

**Contact:** John W. Byrd, 8610 Shoal Creek Boulevard, Austin, Texas, (512) 459-2716.

**Filed:** December 12, 1983, 9:59 a.m.  
TRD-8310266

### **Texas State Board of Physical Therapy Examiners**

**Friday, January 27, 1984, 4 p.m.** The Texas State Board of Physical Therapy Examiners will meet in Suite 260, Building C, 1300 East Anderson Lane, Austin. Items on the agenda include letters from prospective applicants convicted of crimes, discussion concerning the future conference of the National Clearinghouse on Licensure Enforcement and Regulation, conditions for license renewal refusal, a new physical therapist assistant education program in Texas, a report from the Investigation Committee, and a consumer information brochure, and miscellaneous board business.

**Contact:** Lois M. Smith, 1300 East Anderson Lane, C-260, Austin, Texas 78752, (512) 835-1846.

**Filed:** December 13, 1983, 9:02 a.m.  
TRD-8310348

### **Polygraph Examiners Board**

**Wednesday-Friday, January 11-13, 1984, 9 a.m. daily.** The Polygraph Examiners Board will meet at the Department of Public Safety, 5805 North Lamar, Austin. Items on the agenda include approval of minutes, consideration of and action upon applications for internship/\$12 and upon any other polygraph-related business which may come before the board; certification of December examination grades; appearance of failing interns and their sponsors; presentation of investigative reports on complaints filed and field inspections conducted; administrative hearings; discussion of proposed changes in board rules and regulations; and interpretation of various rules submitted by examiners.

**Contact:** Candy Moore, P.O. Box 4087, Austin, Texas 78765, (512) 465-2058.

**Filed:** December 9, 1983, 2:43 p.m.  
TRD 8310217

### **Texas State Board of Public Accountancy**

**Thursday, December 15, 1983, 9:30 a.m.** The Long-Range Planning Committee of the Texas State Board of Public Accountancy met in emergency session at 2900 Republic Bank Building, Dallas. Items on the agenda included discussion of topics for consideration by committee and future meeting times and dates. The emergency status was necessary because, to discuss topics prior to the late January board

meeting, the committee had to discuss organizational matters, the future agenda, and meeting plans as soon as was possible.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752, (512) 451-0241.

**Filed:** December 9, 1983, 2:44 p.m.  
TRD-8310218

### 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 dockets follow.

**Thursday, December 22, 1983, 1 p.m.** A prehearing in Docket 5521—application of Highsaw Water Supply Corporation for a rate/tariff change within Henderson County.

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

**Filed:** December 8, 1983, 10:03 a.m.  
TRD-8310142

**Tuesday, December 27, 1983, 10 a.m.** A prehearing conference in Docket 5517—application of Alexa Enterprises, Inc., doing business as Engel Utility Company, for a rate increase.

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

**Filed:** December 9, 1983, 2:44 p.m.  
TRD-8310219

**Wednesday, December 28, 1983, 10 a.m.** A prehearing conference in Docket 5508—application of Texas Leisure, Inc., for a rate/tariff change in Cooke and Matagorda Counties.

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

**Filed:** December 8, 1983, 2:47 p.m.  
TRD-8310169

**Thursday, December 29, 1983, 10 a.m.** A prehearing conference in Docket 5520— inquiry into the service rendered by South Ellis County Water Supply Corporation.

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

**Filed:** December 13, 1983, 9:03 a.m.  
TRD-8310349

**Wednesday, January 4, 1984, 10 a.m.** A prehearing conference in Docket 5506— appeal of Blackland Water Company from a rate decision of the City of Bynum.

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

**Filed:** December 9, 1983, 2:43 p.m.  
TRD-8310220

The Public Utility Commission of Texas rescheduled a meeting to be held in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the commission will discuss the permanent adoption of new Chapter 23 and repeal of existing Chapter 23. The meeting was originally scheduled for December 16, 1983.

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

**Filed:** December 9, 1983, 2:43 p.m.  
TRD-8310221

**Tuesday, February 7, 1984, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. According to the agenda, the division will conduct a hearing in Docket 5488— application of Northwest Water Systems, Inc., for a rate/tariff increase.

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

**Filed:** December 13, 1983, 9:02 a.m.  
TRD-8310350

### State Purchasing and General Services Commission

**Tuesday, December 13, 1983, 9:30 a.m.** The State Purchasing and General Services Commission made an emergency addition to the agenda of a meeting held in Room 916, LBJ Building, 111 East 17th Street, Austin. The addition concerned a review in executive session for possible commission action on MAI appraisal for Gammon Insurance Company property. The emergency status was necessary because this matter came up too late to be included on the agenda as a nonemergency item, and it was necessary for the commissioners to consider it at this meeting.

**Contact:** Homer A. Foerster, P.O. Box 13047, Austin, Texas 78711, (512) 475-2211 or STS 822-2211.

**Filed:** December 12, 1983, 3:17 p.m.  
TRD-8310334

### Railroad Commission of Texas

**Monday, December 12, 1983, 9 a.m.** The Transportation Division of the Railroad Commission of Texas made an emergency addition to the agenda of an emergency meeting held in Room 107, first floor auditorium, 1124 IH 35 South, Austin. The addition concerned consideration of final order in Docket 02561ZZT—application of Hunt-Wesson Foods, Inc., to amend CCMFA Tariff 25-T by establishing a new item therein containing distance commodity rates applying on candy, foodstuffs, grains, matches, meats or shortening, nuts, and edible oils, other than petroleum, when moving from Houston and Dallas to all points in Texas, subject to a volume truckload weight of 40,000 pounds, as set forth in Motor Freight Circular 25345. The emergency status was necessary because this matter was properly posted for December 5, 1983, and was passed, therefore, it is now being considered on less than seven days' notice as a matter of urgent public necessity.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** December 9, 1983, 10:53 a.m.  
TRD-8310196

**Monday, December 19, 1983, 9 a.m.** Divisions of the Railroad Commission of Texas will meet at 1124 IH 35 South, Austin. Divisions, meeting rooms, and agendas follow.

The Automatic Data Processing Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

**Contact:** Bob Kmetz, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1204.

**Filed:** December 9, 1983, 10:54 a.m.  
TRD-8310197

The Flight Division will meet in Room 107 to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Ken Fossler, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1103.

**Filed:** December 9, 1983, 10:55 a.m.  
TRD-8310198

The Gas Utilities Division will meet in Room 107 to consider various matters falling within the division's regulatory jurisdiction.

**Contact:** Lucia Sturdevant, P.O. Drawer 12967, Austin, Texas 78711, (512) 475-0461.

**Filed:** December 9, 1983, 10:55 a.m.  
TRD-8310199

The Office of Information Services will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1000.

**Filed:** December 9, 1983, 10:53 a.m.  
TRD-8310200

The LP-Gas Division will meet in the first floor auditorium to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Hugh F. Keepers, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1000.

**Filed:** December 9, 1983, 10:54 a.m.  
TRD-8310201

The Oil and Gas Division will meet in the first floor auditorium to consider various matters falling within the commission's oil and gas regulatory jurisdiction.

**Contact:** Liz Nauert, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1307.

**Filed:** December 9, 1983, 10:54 a.m.  
TRD-8310202

Additions to the above agenda:

Consideration of category determinations under the Natural Gas Policy Act of 1978, §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108.

**Contact:** Madalyn J. Girvin, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1209.

**Filed:** December 9, 1983, 10:57 a.m.  
TRD-8310203

Consideration of Docket 94,583—Gulf Oil Corporation, Rule 37 Exception, W. G. Sexton Estate Lease, Well 35, East Texas Field, Rusk County; and Docket 8-81,485—application of Amoco Production Company for an exception to Statewide Rule 38 for the W. E. Cowden "A" Lease, Well 1, Cowden, S. (Canyon 8790) Field, Ector County.

**Contact:** Sandra Buch, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1292.

**Filed:** December 9, 1983, 10:58 a.m.  
TRD-8310204

Consideration of whether to adopt Statewide Rule 76 (16 TAC §3.74) governing plats for mineral development and whether to initiate rule-making proceedings

to amend Statewide Rule 79 (2) (16 TAC §3.69), the definition of a marginal well.

**Contact:** Patrick F. Thompson, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1286.

**Filed:** December 9, 1983, 10:58 a.m.  
TRD-8310205

Consideration of Interim Order in Oil and Gas Docket 7B-81,539—to provide Lloyd Patton an opportunity to prove that the field rules adopted for the Gordon, S.E. (Conglomerate) Field are valid despite the failure to give Enserch Exploration, Inc., notice of the field rule hearing, Gordon, S. E. (Conglomerate) Field, Palo Pinto County.

**Contact:** Meredith Kawaguchi, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1285.

**Filed:** December 9, 1983, 10:58 a.m.  
TRD-8310206

The Personnel Division will meet in Room 309 to consider and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Herman L. Wilkins, P.O. Drawer 12967, Austin, Texas 78711, (512) 445-1120.

**Filed:** December 9, 1983, 10:55 a.m.  
TRD-8310207

The Office of the Special Counsel will meet in the third floor conference room to consider and act on the division director's report relating to pending litigation, state and federal legislation, and other budget, administrative, and personnel matters.

**Contact:** Walter Earl Lilie, 1124 IH 35 South, Austin, Texas 78701, (512) 445-1186.

**Filed:** December 9, 1983, 10:55 a.m.  
TRD-8310208

The Surface Mining and Reclamation Division will meet in Room 107 to consider submitting the division's administration and enforcement grant request for the period of February 1984 to January 1985; the division's AML administrative grant request for the period of March 1984 to February 1985; and act on the division director's report on division administration, budget, procedures, and personnel matters.

**Contact:** J. Randel (Jerry) Hill, 105 West Riverside Drive, Austin, Texas, (512) 475-8751.

**Filed:** December 9, 1983, 10:54 a.m.  
TRD-8310209

The Transportation Division will meet in the first floor auditorium, Room 107, to

consider various matters falling within the commission's transportation regulatory jurisdiction.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** December 9, 1983, 10:58 a.m.  
TRD-8310210

Additions of various matters falling within the commission's transportation regulatory jurisdiction.

**Contact:** Sandy Yates, 1124 IH 35 South, Austin, Texas 78704, (512) 445-1330.

**Filed:** December 9, 1983, 10:57 a.m.  
TRD-8310211

### **School Land Board**

**Tuesday, December 20, 1983, 10 a.m.** The School Land Board will meet in Room 831, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Items on the agenda include approval of the minutes of the previous board meeting; pooling applications; proposed land trades in Reeves, Brewster, and Calhoun Counties; coastal public lands easement applications; cabin permit transfer requests; and a cabin permit rate reduction request.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 835, Austin, Texas, 78701, (512) 475-4307.

**Filed:** December 12, 1983, 4:08 p.m.  
TRD-8310346

### **State Securities Board**

**Monday, December 19, 1983, 1 p.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 a Cease and Desist Order should be issued prohibiting the sale of securities issued by Alaska Land Leasing, Inc., Tundra Oil, Inc., and Prudhoe Uplands 34-132 Associates; and offered and sold by Pacific Matrix Group, Ltd., Clark Shattuck, Vic Gainer, Charles Weller, also known as Chuck Weller, David Kane, Terry J. Risenhoover, Terrence M. O'Neill, Wayne Terry and Christopher D. Michaels.

**Contact:** Sue B. Roberts, 1800 San Jacinto Street, Austin, Texas, (512) 474-2233.

**Filed:** December 8, 1983, 3:53 p.m.  
TRD-8310180

## University of Texas System

**Friday, December 9, 1983, 10 a.m.** The Board of Regents of the University of Texas System met in a rescheduled emergency session in Room 212, Main Building, University of Texas campus, Austin. According to the agenda, the board met in executive session pursuant to Texas Civil Statutes, Article 6252-17, §2(f), to consider a proposed amendment to the lease agreement for commercial vineyards on West Texas lands. The emergency status was necessary because information was not received until December 8, 1983.

**Contact:** Arthur H. Dilly, P.O. Box N, Austin, Texas 78712, (512) 471-1265.

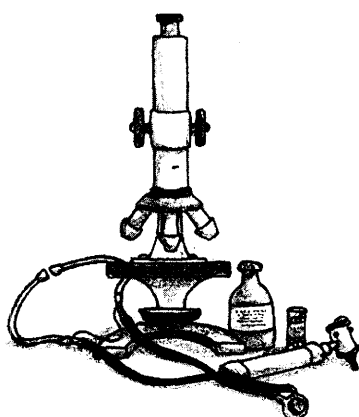
**Filed:** December 9, 1983, 7:58 a.m.  
TRD-8310186

## University Interscholastic League

**Wednesday, December 14, 1983, 10 a.m.** The Hardship Waiver Appeals Board of the University Interscholastic League met in emergency session in Room 1.122, Joe Thompson Conference Center, University of Texas campus, Austin. According to the agenda, the board conducted an appeal hearing on Case PR83-1010-40, concerning Ken Berry, Canadian High School. The emergency status was necessary because of a scheduling conflict.

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

**Filed:** December 12, 1983, 10:54 a.m.  
TRD-8310267



## Texas Water Commission

**Monday, December 12, 1983, 1:30 p.m.** The Texas Water Commission made an emergency addition to the agenda of a

meeting held in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. The addition concerned a petition for conversion of Delta County Municipal Utility District to a district operating under the provision of the Texas Water Code, Chapter 54. The emergency status was necessary because, inasmuch as the district would like to call an election on the maintenance tax issue in January, it is a necessity that the commission consider setting the hearing date for the conversion as soon as possible.

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

**Filed:** December 9, 1983, 1:48 p.m.  
TRD-8310216

**Monday, December 19, 1983, 1:30 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider water district applications for bond issues, release from escrow, use of surplus funds, change in plans, appointment of directors, water quality proposed permits, amendments and renewals, levee project, plans and specifications, and the filing and setting of hearing dates.

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

**Filed:** December 9, 1983, 10:38 a.m.  
TRD-8310191

**Wednesday, December 21, 1983, 10 a.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda, the commission will consider an application by Timber Lane Utility District of Harris County for approval of a change in plans and a \$3.72 million bond issue approved January 7, 1980.

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

**Filed:** December 12, 1983, 3:17 p.m.  
TRD-8310335

**Wednesday, December 21, 1983, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider the application of Pacific Intermountain Express to the Texas Department of Water Resources for a temporary order to authorize the discharge of approximately 900,000 gallons of accumulated rainfall runoff at its plant located at

2700 Appelt Drive, Channelview, Harris County. The applicant proposes that the discharge is necessary to close an abandoned truck rinsewater evaporation pond pursuant to litigation brought by the department and to prepare for sale of the site.

**Contact:** Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 475-7851

**Filed:** December 9, 1983, 10:38 a.m.  
TRD-8310192

**Wednesday, December 21, 1983, 2 p.m.** The Texas Water Commission will meet in Room 118, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will conduct a public hearing to determine whether an authorization to discharge partially treated wastewater granted by the executive director of the Texas Department of Water Resources on October 5, 1983, to the City of Pasadena should be affirmed, modified, or set aside by the Texas Water Commission. The authorization permitted the City of Pasadena to discharge partially treated wastewater to make repairs to the solids handling mechanism in one of the clarifiers on the east side of the Vince Bayou Wastewater Treatment Plant. Verbal authorization was granted to commence on October 5, 1983, to last for a period not to exceed 48 hours during the period from October 5-October 9, 1983. Written authorization was issued by the executive director on October 21, 1983, more specifically specifying the terms and conditions of the authorization.

**Contact:** Ken Peterson, P.O. Box 13087, Austin, Texas 78711, (512) 475-7841.

**Filed:** December 8, 1983, 11:09 a.m.  
TRD-8310144

**Wednesday, January 18, 1984, 10 a.m.** The Texas Water Commission will meet in the commissioners courtroom, Nueces County Courthouse, 901 Leopard, Corpus Christi. According to the agenda summary, the commission will consider the application of Sigmor Refining Company, a subsidiary of Diamond Shamrock, P.O. Box 490, Three Rivers, Texas 78071, to the Texas Department of Water Resources for an amendment to Permit 01353 to authorize the modification of its permit to delete the provision that restricts discharge to days when the flow of the Nueces River is greater than 20 cubic feet per second (cfs), to consolidate stormwater runoff at Outfalls 002-006 into a single outfall, to add concentration limits for total dissolved solids and chlorides, and to modify the low flow provision to allow

discharge of wastewater at a reduced volume if the flow in the Nueces River is less than 20 cfs. The existing permit currently authorizes a discharge of treated wastewater and uncontaminated storm-water runoff at a volume not to exceed an average flow of 800,000 gallons per day from the applicant's petroleum refinery. The applicant plans to eliminate some of the seven ponds currently used for equalization and storm surges, and emergency storage of treated effluent, if needed.

**Contact:** Michael E. Field, P.O. Box 13087, Austin, Texas 78711, (512) 475-1339.

**Filed:** December 8, 1983, 11:09 a.m.  
TRD-8310145

The Texas Water Commission will meet in Room 618, Stephen F. Austin Building, 1700 North Congress Avenue, Austin. Days, times, and agendas follow.

**Thursday, February 2, 1984, 10 a.m.** Application 4413 of William C. Sutton, M.D., and wife, Patricia Keane Sutton, for a permit to authorize an existing dam and 1.9 acre-foot capacity reservoir on Camp Wood Creek, tributary of the Nueces River, Nueces River Basin, and the impoundment of 1.9 acre-feet of water in said reservoir for recreational purposes in Real County.

**Thursday, February 2, 1984, 10 a.m.** Application 4414 of Julia Holub, Evelyn Holub Hill, La Verne Holub Sonnenburg, Elaine Holub Cook, Katherine Everling, and Barbara Ann Davidson for a permit to divert and use 25 acre-feet of water per annum from Hardeman Slough, tributary of Caney Creek, tributary of East Matagorda Bay, Brazos-Colorado Coastal Basin, for irrigation purposes in Matagorda County.

**Friday, February 3, 1984, 10 a.m.** Application 3811A of Ruby Lee Gerdes, trustee, Gary Gerdes, Betty Lou Gerdes Kubesch, and Gardan Gerdes for an amendment to Permit 3539 to delete Special Condition (b) extending the term of said permit or providing for its continued validity in perpetuity. Permit 3539 authorized the existence of two on-channel dams and reservoirs on unnamed tributaries of Sandy Creek, tributary of the Little River, tributary of the Brazos River, Brazos River Basin, for the diversion and use of 300 acre-feet of water per year for irrigation purposes in Milam County.

**Friday, February 3, 1984, 10 a.m.** Application 4415 of H. J. Ewald, Jr., doing business as Seagrow Company for a permit to divert and use 10 acre-feet of water per annum directly from the Intracoastal Water-

way, San Antonio-Nueces Coastal Basin for industrial purposes in Aransas County.

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

**Filed:** December 8, 1983, 3:24 p.m.  
TRD-83810175-8310178

### Regional Agencies Meetings Filed December 8

**The Central Texas Council of Governments,** Central Texas Private Industry Council, met at 302 East Central, Belton, on December 14, 1983, at 1:30 p.m. Information may be obtained from Walton B. Reedy, P.O. Box 729, Belton, Texas 76513, (817) 939-1803.

**The Central Texas Mental Health and Mental Retardation Center,** Board of Trustees, met at 408 Mulberry, Brownwood, on December 13, 1983, at 4:30 p.m. Information may be obtained from Gloria Willen, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, ext. 102.

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

**The Lower Colorado River Authority,** Parks and Lands Committee, met at 3700 Lake Austin Boulevard, Austin, on December 14, 1983, at 8 a.m. The following committees met at the same location on the same date, at the following times:

Water and Flood Committee—9 a.m.  
Environmental, Safety, and Security Committee—10 a.m.  
Audit Committee—11 a.m.  
Personnel, Compensation, Pension Trust and Benefits Committee—1 p.m.  
Finance and Administration Committee—2 p.m.  
Power and Energy Committee—3 p.m.

The Board of Directors met at the same location, on December 15, 1983, at 9 a.m. Information may be obtained from Elof H. Soderberg, P.O. Box 220, Austin, Texas 78767, (512) 473-3200.

**The Middle Rio Grande Development Council,** Private Industry Council, met in the Kennedy Room, Civic Center, 1915 Avenue F, Del Rio, on December 14, 1983, at 1 p.m. Information may be obtained

from Mike Patterson, 200 East Nopal, Suite 211, Uvalde, Texas 78801, (512) 278-2527.

**The Mills County Appraisal District** met at the Mills County Courthouse, Goldthwaite, on December 15, 1983, at 6:30 p.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

**The Nolan County Central Appraisal District,** Appraisal Review Board, met in the county courtroom, Nolan County Courthouse, on December 13, 1983, at 9 a.m. The Board of Directors met in Suite 305B, Nolan County Courthouse, on December 14, 1983. Information may be obtained from Patricia Davis, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421.

**The South Plains Association of Governments,** Board of Directors, met at the Lubbock Memorial Civic Center, Lubbock, on December 13, 1983, at 1:30 p.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 2787, Lubbock, Texas 79408, (806) 762-8721.

**The Swisher County Appraisal District,** Board of Directors, met in emergency session at the Kitchen Restaurant, 201 South Maxwell, Tulia, on December 9, 1983, at 7:30 a.m. Information may be obtained from Nan Davis, 130 North Armstrong/Drawer 8, Tulia, Texas, (806) 995-3015.

TRD-8310141

### Meetings Filed December 9

**The Austin-Travis County Mental Health and Mental Retardation Center,** Finance and Control Committee, met in the board room, 1430 Collier Street, Austin, on December 14, 1983, at 5:15 p.m. The Board of Trustees also met at the same location on December 15, 1983, at noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141.

**The Garza County Appraisal District,** Board of Directors, met at the courthouse, Post, on December 13, 1983, at 9 a.m. Information may be obtained from Jean M. Westfall, P.O. Drawer F, Post, Texas 79356, (806) 495-3518.

**The Guadalupe-Blanco River Authority,** Industrial Development Corporation, made an addition to the agenda of a meeting held at 933 East Court Street, Seguin, on December 15, 1983, at 9:30 a.m. The Board

of Directors met at the same location on the same day at 10 a.m. Information may be obtained from John H. Specht, P.O. Box 271, Seguin, Texas 78155, (512) 379-5822.

**The North Central Texas Council of Governments**, Executive Board, met in Suite 200, 616 Six Flags Drive, Arlington, on December 15, 1983, at 12:30 p.m. Information may be obtained from William Pitstick, P.O. Drawer COG, Arlington, Texas 76011, (817) 461-3300.

TRD-8310190

#### Meetings Filed December 12

**The Deep East Texas Regional Mental Health and Mental Retardation Services**, Board of Trustees, will meet in the Ward R. Burke Community Room, Day Treatment/Administration Facility, 4101 South Medford Drive, Lufkin, on December 20, 1983, at 5:30 p.m. Information may be obtained from Jim McDermott, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141.

**The Region X Education Service Center**, Board of Directors, will meet in the board room, 400 East Spring Valley Road, Richardson, on December 16, 1983, at 9:30 a.m. Information may be obtained from H. W. Goodgion, 400 East Spring Valley Road, Richardson, Texas 75080, (214) 231-6301.

**The Gonzales County Appraisal District**, Appraisal Review Board, will meet in Suite 201, Gonzales Bank Building, 508 St. Louis Street, Gonzales, on December 29, 1983, at 6 p.m. Information may be obtained from Nancy Seitz, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879.

**The Hale County Appraisal District**, Board of Directors, met at K-Bob's Steak House, 3400 C Olton Road, Plainview, on December 15, 1983, at noon. Information may be obtained from Linda Jaynes, P.O. Box 29, Plainview, Texas 79072, (806) 293-4226.

**The Hickory Underground Water Conservation District 1** met at 105 East Main Street, Brady, on December 15, 1983, at 7 p.m. The district also made an addition to the agenda. Information may be obtained from Mindy G. Quick, P.O. Box 1214, Brady, Texas 76825, (915) 597-2152.

**The Houston-Galveston Area Council**, Project Review Committee, will meet in the large conference room, 3701 West Alabama Street, Houston, on December 20, 1983, at

8:30 a.m. The Board of Directors will meet at the same location the same day at 9:30 a.m. Information may be obtained from Geraldine McCray (Project Review Committee) or Charlene McCarthy (Board of Directors), P.O. Box 22777, Houston, Texas 77027, (713) 627-3200, ext. 330 (McCray) or ext 335 (McCarthy).

**The Central Appraisal District of Johnson County**, Board of Directors, will meet at 109 North Main, Cleburne, on December 21, 1983, at 7:30 p.m. Information may be obtained from Don Gilmore, 109 North Main, Cleburne, Texas 76031, (817) 645-3986.

**The Kendall County Appraisal District**, Board of Review, met at 207 East San Antonio Street, Boerne, on December 15, 1983, at 1 p.m. Information may be obtained from Sue R. Wiedenfeld, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012.

**The Lower Neches Valley Authority**, Board of Directors, will meet at 7850 Eastex Freeway, Beaumont, on December 20, 1983, at 10:30 a.m. Information may be obtained from J. D. Nixon, P.O. Drawer 3464, Beaumont, Texas, 77704.

**The Middle Rio Grande Development Council**, Regional Review Committee, met in the commissioner's courtroom, 101 East Dimmit Street, Crystal City, on December 15, 1983, at 1 p.m. Information may be obtained from Mike Patterson, 200 East Nopal, Suite 211, Uvalde, Texas 78834, (512) 278-2527.

**The Northeast Texas Community Development Program**, Regional Review Committee, met in emergency session in the conference room, Ark-Tex Council of Government's, 122 East Broad, Texarkana, on December 14, 1983, at 10 a.m. Information may be obtained from Todd K. Brown, P.O. Box 5307, Texarkana, Texas 75501, (501) 774-3481.

**The Rusk County Appraisal District**, Appraisal Review Board, will meet at 107 North Van Buren, Henderson, on December 20, 1983, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (214) 657-0697.

**The South Texas Private Industry Council** met in the Zapata Community Center, U.S. Highway 83, Zapata, on December 15, 1983, at 4:30 p.m. Information may be obtained from Ruben M. Garcia, P.O. Box 1969, Laredo, Texas 78040, (512) 722-4656.

**The Swisher County Appraisal District**, Board of Directors, made an emergency addition to the agenda of a meeting held at 130 North Armstrong, Tulia, on December 12, 1983, at 10:40 a.m. and met in emergency session at the same location on December 13, 1983, at 10:30 a.m. Information may be obtained from Jerry Reynolds, Drawer 8, Tulia, Texas 79088, (806) 995-3015.

**The Tarrant County Appraisal District**, Appraisal Review Board, met in an emergency session in Suite 300, 1701 River Run, Fort Worth, on December 15, 1983, at 8:30 a.m. Information may be obtained from Dick Curry, 1701 River Run, Fort Worth, Texas, (817) 332-3151.

**The Tyler County Tax Appraisal District**, Board of Review, will meet at 1004 West Bluff, Woodville, on January 4, 1984, at 9 a.m. Information may be obtained from Leslie J. Silva, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

**The West Texas Council of Governments**, Board of Directors, will meet on the eighth floor, Two Civic Center Plaza, El Paso, on December 16, 1983, at 9:30 a.m. Information may be obtained from Bernie Guy, Two Civic Center Plaza, Fifth Floor, El Paso, Texas 79999, (915) 541-4689.

TRD-8310236

#### Meetings Filed December 13

**The Bexar Appraisal District**, Board of Directors, will meet at 535 South Main, San Antonio, on December 30, 1983, at 11:30 a.m. Information may be obtained from Bill Burnette, 535 South Main, San Antonio, Texas 78204, (512) 224-8511.

**The Capital Area Planning Council**, General Assembly, will meet at Quality Inn South, 2200 IH 35 South, Austin, on December 20, 1983, at 11 a.m. Information may be obtained from Richard Bean, 2520 IH 35 South, Austin, Texas 78704, (512) 443-7653.

**The Gregg County Appraisal District**, Board of Directors, met at 2010 Gilmer Road, Longview, on December 13, 1983, at noon. Information may be obtained from William T. Carroll, 2010 Gilmer Road, Longview, Texas 75608, (214) 759-0015.

**The Heart of Texas Region Mental Health and Mental Retardation Center**, Board of Trustees, will meet in the second floor conference room, Cameron Building, 110 South 12th Street, Waco, on December 20, 1983, at 11:30 a.m. Information may be ob-

tained from Sue Richardson, P.O. Box 890, Waco, Texas 76703, (817) 752-3451.

**The Lee County Appraisal District**, Board of Directors, will meet at 218 East Richmond Street, Giddings, on December 20, 1983, at 8:30 a.m. Information may be obtained from James L. Dunham, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618.

**The Leon County Central Appraisal District**, Appraisal Review Board, will meet in the Leon County Courtroom, Centerville, on December 19, 1983, at 1 p.m. Informa-

tion may be obtained from Mabel Watson, P.O. Box 536, Centerville, Texas 75833, (214) 536-2252.

**The Northeast Texas Municipal Water District**, Board of Directors, will meet at 1003 Linda Drive, Daingerfield, on December 19, 1983, at 7 p.m. Information may be obtained from Homer Tanner, P.O. Box 680, Daingerfield, Texas 75638, (214) 645-2241.

**The Sabine Valley Regional Mental Health and Mental Retardation Center**, Board of Trustees, met in emergency session at 1501 East Marshall, Longview, on December 15,

1983, at noon. Information may be obtained from Ronald R. Cookston, Ed.D., P.O. Box 6800, Longview, Texas 75608, (214) 297-2191.

**The West Texas Council of Governments**, Board of Directors, will meet in emergency session on the eighth floor, Two Civic Center Plaza, El Paso, on December 16, 1983, at 9 a.m. Information may be obtained from Bernie Guy, Two Civic Center Plaza, El Paso, Texas 79999, (915) 541-4689.

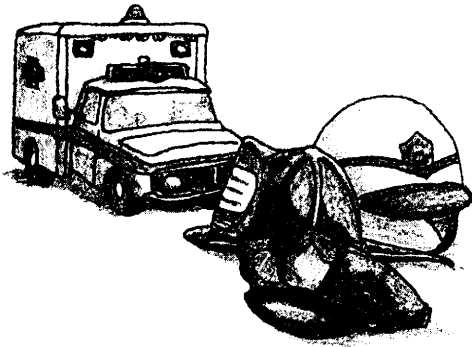
TRD-8310347



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

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

## In Addition



### Texas Air Control Board Consultant Proposal Request

This request for proposal is under the authority of Texas Civil Statutes, Article 6252-11c.

**Invitation for Proposals.** The Texas Air Control Board (TACB) invites all interested parties to submit technical proposals to provide consultant services to the agency. The last day for receipt of offers shall be January 20, 1984. The contract shall become effective after being signed by the executive director of the TACB and the selected firm. It shall terminate on September 30, 1984. Funds expended under this contract for these services will not exceed \$215,000.

**Description of Services.** The purpose of this contract is to solicit proposals from prospective individuals, firms, or agencies that could serve as a general contractor for the development and implementation of a mechanics training and certification program in Harris County. This program should provide training to service technicians and mechanics on how to repair and maintain computer controller vehicles.

A copy of a detailed statement of work to be performed is available from the TACB.

**Procedure for Selecting Consultant.** The TACB shall select and award such contracts and engage such services

on the basis of demonstrated competence, knowledge, and qualifications for the type of services to be performed and at fair and reasonable prices. This contract is to be funded by a grant from the Environmental Protection Agency, and execution will depend on timely receipt of funds by the TACB from that agency.

**Contact Person.** Any consultant interested in providing the described services shall contact Sabino Gomez, Control and Prevention Program, Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723, (512) 451-5711, ext. 229, for a copy of the statement of work.

Issued in Austin, Texas, on December 6, 1983.

TRD-8310102

Bill Stewart, P.E.  
Executive Director  
Texas Air Control Board

Filed: December 7, 1983

For further information, please call (512) 451-5711, ext. 354.

### State Banking Board Public Hearing

The hearing officer of the State Banking Board will conduct a hearing on Tuesday, January 10, 1984, at 9 a.m. at 2601 North Lamar Boulevard, Austin, on the domicile change application for the Midland American Bank, Midland. The proposed domicile change would be from 4415 Northgate, Midland, to 401 West Texas, Midland.

Additional information may be obtained from O. A. Cassity III, Hearing Officer, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-4451.

Issued in Austin, Texas, on December 8, 1983.

TRD-8310222

O. A. Cassity III  
Hearing Officer  
State Banking Board

Filed: December 9, 1983

For further information, please call (512) 475-4451.

## Texas Department of Community Affairs Announcement of Contract Awards

The Texas Department of Community Affairs (TDCA) announces that the following units of general local government listed have been selected as a contract recipient for planning/capacity building under the Texas Community Development Program established pursuant to Texas Civil Statutes, Article the 4413(201), §4A.

The proposed amount of funding for each contract is indicated. A contract is not effective until executed by the unit of general local government and the executive director of TDCA.

### Planning/Capacity Building

City of Forney	\$12,000
City of Amherst	9,000
City of Lorraine	22,500
City of Balch Springs	12,000
City of Milford	8,000
City of Buda	25,000
City of Campbell	6,000
McLennan County	25,000
City of Avery	7,500
Hardin County	25,000
City of Jefferson	10,000
Liberty County	15,000
City of Martindale	15,000
City of Mexia	12,000
San Jacinto County	15,000
<b>Grand total</b>	<b>\$219,000</b>

Issued in Austin, Texas, on December 9, 1983.

TRD-8310235 Douglas C. Brown  
General Counsel  
Texas Department of Community  
Affairs

Filed: December 9, 1983

For further information, please call (512) 443-4100,  
ext. 210.

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Monthly Rate— Article 1.04(c)(1) 12/01/83-12/31/83	18.00%	18.00%
Standard Quarterly Rate—Article 1.04(a)(2) 1/01/84-3/31/84	18.00%	18.00%
Retail Credit Card Quarterly Rate— Article 1.11(3) 1/01/84-3/31/84	18.00%	N/A
Lender Credit Card Quarterly Rate— Article 15.02(d)(3) 1/01/84-3/31/84	17.92%	N/A
Standard Annual Rate— Article 1.04(a)(2)(2) 1/01/84-3/31/84	18.00%	18.00%
Retail Credit Card Annual Rate— Article 1.11(3) 1/01/84-3/31/84	18.00%	N/A
Annual Rate Applica- ble to Pre-July 1, 1983, Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from 1/01/84-3/31/84	18.00%	18.00%
Judgment Rate— Article 1.05, §2 12/01/83-12/31/83	10.00%	10.00%

(1) For variable rate commercial transactions only.

(2) Only for open-end credit as defined in Texas Civil Statutes, Article 5069-1.01(f).

(3) Credit for personal, family, or household use.

(4) Credit for business, commercial, investment, or other similar purpose.

Issued in Austin, Texas, on December 12, 1983.

TRD-8310240 Sam Kelly  
Consumer Credit Commissioner

Filed: December 12, 1983

For further information, please call (512) 475-2111.

## Office of Consumer Credit Commissioner Rate Ceilings

The consumer credit commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

Type of Rate Ceilings Effective Period (Dates are Inclusive)	Consumer <sup>(3)</sup> Agricul- tural/Commercial <sup>(4)</sup> thru \$250,000	Commercial <sup>(4)</sup> over \$250,000
Indicated (Weekly) Rate—Article 1.04(a)(1) 12/19/83-12/25/83	18.25%	18.25%

## Texas School for the Deaf Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas School for the Deaf serves notice of invitation for a continuation of services currently performed by ARA Services. The Texas School for the Deaf intends to award the contract to the present contractor unless a better offer is submitted.

**Description of Services.** Under the contract, the consultant will furnish a full-time food service director, 40 hours per week, to manage the operation of two food service areas (28 employees) feeding three meals per day, seven days a week to 500 students; and will furnish and

pay for a consultant dietitian and training supervisors to conduct food service training to staff. All benefits are to be paid by the consulting firm. Duties of the food service manager include ordering of food and supplies, preparation of menus, issues, inventory, and preparation of necessary reports.

**Evaluation Criteria.** The contractor must have past experience in working with management of food service in a school; must know federal and state nutrition laws; must be familiar with USDA commodities and the Federal School Lunch/Breakfast Program; and must have computer capabilities for computing certain reports. The consultant demonstrating the most relevant experience and background and having the greatest and most expert knowledge of the service to be performed will be awarded the contract.

**Closing Date for Offers.** The closing date for receipt of offers is January 11, 1984.

**Contact Person.** Prospective offerors should contact Delmar D. Beard, Director, Administrative Services, Texas School for the Deaf, 1102 South Congress Avenue, P.O. Box 3538, Austin, Texas 78764, (512) 442-2102.

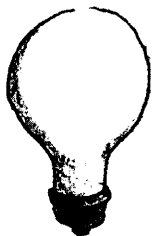
Issued in Austin, Texas, on December 12, 1983.

TRD-8310237

Victor H. Galloway, Ed.D.  
Executive Director  
Texas School for the Deaf

Filed: December 12, 1983

For further information, please call (512) 442-7821.



## Texas Health Facilities Commission Applications Accepted for Amendment, Declaratory Ruling, and Notices of Intent

Notice is hereby given by the Texas Health Facilities Commission of applications accepted as of the date of this publication. In the following list, the applicant is listed first, file number second, the relief sought third, and a description of the project fourth. DR indicates declaratory ruling; AMD indicates amendment of previously issued commission order; CN indicates certificate of need; PFR indicates petition for reissuance; NIE indicates notice of intent to acquire major medical equipment; NIEH indicates notice of intent to acquire existing health care facilities; NIR indicates notice of intent regarding a research project; NIE/HMO indicates notice of intent for exemption of HMO-related project; and EC indicates exemption certificate.

Should any person wish to become a party to any of the above-stated applications, that person must file a proper

request to become a party to the application within 15 days after the date of this publication of notice. If the 15th day is a Saturday, Sunday, state or federal holiday, the last day shall be extended to 5 p.m. of the next day that is not a Saturday, Sunday, state or federal holiday. A request to become a party should be mailed to the chair of the commission at P.O. Box 50049, Austin, Texas 78763, and must be received at the commission no later than 5 p.m. on the last day allowed for filing of a request to become a party.

The contents and form of a request to become a party to any of these applications must meet the criteria set out in 25 TAC §515.9. Failure of a party to supply the necessary information in the correct form may result in a defective request to become a party.

Pasadena Diagnostic Center, Inc., Pasadena  
AO83-1129-402

DR—Request for a declaratory ruling that neither a certificate of need nor a notice of intent to acquire major medical equipment is required for Pasadena Diagnostic Center, Inc., to purchase and operate a whole body CT scanner. The scanner will be located in a private physician's office at 1645 Tatar, Pasadena, and will be used to scan inpatients and outpatients of the physician group. The total estimated project cost is \$399,000.

Northwest Texas Conference of United Methodist  
Church for Methodist Hospital, Lubbock  
AH81-1223-023A(111783)

CN/AMD—Request for an amendment of Certificate of Need AH81-1223-023, which authorized the certificate holder to conduct an extensive construction and renovation project involving the construction of 197,516 gross square feet and the renovation of 26,755 gross square feet. The certificate holder requests an amendment to increase the square feet of new construction from 197,516 to 244,491 and the gross square feet of renovation from 26,755 to 37,125; add a snack bar/cafe/tertia, linen distribution room, and admissions area, and prepare the roof with helicopter landing capabilities; relocate the cardiac catheterization suites from the second floor to the third floor and relocate the cardiac rehabilitation laboratory from the third floor to the eighth floor; decrease the number of MICU beds by five and increase the number of SICU beds by five; reduce the number of new medical/surgical beds to be built by two and convert two formerly semi-private rooms in the west building that had been converted to single occupancy back to double occupancy; and increase the total project cost from \$42,657,221 to \$44,498,168.

Summit Care-Texas, Inc., a Texas corporation,  
Burbank, California  
AN83-1130-404

NIEH—Request for a declaratory ruling that a certificate of need is not required for Summit Care-Texas, Inc., a Texas corporation, to acquire by purchase Hillcrest Manor, an existing 102-bed ICF nursing facility located in Wylie, from Jaywell, Inc., a Texas corporation.

Woodlands Medical Center, Inc., and Montgomery County Hospital District for Southwood Community Hospital, Shenandoah  
AH81-0731-013A(112183)

CN/AMD—Request for an amendment of Certificate of Need AH81-0731-013, which authorized the certificate holder to construct, equip, and operate a 96-bed, acute care general hospital in south Montgomery County. The certificate holder requests an increase of 4,187 square feet in the square footage to be constructed, from 73,770 square feet to 77,957 square feet, to cover an open courtyard.

Humana, Inc., doing business as Sharpstown General Hospital, Houston  
AH81-0427-027A(113083)

CN/AMD—Request for an extension of the completion deadline from July 1, 1983, to June 30, 1984, in Certificate of Need AH81-0427-027, which authorized the certificate holder to conduct an extensive construction and renovation project.

Humana of Texas, Inc., doing business as West Texas Medical Center, Abilene  
AH81-0812-012A(113083)

CN/AMD—Request for an extension of the completion deadline from January 1, 1984, to August 15, 1984, in Certificate of Need AH81-0812-012, which authorized the certificate holder to construct a 139,420 square foot facility to succeed an existing facility; the new services of obstetrics and CT scanning will be added; and the licensed and operational bed capacity of the hospital will be increased from 115 to 160 beds.

Issued in Austin, Texas, on December 12, 1983.

TRD-8310239      John R. Neel  
General Counsel  
Texas Health Facilities  
Commission

Filed: December 12, 1983

For further information, please call (512) 475-6940.

## Public Utility Commission of Texas Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Public Utility Commission of Texas publishes this invitation for bids for consulting services. The Public Utility Commission of Texas intends to contract with a person or firm for the performance of certain tasks, including:

- (1) conducting a detailed study of a large utility's inventory procedures and maintenance systems, including basic inventory controls, purchasing costs, inventory carrying costs, service levels, reorder timing, and quantities;
- (2) preparing and submitting written testimony outlining conclusions and recommendations for savings;
- (3) defending testimony in rate case proceedings; and

- (4) training two commission accountants to conduct future studies of this type, and preparing an audit procedure manual to assist in such studies.

The contracted person or firm is expected to have experience in analyzing utility inventory control systems, utility maintenance management, testifying on these matters in regulatory proceedings, and training people to evaluate inventory controls. The contracted person or firm is expected to be familiar with utility regulation and regulatory issues. Applicants must have the ability to write and communicate effectively. Applicants must submit a sample of regulatory testimony with their proposals. Payment for services under this contract is not expected to exceed \$17,000.

For further information, please contact Lewis Gray, Manager of Administration, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Suite 400-N, Austin, Texas 78757, (512) 458-0165.

Proposals must be received no later than January 9, 1984.

Issued in Austin, Texas, on December 7, 1983.

TRD-8310174      Rhonda Colbert Ryan  
Secretary of the Commission  
Public Utility Commission of  
Texas

Filed: December 8, 1983.

For further information, please call (512) 458-0100.

## Texas Savings and Loan Department Application for Change of Control of an Association

Texas Civil Statutes, Article 852a, §11.20, requires any person who intends to acquire control of a state-chartered savings and loan association to file an application with the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On November 30, 1983, the savings and loan commissioner received an application for approval of the acquisition of control of San Jacinto Savings and Loan Association of Beaumont, by Robert Alpert.

Any inquiries may be directed to the Texas Savings and Loan Department, 1004 Lavaca, Austin, Texas 78701, (512) 475-7991.

Issued in Austin, Texas, on December 9, 1983.

TRD-8310215      Russell R. Oliver  
General Counsel  
Texas Savings and Loan  
Department

Filed: December 9, 1983

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

# TEXAS REGISTER AVAILABLE ON MICROFICHE

All microfiche is 24 × reduction and negative polarity with eye-readable headers. To order your copies, please complete this form and send it with payment to:

Texas State Publications Clearinghouse  
Room 307  
Texas State Library  
P.O. Box 12927, Capitol Station  
Austin, TX 78711

TEXAS REGISTER ON MICROFICHE	Copies	Unit Cost	Total
1976. vol. 1, nos. 1-100, annual index		\$30.00	
1977. vol. 2, nos. 1-100, annual index		43.00	
1978. vol. 3, nos. 1-100, annual index		38.00	
1979. vol. 4, nos. 1-100, annual index		40.00	
1980. vol. 5, nos. 1-100, annual index		43.00	
1981. vol. 6, nos. 1-100, annual index		44.50	
HANDLING CHARGE			\$ 1.00
5% STATE SALES TAX*			
TOTAL PURCHASE PRICE			

Your Name \_\_\_\_\_

Agency or Firm \_\_\_\_\_

Mailing Address \_\_\_\_\_  
\_\_\_\_\_

Make check or money order payable to the TEXAS STATE LIBRARY.

\* Private individuals and institutions in Texas who order more than one copy of a document on microfiche must add 5% sales tax to the cost of all additional copies.

For further information about the *Texas Register* microfiche and other state documents on microfiche, please contact Sally Walton at 512-475-6725.

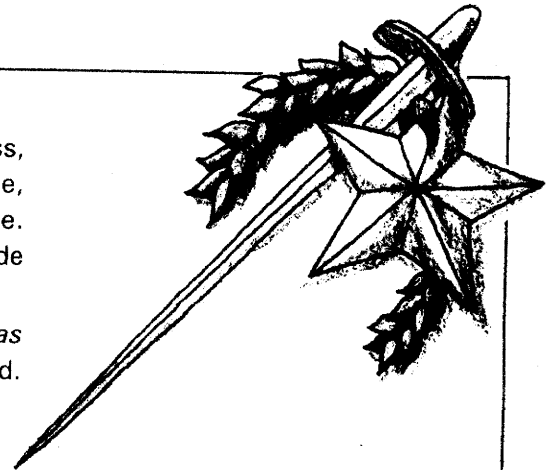
75365231  
PAN AMERICAN UNIVERSITY  
LIBRARY DOCUMENTS SECTION  
WEST UNIVERSITY DR  
EDINBURG TX 76539

Second Class Postage  
**PAID**

Austin, Texas  
and additional entry offices

For a new subscription, or to indicate a change of address,  
use this form. When notifying us of an address change,  
please attach the mailing label from the back of a current issue.  
Questions concerning existing subscriptions should also include  
the subscription number from the mailing label.

You may also use this form to request back issues of the *Texas Register*. Please specify the exact dates of the issues requested.  
Each copy of a back issue is \$2.00.



**Please enter my subscription to the *Texas Register* as indicated below.  
(I will look for my first issue in about two weeks.)**

☐ 1 year (100 issues) \$70

☐ 6 months (50 issues) \$50

(Please print or type.)

Mr. ☐ Miss ☐

Ms. ☐ Mrs. ☐

Name \_\_\_\_\_

Organization \_\_\_\_\_

Occupation \_\_\_\_\_

Telephone \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

ZIP CODE \_\_\_\_\_

☐ Payment Enclosed

☐ Bill Me

☐ Change of Address

(Please attach mailing label.)

☐ Back issues requested

(Please specify dates.)

Please make checks payable to the Secretary of State.  
Subscription fees are not refundable.

For office use only:  
\_\_\_\_\_

For information concerning the *Texas Register*,  
please call (512) 475-7886,  
or write P.O. Box 13824, Austin, Texas 78711-3824.