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# Texas Register

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## Texas Register

The *Texas Register* (ISSN 0362-4781) is published twice each week 100 times a year except March 7, 1989, June 2, 1989, July 7, 1989, November 28, 1989, and December 12, 1989. Issues will be published by the Office of the Secretary of State.

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

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

Governor—appointments, executive orders, and proclamations

Attorney General—summaries of requests for opinions, opinions, and open records decisions

Emergency Sections—sections adopted by state agencies on an emergency basis

Proposed Sections—sections proposed for adoption

Withdrawn Sections—sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections—sections 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 explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative 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: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 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, Room 245, James Earl Rudder Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, sections number, or TRD number.

### Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

**How To Cite:** Under the TAC scheme, each agency section 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*;

TAC stands for the *Texas Administrative Code*;

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



## Texas Register Publications

a section of the  
Office of the Secretary of State

P.O. Box 13824  
Austin, Texas 78711-3824

512-463-5561

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Subscriptions—one year (96 regular issues), \$90; six months (48 regular issues and two index issues), \$70. Single copies of most issues are available at \$4 per copy.

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 2687—Advisory Commission on State Emergency Communications  
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### ***A Guide to Texas State Agencies***

2705—Texas Alcoholic Beverage Commission



Tamara  
Hickey  
1-4-89

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# TAC Titles Affected

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## TAC Titles Affected—June

The following is a list of the administrative rules that have been published this month.

### TITLE 16. ECONOMIC REGULATION

#### *Part I. Railroad Commission of Texas*

16 TAC §3.57—2647

### TITLE 19. EDUCATION

#### *Part II. Texas Education Agency*

19 TAC §§69.127, 69.129—2649

19 TAC §149.43—2681

### TITLE 22. EXAMINING BOARDS

#### *Part IX. State Board of Medical Examiners*

22 TAC §163.2—2650

### TITLE 28. INSURANCE

#### *Part I. State Board of Insurance*

28 TAC §§8.1 8.3—2650

28 TAC §§27.801-27.808—2681

### TITLE 31. NATURAL RESOURCES AND CONSERVATION

#### *Part IX. Texas Water Commission*

31 TAC §§311.61-311.66—2652

### TITLE 37. PUBLIC SAFETY AND CORRECTIONS

#### *Part III. Texas Youth Commission*

37 TAC §119.3—2683

#### *Part V. Board of Pardons and Paroles*

37 TAC §141.21—2654

37 TAC §141.41, §141.42—2654

37 TAC §141.72, §141.73—2654

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37 TAC §141.111—2655

37 TAC §§143.1-143.12—2655

37 TAC §§143.2-143.11—2656

37 TAC §143.22—2657

37 TAC §143.52—2657

37 TAC §§145.1-145.21—2657

37 TAC §§145.2-145.12, 145.14-145.16—2659

37 TAC §§145.21-145.28—2660

37 TAC §§145.22-145.26—2660

37 TAC §§145.41, 145.42, 145.43—2662

37 TAC §§145.44-145.55—2663

37 TAC §§145.62—2669

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37 TAC §§149.13, 149.16-149.18—2674

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37 TAC §§150.51-150.58—

#### *Part X. Texas Adult Probation Commission*

37 TAC §§321.1, 321.3, 321.5, 321.8—2683

37 TAC §§321.12-321.14, 321.16—2676

37 TAC §§323.1-323.3—2684

37 TAC §§325.1-325.12—2684

### TITLE 40. SOCIAL SERVICES AND ASSISTANCE

#### *Part I. Texas Department of Human Services*

40 TAC §§3.2201, 3.2203, 3.2204—2684

40 TAC §§10.7001-10.7008—2684

40 TAC §29.502—2685

40 TAC §29.603, §29.606—2685

40 TAC §§47.2907, §47.2914—2677

40 TAC §53.301—2678

40 TAC §53.404—2678

# TITLE 43. TRANSPORTATION

## ***Part I. State Department of Highways and Public Transportation***

43 TAC §§21.31, 21.32, 21.35, 21.37-21.40, 21.42,-21.46,  
21.48-21.51, 21.53, 21.54—2679

43 TAC §§21.33, 21.41—2679

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# Attorney General

**Description of Attorney General submissions.** Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies maybe held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the *Texas Register*. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record.

## Opinions

**JM-1045 (RQ-1499).** Request from John Vance, Criminal District Attorney, Dallas, concerning whether a district court may direct that payment of costs and expenses in a child welfare case under the Family Code, §11.11, be made from a county's general fund, and related questions.

**Summary of Opinion.** A family law district judge may order a county to pay the cost of psychological testing and counseling of children who are the subject of divorce where the parents are found to be indigent. It is necessary to have a determination of indigency prior to payment of costs out of a county's general fund. It is not necessary that a county child welfare unit be made a conservator prior to an order that the county pay costs out of the general fund.

TRD-8904626

**JM-1046 (RQ-1660).** Request from G. Dwayne Pruitt, Terry County Attorney, Brownfield, concerning whether sheriffs or constables are entitled to fees for unsuccessful attempts at service of civil process.

**Summary of Opinion.** Commissioners courts may set reasonable fees for services performed by sheriffs and constables in unsuccessful attempts to serve civil process.

TRD-8904625

**JM-1047 (RQ-1633).** Request from Robert W. Post, DeWitt County Attorney, Cuero, concerning whether a justice of the peace may also serve as a jailer.

**Summary of Opinion.** The common law doctrine of incompatibility prevents one person from serving as justice of the peace in a county and as jailer in the same county. The duties of the justice of the peace as magistrate conflict with those of the jailer as an employee of the sheriff. Moreover, arrest warrants and search warrants issued by a magistrate who is also a jailer might be invalid under the fourth amendment of the United States Constitution.

TRD-8904628

## Requests for Opinions

**(RQ-1714).** Request from Karl Eisenhower, Austin, concerning whether a list of long-distance calls held by the Attorney General is subject to disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**(RQ-1715).** Request from Fred Toler, Executive Director, Texas Commission on Law Enforcement Officer Standards and Education, Austin, concerning clarification of Attorney General Opinion JM-1028 (RQ-1613).

TRD-8904627

**(RQ-1716)** Request from Dennis R. Jones, Commissioner, Texas Department of Mental Health and Mental Retardation, Austin, concerning effect of amendment to rules of criminal procedure in production of clinical records.

**(RQ-1717)** Request from Al Luna, Chairman, House Committee on Science and

Technology, Austin, concerning whether an assistant district attorney may serve on the Board of Trustees of a school district located within the county which employs the assistant district attorney.

**(RQ-1718)** Request from Charles Brack, County Attorney, Law office of Mills, Shirley, Eckel and Bassett, Galveston, concerning the applicability to governmental bodies of Article 1436(c), relating to the safety of individuals who work in proximity to high voltage electrical lines.

**(RQ-1719)** Request from Bill Haley, Texas State Senate, Austin, concerning taxability of logging equipment used in the production and harvest of timber.

**(RQ-1720)** Request from Edwin E. Powell, Jr., Coryell County Attorney, Gatesville, concerning the authority of a commissioners court to rent space outside the court house for the county surveyor.

**(RQ-1721)** Request from Richard L. Morgan, Commissioner, Texas Department of Labor and Standards, Austin, concerning the authority of the Department of Labor and Standards to enter a settlement agreement which provides for a civil penalty in lieu of a license suspension under Texas Civil Statutes, Article 8700, the auctioneer statute.

**(RQ-1722)** Request from Bill Turner, Brazos District Attorney, Bryan, concerning whether a county may constitutionally grant a retroactive merit raise previously authorized in the budget but not distributed because of an error.

TRD-8904755



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# Proposed Sections

Before an agency may permanently adopt a new or amended section, or repeal an existing section, a proposal detailing the action must be published in the *Texas 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 section. Also, in the case of substantive sections, a public hearing must be granted if requested by at least 25 persons, a governmental subdivision or agency, or an association having at least 25 members.

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

## TITLE 16. ECONOMIC REGULATION

### Part 1. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Railroad Commission of Texas or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Railroad Commission of Texas proposes the repeal of §3.57 (Statewide Rule 57), concerning regulation of crude oil reclamation plants, and a new §3.57 replacing the one proposed for repeal. The new §3.57, reduces the paperwork requirements involved in cleaning oil tanks; simplifies the permit issuance procedure; and modifies the rule to make it consistent with 16 TAC §3.6 (Statewide Rule 8).

Rita E. Percival, systems analyst, Oil and Gas Division, has determined that for the first five-year period the section as proposed is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the revision to §3.57 will be in effect is an estimated decrease of cost of \$2,000 for fiscal year 1990 and a decrease of cost of \$3,500 for each fiscal year from 1991-1994. There will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Glenn Jordan, legal examiner, Legal Division, has determined that for each year of the first five years that the new section as proposed is in effect the public benefits anticipated as a result of enforcing the section as proposed will be the prevention of waste, a reduction in paperwork, and the prevention of pollution. No economic costs are anticipated for individuals who are required to comply with this section because the amendments replace an existing permitting program without imposing new requirements that will have a significant effect on any individuals who are required to comply.

The new section allows administrative approval of reclamation permits which will eliminate the delay and expense involved in a hearing. The new section also deletes the annual renewal requirement. This will reduce paperwork for the affected permittees.

Commissions Forms T-5 and P-9 will be replaced by the use of the manifest system set

out in 16 TAC, §3.72 (Statewide Rule 85). This will also reduce paperwork for the permittees.

The new section requires that wastes generated by reclaiming operations be handled in accordance with 16 TAC, §§3.8, 3.9, and 3.46 (Statewide Rules 8, 9, and 46). This should help prevent pollution caused by runoff of wastes applied to lease roads.

Comments on the repeal and proposal may be submitted to Glenn Jordan, Legal Examiner, Oil and Gas Section, Legal Division, P.O. Drawer 12957, Austin, Texas 78711-2957. Written comments will be received for 30 days from the date of publication of the proposed repeal and adoption.

### Conservation Rules and Regulations

#### • 16 TAC §3.57

The repeal is proposed under the Texas Natural Resources Code, §§81.051, 85.042, 85.051, 85.059-85.062, 85.201, 85.202, 85.203, 86.042, and 91.141, which provide the Railroad Commission of Texas with the authority to repeal rules that are necessary to administer and regulate reclamation of crude oil.

#### §3.57. Reclaiming Tank Bottoms Regulated.

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 May 22, 1989.

TRD-8904728

Ciril Payne  
Assistant Director  
Railroad Commission of  
Texas

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 463-7187

The new section is proposed under the Texas Natural Resources Code, §§81.051, 85.042, 85.051, 85.059-85.062, 85.201, 85.202, and 85.203, 86.042, and 91.141, which provides the Railroad Commission of Texas with the authority to adopt rules that are necessary to administer and regulate reclamation of crude oil.

§3.57. Reclaiming Tank Bottoms, Other Hydrocarbon Wastes, and Other Waste Materials.

(a) Definitions. The following

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

(1) Tank bottoms—A mixture of crude oil or lease condensate, water, and other substances that is concentrated at the bottom of oil producing lease tanks and pipeline storage tanks (commonly referred to as basic sediment and water or BS & W.

(2) Other hydrocarbon wastes—Oily materials, other than tank bottoms, to be disposed of or reclaimed which have been generated in connection with activities associated with the exploration, development, and production of oil or gas or geothermal resources, as those activities are defined in paragraph (30) of §3.8 (Statewide Rule 8) of this title (relating to Water Protection). The term "other hydrocarbon wastes" includes, but is not limited to, spillage and leakage of crude oil or condensate from producing lease or pipeline storage tanks, as well as pit hydrocarbons, skim oil, and break oil associated with the operation of pipelines.

(3) Authorized person—A tank bottoms cleaner and transporter that is under contract for disposition of untreated tank bottoms or other hydrocarbon wastes to a person who has obtained a permit to operate a reclamation plant.

(4) Director—The director of the Oil and Gas Division or a staff delegate designated in writing by the director of the Oil and Gas Division or the commission.

(b) Permitting process.

(1) Removal of tank bottoms or other hydrocarbon wastes from any oil producing lease tank, pipeline storage tank, or other production facility, for reclaiming by any person, is prohibited unless such person has either obtained a permit to operate a reclamation plant, or is an authorized person.

(2) The director may issue a permit to operate a reclamation plant upon the receipt of a completed application. If an application covers an existing commission-approved facility, the director may issue the permit to operate the reclamation plant after review of the application and inspection of the facility by commission field personnel. Otherwise, such permit may be issued in two phases:

(A) first, the director may authorize construction of the facility;

(B) second, after inspection of the facility by commission field personnel, the director may approve operation of the reclamation plant.

(3) If the director refuses to issue the reclamation plant permit, the applicant may request a hearing within 15 days of being notified of the denial. At least 10 days notice of the hearing shall be to the applicant.

(4) Except as provided below, a permit to operate a reclamation plant shall remain in effect until cancelled at the request of the operator. Upon request by the operator, existing permits subject to annual renewal may be renewed so as to remain in effect until cancelled. Inactivity of the permitted facility, or violation of any provision of the permit, the conservation laws of the state, or rules or orders of the commission, will result in notice of intent to cancel the permit. If the operator objects to the cancellation, the operator must file, within 15 days of the date shown on the notice, a written objection and request for a show cause hearing to determine any and all reasons why the subject permit should not be cancelled. If such written request is timely filed, the cancellation will be suspended until a final order is issued pursuant to the show cause hearing. If such request is not received within the required time period, the permit will be cancelled. In the event of an emergency which presents an imminent pollution, waste, or public safety threat, the permit will be suspended until an order is issued pursuant to the show cause hearing.

(5) A permit to operate a reclamation plant is not transferable. A new permit must be obtained by the new operator.

(c) Operation of a reclamation plant.

(1) The following provisions apply to any removal of tank bottoms or other hydrocarbon wastes from any oil producing lease tank, pipeline storage tank, or other production facility.

(A) Notwithstanding the provisions of §3.72(a)(8) of this title (relating to Manifest to Accompany Each Transport of Liquid Hydrocarbons by Vehicle), an operator of a reclamation plant or an authorized person shall execute a manifest in accordance with §3.72 of this title (relating to Manifest to Accompany Each Transport of Liquid Hydrocarbons by Vehicle) (Statewide Rule 85), upon each removal of tank bottoms or other hydrocarbon wastes from any oil producing lease tank, pipeline storage tank, or other production facility. In addition to the information required pursuant to §3.72 of this title (relating to Manifest to Accompany Each Transport of

Liquid Hydrocarbons by Vehicle), the operator of the reclamation plant or other authorized person shall also include on the manifest:

(i) the commission identification number of the lease or facility from which the material is removed; and

(ii) the gross and net volume of the material as determined by the required shake-out test.

(B) The operator of the reclamation plant or other authorized person shall fill out the manifest before leaving the lease or facility from which the liquid hydrocarbons are removed.

(C) The operator of the reclamation plant or other authorized person shall leave a copy of the manifest in the vehicle transporting the material.

(2) The operator of a reclamation plant or other authorized person shall conduct a shakeout (centrifuge) test on all tank bottoms or other hydrocarbon wastes upon removal from any oil producing lease tank, pipeline storage tank, or other production facility, to determine the crude oil content thereof.

(A) The shakeout test shall be conducted in accordance with American Society of Testing Materials Method D 96-46 which provides:

(i) 50 ml. Benzene plus 50 ml BS & W (gasoline optional);

(ii) shake mixture vigorously;

(iii) whirl at 1400 to 1500 RPM for ten minutes;

(iv) repeat (iii) until combined volume of water and sediment remains constant.

(B) Each shakeout test on tank bottoms from a producing lease tank may be conducted either with or without application of heat. However, all other shakeout tests shall be conducted as a hot shakeout. In conducting a hot shakeout test the sample shall be immersed in a bath to the 100 ml. mark and maintained at a temperature of from 120 degrees Fahrenheit to 122 degrees Fahrenheit before shaking.

(d) reporting of production for reclaimed crude oil on commission required report.

(1) For wastes taken to a reclamation plant the following provisions shall apply.

(A) The net crude oil content from a producing lease's tank bottom as indicated by the shake out test shall be used to calculate the amount of oil to be reported

as a disposition on the monthly production report. The net amount of crude oil from tank bottoms taken from a pipeline facility shall be reported as a delivery on the a monthly report.

(B) For other hydrocarbon wastes the crude oil content of the wastes removed from a tank, treater, firewall, pit, or other container at an active facility, including a pipeline facility, shall also be reported as a disposition or delivery from the facility.

(2) For wastes not taken to a reclamation plant the crude oil content of any tank bottoms or other hydrocarbon wastes removed from an active facility, including a pipeline facility, and disposed of other than by a reclamation plant shall also be reported as a delivery or disposition from the facility. All such disposal shall be in accordance with §§3.8, 3.9, and 3.46 of this title (relating to Water Protection, Disposal Wells, and Fluid Injection into Productive Reservoirs) (Statewide Rules 8, 9, and 46).

(c) General provisions Applicable to materials taken to a reclamation plant.

(1) The removal of tank bottoms or other hydrocarbon wastes from any facility for which monthly reports are not filed with the commission must be authorized in writing by the director prior to such removal. A written request for such authorization must be sent to the commission office in Austin, and must detail the location, description, estimated volume, and specific origin of the material to be removed, as well as the name of the reclaiming and intended destination of the material. If the authorization is denied, the applicant may request a hearing.

(2) The receipt of any tank bottoms or other hydrocarbon wastes from outside the State of Texas must be authorized in writing by the director prior to such receipt. However, prior written approval is not required if another entity will indicate, in a monthly report filed on a commission form, a corresponding delivery of the same material. If the request is denied, the applicant may request a hearing.

(3) The receipt of any waste materials other than tank bottoms or other hydrocarbon wastes must be authorized in writing by the director prior to such receipt. The director may require the operator to submit an analysis of such waste materials prior to a determination of whether to authorize such receipt. If the request is denied, the applicant may request a hearing.

(4) The operator of a reclamation plant shall file a monthly report for each reclamation plant facility by the 15th day of each calendar month. The operator of a reclamation plant shall file a copy of any monthly report in the district office of any district in which the operator ride re-

ceipts or deliveries for the month covered by the report.

(5) All wastes generated by reclaiming operations shall be disposed of in accordance with §3.8, §3.9, and §3.46 of this title (relating to Water Protection; Disposal Wells; and Fluid Injection into Productive Reservoirs).

(f) Policy. The provisions of this rule shall be administered so as to prevent waste and protect correlative rights.

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 May 22, 1989.

TRD-6904730

Carl Payne  
Assistant Director, General  
Law, Legal Division  
Railroad Commission of  
Texas

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 463-6924

## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 69. Proprietary Schools and Veterans Education

#### Subchapter E. Guidelines and Minimum Standards for Operation of Texas Proprietary Schools

##### • 19 TAC §69.127, §69.129

The Texas Education Agency proposes amendments to §69.127 and §69.129, concerning the transferability of credit hours and degrees granted by Proprietary schools. The amendments would require that prospective students of Texas proprietary schools be notified that credit hours and degrees are not transferable to a college or university unless the school has such an arrangement.

Lynn Moak, deputy commissioner for research and information, has determined that for the first five year period the proposed sections will be in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Moak and Oscar A. Rodriguez, Planner I, also have determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of enforcing these sections is the protection of students from misrepresentation regarding the transferability of credit hours and degrees earned at proprietary schools. There is no anticipated economic cost for individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted

to Oscar A. Rodriguez, Office of Policy Coordination, 1701 North Congress Avenue, Austin, Texas, 78701, (512) 463-9802. All requests for a public hearing on proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in sections has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt policies, regulations and rules necessary for carrying out the provisions of the Texas Proprietary School Act after consultation with the Proprietary School Advisory Commission

##### §69.127. Minimum Standards for Operation of Proprietary Schools.

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards.

(1) (No change).

(2) Admission requirements.

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

(D) Any institution that refers to the awarding of credit hours must explain to each student during the enrollment process that transferability of such hours may be limited. Each student must sign a statement to the effect that an explanation has been provided. Should a school have an articulation agreement with an academic college or university, such information shall be provided, including any limitations. Any such school shall also provide a list of known Texas institutions of higher education and state technical institutes that accept any or all of the credit hours so earned.

(3)-(6) (No change.)

(7) Advertising.

(A)-(L) (No change.)

(M) No statement shall be made that the school or its courses of instruction have been approved unless the approval can be substantiated by an appropriate certificate of approval issued by the approving agency of the state or federal government. Any advertisement that includes a reference to awarding of credit hours shall include the statement, "limited transferability." An explanation of the transferability must be included in an appropriate place in all school catalogues. Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised but any limitations shall be included in such advertisement.

(N)-(R) (No change.)

(8)-(14) (No change.)

§69.129. Minimum Standards for Operation of Proprietary Schools Which Grant Associate of Applied Arts, Associate of Applied Science, and Associate of Occupational Studies Degrees.

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

(c) Minimum standards.

(1)-(12) (No change.)

(13) The institution shall provide prospective students, prior to enrollment, with a catalog or brochure containing information describing the purpose, length, and objectives of the programs offered by the institution; schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study; cancellation and refund policies; and such other facts concerning the institution and the program or course of instruction as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures specified by this chapter. Any institution that provides an AAA, AAS, or AOS degree must explain to each student in the enrollment process that transferability may be limited. Each student must sign a statement to the effect that an explanation has been provided. Should a school have an articulation agreement with an academic college or university, such information shall be provided, including any limitations. Any such school shall also provide a list of known Texas institutions of higher education and state technical institutes that accept any or all of the credit hours so earned.

(14)-(17) (No change.)

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

(f) Issuance of approval to grant the AOS degree.

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

(3) The institution approved to grant AAA, AAS, or AOS degrees shall not use terms to interpret the significance of the approval which specify or connote greater approval. Terms which may not be used include, but are not limited to, "accredited," "supervised," "endorsed," and "recommended" by the Central Education Agency or the Texas Education Agency. Any institution that advertises an AAA, AAS, or AOS degree shall include the statement, "limited transferability." An explanation of the transferability must be included in an appropriate place in all school catalogues. Where a school has an arrangement with a college or university to accept transfer hours, such information may be advertised but any limitations shall be included in such advertisement.

(g)-(k) (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 May 24, 1989.

TRD-8904648

W. N. Kirby  
Commissioner of Education

Proposed date of adoption: July 8, 1989

For further information, please call: (512) 463-9212

## TITLE 22. EXAMINING BOARDS

### Part IX. State Board of Medical Examiners

#### Chapter 163. Licensure

##### • 22 TAC §163.2

The Texas State Board of Medical Examiners proposes an amendment to §163.2, concerning licensure procedures. The proposed amendment addresses the issue of clinical clerkships and states that the clerkships shall be carried out in a hospital with a graduate medical education program approved by certain organizations.

Florence Allen, business manager, and Jean Davis, administrative assistant, have determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Ms. Davis, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be clarification of the types of graduate medical education programs which are acceptable for clinical clerkships. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Jean Davis, P.O. Box 13562, Austin, Texas 78711. Although no definite date has been set, the board will hold a public hearing on the proposed amendment.

The amendment is proposed under Texas Civil Statutes, Article 4495b, which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

##### *§163.2. Medical Schools Approved by the Board for Licensure.*

(a) (No change.)

(b) In lieu of graduation from an approved medical school as defined in subsection (a) of this section, the following are required for licensure in Texas.

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

(6) For an applicant who graduated from a medical school outside the

United States or Canada to possess the same requisite qualifications to provide the same standard of medical care as provided by a licensed physician in this state, the applicant must have graduated from a reputable medical school which shall meet certain criteria. The school shall be an institution of higher learning designed to select and educate medical students; to provide students with the opportunity to acquire a sound basic medical education through training in basic sciences and clinical sciences; to provide advancement of knowledge through research; to develop programs of graduate medical education to produce practitioners, teachers, and researchers; and to afford opportunity for postgraduate and continuing medical education. The school must provide resources, including faculty and facilities, sufficient to support a curriculum offered in an intellectual environment that enables the program to meet these standards. The faculty of the school shall actively contribute to the development and transmission of new knowledge. The medical school shall contribute to the advancement of knowledge and to the intellectual growth of its students and faculty through scholarly activity, including research. The medical school shall include, but not be limited to, the following characteristics:

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

(H) clinical clerkships shall be carried out in a hospital with a program in graduate medical education approved by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association, or the Texas State Board of Medical Examiners in the same subjects as the clerkships;

(I)-(L) (No change.)

(7) (No change.)

(c) (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 May 25, 1989.

TRD-8904670

G. V. Brindley, Jr.  
Executive Director  
Texas State Board of  
Medical Examiners

Earliest possible date of adoption: July 7, 1989

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

## TITLE 28. INSURANCE

### Part I. State Board of Insurance

#### Chapter 8. Early Warning System for Insurers in Hazardous Condition

##### Subchapter A. Hazardous Condition

###### • 28 TAC §§8.1-8.3

The State Board of Insurance proposes new §§8.1-8.3, concerning some of the conditions which could be a basis for the commissioner of insurance to issue an order under the Insurance Code, Article 1.32 or 3.55-1, or to place an insurance company in a state of supervision under the Insurance Code, Article 21.28-A. Sections 8.1-8.3 are proposed as new Subchapter A, concerning hazardous condition, of new Chapter 8, concerning early warning system for insurers in hazardous condition. The conditions enumerated in the sections do not conclusively indicate that an insurance company is in hazardous condition. One or more of the conditions can exist in an insurance company which is in satisfactory condition, however, one or more of these conditions has been often found in an insurance company which was unable to perform its obligations to policyholders, claimants, creditors, and shareholders, or has required the commissioner of insurance to initiate regulatory action to protect policyholders, claimants, creditors, and shareholders.

Robert F. Crawford, chief examiner, has determined that for the first five-year period the proposed sections will be in effect, there will be no fiscal implications for state or local government or for small businesses as a result of enforcing or administering the sections.

Mr. Crawford also has determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing the sections will be a more efficient identification of insurance companies which may be in a condition hazardous to the public. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments may be submitted to Archie Clayton, Staff Attorney, Finance, Division Code 0722, State Board of Insurance, 1110 San Jacinto Boulevard, Austin, Texas 78701-1998.

The new sections are proposed under the Insurance Code, Articles 1.32, §3; 3.55-1; and 21.28-A, §11, which authorizes the State Board of Insurance to promulgate rules and regulations necessary to accomplish the purposes of those articles, which is to protect the public from insurance companies that are in hazardous condition.

*§8.1. Authority, Scope, and Purpose.* This subchapter of the rules and regulations of the State Board of Insurance is promulgated and adopted pursuant to the authority provided in Insurance Code, Articles 1.32, 3.55-1, and 21.28-A. The sections in this subchapter apply to any person, organiza-

tion, association, or company (authorized or unauthorized, admitted or non-admitted) acting as an insurer, or as principal or agent of an insurer, including stock companies, reciprocals, or interinsurance exchanges, Lloyds association, fraternal benefit societies, stipulated premium companies, title insurance companies, and mutual companies of all kinds, including state-wide mutual assessment corporations, local mutual aid, burial associations, county mutual insurance companies, and farm mutual insurance companies. The purpose of these rules and regulations is to enumerate conditions which may indicate an insurer is in hazardous condition so that the public, policyholders, and insurers will be aware that the existence of one or more of these conditions may be a basis for the commissioner of insurance to initiate an action against an insurer under the Insurance Code, Articles 1.32, 3.55-1, or 21.28-A. In evaluating any of these conditions, all circumstances concerning the insurer's operation must be evaluated in making an ultimate conclusion an insurer is in hazardous condition. The conditions enumerated in this subchapter do not conclusively indicate that an insurance company is in hazardous condition. One or more of the conditions can exist in an insurance company which is in satisfactory condition; however, one or more of these conditions has often been found in an insurance company which was unable to perform its obligations to policyholders, claimants, creditors, or shareholders, or has required the commissioner of insurance to initiate regulatory action to protect policyholders, claimants, creditors, and shareholders.

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

**Agency**—Commissioner of insurance and all divisions, departments, and employees of the commissioner of insurance or of the State Board of Insurance.

**Insurer**—Any person, organization, association, or company (authorized or unauthorized, admitted or non-admitted) acting as an insurer, or as principal or agent of an insurer, including stock companies, reciprocals or interinsurance exchanges, Lloyds associations, fraternal benefit societies, stipulated premium companies, title insurance companies, and mutual companies of all kinds, including state-wide mutual assessment corporations, local mutual aid, burial associations, county mutual insurance companies, and farm mutual insurance companies.

**Surplus**—Includes all accounts included in an insurer's net worth or surplus as regards policyholders, including but not limited to, paid-in capital stock, paid-in surplus, contributed surplus, special surplus, earned surplus, unassigned surplus, and debentures.

**§8.3. Hazardous Conditions.** An insurer

may be found to be in hazardous condition when one or more of the following conditions are found to exist by the commissioner.

(1) An insurer does not file a financial statement within the time required by the Insurance Code or as requested by the agency.

(2) An insurer files financial information which is false or misleading.

(3) An insurer does not grant authorization to amend its financial statement when requested by the agency to grant such authorization.

(4) An insurer overstates its surplus by 25% or more.

(5) An insurer's unassigned surplus has a deficit which is in excess of 20% of surplus.

(6) An insurer's financial ratios are outside the acceptable ranges as established by the National Association of Insurance Commissioners in the insurance regulatory information system.

(7) Excluding net income and the changes in paid-in capital, paid-in surplus, or contributed surplus, the net reduction to the insurer's surplus is greater than 25% of beginning surplus on the insurer's financial statements.

(8) A projection by the agency of an insurer's current financial condition indicates its total paid-in capital stock, paid-in surplus, and contributed surplus will be impaired within the next 12 months.

(9) An insurer's aggregate net retained risk, direct or assumed, under any one policy or certificate of insurance, is more than 10% of the insurer's surplus.

(10) An insurer's reserves for losses and loss adjustment expenses are discounted more than 10% of surplus.

(11) An insurer has reinsurance reserve credits, recoverables, or receivables which are disputed by the reinsurer, or are due and payable and remain unpaid, and such reinsurance credits, recoverables, and receivables are more than 10% of an insurer's surplus.

(12) An insurer has reinsurance reserve credits, recoverables, or receivables due from insurance companies in receivership, and such are more than 10% of surplus or more than 5.0% of admitted assets.

(13) An affiliate or subsidiary of an insurer is unable to pay its obligations as they become due and payable and its net worth is one per cent or less of its total liabilities.

(14) A life, accident, and health insurer has premium writings which result in surplus being less than 7.5% of the aggregate reserves for the life insurance in force plus 33-1/3% of the net annualized accident and health premium writings.

(15) A property and casualty insurer has premium writings which, if annualized, would be an amount more than 300% of surplus.

(16) An insurer consistently issues subordinate premium or surplus debentures.

(17) An insurer does not maintain books and records sufficient to permit examiners to determine the financial condition of the insurer, examples of which include, but are not limited to:

(A) books and records maintained outside the State of Texas in violation of the Insurance Code, Article 1.28;

(B) person(s) responsible for generating or maintaining books of original entry are officed outside the state of Texas; or

(C) an insurer moves, or maintains, the location of the books and records necessary to conduct an examination without notifying this agency of such location.

(18) An insurer has reinsurance agreements affecting 20% or more of the insurer's gross written premiums, direct or assumed, and the assuming insurers are not licensed to do an insurance business in the State of Texas.

(19) An insurer has reinsurance credits taken or assets claimed on which there are not complete, signed, reinsurance agreements with insurers and which are more than 10% of surplus.

(20) Agreements, written or otherwise, require all surplus funds which are more than an insurer's minimum capital stock and surplus, or equivalent, required by law, to be distributed.

(21) An insurer's management does not have the experience, competence, or trustworthiness to operate the insurer in a safe and sound manner.

(22) An insurer's management engages in unlawful transactions.

(23) An insurer does not comply with the terms of an agreement with an affiliate.

(24) The administration of an insurer's business is delegated to a person who, directly or indirectly, produces more than 25% of the insurer's gross written premiums, or an insurer unreasonably delegates an insurance function necessary to the insurer's survival.

(25) One person produces more than 10% of the gross written premiums of an insurer.

(26) An insurer does not pay claims within a reasonable time after due proofs of loss have been received.

(27) An insurer does not follow a policy on rating and underwriting standards, actuarially determined to be appropriate to the risk.

(28) An insurer violates the Insurance Code, Article 21.39-A or Article 21.39-B.

(29) An administrative or judicial order is issued against an insurer which is initiated by an insurance regulatory agency.

(30) An insurer is in any condition that the commissioner of insurance finds to present a hazard to policyholders, creditors, or the general public.

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

Issued in Austin, Texas, on May 25, 1989.

TRD-8904637 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 463-6327

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part IX. Texas Water Commission

#### Chapter 311. Watershed Protection

##### Subchapter G. Lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook and Richland-Chambers

###### • 31 TAC §§311.61-311.66

The Texas Water Commission proposes new §311.61-311.66, concerning watershed protection. Specifically, the new sections apply to discharges into Lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook, and Richland-Chambers. Sections 311.61-311.66 are proposed in response to a petition for rulemaking. Tarrant County Water Control District Number One has expressed concern over the quality of water in these lakes which are used as public drinking water supplies in addition to recreational facilities.

These new sections provide that domestic wastewater must receive at least advanced secondary treatment and employ filtration to supplement the removal of suspended solids. Filtration will also provide for enhanced removal of pathogens found in wastewater.

Roger G. Bourdeau, chief fiscal officer, has determined that for the first five-year period

the sections will be in effect, there will be direct fiscal implications as a result of enforcing or administering the sections. There will be no direct effect on state government for the first five-year period these sections will be in effect. The direct effect on local government will be an estimated additional cost for filters of: \$102,000 for the year of 1989; \$206,000 for each year from 1990-1992; and \$0 for the year of 1993. For compositors, the effect will be \$0 for the year of 1989; \$5,400 for the year of 1990 and \$0 for each year from 1991-1993. There will be no direct effect on small businesses.

Mr. Bourdeau also has determined that for each year of the first five years the sections as proposed are in effect, the public benefits anticipated as a result of enforcing the new sections as proposed will be to further protect public drinking water supplies. The possible economic cost to individuals who are required to comply with the sections as proposed will be, for filters: \$198,000 for the year of 1989; \$394,000 for each year from 1990-1992; and \$0 for the year of 1993. For composite samples: \$0 for the year of 1989; \$12,600 for the year of 1990 and \$0 for each year from 1991-1993

Comments on the proposal and requests for public hearing may be submitted to Kevin McCalla, Senior Attorney, Legal Division, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711. The deadline for submission of written comments and request for a public hearing is 30 days after the date of this publication.

These new sections are proposed under the authority of the Texas Water Code, §§5.103, 5.105, and 5.120, which provide the commission with the authority to promulgate rules as necessary to carry out its powers and duties under the Texas Water Code and other laws of the state and to establish and approve all general policies of the commission.

**§311.61. Definitions.** The following words and terms, when used in these sections, shall have the following meanings, unless the context clearly indicates otherwise.

**BOD5**—Biochemical oxygen demand (five-day).

**Cedar Creek reservoir water quality area**—Those portions of the Cedar Creek Reservoir Watershed within five stream miles upstream of the pool level of Cedar Creek Reservoir (322.0 feet, mean sea level).

**Cedar Creek reservoir watershed**—Cedar Creek Reservoir and its tributaries located between Joe B. Hoggsett Dam and a point along Cedar Creek up to the normal pool elevation.

**DO**—Dissolved oxygen.

**Eagle Mountain lake water quality area**—Those portions of the Eagle Mountain lake watershed within five stream miles upstream of the pool level of Eagle Mountain lake (649.1 feet, mean sea level).

**Eagle Mountain lake watershed**—Eagle Mountain lake and its tributaries located between Eagle Mountain Dam and a point 0.6 kilometers downstream from the confluence

of Oates Branch.

**Lake Arlington water quality area**—Those portions of the Lake Arlington watershed within five stream miles upstream of the pool level of Lake Arlington (550.0 feet, mean sea level).

**Lake Arlington watershed—Lake Arlington and its tributaries** located between Arlington Dam up to the normal pool elevation along Village creek.

**Lake Benbrook water quality area**—Those portions of the Lake Benbrook watershed within five stream miles upstream of the pool level of Lake Benbrook (694.0 feet, mean sea level).

**Lake Benbrook watershed—Lake Benbrook and its tributaries** located between Benbrook Dam and a point 200 meters downstream from U.S. 337 in Tarrant County.

**Lake Bridgeport water quality area**—Those portions of the Lake Bridgeport watershed within five stream miles upstream of the pool level of Lake Bridgeport (836.0 feet, mean sea level).

**Lake Bridgeport watershed—Lake Bridgeport and its tributaries** located between Bridgeport Dam to a point immediately upstream from the confluence of Bear Hollow.

**Lake Worth water quality area**—Those portions of the Lake Worth watershed within five stream miles upstream of the pool level of Lake Worth (594.3 feet, mean sea level).

**Lake Worth watershed—Lake Worth and its tributaries** located between Lake Worth Dam and a point 4.0 kilometers downstream from Eagle Mountain Dam.

**Mg/l**—Milligram per liter.

**Richland-Chambers reservoir water quality area**—Those portions of the Richland-Chambers reservoir watershed within five stream miles upstream of the pool level of Richland-Chambers reservoir (315.0 feet, mean sea level).

**Richland-Chambers watershed—Richland-Chambers reservoir and its tributaries** located between Richland Creek Dam and a point along Richland creek up to the normal pool level.

**TSS**—Total suspended solids.

**§311.62. Scope.** These sections apply to discharges into the water quality areas of lakes Worth, Eagle Mountain, Bridgeport, Cedar Creek, Arlington, Benbrook and Richland Chambers and discharges directly into these lakes.

**§311.63. Discharges into water quality areas and lakes.**

(a) Non-oxidation pond systems.

(1) By January 1, 1993, all domestic wastewater discharges from non-oxidation pond systems shall meet the following effluent limits:

	<u>30-Day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>	<u>Single Grab</u>	<u>Minimum</u>
BOD <sub>5</sub> (mg/l)	10	15	25	35	-
TSS (mg/l)	15	25	40	60	-
DO (mg/l)	--	--	--	--	4

(2) By January 1, 1993, all non-oxidation pond systems shall employ filtration to supplement suspended solids removal.

(3) Domestic wastewater discharged from a non-oxidation pond system shall be disinfected prior to discharge in a

manner to protect public health and aquatic life. Any appropriate process may be considered and approved on a case by-case basis. If chlorine is utilized as the disinfectant, the effluent shall have a minimum concentration of one mg/l chlorine after a 20 minute detention time. The maximum

chlorine residual in any discharge shall in no event be greater than four mg/l, or that necessary to protect aquatic life.

(b) Oxidation pond systems.

(1) All domestic wastewater from oxidation pond systems shall meet the following effluent limits:

	<u>30-Day Average</u>	<u>7-Day Average</u>	<u>Daily Maximum</u>	<u>Single Grab</u>
BOD <sub>5</sub>	30	45	70	100
TSS	90	--	--	--

(2) Unless otherwise specified in a permit, chemical disinfection is not required for oxidation pond systems when the total retention time in the wastewater treatment system (based upon design flow) is at least 21 days.

*§311.64. Effluent Quality Monitoring.* At a minimum, the permittee shall collect 24-hour composite samples of the effluent at least once each month for the permitted parameters. More frequent monitoring requirements may be specified in the permit in accordance with 31 Texas Administrative Code, Chapter 319 of this title (relating to

General Regulations Incorporated Into Permits).

*§311.65. Effluent Flow Measurement.* The permittee shall have equipment necessary to measure or estimate the flow of the wastewater discharge.

*§311.66. More Stringent Requirements.* The commission may impose, in permits, more stringent requirements than those specified in this subchapter, on a case-by-case basis, wherever appropriate to maintain desired water quality levels.

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 May 30, 1989.

TRD-8904767

Jim Haley  
Director, Legal Division  
Texas Water Division

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 463-8087



**TITLE 37. PUBLIC SAFETY AND CORRECTIONS**

**Part V. Board of Pardons and Paroles**

**Chapter 141. General Provisions**

**Parole Commissioners**

**• 37 TAC §141.21**

The Board of Pardons and Paroles proposes an amendment to §141.21, concerning origin and purpose. The amendment changes the statutory reference in the section.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8, which provides the Board of Pardons and Paroles with the authority to adopt reasonable rules not inconsistent with law as it deems necessary.

*§141.21. Origin and Purpose.* The employment of parole commissioners is authorized by Senate Bill 589, passed by the 69th legislature, 1985, which amended the Texas Code of Criminal Procedure by adding Article 42.18, §7(a)-(d) [(c)] authorizing commissioners to aid and assist the board in the granting, denying, or revocation of parole, and in the conduct of parole violation hearings.

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 May 26, 1989.

TRD-8904687 William Brooks  
Acting Executive Director  
Board of Pardons and Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

**Parole Panels**

**• 37 TAC §141.41, §141.42**

The Board of Pardons and Paroles proposes amendments to §141.41 and §141.42, concerning composition, duties, and authority of parole panels. The amendments clarify language used in the sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8, which provide the Board of Pardons and Paroles with the authority to adopt rules not inconsistent with law as it deems necessary.

*§141.41. Composition.* A parole panel shall be composed of [any] three persons to be comprised of parole commissioners[,] or [the parole] board members, or any combination thereof, as constituted from time to time by the board. (Texas Code of Criminal Procedure, Article 42.18, §7(e) & (h).)

*§141.42. Duties and Authority.* Parole panels may consider the granting, denying, or revocation of parole, and may conduct violation hearings or any other duties or functions assigned by the board.

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 May 26, 1989.

TRD-8904686 William Brooks  
Acting Executive Director  
Board of Pardons and Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

**Records and Reports**

**• 37 TAC §141.72, §141.73**

The Board of Pardons and Paroles proposes amendment to §141.72, and §141.73, concerning record of decisions; confidential and privileged information. These amendments will prohibit public disclosure of pending actions until they become final decisions.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8510 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendments are proposed under the Texas Code of Criminal Procedure, Articles 42.18, §8, which provides the Board of Pardons and Paroles with the authority to promulgate rules pertaining to parole actions.

*§141.72. Record of Decisions.* The board, commissioners, and parole panels shall keep records of their acts and shall notify each institution of any decisions relating to the persons who are or [w] have been confined therein.

*§141.73. Confidential and Privileged Information.* All information obtained in conjunction with inmates of the Texas Department of Corrections subject to parole and release to mandatory supervision or executive clemency, or individuals who may be on parole or mandatory supervision or under the supervision of the division, or persons directly identified in any proposed plan of release for a prisoner, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor, the board, and the commissioners upon request. (Texas Code of Criminal Procedure, Article 42.18, §19 [20].) It is further provided that this rule shall not be construed so as to preclude access to administrative release revocation hearings by the public (§147.1 of this title (relating to Public Hearings)).

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 May 26, 1989.

TRD-8904688 William Brooks  
Acting Executive Director  
Board of Pardons and Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708



## Subpoenas

### • 37 TAC §141.101

The Board of Pardons and Paroles proposes an amendment to §141.101, concerning issuance. The board proposes to amend this section to provide correct statutory references and citations as required by the amended statutes.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8, which provide the Board of Pardons and Paroles with the authority to promulgate rules pertaining to parole.

#### §141.101. Issuance.

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

(c) When necessary to obtain the attendance of witnesses and/or the production of any of the items referred to in subsection (a) of this section at an administrative release (parole/mandatory supervisions) [revocation] hearing, the hearing may authorize hearing officers to cause the issuance of subpoenas signed by a board member in accordance with the law. (Texas Code of Criminal Procedure, Article 42.18, §12.)

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 May 26, 1989

TRD-8904695

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption July 7, 1989

For further information, please call: (512) 459-2708

## Definition of Terms

### • 37 TAC §141.111

The Board of Pardons and Paroles proposes an amendment to §141.111, concerning definitions. The amendment adds definitions for preliminary hearing, adds a phrase concerning lesser sanction to administrative release

revocation hearing, and adds the definition "Tentative parole month."

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8 which provide the Board of Pardons and Paroles with the authority to promulgate rules concerning parole.

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

Administrative release (parole/mandatory supervision) revocation hearing, administrative release revocation hearing, revocation hearing or violation hearing—Are synonymous terms for a hearing conducted under §§145.41-145.55 of this title (relating to Revocation of Administrative Release (Parole and Mandatory Supervision)), and for hearings, §§147.1-147.7 of this title (relating to General Rules for Hearings); and §§147.21-147.28 of this title (relating to Evidence), to determine whether the board will enter an order revoking the administrative release or order some lesser sanction or recommend to the governor the revocation of the administrative release of any individual subject to executive clemency.

Preliminary hearing—Hearing at which is determined whether probable cause exists to support an allegation of a parole violation, pending a revocation hearing.

Tentative parole month—Is that month and year determined by the board for appropriate inmates when such inmate should be released to parole supervision if the inmate has successfully progressed in the institutional programs set by the board and parole release will not increase the likelihood of harm to the public.

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

Issued in Austin, Texas, on May 26, 1989.

TRD-8904684

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

## Chapter 143. Executive Clemency

### Full Pardon

#### • 37 TAC §§143.1-143.12

The Board of Pardons and Paroles proposes an amendment to §§143.1 and 143.2-143.12, concerning pardons for innocence; twelve months on parole, parolee discharging sentence; discharged prisoner; inmate in Texas Department of Corrections; prior out-of-state or federal convictions, suspended sentence, felony conviction, sentence of probation, felony conviction; misdemeanor, request of governor; and restoration of firearm rights. The amendment to §143.1 deletes part of the undesignated head title. The new sections will add a separate section citation for pardons for innocence, will change citations to conform with added sections, and clarify language pertaining to Twelve Months on Parole.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable as the public is relatively unaffected by these particular sections. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment and new sections are proposed under the Texas Code of Criminal Procedure, Article 42.01, which provide the Board of Pardons and Paroles with the authority to add section citations and change citations to conform to new sections and clarify language.

§143.1. *Authority to Grant Pardons.* Except in cases of treason or impeachment, after conviction, the governor may grant a full pardon [and/or the restoration of the rights of citizenship] upon the recommendation and advice of a majority of the board. (Texas Constitution, Article IV, §11; Texas Code of Criminal Procedure, Articles 48.01 and 48.03).

§143.2. *Pardons for Innocence.* On the grounds of innocence of the offense for which convicted the board will only consider applications for recommendation to the governor for full pardon upon receipt of:

(1) a written unanimous recommendation of the current trial officials of

the court of conviction; and/or

(2) a certified order or judgment of a court having jurisdiction accompanied by certified copy of the findings of fact (if any); and

(3) affidavits of witnesses upon which the finding of innocence is based.

**§143.3. Twelve Months on Parole.** When any prisoner has served for 12 months on parole for an offense committed on or before August 28, 1977, in a manner acceptable to the board, upon request, the board may review the prisoner's record upon application therefore and make a determination whether to recommend to the governor the prisoner be pardoned and finally discharged from the sentence under which he is serving.

**§143.4. Parolee Discharging Sentence.** Whenever any prisoner who has been paroled for an offense committed on or before August 28, 1977, has complied with the rules and conditions governing his parole until the end of the term to which he was sentenced, and without a revocation of his parole, the board may report such fact to the governor prior to the issuance of the final order of discharge. The board may, at this time, recommend to the governor a full pardon. (Texas Constitution, Article IV, §11; Code of Criminal Procedure, Article 42.12, §24, 59th Legislature, Volume 2, Page 317, Chapter 722.)

**§143.5. Discharged Prisoner.** Upon request from a person who has discharged a felony sentence, the board will consider recommending a full pardon. Applicant's name, prison number, county of conviction, offense, and length of sentence shall be furnished for identification.

**§143.6. Inmate in Texas Department of Corrections.** A full pardon will not be considered for an inmate while in prison, except when exceptional circumstances exist.

**§143.7. Prior Out-of-State or Federal Convictions.** Where there exists one or more convictions for offenses of felony grade, in other states or in federal court, prior to the last Texas conviction, the board will consider recommending a pardon only if the application:

(1) provides a clearance by full pardon from the jurisdiction(s) of the previous conviction(s); or

(2) furnishes proof in writing that the other jurisdiction(s) will not act until a full pardon is granted by the Governor of Texas.

**§143.8. Suspended Sentence, Felony Conviction.** Upon request from the applicant

or person acting for him, the board will consider recommending full pardon for a suspended sentence. Applicant's name, the county of conviction, offense, and sentence shall be furnished when the request is made.

**§143.9. Sentence of Probation, Felony Conviction.** The board will consider recommending a full pardon for a sentence of probation only upon a showing of receipt of maximum relief available through the court of conviction, and then, only in an extreme or unusual circumstance which prevents the applicant from gaining a livelihood or in the event of loss of civil rights. The burden of showing such unusual conditions rests upon the applicant.

**§143.10. Misdemeanor.** The board will consider recommending a full pardon in misdemeanor cases only when exceptional, extreme, and unusual circumstances exist. The burden of showing such exceptional, extreme, and unusual circumstances rests upon the applicant.

**§143.11. Request of Governor.** The board shall consider a recommendation for a full pardon or request for restoration of firearm rights in any case upon the request of the governor. (Texas Code of Criminal Procedure, Article 42.18, §18.)

**§143.12. Restoration of Firearm Rights.** The board will consider recommending restoration of the right to receive, possess, bear, and transport in commerce a firearm only in extreme and unusual circumstances which prevents the applicant from gaining a livelihood, and only if the applicant:

(1) provides either proof of clearance by a previously granted full pardon or a request for such express restoration in a pending application for a full pardon from jurisdiction(s) of the relevant conviction(s); and

(2) provides proof of application under United States Code, Title 18, §925(c), for exemption, relief from disabilities to the secretary of the treasury, and furnishes copies of all relevant applications and responses thereto by the secretary including any final actions by said secretary.

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 May 26, 1989.

TRD-8904683

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

• 37 TAC §§143.2-143.11

(Editor's note: The text of the following sections proposed for repeal will not be published. The section may be examined in the offices of the Board of Pardons and Paroles or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Board of Pardons and Paroles proposes the repeal of §§143.2-143.11, concerning twelve months on parole, parolee discharging sentence, discharged prisoner, inmate in Texas Department of Corrections, prior out-of-state or federal convictions; suspended sentence, felony conviction; sentence of probation, felony conviction; misdemeanor; request of governor; and restoration of firearm rights. The repeals are being replaced with new sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable, as the public is relatively unaffected by these particular repeals. There is no anticipated cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provides the Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary.

**§143.2. Twelve Months on Parole.**

**§143.3. Parolee Discharging Sentence.**

**§143.4. Discharged Prisoner.**

**§143.5. Inmate in Texas Department of Corrections.**

**§143.6. Prior Out-Of-State or Federal Convictions.**

**§143.7. Suspended Sentence, Felony Conviction.**

**§143.8. Sentence of Probation, Felony Conviction.**

**§143.9. Misdemeanor.**

**§143.10. Request of Governor.**

**§143.11. Restoration of Firearm Rights.**

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 May 26, 1989.  
TRD-8904685

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

## Conditional Pardon

### • 37 TAC §143.22

The Board of Pardons and Paroles proposes an amendment to §143.22, concerning consideration of request. The amendment deletes language pertaining to immigration cases.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Articles 48.01 and 48.03, which provides the Board of Pardons and Paroles with the authority to delete language pertaining to immigration cases.

*§143.22. Consideration of Request.* The board will consider a request for conditional pardon, only to release an inmate to another country [or to the immigration officials for deportation, and/] or in cases where extreme, exceptional, and unusual circumstances exist, and only after minimum statutory parole eligibility has been attained.

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 May 26, 1989.  
TRD-8904679

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

## Commutation of Sentence

### • 37 TAC §143.52

The Board of Pardons and Paroles proposes amendment to §143.52, commutation of sentence, felony or misdemeanor. The amendment changes the statutory reference in the section.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(i), which provides the Board of Pardons and Paroles with the authority to change statutory reference in the section.

*§143.52. Commutation of Sentence, Felony, or Misdemeanor.*

(a) (No change.)

(b) If the convicted person has the recommendation of two of the trial officials and no written communication is received from third trial official, the board shall give the remaining trial official at least 10 days notice that such a clemency recommendation is being considered by the board. (Texas Code of Criminal Procedure Article, 42.18, §8(i)(k)).

(c) (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 May 26, 1989.  
TRD-8904680

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

## Chapter 145. Parole

### Parole Process

#### • 37 TAC §§145.1-145.21

The Board of Pardons and Paroles proposes the amendment and new section to §145.1 and new §§145.2-145.21, concerning parole

panel; standard parole guidelines; tentative parole date; establishment of tentative parole date deferred; denial of parole, initial review date; initial eligibility on consecutive sentences; parole interview; eligibility date; review date subject to change; initial action upon review; favorable initial action, notice to trial officials and victims; subsequent action; notice to trial officials; notice to certain officials after transfer to halfway house; parole denied by board; subsequent parole review date; and plan investigation, actual release date; parole certificate, parole in absentia (parole for prisoners not in actual physical custody) of the Texas Department of Corrections. The amendment to §145.1 amends the reference made to the Texas Code of Criminal Procedure. The new sections replace those being repealed simultaneously.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be not applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8, which provide the Board of Pardons and Paroles with the authority to propose and adopt rules for parole.

*§145.1. Parole Panel.* A parole panel may consider for parole any eligible prisoner, and upon the approval by panel majority may release such prisoner on parole. (Texas Code of Criminal Procedure, Article 42.18, §7(d)(c)(c), §8(a), (c), (d)).

*§145.2. Standard Parole Guidelines.*

(a) The board shall develop and implement standard parole guidelines that shall be the basic criteria on which parole decisions are made. The parole guidelines shall be developed according to an acceptable research method and shall be based upon the seriousness of the offense and the likelihood of favorable parole outcome. The board shall review the guidelines at least annually and revise them as warranted. The guidelines shall include:

- (1) parole score factor;
- (2) salient factor score;
- (3) percent of time served factor;
- (4) offense severity rating factor;
- (5) criminal history;

(6) institutional adjustment; and

(7) additional factual information supplied by trial officials and/or victim impact statements.

(b) The parole score shall act as an aid in the parole decision-making process and the parole decision shall be at the discretion of the parole decision-maker. (Texas Code of Criminal Procedure, Article 42.18, §8(f)(2)).

#### §145.3. Tentative Parole Date.

(a) A tentative parole date may be set in conjunction with a program of measurable institutional progress within 120 days of incarceration by utilizing the parole score as a guideline. Such date shall mean the estimated month and year of release on parole and shall be contingent upon the inmate's:

(1) participation in required rehabilitative programs; and

(2) satisfactory institutional adjustment.

(b) The date may be changed upon receipt of additional information after review and decision by the board (Texas Code of Criminal Procedure, Article 42.18, §8(a) and (e)).

§145.4. Notice to Inmate and the Texas Department of Corrections of Tentative Parole Date. The board shall notify each inmate and the Texas Department of Corrections in writing of the tentative parole date and the prescribed program of measurable institutional progress. (Texas Code of Criminal Procedure, Article 42.18, §8(a) and (e)).

§145.5. Establishment of Tentative Parole Date Deferred. The establishment of the tentative parole date may be deferred and a date for subsequent consideration may be set at the discretion of the board. The board shall notify each inmate of such action and the reasons for the action (Texas Code of Criminal Procedure, Article 42.18, §8(a) and (e)).

§145.6. Denial of Parole. If the board denies parole after favorable recommendation by a parole panel, or should a parole panel deny parole at any time during the parole process the inmate shall be notified in writing with the reasons given for the decision.

§145.7. Initial Review Date. Each inmate shall be notified in writing of the scheduled initial parole review date. Such date shall mean the month and year estimated for obtaining of initial parole eligibility on the sentences and of necessity is a tentative date subject to review or a subsequent review and alteration.

§145.8. Initial Eligibility on Consecutive Sentences. The board shall consider the impact on the parole eligibility of an inmate serving consecutive felony sentences under Code of Criminal Procedure, Article 42.08, or offenses committed on or after September 1, 1987.

(1) The board shall treat each sentence within consecutive felony sentences as single sentences for purposes of parole. Inmates must earn eligibility on the first sentence before beginning to earn time on the second and subsequent sentences. The board shall not release on parole an inmate sentenced to serve consecutive felony sentences earlier than the date of parole eligibility from the last single sentence of the consecutive sentences imposed on the inmate.

(2) The board shall use calendar time and good conduct time (if applicable) to separately determine eligibility for parole for each single sentence in a series of sentences. Calendar time and good conduct time (if applicable) must be earned on the first sentence before beginning to accrue on the second and subsequent sentences. (Texas Code of Criminal Procedure, Article 42.18, §8(b)(2)).

§145.9. Parole interview. Prior to consideration for parole by a parole panel, the inmate may be interviewed by an institutional parole officer, a parole commissioner or a board member, whether it be the initial review or a subsequent review, at which time the inmate may submit his proposed parole plan.

§145.10. Eligibility Date. The tentative initial eligibility date for parole consideration is set by calculating the time credit which could reasonably be earned.

§145.11. Review Date Subject to Change. Initial or subsequent review dates or both are subject to change in cases where an inmate's status is changed.

§145.12. Initial Action Upon Review. A case reviewed by a parole panel for parole consideration may be:

(1) deferred for request and receipt of further information;

(2) denied a favorable parole action at this time and set for further review on a future specific month and year (set off);

(3) denied (serve all);

(4) determined that the total situation seems to favor the inmate's release on parole and further investigation, including notification of trial officials and investigation of the parole plan, should be developed prior to making a final decision (favorable initial action); or

(5) recommended for consideration for pre-parole transfer to a community residential facility up to 180 days prior to reaching parole eligibility.

#### §145.13. Favorable Initial Action: Notice to Trial Officials and Victims.

(a) When favorable initial action is taken, notification shall be sent at least 10 days before release to:

(1) the trial officials of the county of conviction;

(2) the trial officials of the county to which the prisoner is being released;

(3) the trial officials in the county where the prosecution originated when:

(A) a change of venue occurs

(B) a written request for notification of parole consideration has been filed with the board;

(4) victims who have filed impact statements; and

(5) victims who have filed with the board a written request for notification of parole consideration. Any response to these notices shall be considered by a parole panel/administrative board panel to be in compliance with the law. (Texas Code of Criminal Procedure, Article 42.18, §8(f) and (i)).

§145.14. Subsequent Action: Notice to Trial Officials. Responses received from trial officials and/or victims shall be referred to an administrative board panel for review and decision. The administrative board panel's decision may be:

(1) denied for parole approval at this time and set for review at a future specific month and year (set off);

(2) denied (serve all); or

(3) approved for parole subject to an approved release plan.

#### §145.15. Notice to Certain Officials After Transfer to Halfway House.

(a) When the transfer of a prisoner to a halfway house is ordered, the following officials shall be notified no later than the 10th day after such order is issued:

(1) the sheriff of the county of conviction;

(2) the sheriff of the county in which the halfway house is located; and

(3) the prosecuting attorney of the county in which the halfway house is located;

(b) Each notice shall state:

- (1) the prisoner's name;
- (2) the county in which the prisoner was convicted; and
- (3) the offense for which the prisoner was convicted. (Texas Code of Criminal Procedure, Article 42.18 §8(i)).

**§145.16. Parole Denied by the Board: Subsequent Parole Review Date.**

(a) If the parole panel recommends parole and that action is subsequently withdrawn by an administrative board panel, the next parole review month and year of the inmate will be computed by the board from the prior parole review month and year to the discharge date and calculated as follows:

- (1) 12 months or less to serve--the case is made a serve all;
- (2) 12 months and one day or more to serve--set off one year from prior parole review month and year; and
- (3) cases having prior status of special review--apply serve all or set-off rule from month and year case was placed in special review.

(b) If the board denies parole and desires to reconsider parole prior to the new review date, it may request in writing that a parole panel bring the case up to date and resubmit it to the board for further consideration, if majority of the parole panel agrees to do so.

(c) If a parole panel receives additional information on a case denied parole which it feels merits reconsideration prior to the scheduled review date, the case may be brought up to date for parole consideration and the board may resubmit the case with the reasons pointed out for the reconsideration.

**§145.17. Plan Investigation.** If the parole panel recommends parole the proposed plan shall be investigated by:

- (1) a member of the Division of Parole Supervision field staff if the plan is in-state (Texas); or
- (2) the receiving state, via the Interstate Parole Compact, if the plan is out-of-state.

**§145.18. Parole Plan Approval.** Prior to issuance of the parole certificate authorizing release on parole, the parole plan must be approved by a parole panel or a designated staff member.

**§145.19. Actual Release Date.** An actual release date may be set in conjunction with TDC on all approved release plans unless it is determined that the case should be expedited.

**§145.20. Parole Certificate.**

(a) When the parole plan has been approved, the parole certificate shall be issued and signed by a board member or a commissioner and forwarded to the Institutional Parole Office to process the inmate for release on parole at the appropriate time.

(b) The parole approval is not effective or final until a formal parole agreement is executed by the inmate. The approval may be withdrawn by a parole panel at any time prior to the acceptance and execution by the inmate of the formal parole agreement which is contained in the parole certificate.

(c) The parole certificate shall not become effective and in force until the conditions are agreed to, signed, and accepted by the inmate.

**§145.21. Parole in Absentia (Parole for Prisoners Not in Actual Physical Custody) of the Texas Department of Corrections.**

(a) Prisoners serving sentences for the Texas crimes and prisoner's whose administrative release status has been revoked who are not in the actual physical custody of the Texas Department of Corrections subject to the parole process as set out in this chapter and title, generally, in accord with the following.

(1) Parole in absentia process is initiated upon a parole or institutional officer submitting a report or application in writing on behalf of the prisoner.

(2) Prior to consideration for parole by the parole panel, the inmate may be interviewed by a parole officer at which time the inmate may submit his parole plan.

(3) Applicants for parole in absentia may be interviewed by a parole panel member or other board agent at some point during the parole review process. However, the physical location of the prisoner and/or the nature of the case may preclude the granting of a face-to-face interview, in which case, written communication shall suffice.

(4) As necessary, in each case, the board will contact the trial officials in the case, the custodian of records at the institution or jail facility where the prisoner has been incarcerated on his Texas sentence, and/or any other public official in an attempt to gather necessary pertinent information concerning: the circumstances of the prisoner's offense(s) previous social history and criminal record; conduct, employment, and attitude in prison; and physical and mental health; in order that the parole panel to which the case is assigned may make an informed decision concerning parole eligibility and/or suitability after all relevant documents and information are assembled, the case will be considered by a parole panel. If denied, the case will be updated and reconsidered on its docket date if still

in custody.

(5) Prisoners approved for release to parole in absentia and for whom a certificate has been issued will be released by the appropriate officer of the institution or jail facility in which the prisoner is incarcerated, if any. When practical, if the institution or jail facility is located within the State of Texas, an agent of the board may assist in the release process by explaining the terms and conditions of release which shall constitute notice to the parolee of the contents thereof; the certificate shall be countersigned by the institution's or jail facility's releasing officer. Parole in absentia releasees are subject to the same rules and conditions of release as all other administrative releasees.

(b) A prisoner released to parole in absentia on a Texas felony sentence shall, after release, be treated the same as a prisoner released on parole directly from the Texas Department of Corrections, whether supervised within the State of Texas or in another state, under the Uniform Act for Out-of-State Parole Supervision--the Interstate Compact (Texas Code of Criminal Procedure, Article 42.11). Such parolees are subject to revocation for violation of the terms and conditions of their release pursuant to the provisions and procedures of the undesignated head of this chapter (relating to Revocation of Administrative Release (Parole and Mandatory Supervision and Executive Clemency)).

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 May 26, 1989.

TRD-8904748

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

◆ ◆ ◆  
• 37 TAC §§145.2-145.12, 145.14-145.16

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Board of Pardons and Paroles or in the Texas Register office Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Board of Pardons and Paroles proposes the repeal of §§145.2-145.16, concerning denial of parole; initial review date, parole interview, eligibility date, review date subject to change; initial action upon review, favorable initial action, notice to trial officials and certain victims of certain crimes; subsequent action, notice to trial officials; Parole denied by the board, subsequent review date, plan investigation, parole plan approval, tentative parole

release date, parole certificate, and parole in absentia (parole for prisoners not in actual physical custody) of the Texas Department of Corrections. The repealed sections will be replaced with new sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed repeals are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Green also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable, as the public is relatively unaffected by these particular repeals. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The repeals are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provide the Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary.

*§145.2. Denial of Parole.*

*§145.3. Initial Review Date.*

*§145.4. Parole Interview.*

*§145.5. Eligibility Date.*

*§145.6. Review Date Subject to Change.*

*§145.7. Initial Action Upon Review.*

*§145.8. Favorable initial Action: Notice to Trial Officials and Certain Victims of Certain Crimes.*

*§145.9. Subsequent Action: Notice to Trial Officials.*

*§145.10. Parole Denied by the Board: Subsequent Review Date.*

*§145.11. Plan investigation.*

*§145.12. Parole Plan Approval.*

*§145.14. Tentative Parole Release Date.*

*§145.15. Parole Certificate.*

*§145.16. Parole in Absentia (Parole for Prisoners Not in Actual Physical Custody) of the Texas Department of Corrections.*

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 May 26, 1989.

TRD-8904681

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

◆ ◆ ◆  
**Terms and Conditions of Parole**

• 37 TAC §§145.21-145.28

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Board of Pardons and Paroles or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Board of Pardons and Paroles proposes the repeal of §§145.21-145.28, concerning terms and conditions of parole; Texas parolees supervised in other states; out-of-state parolees supervised in Texas; visits to penal institutions—parolee under active supervision; annual report status; employment of releasees in positions requiring contact with persons of criminal background; nonreporting status; restitution, monthly amount, payment; and alteration. The repealed sections will be replaced with new sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed repeals are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Green also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable as the public is relatively unaffected by these particular repeals. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The repeals are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provide the Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary. k

*§145.21. Terms and Conditions of Parole.*

*§145.22. Texas Parolees Supervised in Other States.*

*§145.23. Out-of-State Parolees Supervised in Texas.*

*§145.24. Visits to Penal Institutions—Parolee Under Active Supervision.*

*§145.25. Annual Report Status.*

*§145.26. Employment of Releasees in Positions Requiring Contact with Persons of Criminal Background.*

*§145.27. Nonreporting Status.*

*§145.28. Restitution, Monthly Amount, Payment; Alteration.*

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 May 26, 1989.

TRD-8904682

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

◆ ◆ ◆  
• 37 TAC §§145.22-145.26

The Board of Pardons and Paroles proposes new §§145.22-145.26, concerning terms and conditions of parole; Texas parolees supervised in other states; out-of-state parolees supervised in Texas; visits to penal institutions—parolee under active supervision; and annual report status. The new sections added terms and conditions of parole and special conditions; and clarified language used in rules.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable as the public is relatively unaffected by these particular sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provide the Board of Pardons and Paroles with the authority to add terms and conditions of parole and special conditions, and clarify language used in rules.

*§145.22. Terms and Conditions of Parole.* The following terms and conditions of parole must be agreed to and accepted by the inmate as a prerequisite to parole. Continuation on parole is conditioned upon continuing compliance with the standard terms

and conditions of parole and upon compliance with any special conditions imposed by a parole panel or the board or its authorized designate.

(1) Release and reporting. Upon release from the institution, report immediately, as instructed to my parole officer; thereafter, report as directed and follow all instructions from my parole officer which are authorized by the board.

(2) Legal obligation. Obey all municipal, county, state and federal laws.

(3) Residence. Obtain written permission of my parole officer prior to changing my place of residence.

(4) Travel. Obtain written permission of my parole officer prior to leaving the state of Texas.

(5) Weapons. I shall not own, possess, use, sell, nor have under my control any firearm, prohibited weapon, or illegal weapon as defined in the Texas Penal Code; nor shall I unlawfully carry any weapon nor use, attempt, or threaten to use any tool, implement or object to, cause or threaten to cause any bodily injury.

(6) The releasee shall avoid association with persons of criminal background.

(7) The releasee shall not enter into any agreement to act as informer or special agent for any law enforcement agency without specific written approval of the board.

(8) Special conditions. I shall abide by any special condition(s) imposed by the board; any such special conditions imposed upon release will be indicated on the face of this certificate by the letter(s) corresponding to the conditions as listed below.

(A) The releasee shall participate in a maintenance free program for the treatment of alcohol abuse and/or substance abuse.

(B) The releasee must complete the basic adult education program.

(C) The releasee shall submit to urinalysis at discretion of the supervising officer.

(D) The releasee shall submit to halfway house placement.

(E) The releasee shall not operate a motor vehicle without written permission from the supervising officer or the board.

(F) The releasee shall not open a checking account without written permission from the supervising officer or

the board.

(G) The releasee shall be released to detainer or plan.

(H) The releasee shall participate in a MH/MR and/or psychological counseling program.

(I) The releasee must notify any prospective employer regarding criminal history, if a position of financial responsibility is involved.

(J) Releasee shall participate in the electronic monitoring program as directed by the supervising officer.

(K) Releasee shall participate in the special review program.

(L) The releasee shall participate in a vocational counseling or training program.

(M) The releasee shall not use any controlled substance.

(N) The releasee shall participate in the sex offender caseload.

(O) The releasee shall comply with any other condition as specified.

(P) The releasee shall participate in the mentally retarded caseload.

(Q) Releasee shall participate in parents anonymous.

(R) Instate releasees shall make restitution payments as required by the supervising officer in an amount to be set by the board. By the 10th of each month, payments (cashier's check or money order) shall be paid by out-of-state releasees to the Texas Board of Pardons and Paroles, P.O. Box 13401, Austin, Texas 78711; total amount to be set by the board.

(S) The releasee shall be under intensive supervision for not less than 180 days (Special Condition S).

(T) The releasee shall totally abstain from the use of alcoholic beverages of any kind and/or inhalants or intoxicating vapors.

(U) The releasee shall submit to urinalysis.

(V) The releasee shall not contact victim(s) of the instant offense

without written permission from the supervising officer or the board.

(W) The releasee shall participate in Mental retardation outreach program.

(Y) The releasee shall participate in the substance abuse caseload.

(Z) The releasee shall not enter a county without prior written approval.

(9) General provisions.

(A) I hereby agree to abide by all rules of parole and all laws relating to the revocation of parole including, but not limited to, appearance at any hearings or proceedings required by the law of the jurisdiction in which I may be found or of the state of Texas. I further agree and consent that the receiving state, if I am under compact supervision, or any state wherein I may be found while on parole or under parole jurisdiction, may conduct such hearings as the board shall deem necessary, proper or which may be required by law.

(B) I shall pay, during the period of my supervision, any and all outstanding fines, court costs and fees adjudged against me, to the clerk of the court of conviction, and I agree to provide my supervising officer with documentation verifying the payment by me of said amounts. I will be required to pay a supervision fee for each month I am required to report to a supervising officer as instructed by my supervising officer.

(C) In the event I am granted the privilege of residing in and being under the supervision of any other state or territory under the interstate compact for the supervision of parolees and the Texas Code of Criminal Procedure, Article 42.11, and in consideration of being granted parole by the Texas Board of Pardons and Paroles, or for any reason I may be outside of the State of Texas, I hereby agree to and I hereby do waive extradition to the State of Texas from any jurisdiction in or outside the United States where I may be found; I do hereby further agree that I will not in any manner contest any effort by the State of Texas, or any state of jurisdiction, to return me to the State of Texas.

§145.23. *Texas Parolees Supervised in Other States* Texas parolees accepted for supervision in other states under the terms of the Interstate Parole Compact (Texas Code of Criminal Procedure, Article 42.11) are required to abide by both the rules of parole for Texas as set forth in §145.22 of this title (relating to Terms and Conditions of Parole) and the rules of parole of the receiving state.

**§145.24. Out-of-State Parolees Supervised in Texas.** Parolees from outside the State of Texas accepted in Texas for supervision by the Division of Parole Supervision under the terms of the Interstate Parole Compact (Texas Code of Criminal Procedure, Article 42.11) are required to abide by both the rules of parole for Texas parolees as set forth in §145.21 of this title (relating to Terms and Conditions of Parole) and the rules of parole of the sending state.

**§145.25. Visits to Penal Institutions—Parolees Under Active Supervision.** A parolee may enter a penal institution during the period of supervised parole under the following circumstances.

(1) With permission of the proper authorities of the penal institution as designated by the director of the Texas Department of Corrections, a parolee may visit a close relative (parent, sibling, spouse, or child) confined in that institution upon approval of the area supervisor.

(2) If the parolee is working in a rehabilitation program which has been approved by the director, and such program requires the parolee to visit a penal institution, such visit may be allowed if approved by the director, and such program requires the parolee to visit a penal institution, such visit may be allowed if approved by the proper authorities of the penal institution, and the director.

(3) If called as a witness at a parole hearing, the parolee will be allowed to visit the penal institution for this specific purpose only upon approval of the area supervisor.

**§145.26. Annual Report Status.**

(a) Annual report status is a releasee status which releases the parolee from the original terms and conditions of parole, releases the individual from the direct supervision of a parole officer, and is conditional upon the releasee's acceptance of and compliance with the annual report rules.

(b) A releasee may be considered for annual report status upon the recommendation of his or her parole officer after having been satisfactorily under supervision for.

(1) a minimum of 12 months if released from a sentence of less than 10 years; or

(2) a minimum of 18 months if released from a sentence for a term of 10 or more years; or

(3) a minimum of two years if released from a life sentence.

(c) A recommendation for transfer to annual report status must be approved by the supervisor of the region of the Division

of Parole Supervision in which the parolee is under active supervision at the time of the recommendation.

(d) Transfer to annual report status in no way affects the authority of a parole panel to issue a pre-revocation warrant or revoke a release. The releasee remains subject to the jurisdiction of the board and subject to its orders while on annual report status.

(e) A parole panel may, at its discretion and without notice, set aside an order of transfer to annual report status and impose any additional rules or conditions of release as the parole panel may deem to be proper.

(f) The rules for a releasee on annual report status are listed in the following paragraphs.

(1) Each year, from the date of the acceptance of this order for annual report, the releasee will report in writing to the regional supervisor of the region of parole supervision where releasee was residing when first placed on annual reporting status; said report showing his or her current employment and residence. This annual report will be made until the term of his or her administrative release expires. Failure to submit this report each year could result in his or her being returned to active release supervision, or the issuance of a pre-revocation warrant or summons for his or her arrest and possible return to the Texas Department of Corrections.

(2) The releasee will obey all federal, state, and municipal laws and ordinances.

(3) The releasee will not communicate with any inmate of a penal institution nor visit any such institution, unless approved in writing to do so by a warden or general manager of the penal institution; the original or a copy of such approval shall be immediately sent to the Director of Parole Supervision, 8610 Shoal Creek Boulevard, Box 13401, Capitol Station, Austin, Texas 78711, by the releasee.

(4) The releasee shall not own, possess, use nor have under his or her control any firearms, prohibited weapons, or illegal weapons as defined in the Texas Penal Code; nor shall he unlawfully carry any weapon nor use, attempt or threaten to use any tool, implement or object or to cause or to threaten to cause any bodily injury.

(5) The releasee will report, in writing, the fact of any arrest or change of residential address within five days of its occurrence, to the supervisor of the region of the division of parole supervision in the region where releasee was residing when first placed on annual report.

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 May 26, 1989.

TRD-8904747

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

**Revocation of Administrative Release (Parole, Mandatory Supervision and Executive Clemency)**

• 37 TAC §§145.41, 145.42, 145.43

The Board of Pardons and Paroles proposes amendments to §§145.41, 145.42, and 145.43, concerning allegation of violation; review and initial disposition; warrant; issuance; notice of allegations; counsel; request for hearings, and waivers. The amendments clarify language used in the sections and add preliminary hearing to the hearing process.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five-year period the sections are in effect the public benefits anticipated as a result of enforcing the sections will be applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78711

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provide the Board of Pardons and Paroles with the authority to clarify language used in sections and add preliminary hearing to the hearing process.

**§145.41. Allegation of violation: Review and Initial Disposition.**

(a) At such time as the board learns of an allegation of violation of one or more terms and conditions of release by an administrative releasee, the board shall refer the matter to the board or board panel [a parole panel] for review and initial determination of disposition.

(b) The board or board panel [A parole panel] shall review the information and make an initial determination to:

(1) order the issuance of a [pre-revocation] warrant;

(2) order the issuance of a notice of allegations and a summons to appear at an administrative release [violation] hear-



ing;

(3) continue the supervision of the alleged violator pending disposition of any criminal charges; and make final disposition of continue supervision or order the issuance of a warrant and/or proceed to a hearing.

[(4) make final disposition of the matter by continuation of release under the same or modified conditions; or

[(5) recommend processing the file for revocation under modified administrative procedures by written notice to the inmate of the intent and reason for revocation without personal appearance at a time certain allowing for submission of written information before final processing, provided that this action shall be taken only when the releasee has committed a felony offense during the time of his or her release and has been convicted at the trial court level and sentenced to a term of penal incarceration for the offense, whether said conviction is appealed or not.

[(A) Revocation of administrative release under paragraph (5) of this subsection shall be accomplished administratively and a releasee proceeded against hereunder shall not be entitled to an administrative release revocation hearing.

[(B) After the panel has acted under paragraph (5) of this subsection, further proceedings shall be as follows.

(i) The hearing section staff will obtain documentation of the relevant felony conviction and sentence.

(ii) A written notification containing the alleged rule violation along with a description of the documentation relied upon for proof; a definite date at least 45 days hence when final action for revocation will be taken, and an address to which additional information may be sent for consideration by the board before final action for revocation, will be sent to the releasee at his address of incarceration or residence.

(iii) After the time limit passes for final action the panel will consider all information assembled in the case and enter its final order.

[(C) Should the releasee's conviction be reversed by a court of competent jurisdiction, then he or she shall be entitled to reinstatement of the administrative release previously revoked under this paragraph, upon notification of the board of said judicial action and provision to the board of a certified copy of the judicial order effectuating the reversal; provided, however, that the board may proceed against a releasee reinstated under this subsection on the basis of any of the allegation(s) of violation previously filed against

the releasee but not yet disposed of.]

**§145.42. [Prerevocation] Warrant; Issuance.** Upon [the] receipt of an order of the board or governor, a [prerevocation] warrant shall issue to appropriate law enforcement authorities, authorizing any sheriff, peace officer, or other addressee named therein to arrest and hold the named releasee until further order of the governor or the board or until such time as he/she may be placed in the custody of an agent of the Texas Department of Corrections, or until further order of the governor or the board.

**§145.43. Notice of Allegations; Counsel; Request for Hearings; Waivers.**

(a) Upon order of the board or board panel [a parole panel] or at such time as an alleged administrative release violator is arrested on a [prerevocation] warrant, he or she shall be personally served with written notice of:

(1) (No change.)

(2) his or her right to a preliminary and/or revocation hearing(s) [hearing] (§141.11 of this title (relating to Definitions), [and] §145.48, and §145.46 of this title (relating to Administrative Release [Revocation] Hearings [hearing] Prehearing Conference; Purposes; Procedure) within such time and at such place as provided by applicable law and these sections.

(b) The alleged administrative release violator shall be notified of his or her right to the assistance of a retained attorney during the [administrative release revocation] hearing process, and of his or her conditional right to have an attorney appointed if he or she is indigent.

(c) (No change.)

(d) The alleged violator [Any violator except those issued a summons] shall, at the time of service of notice of alleged violation(s), be given the opportunity to make a request for a preliminary and/or and/or revocation hearing, or to waive in writing the right to a preliminary and/or revocation hearing. [Written waivers must include an admission of at least one violation of the terms and conditions of release.] At the time of the execution of such a waiver and admission, the releasee shall be informed that the board will, review all the allegations on the notice of alleged violations and will, in all probability, revoke or in cases subject to executive clemency recommend to the governor that his or her administrative release be revoked. [Any hearing previously requested may be waived in writing in accordance with this section at any time prior to the hearing.]

(e) (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 May 26, 1989.

TRD-8904677

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

◆ ◆ ◆  
• 37 TAC §§145.44-145.55

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Board of Pardons and Paroles or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Board of Pardons and Paroles proposes the repeal of §§145.44-145.55, concerning procedure after waiver and admission, procedure after request for hearing, time, schedule; notice; location, hearing officer, prehearing conference; purposes; procedure, rights of the administrative releasee; the revocation process; administrative release revocation hearing, review of administrative release revocation hearing record, report and recommendation of the hearing officer, final board disposition; releasee's motion to reopen hearing; procedure after motion to reopen is granted, time, rights of the releasee, final disposition; revocation of administrative release (parole mandatorily provision) recommendation, proclamation, warrant/warrant withdrawal approved by the board, and revocation without prejudice. The repeal sections will be replaced with new sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed repeals are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the repeals.

Mr. Green also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will not be applicable, as the public is relatively unaffected by these particular sections. There is no anticipated economic cost to individuals who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The repeals are proposed under the Texas Code of Criminal Procedure, Article 42.18, §2(g), which provides the Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary.

**§145.44. Procedure After Waiver and Admission.**

**§145.45. Procedure After Request for Hearing; Time; Schedule; Notice; Location, Hearing Officer.**

**§145.46. Prehearing Conference; Purposes; Procedure.**

**§145.47. Rights of the Administrative Release in the Revocation Process.**

**§145.48. Administrative Release Revocation Hearing.**

**§145.49. Review of Administrative Release Revocation Hearing Record; Report and Recommendation of the Hearing Officer.**

**§145.50. Final Board Disposition.**

**§145.51. Releasee's Motion to Reopen Hearing.**

**§145.52. Procedure after Motion to Reopen is Granted; Time; Rights of the Releasee; Final Disposition.**

**§145.53. Revocation of Administrative Release (Parole, Mandatory Supervision) Recommendation; Proclamation; Warrant.**

**§145.54. Warrant Withdrawal Approved by the Board.**

**§145.55. Revocation without Prejudice.**

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 May 26, 1989.

TRD-8904676

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

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The Board of Pardons and Paroles proposes new §§145.44-145.58, concerning procedure after waiver of preliminary hearing, procedure after request for preliminary hearing; time; schedule, notice, location; hearing officer, procedure after request for revocation hearing; time, schedule; notice, location, hearing officer; prehearing conference; purposes, procedure, rights of the administrative releasee in the revocation process; administrative release (revocation) preliminary hearing, administrative release revocation hearing, review of administrative release revocation hearing record; report and recommendation of the hearing officer, final board disposition, releasee's motion to reopen hearing, procedure after motion to reopen is granted, time; rights of the releasee, final disposition, revocation of administrative release (parole, mandatory, supervision), recommendation, proclamation; warrant; warrant withdrawal approved by the board and revocation without

prejudice.

The new sections and procedures pertaining to preliminary hearings and have changed rule citations accordingly.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit emanated as a result of enforcing the sections will be not applicable as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provide the Board of Pardons and Paroles with the authority to add procedures pertaining to preliminary hearings and change rule citations accordingly.

**§145.44. Procedure After Waiver of Preliminary Hearing.**

(a) Upon receipt of an admission of violation of the terms and conditions of administrative release and of the waiver of the right to an administrative release (revocation) preliminary hearing, the releasee may be transferred by the sheriff to a secured facility for a term to be designated by the board or the board panel shall review the case and make a final disposition by:

(1) continuing incarceration pending revocation hearing; or

(2) withdrawing the warrant (if any) and continuing the release under the same or modified conditions.

(b) If final board disposition is to withdraw the warrant, if any, and continue the releasee under the same or modified conditions, or, where the sentence has expired, release to discharge, the board shall order the warrant, if any, withdraw and impose, either or a combination thereof, the following sanctions:

(1) verbal reprimand;

(2) letter of reprimand by the region supervisor or executive director;

(3) case conference with unit supervisor or region supervisor;

(4) imposition of special condition including, but not limited to, participation in intensive supervision, electronic monitoring, quarterhouse placement, or substance abuse caseload, or

(5) summons hearing

**§145.45 Procedure After Waiver of Revocations Hearing.** Upon receipt of the

waiver of the right to an administrative release revocation hearing and supporting documentation of evidence of the alleged rule violations; such as affidavits, judgment and sentences of conviction - the board or board panel shall review the case and make a final disposition by:

(1) recommending to the governor the revocation of a conditional pardon or other clemency release, or ordering revocation of administrative release;

(2) order the warrant to remain in effect with time served in a secured facility; or

(3) withdrawing the warrant (if any) and continuing the release under the same or modified conditions.

**§145.46. Procedure After Request for Preliminary Hearing; Time; Schedule; Notice; Location; Hearing Officer.**

(a) A preliminary hearing shall be scheduled and held within 15 days after the date of initial interview by the parole officer or execution of the summons to such hearing, unless a prehearing conference is scheduled within the 15 day period. However, no preliminary hearing is required if the administrative releasee received a new conviction. If such is the case, the administrative releasee may proceed to a revocation hearing, §145.47 of this title (relating to Procedure After Request for Revocation Hearing; Time; Schedule; Notice; Location; Hearing Officer).

(b) Exceptions to subsection (a) of this section are as follows:

(1) he or she is detained/incarcerated pending the adjudication of criminal charges in another state;

(2) he or she is detained/incarcerated for service of a sentence for a crime committed in another state;

(3) he or she is detained/incarcerated pending extradition from another state, whether contesting extradition or not;

(4) he or she is detained/incarcerated in another state for any other reason;

(5) he or she is detained/incarcerated in the physical custody of the Federal Bureau of Prisons; or

(6) he or she is detained in any medical or mental health hospital, institution, or facility.

(c) In the case of a releasee unavailable to Texas authorities under the circumstances described in subsection (b) of this section, a reasonable time shall be construed to mean 70 days from the date said releasee becomes or is made available to Texas authorities

(d) Any releasee charged with violation of the terms and/or conditions of his or her administrative release may in the

discretion of the board, be granted the opportunity to waive his or her right to a timely hearing under the provisions of this section, in writing, for the purpose of allowing the adjudication of pending felony criminal charges prior to the conduct of the revocation hearing or for other good cause shown; provided that he/she shall remain incarcerated pursuant to the terms of the warrant pending hearing. (Texas Code of Criminal Procedure, Article 42.18, §14 (a)).

(e) If the preliminary hearing is not afforded to the releasee in a timely manner under these rules then, in the discretion of the board or board panel, the hearing may be conducted at a date later than 70 days if the board determines a delay will assure due process. The releasee may demonstrate that said delay is unreasonable under the circumstances and that said delay has prejudiced his or her case and/or situation/circumstances.

(f) Not less than five days prior to the preliminary hearing, unless said time limit is waived in writing or by failure to object at the hearing, the alleged administrative release violator shall be personally served with written notice of:

- (1) the date, time, and place of the preliminary hearing;
- (2) the purpose of the preliminary hearing;
- (3) the matters to be heard;
- (4) his or her rights during the preliminary hearing as provided in this chapter;
- (5) his or her right to request the hearing officer to call a prehearing conference pursuant to the provisions of §145.46(a) of this title (relating to Prehearing Conference; Purposes; Procedure); and

(6) the legal authority for the conduct of the hearing.

(g) The administrative release preliminary hearing shall be held at or near the location of the alleged violations or arrest unless:

- (1) the releasee is assigned to supervision in a state other than Texas;
- (2) the releasee is arrested and/or detained on the authority of the warrant in a state other than the state in which he or she is under supervision; or
- (3) the releasee is being held in a hospital or other facility for diagnosis or treatment of a physical or mental condition.

(h) In the case of an administrative release situated as described in subsection (g)(1), (2) or (3) of this section, the preliminary hearing may be held either at the unit of the Department of Corrections to which the releasee is assigned upon his or her return thereto or any other unit of the Department of Corrections, at the hospital or

other facility where he or she is being held, or at or near the place of the alleged violations or arrest in the discretion of the board. A releasee assigned to supervision in a state other than Texas (subsection (g)(1), of this section) is subject to the sections and laws respecting revocation which apply in said other state and/or these sections, as applicable.

(i) A neutral and detached staff hearing officer who is not directly involved in the supervision of the case shall be assigned to conduct the preliminary hearing.

*§145.47. Procedure After Request for Revocation Hearing; Time; Schedule; Notice; Location; Hearing Officer.*

(a) A revocation hearing shall be scheduled and held within a reasonable time after the preliminary hearing or waiver of such hearing.

(b) For the purposes of these sections, a reasonable time shall be construed to be not longer than 120 days from the preliminary hearing or waiver of such hearing, unless the releasee is detained/incarcerated in another state or unavailable to Texas authorities for any one of the following reasons:

- (1) he or she is detained/incarcerated pending the adjudication of criminal charges in another state;
- (2) he or she is detained/incarcerated for service of a sentence for a crime committed in another state;
- (3) he or she is detained/incarcerated pending extradition from another state, whether contesting extradition or not;
- (4) he or she is detained/incarcerated in another state for any other reason;
- (5) he or she is detained/incarcerated in the physical custody of the Federal Bureau of Prisons; or
- (6) he or she is detained in any medical or mental health hospital, institution, or facility.

(c) In the case of a releasee unavailable to Texas authorities under the circumstances described in subsection (b) of this section, a reasonable time shall be construed to mean 120 days from the date said releasee becomes or is made available to Texas authorities.

(d) Any releasee charged with violation of the terms and/or conditions of his or her administrative release may in the discretion of the board, be granted the opportunity to waive his or her right to a timely hearing under the provisions of this section, in writing, for the purpose of allowing the adjudication of pending felony criminal charges prior to the conduct of the revocation hearing or for other good cause shown; provided that he/she shall remain incarcerated pursuant to the terms of the

warrant (if any) pending hearing (Texas Code of Criminal Procedure, Article 42.18, §14 (a)).

(e) If the revocation hearing is not afforded to the releasee in a timely manner under these rules then, in the discretion of the board or board panel, he or she shall be rereleased to supervision under the same or modified terms and/or conditions of release, or, in an appropriate case, released to discharge (if and only if he or she can demonstrate that said delay is unreasonable under the circumstances and that said delay has prejudiced his or her case and/or situation/circumstances.)

(f) Not less than 10 days prior to the revocation hearing, unless said time limit is waived in writing or by failure to object at the hearing, the alleged administrative release violator shall be personally served with written notice of:

- (1) the date, time, and place of the revocation hearing;
- (2) the purpose of the revocation hearing;
- (3) the matters to be heard;
- (4) his or her rights during the revocation hearing as provided in this chapter; and
- (5) the legal authority for the conduct of the revocation hearing.

(g) The administrative release revocation hearing shall be held at or near the location of the alleged violations or arrest or at a board designated secured facility or at the unit of assignment if releasee is incarcerated in the Texas Department of Corrections.

(h) A neutral and detached staff hearing officer shall be assigned to conduct the revocation hearing.

*§145.48. Prehearing Conference; Purposes; Procedure.*

(a) The hearing officer assigned to conduct a preliminary hearing may, on his or her own motion or at the request of the administrative releasee or his or her attorney, call a prehearing conference within a reasonable time after the notices described in §145.43 of this title (relating to Notice of Allegations; Counsel; Request for Hearings; Waivers) and §145.46 of this title (relating to Procedure After Request for Preliminary Hearing; Time; Schedule; Notice; Location; Hearing Officer) have been served. Such prehearing conference shall be scheduled so as to allow sufficient time for any necessary additional preparation by any party, as agreed on by the parties and the hearing officer, prior to the conduct of the preliminary hearing. The scheduled date of the preliminary hearing may be changed at the time of the prehearing conference to accommodate said need.

(b) The purposes of the prehearing

conference include, but are not necessarily limited to, the following:

(1) disclosure of the factual basis of the allegations of violation of administrative release, including the evidence, both testimonial and documentary, which will be relied upon to prove said allegations and the names of witnesses expected to be called;

(2) ascertainment of the need for the issuance and service of subpoenas for the attendance of witnesses;

(3) development of stipulations on uncontested questions of fact; and narrowing of the issues, both legal and factual, to be developed at the revocation hearing;

(4) preview of defense contentions and mitigating circumstances, including the facts expected to be shown in defense and/or mitigation, the names of any witnesses expected to be called or to testify by affidavit or letter and the nature of any documents expected to be offered into evidence in the releasee's behalf; and

(5) any challenge to the neutrality of the hearing officer assigned to the case.

(c) The prehearing conference shall be scheduled at a time and location convenient to all parties. The conference should be scheduled for a date and time sufficient to allow exchange of documentary evidence by the parties prior to the conference.

(d) All requests for subpoenas of adverse witnesses should be made at the time of the prehearing conference, if any. Failure to request such a subpoena at said conference or within a reasonable time thereafter, with regard to witnesses, the existence and substance of testimony of whom is made known to counsel for the administrative releasee at the time of the conference, shall constitute a waiver of the administrative releasee's right to confrontation and cross examination of said adverse witness. For the purposes of this section, a reasonable time thereafter means no later than five days after the conference and not within five days of the schedule date for the hearing, whichever date falls sooner.

*§145.49 Rights of the Administrative Releasee in the Revocation Process* The administrative releasee shall be entitled to the following rights in the revocation process:

(1) written notice of the date, time, and location of the hearings and of the allegations of violation of the terms and conditions of administrative release §145.47(f) of this title (relating to Procedure After Request for Revocation Hearing; Time; Schedule; Notice; Location; Hearing Officer). Notice of alleged violations shall be sufficient if it fairly advises the releasee of the alleged conduct on his or her part which constitutes a violation of one or more

of the terms and/or conditions of release. Failure to object to the form of written notice on the ground that it fails to so advise the releasee of his or her conduct, which forms the basis of the allegations, either at the prehearing conference or, if there is no prehearing conference, at the preliminary and/or revocation hearing, shall be deemed a waiver of any such objection;

(2) disclosure to the releasee, at the hearings, of the evidence which will be relied upon in determining whether to order revocation, or recommend to the governor that his or her administrative release be revoked;

(3) the opportunity for the releasee to be heard in person and present any witnesses, affidavits, letters or other documentary evidence which he or she desires to have considered in his/her behalf. Such right shall be subject to the hearing officer's authority under Chapter 147 of this title (relating to Hearings) to limit evidence admitted to that which is relevant, material and noncumulative;

(4) the right to confront and cross-examine witnesses presenting adverse testimony, unless the hearing officer, in his or her discretion, finds good cause for not allowing such confrontation and/or cross-examination. Adverse witnesses shall be subpoenaed under the sections for issuance and service of subpoenas herein and applicable law, subject to the requirements of §145.48(b) (2) and (d) of this title (relating to Prehearing Conference; Purposes; Procedure);

(5) the right to have favorable witnesses appear on the releasee's behalf; if that said witness is reluctant or unwilling to appear in person at the hearing or to provide the releasee or his or her counsel with a suitable written statement in substitute for his or her personal testimony. Then a subpoena may be issued for the witness;

(6) a preliminary and/or revocation hearing before a neutral and detached staff hearing officer, as provided in §145.46(i) of this title (relating to Procedure After Request for Preliminary Hearing; Time; Schedule; Notice; Location; Hearing Officer) and §145.47(i) of this title (relating to Procedure After Request for Revocation Hearing; Time; Schedule; Notice; Location; Hearing Officer);

(7) written notice of the hearing officer's findings of fact and conclusions of law, separately stated, including a statement of the evidence relied upon in making such findings and/or conclusions; and

(8) the conditional right to be represented by legal counsel, either retained or appointed, as provided in §145.43(b) and (c) of this title (relating to Notice of Allegations; Counsel; Request for Hearing; Waivers). Said right of representation shall in no event arise prior to the time the administrative releasee is interviewed by a repre-

sentative of the board for a preliminary and/or revocation hearing. However, this section shall not be interpreted so as to preclude consultation with counsel prior to said interview.

*§145.50. Administrative Release (Revocation) Preliminary Hearing.*

(a) The hearing officer shall conduct the preliminary hearing.

(b) The preliminary hearing shall be a hearing conducted to determine if probable cause exists that releasee violated the rules and/or conditions of his release. The hearing shall consider factual issues relating to the alleged violations of the administrative release.

(c) At the close of the hearing, the hearing officer shall collect and/or prepare:

(1) all documents and/or exhibits offered and/or admitted into evidence at the preliminary hearing;

(2) a summary of the evidence relied upon to formulate the hearing officer's findings; and

(3) the tape recording of the hearing.

(d) The hearing officer's findings may either be:

(1) there is probable cause to detain the releasee for a revocation hearing; or

(2) there is no probable cause to detain the releasee for a revocation hearing.

*§145.51. Administrative Release Revocation Hearing.*

(a) The hearing officer shall conduct the revocation hearing in accordance with the substantive and procedural rules for hearings herein.

(b) The hearing shall be a hearing with separate consideration of factual issues relating to the alleged violations of administrative release and general and specific factual issues relating to the releasee's adjustment while on release and/or under supervision. The hearing shall not proceed to the adjustment phase unless it is shown by a preponderance of the credible evidence that the releasee did in fact violate one or more of the terms and/or conditions of his or her release, or by agreement with the releasee and/or his attorney, if any.

(c) At the close of the hearing or within a reasonable time thereafter, the hearing officer shall collect and/or prepare and forward the board:

(1) all documents and/or exhibits offered and/or admitted into evidence at the hearing;

(2) a summary report of the hearing separately setting out:

(A) findings of fact relative to the alleged violations of release while under supervision, based on a preponderance of the credible evidence, which includes statements of the evidence relied upon in reaching said finding

(B) conclusion of law, if any; and

(C) a recommendation for final disposition of the case by the board;

(3) the tape recording of the hearing.

(d) Recommendations to the board for disposition may be either to:

(1) withdraw the (prerevocation) warrant, if any, and continue the releasee's administrative release under the same or modified terms and/or conditions, or, where the sentence has expired, release to discharge;

(2) not revoke, maintain warrant in effect, with time served in a secured facility; or

(3) revoke the administrative release

**§145.52. Review of Administrative Release Revocation Hearing Record; Report and Recommendation of the Hearing Officer.**

(a) The board panel shall refer the record of the hearing and the report and recommendation of the hearing officer to the relevant staff persons on receipt thereof.

(b) The staff shall review the record of the hearing and the hearing officer's report and recommendation and take one of the following actions:

(1) approve the record of the hearing and the report and recommendation of the hearing officer and refer them to the board or board panel for final disposition in accordance with their terms; or

(2) refer the case back to the hearing officer for further development of factual or legal issues with or without reopening the hearing.

(c) In the event that a case is referred back to the hearing officer under subsection (b)(2) of this section, said case shall be once again forwarded to the board in accordance with the provisions of §145.50 of this title (relating to Administrative Release (Revocation) Preliminary Hearing) after such further proceedings or development as required and with such modifications in the record, report, and recommendation as appropriate.

**§145.53 Final Board Disposition.**

(a) After a case is referred to the board or board panel by the staff in accordance with §145.52 of this title (relating to

Review Administrative Release Revocation Hearing Record; Report and Recommendation of the Hearing Officer), the board shall make final disposition in the case no later than the 30th day.

(b) The board or board panel shall review the record of the hearing, the report, and recommendation of the hearing officer together with any recommendation of the staff and dispose of the case by taking one of the following actions:

(1) order revocation or in appropriate clemency cases recommend to the governor that the administrative release in question be revoked, only if the hearing officer has recommended revocation;

(2) order the warrant to remain in effect with time served in a secured facility;

(3) withdraw the prerevocation warrant and continue the administrative release under the same or modified terms and/or conditions or, where the sentence of the releasee has expired, release to discharge; or

(4) direct the staff to refer the case back to the hearing officer for further development of factual or legal issues with or without reopening the hearing.

(c) If final board disposition is an order to revoke or a recommendation to the governor to revoke the administrative release, the administrative releasee and his or her attorney, if any, shall be notified in writing and be provided with a copy of the report and recommendation of the hearing officer and notice of his or her right to move for reopening of the hearing under §145.54 of this title (relating to Releasee's Motion to Reopen Hearing).

(d) The releasee shall also be provided with copies of documents pertinent to the hearing of his case, as outlined in section (c) of this section. If final board disposition is to withdraw the prerevocation warrant if any, and continue the release under the same or modified conditions, or, where the sentence has expired, release to discharge, the board shall order the warrant, withdrawn, the impose either or a combination thereof, the following sanctions:

(1) verbal reprimand;

(2) letter of reprimand by the region supervisor or executive director;

(3) case conference with unit supervisor or region supervisor; or

(4) imposition of special condition including, but not limited to, participation in intensive supervision, electronic monitoring, quarterhouse or substance abuse caseload.

(e) If the board orders the case referred back to the hearing officer for further development under subsection (b)(3) of this section, then the case shall be referred back to the board or board panel in accordance

with the procedures prescribed in §145.51(c) and (d) of this title (relating to Administrative Release Revocation Hearing); and §145.52 of this title (relating to Review of Administrative Release Revocation Hearing; Record, Report, and Recommendation of the Hearing Officer); for final disposition after such further development of factual or legal issues as is necessary under the circumstances.

**§145.54. Releasee's Motion to Reopen Hearing.**

(a) When the releasee receives notice as a result of a revocation hearing that the board's decision is revocation, he or she shall have 30 days from the date of the board's decision to request a reopening of the case for further development of factual or legal issues. Such a reopening shall be granted under the following circumstances and/or on the following grounds only:

(1) that there is new, relevant, competent evidence which is of probative value on a material issue of fact or law, not merely collateral or cumulative, which, in the exercise of reasonable diligence, was unavailable at the time of the hearing;

(2) that the findings of fact and/or conclusions of law, or both:

(A) are not supported by a preponderance of the credible evidence; or

(B) are contrary to the law;

(3) that the procedure followed in the hearing, review and/or disposition of the case are violative of the law.

(b) Any such request for reopening made under this section must be in writing and delivered to the board or placed in the United States mail (certified, return receipt required) and addressed to the Board of Pardons and Paroles, Staff Counsel, P.O. Box 13401, Austin, Texas 78711.

(c) On receipt of any such request for reopening, the staff counsel shall cause the same to be transmitted to the board or board panel, together with any response thereto by the staff counsel for final action on the request. Whenever such a transmittal includes such a response, the releasee and his or her attorney, if any, shall be notified in writing of the board's decision.

(d) On transmittal, the board shall dispose of the motion by:

(1) granting of the motion and ordering that the hearing be reopened for a stated specified and limited purpose, in which event the case shall be referred to a parole panel;

(2) denial of the motion; or

(3) reversal of the final board disposition previously entered and withdrawal of the warrant, under the same terms

and provisions as provided in §145.53(d), and §145.57 of this title (relating to Final Board Disposition; and Warrant Withdrawal Approved by the Board).

(c) When a releasee's motion for reopening under this section is granted the releasee shall be deemed to have consented to such further reasonable delay in the final disposition of his or her case as shall be required for the procedure described in §145.55 of this title (relating to Procedure after Motion to Reopen is Granted; Time; Rights of the Releasee; Final Disposition).

**§145.55. Procedure after Motion to Reopen is Granted; Time; Rights of the Releasee; Final Disposition.**

(a) When the board panel disposes of a releasee's motion to reopen under §145.54 of this title (relating to Releasee's Motion to Reopen Hearing) by granting said motion, the case shall be disposed of or referred to a parole panel or hearing officer for final disposition in accordance with this section and the previous disposition of the case by the board under §145.50(b) of this title (relating to Administrative Release (Revocation Preliminary Hearing)) shall be set aside and of no force and effect.

(b) The purpose of the further proceedings before the parole panel or hearing officer under this section shall be as specified by the board panel in its order granting the releasee's motion to reopen pursuant to §145.55(d)(1) of this title (relating to Releasee's Motion to Reopen Hearing).

(c) When the parole panel or hearing officer convenes the reopening of the hearing, it shall have before it the entire record previously compiled in the case, including:

(1) the record, report and recommendation of the preliminary hearing §145.50 of this title (relating to Administrative Release (Revocation) Preliminary Hearing) and/or revocation hearing (§145.51 of this title (relating to Administrative Release Revocation Hearing)) collected and/or prepared by the staff hearing officer originally assigned to the case;

(2) any amendments, supplements, or modifications of the record, report, and/or recommendation as developed through prior reopenings of the case under §145.52(b)(2) and (c) and §145.53(b)(3) and (e) of this title (relating to Review of Administrative Release Revocation Hearing Record; Report; and Recommendation of the Hearing Officer; Final Board Disposition),

(3) the releasee's motion to reopen the hearing under §145.55 of this title (relating to Releasee's Motion to Reopen Hearing); and

(4) any response or recommendation of the staff counsel regarding the record, report, or recommendation of the

hearing officer or the releasee's motion to reopen.

(d) The parole panel or hearing officer before which a case is reconvened under this section shall give due weight to the findings of fact and conclusions of law entered in the hearing officer's report, except to the extent that such findings may be undetermined or called into question in the board's order for reopening pursuant to §145.54(d)(1) of this title (relating to Releasee's Motion to Reopen Hearing). When the parole panel or hearing officer, on the basis of proceedings before it under this section, determines not to give weight to one or more findings of fact or conclusions of law duly entered in the hearing officer's report, it shall specify which findings and/or conclusions are rejected, the reasons therefor and whether new findings and/or conclusions are to be substituted and/or added to the report.

(e) In carrying out its responsibility under subsection (d) of this section, the parole panel or hearing officer may, in its discretion, hear new evidence offered by the releasee or the board's representative.

(f) At the conclusion of the proceedings before the parole panel or hearing officer, or within a reasonable time thereafter, the parole panel or hearing officer shall make final disposition of the case by taking one of the following actions:

(1) recommending to the board or governor that the administrative release in question be revoked; or

(2) ordering the withdrawal of the warrant, if any, and continuation of the administrative release under the same or modified terms and/or conditions, or, when the sentence of the release has expired, release to discharge.

(g) The administrative release shall be entitled to the same rights at any proceeding under this section as those enumerated in §145.49 of this title (relating to Rights of the Administrative Releasee in the Revocation Process), except to the extent that said rights have been fully and completely afforded during previous proceedings under §145.51 of this title (relating to Administrative Release Revocation Hearing).

**§145.56. Revocation of Administrative Release (Parole, Mandatory Supervision); Recommendation; Proclamation; Warrant.**

(a) After the time limits for a request for reopening under §145.55 of this title (relating to Releasee's Motion to Reopen Hearing) have expired, or any such request thereunder has been finally acted upon, or a request to revoke has been made under §145.41(b)(5)(b) of this title (relating to Allegation of violation: Review and Initial Disposition), the board's recommendation to revoke the administrative release shall be transmitted if appropriate, together

with the record of the case, to the office of the governor.

(b) If the governor determines not to revoke the administrative release, any applicable warrant shall be withdrawn, and the release continued in accordance with §145.53 of this title (relating to Final Board Disposition) and §145.57 of this title (relating to Warrant Withdrawal Approved by the Board).

(c) If the governor revokes the administrative release or if the board orders revocation, upon receipt by the board of the governor's proclamation of revocation or upon the board's issuance of a proclamation of revocation, the proclamation shall be made a part of the releasee's permanent file and a copy may be delivered to the Texas Department of Corrections or to such other penal institution in which the revoked releasee may be incarcerated.

(d) Also upon receipt of the governor's proclamation of revocation or upon issuance of the board's order to revoke the administrative release a warrant shall issue and be transmitted to the proper authorities authorizing and directing any sheriff, peace officer, warden, or other addressee named therein to arrest and hold the named revoked releasee, and to deliver him or her to the Texas Department of Corrections or yield him or her to the custody of officers of the Texas Department of Corrections for return thereto.

**§145.57. Warrant Withdrawal Approved by the Board.** At any time that the board or board panel makes a determination to withdraw a warrant under any provision of these sections or an applicable statute, the warrant shall remain in effect and the inmate shall remain in custody until his/her parole or mandatory supervision plan has been submitted, evaluated, or reevaluated, and approved by the board. If the parolee or releasee is legally eligible and desires to reside in another jurisdiction under the Uniform Act for Out-of-State Parolee Supervision (Texas Code of Criminal Procedure, Article 42.11), acceptance by the receiving jurisdiction must be received by the board through the Office of the Interstate Parole Compact Administrator for Texas before the warrant may be withdrawn.

**§145.58. Revocation without Prejudice.** In the event that an administrative releasee is incarcerated in an institution of the Texas Department of Corrections to serve a sentence for a new conviction for a crime committed prior to incarceration for the sentence for which he or she was administratively released, or to serve a sentence for a previous conviction for which judgment became final while on administrative release, the board may, on request of the releasee in writing or upon its own motion, revoke the administrative release without prejudice to the releasee, in order to enable

him or her to receive good time credit on the original sentence. Any such revocation without prejudice may be effected only upon the written request of the releasee or in the sound discretion of the board.

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 May 26, 1989.

TRD-8904750

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708



## Reparole After Revocation

### • 37 TAC §145.62

The Board of Pardons and Paroles proposes an amendment to §145.62, concerning review dates. The amendment changes the initial review waiting period for rep parole consideration for revoked parolees.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, P.O. Box 13401, Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Articles 42.18, §8(a) and §15(a), which provides the Board of Pardons and Paroles with the authority to change the initial review waiting period for rep parole consideration for revoked parolees.

#### §145.62. Review Dates.

(a) Initial review dates for revoked parolees are determined according to the statutory requirements of parole eligibility if the revoked parolee is also serving a sentence for a new conviction. If parole eligibility for a new conviction is less than 120 days [one year] from the date of his or her return to custody on the revocation process, the initial review for rep parole consideration may be set 120 days [one year] from the date of his or her return to custody on the revocation process, notwithstanding the fact of possible earlier eligibility on the

new conviction.

(b) If the revoked parolee is not also serving a sentence for a new conviction, he or she may be set for initial review for rep parole consideration 120 days [one year] from the date of his or her return to custody on the revocation process.

(c) (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 May 26, 1989.

TRD-8904678

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708



## Reinstatement of Administrative Release (Parole and Mandatory Supervision) After Revocation

### • 37 TAC §145.71, §145.72

The Board of Pardons proposes amendments to §145.71 and §145.72, concerning reinstatement; exceptional circumstances; hearing; terms and conditions. The amendments clarify language used in the sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be not applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provides the Board of Pardons and Paroles with the authority to clarify language used in rules.

#### §145.71. Reinstatement; Exceptional Circumstances, Hearing

(a) (No change.)

(b) A request for reinstatement of a revoked administrative release may be addressed to the board and should specify the

purported exceptional circumstances which justify such action, as follows:

(1) (No change.)

(2) initial revocation effected without opportunity for a hearing, under the old law which authorized the board to revoke the administrative release status when the releasee received a new felony conviction with time served in a penal institution [at a time prior to the institution of parole revocation hearings as a matter of right], but only where the releasee is arrested/detained on authority of the [revocation] warrant subsequent to the date the court declared the old law [of institution of revocation hearings as a matter of right]; or

(3) (No change.)

(c) The board shall refer all requests for reinstatement of administrative release to the staff counsel or director of Hearing Division [Section] for review, investigation, and transmittal.

(d) (No change.)

(e) If the board grants a reinstatement hearing, the case shall be referred by the board to a parole panel or hearing officer for the conduct of such hearing, to be held within a reasonable time of the granting of such request at a unit of the Department of Corrections where the revoked releasee is incarcerated or other convenient location, in the discretion of the parole panel or the director of the Hearing Division [Hearing Officer].

*§145.72. Terms and Conditions.* Upon reinstatement of administrative release, the releasee is bound by the original terms and conditions of his or her release as they may have been subsequently modified by a board [parole] panel and/or the reinstatement proclamation.

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 May 26, 1989.

TRD-8904690

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708



## Chapter 147. Hearings

### General Rules for Hearings

#### • 37 TAC §§147.1, 147.3, 147.5, 147.7

The Board of Pardons and Paroles proposes amendments to §§147.1, 147.3, 147.5, 147.7,

concerning public hearings, authority of hearing officers, ex parte consultations, motions, witnesses, record, and decisions. The amendments clarify language used in the sections

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections

Mr. Green, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the section as proposed

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provide the Board of Pardons and Paroles with the authority to clarify language used in rules.

#### §147.1. Public Hearings.

(a) (No change.)

(b) The general provision that all information obtained in connection with persons under the supervision of the division shall be confidential and privileged (Texas Code of Criminal Procedure, Article 42.18, §20; and §141.73 of this title (relating to Confidential and Privileged Information)) does not apply to [revocation] hearings which are, by statute, public hearings (Texas Code of Criminal Procedure, Article 42.18, §15).

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

§147.3. Ex Parte Consultations. Unless required for the disposition of matters authorized by law, staff members the board or board [or parole] panels assigned to render a decision or to make findings of fact and conclusions of law in an individual case may not communicate, directly or indirectly, in connection with any issue of fact or law with any party, except on notice and opportunity for all parties to participate.

#### §147.5. Witnesses

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

(c) Witnesses personally served with a subpoena and who fail to appear at the hearing, and upon good cause determined by the hearing officer, may present testimony by written statement.

#### §147.7. Decisions.

(a) (No change.)

(b) A final decision shall include

findings of fact and conclusions of law, if any, separately stated.]

(b)[(c)] Any party, as defined herein, shall be notified personally or by mail of any decision or order.

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 May 20, 1989.

TRD-8904691 William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

### Evidence

#### • 37 TAC §147.27

The Board of Pardons and Paroles proposes an amendment to §147.27 concerning order, rules, privilege, relevant testimony, staff reports, stipulation, objections, and subpoenas. The amendment clarifies language used in the section

Harry C. Green, general counsel, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the section.

Mr. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be not applicable, as the public is relatively unaffected by this particular proposed section. There is no anticipated economic cost to individuals who are required to comply with the section as proposed

Comments on the proposal may be submitted to Harry C. Green, 8610 ShoalCreek Boulevard, Austin, Texas 78758, or P.O. Box 13401 Austin, Texas 78711.

The amendment is proposed under the Texas Code of Criminal Procedure, Article 42.18, §15(a), which provides the Board of Pardons and Paroles with the authority to clarify language used in rules.

§147.27. Objections. Objections to evidentiary offers may be made and shall be ruled upon by the hearing officer and any objections and the rulings thereon shall be noted in the record. Any exceptions to the hearing officer's ruling on objections and motions shall be forwarded no later than five days after the hearing is closed with the Staff Counsel, P.O. Box 13401, Austin, Texas 78711. The staff counsel will review all exceptions forwarded within the time described in this section and refer any exceptions to the board or board panel for disposition.

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 July 7, 1989.

TRD-8904692 William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

## Chapter 149. Mandatory Supervision

### Rules and Conditions of Mandatory Supervision

#### • 37 TAC §§149.1-149.6

The Board of Pardons and Paroles proposes the amendment to §149.1 and new §§149.2-149.6, concerning rules and conditions of mandatory supervision; restitution; monthly amount; payment, alteration; Texas mandatory supervision releasees supervised in other states; visits to penal institutions; annual report status; and nonreporting status. The amendment added terms and conditions of parole and special conditions. The new sections replace those being repealed simultaneously

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by those particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment and new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g) which provide the Board of Pardons and Paroles with the authority to add terms and conditions of mandatory supervision and special conditions, and to clarify language used in rules.

§149.1. Rules and Conditions of Mandatory Supervision. The following rules and conditions of mandatory supervision must be acknowledged by the inmate being released to mandatory supervision, and the releasee must recognize that his or her release is conditional and that he or she is deemed as if on parole. Continuation on mandatory supervision is conditional upon continuing compliance with the standard terms and conditions of mandatory supervi-



sion and upon compliance with any special conditions imposed by a parole panel or the board or staff as authorized by the board.

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

(6) Association. The releasee shall avoid association with persons of criminal background.

(7) Informer. The releasee shall not enter into any agreement to act as 'informer' or special agent for any law enforcement agency with specific written approval of the board.

(8)[(6)] Special conditions. I shall abide by any special condition(s) imposed by the board; any such special condition(s) imposed upon release will be indicated on the face of this certificate by the letter(s) corresponding to the conditions as listed in the following paragraph [subparagraphs].

(9) General provisions

(A) The releasee shall participate in a maintenance free program for the treatment of alcohol abuse and/or substance abuse [(Special Condition A)].

(B) The releasee must complete the basic adult education program [(Special Condition B)].

(C) The releasee shall submit to urinalysis at discretion of the supervising officer [(Special Condition C)].

(D) The releasee shall submit to halfway house placement [(Special Condition D)].

(E) The releasee shall not operate a motor vehicle without written permission from the supervising officer or the board [(Special Condition E)].

(F) The releasee shall not open a checking account without written permission from the supervising officer or the board [(Special Condition F)].

(G) The inmate shall be released to detainer or plan [(Special Condition G)].

(H) The releasee shall participate in an MH/MR and/or psychological counseling program [(Special Condition H)].

(I) The releasee must notify any prospective employer regarding criminal history, if a position of financial responsibility is involved.

(J) The releasee shall par-

ticipate in the electronic monitoring program.

(K) The releasee shall participate in the special review program.

(L) The releasee shall participate in a vocational counseling or training program.

(M)[(L)] The releasee shall not use [methadone] any controlled substance [(Special Condition M)].

(N)[(J)] The releasee shall participate in [a maintenance free program for the treatment of substance abuse] the sex offender caseload [(Special Condition N)].

(O)[(K)] The releasee shall comply with any other condition as specified [will obey other special conditions as specified (Special Condition O)].

(P)[(L)] The releasee shall participate in [a psychological counseling program] the mentally retarded caseload [(Special Condition P)].

(Q) The releasee shall participate in parents anonymous.

(R)[(M)] Instate releasees [The releasee supervised instate] shall make restitution payments as required by the supervising officer in an amount to be set by the board. [the releasee supervised out-of-state shall be By the 10th of each month, [make] payments ([by] cashier's check or money order) shall be paid by out of-state releasees to the Texas Board of Pardons and Paroles (P.O. Box 13401, Austin, Texas 78711); total amount to be set by the board [(Special Condition R)].

(S)[(N)] The releasee [A mandatory releasee] shall be under intensive supervision for not less than 180 days. [A Parole releasee shall be under intensive supervision] [(Special Condition S)].

(T)[(O)] The releasee shall totally abstain from the use of alcoholic beverages of any kind and/or inhalants or intoxicating vapors [(Special Condition T)].

(U)[(P)] The releasee shall submit to urinalysis [(Special Condition U)].

(V)[(Q)] The releasee shall not contact victim(s) of the instant offense without written permission from the supervising officer or the board [(Special Condi-

tion V)].

(W) The releasee shall participate in mental retardation outreach program.

(X) The releasee shall participate in the substance abuse caseload.

(Y) The releasee shall not enter a county without prior written approval.

(9)[(7)] General provisions.

(A) I hereby agree to abide by all rules of mandatory supervision and all laws relating to the revocation of mandatory supervision including, but not limited to, appearance at any hearings or proceedings required by the law of the jurisdiction in which I may be found or of the State of Texas. I further agree and consent that the receiving state, if I am under compact supervision, or any state wherein I may be found while on mandatory supervision or under mandatory supervision jurisdiction, may conduct such hearings as the board shall deem necessary, proper, or which may be required by law.

(B) I shall pay, during the period of my supervision, any and all outstanding fines, court costs, and fees adjudged against me, to the clerk of the court of conviction, and agree to provide my supervising officer with documentation verifying the payment by me of said amounts. I will be required to pay a supervision fee for each month I am required to report to a supervising officer as instructed by my supervising officer.

[(C)] If at the time of my release, I have 12 calendar months or more to serve before I discharge my sentence, I will be required to pay a supervision fee for each month I am required to report to a supervising officer as instructed by my supervising officer ]

[(C)][(D)] In the event I am granted the privilege of residing in and being under the supervision of any other state or territory under the interstate compact for the supervision of parolees and the Texas Code of Criminal Procedure, Article 42.11, and in consideration of being granted mandatory supervision by the Texas Board of Pardons and Paroles, or for any reason I may be outside the State of Texas, I hereby agree to and I hereby do waive extradition to the State of Texas from any jurisdiction in or outside the United States where I may be found; I do hereby further agree that I will not in any manner contest any effort by the State of Texas, or any state of jurisdiction, to return me to the State of Texas.

**§149.2. Restitution; Monthly Amount; Payment; Alteration.**

(a) A special condition requiring the mandatory supervision releasee to pay restitution or reparation to the victim(s) of his or her crime(s) shall be imposed, in accordance with §149.1(6)(A) of this title (relating to Rules and Conditions of Mandatory Supervision), when an amount of restitution or reparation is established by the court which sentenced the prisoner to his or her term of incarceration and entered:

- (1) in an order revoking probation;
- (2) in the judgment of the court;
- (3) in the sentence of the court.

(b) A parole panel, as designated by the board, shall establish an amount of monthly payments for mandatory supervision releasees required to pay restitution or reparation under subsection (a) of this section. This monthly amount shall be determined in consideration of the mandatory supervision releasee's projected earning capacity and in consultation with the supervising officer; provided that a mandatory supervision releasee may not be required to pay more, during the period of supervision, than the total amount specified by the court which sentenced him or her to incarceration, as provided in subsection (a) of this section. The releasee shall be notified in writing of the monthly amount established in his or her case and the releasee will be responsible for paying that amount thereafter.

(c) The amount specified by the court which sentenced the prisoner to his or her period of confinement shall be entered on the mandatory supervision certificate, together with the special condition referred to in subsection (a) of this section.

(d) After release, and upon initial reporting by the mandatory supervision releasee, as instructed under the terms of the mandatory supervision certificate, the supervising parole officer will enter on the arrival notice, under special conditions, the method by which payment will be made.

(e) Mandatory supervision releasees under active supervision within the State of Texas will make monthly restitution payments to the supervising parole officer by cashier's check or money order payable to the Texas Board of Pardons and Paroles on or before the 10th day of each month, beginning with the month following notification of the releasee of the monthly amount established in his/her case. The supervising parole officer will forward the restitution payments by memorandum to the Chief Accountant, Board of Pardons and Paroles, P. O. Box 13401; Austin, Texas 78711.

(f) Mandatory supervision releasees in annual report status, in non-reporting status, or under supervision in a state other

than Texas will remit their monthly restitution payments by cashier's check or money order to the Chief Accountant, Board of Pardons and Paroles, P.O. Box 13401; Austin, Texas 78711, to arrive there on or before the 10th day of each month, beginning with the month following notification of the releasee of the monthly amount established in his or her case.

(g) The chief accountant shall:

- (1) deposit funds in the State Treasury;
- (2) maintain records and accounts on:
  - (A) mandatory supervision releasees; and
  - (B) recipients of restitution;
- (3) provide the Comptroller of Public Accounts with victim payment data;
- (4) mail warrants to the victim(s); and
- (5) prepare appropriate reports.

(h) If, at any time during the period of mandatory supervision, the mandatory supervision releasee's financial circumstances change so as to warrant a change in the monthly amount said mandatory supervision releasee is able to pay, then a parole panel, as designated by the board, may alter the amount of the monthly payment, with written notice to the mandatory supervision releasee of said action and the effective date thereof.

**§149.3. Texas Mandatory Supervision Releasees Supervised in Other States.** Texas mandatory supervision releasees accepted for supervision in other states under the terms of the Interstate Parole Compact (Texas Code of Criminal Procedure, Article 42.11) are required to abide by both the sections of mandatory supervision for Texas as set forth in §149.1 of this title (relating to Conditions of Mandatory Supervision) and the sections of parole of the receiving state.

**§149.4. Visits to Penal Institutions** A mandatory supervision releasee may enter a penal institution during the period of mandatory supervision under the following circumstances

- (1) With permission of the proper authorities of the penal institution as designated by the director of the Texas Department of Corrections, a mandatory supervision releasee may visit a close relative (parent, sibling, spouse, or child) confined in that institution upon the approval of the regional supervisor.
- (2) If the releasee is working in a rehabilitation program which has been approved by the executive director, and

such program requires the releasee to visit a penal institution, such visit may be allowed if approved by the proper authorities of the penal institution and the executive director.

(3) If called as a witness at an administrative release revocation hearing, the releasee will be allowed to visit the penal institution for this specific purpose only, upon approval of the regional supervisor.

**§149.5. Annual Report Status.**

(a) Annual report status is a mandatory supervision releasee status which releases the releasee from the original terms and conditions of mandatory supervision, releases the releasee from direct supervision of a parole officer, and is conditional upon the mandatory supervision releasee's acceptance of and compliance with the annual report rules.

(b) A mandatory supervision releasee may be considered for annual report status upon the evaluation and recommendation of his or her parole officer after having been satisfactorily under mandatory supervision for a reasonable time.

(c) A recommendation for transfer to annual report status must be approved by the supervisor of the region of the Division of Parole Supervision in which the mandatory releasee is under active supervision at the time of the recommendation.

(d) Transfer to annual report status in no way affects the authority of a parole panel to recommend the revocation of mandatory supervision. The releasee remains subject to the jurisdiction of the board and subject to its orders while on annual report status.

(e) A parole panel may, at its discretion and without notice, set aside an order of transfer to annual report and impose any additional rules of mandatory supervision as the parole panel may deem to be proper.

(f) The rules for a mandatory supervision releasee on annual report are.

(1) Each year, from the date of the acceptance of the order for annual report, the releasee will submit, in writing, to the regional supervisor of the region of parole supervision, a report showing his or her current employment and residence. This annual report will be made until the term of his or her mandatory supervision expires. Failure to submit this report each year could result in the releasee being returned to active mandatory supervision, or the issuance of a pre-revocation warrant for his or her arrest and possible return to the Texas Department of Corrections.

(2) The releasee will obey all federal, state, and municipal laws and ordinances.

(3) The releasee will not com-

municate with any inmate of a penal institution nor visit any such institution, except as provided in §149.4 of this title (relating to Visits to Penal Institutions).

(4) The releasee will not own, possess, use, sell, nor have under his or her control any firearm, prohibited weapon, or illegal weapon; nor shall he or she unlawfully carry any weapon; nor use, attempt or threaten to use any tool, implement, or object to cause or threaten to cause any bodily injury.

(5) The releasee will report, in writing, the fact of any arrest, or change of residential address within five days of its occurrence, to the supervisor of the region of the Division of Parole Supervision in the region where releasee was residing when first placed on annual report.

#### §149.6. Nonreporting Status.

(a) Nonreporting status is a mandatory supervision status which releases the mandatory supervision releasee from the terms and conditions of annual report status and is conditional upon the releasee's acceptance of and compliance with the nonreporting status rules.

(b) A releasee may be considered for nonreporting status upon the recommendation of his or her parole officer after having been on annual report for four years, if:

(1) there has been no disciplinary action taken for that period; and

(2) there have been no convictions for violations of the penal law, either of the felony or misdemeanor grade.

(c) A recommendation for transfer to nonreporting status must be approved by the executive director of the Board of Pardons and Paroles or his or her designated representative.

(d) Transfer to nonreporting status in no way affects the authority of the board to revoke a mandatory supervision release. The releasee shall remain subject to the jurisdiction of the board and subject to its orders while on nonreporting status.

(e) A parole panel may, at its discretion and without notice, set aside an order of transfer to nonreporting status and impose any additional rules of mandatory supervision as the parole panel may deem to be proper.

(f) The rule for a mandatory supervision releasee on nonreporting status is the releasee will obey all federal, state, and municipal laws and ordinances; will not communicate with any inmate of a penal institution nor visit any such institution, unless approved in writing to do so by a warden or general manager of the penal institution; the original or a copy of such approval shall be immediately sent to the executive director at the above address in

this section; shall not own, possess, use, sell, nor have under his control any firearm, prohibited weapon or illegal weapon as defined in the Texas Penal Code; nor shall he unlawfully carry any weapon nor use, attempt, or threaten to use any tool, implement or object to cause or threaten to cause any bodily injury, and the releasee will report, in writing, the fact of any arrest, or change of residence within five days of its occurrence, to the executive director, Board of Pardons and Paroles, P.O. Box 13401, Austin, Texas 78711, (512) 459-2711.

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 May 26, 1989.

TRD-8904749 William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

#### • 37 TAC §§149.2-149.7

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Board of Pardons and Paroles or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Board of Pardons and Paroles proposes the repeal of §§149.2-149.7, concerning restitution; monthly amount, payment, alteration; Texas mandatory supervision releasees supervised in other states, visits to penal institutions, annual report status, employment of mandatory supervision releasees in positions requiring contact with persons of criminal background, and nonreporting status. The repealed sections will be replaced with new sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable as the public is relatively unaffected by these particular sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provide the Board of Pardons and Paroles with the authority to adopt

such reasonable rules not inconsistent with law as it may deem proper and necessary.

#### §149.2. Restitution; Monthly Amount; Payment; Alteration.

#### §149.3. Texas Mandatory Supervision Releasees Supervised in Other States.

#### §149.4. Visits to Penal Institutions.

#### §149.5. Annual Report Status.

#### §149.6. Employment of Mandatory Supervision Releasees in Positions Requiring Contact with Persons of Criminal Background.

#### §149.7. Nonreporting Status.

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 May 26, 1989.

TRD-8904693 William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

#### Selection for Mandatory Supervision

#### • 37 TAC §§149.11, 149.13, 149.15-149.17

The Board of Pardons and Parole proposes an amendment to §149.11 and new §§149.13, 149.15-149.17, concerning release order; initial eligibility date; early release, release certificate, and visits to penal institutions. The amendment changes the statutory reference in the section. The new sections will replace obsolete language which is being repealed simultaneously.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will not be applicable, as the public is relatively unaffected by these particular proposed sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The amendment and new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(c), which provide the Board of Pardons and Paroles with the authority to change statutory reference in rules and clarify language used in rules.

**§149.11. Release Order.** The board, or a parole panel designated by the board, shall order the release of any prisoner who meets the requirements as set forth [cut] in the Texas Code of Criminal Procedure, Article 42.18§8(c) (amended 1987 [1985]), and the rules of this board.

**§149.13. Initial Eligibility Date.** Inmates who have not been released to parole are released to mandatory supervision when the calendar time they have served plus any accrued good conduct time equals the maximum term to which they were sentenced. The Texas Department of Corrections is responsible for calculating this date. (Texas Code of Criminal Procedure, Article 42.18, §8(c))

**§149.15. Early Release.** If an inmate serving a sentence for an offense committed prior to September 1, 1987, has 180 calendar days or less remaining on the maximum term of his or her sentence and has not reached the criteria set for mandatory supervision release under the Texas Code of Criminal Procedure, Article 42.18, §8(c), the board, upon its own motion or that of the inmate, may order the inmate released to mandatory supervision. The early mandatory release provisions do not apply to offenses committed on or after September 1, 1987. This action shall only be taken if:

(1) the mandatory supervision plan is deemed adequate by the board and insures that the release will have employment and residence; and

(2) the board is convinced that the inmate will live within the law and conduct himself/herself in a manner that will not be injurious to the public welfare and safety.

**§149.16. Release Certificate.** When an inmate is eligible to be released to mandatory supervision in accordance with the provisions of the Texas Code of Criminal Procedure, Article 42.18, §8(c), the board shall issue a certificate to that effect signed by a board member or commissioner and shall forward that certificate to the institutional parole officer in order that the inmate will be processed for release to mandatory supervision at the appropriate time.

**§149.17. Visits to Penal Institutions.** A mandatory supervision release may not enter a penal institution during the period of his/her supervision except under the following circumstances.

(1) With written permission of

the proper authorities of the penal institution as designated by the director of the Texas Department of Corrections, a mandatory supervision release may visit a close relative (parent, sibling, spouse, or child) confined in that institution upon approval of the regional supervisor for parole of the parole region in which the releases is being supervised.

(2) If the releasee is working in a rehabilitation program which has been approved by the director of the Division of Parole Supervision and such program requires the releasee to visit a penal institution, such visit may be allowed if approved by the proper authorities of the penal institution and the said director of parole supervision.

(3) If called as a witness at a parole, mandatory supervision, or conditional pardon hearing, the releasee will be allowed to visit the penal institution for this specific purpose only upon approval of the regional supervisor for the region in which the releasee is being supervised.

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 May 26, 1989.

TRD-8904689 William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

◆ ◆ ◆  
• 37 TAC §§149.13, 149.16-149.18

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Board of Pardons and Paroles or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Board of Pardons and Paroles proposes the repeal of §§149.13, 149.16, 149.17, 149.18 concerning initial eligibility, early release, release certificate, and visits to penal institutions. The repealed sections will be replaced with new sections.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable as the public is relatively unaffected by more particular sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boule-

vard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, §8(g), which provide the Board of Pardons and Paroles with the authority to adopt such reasonable rules not inconsistent with law as it may deem proper and necessary.

**§149.13. Initial Eligibility Date.**

**§149.16. Early Release.**

**§149.17. Release Certificate.**

**§149.18. Visits to Penal Institutions.**

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 May 26, 1989.

TRD-8904689 William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708

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Chapter 150. Board Policy  
Statements; Memoranda of  
Understanding

Memoranda of Understanding

• 37 TAC §§150.1-150.9

The Board of Pardons and Paroles proposes new §§150.1-150.9, concerning memorandum of understanding between the Texas Department of Corrections (TDC), the Texas Rehabilitation Commission (TRC), the Texas Rehabilitation Commission for the Deaf (TRCD), the Texas Department of Human Services (TDHS), the Texas Board of Pardons and Paroles (TBPP), memorandum of understanding between Texas Department of Corrections, Board of Pardons and Paroles, Texas Department of Mental Health and Mental Retardation, and Texas Commission on Alcohol and drug abuse, agreement between the Texas Department on Aging, the Texas Department of Corrections, the Texas Board of Pardons and Paroles, and the Texas Department of Human Services; memorandum of understanding between the Texas Department of Corrections (TDC), the Texas Employment Commission (TEC), and the Texas Board of Pardons and Paroles (BPP); agreement by and between the Texas Board of Pardons and Paroles, and the Texas Department of Corrections; memorandum of understanding between Texas Department of Corrections, and the Texas Board of Pardons and Paroles; memorandum of understanding between Texas Board of Pardons and Paroles, Texas Rehabilitation Commission, Texas Commission on Alcohol and Drug Abuse, Texas Adult Probation Commission; interagency coopera-

live agreement between Texas Board of Pardons and Paroles and Texas Employment Commission for the management and operation of Project RIO (the Governor's special initiative for ex-offenders). The new sections promulgate rules pertaining to memorandums of understanding.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by these particular sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The new sections are proposed under Senate Bill 245, Article 6203c-11 of the 70th Legislature, Regular Session, Title 108, Revised Statutes; §32; Title 108, Revised Statutes, Article 6203c-4, §25, Acts of the 70th Legislature, Regular Session 1987; Senate Bill 341, §7, Acts of the 70th Legislature; Chapter 427, Article 42.18 CCP, Acts of the 69th Legislature, Regular Session 1985; Texas Code of Criminal Procedure, Article 42.18, §8(j), which provide the Board of Pardons and Paroles with the authority to promulgate rules pertaining to memorandums of understanding.

*§150.1. Memorandum of Understanding Between the Texas Department of Corrections (TDC), the Texas Rehabilitation Commission (TRC), the Texas Commission For the Blind (TCB), the Texas Commission For the Deaf (TCD), the Texas Department of Human Services (TDHS), and the Texas Board of Pardons and Paroles (TBPP)* The memorandum of understanding between the Texas Department of Corrections, the Texas Rehabilitation Commission, the Texas Commission For the Blind, the Texas Commission for the Deaf, the Texas Department of Human Services, and the Texas Board of Pardons and Paroles is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.2. Memorandum of Understanding Between the Texas Department of Corrections, the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, and the Texas Commission on Alcohol and Drug Abuse.* The memorandum of understanding between the Texas Department of corrections, the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retarda-

tion, and the Texas Commission on Alcohol and Drug Abuse is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.3. Agreement Between the Texas Department On Aging, the Texas Department of Corrections, the Texas Board of Pardons and Paroles, and the Texas Department of Human Services.* The agreement between the Texas Department On Aging, the Texas Department of Corrections, the Texas Board of Pardons and Paroles, and the Texas Department of Human Services is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.4. Memorandum of Understanding Between the Texas Department of Corrections (TDC), the Texas Employment Commission (TEC), and the Texas Board of Pardons and Paroles.* The memorandum of understanding between the Texas Department of Corrections, the Texas Employment Commission, and the Texas Board of Pardons and Paroles is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.5. Agreement By and Between the Texas Board of Pardons and Paroles and the Texas Department of Corrections.* The agreement by and between the Texas Board of Pardons and Paroles and the Texas Department of Corrections is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.6. Memorandum of Understanding-Continuity of Care-Mentally Ill/Mentally Retarded Offenders.* The memorandum of understanding between the Texas Department of Corrections, the Texas Department of Mental Health and Mental Retardation, the Texas Adult Probation Commission Board of Pardons and Paroles, and representatives of the community mental health and mental retardation centers is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.7. Memorandum of Understanding Between the Texas Department of Corrections and the Texas Board of Pardons and Paroles.* The memorandum of understanding between the Texas Department of Corrections and the Texas Board of Pardons and Paroles is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.8. Memorandum of Understanding Between the Texas Board of Pardons and Paroles, the Texas Rehabilitation Commission, the Texas Commission On Alcohol and Drug Abuse, and the Texas Adult Probation Commission.* The memorandum of understanding between the Texas Board of Pardons and Paroles, the Texas Rehabilitation Commission, the Texas Commission On Alcohol and Drug Abuse, and the Texas Adult Probation Commission is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.9. Interagency Cooperative Agreement Between the Texas Board of Pardons and Paroles and the Texas Employment Commission for the Management and Operation of Project RIO (the Governor's special initiative for ex-offenders).* The interagency cooperative agreement between the Texas Board of Pardons and Paroles and the Texas Employment Commission for the management and operation of Project RIO (the Governor's special initiative for ex-offenders) is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

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 May 26, 1989.

TRD-8904745

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption: July 7, 1989

For further information, please call: (512) 459-2708



## Board Policy Statements

### • 37 TAC §§150.51-150.58

The Board of Pardons and Paroles proposes new §§150.51-150.58, concerning AIDS policy (Board Letter 88-1, May 3, 1988); sexual harassment (Board Letter 88-2, June 7, 1988); mace policy (Board Letter 88-3, November 15, 1988); smoking policy (Board Letter 89-1, March 16, 1989); conflict of interest policy; policies pertaining to the administration of the agency; stun gun policy (Board Letter 89-2, March 16, 1989), discrimination policy. The new sections promulgate rules pertaining to the Board of Pardons and Paroles.

Harry C. Green, general counsel, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Green, also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will not be applicable, as the public is relatively unaffected by these particular sections. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Harry C. Green, 8610 Shoal Creek Boulevard, Austin, Texas 78758, or P.O. Box 13401, Austin, Texas 78711.

The new sections are proposed under the Texas Code of Criminal Procedure, Article 42.18, which provide the Board of Pardons and Paroles with the authority to promulgate rules pertaining to the Board of Pardons and Paroles policies.

*§150.51 AIDS Policy (Board Letter 88-1, May 1988)* The AIDS policy (Board Letter 88-1, May 1988) is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P.O. Box 13401, Austin, Texas 78711.

*§150.52. Sexual Harassment (Board Letter 88-2, June 7, 1988)* The sexual harassment policy (Board Letter 88-1, May 1988) is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard P. O. Box 13401, Austin, Texas 78711.

*§150.53. Mace Policy (Board Letter 88-3, November 15, 1988)* The mace policy (Board Letter 88-3, November 15, 1988) is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P.O. Box 13401, Austin, Texas 78711.

*§150.54. Smoking Policy (Board Letter 89-1, March 16, 1989)* The smoking policy (Board Letter 89-1, March 16, 1989) is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P.O. Box 13401, Austin, Texas 78711.

*§150.55. Conflict of Interest Policy.* The conflict of interest policy is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P. O. Box 13401, Austin, Texas 78711.

*§150.56. Policies Pertaining to the Administration of the Agency.* The policies pertaining to the administration of the agency is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P.O. Box 13401, Austin, Texas 78711.

*§150.57. Stun Gun Policy (Board Letter 89-2, March 16, 1989)* The stun gun policy is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P.O. Box 13401, Austin, Texas 78711.

*§150.58. Discrimination Policy.* The discrimination policy is adopted by reference. Copies are filed with the Secretary of State's Office, Texas Register Division. Copies can be obtained from the office of the Texas Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, P.O. Box 13401, Austin, Texas 78711.

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 May 26, 1989.

TRD-8904746

William Brooks  
Acting Executive Director  
Board of Pardons and  
Paroles

Earliest possible date of adoption July 7, 1989

For further information, please call: (512) 459-2708



## Part X. Texas Adult Probation Commission

### Chapter 321. Standards

#### • 37 TAC §§321.12-321.14, 321.16

The Texas Adult Probation Commission proposes amendments to §§321.12-321.14, 321.16, concerning community rehabilitation centers, surveillance probation, court residential treatment centers and electronic monitoring. The amendments will provide a more uniform enforcement of probation standards.

Edmond J. Peterson, director of fiscal services, has determined that for the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government or small businesses as a result of enforcing or administering the sections.

Mr. Peterson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be the assurance that residential service providers contracting with local adult probation departments receive training and use equivalent case management systems to run facilities. There is no anticipated economic cost to individuals who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Virginia Grote, Texas Adult Probation Commission, 8100 Cameron Road, Suite 600, Building B, Austin, Texas 78753.

The amendments are proposed under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

#### §321.12. Community Rehabilitation Center.

(a)-(o) (No change.)

(p) Training. The probation department shall require that [the] departmentally operated rehabilitation center personnel participate in residential services training offered by the TAPC. Probation departments contracting with private contractors for community rehabilitation services shall ensure that services offered by the private contractors include a case management system equivalent to the system presented in the residential training modules offered by TAPC staff.

(q)-(x) (No change.)

#### §321.13. Surveillance Probation.

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

(c) Probationer eligibility. Eligibility is restricted to those felony offenders who are diverted from the TDC [by]:

- (1) in lieu of revocation hearing (priority);
- (2) by shock probation/incarceration;
- (3) by direct sentence by the court; or

(4) by court ordered into intensive probation.

(d) Indicators of need. Additionally, probation departments shall document the need for this intense level of correctional supervision, using such indicators as:

- (1) (No change.)
- (2) failure of less restrictive sanction/program [sanctions];
- (3) inappropriateness of less restrictive sanction/program;
- (4) (No change.)
- (5) suitable and necessary as a [follow-up to] more restrictive sanction/program; and
- (6) (No change.)
- (e)-(f) (No change.)

**§321.14. Court Residential Treatment Center.**

(a)-(j) (No change.)

(k) Training The probation department shall require that [the] departmentally operated CRTC personnel participate in residential services training offered by the TAPC. Probation departments contracting with private contractors for CRTC services shall ensure that services offered by the private contractors include a case management system equivalent to the residential training modules offered by TAPC staff.

(l)-(p) (No change.)

**§321.16. Electronic Monitoring.**

(a)-(i) (No change.)

(j) Reliability. Departments shall use EM equipment which has been evaluated as reliable by a nationally recognized and objective authority.]

(j)(k) Fees. The EM supervision strategy shall not be denied to any eligible probationer because of inability to pay a direct or indirect fee for it.

(k)(i) Training. The department shall design a training program for personnel prior to the implementation of the program. This training should include, but not be limited to:

- (1) the capacity and limitations of the system used;
- (2) intervention strategies;
- (3) case classification (TAPC sponsored); and
- (4) verification procedures.

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

Issued in Austin, Texas, on May 25, 1989

TRD-8904668

David Spencer  
General Counsel  
Texas Adult Probation  
Commission

Proposed date of adoption: July 28, 1989

For further information, please call: (512) 834-8188

◆ ◆ ◆  
**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services  
Chapter 47. Primary Home Care**

**Service Requirements**

• 40 TAC §47.2907, §47.2914

The Texas Department of Human Services (DHS) proposes amendments to §47.2907 and §47.2914, concerning mandatory supervisory visits and suspension of services, in its Primary Home Care chapter. The amendment to §47.2907 eliminates the requirement that the registered nurse supervisor visit the client at his home after any change in the client's condition or circumstances that may affect services to the client. The amendment to §47.2914 clarifies the suspension of services when the client or someone in his home threatens the health or safety of the attendant or his supervisor. Also in this issue of the *Texas Register*, DHS is proposing a related change in Chapter 53, Family Care Program, concerning suspension of services.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that primary home care providers will have a clearer understanding of requirements and services. There is no anticipated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division 247, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714 9030, within 30 days of publication in the *Texas Register*.

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

**§47.2907 Sixty-day Supervisory Visits**

(a) The RN supervisor must make an onsite home visit to the client at least every 60 days, beginning with the client's initial assessment [, and after any change in

the client's condition or circumstances that may affect the tasks, hours, or continued need for services].

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

**§47.2914. Suspension of Services.**

(a) The provider agency must suspend services before the end of the prior approval period if one or more of the following circumstances occurs.

(1)-(6)(No change.)

(7) The client or someone in the client's home threatens the health or safety of [others] the attendant or his supervisor.

(8) (No change.)

(b)-(c) (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 May 26, 1989.

TRD-8904722

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1989.

For further information, please call: (512) 450-3765

◆ ◆ ◆  
**Chapter 53. Family Care Program**

**Provider Agency Staff Requirements**

The Texas Department of Human Services (DHS) proposes an amendment to §53.301, concerning provider agency staff requirements, and an amendment to §53.404, concerning suspension of services, both in its Family Care Program chapter. The purposes of these amendments are to clarify the requirements for documenting a nurse's current license and to ensure the safety of care providers by listing threats to their health or safety as reasons for suspension of services. Also in this issue of the *Texas Register*, DHS is proposing a related change in Chapter 47, Primary Home Care, concerning suspension of services.

Burton F. Raiford, deputy commissioner for support operations, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local governments or small businesses as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarification of family care program requirements for documenting qualified staff, and ensured safety of care providers. There is no anti-

pated economic cost to individuals who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Cathy Rossberg, Administrator, Policy Development Services Division-247, Texas Department of Human Services 222-E, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

• 40 TAC §53.301

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§53.301. *Staff Requirements.*

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

(c) The provider agency must maintain written documentation that each supervisor meets the minimum qualifications. Each supervisor's personnel folder must include:

(1) written documentation [a copy] of the nurse's current Texas license issued by the Texas Board of Nurse Examiners[;] or the Texas Board of Vocational Nurse Examiners;

(2)-(3) (No change.)

(d)-(e) (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 May 26, 1989.

TRD-8904742

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1989.

For further information, please call: (512) 450-3765



Service Delivery Requirements

• 40 TAC §53.404

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§53.404. *Suspension of Services.*

(a) The provider agency must suspend services before the end of the authorization coverage period under any of the following circumstances.

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

(6) The client or someone in the client's home threatens the [attendant's] health or safety of the attendant or his supervisor.

(b)-(c) (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 May 26, 1989.

TRD-8904741

Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1989.

For further information, please call: (512) 450-3765





# Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn within six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

## TITLE 43.

### TRANSPORTATION

#### Part I. State Department of Highways and Public Transportation

#### Chapter 21. Right of Way Division

#### Utility Accomodation

- 43 TAC §§21.31, 21.32, 21.35,  
21.37-21.40, 21.42-21.46, 21. 48-  
21.51, 21.53, 21.54

The State Department of Highways and Public Transportation has withdrawn the emergency effectiveness of the amendment to §§21.31, 21.32, 21.35, 21. 37-21.40, 21.42-21.46, 21.48-21.51, 21.53, 21.54, concerning the right of way division. The text of the emergency amendment appeared in the December 13, 1988, issue of the *Texas Register* (13 TexReg 6139). The effective date of this withdrawal is May 29, 1989.

Issued in Austin, Texas, on May 24, 1989.

TRD-8904632

Robert E. Shaddock  
General Counsel  
State Department of  
Highways and Public  
Transportation

Effective date: May 29, 1989

For further information, please call: (512)  
463-8630

- 43 TAC §21.33, §21.41

The State Department of Highways and Public Transportation has withdrawn the emergency effectiveness of the repeal to §21.33, §21.41, concerning the right of way division. The text of the emergency repeal appeared in the December 13, 1988, issue of the *Texas Register* (13 TexReg 6149). The effective date of this withdrawal is May 29, 1989.

Issued in Austin, Texas, on May 24, 1989.

TRD-8904630

Robert E. Shaddock  
General Counsel  
State Department of  
Highways and Public  
Transportation

Effective date: May 29, 1989

For further information, please call: (512)  
463-8630

The State Department of Highways and Public Transportation has withdrawn the emergency effectiveness of the new to §21.33 and §21.41, concerning the right of way division. The text of the emergency new appeared in the December 13, 1988, issue of the *Texas Register* (13 TexReg 6150). The effective date of this withdrawal is May 29, 1989.

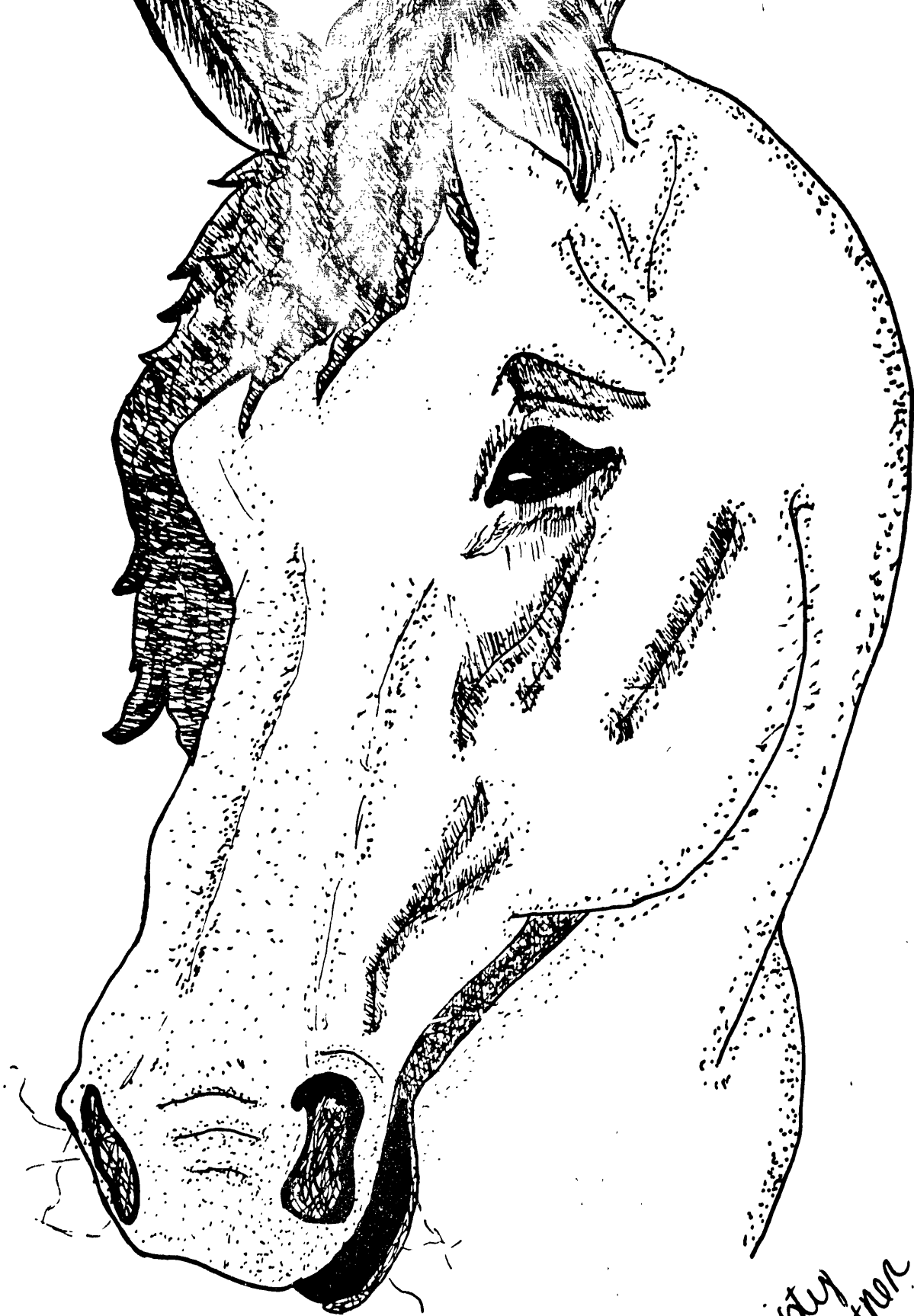
Issued in Austin, Texas, on May 24, 1989.

TRD-8904631

Robert E. Shaddock  
General Counsel  
State Department of  
Highways and Public  
Transportation

Effective date: May 29, 1989

For further information, please call: (512)  
463-8630



Christy  
Fortner  
II

Name: Christy Fortner

Grade: 8

School: T.H. McDonald Middle School, Mesquite

# Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section 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.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

## TITLE 19. EDUCATION Part II. Texas Education Agency

### Chapter 149. Education Personnel Development

#### Subchapter C. Appraisal of Certified Personnel

##### • 19 TAC §149.43

The Texas Education Agency adopts an amendment to §149.43, with changes to the proposed text as published in the March 31, 1989, issue of the *Texas Register* (14 TexReg 1625). The amendment concerns the scheduling of formal observations of teachers under the Texas teacher appraisal system.

The changes involve the removal of the differentiation of scheduled teacher appraisal observations according to a teacher's status on the career ladder, and provide a greater degree of statewide uniformity for the appraisal system. The rule requires that, for the 1989-1990 school year, 50% of a teacher's formal observations be scheduled by day and time of day and 50% of a teacher's formal observations be scheduled within a reasonable period of time designated by the local district and applied uniformly for all teachers. For the 1990-1991 school year and upon the development and approval of instruments, processes, or procedures to be used for appraising levels three and four of the career ladder, all formal observations conducted under the Texas teacher appraisal system must be scheduled

In regard to a definition of the phrase "a reasonable period of time designated by the local district," the chairman of the State Board of Education's Committee on Personnel discussed an anticipated range from one school day to four calendar weeks. However, the committee purposely chose to leave the definition of that phrase to the discretion of the local school boards. The board expressed confidence in the commissioner of education to make reasonable judgments if called upon to review decisions of the school districts.

Comments regarding adoption of the amendment were received from a trustee from the Ysleta Independent School District who reported that scheduled observations conducted there were serving the district well. In addition, an assistant superintendent in the El Paso Independent School District indicated that the question of whether scheduled observations would improve teacher morale did not affect his district because he believed that teacher morale there was not low. He added that perhaps those teachers complaining of low teacher morale were those who had

scored poorly in the teacher appraisal system.

The amendment is adopted under the Texas Education Code, §13.302, which provides the State Board of Education with the authority to adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder purposes.

##### §149.43. Teacher Appraisal Procedures.

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

(c) Appraisals, observations, and conferences.

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

(5) For the 1989-1990 school year, 50% of the formal observations must be scheduled by day and time of day, and 50% of the formal observations must be scheduled within a reasonable period of time designated by the local district and uniformly applied for all teachers. For the 1990-1991 school year and upon the development and approval of instruments, processes, or procedures to be used for purposes of appraising levels three and four of the career ladder, all formal observations using the Texas Teacher Appraisal System shall be scheduled.

(6)-(10) (No change.)

(d) (g) (No change.)

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

Issued in Austin, Texas, on May 24, 1989.

TRD-8904647

W. N. Kirby

Commissioner of Education

Effective date: June 14, 1989

Proposal publication date: March 31, 1989

For further information, please call: (512) 463-9212

## TITLE 28. INSURANCE Part I. State Board of Insurance

### Chapter 27. State Fire Marshal

#### Subchapter H. Testing Laboratory Rules

##### • 28 TAC §§27.801-27.808

The State Board of Insurance adopts new

§27.801-27.808. Sections 27.806-27.808 are adopted with changes to the proposed text as published in the April 4, 1989, issue of the *Texas Register* (14 TexReg 1679). Sections 27.801-27.805 are adopted without changes and will not be republished.

Sections 27.801-27.808, concern requirements for testing laboratories that desire to obtain approval by the State Board of Insurance to test fire protection equipment. The new sections are necessary to establish a procedure and standards for approval of testing laboratories. In response to comments and staff recommendations, this adoption includes several changes to the proposed text for the reasons explained in the following sentences. Section 27.806(a)(2) and §27.806(b)(1) were changed to clarify the meaning. Section 27.806(h) was changed to require additional reporting documentation from a testing laboratory, which includes testing product reports (upon request by the state fire marshal), product directories, and directory supplements. The purpose of the change to §27.807(a) is to require a laboratory to specify testing certification programs they wish approved. Section 27.807(c), as published, was deleted in view of the requirement added to §27.807(a). The purpose of the other changes to §27.807, the deletion of §27.808, as published, and the renumbering of §27.809, as published, to be adopted §27.808 is to remove the five-year time period for approval and to establish an indefinite approval period contingent upon results of periodic inspection of the laboratory.

New §§27.802-27.808 establish guidelines and requirements, define terms used, set standards for testing fire protection equipment, and establish compliance procedures.

Underwriters Laboratories, Inc. submitted comments generally for the proposed sections, however, they did suggest some modification of the sections.

The commenter recommended that MDSD/MDNM/§27.806(h)(2) should be changed to require laboratories to provide product reports, as requested by the state fire marshal, rather than to require that all reports be provided. In response, the board changed §27.806(h)(2).

The new sections are adopted under the Insurance Code, Article 5.43 §(2) and §(8); Article 5.43 2, §(4) and §(6), and Article 5.43-3, §(3), which authorizes the State Board of Insurance to adopt rules necessary for the protection and preservation of life and property through regulation of life and property through regulation of fire extinguishers, fire detection and alarm devices, and fire protection sprinkler systems.

§27.806. Requirements for Approval.

(a) General requirements. A testing

laboratory approval will be based on consideration of the following:

- (1) organizational, managerial, and financial independence from clients;
- (2) financial stability for continuing operations and to withstand the loss of a client;
- (3) scope of testing operations including certification programs;
- (4) training and experience of technical personnel; and
- (5) physical facilities.

(b) **Product testing and evaluation.**

A testing laboratory must demonstrate the ability to use recognized products standards in determining the acceptability of any product covered by the certification program.

(1) In the absence of a recognized product standard for a product category, the laboratory must develop a standard which must be submitted to an appropriate products standards organization for approval before it can be used as a product standard. A copy of any approved newly developed product standard must be submitted to the State Fire Marshal's Office before it can be used as new products standard.

(2) When products standards are revised by the applicable products standards organization, the testing laboratory must be prepared to retest all products previously tested to reflect compliance with the revised products standards.

(3) The testing laboratory must utilize a documented system of periodic checks and calibrations of testing equipment to assure the proper degree of accuracy in measurements.

(4) The testing laboratory must be capable of observing the production of products to be tested and evaluated, to determine the adequacy of the Manufacturer's Quality Assurance Program.

(5) A formal report presenting test results must be prepared by the testing laboratory upon completion of tests and evaluations of each product.

(c) **Factory Follow-up Inspection Program.** A testing laboratory must have established a follow-up program which includes the features required by paragraphs (1)-(6) of this subsection

(1) The program requires a written agreement with every manufacturer of fire protection products.

(2) The program requires assurance that the product as manufactured meets the applicable product standards and does not vary from the specimen's as originally tested and approved or listed.

(3) The program requires an inspection manual which states the conditions governing the use of the certification mark

on every listed or approved product. The manual must include:

(A) identification of the products authorized for labeling;

(B) identification of manufacturer and plant location at which manufacture and labeling is authorized;

(C) descriptions, specifications, and requirements applicable to the Manufacturer's Quality Assurance Program when used as part of follow-up program;

(D) description of inspections and tests to be conducted by inspector and manufacturer;

(E) a description of counter check tests to be conducted in laboratory; and

(F) the form and means of applying the certification mark.

(4) The program requires a written agreement with each manufacturer that provides inspectors of the laboratory immediate access to plants where the products are fabricated, processed, finished, stored, or located in order that the inspector may perform the functions of the follow-up program.

(5) The program requires a periodic examination or tests of the products at the factory by the laboratory inspector to determine compliance of products with products standards. The inspector may select samples of the product for counter check tests at the laboratory.

(6) Under the program, the testing laboratory must inspect manufacturer's products and facilities not less than every 12 months, depending on the product category and conditions.

(d) Identification of approved or listed products.

(1) The testing laboratory must have established a system of marking or labeling, using a certification mark owned, controlled, and registered by the laboratory, to identify approved or listed products which have been produced under the Factory Follow-up Inspection Program. The certification program must utilize a system for the manufacture, distribution, and use of the certification marks, including serial, issue, or control numbers together with appropriate records to guard against counterfeiting or other improper use.

(2) The certification program must provide for the removal of the certification mark from products which are found not to comply with the products standards, and for the termination or suspension of the authority to use the certification mark when

conditions precluding proper control of the mark prevail.

(e) **Product directories.** A testing laboratory must develop and publish an annual products directory and at least one mid-term supplement which identifies the manufacturers, private labelers, and products that are authorized to bear the laboratory's certification mark.

(f) **Complaints.** A testing laboratory must have established procedures for investigating and responding to complaints. All complaints must be acknowledged and investigated promptly.

(g) **Records.** A testing laboratory must maintain records necessary to assure proper control of operations, including but not necessarily limited to the following categories, with review availability for a period of not less than five years.

(1) Records concerning laboratory tests must include the following:

(A) product standard(s) used; and

(B) initial qualification records on a project basis, including:

- (i) sample selection;
- (ii) receipt of samples;
- (iii) test and examination sheets; and
- (iv) instrument calibration records.

(2) Records concerning Follow-up service on a manufacturing facility basis must include the following:

(A) Follow-up inspection manual;

(B) dated and detailed records of all inspections; and

(C) instrument calibration records.

(3) Records concerning certification marks must include the following:

(A) record of release of certification marks to manufacturers; and

(B) log of serial numbers issued to each manufacturer.

(4) Records concerning complaints must include documentation of all complaints and their resolution.

(h) **Access to facilities and records.** Access to facilities and records must be afforded in accordance with this subsection.

(1) Testing laboratories seeking approval of their certification program(s)

must agree in writing to allow the state fire marshal access to inspect testing facilities and procedures and to examine any and all records of the certification program at any time during normal working hours without prior notice.

(2) An approved testing laboratory shall provide the state fire marshal access to all product reports, upon request.

(3) An approved testing laboratory must provide the state fire marshal with copies of all fire protection equipment product directories and supplements to the product directories immediately after they are completed or published.

#### *§27.807. Applications.*

(a) **Application scope.** A testing laboratory seeking approval of its certification program(s) for fire extinguishers, fixed fire extinguishing, fire detection, fire alarm, or fire protection sprinkler systems must submit an application on forms obtained from the State Fire Marshal's office. The application must include complete documentation of the information needed to demonstrate the capability of the organization to carry out the programs and must specify all programs for which approval is sought.

(b) **Review.** The application will be reviewed and the applicant advised of its disposition.

(c) **Approval.** Approval shall be for an indefinite period, contingent upon results of periodic inspections of the laboratory by the state fire marshal and may be limited to specific certification programs.

(d) **Denials.** If the application is denied, the applicant shall be notified in writing stating the conditions for nonapproval. The applicant may submit revisions which are needed to obtain approval, without prejudice.

(e) **Application changes.** If at any time during the approval period there are changes in products tested, new programs added, a change of ownership or corporate officers, or an address change, the laboratory must advise the State Fire Marshal of the changes by submitting revisions to the previous application or submitting a new application, so that the laboratory files in the State Fire Marshal's office will be up-to-date.

(f) **Approved laboratories.** Notwithstanding the requirements of these sections, the following organizations will be approved as testing laboratories from the effective date of these sections.

(1) **Factory Mutual Research Corporation**, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062.

(2) **Underwriters Laboratories, Incorporated**, 333 Pfingston Road, Northbrook, Illinois 60032.

(3) **United States Testing Company, Incorporated**, 1415 Park Avenue, Hoboken, New Jersey 07030.

(g) Within two years from the effective date of these sections, the laboratories approved by this section must submit to the State Fire Marshal a completed application form containing updated information and supporting documentation required by these sections on all certification programs being conducted.

**§27.808. Severability.** If any provision of this subchapter or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect the other provisions of any other application of this subchapter which can be given effect without the invalid provisions or application. To this end all provisions of these rules are declared to be severable.

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 May 26.

TRD-8904757 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Effective date: June 20, 1989

Proposal publication date: April 4, 1989

For further information, please call: (512) 433-6327

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 119. Agreements With Other Agencies

##### • 37 TAC §119.3

The Texas Youth Commission adopts new section §119.3, without changes to the proposed text as published in the April 21, 1989 issue of the *Texas Register* (14 TexReg 1912).

The new section concerns the provision of services to mentally ill or mentally retarded youth committed to the commission. Senate Bill 33, passed by the regular session of the 70th Texas Legislature, 1987, requires the adoption by rule of a memorandum of understanding between the Texas Youth Commission and the Texas Department of Mental Health and Mental Retardation regarding the provision of services to mentally ill and mentally retarded youth who are committed to the commission. The agreement is to be updated annually. This document represents the agreement for July 1, 1989–July 1, 1990.

The new section provides procedure for providing information, services, and resource sharing.

No comments were received regarding adop-

tion of the new section.

The new section is adopted under the Human Resources Code, §61.0771, which provides the Texas Youth Commission with the authority to enter into an agreement with the Texas Department of Mental Health and Mental Retardation through this memorandum of understanding.

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 May 24, 1989.

TRD-8904756 Ron Jackson  
Executive Director  
Texas Youth Commission

Effective date: July 1, 1989

Proposal publication date: April 21, 1989

For further information, please call: (512) 452-8111, ext. 107.

## Part X. Texas Adult Probation Commission

### Chapter 321. Standards

##### • 37 TAC §§321.1, 321.3, 321.5, 321.8

The Texas Adult Probation Commission adopts amendments to §§323.1, 321.3, 321.5, and 321.3, without changes to the proposed text as published in the March 24, 1989, issue of the *Texas Register* (14 TexReg 1504).

The amendments make the agency's rules easier to understand and fully reflect the current statutory law.

The sections are developed by the Adult Probation Commission. Copies are forwarded to the judicial district adult probation departments. The Adult Probation Commission staff reviews data provided by local departments to determine compliance with standards.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provide the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

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 May 25, 1989.

TRD-8904645 David Spencer  
General Counsel  
Texas Adult Probation  
Counsel

Effective date: June 15, 1989

Proposal publication date: March 24, 1989

For further information, please call: (512) 834-8188

## Chapter 323. Fund Distribution

### • 37 TAC §§323.1-323.3

The Texas Adult Probation Commission adopts amendments to §§323.1, 323.2-323.3, without changes to the proposed text as published in the March 24, 1989, issue of the *Texas Register* (14 TexReg 1504).

The amendments will allow greater accuracy in calculating the unexpended monies that will be returned to the state treasury.

The sections are developed by the Adult Probation Commission. Copies are forwarded to the judicial district adult probation departments. The Adult Probation Commission staff reviews data provided by local departments to determine compliance with standards.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedure, Article 42.121, §3.01, which provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

This agency hereby certifies that the rule 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 May 25, 1989.

TRD-8904643 David Spencer  
General Counsel  
Texas Adult Probation  
Council

Effective date: June 15, 1989

Proposal publication date: March 24, 1989

For further information, please call: (512) 834-8188

## Chapter 325. Agency Procedures

### • 37 TAC §§325.1-325.12

The Texas Adult Probation Commission adopts new §§325.1-325.12, without changes to the proposed text as published in the March 24, 1989, issue of the *Texas Register* (14 TexReg 1506).

This new chapter sets out all the formal and informal procedures available through the agency.

Agency commissioners and staff are apprised of standards. The executive director and commissioners are responsible for determining compliance.

No comments were received regarding adoption of the new sections.

The Texas Code of Criminal Procedure, Article 42.121, §3.01, provides the Texas Adult Probation Commission with the authority to promulgate reasonable rules.

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 May 25, 1989.

TRD-8904643 David Spencer  
General Counsel  
Texas Adult Probation  
Commission

Effective date: June 15, 1989

Proposal publication date: March 21, 1989

For further information, please call: (512) 834-8188

## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 3. Income Assistance Services

##### Subchapter V. Medicaid Eligibility

### • 40 TAC §§3.2201, 3.2203, 3.2204

The Texas Department of Human Services (DHS) adopts amendments to §§3.2201, 3.2203, and 3.2204, with changes to the proposed text as published in the March 21, 1989, issue of the *Texas Register* (14 TexReg 1450).

The justification for the amendments is to provide extended Medicaid coverage to certain clients participating in DHS's welfare reform waiver project. To implement the waiver project, DHS is adopting in this issue of the *Texas Register* new sections in Chapter 10 of this title (relating to Family Support Services).

The amendments specify that certain clients participating in DHS's welfare reform waiver project may receive 12 months of Medicaid coverage if their AFDC benefits are denied because of increased income or loss of income disregards.

No comments were received regarding adoption of the amendments. DHS, however, is deleting the phrase "...as members of the experimental group..." from the sections, since the experimental group is discussed in the new Family Support Services sections.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

**§3.2201. Eligibility Requirement.** Aid to Families with Dependent Children clients must meet requirements for Medicaid eligibility as stipulated in the Social Security Act, §1902(a)(10). Clients participating in DHS's Welfare Reform Waiver Project may be eligible to receive Medicaid benefits for 12 months, according to §§10.7001-10.7008 of this title (relating to the Welfare Reform Waiver Project).

**§3.2203. Four Months Post.** Aid to Families with Dependent Children clients must meet requirements for four months post

Medicaid as stipulated in the Social Security Act, §1902(e)(1). Clients participating in DHS's welfare reform waiver project may be eligible to receive Medicaid benefits for 12 months, according to §§10.7001-10.7008 of this title (relating to the Welfare Reform Waiver Project).

**§3.2204. Nine Months Post.** If DHS denies an AFDC certified group because an employed group member or a disqualified legal parent is no longer eligible for the earned income disregard, the certified group is eligible for Medicaid benefits for the nine-month period following denial of benefits. Clients denied for this reason who are participating in DHS's welfare reform waiver project may be eligible to receive 12 months post-Medicaid benefits, according to §§10.7001-10.7008 of this title (relating to the Welfare Reform Waiver Project).

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 May 26, 1989.

TRD-8904721 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: June 16, 1989.

Proposal publication date: March 21, 1989.

For further information, please call: (512) 450-3765

## Chapter 10. Family Self-support Services

### Welfare Reform Waiver Project

### • 40 TAC §§10.7001-10.7008

The Texas Department of Human Services (DHS) adopts new §§10.7001-10.7008, without changes to the proposed text as published in the March 21, 1989, issue of the *Texas Register* (14 TexReg 1450).

The justification for the new sections is to enable DHS to operate a pilot project to test implementation of the Federal Family Support Act of 1988. The pilot project will operate in four of DHS's 10 administrative regions until April 1, 1992.

The new sections will function by ensuring that selected clients who lose eligibility for the Aid to Families with Dependent Children (AFDC) Program, because of increased income or loss of income disregards, receive 12 months of extended Medicaid and day care. In addition, DHS will provide employment services to these AFDC-denied clients. As a related action, DHS is adopting in this issue of the *Texas Register* amendments in Chapter 3 of this title (relating to Income Assistance Services).

During the public comment period, DHS received comments from the Houston Welfare Rights Organization. The following are the comments and DHS responses.

**Comment:** Although we support increasing Medicaid coverage from four months to 12 months, the department should also increase the work expenses allowance as well from \$75 per month to \$90 per month. Public Law 100-485, §402.(Public Law 402). Indeed it must by October 1, 1989.

**Response:** The work expense allowance will be increased to \$90 effective October 1, 1989. Legislation does not authorize earlier implementation.

**Comment:** §10.7007. It appears that the 10% control group will not be provided extended Medicaid. That may violate the Family Support Act by causing a loss of benefits after October 1, 1989. Senate Report 100-377, 1988 USCCAN 2776, 2836. It also appears to test the obvious whether additional Medicaid benefits encourages and sustains work effort.

**Response:** The fact that the control group will not be provided special transitional benefits after October 1, 1989, is considered necessary to promote the long-term objectives of the Family Support Act. Moreover, approval of the demonstration project under the Social Security Act, §1115, is in part contingent upon the strength of the required evaluation component. In order to accurately assess the impact of transitional benefits on recidivism, it is necessary to restrict the control group to pre-1990 benefits throughout the life of the project. While it may appear that we are testing the obvious, there is no valid research data that proves this point. The September 30, 1988, sunset provision for transitional benefits suggests that if we hope to ensure the continuation of these benefits after that date then such data needs to be gathered.

**Comment:** Since the 1989 USCA has not been published it is very difficult to tell whether the Senate Report language concerning demonstration projects survived the Senate and the conferences.

**Response:** Approval for this waiver project was requested under the Social Security Act, §1115.

**Comment:** Section 10.7004(1)(B) should provide for reinstatement for late filed status reports within two years, because it is only fair.

**Response:** The department recognizes good cause for failure to file reports in a timely manner. We believe that reinstatement timeframes for extended Medicaid cases, terminated due to late reports, provide the client with ample time to comply.

**Comment:** Section 10.7004(2)(B) should require the department to offer day care and not place the obligation on the client to request it.

**Response:** Letters have been mailed to potentially eligible AFDC recipients informing them that day care is available and how to access day care if they need to do so. According to the Family Support Act of 1988 clients are entitled to day care only if they need the care.

**Comment:** We support the definitions of full and partial day care at 25 hours per week and 15 hours per week.

**Response:** We are pleased that our definitions of full and part day eligibility are supported.

**Comment:** Section 10.7004(2)(B)(v)(IV)

should provide day care for caretakers in training otherwise there will be very little training or training only for the more resourceful.

**Response:** Transitional day care mentioned in this section is being provided as an experiment through a federally granted waiver. From these funds, we are only allowed to provide transitional day care for AFDC recipients who go to work. When the JOBS portion of the Family Support Act is implemented in 1990, there will be a plan for day care for children of participants in training. Our Title XX day care program provides day care for training participants and gives AFDC recipients a high priority for available spaces.

**Comment:** Section 10.7004(2)(B)(vi) violates the Family Support Act by requiring copayment for day care prior to transition that is in the first six months and while job seeking. Senate Report 100-377, 1988 USCCAN 2776, 2819. Note our earlier comment on USCA

**Response:** This is a misinterpretation of the section. No copayment is charged until AFDC is denied for either this experimental program or for our ongoing Title XX program. Thus, no copayment is required until transition and there are provisions for waivers and reduction for certain unusual circumstances.

**Comment:** Section 10.7008. We support the appeal of all the issues in a client's case through the regular TDHS hearing system rather than through TEC or a subcontractor. Otherwise the grievances are ignored and no decisions are made.

**Response:** We appreciate your support of our appeals process.

The new sections are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical 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 May 26, 1989.

TRD-8904720 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: June 16, 1989.

Proposal publication date: March 21, 1989.

For further information, please call: (512) 450-3765

## Chapter 29. Purchased Health Services

### Subchapter F. Physician Services

The Texas Department of Human Services (DHS) adopts amendments to §§29.502, 29.603, and 29.606, without changes to the proposed text as published in the April 25, 1989, issue of the *Texas Register* (14 TexReg 2014).

The amendments are in response to the Medicare Catastrophic Coverage Act of 1988,

§302 (Public Law 100-360). The amendments specify that DHS will waive its spell-of-illness limitations for medically necessary inpatient hospital and physician services provided to recipients less than age one. The amendments also describe the methodology for making outlier payment adjustments for admissions with exceptionally high costs or exceptionally long lengths of stay. The outlier payment adjustments are applicable to inpatient hospital services provided to recipients less than age one in hospitals reimbursed under DHS's prospective payment system.

DHS also is amending §29.606 to redefine the term "base year payment per case." The amendment specifies that, in calculating the base year payment per case, the department or its designee will use the interim rate established at tentative or final settlement, if applicable, of the most recent cost reporting period up to and including the cost reporting period associated with the base year.

The amendments will function by providing appropriate reimbursement of hospitals and physicians for inpatient services provided to children under age one and whose length of stay or costs of care are excessive.

No comments were received regarding adoption of the amendments.

• 40 TAC §29.502

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical 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 May 30, 1989.

TRD-8904718 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: July 1, 1989.

Proposal publication date: April 25, 1989.

For further information, please call: (512) 450-3765

## Subchapter G. Hospital Services

• 40 TAC §29.603, §29.606

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical 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 May 30, 1989.

TRD-8904719 Charles Stevenson  
Acting Commissioner  
Texas Department of  
Human Services

Effective date: July 1, 1989.

Proposal publication date: April 25, 1989.

For further information, please call: (512) 450-3765

**Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L**

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act, and the final actions printed in this section have not been previously published as proposals.*

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

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

The State Board of Insurance has adopted an amendment to the *Texas Automobile Manual*. Rule 74., §E.2.a. of the *Texas Automobile Manual* has been amended to include a new subsection reading as follows.

(48) E-Z Way Driving School course requires certification issued on or after June 20, 1989 by E-Z Way Driving School.

This amendment is effective June 20, 1989.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 May 24, 1989.

TRD-8904624      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: June 20, 1989

For further information, please call:(512) 463-6327

◆      ◆      ◆  
The State Board of Insurance has amended the Symbol and Identification Section of the *Texas Automobile Manual* (Manual).

The Symbol and Identification Section of the Manual has not applied specifically to any model of automobile later than 1989; therefore, specific provisions concerning 1990 models are needed. Further, the amendment

includes an expanded symbol table for 1990 and subsequent model years. Symbols or symbol groups represent "price new" ranges for vehicles. The expanded table will include a total of 27 symbol groups with symbol group 27 representing automobiles with an original "cost new" of \$20,001 and over. The expanded number of symbols will allow more precise distinctions between various levels. Price level is one of the variables used to determine the physical damage premium for an individual vehicle.

Additionally, the board approves a new procedure for developing the "price new" of a vehicle. The amended method for determining "price new" is to take the sum of the manufacturer's suggested retail price of the vehicle and the cost for automatic transmission, power steering, AM radio, and any optional equipment installed at the factory in 75% or more of all vehicles. Previously, only optional equipment installed at the factory in 90% or more of the vehicles was added to the base cost to determine the "price new" of a vehicle. This change affects less than 1.0% of all vehicles, according to the petition filed on this subject. All above changes are given effect through replacement of pages 1 and 2 of the Symbol and Identification Section of the Manual.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 May 24, 1989.

TRD-8904623      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: August 1, 1989

For further information, please call:(512) 463-6327

◆      ◆      ◆  
The State Board of Insurance has approved revisions to the rules, rates, and forms for various controlled classes of Inland Marine insurance. The revised rules reflect the introduction of a \$250 mandatory deductible to certain classes of Inland Marine insurance and remove the Texas exception for larger

optional deductibles. The Texas exception for optional deductibles is no longer necessary since the nationwide optional deductible table will be applicable to Texas risks. Various rating rules were amended to reflect correct rating factors for those inland marine classes included in the overall rate level adjustment.

Various coverage forms and declaration pages were amended to reflect editorial changes, clarification of coverage, and the inclusion of coverages or exclusions that were erroneously omitted from the original filing of simplified forms in 1987.

The following rate level adjustments were approved including an offset for the inclusion of a standard \$250 deductible: revised rates of \$1.80/\$1.35 and \$1.80/\$1.40 for cameras-commercial to a decrease of 24%; a 25% credit for camera dealers to a decrease of 25%; a 15% credit for equipment dealers to a decrease of 10%; a 5.0% surcharge for musical instrument dealers to an increase of 5.0%; a 115% surcharge for floor plan policies to a decrease of 14%; a revised rate of \$2.20/\$.65 for individual professional musical instruments to a decrease of 11.3%; a 30% credit for stationary organs to a decrease of 30%; a revised rate of \$1.05/\$.45 for bands, orchestras, etc. to a decrease of 19.5%; a 20% credit for physicians and surgeons equipment to a decrease of 10%; a 20% credit for theatrical property to a decrease of 10%; and a 10% credit for valuable papers to a decrease of 10%.

These changes are to be effective July 1, 1989.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register 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 May 30, 1989.

TRD-8904758      Nicholas Murphy  
                         Chief Clerk  
                         State Board of Insurance

Effective date: July 1, 1989

For further information, please call:(512) 463-6327



# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, 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.

**Posting of open meeting notices.** 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, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

## Texas Department of Agriculture

**Tuesday, June 6, 1989, 1 p.m.** The Texas Grain Sorghum Producers Board of the Texas Department of Agriculture will meet in the Wyndham Hotel, 900 Shoreline Boulevard, Corpus Christi. According to the agenda summary, the board will hear financial report; consider election of officers; hear collections and committee reports; consider biennial board elections plan; and discuss and act on resolutions.

**Contact:** Elbert Harp, P.O. Box 530, Abernathy, Texas 79311-0530, (806) 298-2543.

**Filed:** May 26, 1989, 1:05 p.m.

TRD-8904696

**Thursday, June 8, 1989.** The Texas Department of Agriculture will meet in Suite 130, 2626 South Loop West, Houston. Times and agendas follow.

**1:30 p.m.** The department will hold an administrative hearing to show cause for denial of application by Berryman's Fresh Fruit and Vegetable for licensure as a commission merchant.

**Contact:** Imelda Escobar, P.O. Box 12847, Austin, Texas 78711, (512) 463-7682.

**Filed:** May 26, 1989, 1 p.m.

TRD-8904697

**3:30 p.m.** The department will hold an administrative hearing to show cause for denial of application by Nineway Produce Company for license as a commission merchant.

**Contact:** Imelda Escobar, P.O. Box 12847, Austin, Texas 78711, (512) 463-7682.

**Filed:** May 26, 1989, 1 p.m.

TRD-8904700

## Texas Cancer Council

**Monday, June 5, 1989, 5 p.m.** The Texas Cancer Council met in Suite 1500, First State Bank, 400 West Fifth Street, Austin.

According to the agenda, the council discussed administrative personnel.

**Contact:** D.L. Moore, 105 West Riverside Drive, (512) 463-3190.

**Filed:** May 26, 1989, 4:01 p.m.

TRD-8904734

## Texas School for the Deaf

**June 3, 1989, 10 a.m.** The Governing Board of the Texas School for the Deaf submitted an emergency revised agenda for a meeting held in the Administration Boardroom, 1102 South Congress Avenue, Austin. According to the agenda summary, the board ratified board actions of March 24, 1989; approved minutes of March 24, 1989 meeting; considered business for information purposes and business requiring board action; and heard comments by board members. The emergency status was necessary because lack of quorum at March 24, 1989 meeting necessitated additional agenda item to ratify all actions taken on March 24, 1989.

**Contact:** Marilyn R. Stephan.

**Filed:** May 30, 1989, 1:25 p.m.

TRD-8904752

## Interagency Council on Early Childhood Intervention

**Thursday, June 8, 1989, 8:30 a.m.** The Interagency Council on Early Childhood Intervention will meet in Room 418, 1100 West 49th Street, Austin. According to the agenda summary, the council will hear public comments, approve minutes of previous meeting, and consider: legislation; allocation of funds; operational procedures; Hunt County MHMR contract for fiscal year 1989; funding for fiscal year 1989; proposed rules on applications and fees for assessments and screenings; Medicaid enhancement project; TDH management audit; proposed external audit scope; research and evaluation responses; and personnel issues.

**Contact:** Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 465-2671.

**Filed:** May 30, 1989, 2:25 p.m.

TRD-8904765

## Texas Education Agency

**Thursday, June 8, 1989, 1:30 p.m.** The Committee of the Whole of the State Board of Education will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the committee will consider report on the 71st Texas Legislature: proposed changes to the schedule of activities for the annual update of the master plan for vocational education; proposed responses to recommendation of the Texas Council on Vocational Education; board operating rules on board travel; accreditation: discussion of pending litigation. The discussion of pending litigation will be held in executive session in accordance with Texas Civil Statutes, Article 6252-17, §2(e).

**Contact:** W.N. Kirby, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-8985.

**Filed:** May 31, 1989, 3:39 p.m.

TRD-8904796

## Advisory Commission on State Emergency Communications

**Wednesday, June 7, 1989, 9 a.m.** The Advisory Commission on State Emergency Communications will meet in the John H. Reagan Office Building, Austin. Times, rooms, and agendas follow.

**9 a.m.** The Public Information Committee will meet in Room 102 to discuss: update on public service announcements with Austin Police Department; update on safety fair-July 14-16, 1989; update and planning for 9-1-1 day 1989; consider any new business; hear public comment.

**Contact:** Joe Kirk, 1101 Capital of Texas

Highway, South B-100, Austin, Texas 78746, (512) 327-1911.

Filed: May 26, 1989, 2:30 p.m.

TRD-8904710

9:30 a.m. The Regional Plan Committee will meet in Room 104, to discuss the participation of existing districts in the regional plan; council of governments' 9-1-1 regional planning status report; review and possible consideration of approval of North Central Texas Council of Governments interim 9-1-1 plans for Collin County and Rockwall County; report on change of administration of Concho Valley Councils of Governments' interim 9-1-1 plan for Tom Green County; consider any new business; hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway, South B-100, Austin, Texas 78746, (512) 327-1911.

Filed: May 26, 1989, 2:30 p.m.

TRD-8904712

10 a.m. The Finance Committee will meet in Room 106, to discuss: financial report concerning update on surcharge collections and expenditures and revenue; update on Southwestern Bell's proposed 9-1-1 tariff; update on GTE-Southwest proposed 9-1-1 tariff; discuss and consider proposed clarification of definitions of terms in statute; consider any new business; hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway, South B-100, Austin, Texas 78746, (512) 327-1911.

Filed: May 26, 1989, 2:30 p.m.

TRD-8904713

10:30 a.m. The Administration Committee will meet in Room 107, to consider legislative update; 9-1-1 regional planning status report; consider draft rural addressing handbook per contract agreement between ACSEC and the Advisory Commission on Intergovernmental Relations; discussion regarding ACSEC's completion of handbook contract; review and consider approval of proposed budgets for fiscal years 1989-1990 and 1990-1991; discuss auditor options for ACSEC; financial report; consider any new business; hear public comment.

Contact: Joe Kirk, 1101 Capital of Texas Highway, South B-100, Austin, Texas 78746, (512) 327-1911.

Filed: May 26, 1989, 2:30 p.m.

TRD-8904714

1 p.m. The commission will meet in Room 104 to hear committee reports from the Public Information Committee; Administration Committee; Regional Plan Committee; and Finance Committee. The commission will hear public comment; consider approval of May minutes; consider any new business.

Contact: Joe Kirk, 1101 Capital of Texas

Highway, South B-100, Austin, Texas 78746, (512) 327-1911.

Filed: May 26, 1989, 2:30 p.m.

TRD-8904711

### Employees Retirement System of Texas

Wednesday, June 7, 1989, 2 p.m. The Group Insurance Advisory Committee of the Employees Retirement System of Texas will meet in the Auditorium, Texas Air Control Board, 6330 Highway 290 East, Austin. According to the agenda summary, the committee will approve minutes from previous meeting; report on legislation passed by the 71st legislature; discussion on enrollment issues; various subcommittee reports; other related insurance matters.

Contact: James W. Sarver, 18th and Brazos Street, Austin, Texas 78711-3207, (512) 476-6431, ext. 217.

Filed: May 30, 1989, 11:13 a.m.

TRD-8904744

### Office of the Governor - Criminal Justice Division

Friday, June 9, 1989, 9:30 a.m. The Texas Crime Stoppers Advisory Council of the Office of the Governor will meet in Room 304, Sara Houston Building, 201 East 14th Street, Austin. According to the agenda, the council will approve minutes of the March 22, 1989 meeting; consider update on all crime stoppers legislation before the 71st legislature and council approval of eligibility requirements for certification of a crime stoppers program under Senate Bill 85 passed by the 71st legislature; hear committee report and reports on April 1989 Austin state crime stoppers conference; consider planning for the 1990 Beaumont state crime stoppers conference; hear report on the basic crime stoppers school held in Odessa, May 17 and 18, 1989 and report on upcoming specialized crime stoppers school being held in Corpus Christi, July 26-28, 1989; and consider Texas annual crime stoppers international conference being held in Albuquerque, New Mexico, September 16-20, 1989.

Contact: David Cobos, (51) 463-1784.

Filed: May 31, 1989, 2:20 p.m.

TRD-8904794

### Texas Health and Human Services Coordinating Council

Wednesday, June 7, 1989, 9 a.m. The Children and Youth Services State Coordinating Committee of the Texas Health and

Human Services Coordinating Council will meet in Room T-607, 1100 West 49th Street, Austin. According to the agenda, the council will approve minutes of the previous meeting; hear status report on RWJ grant-Reginia Hicks and status report on CASSP Subcommittee-Gerry McKimney; consider update on Community Resource Coordination Pilot Project-Tom Olsen; discuss committee's role in dispute mediation-members; review Tarrant County case-DHS, MHMR; discuss legislation pertaining to children and youth issues; and consider old business.

Contact: Patricia O. Thomas, 311-A East 14th Street, Austin, Texas (512) 463-2195.

Filed: May 26, 1989, 4:10 p.m.

TRD-8904735

### Texas Heroes Monument Commission

Friday, May 26, 1989, 2 p.m. The Texas Heroes Monument Commission will meet in the Caduceus Room, UTMB Administration Building, 301 University, Galveston. According to the agenda, the commission will hear secretary's report and treasurer's report; and discuss and consider items.

Contact: Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

Filed: May 26, 1989, 9:23 a.m.

TRD-8904657

Friday, June 9, 1989, 10:30 a.m. The Texas Heroes Monument Commission will meet in the Conference Room, Mills Shirley Eckel and Bassett, 2288 Mechanic, Galveston. According to the agenda, the commission will hear secretary's report and treasurer's report; and discuss and consider items.

Contact: Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

Filed: May 26, 1989, 9:23 a.m.

TRD-8904658

Friday, June 30, 1989, 1:30 p.m. The Texas Heroes Monument Commission will meet in the Caduceus Room, UTMB Administration Building, 301 University Building, Galveston. According to the agenda, the commission will hear secretary's report and treasurer's report; and discuss and consider items.

Contact: Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

Filed: May 26, 1989, 9:23 a.m.

TRD-8904659

Friday, July 14, 1989, 10:30 a.m. The Texas Heroes Monument Commission will meet in the Conference Room, Mills Shirley Eckel and Bassett, 2228 Mechanical, Gal-

veston. According to the agenda, the commission will hear secretary's report and treasurer's report; and discuss and consider items.

**Contact:** Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

**Filed:** May 26, 1989, 9:23 a.m.

TRD-8904661

**Friday, July 28, 1989, 2 p.m.** The Texas Heroes Monument Commission will meet in the Caduceus Room, UTMB Administration Building, 301 University, Galveston. According to the agenda, the commission will hear secretary's report and treasurer's report; and discuss and consider items.

**Contact:** Cindy Sullivan, 51 Colony Park Circle, Galveston, Texas 77551, (409) 744-5632.

**Filed:** May 26, 1989, 9:23 a.m.

TRD-8904660

## Texas Commission on Human Rights

**Monday, June 5, 1989, 10 a.m.** The Texas Commission on Human Rights met in Room 104, John H. Reagan Building, 165 West 15th Street, Austin. According to the agenda summary, the commission discussed and voted on agenda item(s) covered in executive session as necessary or required; approved minutes; administrative reports; pending legislation affecting the commission; personnel matters; performance and funds management report; status of EEO compliance training; IAQHRA annual conference; FEPA/EEOC conference; status of EEOC contract modification and impact on budget; commissioner issues; and unfinished business.

**Contact:** William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

**Filed:** May 26, 1989, 3:40 p.m.

TRD-8904731

## Texas Department of Human Services

**Monday and Tuesday, June 5 and 6, 1989, 1:15 p.m. and 8 a.m., respectively.** The Texas Board of Human Services of the Texas Department of Human Services met in Room 652, Sixth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the board will convene for orientation on legal services, special services, federal relations, support operations, policy development services, information services, and strategic management and development.

**Contact:** Bill Woods, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3047.

**Filed:** May 26, 1989, 10:01 a.m.

TRD-8904663

**Wednesday, June 7, 1989, 9:30 a.m.** The Income Assistance Advisory Council of the Texas Department of Human Services will meet in Conference Room 3W, Third Floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the council will consider TDHS budget update; IAS budget update; heat stress relief program; client services; policy development and program management update; welnet demonstration; and wrap-up.

**Contact:** Patricia Rodriguez, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3474.

**Filed:** May 30, 1989, 2:21 p.m.

TRD-8904754

**Friday, June 9, 1989, 10 a.m.** The Aged and Disabled Service Advisory Committee of the Texas Department of Human Services will meet in Conference Room 6W, Sixth Floor, West Tower, 701 West 51st Street, Austin. According to the agenda, the committee will approve minutes; report on the legislative session; review of legislation affecting A&D; status of federal legislation to continue authorization of primary home care waiver V; deputy's report; moratorium on contracting for Medicaid nursing home beds; task force on ICF-MR rates; appropriate/inappropriate characteristics for the 24-hour attendant care program; repeal of parental income and resources requirements for medically dependent children's waiver program; overview of primary home care program; other issues and business; date for next meeting.

**Contact:** Mary Ann Harvey, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3194.

**Filed:** May 30, 1989, 2:22 p.m.

TRD-8904753

## State Board of Insurance

The State Board of Insurance will meet at 1110 San Jacinto Street, Austin. Dates, times, rooms, and agendas follow.

**Tuesday, June 6, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10384-Application of David Wayne Mixon, Cedar Park, for a group I, legal reserve life insurance agent's license.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 26, 1989, 2:24 p.m.

TRD-8904708

**Tuesday, June 6, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10364-

Whether disciplinary action should be taken against Joe Bruce McGlothlin, Austin, who holds a local recording agent's license and a group I, legal reserve life insurance agent's license issued by the board.

**Contact:** Wendy L. Ingham, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 26, 1989, 2:24 p.m.

TRD-8904709

**Wednesday, June 7, 1989, 1:30 p.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10385-Whether disciplinary action should be taken against William Morris Risby doing business as Time Saving Insurance Agency, Dallas, who holds a group I, legal reserve life insurance agent's license and a local recording agent's license and to consider the application of William Morris Risby, Dallas, for a group II, health and accident insurance license.

**Contact:** J.C. Thomas, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 26, 1989, 2:24 p.m.

TRD-8904707

**Thursday, June 8, 1989, 1:30 p.m.** The board will meet in Room 414, to hold a public hearing to consider an appeal by Kenneth Rowe Burroughs of commissioner's order 89-0486 and motion by Mr. Burroughs to suspend effectiveness of commissioner's order 89-0436 pending appeal.

**Contact:** Pat Wagner, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6328.

**Filed:** May 30, 1989, 3:15 p.m.

TRD-8904759

**Friday, June 9, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 342, to consider Docket 10383-Whether disciplinary action should be taken against Thomas Charles Carr, San Antonio, who holds a group I, legal reserve life insurance agent's license and a group II, life, health, and accident insurance agent's license.

**Contact:** Lisa Lyons, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

**Filed:** May 26, 1989, 2:25 p.m.

TRD-8904706

**Monday, June 12, 1989, 9 a.m.** The Commissioner's Hearing Section will meet in Room 353, to consider Docket 10388-Whether disciplinary action should be taken against Manuel J. Castillo, Victoria, who holds a group I, legal reserve life insurance agent's license, and a local recording agent's license.

**Contact:** O.A. Cassity, III, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 26, 1989, 2:25 p.m.

TRD-8904705

Monday, June 12, 1989, 1:30 p.m. The Commissioner's Hearing Section will meet in Room 442, to consider Docket 10387-Whether disciplinary action should be taken against Billy Jack Williams, Terrell, who holds a group II, life, health, and accident insurance agent's license.

Contact: Will McCann, 1110 San Jacinto Street, Austin, Texas 78701-1998, (512) 463-6526.

Filed: May 26, 1989, 2:25 p.m.

TRD-8904704

**Texas Department of Labor and Standards**

Thursday, June 8, 1989, 9 a.m. The Labor, Licensing, and Enforcement Division of the Texas Department of Labor and Standards will meet in Room 105, E.O. Thompson Building, 920 Colorado, Austin. According to the agenda, the division will consider suspension, revocation, denial, or a civil penalty of respondent's, James Warren Davis, auctioneer's license, for violation of the department's auctioneering rules and regulations.

Contact: Jack Shiver, 920 Colorado, Austin, Texas 78711, (512) 463-3127.

Filed: May 30, 1989, 2:28 p.m.

TRD-8904764

**Texas State Board of Medical Examiners**

Tuesday, May 30, 1989, 3:30 p.m. The Executive Committee of the Texas State Board of Medical Examiners met in emergency session at 1101 Camino LaCosta, Austin. According to the agenda summary, the committee considered licensee under provisions of Article 4495b, 4.13; executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05 (d), 4.05 (d), 5.06 (e)(1) and Attorney General Opinion H-484. The emergency status was necessary because information has just come to attention of agency and merits consideration prior to next schedule meeting.

Contact: Jean Davis, P.O. Box 13562, Austin, Texas 78711, (512) 452-1078.

Filed: May 25, 1989, 4:25 p.m.

TRD-8904655

**Texas Department of Mental Health and Mental Retardation**

Friday, June 9, 1989. The Board of the

Texas Department of Mental Health and Mental Retardation will meet in the Auditorium, Central Office, 909 West 45th Street, Austin. Times and agendas follow.

9:15 a.m. The Personnel Committee will consider approval of appointment of superintendent of Corpus Christi State School; consider approval of appointment of superintendent of Vernon State Hospital.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: May 26, 1989, 3:19 p.m.

TRD-8904727

10:15 a.m. The Planning and Policy Development will adopt new sections in subchapter governing interagency agreements. If deaf interpreters required, notify TDMHMR (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: May 26, 1989, 3:19 p.m.

TRD-8904725

10:30 a.m. The Business and Asset Management Committee will consider naming of building on campus of Lubbock State School the Lena Stephens Activities Center; fiscal year 1989 operating budget adjustments. If deaf interpreters required, notify TDMHMR (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: May 26, 1989, 3:19 p.m.

TRD-8904724

11 a.m. The Audit Committee will consider proposed new subchapter on internal audit. If deaf interpreters required, notify TDMHMR (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: May 26, 1989, 3:19 p.m.

TRD-8904726

1 p.m. The board will hear consider citizens' comments (limited to three minutes); approve minutes of April 14, 1989. If deaf interpreters required, notify TDMHMR (512) 465-4585, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78756.

Filed: May 26, 1989, 3:19 p.m.

TRD-8904723

**Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders**

Friday, June 9, 1989, 10 a.m. The Executive Committee of the Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders will meet at the Association for Retarded Citizens, 2818 San Gabriel, Austin. According to the agenda summary, the committee will hear status reports from the Texas Council on Crime and Delinquency, legislative update, report on the long range plan and prepare and agenda for the June council meeting.

Contact: Cher Roquemore, 2818 San Gabriel, Austin, Texas 78705, (512) 477-9914.

Filed: May 30, 1989, 10 a.m.

TRD-8904743

**Texas Motor Vehicle Commission**

Wednesday, June 7, 1989, 9:30 a.m. The Texas Motor Vehicle Commission will meet in Suite 302, Brazos Building, 815 Brazos Street, Austin. According to the agenda summary, the commission will adopt minutes of April 20, 1989, meeting; consider proposals for decisions and other actions-licensing and enforcement, proposals for decision-lemon law cases set for oral argument, proposals for decision-lemon law cases set and exceptions filed, proposals for decision-lemon law cases-no argument or exceptions, agreed orders for approval and entry by the commission, settlement orders-consumer complaint cases, order of dismissal-consumer complaints and dealer complaints, and review of agency budget and financial status.

Contact: Russell Harding, 815 Brazos, Suite 300, Austin, Texas 78701, (512) 476-3587.

Filed: May 30, 1989, 12:43 p.m.

TRD-8904751

**Texas Optometry Board**

Monday, June 5, 1989, 10 a.m. The Texas Optometry Board will meet in Suite 214, 9101 Burnet Road, Austin. According to the agenda, the board will hold an orientation session conducted by chairman and executive director. The session is not a full board meeting, thus a quorum will not be present. The public is welcome to attend.

Contact: Lois Ewald, 9101 Burnet Road, Suite 214, Austin, Texas 78758.

Filed: May 26, 1989, 2:19 p.m.

TRD-8904702

## Board of Pardons and Paroles

**Monday-Friday, June 5-9, 1989, 1:30 p.m. daily, except 11 a.m. on Friday.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda summary, the board will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate action.

**Contact:** Karin Armstrong, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2713.

**Filed:** May 26, 1989, 10:32 a.m.

TRD-8904665

**Tuesday, June 6, 1989, 9 a.m.** The Board of Pardons and Paroles will meet at 8610 Shoal Creek Boulevard, Austin. According to the agenda, the board will consider minutes of meetings of May 4, 12, 15, 17, and 23, 1989; budget; victim/restitution section; special conditions on specialized caseloads; tentative parole month program policy decisions; halfway house contracts; review of procedures for voting board list cases; parole/administrative panel compositions; review of board policy regarding spokesperson for the board; public input/comments; executive director's report-second assistant director of parole supervision position; evaluation of electronic monitoring project; Bexar County facility.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-7249.

**Filed:** May 26, 1989, 4:15 p.m.

TRD-8904736

**Tuesday, June 6, 1989, 1:30 p.m.** The Board of Pardons and Paroles will consider executive clemency recommendations and related actions (other than out of country conditional pardons), including: full pardons/restoration of civil rights of citizenship; emergency medical reprieves; commutations of sentences; and other reprieves, remissions, and executive clemency actions.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 459-2749.

**Filed:** May 26, 1989, 10:32 a.m.

TRD-8904664

## Texas State Board of Examiners of Professional Counselors

**Friday, June 2, 1989, 9 a.m.** The Texas State Board of Examiners of Professional Counselors met in Room T-607, 1100 West 49th Street, Austin. According to the agenda summary, the board considered ac-

tion to revoke license of Roy Renee Villanueva.

**Contact:** Don F. rettberg, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7531.

**Filed:** May 25, 1989, 4:05 p.m.

TRD-8904654

## Texas State Board of Registration for Professional Engineers

**Tuesday, June 6, 1989, 9 a.m.** The Ad Hoc Committee of the Texas State Board of Registration for Professional Engineers will meet in the Boardroom, 1817 IH-35 South, Austin. According to the agenda, the committee will discuss the implementation of the professionalism and ethics program in fiscal year 1990.

**Contact:** Charles E. Nemir, 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

**Filed:** May 26, 1989, 1:57 p.m.

TRD-8904701

## Texas State Board of Public Accountancy

**Tuesday, June 6, 1989, 10:30 a.m.** The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will hold hearing on complaint 86-07-10L.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 26, 1989, 1:54 p.m.

TRD-8904699

**Tuesday, June 13, 1989, 9:30 a.m.** The Texas State Board of Public Accountancy will meet in Suite 340, 1033 La Posada, Austin. According to the agenda, the board will hold a hearing on complaint 89-06-01X.

**Contact:** Bob E. Bradley, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

**Filed:** May 31, 1989, 10:19 a.m.

TRD-8904773

## Public Utility Commission of Texas

The Public Utility Commission of Texas will meet in Suite 450N, 7800 Shoal Creek Boulevard, Austin. Dates, times, and agendas follow.

**Tuesday, June 6, 1989, 10 a.m.** The Hearings Division will consider Docket 8666-

Application of Industry Telephone Company for change in depreciation rates

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 25, 1989, 3:14 p.m.

TRD-8904653

**Thursday, June 8, 1989, 10 a.m.** The Administrative Division will consider applicants and hiring for position of general counsel.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 31, 1989, 3:59 p.m.

TRD-8904810

**Thursday, June 8, 1989, 10 a.m.** The Administrative Division will discuss: approval of prior minutes; reports, discussion and action on budget and fiscal matters including status of lease; 71st legislative session; NRRI annual contribution; procedure to establish public comment file; interim appeals, motions for rehearing, and balloting process, and possible procedural rules for placing items on final order and administrative meeting agendas; federal acid rain legislation and possible letter to Texas congressional delegation; possible conflict of interest of consultants conducting prudence or management audits of utilities; recommendation of auditor and expert witness for review of Comanche Peak nuclear power plant; management of nuclear power plant decommissioning funds; proposal to issue request for proposals for management audit of west Texas utilities and Rita Blanca Electric Coop; approval of TECA expenses relating to Universal Service Fund; adjournment for executive session to consider personnel and litigation matters; reconvene for discussion and decisions on matters considered in executive session.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 31, 1989, 1:32 p.m.

TRD-8904782

**Monday, June 12, 1989, 10 a.m.** The Hearings Division will consider Docket 8783-Complaint of Hilltop Lakes Resort City against Navasota Valley Electric Cooperative, Inc. concerning line extension charges.

**Contact:** Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** May 25, 1989, 3:15 p.m.

TRD-8904651

**Tuesday, June 20, 1989, 10 a.m.** The Hearings Division will consider Docket 8387-Petition of R.A. Hirsch against Southwestern Bell Telephone Company.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 31, 1989, 1:32 p.m.

TRD-8904785

Friday, June 23, 1989, 10 a.m. The Hearings Division will consider Docket 8646-Application of Central Power and Light Company for authority to change rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 31, 1989, 1:32 p.m.

TRD-8904784

Thursday, June 29, 1989, 10 a.m. The Hearings Division will consider Docket 8666-Application of Industry Telephone Company for change in depreciation rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 30, 1989, 3:42 p.m.

TRD-8904762

Friday, June 30, 1989, 10 a.m. The Hearings Division will consider Docket 8738-Application of La Ward Telephone Exchange, Inc. for approval of depreciation rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 26, 1989, 2:35 p.m.

TRD-8904715

Thursday, July 6, 1989, 10 a.m. The Hearings Division will consider Docket 8667-Application of GTE Southwest Incorporated for approval of 911 tariff amendments, including adoption of customer specific rates.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 30, 1989, 3:42 p.m.

TRD-8904763

Monday, July 17, 1989, 10 a.m. The Hearings Division will consider Docket 8730-Inquiry into the meet-point billing practices of GTE Southwest Incorporated.

Contact: Phillip A. Holder, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: May 25, 1989, 3:15 p.m.

TRD-8904652

## Railroad Commission of Texas

Friday, June 16, 1989, 10 a.m. The Oil and Gas Division of the Railroad Commission of Texas will meet in the 12th Floor

Conference Room, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the division will hold a statewide hearing on oil and gas.

Contact: Paula Middleton, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6729.

Filed: May 26, 1989, 3:26 p.m.

TRD-8904729

## School Land Board

Tuesday, June 6, 1989 The School Land Board will meet in Room 831, Stephen F. Austin Building, 1701 North Congress Avenue, Austin. According to the agenda, the board will approve minutes of the previous board meeting; pooling applications; applications to lease highway right of way for oil and gas; consider nominations, terms, conditions, and procedures for a special oil and gas lease sale; report and consider of horizontal severance; status on royalty reduction; application to purchase under Texas Constitution, Article VII, §4A; applications to purchase excess acreage; direct land sales; present six-month update on permanent school fund policy statement adopted by board on November 1, 1988; coastal public lands-commercial lease applications; commercial lease renewals; easement applications; lease applications; structure permit assignments; structure permit renewals; and structure permit applications; final approval of Baker's Port, Inc. v. National Steel Settlement.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-5016.

Filed: May 26, 1989, 4:17 p.m.

TRD-8904737

## Texas Small Business Industrial Development Corporation

Tuesday, May 30, 1989, 9 a.m. The Board of Directors of the Texas Small Business Industrial Development Corporation met in emergency session at 10500 John Cape Road, San Antonio. According to the agenda, the board considered and possibly acted on a resolution to authorize technical changes to the TEXCAP bond indenture which will permit several state agencies, pursuant to legislative intent, to evaluate feasibility of applying to TEXCAP for the financing of various capital requirements under current variable rate program guidelines; considered and possibly acted on a resolution to authorize technical changes to the TEXCAP bond indenture to facilitate a conversion from a floating rate to a fixed rate of interest, and the appointment of Merrill Lynch Capital Markets and others to

serve as remarketing agents and to coordinate loan originations. The emergency status was necessary because board action needed before June 1, 1989 to retain ability to keep TEXCAP program open.

Contact: Mary Lane, (512) 320-9660.

Filed: May 26, 1989, 4:22 p.m.

TRD-8904738

## Texas State Technical Institute

Tuesday, May 30, 1989, 9:15 a.m. The Board of Regents Pricing Committee of the Texas State Technical Institute met in emergency session in TSTI-System Building 32-01, Waco. According to the agenda, the board approved interest rate for 1989 revenue bond issue. The emergency status was necessary because interest rate for revenue bond issue must be approved before Wednesday, May 31, 1989 to facilitate the issuance of the revenue bonds.

Contact: Susan Vonder Hoya, 3801 Campus Drive, Waco, Texas 76705, (817) 799-3611., ext. 3952.

Filed: May 26, 1989, 3:50 p.m.

TRD-8904733

## Texas Woman's University

Wednesday, June 7, 1989. The Board of Regents of Texas Woman's University will meet in the Aston Auditorium, 8194 Walnut Hill Lane, Dallas. Times and agendas follow.

9 a.m. The Fund Raising/Public Relations Committee will consider the approval of minutes of the meeting of April 4, 1989; hear a report on alumnae relations, development and public information activities of the office of institutional advancement; report of the chair.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: May 31, 1989, 10:10 a.m.

TRD-8904776

9:20 a.m. The Student Affairs Committee will consider the approval of the minutes of the meeting of April 4, 1989; hear a report on health service reorganization; report of the chair.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: May 31, 1989, 10:10 a.m.

TRD-8904777

10 a.m. The Academic Affairs Committee will consider the approval of the minutes of the meeting of April 4, 1989; tenure and

promotion overview; consider the approval of policies for faculty discrimination and sexual harassment; report of the chair.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: May 31, 1989, 10:10 a.m.

TRD-8904778

**10:45 a.m.** The Finance Committee will consider the approval of the minutes of the meeting on April 4, 1989; personnel additions and changes, gifts and grants, agreements and contracts; allocation of federal funds; sale of surplus property; purchase, renewal and extension of insurance; modifications 1 to the dormitory building/kitchen renovation (Dallas Wellness Center) project and 1 to the dormitory room conversion, Houston Center project; authorizations for Lori Long to sign checks on bank accounts for TWU Houston emergency loan fund and TWU NW Center Hospital auxiliary student loan fund and for Laurice Jones to sign checks on the TWU NW Center Hospital auxiliary student loan fund; approval of revised university parking fees; and report of the chair.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: May 31, 1989, 10:10 a.m.

TRD-8904775

**1:30 p.m.** The board will consider: executive session; approval of minutes of April 4, 1989 meeting; personnel additions and changes; gifts and grants; agreements and contracts; allocation of federal funds; sale of surplus property; insurance; modifications; authorization to sign checks; approval of revised university parking fees; report on alumnae relations, development, and public information activities of office of institutional advancement; report on health service reorganization; tenure and promotion overview; policies for faculty discrimination and sexual harassment; reports from Fund Raising/Public Relations, Student Affairs, Academic Affairs, and Finance Committee chairs; report from board of regents chair; report from the president.

Contact: Shirley S. Chater, Texas Woman's University, Denton, Texas 76204, (817) 898-3201.

Filed: May 31, 1989, 10:10 a.m.

TRD-8904774

## University Interscholastic League

**Wednesday, May 31, 1989, 1 p.m.** The State Executive Committee of the University Interscholastic League met in the Phoenix Ballroom Central, Doubletree Hotel, 6505 North IH-35, Austin. According to the agenda summary, the committee considered

policies for committee; held hearings concerning alleged violations of athletic code, Lincoln-Douglas debate, and cross-examination debate.

Contact: Bonnie Northcutt, (512) 471-5883.

Filed: May 26, 1989, 2:23 p.m.

TRD-8904703

**Monday, June 5, 1989, 9:30 a.m.** The Academic Standing Committee of the University Interscholastic League met in the Austin South Meeting Room, Radisson Hotel, 700 San Jacinto, Austin. According to the agenda summary, the committee heard proposals for amendments to the league constitution and contest rules.

Contact: Bonnie Northcutt, (512) 471-5883.

Filed: May 30, 1989, 3:40 p.m.

TRD-8904761

**Tuesday and Wednesday, June 6 and 7, 1989, 9 a.m.** The Athletic Standing Committee of the University Interscholastic League will meet in Room 2. 102, Thompson Conference Center, UT Campus, 26th and Red River, Austin. According to the agenda summary, the committee will hear proposals for amendment to the league constitution and contest rules.

Contact: Bonnie Northcutt, (512) 471-5883.

Filed: May 30, 1989, 3:39 p.m.

TRD-8904760

## University of Texas System, M.D. Anderson Cancer Center

**Tuesday, May 30, 1989, 10 a.m.** The Institutional Animal Care and Use Committee of the University of Texas System, M.D. Anderson Cancer Center met in Conference Room AW7.707, Seventh Floor, 1515 Holcombe Boulevard, Houston. According to the agenda summary, the committee reviewed protocols for animal care and use and modifications thereof.

Contact: Arthur H. Dilly, P.O. Box N, Austin, Texas 78713-7328, (512) 499-4402.

Filed: May 26, 1989, 1:20 p.m.

TRD-8904698

## Texas Water Commission

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

**Monday, June 12, 1989, 10 a.m.** The commission will meet in Room 118, to consider

various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: May 31, 1989, 1:39 p.m.

TRD-8904783

**Monday, June 12, 1989, 1 p.m.** The commission will meet in Room 123, to consider executive director's report on agency administration, policy, budget procedures, and personnel matters.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 463-7909.

Filed: May 31, 1989, 1:39 p.m.

TRD-8904786

**Thursday, June 15, 1989, 10 a.m.** The commission will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. The commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to scheduling an item in the entirety or for particular action at a future date or time.

Contact: Beverly De La Zerda, P.O. Box 13087, Austin, Texas 78711, (512) 475-2161.

Filed: May 31, 1989, 1:39 p.m.

TRD-8904787

**Thursday, June 15, 1989, 10 a.m.** The commission will meet in Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda, the commission will determine whether two emergency orders should be issued to the City of Port Neches, 634 Avenue C, Port Neches, Texas 77651. The emergency orders, if issued, would authorize discharges of chlorinated domestic wastewater and stormwater above the maximum peak flow capacities for the plant and the lift station. The emergency orders would terminate 90 days from date of issuance. The city has proposed facility improvements to remedy inadequate pumping and treatment capacities. The plant is located approximately one mile northwest of the intersection of State Highway 147 and State Highway 73 in the 6100 block of Georgia Street and the lift station is located approximately 400 feet north of the intersection of

State Highway 347 and Spur 136, with both being within the city's limits in Jefferson County.

Contact: Sharon J. Smith, P.O. Box 13087, Austin, Texas 78711, (512) 463-8069.

Filed: May 31, 1989, 1:38 p.m.

TRD-8904793

Tuesday, June 20, 1989, 10:15 a.m. The Office of Hearings Examiner will meet in Room 1149A, to consider Docket 7988-S-Application of a water certificate of convenience and necessity by Tarrant County Fresh Water Supply District 1.

Contact: Jim Murhpy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:19 p.m.

TRD-8904806

Thursday, June 22, 1989, 9 a.m. The Office of Hearings Examiner will meet in Room 1149A, to consider Docket 7984-C-Application to amend certificate of convenience and necessity 10955 of Norwood Water Supply Corporation.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:14 p.m.

TRD-8904802

Friday, June 22, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149A, to consider Dockets 7798-C, 7834-C (CCN 20048), and Docket 7798-C (CCN 10115)-Application for water certificate of convenience and necessity and amendments to water and sewer certificates of convenience and necessity for Larry Brewer doing business as Gibson Street Water System.

Contact: Angela Demerle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:20 p.m.

TRD-8904809

Friday, June 23, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 512, to consider Docket 7906-R-Rate increase of Resort Water Services, Inc.

Contact: Leslie Limes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:20 p.m.

TRD-8904807

Monday, June 26, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 618, to consider Docket 7974-G-Rate increase of Elm Valley Water Company.

Contact: Alex Schmandt, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:18 p.m.

TRD-8904805

Friday, June 30, 1989, 11 a.m. The Office of Hearings Examiner will meet in Room 512, to consider Docket 8023-X-Appeal by

Woldert Properties.

Contact: Sally Colbert, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:14 p.m.

TRD-8904808

Friday, June 30, 1989, 11 a.m. The Office of Hearings Examiner will meet in Room 119, to consider Docket 8037-A-Rate appeal of Williamson County Municipal Utility District 2.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:17 p.m.

TRD-8904804

Friday, July 7, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149B, to consider Docket 7968-T-Application for transfer of a water certificate of convenience and necessity for Hanco Utilities, Inc. doing business as Tri-County Utilities.

Contact: Alex Schmandt, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:16 p.m.

TRD-8904803

Friday, July 7, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149A, to consider Docket 8029-G-Rate increase of Spring Valley Water Company.

Contact: Angela Demerle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:14 p.m.

TRD-8904801

Monday, July 10, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 618, to consider Docket 7915-S and 7916-C-Application for purchase/transfer and amendment of a water certificate of convenience and necessity by Andreas Johnson doing business as Seller Water Company.

Contact: Clay Harris, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:13 p.m.

TRD-8904799

Monday, July 10, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149A to consider Docket 8039-G-Rate increase of Cornado Shores Water Company.

Contact: Jim Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:13 p.m.

TRD-8904800

Wednesday, July 12, 1989, 10 a.m. The Office of Hearings Examiner will meet in the Classroom, Environmental Pollution Control, 7411 Park Place, Houston. According to the agenda summary, the office will consider Turkey Creek Farms, Inc. P.O. Box

27224, Houston, Texas 77227 application for a permit (Proposed Permit 03076) to authorize intermittent discharges of excess water from a recycle irrigation system. Discharges occur only during heavy rainfall events. The applicant operates a 120 acre woody ornamental plant nursery.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 1:38 p.m.

TRD-8904792

Thursday, July 13, 1989, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the County Courtroom, Live Oak County Courthouse, George West. According to the agenda summary, the office will consider U.S. Department of Justice, Federal Bureau of Prisons, (Three Rivers Facility), 320 First Street, Northwest Room 460, Washington D.C. 20534 to the commission for a permit (Proposed Permit 13461-01) to authorize disposal of treated domestic wastewater effluent by irrigation. Effluent will be routed to an effluent holding pond with a total capacity of approximately 121 acre-feet where it will be subsequently used for irrigation on approximately 82 acres of Bermuda and Buffalo grasses in lawns surrounding prison buildings. The disposal volume is not to exceed an average of 300,000 gallons per day. Application rates for the irrigated land shall not exceed 4.1 acre-feet/acre/year.

Contact: James Murphy, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 26, 1989, 2:47 p.m.

TRD-8904716

Friday, July 14, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149A, to consider Docket 7957-C-Application for water certificate of convenience and necessity, amendment or partial decertification of Mesa Point, Inc. doing business as Canyon Utility Company.

Contact: Carl Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:13 p.m.

TRD-8904797

Friday, July 14, 1989, 10 a.m. The Office of Hearings Examiner will meet in Room 1149B, to consider Docket 8032-G-Rate increase of Kendall County Utility Company.

Contact: Joe O'Neal, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: May 31, 1989, 4:13 p.m.

TRD-8904798

Tuesday, July 18, 1989, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet in the Council Chambers, Kaufman City Hall, 209 South Washington, Kaufman. According to the agenda summary, the office will consider City of Kaufman, 209 South Washington,



**Kaufman, Texas 75497** application for an amendment to Permit 12114-01 to authorize disposal of sludge on city-owned land and/or contacted land. The proposed amendment would also add effluent limitations for minimum dissolved oxygen concentration. Effective April 1, 1992, the proposed amendment would also make the following changes in the effluent limitations: replace 20 mg/l biochemical oxygen demand with 10 mg/l carbonaceous biochemical oxygen demand; revise total suspended solids and minimum dissolved oxygen concentration from 20 mg/l and 2 mg/l to 15 mg/l, respectively; and add ammonia nitrogen.

**Contact:** Angie Demerle, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** May 26, 1989, 2:47 p.m.

TRD-8904717

**Monday, July 31, 1989, 10 a.m.** The Chief Clerk's Office will meet in Room 118, to consider Ciarence E. Lautzenheiser, app. 19-2104B, seeking to combine the water rights authorized by Certificate 19-2104A and his portion of the water rights authorized by Certificate 19-2105, under Certificate 19-2104A. After the water rights have been combined, the applicant seeks to amend Certificate 19-2104A to increase the diversion rate from 0.22 cfs (100 gpm) to 1.33 cfs (600 gpm).

**Contact:** Lann Bookout, P.O. Box 13087, Austin, Texas 78711, (512) 463-8260

**Filed:** May 31, 1989, 1:38 p.m.

TRD-8904791

**Monday, July 31, 1989, 10 a.m.** The Chief Clerk's Office will meet in Room 118, to consider B.P. Exploration Inc., app. 5154A, seeking to amend Permit 5154 by increasing the amount of water authorized for diversion an use from the underflow of the Brazos River, Brazos River Basin, from 940.92 to 1646.92 acre-feet per annum and to increase the maximum diversion rate from 1000 to 1020 gpm in Stonewall County.

**Contact:** Terry Slade, P.O. Box 13087, Austin, Texas 78711, (512) 463-8265.

**Filed:** May 31, 1989, 1:39 p.m.

TRD-8904790

**Tuesday, August 29, 1989, 10 a.m.** The Chief Clerk's Office will meet in Room 118, to consider Richard C. Slack, app. 23-941A, seeking authorization to use the 164 acre-feet of water authorized for diversion from the Rio Grande, Rio Grande Basin, in Bandera County, under Certificate 23-941 to supplement the irrigation or a total of 457 acres of land within five other tracts of land owned by the applicants and included in Certificate 23-943; 23-947; 23-963; and 23-964. Applicant is also requesting authority to utilize the diversion points authorized under the applicable certificate to divert water authorized under Certificate 23-941 at

a maximum rate authorized for that certificate.

**Contact:** Weldon Hawthorne, P.O. Box 13087, Austin, Texas 78711, (512) 463-8266.

**Filed:** May 31, 1989, 1:39 p.m.

TRD-8904789

## Regional Meetings

### Meetings Filed May 25, 1989

**The Denton Central Appraisal District, Board of Directors,** met at 3911 Morse Street, Denton, on May 30, 1989, at 4 p.m. Information may be obtained from John D. Brown, 3911 Morse Street, Denton, Texas 76205, (817) 566-0904.

**The Edwards Underground Water District, 30th Anniversary Committee,** met at 1615 North St. Mary's, San Antonio, on May 30, 1989, at 3 p.m. Information may be obtained from Gordon M. Clarke, 1615 North St. Mary's, San Antonio, Texas 78215, (512) 222-2204.

**The Sulphur River Basin Authority, Board of Directors,** met at 1604 North Jefferson, Mount Pleasant, on May 25, 1989, at 4:30 p.m. Information may be obtained from David Glass, P.O. Box 626, Paris, Texas 75460.

**The Tarrant Appraisal District, Appraisal Review Board,** will meet at 2309 Gravel Road, Fort Worth, on June 6, 1989, at 8:30 a.m. Information may be obtained from Linda R. Freeman, 2309 Gravel Road, Fort Worth, Texas 76118, (817) 284-8884.

**The Texas Rural Communities, Board of Directors,** met at 314 Highland Mall Boulevard, Austin, on June 1, 1989, at 9 a.m. Information may be obtained from Leslie Janca, 314 Highland Mall Boulevard, Austin, Texas 78752, (512) 458-1016.

TRD-8904640

### Meetings Filed May 26, 1989

**The Dallas Area Rapid Transit, Planning and Development Committee,** met in the Boardroom, 601 Pacific Avenue, Dallas, on May 30, 1989, at 3 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237.

**The East Texas Council of Governments, Board of Directors,** will meet at the Ramada Inn, Kilgore, on June 1, 1989, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas, (214) 984-8641.

**The Edwards Undergrounds Water District, Water Conservation Committee,** met at 1615 North St. Mary's, San Antonio, on May 31, 1989, at 4 p.m. The Administration Committee will meet at the same location

on June 1, 1989, at 3 p.m. Information may be obtained from Gordon M. Clarke, 1615 North St. Mary's, San Antonio, Texas 78215, (512) 222-2204.

**The Hickory Underground Water Conservation District, 1, Board and Advisors,** will meet at 2005 Old Nine Road, Brady, on June 8, 1989, at 7 p.m. Information may be obtained from Vickie Roddie, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785.

**The Lower Colorado River Authority, Audit and Budget Committee,** met at the Old Bastrop Opera House, Bastrop, on May 31 and June 1, 1989, at 8:30 a.m., daily. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767.

**The West Central Texas Council of Governments, Private Industry Council,** met at 1025 East North 10th Street, Abilene, on June 1, 1989, at 10 a.m. Information may be obtained from Tom K. Smith, 1025 East North 10th Street, Abilene, Texas 7960, (915) 672-8544.

TRD-8904656

### Meetings Filed May 30, 1989

**The Bastrop County Appraisal District, Appraisal Review Board,** will meet at 1200 Cedar Street, Bastrop, on June 6, 1989, at 7 p.m. Information may be obtained from Lorraine Perry, P.O. Box 578, Bastrop, Texas 78602, (512) 321-3925.

**The Bexar Metro 9-1-1 Network District, Board of Managers,** met in Suite 180, Viewpoint Building, 10715 Gulfdale, San Antonio, on May 30, 1989, at 2 p.m. Information may be obtained from Jerry Marshall, 10715 Gulfdale, San Antonio, Texas 78216, (512) 366-3911.

**The Brazos Valley Development Council, Board of Directors,** will meet in Suite 2, 3006 East 29th Street, Bryan, on June 7, 1989, at 7 p.m. Information may be obtained from Glenn J. Cook, P.O. Drawer 4128, Bryan, Texas 77805, (409) 776-2277.

**The Central Plains MHMR Center, Board of Trustees,** met at 710 Quincey, Plainview, on June 5, 1989, at 6:30 p.m. Information may be obtained from Board of Trustees, 710 Quincey, Plainview, Texas 79072.

**The Central Texas MHMR Center, Board of Trustees,** met at 408 Mulberry Drive, Brownwood, on June 5, 1989, at 5 p.m. Information may be obtained from Danny Armstrong, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, ext. 102.

**The Dawson County Central Appraisal District, Board of Directors,** will meet at 920 North Dallas Avenue, Lamesa, on June 7, 1989, at 7 a.m. The Appraisal Review Board will meet at Lamesa Branch of Howard College, 1810 Lubbock Highway, Lamesa, on June 8 and 9, 1989, at 10 a.m.

daily. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060.

The Education Service Center, Region II, Board of Directors, will meet in the Administrative Conference Room, 209 North Water, Corpus Christi, on June 13, 1989, at 6:30 p.m. Information may be obtained from Gerald V. Cook, 209 North Water, Corpus Christi, Texas 78401, (512) 883-9288.

The Ellis County Appraisal District, met at 406 Sycamore Street, Waxahachie, on June 2, 1989, at 10 a.m. Information may be obtained from Russell A. Garrison, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552.

The Gregg Appraisal District, Board of Directors, will meet at 2010 Gilmer Road, Longview, on June 8, 1989, at 10:30 a.m. Information may be obtained from William T. Carroll, P.O. Box 6700, Longview, Texas 75608, (214) 759-0015.

The Lamar County Appraisal District, Board, will meet at 512 Bonham Street, Paris, on June 6, 1989, at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (214) 785-7822.

The Liberty County Appraisal District, Appraisal Review Board, will meet at 1820 Sam Houston, Liberty, on June 6-8, 13-15, 20-22, 27, 29, July 5, 6, 11-13, and 18-20, 1989, at 9 a.m. daily. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575.

The Tyler County Appraisal District, Board of Directors, will meet at 806 West Bluff, Woodville, on June 6, 1989, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736.

The Wise County Appraisal District, Board of Directors, will meet in the Boardroom, 206 South State, Decatur, on June 8, 1989, at 9 a.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3081, ext. 70.

TRD-8904740

### Meetings Filed May 31, 1989

The Brown County Appraisal District, Board of Directors, met at 403 Fisk Avenue, Brownwood, on June 5, 1989, at 7 p.m. Information may be obtained from Bob Young, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676.

The Carson County Appraisal District, Board of Directors, will meet at 102 Main Street, Panhandle, on June 14, 1989, at 9 a.m. Information may be obtained from Dianne Lavake, P.O. Box 970, Panhandle, Texas 79068.

The Coryell County Appraisal District, Board of Directors, will meet at 113 North Seventh Street, Gatesville, on June 7, 1989, at 7 p.m. Information may be obtained from Darrell Lisenbe, P.O. Box 142, Gatesville, Texas 76528, (817) 865-6593.

The Deep East Texas Council of Governments, Regional Review Committee, met at the Rodeway Inn, 2130 South First, Lufkin, on June 2, 1989, at 9 a.m. Information may be obtained from Joan Draper, 274 East Lamar, Jasper, Texas 75951, (409) 384-5704.

The Education Service Center, Region VII, Board of Directors, will meet at Community Inn, Kilgore, on June 12, 1989, at 10 a.m. Information may be obtained from Don J. Peters, 818 East Main, Kilgore, Texas 75662, (214) 984-3071.

The Mills County Appraisal Review Board, will meet at Mills County Courthouse, Goldthwaite, on June 6 and 7, 1989, at 8:30 a.m. Information may be obtained from Doran E. Lemke, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2253.

The San Patricio County Appraisal District, Board of Directors and Appraisal Review Board, will meet at 1146 East Market, Sinton, on June 8 and 12, 1989, at 9:30 a.m. and 9 a.m., respectively. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton, Texas 78387, (512) 364-5402.

The Scurry County Appraisal District, Board of Directors, will meet at 2612 College Avenue, Snyder, on June 6, 1989, at 8 p.m. Information may be obtained from L.R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549.

The Sulphur River Basin Authority, Board of Directors, will meet at Titus County Convention Center, 1800 North Jefferson, Mount Pleasant, on June 8, 1989, at 7 p.m. Information may be obtained from David Glass, P.O. Box 626, Paris, Texas 75460.

TRD-8904768

### Meeting Filed June 1, 1989

The Trinity River Authority of Texas, Ten Mile Creek Right of Way Committee, will meet at 5300 South Collins, Arlington, on June 6, 1989, at 10:30 a.m. Information may be obtained from Jack C. Worsham, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343.

TRD-8904811

# In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

## Texas Air Control Board

### Notice of Applications for Construction Permits

Notice is hereby given by the Texas Air Control Board (TACB) of applications for construction permits received during the period of May 1, 1989 to May 22, 1989.

Information relative to the applications listed following, including projected emissions and the opportunity to comment or to request a hearing, may be obtained by contacting the office of the executive director at the central office of the Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

A copy of all material submitted by the applicant is available for public inspection at the central office of the TACB at the address stated previously and at the regional office for the air quality control region within which the proposed facility will be located.

Recovery Specialists, Beaumont; Mobil rotary kiln; Beaumont, Jefferson County; 19460; new

Clarke Products, Inc, Grand Prairie; acrylic tub and shower manufacturer; Grand Prairie, Tarrant County, 19462; new

Norbex Corporation, Gilmer; amine type gas tre; Gilmer, Upshur County; 19463; new

Applied Specialist, Inc, Rhome; liquid mix tank; Business Rt-114 at Route 287; 19464; new

Lubrizol Petroleum Chemical Company, Deer Park; Alkyl Phenol Additive; Deer Park, Harris County; 19465; new

Cain Chemical, Inc., Alvin; isoprene unit; Alvin Brazoria County; 19480; new

APS Materials, Inc., Conroe; plasma spray coatings; Conroe, Montgomery County; 19482; new

Coastal Terminal Systems, wash tank cleaning facility; Clute, Brazoria County; 19483; new

Coastal Terminal Systems, wash tank cleaning facility; Clute, Brazoria County; 19483; new

Safety Kienn Corporation, Denton; LUWA evaporator (Still #2); Denton, Denton County; 19435; new

Kwikset Corporation, Denison; Zinc Melting Furnace #2; Denison, Grayson County; 19438; new

Texaco U.S.A., Kermit; emperor comp. station and treating facility; Kermit, Winkler County; 19448; new

Witco Corporation, Houston; K-600 EMCOL Unit; Houston, Harris County; 19449; new

Mobil Oil Corporation, San Antonio; storage loading terminal; San Antonio, Bexar County; 19450; new

Valero Hydrocarbons, L.P., Freer; cryogenic expansion plant; Freer, Webb County; 19450; new

Walburg Furniture, Inc., Walburg; furniture manufactur-

ing; Walburg, Williamson County; 19456; new

Dayco Products, Fort Worth; aluminum melting furnace; Fort Worth, Tarrant County; 19458; new

Longhorn Packaging, Inc., San Antonio, flexographic printing; San Antonio, Bexar County; 19412; new

Meadow Farmers Co-Op Gin, Meadow; cotton gin; Meadow, Terry County; 19423; new

Composite Technology, Fort Worth; fiberglass reinforced plastic; Fort Worth, Tarrant County; 19424; new

Foamlite Corporation, Dallas; polystyrene expansion; Dallas, Dallas County; 19425; new

Union Oil Company of California, Andrews; compressor engine; Andrews, Andrews County; 19426; new

Christie Gas Corporation, Desdemona; compressor engine; Desdemona, Eastland County, 19427; new

Coreslab Structure Inc., Cedar Park; blast cleaning Cedar Park, Williamson County; 19433; new

John R. Lamond III (Tarrant Pringing), Fort Worth; thermal incinerators; Fort Worth, Tarrant County; 19434; new

Issued in Austin, Texas, on May 24, 1989.

TRD-804646

Bill Ehret  
Director of Hearing  
Texas Air Control Board

Filed: May 25, 1989

For further information, please call (512) 451-5711, ext. 354.

## State Banking Department

### Notice of Postponement of Hearing

The May 23, 1989, hearing on an application for license under the Sale of Checks Act by Fil-Remit, Houston, has been postponed and will be rescheduled at a later date.

Additional information may be obtained from Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on May 23, 1989.

TRD-8904841

Ann Graham  
General Counsel  
State Banking Department

Filed: May 25, 1989

For further information, please call (512) 479-1200

## Texas Department of Banking

### Notice of Postponement of Hearing

The May 25, 1989, hearing on an application to withdraw excess earnings from trust deposits filed by Doeppenschmidt Funeral Home, New Braunfels, has been

postponed and will be rescheduled at a later date.

Additional information may be obtained from Ann Graham, General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 479-1200.

Issued in Austin, Texas on May 22, 1989.

TRD-8904642      Ann Graham  
General Counsel  
Texas Department of Banking

Filed: May 25, 1989

For further information, please call (512) 479-1200

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### Texas College of Osteopathic Medicine Consultant Contract Award

The Texas College of Osteopathic Medicine has awarded the bid for consulting services under the provisions of Texas Civil Statutes, Article 6252-11c.

The publication date the proposal was published in the February 9, 1988, issue of the *Texas Register* (13 TexReg 746).

The Texas College of Osteopathic Medicine invited offers for wage and salary/compensation services to review, advise, and coordinate activities relating to the development and installation of a modern compensation program.

The name and address of the private consultant: Coopers and Lybrand, 1100 Louisiana, Suite 4100, Houston, Texas 77002.

The total value and beginning and ending dates of the contract: \$34,000, beginning May 1, 1989, ending date unknown (approximately August 1, 1989).

The due date for documents and reports of results will be no later than September 1, 1989.

Issued in Austin, Texas on May 16, 1989.

TRD-8904649      David M. Richards  
President  
Texas College of Osteopathic Medicine

Filed: May 25, 1989

For further information, please call (817) 735-2696

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### Texas Department of Commerce Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds

The Tax Reform Act of 1986 (the Tax Act) imposes a volume ceiling on the aggregate principal amount of private activity bonds that may be issued within the State of Texas during any calendar year. The state ceiling for Texas, imposed by the Tax Act for calendar year 1989 is \$839,250,000.

State legislation, Texas Civil Statutes, Article 5190.9(a) (the Act), established the allocation process for the State of Texas. The Act specifies that one-third of the state ceiling is to be made available to qualified mortgage bonds

and of that one-third, one-third is available to the Texas Housing Agency. One-fourth of the state ceiling is available to state-voted issues, and the balance of the state ceiling is available for all other issuers of bonds requiring an allocation.

Pursuant to the Act, the aggregate amount for qualified mortgage bond subceiling is \$279,750,000 with \$186,500,000 available to the local housing authorities and \$93,250,000 available to the Texas Housing Agency. The aggregate amount for state-voted issues is \$209,812,500 and the amount for all other bonds requiring an allocation is \$349,687,500.

Generally, the state ceiling is allocated on a first-come, first-served basis, with the Texas Department of Commerce (the Department) administering the allocation system.

The information that follows is a weekly report of the allocation activity for the period, May 15, 1989-May 19, 1989.

Weekly Report on the 1989 Allocation of the State Ceiling on Certain Private Activity Bonds as Pursuant to Texas Civil Statutes, Article 5190.9(a).

Total amount of state ceiling remaining unreserved for the \$279,750,000 subceiling for qualified mortgage bonds under the Act as of May 19, 1989: \$93,251,166.

Total amount of state ceiling remaining unreserved for the \$209,812,500 subceiling for state-voted issues under the Act as of May 19, 1989: \$164,812,500.

Total amount of state ceiling remaining unreserved for the \$349,687,500 subceiling for all other bonds under the Act as of May 19, 1989: \$2,500

Total amount of the \$839,250,999 state ceiling remaining unreserved as of May 19, 1989: \$258,066,166.

Comprehensive listing of bond issues which have received a reservation date pursuant to the Act from May 15, 1989-May 19, 1989: None.

Comprehensive listing of bonds issued and delivered as pursuant to the Act from May 15, 1989-May 19, 1989: Veterans' Land Board, Veterans' Land Fund, State Voted Issues, \$45,000,000.

Issued in Austin, Texas on May 15.

FRD-8904739      J. William Lauderback  
Executive Director  
Texas Department of Commerce

Filed: May 26, 1989

For further information, please call (512) 472-5059

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### Office of Consumer Credit Commissioner Notice of 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).

<u>Type of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer<sup>(3)</sup>/Agri- cultural/Commercial<sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	05/29/89-06/04/89	18.00%	18.00%
Monthly Rate Art. 1.04(c) <sup>(1)</sup>	05/01/89-05/31/89	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	04/01/89-06/30/89	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	04/01/89-06/30/89	18.00%	N.A.
Lender Credit Card Quar- terly Rate - Art. 15.02(d) <sup>(3)</sup>	04/01/89-06/30/89	16.81%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	04/01/89-06/30/89	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	04/01/89-06/30/89	18.00%	N.A.
Annual Rate Applicable to Pre-July 1, 1983 Retail Credit Card and Lender Credit Card Balances with Annual Implementation Dates from:	04/01/89-06/30/89	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	06/01/89-06/30/89	10.00%	10.00%

- (1) For variable rate commercial transactions only.  
(2) Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S.  
(3) Credit for personal, family or household use.  
(4) Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on May 22, 1989.

TRD-8904867 Al Endsley  
Consumer Credit Commissioner

Filed: May 26, 1989

For further information, please call: (512) 479-1280

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**Governor's Office of Budget and  
Planning**

**Consultant Proposal Request**

This request for consultant services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

**Notice of Invitation.** The 70th Texas Legislature charged the Energy Management Center (EMC) of the Governor's Office of Budget and Planning with updating the state building conservation design standard. The new standard, titled *Energy Conservation Design Standard for New State Buildings*, was published for public review in December 1988, and has been revised to incorporate com-

ments received during the review period. It has been adopted by reference in the *Texas Register* with an effective date of June 1, 1989.

In order to facilitate implementation of the new standard, EMC requests proposals from qualified firms, agencies, institutions, or individuals to develop and conduct workshops to train architects, engineers, state facility managers and state construction project managers in its application. The consultant selected will be responsible for all aspects of the training workshops, including coordination of training space, marketing of the workshops to the target audience, and other logistical details. Specifically, the consultant will:

1. develop and print training materials, including copies of the training manuals and computer software, for 100 workshop participants. Training materials should be designed to do the following:

a. familiarize participants with the *Energy Conservation Design Standard for New State Buildings* and methods for determining compliance with the standard using the state-provided personal computer software.

b. instruct participants in the use of ASEAM 2.1 ("A

**Simplified Energy Analysis Method**--a personal computer program developed by the American Engineers Council) as a building energy design tool. The contractor must update ASEAM input parameters for Texas weather and minimum levels of efficiency to meet the new state design standard.

2. compile three prototype data sets from plans for existing state buildings to use as workshop case studies for ASEAM training;

3. develop marketing materials and market the workshops to the target audience, professional organizations and trade groups. Plan and complete a direct mailing of 2,000 promotional brochures. Develop a questionnaire to evaluate training effectiveness;

4. conduct three workshops in July or August of 1989--one each in Austin, Dallas and Houston--designed to significantly increase participant knowledge on standard compliance and cost-effective building design using ASEAM 2.1. Travel costs will not exceed state-approved rates; and

5. Develop an energy design standard checklist for use by architects and engineers to determine the compliance of proposed building designs and specifications with the state standard. Building owners and representatives also will use this checklist to certify compliance of design specification with the new standard.

**Contact person.** Contact Abba Anderson with questions concerning this project at the Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711; (512) 463-1931

**Closing Date.** Proposals must be received by 3 p.m. on July 7, 1989. Proposals received after that time will not be considered. Seven copies of the sealed proposals should be sent to Sherri Rains, Energy Management Center, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711. For proposals hand-delivered or sent by overnight mail, the street address is Sam Houston Building, Room 620, 201 East 14th Street, Austin, Texas 78701.

**Selection Criteria.** In general, the contractor selected will possess a demonstrated comprehensive knowledge of current energy efficiency design standards for institutional and government buildings, energy efficient design techniques and technologies, and computer-based energy savings calculation methodologies.

The specific criteria to be used in selecting the consultant are weighed as follows:

1. ability to assign sufficient qualified and experienced personnel, including a professional engineer or a professional architect, licensed in Texas, to be present at all workshops--25%;

2. familiarity with the proposed Texas state building energy design standard--25%;

3. demonstrated ability to develop and conduct workshops on energy related topics for technical and non-technical audiences--25%;

4. reasonableness of the proposed budget for the services. Budget should be broken out by costs of each major task to be provided, including labor and materials--20%; and

5. thoroughness and readability of proposal--5.0%.

Proposals should clearly address each of these criteria, except for number 5, in the order they are listed above. Names and qualifications of personnel assigned to the project, descriptions of their respective roles and state of Texas registration numbers for all professional engineers and architects should be included. Proposals should be

submitted in the following format:

1. cover page;
2. table of contents;
3. executive summary;
4. consultant's response to the selection criteria;
5. qualifications and experience of personnel assigned to the project;
6. proposed budget; and
7. compliance statement--The compliance statement is a formal statement by the respondents that, if selected to perform these services, they will comply with the terms of this consultant proposal request and with all applicable rules and regulations of federal, state, and local governing entities.

Final selection of the contractor will be based on the recommendations of a review committee. If two or more proposals are ranked so closely that a decision cannot be made, the review committee may request finalists to provide additional information or to meet with Energy Management Center staff in Austin prior to final selection of the contractor. No respondent, however, will be reimbursed for any costs incurred in the preparation, submission, or clarification of a proposal.

Issued in Austin, Texas on May 31, 1989.

TRD-8904769 Ron Lindsey  
Director  
Governor's Office of Budget and Planning

Filed: May 31, 1989

For further information, please call (512) 463-1931

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## Texas Department of Health Emergency Cease and Desist and Impoundment Order

Notice is hereby given that the Bureau of Radiation Control ordered Tracer Laboratory of Midland, Inc., holder of Radioactive Material License Number L03298, to cease and desist from the use of all radioactive material, to immediately surrender for impoundment in-place all radioactive material located at the licensee's address and to take immediate action to arrange for prompt and safe return of the radioactive material to the previous authorized owner/possessor and/or disposal by a company/individual authorized by licensure to perform this service. The licensee was also ordered to surrender for impoundment any and all radioactive material that is not authorized on the license, identify all such sources in the licensee's possession as of April 16, 1989, and identify all sources of radiation that have been transferred since April 16, 1989, to a licensee authorized to possess/dispose of these sources of radiation.

The agency issued a supplemental order which instructed the licensee to cease and desist from receiving radioactive material from its supplier and allow transfer of stock radioactive materials to a person(s) duly authorized by a valid radioactive material license issued by the agency, the United States Nuclear Regulatory Commission, or an agreement state.

The order and supplemental order were issued because the licensee accepted for disposal sources of radiation not authorized to be in the possession of the licensee and stored them in a facility not authorized for storage of radioactive material. In addition, the agency detected loose radioactive contamination in the storage facility and on the

person and personal effects of the licensee.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, 1212 East Anderson Lane, Austin, Monday-Friday, from 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas on May 25, 1989

TRD-8904669 Robert A. Maclean  
Deputy Commissioner, Professional Services  
Texas Department of Health

Filed: May 26, 1989

For further information, please call (512) 835-7000

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**Texas Higher Education Coordinating Board**  
**Mathematics and Science Education Act Grants**

More than \$2.5 million will be available in the 1989-1990 academic year for improving Texas precollege (K-12) mathematics and science instruction and increasing access of all students to that instruction.

Funds will be competitively distributed in Texas under Title II-A of the federal Dwight D. Eisenhower Mathematics and Science Education Act, signed into law by Congress in 1988. The Eisenhower Act reauthorized the predecessor statute, Title II of the Education for Economic Security Act (EESA). Proposals for funding must be submitted by August 1, 1989, to the Texas Higher Education Coordinating Board. Applications are available May 15, 1989.

Approximately 30 to 40 grants ranging from \$25,000 to \$65,000 will be made to support cooperative teacher training programs between higher education institutions, local school districts, and regional service centers. Another four to five grant awards above \$100,000 will be made for development and/or implementation of demonstration models specifically designed to increase the access of the state's growing minority student population to mathematics and science education and careers.

The board will approve staff recommendations for awards

Occupancy rates for identified threshold counties are listed below:

County Number	Precinct Number	County Name	Number of Months Over	Occupancy Rates					
				Oct	Nov	Dec	Jan	Feb	Mar
154		Madison	5	89.1	91.5	91.0	92.1	94.7	98.7
166		Milan	5	89.1	93.5	94.1	93.2	94.0	96.4
214		Starr	5	89.1	92.8	92.8	90.9	96.5	95.2

Issued in Austin, Texas on May 31, 1989.

TRD-8904770 Charles Stevenson  
Acting Commissioner  
Texas Department of Human Services

Filed: May 31, 1989.

For further information, please call: (512) 450-3785

at its October meeting. Projects are funded under this application for 12 months and must be completed by October 1990.

All public and private colleges and universities are eligible to apply for grants under the Dwight D. Eisenhower Mathematics and Science Higher Education Grants Program.

For more information, contact Nan Broussard at (512) 462-6463.

Issued in Austin, Texas on May 25, 1989.

TRD-8904732 James McWhorter  
Assistant Commissioner for Administration  
Texas Higher Education Coordinating Board

Filed: May 26, 1989

For further information, please call (512) 462-6420

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**Texas Department of Human Services**  
**Public Notice Open Solicitation**

Pursuant to 40 TAC §16.1513 of the Human Resources Code, Title 2, Chapters 22 and 32, the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for counties where Medicaid-contracted nursing facility occupancy rates exceed the threshold (90% occupancy) facility in each of five months in the continuous October to March 1989 six-month period. Potential contractors seeking to contract for existing beds which are currently licensed as nursing home beds or hospital beds in any of the counties identified in this public notice must submit a written application (as described in 40 TAC §16.1513) to TDHS, Services to Aged and Disabled, Provider Services Division, Mail Code 350-E, P.O. Box 149030, Austin, Texas 78714-9030. The written application must be received by TDHS by 5 p.m., July 6, 1989, the last day of the open solicitation period. A random selection drawing will be held July 17, 1989. If the number of existing beds offered by contractors during the first random selection drawing is insufficient to reduce occupancy rates to less than 80% in the threshold counties, TDHS will place a public notice in the Texas Register announcing an additional open solicitation period for those individuals wishing to construct a facility.

**State Board of Insurance**  
**Company Licensing**

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

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

2. Application for incorporation to do business in Texas of Texas Institutional Providers Insurance Exchange, a domestic casualty insurance company. The home office is in Houston.

3. Application for incorporation to do business in Texas of United Funeral Directors Benefit Life Insurance Company, a domestic life insurance company. The home office is in Wichita Falls.

4. Application for name change by Orange State Life and Health Insurance Company, a foreign life insurance company. The home office is in Largo, Florida. The proposed new name is U.S. Guardian Health Insurance Company.

5. Application for admission to do business in Texas of Vesta American Reinsurance Corporation, a foreign casualty insurance company. The home office is in New York, New York.

6. Application for incorporation to do business in Texas of Penn General Southwest, Inc., a domestic third party administrator. The home office is in Lubbock.

Issued in Austin, Texas, on May 25, 1989.

TRD-8904662 Nicholas Murphy  
Chief Clerk  
State Board of Insurance

Filed: May 26, 1989

For further information, please call (512) 463-6327.

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**Texas Racing Commission**  
**Correction of Error**

The Texas Racing Commission submitted an emergency adoption which contained an error as submitted by the commission in the May 16, 1989 issue of the *Texas Register* (14 TexReg 2407).

In §305.62, the last sentence of subsection (a) should read: "No more than one Class 1 racetrack may be located in a county."

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**Texas Water Commission**  
**Enforcement Order**

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Lonestar Railcar, Inc., SWR 70116 on May 23, 1989, assessing \$6,340 in administrative penalties-\$2,000 deferred pending compliance.

Information concerning any aspect of this order may be obtained by contacting William W. Thompson, III, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas on May 25, 1989.

TRD-8904650 Gloria A. Vasquez  
Notices Coordinator  
Texas Water Commission

Filed: May 25, 1989

For further information, please call (512) 463-7908

**Notice of Application For Waste  
Disposal Permit**

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of May 22-26, 1989.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

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

Everest Exploration, Inc., Corpus Christi; Mount Lucas in-situ uranium mine; located approximately three miles south of the town of Dinero, Live Oak County; 02945; new.

City of Agua Dulce; wastewater treatment facility; approximately 800 feet east of FM Road 70 and approximately 550 feet south of State Highway 44 in Nueces County; 10140-01; renewal.

Asarco Inc., Amarillo Copper Refiner, Amarillo; a copper refinery; at Highway 136 and Folsom Road, approximately eight miles northeast of the City of Amarillo, Potter County; 01978; renewal.

Bell County Water Control 7 Improvement District Number 2, Little River; wastewater treatment facility; immediately east of Missouri-Kansas-Texas Railroad and approximately 2,000 feet south of FM Road 436 in Bell County; 11091-01; renewal.

The Dow Chemical Company, La Porte Plant, La Porte; a plastics and synthetic organic chemicals manufacturer; on the east side of State Highway 134, approximately 0.5 mile north of State Highway 225 in the City of La Porte, Harris County; 00663; renewal.

Kirby Forest Industries, Inc.; Silsbee; a plywood manufacturing plant; approximately one mile northwest of FM Road 7887, at a point approximately 10 miles east of the City of Cleveland, Liberty County; 02196; renewal.

San Angelo By-Products, a division of Darling-Deleware Company, Inc., San Angelo; a rendering plant and hide processing station; on the north side of FM Road 380, approximately 7.5 miles east of the City of San Angelo, Tom Green County; 01594; renewal.

The City of Seadrift; a wastewater treatment facility; south of and adjacent to State Highway 185, between Orange and Olive Streets in the City of Seadrift, Calhoun County; 10822-01; renewal.



**City of Woodsboro; a wastewater treatment facility; approximately 1,500 feet south of the intersection of FM Road 1360 and Churchill Road, and approximately three miles southeast of the intersection of United States Highway 77 and FM Road 2441, southeast of the City of Woodsboro in Refugio County; 10156-01; renewal.**

**Hoechst Celanese Chemical Group, Inc.-Clear Lake Plant, Houston; industrial hazardous solid waste storage, processing, and disposal facility for petrochemical manufacturing operations; approximately three miles southwest of the city of La Porte on the west side of Galveston Bay in Harris County; HW-50201; amendment; 45-day notice period.**

**Koch Refining Company, Corpus Christi; a petroleum refinery; on east of Suntide Road and north of Up River**

**Road in the northwest area of the City of Corpus Christi in Nueces County; 00531; amendment.**

**Pennzoil Products Company, Dickinson; a plant producing purified mineral oil and sulfonated hydrocarbons; approximately 700 feet southeast of the intersection of FM Road 517 and Nichols Street in the City of Dickinson in Galveston County; 00377; amendment.**

Issued in Austin, Texas, on May 26, 1989.

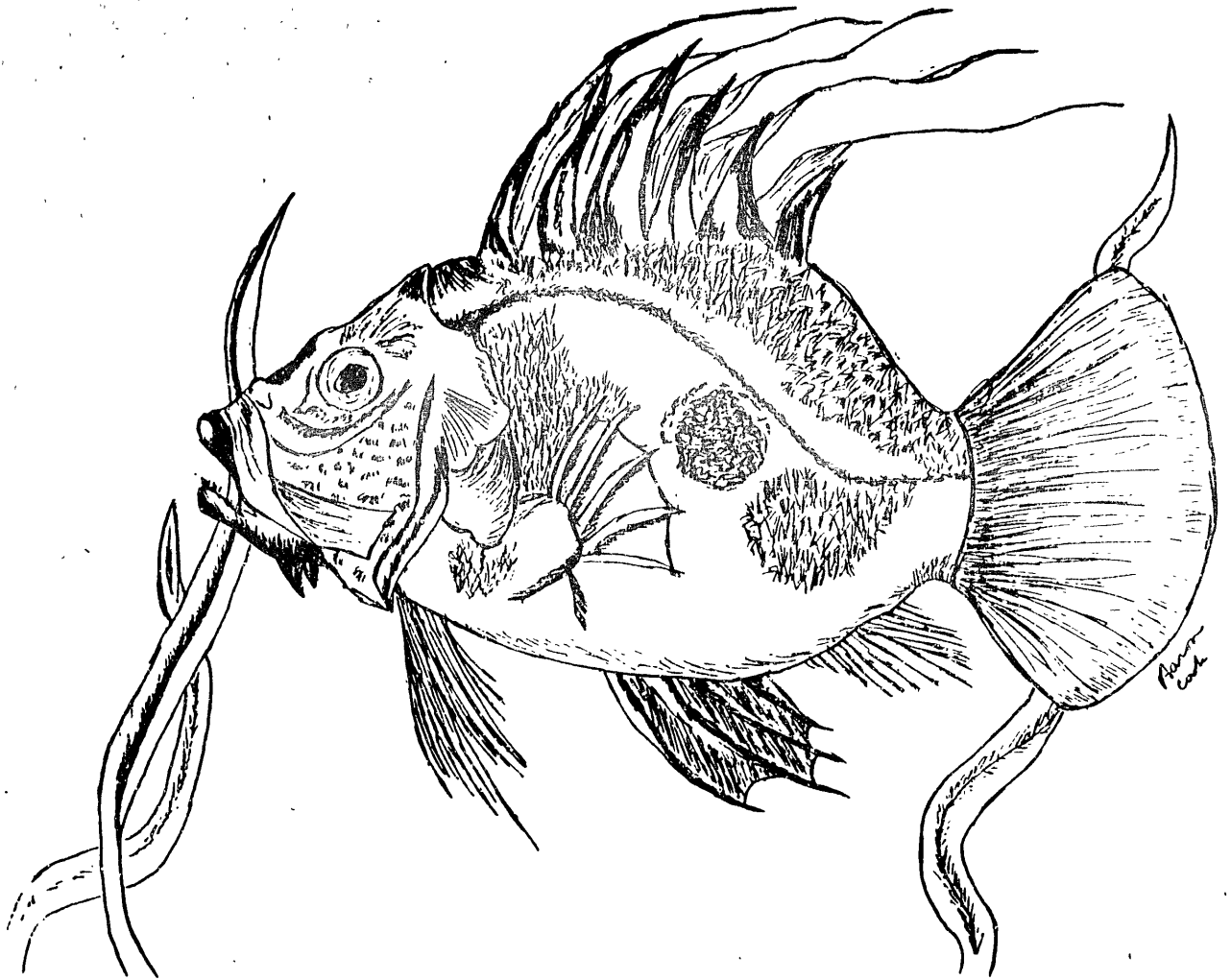
TRD-3904786

Brenda W. Foster  
Chief Clerk  
Texas Water Commission

Filed: May 30, 1989

For further information, please call (512) 463-7936





**Name: Aaron Cook**

**Grade: 8**

**School: T.H. McDonald Middle School, Mesquite**

## Texas Alcoholic Beverage Commission

Long before the Legislature created the Liquor Control Board in 1935, the Republic of Texas was completely "wet." The sale of alcoholic beverages was legal everywhere when Texas became a state in 1845.

Nine years later, the Legislature attempted unsuccessfully to enact local option legislation, which would have given smaller political subdivisions jurisdiction over the sale of alcoholic beverages. The Texas Supreme Court held that this was beyond the power of the Legislature under the Constitution of 1845.

The Texas Constitution of 1876 provided the first valid local option authority. Counties, incorporated cities, and justice precincts could decide for themselves whether alcohol would be sold. At the same time, the new Constitution prohibited the operation of saloons. Distilled spirits could not be sold "by the drink."

The Legislature created the Texas Liquor Control Board on November 16, 1935, to regulate the possession, sale, and use of alcoholic beverages. Although prohibition had been repealed two years earlier, moonshine continued to pose the biggest challenge for the agency during the mid to late 1930's. Bootleggers operating whiskey stills compromised state revenue and endangered public health. Legitimate Texas retailers and wholesalers felt

threatened by the prospect of standard products, monopolistic control, and extravagant promotional schemes. Today, some moonshine is still found every year.

The first laws authorizing and regulating private clubs in Texas were passed in 1961. Previously, such clubs had been controlled by agency regulation rather than state statute. A fine distinction between private clubs and bars allowed clubs to "serve," not sell, distilled spirits by the drink in both wet and dry areas.

The name of the Liquor Control Board was changed in 1969 to the Texas Alcoholic Beverage Commission (TABC). The new title more accurately reflected the agency's responsibility for regulating all types of alcoholic beverages.

Sale of liquor by the drink was legalized with an amendment to the Texas Constitution in 1970 and enactment of mixed beverage legislation a year later. Under the continuing legislative codification program, the old Texas Liquor Control Act was reorganized and became the Texas Alcoholic Beverage Code in 1977.

The TABC is headed by a three-member board. Each is appointed by the governor with the concurrence of the Senate for a term of six years. The agency is located in Austin and may be contacted at (512) 458-2500.